1-1-2010

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More Than a Minor Inconvenience: The Case for Heightened Protection for Children Appearing on Reality Television

by KATHERINE NEIFELD

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As a genre, reality television has been called “Hollywood’s sweatshop,” hardly a misnomer considering the miserable conditions and scant compensation provided to contestants. It would seem that the disparity

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between reality television participants and their counterparts on traditional scripted shows could be explained largely by viewing reality television cast members as regular folks who are not performers by nature, and who are fortunate to have the chance to appear on television at all. Though this notion might have been accurate at the inception of reality television, this description stands neither relevant nor appropriate in the current television sphere. Hardly a niche industry, reality television now stands as a legitimate entertainment medium, albeit one with grueling hours and whose conditions are questionable at best.²

The greatest cause for concern, however, pertains to a subset of reality television participants: minor children. Specifically, minor children are those participants under 18 years of age who participate in the filming of reality entertainment.³ While the law has slowly evolved to protect minor children who work in entertainment in a general sense, both from onset abuses and parental negligence, no set of uniform standards exist to protect those specific interests of minor children who appear on reality television.

The general legal protections in place for minors in entertainment include: mandatory trust funds to protect monies earned during in their capacity as child actors, filmed hour limitations according to the age of the minor participant, as well as mandated access to on-set tutors and guardians.⁴

While the above protections might function adequately in traditional circumstances, such as in the scripted sphere of motion pictures, tightly controled television, and commercial advertisements, minors appearing in reality television shows face exceptional, heightened dangers that traditional minor performers do not otherwise encounter. Because of this, it is undeniable that minors on reality television require an increased level of protection specifically suited to their unique role as entertainers. These protections may be characterized by exploring four distinct areas: the notion of consent, parental conflict of interest, financial well-being, and psychological well-being.

I. How May the Role of a Minor on Reality Television Be Defined In Its Current Incarnation?

A. Is a Minor Appearing on Reality Television “Working”?

The first question that must be addressed asks whether the minor children appearing on reality television are, in fact, working. This inquiry may be satisfied by looking to the definition of work as provided by the California

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2. Id.
3. CAL. CODE REGS. tit. 8, § 11751(a) (2010).
4. Id.
Department of Labor. California’s laws function as an appropriate barometer with which to properly delineate a national standard. California indisputably stands as the state with the most entertainment-related activity due to the proximity of studios and production houses that comprise the industry in what is known as the thirty mile zone.\(^5\)

Though the central operating premise of reality television as a genre purports to display life as it happens, the act of filming a scene itself prevents it from being captured undisturbed.\(^6\) The California Labor Commissioner explains this inherent contradiction: “As with any ‘reality’ show, the participants—to a certain extent—will be subject to the direction and control of the director, producers and other crew members. The constant presence of cameras, lighting equipment, and crew etc., do not allow a child to conduct his/her ‘normal routine.’”\(^7\) The level of outside control of this set up strongly suggests that the reality television household is more analogous to a film set than to an ordinary household and, therefore, it follows that the participants must be granted equal protection to working actors instead of being viewed simply as ordinary citizens whose lives happen to be captured on celluloid.

B. The Necessary Creation of a New Legal Category Properly Defining the Status of Minor Children Appearing On Reality Television

Though minor participants do not fall under the current definition of “professional performer”\(^8\) as classified by the Screen Actors Guild (“SAG”) and the American Federation of Television and Radio Artists (“AFTRA”), this does not automatically signify that the children are not working at all. Rather, the participation of minors in reality television calls for the creation of a new legal category. This categorization would prove doubly useful, both for legal identification in the general agreements of the above-mentioned guilds as well as serving to provide vital recognition in the everyday cultural milieu in which reality television participants often unwittingly become tabloid fodder.\(^9\)

This newly created category would serve as an in-between designation—as minors are neither professional performers nor non-performers,

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7. Id.


confirming the status of the minor participants as working performers of some kind, though perhaps not qualifying as traditional professional performers. This new category would function a necessary beginning to an overall scheme of increased protections for minors appearing on reality television.

