

Privacy and Defamation: Case Descriptions

- ***Blashford-Snell v. Polygram* (U.S. District Court for the District of N.J.):** We obtained summary judgment dismissing plaintiff-explorer's privacy claims based upon the use of plaintiff's likeness on the back cover of the Moody Blues album *A Question of Balance*.
- ***Davis v. Correctional Officers Union* (N.Y. Supreme Court):** We successfully defended defamation claim brought by an accused cop killer against a correction officers union.
- ***Davis v. Ross*, 754 F.2d 80 (2d Cir. 1985):** We successfully prosecuted defamation claims brought by an employee against a celebrity employer. After the trial court granted summary judgment dismissing our client's claim, we appealed to the U.S. Court of Appeals for the Second Circuit and obtained a reversal and our client's case was reinstated and set down for trial. We obtained a favorable settlement for our client on the eve of trial.
- ***DeClemente v. Columbia Pictures*, 860 F. Supp. 30 (E.D.N.Y. 1994):** After a jury trial, we obtained a directed verdict dismissing trademark and right of publicity claims brought by a claimant who held a federal registration for the name *Karate Kid* and sought damages based upon the use of the name in the three *Karate Kid* feature films which grossed a total of \$598 million.
- ***Donahue v. Artisan Entertainment*, 2002 U.S. Dist. LEXIS 5930 (S.D.N.Y. 2002) :** Pryor Cashman went to trial and successfully represented the three actors from *The Blair Witch Project* in a right of privacy and unfair competition litigation brought against Artisan Entertainment in connection with the "sequel" *Book of Shadows* and the use of the actors' images without their consent. The matter was settled after Pryor Cashman presented plaintiffs' case to the jury.
- ***Hannafin v. Universal Pictures Corp.* (U.S. District Court for the Southern District of N.Y.):** We obtained summary dismissal of a right of privacy claim brought against Universal by an actor whose image was shown in the motion picture *Junior*.
- ***Merante v. New Line Home Video* (N.Y. Supreme Court):** We won summary judgment dismissing a "right of publicity" claim brought by a corrections officer who, while working at a correctional facility, had been filmed and appeared in the film *Bullet*. The Court accepted our argument that the complaint was filed after the one-year statute of limitations had ended, applying the single publication rule to the initial sale of a videocassette, and agreed that the use of the officer's likeness was "incidental," *i.e.*, brief and unrelated to the substance of the film, and that the use of his image was not "for advertising purposes or for the purposes of trade" as contemplated by the right of publicity law.
- ***Preston v. Martin Bregman Productions, Inc.* (U.S. District Court for the Southern District of N.Y.):** We obtained the dismissal of a right of publicity claim on the motion picture *Sea Of Love*.

- ***Ginger Rogers v. Grimaldi, MGM/UA, 695 F. Supp. 794 (S.D.N.Y. 1988), aff'd, 875 F.2d 994 (2d Cir. 1989)***: In this seminal case concerning the conflict between trademark rights and the First Amendment, Pryor Cashman won dismissal of the Lanham Act and publicity claims filed by Ginger Rogers against the title of the Fellini film *Ginger and Fred* on First Amendment grounds. The two-pronged test articulated by the Second Circuit in its affirmance has since been adopted by numerous other circuits and expanded to cases involving not just the titles of expressive works, but to their content as well.
- ***Sandoval v. New Line Cinema, 973 F. Supp. 409 (S.D.N.Y. 1997), aff'd, 147 F.3d 215 (2d Cir. 1998)***: We won dismissal of copyright and privacy claims concerning use of the plaintiff's photographs in a scene in the motion picture *Seven* in the first case to establish the *de minimis* doctrine as a full defense to the unauthorized use of graphic works in motion pictures and television.
- ***Seale v. Gramercy Pictures, 964 F. Supp. 918 (E.D. Pa. 1997), aff'd without op., 156 F.3d 1225 (3d Cir. 1998) and 949 F. Supp. 331 (E.D. Pa. 1996)***: After a full trial, we obtained the dismissal of claims for false light invasion of privacy, right of publicity and Lanham Act violations brought by the former chairman of the Black Panther Party against the producers of the motion picture *Panther*. We also handled the appeal brought by the plaintiff and were successful in having our trial court victory upheld.
- ***Tepper v. Woody Fraser Enterprises, (N.Y. Supreme Court)***: We obtained summary dismissal of a right of privacy claim brought by an actor whose image was shown on a television program.