

Infringe celebrity image rights at your peril

By AdvocateDaily.com Staff



Businesses that trade on a celebrity's image without consent risk legal action — even if the person is dead, Toronto civil litigator [Sarah O'Connor](#) tells [AdvocateDaily.com](#).

Global News recently [reported](#) on a lawsuit brought by the family of comedian Chris Farley — who died in 1997 from a drug overdose at the age of 33 — against a bicycle company for naming its range of fat-tired bikes 'Farleys.'

According to the news outlet, the U.S. federal lawsuit alleges that the use is a misappropriation of the former *Saturday Night Live* star's name that trades on his "fat guy" comedy brand, and has damaged his image.

And O'Connor, principal of [O'Connor Richardson Professional Corporation](#), says the same thing could happen in Canada.

"It doesn't happen as much here, but if it was done without permission, you could end up in the same sort of trouble," she says. "Actions have consequences, and you can't just use someone's likeness or image for the benefit of your company without their consent or from the person's estate. Often there could be some form of payment as well in return for the endorsement."

O'Connor says the chances of getting sued increase if the association with the business could tarnish the image of the person at the heart of the dispute.

"In these types of cases, the plaintiff may ask for the product to be destroyed, or for an accounting of any profits from inventory sold," she says.

The Farley lawsuit was initially launched in California, but Global reports that a judge ordered the forum changed to Wisconsin because of its close ties to the parties. The comedian was born in that state, a short distance from where the bike company is also based.

The company's [website](#) bills the disputed model as an all-season bike that "rolls over snow, sand, roots, and rocks with the stability and traction of a monster truck on beefy" 27.5 x 4.5-inch tires.

Farley's family, who set up a company to protect and enforce his rights, said damages could exceed \$10 million, the story says, alleging that the 400-pound comedian's entire career was spent cultivating his "unique brand of 'fat guy' humour and acting style."

However, the bike company responded that the claim is speculative and has reportedly questioned the applicability of a California law that governs dead celebrities' rights of publicity due to Farley's alleged residence in Illinois at the time of his death.