Legal Rights of Privacy and Publicity

Managing the records of the famous, infamous, and completely unknown

Heather Briston
Special Collections and University Archives
University of Oregon
SAA New Orleans, August 2005
Dear Miss Redgrave,

I was very sorry to hear that you aren't interested in playing Lelia Chancellor in our adaptation of Jame's "The Bridesmaid." I myself think that you would do the part wonderfully well, and the reason I think that is because I see Lelia as a very noble heroine, with a strong will, and the most compelling of personalities. That is why the struggle between her and Basil is so dramatic. Working on the two sides of the personality, for me, and the fact she's kept in any way diminish her. I think you felt that very, too.
Right of Privacy

bullet State Law
  1960 Prosser article, 1977 Second Restatement of Torts

bullet Four Different Actions
  - “intrusion into seclusion”
  - “public disclosure of private facts”
  - “false light”
  - “appropriation”

bullet “highly offensive to a reasonable person”
Archives and Privacy

- **Defenses available**
  - Death
  - Consent, preferably in writing
  - Newsworthy

- **Presumption of privacy**
  - Medical or psychiatric records
  - Information obtained during a client relationship
Right of Publicity

“In the future everyone will be world-famous for fifteen minutes.”
Andy Warhol

State Law

“Unauthorized commercial use of a person’s name, likeness, or other personal attribute.”

Viewed as a form of property. Infringement is a violation of the commercial tort of unfair competition
Archives and Publicity

- Defenses available
  - Consent, preferably in writing
  - Newsworthy
  - Unidentifiable non-celebrities

- Not a defense
  - Death – state dependent
  - Lack of intent to identify – state case law dependent
DIRECTOR'S CUT
A SELECTION FROM THE PAPERS OF FILMMAKER
JAMES IVORY
AT THE KNIGHT LIBRARY
APRIL 14 TO JUNE 30, 2003

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Privacy & Publicity Resources

