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 this Redgreve.

I was very rorry to hear that you to avent interested in playing Olive Chancellor 1 in our adoptation of James "The Bostonian". theil I myself think that you would be the part wonderfully well, and the reason I think that is because I see Olive as a bestine true heroine, with re strong in any way will go and the most compelling of personalities. That is why the struggle between her and lout Basil is no bramatic domking on the two levels of the personal for me, and the fact she Sport from the above, done always wanted to work with you, and God has

Right of Privacy

State Law

1960 Prosser article, 1977 Second Restatement of Torts

Four Different Actions

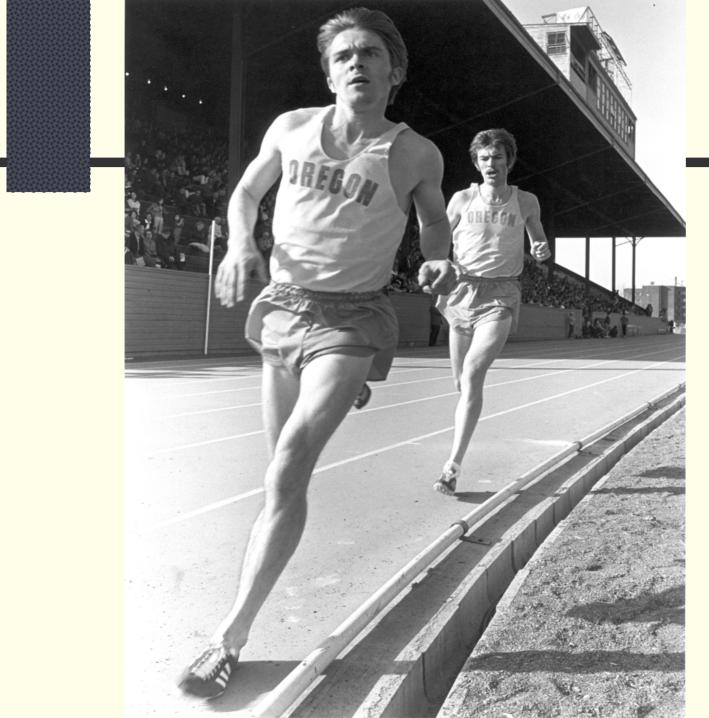
- "intrusion into seclusion"
- "public disclosure of private facts"
- "false light"
- "appropriation"

"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





University Archives Photographs, UA REF 3 Special Collection & University Archives, University of Oregon

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."

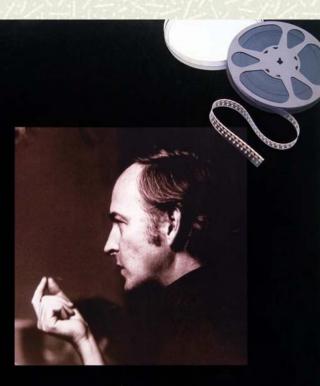
Viewed as a form of property. Infringement is a violation of the commercial tort of unfair competition

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









JAMES IVORY

AT THE KNIGHT LIBRARY APRIL 14 TO JUNE 30, 2003

Con in

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University Archives Photographs, UA REF 3 Special Collection & University Archives, University of Oregon

Privacy & Publicity Resources

- MacNeil, Heather. Without Consent: the ethics of disclosing personal information in public archives. (Chicago, Ill.): Society of American Archivists, 1992.
- McCarthy, J. Thomas. *The rights of publicity and privacy*.
 (St. Paul, Minn.): West Group, 2000-.
- Lipinski, Thomas A., ed. Libraries, museums, and archives
 : legal issues and ethical challenges in the new
 information era. (Lanham, MD): Scarecrow Press, 2002.