C. How Does the Role of a Minor Featured on Reality Television Differ from That of a More Traditional Performance?

Once it has been properly determined that these minors work in a defined capacity no less cognizable than that of their scripted counterparts, it then becomes imperative to explore the differences inherent in this nascent genre of entertainment. The role of a minor featured on reality television differs from a more traditional acting performance in two key aspects: preparation and portrayal.

1. The Nature of Work Performed by a Minor Reality Participant

The child performer is characterized by the unique lack of preparation required by the nature of the reality genre itself. The minor appearing on reality television neither learns lines nor dons costumes, departing from usual theatrical conventions in favor of a natural, more true-to-life approach. In lieu of the clearly defined scenes found in script pages, reality television is instead pieced together through a tightly edited “after-the-action” process, in which a participant’s daily activities are constantly captured on film, and the tremendous amount of footage that results is later sifted through by editors and producers in order to create the fluid finished product made available to the viewing audience.10

As reality television seeks to present the daily life of real people, there is no distinct line separating the role from the “actual person.”11 Lack of preparation by the participants is a defining characteristic of the genre.12 Because of this critical distinction from the traditional form, calling reality television “unscripted” is perhaps the best way to describe the process by which any part of the participant’s day on camera may be used to create the scene the viewer sees on television. This unscripted nature makes it so a minor participant on reality television cannot separate which part of her life is designated “for the show” in the way that a traditional performer, who enjoys the privilege of identifying what is acting and what is not, might. For the reality performer, no such distinction may be drawn; he lives through the filming period in its entirety this way.

10. ANNETTE HILL, REALITY TV: AUDIENCES AND POPULAR FACTUAL TELEVISION 156 (Routledge 2005).
11. Id. at 54.
12. Id.
Throughout this process, the participant has no direct control over what parts of the abundant material she has provided will emerge, re-cut, as a segment of the television show. Moreover, not only is the performer unaware of what footage will be aired, but editors often splice scenes just so, purposefully creating a misleading sense of reality by utilizing realistic events, but displaying them in a suggestive manner. Because of this, even the performer who would potentially allow the full version of her life to be shown in sequence might be shocked to witness its distorted telling in the series’ final outcome.

D. The Merged Portrayal of the Reality Minor

Not only does the minor on reality television live every moment of his daily life as though it were captured or potentially captured on camera, he also does so knowing he is being captured as himself. Conversely, when performing in a traditional capacity, whether in a motion picture, television series, or even a commercial advertisement, the traditional child performer always assumes a role that portrays a defined character, even if that character is simply a nameless young boy who wins in a board game advertisement. However, in reality television, the opposite is true, as the child actor does not assume a character role at all, but rather exists as himself on screen. This seemingly self-evident distinction presents the facet perhaps most crucial to the case for increased protection for minors appearing on reality television: the protect functions to protect both the child and the portrayal of that child.

Undoubtedly, the strength of the reality television genre springs from this innovative perspective, presenting reality utilizing a platform traditionally used for portraying the fictitious. Annette Hill, author of Reality TV: Factual Entertainment and Television Audiences aptly defines the genre as “transitional,” describing it thusly: “[i]t is commonly assumed that audiences cannot tell the difference between entertainment and information, or fiction and reality.” This definition speaks to the merged nature of the role: The child actor appears in an entertainment medium, but as herself, removing the shield of the traditional theatrical dichotomy in which the actor possesses both an authentic self as well as an assumed role.

The risk inherent in this facet of reality television is arguably its most potent. Because the reality television participant appears as herself but also

14. Id.
15. ANNETTE HILL, REALITY TV: AUDIENCES AND POPULAR FACTUAL TELEVISION 2 (Routledge 2005).
16. Id.
possesses no control over the abovementioned editor-led portrayal of that self, she does not know what will appear on screen, even though that which is shown is assumed to be her true "realistic" nature. Because of this, the minor in reality television is subject to a double relinquishing of control, and therefore, such a class of participants undeniably must be afforded a heightened level of protection to encompass the nature of reality television work, namely those dual facets of participation and portrayal.

