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Diversity Coalition Building: From Theory to Practice

By Rachel Saloom


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Law firms are steadily increasing efforts to improve diversity through a variety of mechanisms. The majority of firms in the AmLaw 200 for 2008 have in place a diversity committee or task force. In addition to formal diversity committees, affinity or network groups provide a mechanism for attorneys to gather together based upon common background and experiences. Over the past 10 to 15 years, law firms have increased the number of diversity and affinity network groups available to attorneys.[1] Studies have shown that 97 percent of law firms have in place—or have plans to start—affinity groups.[2] Additionally, over 90 percent of Fortune 500 companies have affinity groups.[3] Other efforts to increase diversity include diversity training and education, workshops, speaker series, community involvement, pipeline programs, diversity scholarships, and fellowships.

In a time where more law firms are expanding their focus on diversity, it is important also to focus on building coalitions among diverse attorneys of different backgrounds. Common affinity or diversity groups[4] that have emerged at law firms include:

- African American
- Asian and Pacific Islander
- GLBT (Gay, Lesbian, Bisexual, Transgender)
- Hispanic or Latino
- South Asian
- Middle Eastern
- Women

Initially, these groups grew organically within firms when a core group of like-minded people decided they wanted to form an affinity group. When the popularity of affinity groups increased, many firms supported or even spearheaded efforts to start affinity groups. These affinity groups are often touted by firms in their recruiting efforts to diverse students as a

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Litigating in the Limelight: Lawyers Representing Celebrities

By Ross Johnson


Ross Johnson

An attorney representing a celebrity in a high-stakes civil or criminal trial litigation is akin to someone playing blackjack in Vegas: It's not an exact science, and rules are made to be broken. In the end, those who can do the math live to fight another day. In other words, repping a celebrity in litigation can be an express train to money and glory, a lawyer's worst nightmare, or, in some cases, simply another day's work for a certain type of attorney.

For the purposes of this discussion, let's define a celebrity as a plaintiff or defendant who, by the mere fact that he or she is involved in litigation, makes the litigation noteworthy. The litigation thus draws the attention of the media, who will eventually become another stakeholder in the litigation's outcome.

After years as a journalist covering high-stakes litigation for such publications as the *New York Times* and various Los Angeles publications, in 2007, I went to work for Sitrick and Co., which specializes in crisis management. Recently, I started my own firm, LA Strategic, LLC, where I specialize in litigation consulting and assisting lawyers in growing their businesses. I have helped a number of celebrities and prominent businesspeople involved in high-stakes litigation, including *Crash* producer Bob Yari in his battles with the Academy of Motion Picture Arts and Sciences, and actor Wesley Snipes during his 2008 trial in Florida. I have recently been in the press (not all of it good) for my work on the felony tax case in which "Girls Gone Wild" founder Joe Francis is a defendant.

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Litigating in the Limelight

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I've learned—sometimes the hard way—that celebrities and their lawyers are basically looking at four possible outcomes to any litigation:

1. The celebrity gets a favorable outcome to the litigation, and the lead lawyer, by the very nature of the increased attention focused on his work in a celebrity case, sees his or her own brand and reputation pumped up in the media, the public, and—most importantly—among his fellow lawyers and their attendant referral networks.
2. The celebrity receives a favorable outcome to the litigation, but the lawyer's reputation does not necessarily spike upwards, because the lead lawyer chose to concentrate on the case and ignore the media. Thus, the media— denied access to the lead attorney—is inclined to assign credit for the lawyer's victory to someone who did play ball with the press. This recipient of media love could be a handling attorney or just about any other member of the celeb's entourage who didn't do the legal grunt work but spun a good, self-serving story to a reporter.
3. The celebrity receives an unfavorable outcome, but the lawyer's business benefits greatly only by having his name in the press. This is especially true for criminal defense attorneys.
4. Both the celebrity and his or her legal team come out of the litigation looking like idiots. (Google "Roger Clemens and Rusty Hardin.")

Let's examine some basic celeb representation rules of engagement. Consider these rules "Attorney-Celeb 101."

Q. What rules should a lawyer follow when he or she is representing a celebrity and media queries start to come in?

A. Unless the lawyer has a deal with the client that allows the lawyer a free pass to solicit the media, the lawyer must understand the basic legal and business objectives of the client and judge each media query on its own merits before issuing the standard, "We'll try our case in court, not the media."

