

# 50 Cents, a Euphemistic Eggplant, and the Right of Publicity

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Celebrities generally don't like when companies use their images or names without permission. For example, Jennifer Love Hewitt [didn't love](#) when a company used her image to promote a vitamin spray, and Michael Jordan seemed [pretty upset](#) when a grocery store used his name to promote a steak. Now, 50 Cent seems downright angry that his picture is allegedly being used by a plastic surgeon to promote "male sexual enhancement procedures."

According to a complaint filed in Florida federal court, 50 Cent posed for a photo with a fan in 2020. That fan happened to be a plastic surgeon, who later used the photo to promote her practice on social media without 50 Cent's permission. This year, the plastic surgeon was interviewed for an article that focused on "male sexual enhancement procedures" and the fan photo appeared in the article, next to an "image of a faceless male obtaining a penile enhancement procedure, with a euphemistic eggplant emoji covering his exposed groin area." The plastic surgeon later shared the article on her social media accounts.

50 Cent argues that the plastic surgeon is falsely implying that she performed enhancement procedures on him and that her unauthorized use of his image for a commercial purpose violates his right of publicity. In her motion to dismiss, the plastic surgeon argues that she had consent to use the photo, that her use of the photo doesn't imply that 50 Cent underwent a male enhancement procedure, and that her use wasn't for a commercial purpose. At first glance, those arguments seems like a stretch to us, but when your business involves stretching things, that may come with the territory.

Although this fact pattern is definitely unusual, we frequently get questions from clients about whether they can use images of celebrities in social media posts. Keep in mind that while individuals and media outlets can often do that without any consequence, the analysis is different when the posts may serve to promote a commercial purpose. Celebrities can get paid a lot of money to endorse a company. If you don't pay to use a celebrity's image in the form of an endorsement fee, you may end up paying a lot more in the form of legal fees.

This case is in its early stages and there are still a lot of unanswered questions. Will the court believe that 50 Cent authorized the plastic surgeon to use his image? Will the court buy the plastic surgeon's arguments that her use of the image was not for a commercial purpose and that it was simply for an "entertainment" purpose? Will our narrator blush when she reads this post for our [Ad Law Access Podcast](#)? Only time will tell.

*Update: On March 24, 2023, 50 Cent announced that he had reached a settlement agreement with the defendant. The terms of the settlement haven't been disclosed.*