II. How are Minors in Reality Television Currently Treated Within the Entertainment Realm?

A. Instances of Minors on Reality Television

In order to promulgate the essential heightened protection for minors on reality television, it is first necessary to explore the current instances in which minors appear. While hardly surprising that children would comprise some contingent of a genre aimed at representing daily life, both the variety and prominence of minor involvement is astounding in its scope.

The copious examples of television series featuring children vary considerably in their treatment of minors, as well as the magnitude of their involvement. In some, children simply appear on screen, in properties such as Bravo Television’s *The Real Housewives* franchise, in which children appear at times, but not as central cast members, and somewhat anonymously, without an identifying name caption at the bottom of the screen.17

Other shows utilize an approach in which the family is followed as a unit, as in the case of MTV’s *Run’s House*, currently in its sixth season.18 This show follows hip hop musician Joseph Simmons, formerly of highly successful rap group Run DMC, his wife Justine, and their seven children, all of whom were minors when the show first aired in 2002.19 Despite the series’ holistic approach to family portrayal, it is interesting to note that one of the central dramatic arcs on the show concerned the very issue at hand: Justine Simmons gave birth via Caesarean section to a premature newborn with severe congenital birth defects, causing the baby to be born with organs outside her body. Shockingly, the Simmons family not only wanted the cameras shooting during this horrific ordeal, capturing the family’s ordeal, but also went so far as to call them “a crutch” in their time of need.20

Simmons addressed the issue of television exposure directly, saying, "God, in my mind, gave us something to go through in front of America, so we documented it on-camera, not so much to show you sadness, but to show you how we, as ministers, would handle this tragedy." 21 He continues to explain his controversial decision to share publicly by revealing that "[his children] found out on-camera." 22

A statement with this magnitude of controversy begins to address the often-thorny issue of parental involvement. While Joseph and Justine Simmons might believe that sharing traumatic and personal family news with their children alongside thousands of MTV viewers is a wise parenting strategy, it should not be their decision alone to make. When tremendous media attention is involved such as the scope of the MTV viewing audience, the effects of such a choice reach far beyond the normal parameters of parenting, in which decisions affect only the family unit and those surrounding that unit. Because of this, it follows reasonably that the protections affecting such exposure should be increased.

B. Television Series Which Focus on Minor Children as Their Main Subject

Other series delve even more deeply into the personal lives of minors. These shows are centered principally on their experiences, with the majority of screen time focusing only on the cast of children. Bravo’s NYC Prep, an hour-long show which premiered in 2009, is one such kid-centric series, following a group of affluent teenagers from New York City. The main cast members range from 15 to 18 years old, and grapple with the highly sensitive and personal issues of adolescence onscreen. While the publicity blitz might serve some well, such as cast member Kelli Pothoff, whose persona on the show of an aspiring performer functioned as a platform to launch her singing career, for others, the portrayal can be ruinous. Such is the case of Peter “PC” Peterson, whose grandfather, Peter Peterson, a well-known financier, was “mortified” over the sneering performance of his grandson PC on Bravo’s “NYC Prep.” 23 “PC—whose official biography reads, ‘Money, women and life’s spoils are all he’s ever known’—is seen bragging and picking on younger kids.” 24 The prominent position of PC’s family in the New York social sphere garners even further scrutiny for the young cast member. 25

