

Innocent or guilty? The public also casts judgment

WINNING IN THE COURT OF PUBLIC OPINION

- The PR team must work hand-in-glove with lawyers.
- Never allow a media "information vacuum" to develop.
- Regularly package media material in plain English to ensure the fair and accurate portrayal of the issue and the client's position.
- Never waste an opportunity – run your own courthouse doorstop media conferences and be there to respond when the opposition makes its media moves.
- Keep stakeholders directly informed.

Source: Riley Mathewson Public Relations senior consultant Clint Ford



Gerry Harvey

Nigella Lawson

Oscar Pistorius

Rolf Harris

Winning in court is not always enough — it's winning in the court of public opinion that really matters.

The public relations battle in legal disputes can be won or lost before the lawyers have even delivered their opening arguments, so it is no surprise that "litigation PR" has become its own, specialist area of communications.

Done well, it has helped rehabilitate the reputations of celebrities such as Nigella Lawson after shocking public revelations. Done at its best, the public has no idea a company or individual was involved in a legal dispute in the first place.

But where it has failed, even if an entity or individual was found not guilty, the costs can be far greater than a reputational hit.

Clint Ford, senior consultant at Riley Mathewson Public Relations, said the best outcome was generally to avoid the public gaze entirely. For example, it would have been far better for department store David Jones to avoid court in 2010, when employee Kristy Fraser-Kirk claimed she had been sexually harassed by then-chief executive Mark McInnes. She sued for \$35 million in Federal Court, complained to

the Human Rights Commission and ultimately settled for \$850,000 — every detail of which was covered by the nation's press.

"If you can avoid the damage being done in the first place then you don't have to do a clean-up exercise," Mr Ford said.

All the while, a strategy should be in place in case the legal dispute makes its way into the papers, he said. Once it hits the headlines though, how a company or brand acts next is key. Mr Ford said it was vital to engage a communications specialist immediately — not just to talk to the media but to shareholders, staff, customers and suppliers.

"Don't leave it too late to consider public opinion," he said. "Things can all of a sudden get ugly in the public space and then companies decide to do something about it.

"Then you're fighting a bush-fire that's already burning on dry fuel. You're putting out spot fires rather than running a strategy. You're not thinking strategically about what the public need to know, what your strengths and soft spots are, and so on."

The other key strategy is not to let a "media vacuum" develop.

"The thing about 24-hour news channels is that they need content," he said. "That is a thrilling opportunity depending on how prepared you are and if you have interesting and constructive, newsworthy things to say."

Once a matter is in court, there are legal restrictions around what can and cannot be said. But that does not mean the PR team stops working. When Rolf Harris faced his indecent assault charges in a London court last year, two representatives from PR firm Bell Pottinger were in court most days, talking to the press.

Oscar Pistorius went through several communications teams during his murder trial last year.

Lavan Legal partner and former journalist Nick Stagg said marketers "pretty much always" work closely with lawyers to ensure consistency in the message.

"It is important the lawyer and the PR guys have a working relationship in which the lawyers can give guidance on where those disclosure boundaries and legal goalposts are, and for the PR guys

to steer the lawyers away from the public messages and positioning being bogged down in legalese," he said.

"The PR professionals will have a deep understanding of how the media cycle works, and how information is best delivered to reporters.

"They will understand how best to utilise social media platforms to 'stay on message', and to get that message out there."

Mr Stagg said the key things to avoid were saying nothing, appearing defensive when speaking or "not looking compassionate when compassion is objectively required".

In other cases, a public legal dispute can lead to a big commercial win. In 2004, Gerry Harvey backed two Harvey Norman franchisees in WA charged, and subsequently fined, for breaching Sunday trading laws.

Mr Harvey took to the airwaves advocating civil disobedience, and calling on WA shop owners to open every Sunday in the weeks before the State election.

The campaign got traction and ultimately WA's Sunday trading laws are very different today.



Finger-pointing and blame-shifting is not a good look, and the jury in the court of public opinion will convict.

Lavan Legal partner and ex-journalist Nick Stagg