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Why attorneys inevitably mishandle crisis situations



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THE ROBE REPORT

The title of this column derives from a monthly media coaching session I conducted for a corporate law firm client. As you can imagine, the advanced billing for this session created quite a stir.

We started with a scenario involving a real estate developer whose demolition contractor bulldozed the wrong house. To make matters worse, the house was occupied by the widow and children of a firefighter killed in the World Trade Center attacks. This virtually guaranteed increased scrutiny of the situation. Immediately, the attorneys all advised their fictitious client to remain silent about the incident.

In this scenario, admitting anything too quickly certainly would be unwise. But, as part of a strategy designed to address influential stakeholders outside the courtroom, I suggested putting the family up in the finest hotel, paying to replace clothes and other lost items, essentially taking care of their every need. No admission of guilt, mind you, rather an active approach to do what's right regardless of who is at fault. My strategy served as a means of mitigating the outcome for their client, win or lose. Naturally, the group of attorneys challenged the strategy.

Regardless of the cost, I assured the attorneys, the client will come out ahead in the end. Think about it. This would be a different approach than most companies would take in this situation. When companies act differently, people take note. And when positive perceptions are formed by regulators, prospects, vendors and media, these perceptions can translate into positive outcomes.

Let's assume for a moment you opt for making things right and the plaintiff still attempts to make a lot of money off your client's mistake. Consider how you might advise your client in the following scenario:

An employee is fired and threatens to sue. He claims he was terminated because of his age and large salary. On the surface he seems like the victim of age discrimination. If the company remains silent, it most certainly will become the villain in media stories and the rumor mill.

Now let's consider your client's side of the story and the impact it would have if actively communicated. The disgruntled employee started out as a floor sweeper and rose through the ranks after years of night school classes at the community college. He did not have the level of experience or sophistication, however, to navigate the company through the next phase of growth. Your client hired someone younger, but with direct, relevant experience in taking companies to the next level.

Prior to being fired, the disgruntled employee was given other assignments and stripped of his title. He became visibly unhappy and began to shirk his new responsibilities. When he was fired, he could retire through stock options and other financial perks.

To begin shaping perceptions both internally and externally, you might counsel your client to take this position: "After all the opportunities we have given him to reach a level of financial security most people never attain, it's a shame an attorney with dollar signs in his eyes would come after us with this baseless claim." With this response, it's hard to portray him as a corporate victim and it paints his attorney as the bad guy.

As attorneys, you hold much sway with corporate CEOs and decision makers. They often abdicate authority to you during a crisis. My advice to CEOs includes bringing legal experts and communications experts to the crisis table. As a trusted advisor, you also have the opportunity to ensure your clients endure legal and public scrutiny as communication channels proliferate and legal and public advocacy become inseparable.

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