

TUESDAY WEDNESDAY THURSDAY FRIDAY **TODAY**

Feedback

SEARCH/RESULTS

Bookmark Reprints

This is the property of the Daily Journal Corporation and fully protected by copyright. It is made available only to Daily Journal subscribers for personal or collaborative purposes and may not be distributed, reproduced, modified, stored or transferred without written permission. Please click "Reprint" to order presentation-ready copies to distribute to clients or use in commercial marketing materials or for permission to post on a website.
Friday, September 30, 2011

The legal risks of tell-all books

Lawyers say potential tell-all book on Charlie Sheen would need careful vetting.

By Erica E. Phillips

LOS ANGELES - Though Warner Bros. Television settled its highly public dispute with actor Charlie Sheen, more juicy details may be on the way.

Chuck Lorre, the writer-creator of the formerly Sheen-anchored "Two and a Half Men," has implied he's working on a tell-all book about his rocky relationship with Sheen, which famously ended in the actor's firing from the hit show.

Sheen, Lorre and Warner Bros. settled Sheen's breach-of-contract lawsuit through private arbitration Tuesday for an undisclosed amount.

'The more you start saying, 'Based on a true story' or 'This is a true story,' the more it can be problematic if it's not.' - Torin A. Dorros

Just hours after news of the confidential settlement, the second episode of the Sheen-free ninth season of "Two and a Half Men" aired on CBS. Lorre hinted at plans for a book in a so-called "vanity card," a full-screen note from the writer that appeared briefly at the conclusion of the broadcast.

But Lorre's attorney denied that his client is writing a book.

If such a work does surface, however, lawyers who've represented authors and subjects of tell-alls said there are legal risks with such an undertaking. If Lorre publishes his side of the story, they say the book will likely undergo an extensive vetting process to evaluate any potential legal claims.

Torin A. Dorros, an entertainment lawyer at Michelman & Robinson LLP who has performed such evaluations on books before they're published, said audiences are drawn to tell-alls for the same reason they watch reality television.

"It's kind of like peeking through a window," he said.

As a lawyer, though, Dorros said his gut reaction to such stories is less positive. "I tend not to like the tell-all books. I think they're ripe for problems and it's often best to move on in life.

"But," he acknowledged, "they can be very profitable" and presumably worthwhile, provided lawyers go over the manuscripts with a fine-tooth comb.

James J.S. Holmes of Sedgwick LLP, a media and entertainment lawyer who advises authors and who's represented both sides in related litigation, said there's less threat of a lawsuit when individuals featured in a tell-all book are public figures like Sheen.

MICHAEL G. GERNER
A PROFESSIONAL LAW CORPORATION

- 30+ YEARS EXPERIENCE
- STATE BAR OF CALIFORNIA
- FORMER ASST. CHIEF TRIAL COUNSEL

STATE BAR DEFENSE

- Attorney Discipline ■ Admissions
- Reinstatements ■ Ethics Consultations
- Conviction Referrals

MGG Ethics

310-556-1300
mggethics@msn.com

Imagine ...
An Independent Mediation Practice,
Redesigned, Reformed and Renewed!

Jeff KICHAVEN
"The Way Mediation Ought to Be"
888-425-2520 www.jeffkichen.com

For actors, politicians and the like to proceed with a claim of libel, they must show that the author "deliberately published something that was a known falsehood or relied on a source for information with a reckless disregard for the truth," Holmes said.

The personal lives of public figures are already exposed to scrutiny to a large extent, so it's more difficult to take issue with material written about them. But peripheral figures can be a different matter.

"It's the third parties I'm more concerned about," Dorros said. "Someone may be referenced in the story with a negative connotation or in some other way they don't particularly like. You have to be very careful."

That's why stories are often fictionalized to a certain degree instead of writers publishing a tell-all, Dorros said. "The more you start saying, 'Based on a true story' or 'This is a true story,' the more it can be problematic if it's not."

But Holmes noted that even public figures have certain claims to privacy. For example, he said, Lorre should avoid including accounts of what was said during the arbitration discussions between Sheen, Warner Bros. and himself.

"I'm not entirely convinced that public figures lose their right to privacy for things that are truly private," Holmes said.

He added that he's seen other claims arise over photographs - a major draw for bookstore shoppers perusing the shelves - published in tell-all books or used in a book's marketing campaign without the author or publisher first obtaining permission from the photographers or subjects.

Holmes and Dorros, however, said that Lorre's book wouldn't likely hit the shelves without first undergoing legal scrutiny.

"They've probably got a whole panel of attorneys going through the whole book," Holmes said of the potential page-turner, "confirming the accuracy of any statement and asking what's the source for the statement, is the person a public figure, are you disclosing private facts about them and do you have their permission to do this?"

In his vanity card, Lorre playfully characterized his frustration with the public dispute with Sheen as having killed a piece of himself.

"That thing inside me that died? It walks at night," the vanity card read. "It's angry. It's hungry. And worst of all ... it's writing a tell-all book."

But Howard Weitzman of Kinsella Weitzman Iser Kump & Aldisert LLP, Lorre's attorney in the negotiations with Sheen, denied that his client is writing such a book.

"The vanity cards at the end of each show are written for humor and are not necessarily factual or normally are not factual representations or recitations at all," Weitzman said in a voicemail message. "Mr. Lorre has no plans to write a tell-all book, none at all."

Sheen's lawyer, Martin D. Singer of Lavelly & Singer in Century City, didn't return phone and email messages Thursday.

RELATED ARTICLES

When Life Becomes Scripted

October 7, 2010

It's not always necessary to acquire underlying rights when making a movie based on someone's life story. By **Jill Smith** of Barkin Smith.

Facebook Movie Skirts Legal Lines

October 1, 2010

Hitting big screens today, "The Social Network" combines the portrayal of real-life people with fictionalized events but without securing the life rights. Could Facebook sue over the film?



[HOME](#) : [CLASSIFIEDS](#) : [EXPERTS/SERVICES](#) : [CLE](#) : [DIRECTORIES](#) : [SEARCH](#) : [LOGOUT](#)