

MODEL CLAIMS

Contested model release

A mom signed a model release for her young daughter to participate in a photo shoot depicting a child's party. The images were intended to be used for a story in a magazine. Years later, the girl saw one of the images used on packaging for a small electronic product. She and her mother sued the product manufacturer and the photographer, claiming that they were owed compensation since their image was being used to help sell a product.

All claims and costs of defending the manufacturer and the ad agency were handled by the photo agency that licensed the image to the manufacturer's ad agency. The court found that since the image did not imply that the model was using or endorsing the product, and since the mother had signed a valid model release allowing any future use that the photographer wished to make of it, that no compensation or damages were due.



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Mistaken identity

A family claimed that a greeting card company was using, without permission, a photo of an elderly family member on a series of humorous products including gift bags, greeting cards, product packaging and in-store displays. The greeting card company had licensed the image from a photo agency and looked to them to protect them from the family's claims.

The photo agency was able to produce the valid release from the model in the photo, which also proved that although she bore a striking resemblance to the family member, the model was a completely different person. The agency also produced additional photos taken at the same time, showing the model in several different settings and from different angles. In some of these photos, the model bore no resemblance to the family member. The family was convinced and the claim was dropped.



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PROPERTY CLAIMS

Forged property release

A home owner saw his residence used in an ad for a credit card company. He knew that he'd never given permission for his house to be photographed. Though the photo agency had a signed property release on file for the image, further investigation by the agency revealed that the photographer had provided it with a forgery.

The photo agency settled with the homeowner and protected the ad agency and credit card company from all claims. The photographer is no longer a contributor to the agency and all his other images were pulled from their collection.



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Unauthorized usage claim

The current owner of a house objected when he saw his home featured in an ad for a bank. The bank's ad agency had licensed the image through a photo agency that was able to produce the original, and still valid property release that had been signed by the home's previous owner. The current home owner dropped his claim.

Note that whilst property releases are not legally required on a photo of a home, many agencies have a policy of requiring property releases for commercial use to avoid the customer having to face a claim as above.



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TRADEMARK

Trademark violation dispute

A candy maker claimed its products were used in a stock photo, violating its trademark and demanded that the image be withdrawn from a photo agency's collection. The photo agency representing the image determined that the chocolates shown were not made by the candy company, but by a professional pastry chef who was retained by the photographer, specifically to produce generic looking chocolates for the shoot.

The agency also pointed out that the candy maker's trademark did not appear in any aspect of the photo. The agency also secured additional outside legal opinion that the representation of common objects in a photo is neither a trademark violation nor would it cause consumer confusion that any specific candy maker produced, endorsed or sponsored the photo in any way. The objection was dropped.



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Image submission breach

A photographer submitted different images from the same photo shoot to two different agencies. Agency A licensed one of the images to an insurance company for use in an ad. Agency B spotted the image and objected to the insurance company about using the photo without a license. The insurance company asked Agency A to resolve the matter with Agency B. As a result, Agency B removed their 'similar' images from their collection to avoid such problems in the future. Both agencies reminded the photographer not to offer images from the same shoot to more than one agency.



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