



## Ohio Revised Code

### Section 2741.07 Damages in civil action to enforce publicity right.

Effective: November 22, 1999

Legislation: Senate Bill 54 - 123rd General Assembly

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(A)(1) A person who violates section 2741.02 of the Revised Code is liable in a civil action to the person injured by the violation for the following:

(a) Actual damages, including any profits derived from and attributable to the unauthorized use of an individual's persona for a commercial purpose as determined under division (A)(2) of this section;

(b) At the election of the plaintiff and in lieu of actual damages, statutory damages in the amount of at least two thousand five hundred dollars and not more than ten thousand dollars, as determined in the discretion of the trier of fact, taking into account the willfulness of the violation, the harm to the persona in question, and the ability of the defendant to pay a civil damage award;

(c) If applicable pursuant to section 2315.21 of the Revised Code, punitive or exemplary damages.

(2) The trier of fact shall include any profits derived from and attributable to the unauthorized use of an individual's persona for a commercial purpose in calculating the award of actual damages under division (A)(1)(a) of this section.

(B) Each party has the right to a jury trial of an action under this section. To assert the right, a party shall demand a jury trial in the manner prescribed in the Rules of Civil Procedure. If a party demands a jury trial in that manner, the action shall be tried to a jury.

(C) An action under this section shall be brought within four years of a violation of section 2741.02 of the Revised Code.

(D) A court in which an action under this section is brought may do any of the following:

(1) Award the prevailing party reasonable attorney's fees, court costs, and reasonable expenses associated with the civil action;



- (2) Award treble damages against a party identified in division (E) of section 2741.02 of the Revised Code who has knowledge of the unauthorized use of the persona as prohibited by section 2741.02 of the Revised Code;
- (3) Order temporary or permanent injunctive relief;
- (4) Order the impoundment, on terms the court considers reasonable, of both of the following during the pendency of a civil action under this section:
- (a) Products, merchandise, goods, or other materials alleged to have been made or used in violation of section 2741.02 of the Revised Code;
- (b) Plates, molds, and matrices, or the specific violative portions of masters, tapes, negatives, digital recordings, electronic media, or other items, from which products, merchandise, goods, or other materials may be manufactured or reproduced.
- (E) As part of a final judgment, a court may order the destruction or other reasonable disposition of items described in division (D)(4) of this section.