

Irving, Carlson & Xavier LLP

ATTORNEYS AT LAW

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INVASION OF PRIVACY LITIGATION

The Firm settled a case on behalf of its clients, a husband and wife, for the unauthorized use of photographs taken of them by their wedding photographer days after their wedding. The Firm negotiated settlements against the three defendants for a total of \$195,000.

The case arose out of the clients agreeing to allow their wedding photographer to take additional photographs of them and to use the pictures for wedding expos. Subsequently, the clients learned that a major retailer was using one of the photographs as an insert in picture frames sold in its stores throughout the United States. The clients also discovered that another company had used eight of their wedding photographs in color fliers it distributed for purposes of advertising the company's merchandise.

When the clients learned of the improper use of the photograph(s), they demanded it cease immediately. When nearly a year had passed and the frames with photographs had still not been removed from store shelves, the Firm filed a lawsuit on behalf of the clients. The complaint sought damages for, among other things, common law and statutory (Civil Code 7589) invasion of privacy along with demands for temporary and permanent injunctions.

The Court issued a preliminary injunction requiring the retailer to remove and destroy all remaining copies of the photograph in its picture frames. At the conclusion of an initial mediation before a court appointed mediator, the clients settled with the company for \$22,500. Eventually, after further mediation the photographer and the retailer settled the case by agreeing to collectively pay an additional \$172,500 to the clients.