

RIGHT OF PRIVACY

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Fame Pays

A celebrity's name, image and likeness can have great value. In 2005, Priscilla Presley sold the right to use Elvis' name and likeness to Core Media Group (formerly CKX, Inc.) for \$114 million. In 2006, the same company that bought Elvis' name licensed the right to use Mohammad Ali's name and likeness for \$50 million. Should someone use Elvis' or Mohammad Ali's name for commercial purposes without proper authorization, damages would be easier to prove because their value has already been quantified.

In recent years the definition of celebrity has expanded. In the past, to be a celebrity an individual actually had to have accomplished something. Now, bad conduct on a reality show can make you an instant celebrity. You know, bickering dance moms or clueless housewives of New Jersey, Atlanta or Beverly Hills. How does one calculate damages for these pseudo-celebrities?

The right of publicity gives an individual the exclusive right to license the use of their identity for commercial exploitation. This applies to true celebrities, pseudo-celebrities and non-celebrities alike. California recognizes that the calculation of damages for pseudo-celebrities and non-celebrities may be difficult. Accordingly, California enacted statutory damages for the commercial misappropriation of a person's name, image or likeness.

Under California law the person who exploits our name, image or likeness without our permission is liable for actual damages, or if there aren't any actual damages, \$750 for the unauthorized exploitation.

Plus, and this is a big plus, if the defendant made profits from the unauthorized use then the injured party may recover those profits not taken into account when calculating actual damages. California has made it easier for the average person to recover because you only have to present evidence of gross revenue attributable to each use and the person who appropriated your image is required to prove his deductible expenses.

Plus plus, and this too is a big plus plus, the injured party may recover attorneys' fees and costs. Finally, punitive damages may be awarded.