

A man in a dark suit and white shirt is talking to a man in a dark hoodie. They are on a balcony with a metal railing, overlooking a golf course with several green holes. The background shows a cityscape and mountains under a clear sky.

**LEOPOLDUS
LAW**

PROTECTING YOUR IMAGE

*Owning, defending, and controlling the value in
your name and face*

BRANDON LEOPOLDUS, ESQ.

“

**THE LAW ARMS
YOU. IT WAITS FOR
YOU TO ACT.**

BRANDON LEOPOLDUS, ESQ.

Founder, Leopoldus Law, APC. Former professional baseball umpire.

YOUR IMAGE IS PROPERTY. IT REWARDS THE OWNER WHO PROTECTS IT.

Your image is an asset, and for a well-known athlete it may be the most valuable asset you will ever own. It is also the one you are least likely to have protected, because nobody handed you a deed to your own face and told you to guard it. The law does give you real, enforceable rights in your name, your likeness, and your identity, and real remedies when someone misuses them. But those rights protect the athlete who understands and asserts them, and they sit idle for the athlete who does not.

This guide maps the whole terrain: the right of publicity that makes your identity your property, the defamation rules that govern what people can say about you, the copyright trap that means you may not own the photographs of your own face, the online problems, the rights that survive your death, and the proactive strategy that turns all of it into one plan.

One idea anchors everything. Your image is property you own, but it is property you have to actively protect; the law arms you, and it waits for you to act.

BRANDON LEOPOLDUS, ESQ.

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Current as of mid-2026. Publicity and defamation law vary by state and change; confirm before you act. This guide is educational and is not legal advice.

**NOBODY HANDED
YOU
A DEED TO YOUR
OWN**

**FACE. GUARD IT
ANYWAY.**

PROTECTING YOUR IMAGE

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CHAPTER ONE

YOUR IDENTITY IS YOUR PROPERTY

The bundle of rights in "your image," and the right of publicity

A STACK OF DISTINCT RIGHTS

"IMAGE" IS VAGUE UNTIL YOU BREAK IT INTO ITS PARTS

Your image is a bundle: your name, your face and likeness, your voice, your signature, your nickname, the distinctive way you look and move, and the reputation and goodwill attached to all of it. That bundle does two kinds of work. It has commercial value, the reason brands pay to associate with you, and it has personal value, your reputation and dignity. Protecting your image means protecting both.

See the image the way the law does: as several distinct legal rights layered on the single asset you experience as "you." Publicity governs commercial value. Defamation and false light govern reputational value. Copyright, someone else's, governs the photographs. Trademark can protect your name as a brand. Estate law governs what happens to it all when you die. Understanding your image as a stack of distinct rights, not one possession, is the conceptual key to protecting it.



DID YOU KNOW?

These separate rights are sometimes owned by different people and interact in ways that surprise athletes who think of their image as one undifferentiated thing. Each right has its own powers, limits, and way of being asserted or lost.

THE RIGHT OF PUBLICITY: RECOGNIZED AS PROPERTY

THE RIGHT FOLLOWS THE MONEY

This is not a soft or marginal right. The Supreme Court has recognized the right of publicity as a protected, proprietary interest, closely analogous to the goals of copyright: protecting a performer's right to reap the reward of his own efforts.¹ In California a statute makes anyone liable who knowingly uses your name, voice, signature, photograph, or likeness for advertising or selling without consent, with a minimum-damages floor and attorney's fees.² The common-law right reaches further still: the question is simply whether someone appropriated your identity, by whatever method.³

Keep the rationale in mind and the pattern of what you can and cannot control snaps into focus. The right is strong when someone captures the economic value of your identity, to sell, to merchandise, to endorse. It is weak or absent when someone merely comments on, reports on, or expressively depicts you, because that does not take the value the right exists to guard.

**YOUR NAME AND FACE ARE
LEGALLY YOURS
TO LICENSE, AND YOURS TO STOP
OTHERS FROM TAKING.**

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CHAPTER TWO

WHEN SOMEONE USES YOU, AND THE PHOTO TRAP

Unauthorized commercial use, and why you may not own your own face

WHEN SOMEONE USES YOU TO SELL SOMETHING

IT IS NOT EXPOSURE. IT IS THEFT THE LAW LETS YOU STOP.

