

# Be Prepared: Using Public Relations to Manage a Dispute or Stop it in its Tracks

By **ELISABETH MORIARTY**

**E**arthquake kits can be life-saving—a curated assemblage of food, water, and other survival supplies (e.g., gummy bears) that provide peace of mind and protection when the big one hits.

Think of public relations as a key ingredient in your “litigation survival kit.” High-profile lawsuits are often waged in the arena of public opinion, not the courtroom. Partnering with a PR firm before disaster strikes is a proactive strategy that can make the difference between managing a crisis and averting one.

PR experts can help attorneys digest what’s at stake and craft messages in non-legal but impactful terms that advance the client’s position. Anticipating where the story will go, predicting an opponent’s next move, and “getting ahead” of the news cycle will serve clients well.

With every court filing, new facts come to light that potentially drive one side’s narrative forward, and each bit of coverage can reveal new circumstances requiring quick strategic decisions that might influence the case. Litigation PR is like a game of chess; it is imperative to have professionals on your side who know how to play the public messaging game and are ready to make the next move regardless of which way the case goes.

Communication professionals have relationships with editors and reporters and can provide a “point of contact” for access, questions, comments, and timely responses. Disclosure timing will also dictate whether one side has the upper hand. This is where media relationships—a publicist’s “IP”—come into play and add tremendous value. Time is always a factor in Litigation PR.

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Knowing what to say, what not to say, how to say it and when to say it (or not) also will be essential to your strategy. Knowing when to stay silent and ignore requests rather than offering “no comment” is crucial. When faced with unflattering accusations, knowing when to apologize, when to deny, and when to defend your client’s actions are all points to consider. These decisions should not be made “off the cuff” in the heat of battle. Strategic preparation can be the key to success.

Whether the attorney-client privilege will attach to PR firm communications is a complicated issue. The law firm, not the client, should directly engage the expert, and the retention must be reasonably necessary to assist counsel. To



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help establish the privilege, specific goals and assignments should be communicated from attorneys directly with the PR firm, and roles must be carefully defined. These critical considerations should be made strategically, not as an afterthought in the wake of an emergency.

Lastly, in addition to navigating a crisis, PR professionals can also help avoid one. In a recent, high-profile business divorce, my clients hoped to part ways with their partners amicably before litigation ensued. But emotions were running high. My clients feared that the other parties might go to the press, hoping to control the narrative, spin it in their favor, and gain leverage in the negotiations (or in any ultimate litigation). We involved a PR firm at the inception of the negotiations, to help us develop our narrative and be prepared to launch it, whether as a first strike (if it seemed things were going south) or an immediate counter-response (if the other player went public first). Because resolution was the intended goal, we also used the PR firm’s media/interview training experience to our advantage. While we developed the negotiation talking points, the PR team worked with our clients to help them deliver that message persuasively, distilled of any emotional undercurrents. Our clients were able to de-escalate and diffuse a potentially volatile series of meetings, and the negotiations ended successfully. But had things gone differently, our clients had the comfort of knowing that they were well prepared to weather whatever storm might hit.

Having represented clients in high-profile matters, I can advise that partnering with the right PR firm before a crisis occurs can lead to positive results.

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