
Working With Reporters

by Joshua Stein¹

When a reporter calls, any lawyer's first instinct is usually to say "No comment." That's a really good first instinct, but it might not always be the right answer at the end of the day. True, reporters can embarrass you. But if you and your clients think publicity can serve your purposes, you should consider talking to the press – though only with care, preparation, and a strategy.

It goes without saying that lawyers shouldn't be free-flowing fountains of information on their clients' affairs, unless, of course, that's what the client wants. Deciding with your client what you should and shouldn't say represents the "gating issue" in any dealings with the press on anything client-related. That issue lies beyond the scope of this article and depends very much on circumstances. But you may find you want or need to talk with the press, either for clients or to comment on legal issues in your areas of expertise. Here are a few suggestions for how to deal with the media without embarrassing yourself.

The Reporter's Call. If a reporter calls you out of the blue, try to find out two things. First, what is the general topic of the interview? If you can find out specific questions, even better, but sometimes reporters like to be a bit cagey, though that's not a good start. Second, when is the reporter's deadline?

The pressure of a looming deadline might tempt you to give a reporter immediate permission to quote you. Resist that urge. Instead, take notes. Consider what you want to say, how you want to say it, and who might need to sign off on it. Any large organization will probably require approval processes that are highly bureaucratic and not compatible with reporters' deadlines. Do what you can to expedite all that.

Once you've covered your bases, call the reporter back and have the conversation. Try to do it well before the deadline. Your chances of being misquoted or otherwise dragged into an error in the article increase if you give a last-minute interview. If you decide not to comment, at least call the reporter back promptly and say so. It's good manners and good for relationships.

Your strategy becomes more complicated if the reporter's call doesn't come as a surprise. If you are involved in a highly visible lawsuit or another circumstance where it's reasonable to expect calls from the press, be ready for them. Before the phone rings, think about how your press strategy complements your litigation or deal. Then, when the inevitable calls come in, you'll be ready to respond immediately if necessary. In highly visible matters, advocacy for your client goes beyond courts and agencies. Advocacy in the press can be just as important.

Giving Out Information. The press has learned to regard lawyers as great sources for information, including, ironically, information that shouldn't be made public. Don't fall into the "client service" mindset when you talk to a reporter. Resist your natural urge to help, unless you're certain that it will serve your client's interests or, if no client is involved, your own. If the reporter needs information on an area where you have no particular expertise, tell the truth and try to nominate a better source. You'll avoid embarrassing yourself and you'll bolster your credibility for next time.

Accuracy and Nuances. Reporters don't always get it right, especially if you are trying to explain something complicated or nuanced. Lawyers tolerate complexity much more readily than do reporters, who favor the pithy sound bite over the compre-

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hensive explanation. Give reporters what they want, but try to do it in a way that can't possibly be misinterpreted or misquoted. Keep it simple. Leave out the nuances and details where you can.

Interviews by Email. If time allows, you might use email to communicate at least some of your responses to a reporter. Writing out your responses will help you think through your words more carefully. It can reduce the risk of mistakes by the reporter. It creates a record of what you communicated – usually good but not always. The reporter will often want to follow an interview by email with a conversation.

Off the Record. You might think that if a reporter calls you for background research, the conversation will be off the record. Don't assume that. Unless a reporter explicitly agrees to keep something off the record, everything you say is fair game and can be attributed to you in whatever the reporter publishes.

If you know the reporter personally or have worked with her before, then perhaps you can reasonably expect her to keep something off the record, but make your expectations clear from the beginning. First confirm your conversation is off the record. Then comment. Dropping a juicy sound bite or a piece of privileged information and following it up with "Oh, but of course that's off the record" usually won't fly.

Also, consider the big picture: if something isn't supposed to become public, why would you share it with a reporter? There's usually no reason to do that, so don't – even if you know the reporter will be deeply impressed by the depth and breadth of your knowledge.

Reviewing the Article. If you don't want to be misquoted, you might want to clear the reporter's article before it goes to press. That usually won't happen. Though industry and trade publications will often accommodate a request to approve a final draft, mainstream newspapers and magazines typically have a strict policy against it. Set the ground rules before you respond to the reporter's questions.

At best, a mainstream reporter might let you look at or listen to your own quotes before he includes them in the article. Request that. If you succeed, respond quickly once you receive the quotes for review. The reporter will probably be up against a deadline. Just as in legal work, last-minute changes are a recipe for errors. Don't treat this as an opportunity to rewrite your comments. Try to limit yourself to correcting any obvious factual errors. If the reporter wants to quote you in a way that embarrasses you or discloses information that was supposed to be off the record, you should, of course, make correcting your first priority. But it's usually an uphill battle. Make sure it's worth fighting for before you charge in. Antagonizing a reporter – by micro-managing your quotes, demanding changes at the last minute, etc. – often will not work, and it might sabotage your chances of continuing the relationship.

