

What's My Mug Doing in Your Coffee?

Russell Christoff, a former model/actor-turned-kindergarten teacher, apparently has the face that launched a thousand sips.

He posed for a photo shoot in 1986 for Nestle and was paid \$250 for the two-hour session. A formal contract with Nestle for the use of his image was never finalized. Lesson Number One (for Nestle): Always get the signature.

Christoff moved on to other modeling gigs, some acting gigs, and finally settled on teaching in Northern California. Then, while standing in line at a hardware store, someone recognized him as the face on the coffee jar. He went to the local grocery store, picked up a jar of Taster's Choice and, sure enough, it was his mug on that jar of coffee, sniffing a cup of freeze dried java. Let's put aside the oddity that this guy's never seen a jar of freeze dried coffee before (<http://www.youtube.com/watch?v=MF2gZu3ygEQ>). When he saw the coffee jar with his name on it, he turned from Kindergarten Cop to The Terminator. He hired some lawyers to go after Nestle for the value of his image on their jars, shipped worldwide. Nestle offered to settle for \$100K. Christoff wisely turned it down and countered with a demand of \$8.5M (Its NESTLE!). Nestle balked. Too bad, because the case went to trial and the jury awarded Christoff over \$15M!! Lesson Number Two (for Nestle): Always try to settle before trial, when you still control your own destiny.

As expected, Nestle appealed and the appellate court agreed with Nestle that the two year Statute of Limitations for Christoff to file suit had passed. But with \$15M at stake, Christoff's lawyers wisely appealed that decision. An opinion was recently issued by the California Supreme Court in the case of Russell Christoff v. Nestle USA, Inc., which reversed the appellate court's decision and sent the case back down to the trial level to figure out just how many times Nestle actually reproduced Christoff's image. The CA Supreme Court was not certain that the "Single Publication Rule" – which applies the 2 year statute of limitations to books, magazines and newspapers – applies to labels.

So far, Christoff's gambles have paid off. Grab a cup of joe and stay tuned.