



Corporate Exposure: Perception Versus Reality

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Recent headlines ought to have caught your attention and heightened your company's awareness toward the need to develop an effective claims management philosophy. Even though a court can find you innocent or dismiss a claim, your company image can be tarnished. Companies can be absolved of any wrongdoing by a jury of their peers, but if the media does not pick up that side of the story, the negative impressions left by a series of sound bites may prevail. Moreover, the influx of "investigative" network programming (some legitimate, but much of it scandalous) has created a new forum for the establishment of public opinions. Sound bites and tabloid headlines affect the opinions of jurors, judges, and legal counsel. Not surprisingly, they also affect insurance executives and underwriters—and this may affect the future negotiation position of your company on your insurance program.

Attorneys representing companies should not only be concerned with the facts of the case, but also the public image or perception created by certain strategies. Attorneys traditionally compile information and rehearse potential courtroom scenes with the client to help ensure the proper "spin" on those reviewing the testimony. But advising clients to avoid the media or to refrain from holding press conferences or interviews is simply not realistic. Such strategies serve only to create a feeling of suspicion within the press, and may actually initiate greater efforts by the media to dig beneath the surface. An avoidance strategy, though well-intentioned, may cause an incident to escalate, attracting greater public curiosity and media attention. This is one reason why your risk management professionals must be involved in the claims

strategy development before a claim occurs.

Any business can quickly be thrust into the media spotlight. A fire or burglary loss, product liability allegations, explosions, pollution claims, and such will often open the floodgates; clearly public opinion can be swayed by one incident. Larger companies are probably self-insured for most lines of coverage and have most likely recognized this concern in the development of their defense plans. But what does the smaller company do when the defense counsel (usually selected by the insurance carrier) controls the claim? These attorneys are often most concerned with protecting their client—the insurance carrier, in this case—and not necessarily with the damage any defense strategy may inflict on your company. An attorney who can avoid having the carrier issue a settlement check and possibly shift the claim to another policy has succeeded from the client's perspective.

But along the way of whatever maneuvering is involved, the injured party may be gaining public support and sympathy. Therefore, the first step for your company is to establish a claims philosophy. Detail what issues the company wishes to defend and what occurrences are believed better left out of the public arena. Once the philosophy has been defined, we suggest a conference with the insurance carrier (and its appointed legal counsel) to ensure that all parties are in concert with these decisions. The last scene you want in the courtroom is your attorney and your carrier's attorneys fighting with each other. Select a representative for the organization who will decide which information will be offered to the media and by whom. The president of the company may not be the best person to discuss the intricate workings of certain electronic relay systems, for example. But he or she

should be able to convince the public of the moral fabric and character of the company that will help create a positive public opinion.

Your agent or risk management consultant can help you explain to your carrier why certain strategies may have a long-term negative impact on consumer confidence. It is important for your carrier to appreciate that although it may appear from a short-term financial position that the settlement of a minor claim is a prudent posture (because it eliminates time, legal costs, and related expenses) the settlement may erode consumer confidence—for which no insurance protection exists. (It has been our experience that insurance carriers are willing to allow companies an opportunity to participate in the selection of defense attorneys because more organizations are retaining higher first-dollar participation amounts.)

Your defense strategy must begin with the first glimmer of media attention. Statements made during this initial discussion may even cause other regulatory agencies to get involved, exponentially increasing your problems. Having an established team of professionals available and schooled to work with the organization in combatting negative reporting is essential.

Insurance companies that look at your policy as one-year renewals rather than a long-term commitment are, fortunately, a dying breed. Your claims strategy should emphasize the long-term health of the organization and not the short-term financial fluctuations in the bottom line.

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