Objectivity. Don't expect reporters to be objective. Objectivity as a journalistic ideal is often considered passé by media professionals, including many in the mainstream media. Today's reporters often approach a story as a way to make a point or communicate a message – to improve the world rather than merely describe it. What they want to say won't necessarily advance your interests or your client's. You can often determine a reporter's attitude or agenda within the first 10 seconds of a conversation. Proceed accordingly.

If you aren't familiar with a reporter, check her out online as part of preparing your response to his questions. Dig around in her author archive. If she doesn't have many articles or they're all behind a paywall, check out her Twitter feed or Facebook or LinkedIn page. Many publications encourage or even require their writers to be active on social media. You can learn a lot from the pieces a reporter writes, retweets, or shares.

Quasi-Reporters. In today's era of blogging and online journalism, don't assume every "reporter" who calls you really is a reporter. If you don't recognize the publication or can't find any evidence online

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that whoever called you exists, think twice about whether to talk with the caller. It may or may not make sense.

Not Your Friend. Your reporter is not your friend. She has a job to do. You have a job to do. Try to limit the flow of information to what will get the job done while serving your client's interests and where appropriate your own. On the other hand, sometimes your conversation with a reporter may produce a two-way flow of information, because the reporter may have information useful to you. Don't hesitate to dig a little.

Relationships. Cultivating relationships with reporters takes time. Add them to your email blast distribution lists; invite them to events; treat them like other important members of your network. As with any networking, don't expect immediate results.

News. Reporters like news, i.e., stuff that other people don't know about yet – events, changes, trends, secret information, etc.

Something may seem fascinating to you. If it doesn't qualify as news, though, don't expect reporters to care about it. If you really want a reporter to mention something you're doing, try to present it in a way that makes it newsworthy.

Beware, though: your standard of newsworthiness is probably very different from, and much lower than, a reporter's or an editor's. If you find yourself needing to explain at great length why something is news, that alone suggests the press won't care.

Closings. Reporters like to cover transactions. If reporters get wind of a contract that hasn't closed yet, they'll often report it as if it were a done deal. If that confusion doesn't serve your client's interests, correct it.

Timing. News gets stale very fast, especially given the Internet and today's 24-hour information overload on practically everything, including business and legal news. If you ever have something newswor-

thy you want to share, do it immediately. If it happened last week or even yesterday, it's not news and reporters won't care.

On the rare occasion when you as a lawyer have something truly newsworthy on your hands, don't necessarily just release it to the press. You can control the story and attract extra attention – if that's what you and your clients want – by making a strategic choice to give one publication an exclusive for a limited time. How to play this card will vary with circumstances. If it's in your deck, give it some serious thought.

Publicist. If you want to develop and maintain visibility in the press over time or cultivate relationships with certain publications, consider hiring a public relations professional. Choose a good match for your industry, your organization, and your personal style and preferences. Don't necessarily use a large PR and marketing firm. Don't expect immediate results. PR is a slow process. You will plant a lot of seeds. A small minority might take root and grow.

Once you choose a PR team, stick with it over time unless it is demonstrably and consistently not up to your expectations and standards. Having a PR firm on call will be an enormous help if something comes up that requires quick and strategic dealings with the press. A publicist can also help ensure that your press releases and other announcements conform to what the press expects, maximizing the possibility of articles or inquiries.

On the other hand, unless your publicist represents a lot of law firms, he may inject a level of excitement and intensity into your press releases that is not appropriate for lawyers. You need to prevent that, or risk coming off as hysterical or frivolous. Review and approve every word your publicist writes on your behalf. Reporters will perceive you – not your publicist – as the voice behind a press release. Make sure that you can comfortably stand behind both the substance and style of every word.

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If They Don't Quote You. Even if you spend a long time on the phone with a reporter, don't get offended if she decides not to quote you. Reporters often call many people to put together a story. If you're not quoted, don't think you've wasted your time. If you handled it well, you will help build a relationship with that reporter for the future. You might want to follow through with the reporter – not to litigate about why you she didn't quote you, but to reaffirm your expertise and availability for future calls. Consider commenting on the reporter's published article, giving praise where due. Like most lawyers, most reporters are still looking for their next gold star. ■

ACRELades

Steve Waters took the reins for a two-year term as the chair of the San Antonio Economic Development Foundation. SAEDF is a private nonprofit that assists business and industry in expanding into the San Antonio area.

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