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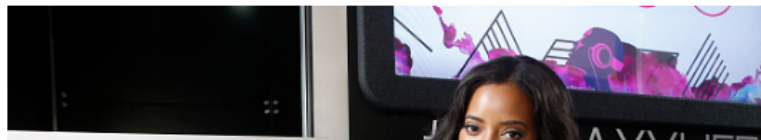
# Entertainment vs. business: Working with celebrities to promote a product



JPAYE

From seeing Angela Simmons snap back into her [athletic, toned self](#) after having a baby to watching Tina Knowles jokingly accuse her husband, Richard Lawson, of [being a hater](#) while she works out, it's fun to see celebrities work out. For some, it's more inspiration to get off the couch. ProDay founder [Sarah Kunst](#) has clearly figured that out with the making of her mobile app, which features professional athletes and fitness celebrities exercising.

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For the internet enthusiast, ProDay may be a curious app. Why pay for something when celebrities such as Simmons, Knowles and plenty of others post for free? Some health and nutrition experts have gotten more popular the good, old-fashioned way: word of mouth. Just clicking on fitness guru [Tiffany Rothe's YouTube channel](#) alone can keep people active for weeks.

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However, the truth of the matter is it just may be more entertaining to exercise with someone a user is a fan of. Taebo with Billy Blanks is a boatload of fun, but if given the option, would you rather do a kickboxing routine with him or check out what NFL tight end Delanie Walker is doing to stay in shape? Some would lean toward the latter option.

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Recommended Reading: [“Celeb social media promotions: When to add more ‘ad’ information”](#)  
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One of the bigger issues that business experts face though is being able to get celebrities to sign up for their products and not draining their entire investment in just paying the celebrity to participate. Here are the business and legal points to consider before taking steps toward making a celebrity the face of a new (or continuous) product, including the financial end.

### **Celebrity promo: ‘It’s easier to ask for forgiveness than it is to get permission?’**

In the case of celebrity endorsements, ask for permission. The right of publicity allows individuals to prevent the unauthorized commercial use of his or her name, likeness, or other recognizable aspects of his or her persona. These individuals retain the exclusive right to license the use of their identity for commercial promotion. Each state has its own laws on the right of publicity. It is advisable to check the laws in that state when seeking a celebrity endorsement for products or service.

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Using a celebrity's name, likeness or voice without permission can have substantial legal consequences. The defunct supermarket chain, Dominick's Finer Foods, learned this the hard way. In 2009, the supermarket chain placed an ad in Sport's Illustrated that incorporated Michael Jordan's name and likeness without getting his permission. Jordan initiated a lawsuit against Dominick's for the unauthorized commercial use of his identity. At the end of the lawsuit, Dominick's was ordered to pay Jordan a monetary damage award of \$8.9 million for using his identity without his permission in an advertisement. Dominick's could have avoided its legal woes if it had obtained a license to use Jordan's image before placing the ad.

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### **What's a celebrity product endorsement going to cost?**

How much does a startup, small business or entrepreneur have to pay a celebrity to use his or her name or likeness? It depends. Some celebrities require a flat fee up front. The amount of the fee varies based on the popularity of the celebrity. Other celebrities are willing to negotiate backend payment on a royalty basis, in which the celebrity will earn a percentage of each product sold as a result of the ad or celebrity's participation in the product. The compensation clause in a licensing agreement can also contain a mix of a flat fee and royalty agreement.

Additionally, business owners will want to negotiate travel, hotel, per diems and wardrobe costs into the licensing agreement. A business owner who is cost conscious may want the licensing agreement to stipulate that he or she will pay for a traveling celebrity to stay in a four-star hotel versus a five-star hotel during the advertising/filming period. In the case of workout videos, the entrepreneur may want the agreement to require the celebrity to provide his or her own workout clothes/wardrobe.

Any other monetary factors that would affect the completion of a celebrity product should be worked out ahead of time, including product quality, length of time (ex. studio reservation time), how often props will be needed, etc.

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Have more questions about right of publicity or celebrity endorsements? Contact [J. Paye & Associates](#) today.

Shamontiel L. Vaughn contributed to this blog. Find out more about her at [Shamontiel.com](#).

*The information contained here is intended to provide useful information on the topic covered but should not be construed as one-size-fits-all legal advice. Speak to an attorney specifically about your contractual agreement for specific terms and conditions.*

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