The most common violation is commercial: a company uses your identity to move a product without permission and without paying. The law reaches far beyond a literal photograph. Courts have found a false-endorsement claim available where a brand imitated a distinctive attribute of identity likely to confuse the public,⁴ reaching a deliberately imitated voice,⁵ and a look-alike depiction where the athlete remained identifiable from a distinctive stance, even without a visible face.⁶

In California the fee-shifting statute changes the economics: a company cannot shrug off a claim on the theory that provable damages are small, because fighting a clear violation is expensive and losing it is worse. That is why a well-grounded demand letter so often ends the matter quickly. Document and preserve the use, then get counsel promptly, because these claims carry deadlines.

SOMEONE TAKING, FOR FREE, THE ASSET YOU ARE OTHERWISE PAID FOR IS NOT TOLERATED. IT IS STOPPED.

THE PHOTOGRAPH TRAP: YOU MAY NOT OWN YOUR FACE

TWO RIGHTS COLLIDE, AND ONLY ONE IS YOURS

Under copyright law, the person who takes a photograph generally owns it, not the person in it. The paparazzi shot, the team photographer's image, the fan's viral photo, is owned by the photographer — and you posting it to your own channel can, absurd as it sounds, infringe their copyright. Athletes have actually been sued for posting pictures of themselves.

The two rights check each other: the photographer owns the image, and you own the identity depicted. A photographer generally cannot license a photo for a commercial endorsement without implicating your publicity rights, and you generally cannot freely reproduce it without implicating their copyright. Use images you own or have licensed, and put ownership or a broad license in writing whenever you commission photography.



BUILD THE LIBRARY

An athlete with a deep library of owned or fully licensed images can post, promote, and license freely. An athlete relying on whatever photos exist in the world is perpetually one repost away from a copyright demand. Build the library before you need it.

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CHAPTER THREE

DEFAMATION, AND WHERE CONTROL ENDS

The public-figure standard, and the commercial-versus-expressive line

DEFAMATION AND THE HIGH BAR YOU FACE

RESERVE THE CLAIM FOR REAL, KNOWING FALSEHOODS

Defamation is a false statement of fact that harms your reputation. As a public figure, you must prove "actual malice," that the statement was made with knowledge it was false or reckless disregard of whether it was false.⁷ That is a deliberately hard standard, because the law protects robust public discussion of public figures. A great deal of unflattering, even unfair, commentary about you is not actionable.

FALSE LIGHT

A related claim for a false and highly offensive portrayal, even absent a single defamatory statement; many states treat it like defamation, some do not recognize it. Both claims turn on falsity.

OPINION IS NOT DEFAMATION

"He played terribly" is opinion, no matter how harsh. "He failed a drug test," if false and stated as fact, is different. Most stinging commentary is protected opinion.

WHY RESTRAINT IS OFTEN RIGHT

A lawsuit is public and can draw attention to the very statement you wanted buried. Weigh not only whether a claim exists but whether asserting it helps.

WHERE YOUR CONTROL ENDS

AN ECONOMIC RIGHT, NOT A RIGHT OF CENSORSHIP

The California Supreme Court put it directly: the right of publicity cannot, consistent with the First Amendment, be a right to control your image by censoring portrayals you dislike.⁸ What it protects is the economic value of your identity, not your feelings about how you are portrayed. Expressive works that add significant creative, transformative elements are protected, even when they use your likeness.

Three categories generally fall outside your control: news and commentary, genuinely transformative art, and parody or satire, even unkind satire. The line that matters is commercial versus expressive. An athlete who tries to litigate away every unflattering depiction spends money, invites ridicule, and often loses the very control they sought. The mature posture treats the protected categories as the price of prominence and reserves the fight for genuine commercial theft and genuine falsehood.

**THE RIGHT WAS NEVER MEANT TO
BE,
AND CANNOT BE, A TOOL FOR
CONTROLLING THE
CONVERSATION ABOUT YOU.**

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CHAPTER FOUR

ONLINE, AND AFTER YOU ARE GONE

Impersonation, handles, and domains; your image as an estate asset

IMPERSONATION, HANDLES, AND DOMAINS

PREVENTION IS FAR EASIER THAN RECOVERY

IMPERSONATION ACCOUNTS

Fake accounts can mislead fans and defraud people in your name. Use platform impersonation processes first; commercial use or fraud can implicate your publicity rights too.

HANDLE SQUATTING

Someone may grab your username to sell it back or trade on your identity. Claim your handles early, across platforms, before you are famous enough for someone else to want them.