One of the lawyers who greatly impressed me during the Wesley Snipes tax trial was litigator and transactional attorney Daniel "Meach" Meachum of Atlanta, Georgia. Mr. Meachum made it very clear to everyone involved in the Snipes litigation that he was there to represent Mr. Snipes's best interests. Period.

In the 14-month period between Mr. Snipes's indictment and his January 2008 trial in Ocala, Florida, for tax fraud, conspiracy, and willfully failing to file a return, Mr. Snipes gave just three interviews.

Every conversation with a reporter is on the record from the time the reporter opens his mouth.

Mr. Snipes had a business objective—he wanted to work as much as possible while he was out on bail pretrial. Thus, he gave his first interview to a showbiz trade paper, *Variety*. This is where Mr. Snipes addressed the fact that he could obtain cast insurance while out on bail and could even travel to foreign locales pursuant to his bail restrictions. The upshot? Producers were made aware that Mr. Snipes was employable, and Mr. Snipes quickly went back to work post-indictment.

After Morris Kelly lit into Mr. Snipes on the "Mo' Kelly Report," a blog widely read by Mr. Snipes's core audience, Mr. Snipes responded in writing, on the record, to Mr. Kelly. Thus, Mr. Snipes very quickly defended his reputation to his core audience when his reputation was attacked.

The lesson? Both Mr. Snipes and his attorney Mr. Meachum understood the value of reaching out to the "core" before trial. If the core constituency abandons a celebrity client before the trial, a potential jury, while researching a litigant pretrial and during a trial, is very likely to ascertain this in today's Internet age. (Anyone who thinks jurors don't use Google News search engines after a long day in a celebrity trial has lost touch with planet Earth.)

A month before the trial, an extensive interview with Mr. Snipes was published in the magazine *Entertainment Weekly*. Mr. Snipes was given a forum to express his personal feelings (e.g., how much he was going to miss his family if convicted) to a reporter who did not have a great interest in getting into the details of Mr. Snipes's criminal case. Thus, Mr. Snipes was personalized in a wide forum before his trial, but the forum was not one in which his quotes could later incriminate himself in his criminal trial.

The lesson? Someone on the litigation team had better understand the audience of each publication requesting interviews and also had better understand how the editorial product of those publications is put together.

Q. When should contact with the media be initiated by a representative of the defense team?

A. There are two truths in celebrity litigation: the truth in the courtroom and the truth on the street. Whenever the truth in the street threatens the truth in the courtroom, going proactive is often warranted.

Let's say you're in a criminal trial where the defense rests its case without calling a single witness and decides on going straight to closing arguments. An unsophisticated reporter might consider this tactic as a sign that the defense case is so weak that merely calling one witness and presenting evidence is futile. This is where a smart lawyer would insist that the media know as quickly as possible—often via a statement handed out to reporters covering the trial—that the defense rested its case because the prosecutors did not come within a mile of meeting its burden of proof. This is a message that, in this instance, cannot be pounded on too much in an age where the jury—despite a judge's admonition—is going online after each day's trial proceedings.

Q. How long should a statement released to the media be?

A. The shorter the better. What reporters are looking for every day is a "nut graph" for their stories (usually the second or third paragraph of the story that says why the story even exits). Tell the press what you want in the nut graph via your statement, and leave it to the press to round out their stories via ancillary reporting. Don't ever be the proverbial blowhard lawyer who thinks that the more he talks or writes, the better it is for his client. Professional media consultants earn their living by honing message points to what's important, not what sounds cool or smart.

Q. What exactly does "off the record" mean?

A. Conversations with reporters fall into three categories: on the record, not for attribution, and off the record. Unless it's explicitly agreed upon, every conversation with a reporter is on the record from the time the reporter opens his mouth. Don't spit something out and then say, "That's off the record," and expect the reporter to play by your ad hoc rules. When quotes and information are given to a reporter that can be used in a story verbatim, a source will often demand that the information not be attributed to him. The attribution is negotiated, á la "a source familiar with the case."

