

**Haberman v. Hustler Magazine, Inc.,
626 F. Supp. 201 (D. Mass. 1986)**

Year	1986
Court	United States District Court for the District of Massachusetts
Key Facts	Plaintiff James D. Haberman was an artist and photographer who created surrealistic fine art photograph postcards. Defendants Hustler Magazine, Inc. and Flynt Distributing Co. reproduced versions of plaintiff's photos in <i>Hustler</i> magazine. For one postcard, <i>Hustler</i> showed substantially the entire image at one-fifth the size of the postcard or one-twentieth the size of a page, and for the other postcard, <i>Hustler</i> showed the entire photograph using about one-sixth of the page. Both uses were captioned with comments on the strangeness of the photographs and provided attribution to plaintiff.
Issue	Whether defendants' unauthorized reproduction of plaintiff's photographs in <i>Hustler</i> magazine constituted fair use, where <i>Hustler</i> included captions commenting on the strangeness of the photographs and properly attributed them.
Holding	The court found that defendants' use of the works in their magazine was fair. In reaching its conclusion, the court found that the <i>Hustler</i> reproductions would "not serve as suitable substitutes for someone who wished to collect" Haberman's works and that <i>Hustler</i> sought, at least in part, to provide commentary on the works. The court also determined that, to the extent that <i>Hustler's</i> purpose was to comment on Haberman's works, full reproduction of them was appropriate. Finally, the court found that the works' publication in <i>Hustler</i> did not materially affect their marketability for plaintiff.
Tags	First Circuit; Painting/Drawing/Graphic; Photograph; Review/Commentary
Outcome	Fair use found

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