21. Id.
22. Id.
24. Id.
25. Id.
C. Quasi-Pornographic Suggestion Inherent in Reality Television

Not only do producers edit footage to maximize dramatic impact, the surrounding marketing of the series is also aimed at highlighting the dramatic and sordid. On its official website for NYC Prep, the Bravo network caters to an internet-savvy generation of viewers. It features short videos, recapping events from the show, and bonus clips, with such defamatory and suggestive titles as “Naked Photoshoot,”26 “Lowering Her Standards,”27 and “Effin’ Young Bitches.”28 These videos, with their undeniably sexual titles, all featuring minors, suggest a troubling connection to child pornography. Child pornography, which is a serious federal offense punishable by jail time and a life-long registration requirement, is characterized not only by its primary description, “the production of the visual depiction involves the use of a minor engaging in sexually explicit conduct,”29 but also includes in its definition “[a] visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.”30 If the appearance of explicit conduct can be found to be pornographic, surely its blatant suggestion should also be so characterized. There can be no surer sign of a need for increased protection than the fact that the network featuring these minors veers to the salacious and pornographic in its portrayal.

The producers of NYC Prep continue to heighten the drama and intrigue in the blog section of its website. When principal cast members PC Peterson and Jessie Kaplan refused to submit entries for the blog, executive producer Lenid Rolov instead stepped in as ghostwriter.31 These entries focused on disparaging other cast members, including a section in which Jessie Kaplan calls sixteen-year-old Camille Hughes “rude and offensive.”32 And though it would be questionable for a network to print name-calling from one teenager to another, it is undeniably outrageous for that network to publish fabricated libelous material about minor children.

NYC Prep cast member Camille Hughes herself is yet another unfortunate example of the effects of the world of reality television on the real-life sphere. Portrayed on the series as academic and ambitious, with the goal of attending Harvard University, Hughes was subsequently publicly denounced by the

30. Id.
32. Id. at 2.
headmaster of her private girls’ preparatory school, the Nightingale-Bamford School, for her appearance in the reality television series. The school disapproved vehemently, terming it an “undue level of attention from the press and from people at large.” Later reports reveal that Hughes was not invited back to the school for her junior year, and instead attended the less academically oriented Professional Children’s School. While switching from one elite private high school to another may not at first seem like a detrimental outcome, the fact that an academic young girl is expelled from a learning institution for her involvement is illustrative of the broader concept at hand. It is again made evident that reality television is not without its consequences, and therefore, must be regulated with these dangers in mind.

D. Reality Equivalents

Interestingly, some of the aforementioned series are billed as the “reality equivalents” to successful scripted shows, seeking to capitalize on the success of an already-established scripted property. For example, Run’s House has been likened to a modern-day equivalent of the much-beloved classic The Cosby Show, and NYC Prep has been called a real-life Gossip Girl both by the network in its marketing campaign as well as by objective critics. These analogies abound, illustrating the growing trend from scripted to unscripted entertainment on television. Accordingly, there might be an argument to be made that reality television is simply an evolution of the traditional form, and further, merely symptomatic of a greater societal response to an increasingly digital age. Despite the appeal of this technologically centered claim, however, an evolving medium does not automatically equate with a safe one. As the medium itself evolves, so too must the protections afforded those appearing in those shows. The customs and practices surrounding more traditional series must be updated to accommodate the realities of reality television.


34. Id.


36. Aldore Collier, ‘Run’s House:’ TV’s first family of hip hop shares values and leads by example on reality show, JET MAG., August 7, 2006.

E. The Detrimental Effects of Fame at a Young Age

Many more examples of reality television capitalizing on the personal drama of young people abound, from MTV's *16 and Pregnant* to *Engaged and Underage*, as well as dating shows, such as *Parental Control*, and series which give the viewer a chance to ogle some teenagers' conspicuous consumption, such as *My Super Sweet 16*. Whatever the subject matter of their respective television shows, each of these participant minors attain fame of a certain kind, well before they are able to understand properly the ramifications of having a reputation for excessive sexuality or spending. Reality television alumna Kristin Cavallari first appeared on MTV's *Laguna Beach*, a forerunner of a plethora of shows presently on air, including direct spin-offs, specifically MTV shows *The Hills* and *The City*. Cavallari recently returned to the MTV brand of reality television, joining the cast of *The Hills*, in a bid to utilize her reality television notoriety to jumpstart an otherwise flailing acting career. Cavallari perfectly summarizes the peril of young fame:

> I almost felt like it was unfair for [MTV] to come into our lives at such a young age and sort of mess with things. I don’t regret it, but I was 17—of course I wanted to be on TV. I felt like they should have been a little bit more careful with us.