When a source gives a reporter information that is off the record, he or she is *only* claiming that the information is true. The source is depending on the reporter to verify the information with another source. Implicit in this agreement is that the source has the option of denying that the conversation with the reporter ever took place if the source is ever questioned by a third party.

Of course, anyone who tells a reporter who is in the business of releasing information that the identity of the source giving the information must be kept secret is playing a dangerous game. Off the record is a device that should only be used when a source has an extreme level of trust with a reporter and is confident that a reporter won't bow to pressure from an editor to attribute the information to a source. Reporters "burn" sources sometimes if they think they can get away with it. If you're sure you want information given to a reporter but want to ensure that it can't be attributed to you, make someone else give the reporter the information. (That's what media consultants are for.)

Q. Can the attorney-client privilege be endangered if a litigant gets too chatty with the media consultant?

A. You bet. In a very well-known case that I was recently brought in on, a criminal defendant was allowed to make over 1,000 hours of telephone calls while incarcerated pretrial. All of these phone calls were recorded, many of the calls were made to a previous media consultant outside the scope of the attorney-client privilege, and the content of some of these phone calls is starting to turn up in government motions to modify bail restrictions.

It's a horror show of what can go wrong when media consultants and lawyers don't work together. Thus, the first rule of thumb is never work with a media consultant who won't put the legal needs of the celebrity first. In real life, media consultants are just like lawyers—they can get seduced by the celebrity of the client and do stupid things they would never do with an ordinary-Joe client. That said, a lawyer who thinks he can run all the litigation inside and outside a courtroom while also handling the media needs of a celebrity client is either delusional or way too adamant about never letting a client's dollar pass through somebody else's hands first.

Lawyers spend years understanding how the wheels of justice turn. Media pros spend years understanding how the sausage factory of today's media grinds on day after day and just who is consuming the sausage.

Celebrity justice is a slippery slope. If you're a lawyer playing in that arena and it feels as if you're getting in over your head with the media, you probably are. Don't be afraid to admit what you don't know, and don't be afraid to let a good media pro do the thing he's been trained to do while you do what's most important for your client: getting justice. ■

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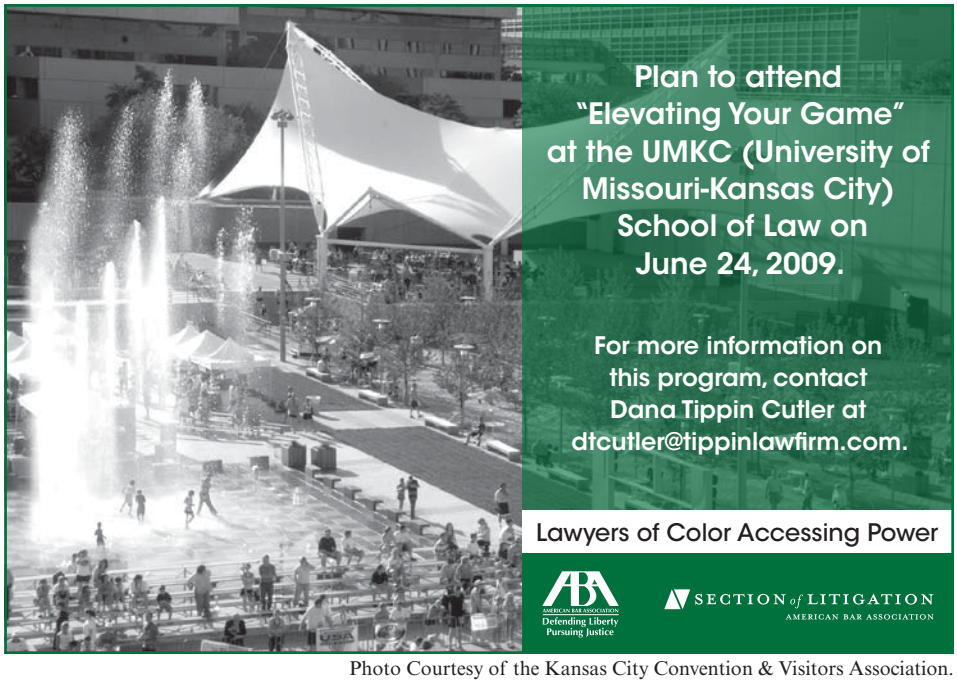

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