



MOTION PICTURE ASSOCIATION OF AMERICA

Testimony of

Vans Stevenson

Senior Vice President, State Government Affairs

**ON BEHALF OF THE
MOTION PICTURE ASSOCIATION OF AMERICA**

TO THE

JOINT COMMITTEE ON JUDICIARY

**REGARDING CONNECTICUT
RAISED HB No. 5811
An Act Concerning A Right of Publicity**

MARCH 24, 2006

THE MOTION PICTURE ASSOCIATION OF AMERICA, ON BEHALF OF ITS MEMBER COMPANIES, INCLUDING DISNEY, M-G-M, FOX, PARAMOUNT, SONY PICTURES, NBC UNIVERSAL AND WARNER BROS., OPPOSES RAISED BILL 5811 AS DRAFTED.

THIS LEGISLATION CREATES A RIGHT OF PUBLICITY LAW IN CONNECTICUT FOR LIVING PERSONALITIES AND THE HEIRS OF DECEASED PERSONALITIES. THE MAJORITY OF STATES DO NOT HAVE THIS KIND OF STATUTE AND ARE GUIDED BY COMMON LAW. IN FACT, A 1983 CONNECTICUT SUPREME COURT CASE, VENTURI V. SAVITT, 191 Conn. 588; 468 A.2d 933, AN INVASION OF PRIVACY CASE, CONSTRUES CONNECTICUT LAW AS INCLUDING A PRIVACY CLAIM FOR THE “APPROPRIATION OF A PERSON’S NAME OR LIKENESS.” THE CONNECTICUT HIGH COURT AFFIRMED THE TRIAL COURT’S DISMISSAL OF THE PLAINTIFF’S CLAIM THAT THE DEFENDANT USED HIS LIKENESS WITHOUT HIS PERMISSION FOR THE DEFENDANT’S COMMERCIAL ADVANTAGE. THEREFORE, WE CONCLUDE CONNECTICUT RECOGNIZES AN ACTION FOR THE MISAPPROPRIATION OF ANOTHER’S NAME OR LIKENESS UNDER ITS “INVASION OF PRIVACY” COMMON LAW INTERPRETATIONS, AND A SPECIFIC RIGHT OF PUBLICITY LAW IS NOT NECESSARY.

STATES WHICH HAVE ENACTED RIGHT OF PUBLICITY STATUTES HAVE ADDRESSED SPECIFIC PROBLEMS THAT HAVE EVOLVED. THESE MATTERS USUALLY INVOLVE THE COMMERCIAL EXPLOITATION OF AN INDIVIDUAL'S NAME IN ADVERTISING OR PRODUCT PROMOTION WITHOUT PERMISSION.

IN 1999, THE CALIFORNIA LEGISLATURE AMENDED ITS EXISTING RIGHT OF PUBLICITY STATUTE BASED ON NEGOTIATIONS BETWEEN MPAA AND THE SCREEN ACTORS GUILD TO ADDRESS ISSUES RAISED BY THE HEIRS OF DECEASED PERSONALITIES.

OUR OVER-RIDING CONCERN IS THAT MOTION PICTURES AND OTHER WORKS OF EXPRESSION ARE EXEMPT FROM THIS PROPOSED STATUTE— AS IS PROVIDED BY LAW IN OTHER STATES INCLUDING THE MOST RECENTLY ENACTED RIGHT OF PUBLICITY STATUTES IN OHIO AND PENNSYLVANIA.

FILMMAKERS AND OTHER STORYTELLERS ARE PROTECTED BY THE FIRST AMENDMENT AND THE CONNECTICUT CONSTITUTION. THIS INCLUDES COMMENT, CRITICISM AND PARODY ABOUT PUBLIC FIGURES, INCLUDING ELECTED OFFICIALS. FOR EXAMPLE, RB 5811 WOULD REQUIRE PERMISSION FROM THE HEIRS OF PRESIDENTS LYNDON JOHNSON AND JOHN F.

KENNEDY IN THE NEWS FOOTAGE THAT WAS USED IN THE MOVIE "FOREST GUMP", DEPICTING THAT FICTIONAL CHARACTER'S MEETING WITH THE TWO FORMER CHIEF EXECUTIVES.

IF THE JUDICIARY COMMITTEE DECIDES TO MOVE THIS LEGISLATION, WE RESPECTFULLY RECOMMEND THAT THE BILL BE AMENDED TO INCLUDE A MORE SPECIFIC EXPRESSIVE WORKS EXEMPTION. I HAVE ATTACHED OUR RECOMMENDED AMENDMENT TO MY TESTIMONY.

WE ALSO RESPECTFULLY SUBMIT THAT THIS LEGISLATION WOULD NOT BE COMPLEMENTARY TO THE ECONOMIC DEVELOPMENT GOALS AND OBJECTIVES OF THE CONNECTICUT LEGISLATURE AND THE GOVERNOR'S OFFICE TO ENCOURAGE AND MOTIVATE A DRAMATIC INCREASE IN LOCAL MOTION PICTURE AND TELEVISION PRODUCTION.

FOR THE AFOREMENTIONED REASONS, ALONG WITH EXISTING CONNECTICUT CASE LAW, WE RESPECTFULLY SUBMIT THERE IS NOT A CRITICAL NEED TO ENACT A SPECIFIC RIGHT-OF-PUBLICITY STATUTE IN CONNECTICUT.

THANK YOU FOR YOUR CONSIDERATION.