

Whether you are a star in the California entertainment industry or for any other reason you have become famous even for fifteen minutes of fame, you may have need of a publicity rights and privacy rights attorney when others try to make money using your image.

If you've been the victim of a privacy invasion or if your publicity rights have been infringed, visit our law firm website at <http://www.SebastianGibsonLaw.com> for more information and call us at any of the numbers easily found on our website.

As any celebrity or personality knows, the right of publicity in California is the right of anyone to control the commercial use of their identity. It is your personal right. Others may attempt to misappropriate it for commercial gain and if they do, you can seek damages. If you are dead and your image is misappropriated, your estate can seek damages.

All that needs to be proven are the use of your identity, that is, the use of your name or likeness, the defendant's advantage in using it, your lack of consent and injury. (Note, this is different from identity theft where a person uses your identity in a criminal manner to obtain credit in your name or empty your bank accounts and the like).

The basis for this right of publicity is the idea that every person should have the right to control how their identity or likeness or personality, or voice, name or image is commercialized by others.

Because the right is a property right, the right may be passed on to one's heirs after death. The Celebrities Rights Act passed in California in 1985 extended the personality rights for a celebrity to 70 years after their death.

Note, however, that in 2007, a New York judge who ruled that Marilyn Monroe was a resident of New York and not California, also ruled that Marilyn Monroe's rights of publicity ended upon her death.

The right of privacy is often pitted against competing First Amendment claims or claims of copyright. Each case is different and it is often necessary for an attorney to weigh these competing rights based on case law just and to attempt to predict how a judge would rule in that jurisdiction.

Examples of competing rights occur when a person's image is contained in the copyrighted work of another. The results can differ depending on the type of copyrighted work, and a determination must be made as to whether the individual's right has been preempted.

In First Amendment cases, the courts in California have favored First Amendment Claims over Publicity Rights Claims where the court has been able to find transformative elements, that is where the defendant is not merely trading on the value of the identity or image.

Publicity rights are often used interchangeably as privacy rights. However privacy rights often involve torts such as defamation or violations of state statutes involving the unauthorized use of data.

Today, it's no longer just celebrities who are having their privacy rights invaded. Individuals in the workplace are finding more and more instances when their expectations of privacy have been invaded by employers using surveillance cameras, searches of their work spaces, and software to monitor their keystrokes, the web sites they've visited and even to intercept their e-mails and telephone calls.

If someone tries to make use of your image or likeness for their gain without your consent, visit our law firm website at <http://www.SebastianGibsonLaw.com> and call the law firm of R. Sebastian Gibson to speak with a publicity and privacy rights lawyer immediately.