



## **You're Getting Sued for *What*? An E&O Odyssey (Pt 2)**

September 16, 2011 by Bob Tarantino

This post is one in an occasional series highlighting the type of risks which film and TV producers face and which are supposed to be covered by E&O insurance, and which aims to demonstrate that what might seem to a producer to be paranoia on the part of their lawyer is, in fact, well-founded. These posts will point to actual lawsuits which have been filed against film/TV producers for various alleged rights infringements (whether copyright, trade-mark, right of publicity, or otherwise) - and which inform the nit-picking approach taken by producer's counsel.

*THR, Esq.* reports that the US-based Travel Channel is the defendant in a class action lawsuit filed by a representative plaintiff on behalf of individuals who appeared on the show *Extreme Fast Food* ([Travel Channel Faces Class Action Lawsuit Over Filming Woman at Hot Dog Stand](#)). The plaintiff alleges that she was filmed without consent while eating at a famed hot dog joint in Chicago.

In a fortuitous coincidence, Mark Litwak has a post (which includes sample wording) [on the use of "crowd releases"](#), being the posting of signs warning pedestrians or attendees of a particular location that they are being filmed. As I noted in [PIPEDA and Filming/Photographing Individuals for Film and TV Projects](#):

It is generally accepted practice among entertainment lawyers that a signed release authorizing the reproduction of a person's image is required for each individual who appears identifiably on-screen in an audio-visual project. There are some widely-recognized limited exceptions to that general rule, such as the placement of prominently-displayed notices in "public" or general access locations alerting pedestrians or attendees that filming is taking place and that entering into the area or venue will be deemed to be authorization for the filming and reproduction of their image.

To my knowledge, no Canadian court has ever pronounced on the effectiveness of a "crowd release".

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