

April/May/June 1997

TO: Executive Addressed

FR: James E. Lukaszewski, APR, Fellow PRSA Chairman

RE: Principles of Communication During Litigation

1. Saying less is better; saying nothing is often the most desirable public approach.
2. Communication to "sway" the jury pool is ineffective at best and unethical at worst.
3. While the client has the final say, the litigation visibility consultant's job is to make knowledgeable recommendations that support the legal effort and minimize or carefully target visibility.
4. Public communication must be conclusive and unassailable.
5. Memos, plans, strategy documents, analysis, and other written materials should be minimized. Verbal communication is preferred. All documents and drafts of documents must be saved and may be discoverable.
6. Communication priorities, in order of importance, are:
 - o Supports expectations of key constituents;
 - o Supports needed communication goals of organizational leadership; and
 - o Is really worth doing.
7. Media calls have the lowest priority; some, maybe many, may not be returned.
8. Speak when it's in your interest or consistent with communication priorities.
9. Goading by critical media, critical practitioners, commentators, or plaintiffs' attorneys will be ignored.
10. Focus keeps the story local.
11. Focus conserves energy and resources.
12. Focus helps avoid creating additional damage.

13. Defense counsel who simultaneously attempt to be in the court of law and pundits on the courthouse steps will do one or both very poorly.
14. Avoid the intoxication of media exposure during high-profile legal action. Always review local rules for extrajudicial speech. Behave accordingly.

Several additional useful resources on litigation visibility management are available from The Lukaszewski Group including the monograph, *The Newest Discipline: Managing Legally Driven Issues*; the article, "Company Facing Crisis Situation Must Focus on Communication Strategies as Well as Legal Concerns"; and the text of two speeches, "Managing Litigation Visibility: How to Avoid Lousy Trial Publicity" and "The Other Prosecutors." Please call or write for information and prices, or visit our Web site at www.e911.com.

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