

Strategies Lawyers Can Use For Litigation PR Success

By **Steve Rudaini** (June 5, 2023)

From the OJ Simpson murder trial to the case of Vardy v. Rooney, known popularly as the Wagatha Christie trial, last year; the Johnny Depp v. Amber Heard case, and even the so-called Brexit trials that reached the U.K. Supreme Court — all have captured the public's attention.

In some cases it was because the country's future was being decided, or because the parties in the case were household names, but behind each case, and on each side of the disputes there were public relations machines working all hours to ensure their side's arguments won in the court of public opinion.



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Why Publicize Litigation?

Of course, these are exceptional cases, but there are many more, though not grabbing the front pages, which are publicized and often for good reason; to raise awareness about a particular cause, such as to change the law on assisted dying, or to stop the ultra low emission zone reaching leafy London suburbs.

There are other benefits to publicizing a case, beyond securing victory in the court of public opinion via the press and social media.

It is good for the justice system and showing the world just how important it is.

In 2016, the first Brexit cases began. Many will remember the Daily Mail's "Enemies of the People" headline when High Court judges were criticized for the decision they reached, but it also acted as a catalyst to prompt many people who would not normally pay much attention to the courts to tune in when it reached the U.K. Supreme Court and was televised.

For lawyers too, publicizing cases they have worked on is an obvious way to raise their profiles and potentially attract more clients, as well as increase their standing in their practice areas among their peers. Think Lord Pannick KC, Baroness Shackleton, Nick Freeman, aka "Mr Loophole," and so on.

Film Stars and Grafters

U.S. lawyers involved in high-profile cases are often seen as akin to film stars. In the OJ Simpson trial of the 1990s, some of the lawyers became famous, and even their children eventually achieved global stardom, e.g., the Kardashians.

U.K. lawyers might have a tougher job on their hands when it comes to being visible in the media and the outside world.

Even when lawyers and spin doctors can publicize their arguments in a case, it is not straightforward. Many journalists might cover the case, but not give much attention to the lawyers, with the exception of the barristers, who are leading lights in the courtroom dramas.

There are ways that lawyers can get round this:

Developing Ongoing Relationships with the Media

Building a rapport with court reporters, home affairs correspondents, but also business and finance journalists can pay dividends. With court reporters few and far between, but cases becoming more complex and having a greater impact on wider society, journalists covering other patches are paying more attention to what is happening in court.

The rise of group claims — for example, if the so-called Dieseltgate scandal reaches court, it will undoubtedly be reported in the business pages of the media. On that particular topic, the reputational threat of publicity could be a factor that would force certain car manufacturers to settle.

Tipoffs

In all my years of legal public relations, I have always thought U.K. media was exceptionally good at knowing which big cases were coming up. Nevertheless, tipping off the press in advance can give them a helping hand when they are pitching stories to their news desks. Lawyers who are helpful to journalists can grow those important relationships with the media.

Being Generous with Skeletons

Getting access to skeleton arguments in a court case can be useful to a journalist reporting on a case. Any background information is helpful and showing a willingness to assist can help build a long-term relationship with the media. The U.K. Bar Council has a guide available on demand for the Bar.

Being Available

Speaking to the press on or simply for background information after a decision or judgment is vital, but lawyers or their public relations team need to be proactive and ensure the journalists covering a case know a statement will be imminent.

It's Not Just the Press

Before smartphones and social media, lawyers and journalists would mix together in their daily lives in and around the interlocking Fleet Street, Chancery Lane and Inns of Court, and "down the pub" after a case at the Royal Courts of Justice.

Today, while lawyers, public relations teams and journalists communicate in very different ways, lawyers now have access directly with the public and the client community via social media. So, though it is one thing to make a name for themselves in traditional media, lawyers also need to think how they handle the communications around a case on social media.

LinkedIn is awash with law firms, barristers' chambers and lawyers highlighting successes in court. Getting the message to a wider audience through social media can and should form part of any litigation communications strategy ... as long as you know what you are doing!

New Obstacles

All of these tips are well and good, but as is often the case in court, it is not that simple.

There will be cases where even thinking about publicizing it will land you in hot water with the judge, or one might even break the law. Privacy laws, national security and obviously cases involving minors will need to be handled very differently.

However, in cases where it is safe to publicize litigation, a new trend is emerging that can make it very difficult to highlight a case to the media and the public. Judges are cracking down, albeit inadvertently, on the behind-the-scenes role of litigation public relations.

Those of us who often manage litigation communication strategies will know that it is common practice to draft press statements for the decision going either way, share these with the media in advance and brief them on the background of the case. Some lawyers will even give off-the-record briefings to the press themselves on the case, all in anticipation of the judgment.

This activity helps the media prepare for a decision or judgment, get their facts straight and have time to query any specifics, ensuring they report accurately on the case. Given more journalists who are unfamiliar with the courts are now reporting on events in the courtroom, such as business and home affairs correspondents, this preparation has even greater importance.

More and more frequently, judges are requesting that lawyers and their clients do no predraft statements or give background briefings to journalists until the judgment is made public.

Fueling this judicial caution are cases whereby lawyers have broken an embargoed judgment. Counsel General for Wales v. Secretary of State in 2022 saw such an instance, with a press release accidentally published before the judgment, prompting the master of the rolls to threaten contempt of court proceedings on anyone who broke embargoes in the future.[1]

Understandably, it has spooked many lawyers and this approach means it is more difficult for journalists working under a shorter timescale from judgment to publication to report accurately or without errors.

The bottom line is that, more than ever, lawyers and their public relations teams need to build strong links with the media and get their social media channels in order in readiness for litigation.

Reputation Matters

The rise of class actions in the U.K., coupled with a permanent global audience watching on through social media, could mean any business, large or small, or high-profile individuals, possibly ending up in court at any time.

Handling the public relations for litigation is now, arguably, even more important in protecting a client's or an organization's reputation.

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[1] Counsel General for Wales v. Secretary of State[2022] EWCA Civ 118.