



LAW TIPS

One of the pleasures of practicing law is helping people resolve legal questions they come face to face with in their lives. Some of these situations are pleasant – such as selling your house for a profit or buying your dream house – while others cause various levels of anxiety – such as when someone owes you money or when you have been charged with a crime. We hope these law tips will entertain as well as enlighten you. **PLEASE REMEMBER** these are only tips and no legal decision should be made without first obtaining advice specific to your particular situation.

CAN I TAKE YOUR PICTURE?

Your aunt gives you a camera for Christmas and you get bitten by the bug. Pretty soon you're photographing everything that moves and some things that don't. You turn a corner of your basement into a dark room, and soon large photographs are lying all over the house. Someone comes in one day and tells you how sensitive an artist you are with your camera. They suggest you put a portfolio together and show it to the people setting up a photograph show at the local craft center. You get your best pictures together. They include your neighbor leaning on a shovel, exhausted from shoveling snow, a candid shot of a woman putting out her garbage in a pink flowered bathrobe, and a picture of a lovely colonial house.

The exhibition accepts your pictures. The woman in the bathrobe sues you for libel and invasion of privacy. The elderly lady who owns the colonial house calls to say you have also invaded her privacy. Your neighbor walks over and says if you sell the picture of him, he wants part of the money. Why have they done this to you? What should you have done?

The problem with the woman in the bathrobe is that her picture may be considered libelous, i.e., it harms her reputation in the community. You thought it was a candid snapshot. She does not agree. If she sues you, you may win at trial. But the point is that you don't want a lawsuit, even one you can win. So be careful that any photograph you take is not libelous, no matter what use you eventually make of it.

If you sold your photographs to a newspaper and the subject was newsworthy, the photographs should be protected by the First Amendment. If your photographs are used commercially, however, then rights of privacy arise if people or property can be identified. But was the exhibition commercial? If there was a prize it was. Or if you decide to sell the photographs to a publication that will use them for advertising. If so, pictures that identify people or property may need releases to ward off future lawsuits. It turns out that the picture of the neighbor did not identify him, so there is no right of privacy he can claim was violated. And the woman who owns the colonial house cannot complain where there has been no commercial use of the picture of her house, but if you sell the picture to a company doing a brochure on your town, she may have a claim. The picture of the woman in the pink bathrobe may go to trial.

Murky? Confusing? More than most areas of the law. If you start exhibiting or selling your photographs, talk to a lawyer and get releases where they are necessary. Most people will sign them and they'll save you a lot of trouble later on.

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