



# AND THE ART OF LEGAL NETWORKING

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INSIGHTS & COMMENTARY ON  
*Relationship Building  
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POSTED IN RISK MANAGEMENT

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## Crisis Management: An Opportunity for Litigators to Be Proactive

BY LINDSAY GRIFFITHS ON MARCH 9, 2016



Litigators: [a recent survey](#) by public relations firm [Greentarget](#) highlights the opportunity to be proactive with your clients, says Senior Vice President and head of the firm's Crisis & Litigation Communications Group, [Larry Larsen](#).

The survey itself focused on the intersection between communications planning and reputation in high-profile lawsuits, and revealed that a lack of planning outside of the courtroom, not surprisingly, can lead to damaging a company's image. From Greentarget's press release:

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**[W]hile senior legal officers acknowledge the importance of communications with stakeholders during high-profile lawsuits, the majority have outdated strategies or no strategies at all to direct communications outside of court.**

**This lack of preparation leads to an overly conservative approach defined by decisions and actions that are often impulsive and governed by the fear of negative media attention. Ironically, these instincts can compound the likelihood of reputational damage.**

**This vicious cycle - an increasing number of high-profile lawsuits, deficient planning, conservative approaches, and the resulting potential negative attention - is exacerbated by the lack of accountability at most organizations. The majority of respondents said that they are not ultimately responsible for communications strategy outside of court. They stated that other senior leaders in their organizations have final authority and that their CEOs were either actively involved throughout litigation or at least engaged major decisions.”**

While this should be a siren call to organizations to get their crisis planning and communications strategies in line, it's also an opportunity for litigators. Says Larsen:

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**Most lawyers and their clients can predict what lawsuits would be most damaging to their organizations, and they should take some level of control and prepare for what's to come. Companies that give forethought to potential legal situations will have more effective and timely responses. In today's world of immediate and unending news coverage, premediated statements made at the onset of crises can save companies from substantial reputational harm and years of damage control.”**

I spoke to Larsen recently in a telephone interview, and he likened the situation to that of the recent press around Apple in the news – although this current case is focused on a particular matter, that of whether the FBI can force Apple to create a program that would allow the government to hack into the iPhone used by the San Bernardino killer, we can probably safely assume that Apple wasn't waiting for the FBI to come knocking on their door in this particular case to get their legal team and their communications strategy in order.

They would have assumed that at some stage, a governmental body would want access to their customer data, and they had to decide what their response to that would be – to the government, to their internal stakeholders, and to their customers and buying public. Although they'd have to fill in the particulars once it happened, they could prepare for, and flesh out, a general strategy and communications response proactively to avoid being caught unaware.

Many litigators already operate this way with their clients, and Greentarget's report serves as a great reminder of how lawyers can be proactive business partners for their clients, working with them to see the potential pitfalls in the road ahead and coming up with strategies to both avoid them, and handle them should the worst happen. Larsen was kind enough to share four key elements that any good crisis preparedness plan should include:

- **Crisis response team.** To save time and limit confusion, the team should have one leader, known firm-wide as the first call to make in a pending crisis. The team should be representative of key functions within the firm – internal legal, external communications, internal communications and marketing – and each member must have clearly defined responsibilities and expectations. The team should contain an executive sponsor from firm leadership.
- **Decision tree and likely scenarios.** Because it's vital to know when to involve firm leadership, it can be helpful to create a hierarchy – we typically recommend three levels. Level 1 crises do not threaten the firm's overall reputation and can be handled by the crisis team with limited support from leadership. Level 2 crises could endanger the firm's reputation and should involve some level of attention from leadership. Level 3 crises threaten severe, permanent reputational or operational damage. They require detailed leadership involvement. Examples of each level should be thought through as part of the crisis team's scenario planning.
- **Trusted outside counselors:** A firm should have key outside advisors – legal, financial, public relations, etc. – on call to assist and strategize as situations dictate. The more familiarity an outside advisor has with the firm's inner workings, the more valuable the advice. Large firms should consider multiple advisor relationships in each category in case of conflicts.
- **Training and role-playing:** Practice makes perfect. If firm leadership doesn't have experience with the media or in crisis situations, drills and media training sessions are invaluable

for driving home the critical steps and the resulting responsibilities.

Litigators, what do you think? Together with your clients, are you considering two or three likely lawsuits that they may face in the future and helping them to prepare their strategies? Do they have a crisis plan in place, and since law firms are also businesses, do YOU have a crisis plan in place at your firm?

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