DOMAIN SQUATTING

Established dispute mechanisms can recover a domain registered in bad faith, particularly where you hold trademark rights. The cheapest protection is registering it early.

A registered trademark in your name is the lever that makes recovering handles, domains, and misused marks dramatically easier, converting your name from a personal fact into a registered property right that platforms and dispute panels are built to protect.

YOUR IMAGE AFTER YOU ARE GONE

A DESCENDIBLE PROPERTY RIGHT, WORTH PLANNING

In California and a number of other states, the right of publicity is descendible: it survives death as a property right that your heirs or a designated holder can control and license for a period of years.⁹ That is why the images of long-deceased celebrities are still licensed and protected decades later, through the estate structures the entertainment world pioneered.

Left unaddressed, a valuable post-mortem right can pass in ways you never intended, be fought over by heirs, or lapse for lack of anyone managing it. Addressed deliberately, in coordination with your estate plan, it can be directed, protected, and made to keep providing for the people and causes you choose, long after your career and your life.

**YOUR IMAGE CAN KEEP WORKING
FOR THE PEOPLE YOU LOVE AFTER
YOU ARE GONE, IF YOU BUILD THE
STRUCTURE.**

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CHAPTER FIVE

BUILDING A PROACTIVE STRATEGY

Own, monitor, respond, and the commercial-versus-editorial line

OWN, MONITOR, RESPOND, COORDINATE

BUILD THE DEFENSES BEFORE YOU NEED THEM

OWN WHAT YOU CAN OWN

Trademarks, handles, domains, and a library of images you actually control. Owning assets on the front end turns future fights into easy ones.

MONITOR

Set up monitoring for unauthorized uses and impersonation, so problems surface while they are small and cheap to resolve.

HAVE A RESPONSE PLAN

Decide, before you need it, who sends takedowns, who drafts demands, and when you escalate.

COORDINATE WITH THE REST OF YOUR STRUCTURE

Image protection connects to your endorsement deals, entity, tax, and estate plan. Handled together, they reinforce each other.

The asymmetry is stark: a handle claimed in an afternoon before you break out can take months and real money to recover after. Treat the quiet years as the time to build the protection, so the defenses are already in place when the value arrives.

COMMERCIAL VERSUS EDITORIAL: THE LINE

WHICH SIDE A USE FALLS ON DECIDES ALMOST EVERYTHING

USE OF YOUR IMAGE	SIDE	YOUR CONTROL
In an ad for a product	Commercial	Strong: consent required
In a news story about your game	Editorial	Little: reporting protected
On merchandise sold for profit	Commercial	Strong: appropriation
In a documentary about you	Editorial	Little: expression protected
In a parody or satire of you	Expressive	Little: parody protected
Implying you endorse a product	Commercial	Strong: false endorsement

The winning enforcement strategy aims squarely at the commercial side, where your rights are strongest, and lets the editorial and expressive uses go, where your claims would fail. The hard cases live near the border; most uses are plainly on one side or the other.



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CHAPTER SIX

LICENSING ON PURPOSE

Monetizing your image deliberately, and the reputational playbook

LICENSING YOUR IMAGE ON PURPOSE

PROTECTION AND MONETIZATION ARE TWO SIDES OF THE SAME ASSET

The same rights that let you stop unauthorized uses let you license authorized ones. When you do license your image, do it on defined terms: what image, in what media, for what uses, in what territory, for how long, and for what money. A license with vague or open-ended scope gives away more than you are paid for.

Your image rights are a licensable asset, and where they live matters. Held and licensed through the right entity, coordinated with your endorsements and tax structure, they can be managed as the business asset they are. An image licensed carefully and consistently stays valuable; an image attached to everything, cheaply and without discrimination, loses the scarcity that made it worth paying for.



PROTECT THE EXCLUSIVITY

Part of protecting your image is protecting its exclusivity: saying no to uses that cheapen it, and treating each authorized use as a decision about the whole rather than a one-off check.

THE REPUTATIONAL PLAYBOOK

MATCH THE TOOL TO THE PROBLEM

Not every threat to your image is a legal one, and not every legal remedy is the right tool. When a genuine falsehood appears, a knowing or reckless false statement of fact causing real harm, the legal remedies are worth using. But unflattering-but-true coverage, opinion, and the ordinary friction of being public rarely call for litigation, both because the claim would likely fail and because a lawsuit often amplifies the very story you wanted to quiet.

