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Legal fight over famed Marilyn Monroe photos settled

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What started as a mystery involving a shoe-box full of nude photographs of Marilyn Monroe, and then turned into a million-dollar court case, ended this week with smiles all around among the photographers involved in the pin-up fracas.

The deal worked out over a series of disputed Monroe photos will now earn all the parties a significant pay day, with a limited-edition reprint soon to be marketed to high-end collectors.

The litigation started when celebrity photographer Bert Stern, 78, who shot Marilyn Monroe nearly nude in a famous session just weeks before her death in 1962, found out that two northern Westchester photographers, Don Penny and Michael Weiss, were in possession of nine of the photographs and wouldn't turn them over. He sued them to regain possession, and they countersued. The out-of-court deal announced this week ends the litigation and sets up a deal for all of them to earn profits from the lost photos of the Hollywood icon.

Penny, a photographer from Briarcliff Manor who teaches at NYU and the Pratt Institute, said the lawsuit's resolution and the prospect of working on a collector's set of prints was a good end to the story.

"They say if you've got lemons, make lemonade, and this is going to be some sweet lemonade," said Penny, a master printer who will work on producing the limited-edition run of only nine sets. Weiss, a Mount Kisco resident, will work on project as well, under the oversight and final approval of Stern. Each of the nine sets will have seven prints.



Bert Stern photographed Marilyn Monroe nearly nude in a famous session just weeks before her death in 1962.

Penny estimated that each of the nine portfolios could sell at a starting point of \$25,000 to \$30,000. "And it could be significantly more," said Penny. "These particular images, they're pretty remarkable. They're not like all the pin-up shots that people have seen."

A portfolio of another 36 of Stern's photos from his 1962 session with Monroe, referred to as the "The Last Sitting," sold for \$146,000 at a Christie's auction last month. The buyer was anonymous.

The old photos were found on the street in the 1970s not far from Stern's former studio. The man who discovered them, Robert Bryan, a colleague of Penny and Weiss, kept them in a shoebox for 35 years. Bryan is also a party to the settlement.

"You can't make this stuff up," Penny said. "From a pile of trash on East 55th Street."

The lawyer representing Penny and Weiss, Jamie Brickell, noted that the two photographers had acted properly when they talked with Stern about the rare photos last year. "They never asked for a dime," Brickell said. "They only discussed an exchange of prints for film."

Penny said the initial lawsuit stemmed from a misunderstanding. A statement issued by the lawyers involved notes that Stern regretted implications that surfaced in various newspaper accounts that Penny and Weiss were trying to illegally or unethically profit from their dealings with him.

The specifics of the settlement are being kept confidential. Stern's lawyer, Stephen Weingrad, said his client was happy with the outcome.

The pictures were taken at the Bel-Air Hotel in July 1962, six weeks before Monroe's death of a drug overdose. Two of the photos were marked by Monroe herself as her preferences for publication.