

# NEW YORK APPELLATE COURT STYMIES UPSTATE AXE MURDERER'S EFFORTS TO SUE CABLE NETWORK OVER TV-MOVIE BASED ON HIS CRIMES

*Hodgson Russ Media & First Amendment Alert*  
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One morning in late 2004, Peter and Joan Porco were discovered in their quiet suburban home with massive head injuries inflicted by an axe. Peter – a New York State Appellate Division court clerk – died later that day. Joan survived, but continues to have severe facial disfigurement. A firestorm of media coverage ensued, which only grew when the couple's college-aged son – Christopher Porco – was arrested and charged with their murder and attempted murder. His mother initially identified him as their attacker, but later recanted and steadfastly proclaimed his innocence. Regardless, Mr. Porco was convicted of his crimes and is currently serving a minimum of 40 years in prison.

The intense media coverage of this family drama spawned numerous television specials, podcasts, movies, and articles. One of those movies was a Lifetime Network docudrama entitled “Romeo Killer: The Chris Porco Story.” Mr. Porco apparently did not like the idea of a fictionalized movie about his life, so he sued Lifetime from his prison cell to stop the movie's release. Initially, he was successful and a New York State Supreme Court judge temporarily enjoined the release and marketing of the movie. Ultimately, however, a New York appellate court overturned the injunction and the movie subsequently aired in 2013.

In 2018, Mr. Porco sued Lifetime again in the New York State Supreme Court, alleging that Lifetime violated New York State Civil Rights Law Sections 50 and 51. Lifetime sought dismissal of the lawsuit, but the judge ruled in Mr. Porco's favor and allowed his claims to proceed. In response, Lifetime appealed to the Appellate Division.

On June 24, 2021, the Appellate Division issued its decision in *Christopher Porco v. Lifetime Entertainment Services, LLC*. The decision provides a detailed discussion of the scope and application of New York Civil Rights Law Sections 50 and 51. Generally, Sections 50 and 51 prohibit the nonconsensual use of a living person's name, picture, or voice for advertising or trade purposes. However, the *Porco* court recognized an exception to that general rule for “reports of newsworthy events or matters of public interest,” even if those reports are made for the purposes of

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obtaining a profit. Under that framework, the murder of the Porcos certainly qualified as a newsworthy event given the intense public interest and media scrutiny surrounding the murder and trial.

The court cautioned, however, that the newsworthiness exception is limited. For instance, the newsworthiness exception would not apply to a fictionalized docudrama like “Romeo Killer” if it “mislead[s] the viewer into believing that it [is] entirely accurate.” Mr. Porco had argued as such, claiming that “Romeo Killer” was a “materially and substantially fictionalized biography” and therefore should not be subject to the newsworthiness exception. However, the court disagreed, finding that Lifetime made “no effort to present [Romeo Killer] as unalloyed truth or claim that its depiction of plaintiffs was entirely accurate.” In support of this conclusion, the court noted that the movie contained disclaimers at the beginning and end which advised viewers that the movie was a dramatization and that certain events and characters had been fictionalized.

In sum, because Lifetime’s partially-fictionalized “Romeo Killer” movie dealt with a newsworthy event and did not hold itself out as an unvarnished true account of that event, the court found Lifetime not liable for violations of the Civil Rights Law and dismissed Mr. Porco’s lawsuit.

**Takeaway.** Ordinarily, the unauthorized use of a person’s “name, portrait, picture, or voice” for advertising or trade purposes is a violation of New York Civil Rights Law Sections 50 and 51. *Porco v. Lifetime* clarified the newsworthiness exception to that general rule for events and matters of public interest, even if fictionalized, so long as the creators of that report make clear to the public that it is not to be accepted as an entirely accurate depiction of the newsworthy event.

For any questions you have regarding whether this recent decision impacts you, please contact [Ryan Cummings](#) (716.848.1665) or [Christian Soller](#) (518.433.2445).