This statement illustrates the perilous after effects resulting from the combination of youth and reality television. It often happens that the performer is not aware of the devastating results of their participation until later in life, a harsh consequence indeed when viewed in light of the fact that no protections to counter this imbalance are currently in place.

F. Prominent Cases of Ill Treatment

There exist, however, prominent cases that involve and showcase minor children in a manner so egregious that they demonstrate an even higher level of exploitation than that typically found in reality television. These instances have gained notoriety in the sphere of popular culture, and possess certain unsettling similarities to the general genre with regard to their treatment of minor children.


1. The Balloon Boy Hoax

The most recent example in this category demonstrates an extreme blurring of the already-tenuous line between reality television and reality. On October 15, 2009, the American population was captivated by a silver saucer-shaped balloon flying through the wind in Colorado, thought to be carrying six-year-old Falcon Heene. This wasn’t the first instance of media exposure for the family, as the Heenes had appeared on the ABC reality series *Wife Swap*. The flying balloon was later discovered fifty miles from its Colorado starting point, but without Falcon Heene, leading many viewers to believe that the six-year-old had fallen out of the makeshift carrier to his death. Later, however, Heene was discovered not to have been in the balloon at all, but rather to have been hiding in the attic of his family’s home for the many hours of the search. Though Heene’s father Richard Heene denied that the ordeal had been a stunt, Falcon later uttered a sentence on CNN that revealed otherwise. Falcon Heene innocently revealed, “you had said that we did this for the show.” This statement was the first sign that the supposed crisis was, in fact, a hoax, a fact later confirmed by the Denver police department. This situation led to widespread public outrage as the Heene family had not only concerned the American viewing public—Balloon Boy was the most discussed-topic on micro-blogging site Twitter that day—but had also wasted state funds in trying to locate the missing child. The events of October 15, 2009, affected not only the viewing public and tax dollars, however. The greatest cause for concern lay with the boy himself, who, after being interviewed on NBC’s *The Today Show*, vomited in plain view of the audience. Unsurprisingly, Falcon’s nauseous moment has been made widely

44. Id.
45. Id.
46. Id.
49. Mitchell, supra note 44.
available on video, in a gruesome and desensitivized example of the severe sensationalism surrounding the reality television sphere.\(^5\)

Family and child sciences professor Ann Mullis explains the subsequent impact of the Balloon Boy hoax: “a continual push for a person to be in front of the media and do things that aren’t developmentally appropriate can be stressful to a young child. He’s only 6 years old.”\(^5\) In an editorial purporting to defend the fraudulent behavior of Richard Heene, *New York Times* columnist Frank Rich characterized the patriarch as a father “who mercilessly exploited his child for fame and profit.”\(^3\) The article, however, did point out the final facet of reality television that ensures its success: the often-voracious appetite of the viewing public for schadenfreude-ridden scandal.\(^4\) In terms of regulation, however, there exists little doubt that a parent can be held more appropriately responsible to care for his offspring’s welfare than to place blame on the tastes of the audience, however salacious.

Falcon Heene’s parents are currently undergoing a criminal investigation, and both plead guilty to criminal counts on November 12, 2009, and are expected to be put on probation.\(^5\) But what of the child himself? The events already have wreaked a potent physical effect on his health, but the potential psychological ramifications could be much greater. Child psychologist Charles Figley of Tulane University indicated, “Falcon could face teasing or labeling from his community, which could impair his self-identity at a very young age.”\(^6\) There is little doubt that the nickname “Balloon Boy” will remain with Heene not only for a very long time, but also during the formative years of his childhood and adolescence. The events surrounding Falcon Heene’s exploitation by his parents signal a wake-up call that stronger protections need to be afforded to participants of reality television shows.

