

How Long is Too Long?

Use it or lose it. This rule applies to so many aspects of life including lawsuits. You must timely act upon a right to sue or forever lose your right to sue. This time limit is known as the statute of limitations.

A statute of limitation sets the maximum amount of time that can pass after an event before a lawsuit is time barred. Most statutes of limitation are tied to the last date an event occurred. For example, the last day to file a breach of written contract lawsuit in California is four years from the date of the last breach.

The rule for right of publicity actions is different. The statute of limitation for a right of publicity action in California begins to run from the date of the first general distribution of the publication to the public. This rule is called the single publication rule.

The single publication rule is intended to prevent multiple claims just because a publication is received by a mass audience. This would include publications through newspapers, magazines, books, radio and television.

Statements generally are considered "published" when they are first made available to the public. Under this rule each edition of book or broadcast of a show gives rise to only one claim regardless of how many people read or see the publication or broadcast. Each edition or broadcast is a single publication. This makes sense when you think of the uncertainty that would result if the statute of limitations was triggered by the actual reading of a book or viewing of a show. Under that scenario, anyone who read an old magazine in a doctor's waiting room would have a different statute of limitation.

The rule does not apply to repeated publications over time. For example, in *Miller v. Collectors Universe*, the defendant distributed over 14,000 certificates of authentication ("COA") to individual customers wrongfully using plaintiff's name. The California Court of Appeal held "that the single publication rule does not apply to the series of separate transactions."

What is the takeaway lesson? It is important to vigilantly monitor the Internet for unauthorized appropriation of your name image or likeness. Set up Google alerts. Search for the name or image in all major search engines. Just remember, use it or lose it.