

HOW A HUGE MEDIA HOUSE CAN BE SUED FOR MILLIONS BY A POPULAR CELEBRITY!!

Category: Commercial Law, Privacy Law, Infosec, and POPIA
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In today's modern era of media and technology, popular well-known celebrity figures take great pride in their image and for the most part, are obsessive compulsive about who may exploit their images and at what cost. Numerous media houses and advertising agencies are entering the world of endorsing their client's products by making use of these celebrity figures in their advertisements. Although one may be led to believe that such advertisement may result in no harm and have no bearing on either the agencies or the celebrity figures, the contrary may be proven resulting in adverse effects.

Why you might ask? Well the answer is simple – advertisements for the most part, revolve around money and profit. Surely, there shouldn't be an issue if the objective is to make money one might say. However, the next question which arises is – at whose expense are these monies and profits being derived? It can be said that celebrity figures have more staying power than the average ordinary man; hence, most advertising agencies decision to utilise a celebrity figure's image for the promotion of a product.

The next issues which follows suit are:

- Firstly, how is the celebrity's image portrayed? For example, is the advertising agency making use of parody which may perhaps have elements of controversy, political insinuations or ridicule?
- Secondly and perhaps more importantly, has the advertising agency acquired the necessary consent to make use of the celebrity figure's image?

These issues are important for the purposes of ensuring that a defamation suit (for example) does not ensue. There have been instances in the past where celebrity figures have sued huge media houses for using their images in perhaps a defamatory manner and without their consent; thereby, violating the celebrity's personality rights as enshrined and protected by section 10 (dignity)[1] and 14 (privacy)[2] of the Constitution[3].

Although an advertising agency may advocate for its right to Freedom of Expression, as stipulated in under section 16 of the Constitution, this right must be weighed up against a celebrity's personality rights. Failure to ensure that all the applicable laws are adhered to by the advertising agency, will result in a possible damages claim which could result in the millions all for the sake of promoting a product perhaps worth only a couple of thousands. Should you wish to find out more about avoiding such a damages claim, contact us on (011) 447 0934; alternatively, visit our website on www.ppattorneys.co.za for more insight on other media law aspects.

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[1] Section 10 states that "Everyone has inherent dignity and the right to have their dignity respected and protected."

[2] Section 14 states that "Everyone has the right to privacy..."

[3] Act 108 of 1996.