

A Picture is Worth \$2 Billion

By Reg P. Wydeven
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A few years ago, my son and I were checking out all of the fishing lures at Fleet Farm. As we wandered up and down the aisles, we noticed that there was a camera crew there filming a segment, presumably for an outdoors show.

In as suave a fashion as possible, we casually walked back and forth in the background about eleven times. We pretended to be looking intently for something. While we had a lot of fun trying to get on camera, I don't think the program ever aired or if it did, that we made the final cut. If we had, I'm assuming we would be rolling in royalties by now.

At least, according to Leah Caldwell we should.

Caldwell claims that when she was eating at a Chipotle in Denver in 2006, photographer Steve Adams was taking shots of the interior of the restaurant. Adams snapped Caldwell in at least one picture, and Caldwell alleges that he asked her to sign a release, and she denied his request.

In 2014, Adam's picture of Caldwell appeared in Chipotle wall decorations. She claims that she noticed her image in an Orlando, Florida, restaurant. She also asserts that her likeness was featured in two Sacramento restaurants in 2015.

As a result, in December Caldwell sued Chipotle, CEO Steve Eells and Adams in the U.S. District Court for the Eastern District of California. Her case was then moved to the U.S. District Court in Colorado. She is representing herself.

Caldwell's lawsuit alleges because she did not authorize Chipotle to use her picture in their marketing and decor, the restaurant chain violated her "reasonable expectation of privacy." She also claims that they doctored the photograph to put alcoholic beverages on her table.

According to the lawsuit, because Chipotle profited from its unauthorized photograph of Caldwell, she is seeking \$2,237,633,000 in damages. This figure represents Chipotle's profits from 2006 to 2015. She is also requesting that she be allowed to increase this number once she determines the chain's profits from 2016. She must be very photogenic.

While Chipotle may not have obtained Caldwell's permission to use the photo, there is well established law that citizens do not have a reasonable expectation of privacy when in public. Further, the intellectual property rights to the photograph belong to the photographer, not the model.

It also sounds like Caldwell could really use the money. She has filed for *in forma pauperis* status, which means she is without the funds to pursue the normal costs of the lawsuit so those costs would be waived. On her form, she informed the court she has \$100 and is unemployed. Her only former employer listed is a company called Alorica, which used to pay her \$410 per week as recently as 2015. She also disclosed that she does not own any real estate, stocks, automobiles or any other thing of value.

I would just like to let Chipotle or any other interested restaurant chains know that I would be willing to be photographed for half of the amount that Caldwell is seeking. Plus a free burrito.

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