A fabricated story demands a firm legal response; a fair criticism demands a thick skin; a true but damaging revelation demands a communications strategy, not a complaint. The credible threat of a real legal remedy, reserved for real falsehoods, is stronger precisely because it is not fired at everything.

**THE IMAGE IS BEST PROTECTED BY
SOMEONE
WHO CAN TELL THE DIFFERENCE,
WITH BOTH TOOLS READY.**

A portrait of Brandon Leopoldus, Esq., a man with short brown hair and a slight smile, wearing a dark blue button-down shirt. He is positioned in front of a blurred background that appears to be a computer monitor displaying a website with blue and white text.

— ABOUT THE AUTHOR

BRANDON LEOPOLDUS, ESQ.

Founder, Leopoldus Law, APC

Brandon Leopoldus umpired in professional baseball before he ever practiced law. Five leagues. Seven playoff series. Two All-Star games. One championship series. One infamous appearance on SportsCenter. That path, through the minor leagues and an Olympic family, is the lens he brings to every matter at Leopoldus Law, APC.

Leopoldus Law is a sports and entertainment boutique in Culver City, California. Brandon helps athletes and entertainers own and defend their name, image, and likeness, enforcing publicity rights against unauthorized use, building the trademark and monitoring infrastructure that protects an image, and coordinating that protection with clients' endorsement, entity, and estate structures. He sits on the board of the Sports Lawyers Association and teaches Sports Law at Loyola Law School.

The firm works with athletes, entertainers, and the people who advise them. Sports clients only. No exceptions.

SOURCES & DISCLOSURES

A NOTE ON HOW TO USE THIS GUIDE

This guide is educational and current as of mid-2026. Right-of-publicity, defamation, and post-mortem-rights law vary significantly by state and change over time, and specifics stated here may have changed or may not fit a particular situation or jurisdiction. It is not legal advice, and reading it does not make Leopoldus Law your lawyer. Confirm the current rules and have counsel review your situation before you act.

ENDNOTES

1. *Zacchini v. Scripps-Howard Broadcasting Co.*, 433 U.S. 562 (1977) (the right of publicity protects the performer's proprietary, economic interest in his own act, analogous to copyright, and the First Amendment does not immunize broadcasting a performer's entire act without consent).
2. Cal. Civ. Code § 3344 (statutory right of publicity; liability for the knowing use of another's name, voice, signature, photograph, or likeness for advertising or selling without consent, with a minimum statutory-damages floor and attorney's fees).
3. *Kareem Abdul-Jabbar v. Gen. Motors Corp.*, 85 F.3d 407 (9th Cir. 1996) (California's common-law right of publicity is not limited to name or likeness; the key question is whether the defendant appropriated the plaintiff's identity).
4. Lanham Act § 43(a), 15 U.S.C. § 1125(a); *Tom Waits v. Frito-Lay, Inc.*, 978 F.2d 1093 (9th Cir. 1992) (false-endorsement claims, including those premised on unauthorized imitation of a distinctive attribute of identity, are cognizable, and a celebrity has standing without being a competitor).
5. *Bette Midler v. Ford Motor Co.*, 849 F.2d 460 (9th Cir. 1988) (deliberate commercial imitation of a widely known, distinctive professional singer's voice is a tortious appropriation of identity under California common law).
6. *Newcombe v. Adolf Coors Co.*, 157 F.3d 686 (9th Cir. 1998) (a depiction is a protected likeness only if the plaintiff is "readily identifiable," a standard that can be met even by a distinctive stance without a visible face).
7. *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964) (a public figure cannot recover for a defamatory falsehood without proving "actual malice," that the statement was made with knowledge of its falsity or reckless disregard of whether it was false).
8. *Comedy III Productions, Inc. v. Gary Saderup, Inc.*, 25 Cal. 4th 387 (2001) (the right of publicity is an economic right, not a right of censorship; the First Amendment protects expressive uses of a celebrity image that add significant transformative elements, and permits comment, parody, and lampoon).
9. Cal. Civ. Code § 3344.1 (California's post-mortem right of publicity, protecting a deceased personality's name, voice, signature, photograph, and likeness for a period of years after death, as a descendible, licensable property right).

DISCLOSURES

This guide has been prepared by Leopoldus Law, APC for educational purposes. It is current as of mid-2026; right-of-publicity, defamation, and post-mortem law vary and change by state. It is not legal advice, and reading it does not make Leopoldus Law your lawyer.

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