### III. How Can Minors on Reality Television be Better Protected?

As the arena of reality television is at once intricate in its involvement and wide reaching in its scope, it is imperative that the protections governing the area are equally thorough and wide reaching. There are four principal areas where protection afforded to minor children should be increased: consent, conflict of interest, financial well-being, and psychological well-being.

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51. *Id.*


54. *Id.*


A. Minor Consent

The area of minor consent is a thorny one. Children are not permitted to sign the release forms necessary to appear on a reality television series and are granted work permits in a limited set of circumstances. However, once the requisite forms have been executed, all captured footage may not only be used in connection with the series in question, but also becomes property of the network which produces the television show. The potential for abuse in this arena is startling when vital issues of the tremendous quantity of material and the portrayal of actual self are taken into account. Because of these dangers, safeguards must be enacted that require additional consent to be provided beyond the initial development stage.

One solution to combat this exposure risk may be modeled from a traditional practice in motion picture talent contracts which allows for the approval of photographic stills and likenesses. In these contracts, actors are given the opportunity to approve a group of still photographs, as well as the chance to work with the rendering artist until a likeness or rendering is reasonably to their liking. Though reality television participants might never have the leverage that professional actors possess, it remains undeniable that they have an equal or greater cause for concern. Unlike their scripted counterparts, these photographic or drawn likenesses purport to portray the actual selves of their subjects. Therefore, reality television minors should be provided with a similar approvals system, in which they are provided a group of photographic stills and must approve a percentage of them. As many of the participants may not be of a suitable age to grant such approval, there should exist an outside third party whose function is solely permission-based, and who advocates for the child in this area, assuring that the interests of the producers in creating sensational television does not impinge too egregiously on the portrayal of the minor. Additionally, general categorical boundaries may be put into place to ensure that all dangerous areas are considered.

B. Parental Conflict of Interest

There is a heightened risk of parental conflict of interest in the arena of reality television. While an over-ambitious “stage mother” is hardly a new concept in the entertainment industry, reality television adds heretofore unknown layers of complexity to the traditional problem of overeager parenting. There is no case more illustrative to this point than the media saga

58. Id.
60. Screen Actors Guild Contract, supra note 7, at 8.
of Kate and Jon Gosselin, who appeared on the TLC show "Jon & Kate Plus 8." What began as a family-oriented show about child-rearing quickly transmogrified into a media whirlwind, and the children were treated as little more than accessories to that end. There is no doubt that the Gosselins ultimately were willing to expose to public view their child-rearing in exchange for a much glamorized lifestyle. Because of this, the inherent conflict of interest could not be more blatant, as even Kate Gosselin's new hairstyle is tabloid fodder. Gosselin has and continues to utilize her status as mother to receive thousands of dollars of entertainment perks, including new products, a personal makeover, and a recently announced appearance on the popular ABC Television series, Dancing With the Stars, allowing Gosselin to parlay the fame motherhood has afforded her still further.

But what benefits do the Gosselin children receive, if any? While Kate Gosselin may receive free haircuts, the price is no doubt borne by her offspring and the accountability for receiving such generous gifting simply does not exist. There exists an ongoing argument for the, and when the effect of that gifting is harm to children, it is undeniably in need of regulation. Presently, it is an area that is wholly unregulated, allowed to spiral exponentially as the lurid details of the subsequent Gosselin divorce, both sexual and financial, become national news.

C. Financial Well-Being

Financial issues are perhaps the simplest of the four areas to regulate, and subsequently, can be made to adhere to the strictly objective guidelines. The changes that must be enacted involve both increasing uniformity of legislation and the quantity of financial protection afforded.

At present, the law in this area varies by state. The states with the strongest protections include California, New York, Louisiana, and New Mexico. The law governing these states is named after a child actor whose story speaks to the very issue at hand. Child actor Jackie Coogan's father had

66. Screen Actors Guild, Coogan Law, http://www.sag.org/content/coogan-law (last visited Apr. 9, 2010).
spent all of his earnings by the time Jackie reached the age of majority. At that time, earnings legally belonged to the parent of the child actor. Since January 1, 2000, earnings are property of the child actor, but because a minor child cannot legally control his money, these states require “Coogan Accounts,” or a trust account in which fifteen percent of a performer’s gross income is deposited within fifteen days of the beginning of principal photography. Reality television filmed in the above named states adheres to these guidelines.

