

Winning in court not the same as winning in court of public opinion

 By [San Reddy](#)

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One of the best things a company or individual facing a crisis can do is call in the assistance of expert professionals - but what happens when their advice clashes? In particular, the counsel of attorneys and those of crisis and reputation management specialists are often at odds. And the upshot for the client is disaster.

Attorneys tend to default to a "say nothing" position, for fear of saying or doing something incriminating, or opening one up to civil litigation. In doing so, they are fulfilling their mandate: keep the client out of the courts, and thus out of trouble, as far as possible.

Communications battle all but lost

But the problem is that, while the client attempts to avoid being held to account legally, he or she is swiftly and mercilessly being tried in the court of public opinion. That's what the crisis communications practitioner is trying to manage. Without the ability to speak up in one's own defence, however, the communications battle is all but lost.

The first rule of effective crisis and reputation management is: defend yourself at every opportunity. The second rule is: don't waste time about it; the longer you take, the worse the drubbing for you and your reputation. And the more difficult it will become to communicate your way out of your pickle.

When media have the bit between their teeth on a story about you, they're going to publish, whether or not you use the opportunity to defend yourself. If you won't talk, they'll get someone who will - and that person won't necessarily say things you want in the public domain.

And in the court of public opinion, someone who won't comment is guilty. It's a less-stringent test than our courts would require, but it's potentially a lot more damaging to one's reputation (and bottom line.)

Stuck in the middle

Stuck in the middle is the beleaguered client, desperate to escape with as little damage - legal or reputational - as possible. The client will accede to a crisis-communications plan, only for the attorneys to reject it. The attorneys almost always win, because they usually have a deeper relationship with the client and, well, because they're attorneys.

The freaked-out client, feeling out of control of the situation and fearing terrible repercussions, invariably flip-flops between these competing recommendations. Yes, it wants to defend itself, but no, the lawyers say keep quiet. But now there's a fresh allegation... say something, say the crisis people; say nothing, say the attorneys.

And so the communications response ends up lopsided, and falters. There's half an answer here, an unsatisfactory interview there. Those media not getting a comment turn more hostile. The client makes snap decisions (with or without advice), then has a change of heart. And perhaps another before the day is out.

So how can this impasse be avoided?

Simple solution

The simplest solution is for a client's attorneys and crisis communicators to be included in all decision-making, and for a mutually-acceptable communications plan to be drafted and strictly executed.

Attorneys and PR people also need to compromise. The former need to accept that saying nothing frequently says more than saying something, and the latter that there are often serious but not-very-obvious legal considerations at play.

Time allowing, as crisis communications by definition is urgent, basic media training should also be provided to the client and attorneys. The better they understand media, the more receptive they will be to the imperatives of crisis communications, and the less likely that the client's reputation and brand will be savaged while they prepare for any legal threats.

After all, what really is the point of trying to saving a company in the courts, when it's already been ruined in the court of public opinion?

ABOUT SAN REDDY

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