A recent example of a court-enforced Coogan Account system involves Nadya Suleman, commonly called “Octomom,” whose artificial insemination and subsequent birth of eight children as a single mother made headlines. Suleman’s story has garnered tremendous national attention on a national scale: Suleman’s mother gave an interview to Us Weekly; her father appeared on Oprah, sparking family squabbles that in turn became fodder for new tabloid stories; and Jimmy Kimmel skewered Suleman on late-night TV. A thousand Web sites bloomed—hate sites, fan sites, and gossip sites. Finally, and perhaps, inevitably, Suleman signed a reality television deal, agreeing to showcase her daily life, along with her fourteen children.

Suleman’s case has become a directional one, not only for the court-ordered presence of a children’s-welfare representative, but also for its adherence to Coogan Account regulations. These forward-thinking strides were hardly coincidental: Suleman’s case was taken to an Orange County, California court by children’s rights activist Paul Petersen. Nevertheless, these decisions are not special cases but are vital to the protection of minor reality television stars, and similar parameters must be made uniform for all children participating in reality shows.

67. Id.
68. Id.
69. Id.
76. Id.
Because filmed entertainment was a product that predated reality television's rise to prominence and was confined largely to California and New York, it is imperative that the laws of all states evolve alongside as the reach of reality television entertainment spreads across the country as well. A uniform Coogan Account-type requirement among every state would not only provide a basic level of fairness, it would also prevent forum-shopping, preventing unscrupulous producers from choosing reality television performers based on whether the state in which they reside has lax laws with regard to finances or other facets, including working hours and on-set conditions because they are less accustomed to hosting television production than their more entertainment-friendly counterparts, such as California or New York, whose laws are far more stringent.  

The Coogan Account system itself also must be strengthened for reality television participants. Though the fifteen percent holding amount may be appropriate for those child actors participating in scripted entertainment, the reality television minor carries an increased risk. Because she is not a performer by nature, but simply a "regular" child being singled out, presumably for a single series, and because reality television participants assume much more personal risk by appearing as themselves and not as a character, the holdback amount must be increased significantly, if not doubled, with twenty-five percent an absolute minimum amount.

D. Psychological Well-Being

The area of psychological well-being is the ultimate protection to be strengthened, as it is the most all-encompassing. Every decision made by reality television producers as well as the parents of minor participants has the capacity to negatively affect a child actor's physical health and emotional well-being, both in the short term—as in the abovementioned nervous vomiting incident concerning Falcon Heene—as well as in the long term, causing more permanent psychological damage. "Unlike child stars, children like Falcon usually aren't trained to handle the media. 'He will never be the same again, because he's been on CNN, 'Good Morning America' or whatever, his fifteen minutes of fame,'" Charles Figley, professor psychology at Tulane University said.

In November 2009, both Heene parents pled guilty to the hoax, receiving alternating jail sentences so that their children could be cared for by the non-incarcerated parent. Interestingly, a stipulation was included that the

78. Chen, supra note 49.
Heenes could not profit from the hoax for four years.\textsuperscript{80} It is this facet that is perhaps the most troublesome of the ordeal. In terms of deterrence, four years seems slight compared to the life-long repercussions that Falcon will face.

The preceding examples illustrate but a small share of abuses endured by minor participants on reality television. As this class of entertainers stands doubly vulnerable due to both the personal nature of the entertainment and their status as minor children, the law must evolve to provide suitable and heightened protection suitable for their unique and modern set of needs. Increased protection is necessitated in four key areas: parental conflict of interest, financial as well as psychological well-being, and finally, minor consent. These safeguards will begin to protect those minors who find themselves garnering major attention.

\textsuperscript{80} Id.