

INTRODUCTION TO LEGAL ISSUES IN PUBLIC RELATIONS

By Karen A. Henry

What Is Public Relations?

- According to Wikipedia:

“Public relations is the practice of managing the **flow of information** between an individual or an organization and the public.”

- According to the Public Relations Society of America (PRSA):

“Public Relations is a strategic **communication** process that builds mutually beneficial relationships between organizations and their publics.”

Agree Or Disagree?

- Public relations is the business of conveying messages to the public.
- Messages are conveyed by communication.
- Communication involves speech.

Thus:

- Public relations involves speech.

What Is Speech?

- Vocalizing sounds by using your tongue and teeth?
- Burning a flag or a draft card?
- Refusing to salute the flag?
- Wearing a black armband to protest the war?
- Wearing “sagging” pants?
- Wearing a shirt that says “FUCK THE DRAFT”?
- Wearing red or blue bandanas to signify “club” membership?
- Silence?

Resolved: The First Amendment Protects My Right To Say Whatever I Want.

- The United States Constitution is the supreme law of the land.
- The First Amendment is part of the Constitution.
- The First Amendment guarantees me freedom of speech.
- I can say whatever I want and I cannot be punished or held liable.

CONGRATULATIONS ON YOUR FIRST CLIENT: TACO BELL

Taco Bell hires your public relations firm to put together a campaign to introduce its new “Beefy Gordita Crunch” taco – a taco that uses both a soft and hard shell. Your client-representative explains that you will have complete creative control over the campaign, but the campaign must describe the “meat filling” in the taco as “100% seasoned beef.”

AFTER THE CAMPAIGN AIRS YOU LEARN:

The Beefy Gordita Crunch Taco is made with a meat mixture that:

- Includes binders and extenders
- Only 88% beef
- May not meet the federal requirements to be labeled “beef”

Taco Bell

Blindly adopted client's description
of its product

- Consumer class action
- Unlawful business practices

*(Obney v. Taco Bell Corp.,
11-cv-00100 DOC –
Central District of
California)*

- Fraud
- Federal regulations violations

CLIENT #2: CELINE DION

Celine Dion's agent hires your PR firm to create a campaign highlighting Celine's return to Caesar's Palace. Your campaign is a huge success and a local Las Vegas newspaper publishes an article and photo montage highlighting Celine and her upcoming shows. This is a great opportunity for you to showcase your firm's PR skills, so you make a copy of the newspaper article, including the photo montage, and post it on your firm's website. This way, folks will know what great work you do!

Celine Dion

Posted newspaper article on website without permission

- Copyright infringement
(*Righthaven LLC v. Kirvin Doak Communications*, 10-cv-01482)
- Statutory and common law misappropriation
- Defamation
- False light

CLIENT #3: Youth for the Earth

Your client – a group of environmentalists – want to bring public attention to the role of Koch Industries (a leading producer, transporter and trader of oil, coal and chemicals) in influencing public opinion about the climate change debate. They want you to help them create a fake press release (in Koch's name) in which it promises to stop funding organizations that deny the scientific consensus on climate change. They also want to post that press release on a website designed to look just like Koch's.

Environmentalists

- Create and publish a fake press release
- Create fake website and post press release

- Trademark, trade name claims
- Lanham Act violation
- Computer Fraud and Abuse Act violation
- Breach of contract
- Federal regulations violations

Koch Industries, Inc. v. Does, 10-cv-01275 DAK
(District of Utah)

CLIENT #4: LANCE ARMSTRONG

Lance Armstrong – professional road racing cyclist – has hired your firm to create a campaign that will help him come clean to the public about using performance enhancing drugs to win seven Tour de France titles.

Armstrong

Doping Confession

- Federal whistle-blower case
- Contract actions
 - Morals clauses in current endorsement deals
 - Morals clauses in former endorsement deals
 - Any contract motivated by Armstrong's good reputation
 - Any contract that specifically forbids doping
- Loss of medals
- Fraud charges

Should PR Practitioners Understand The Legal Implications of Speech?

- **ABSOLUTELY!**
- *Minimally*, a PR practitioner should have a basic familiarity with:
 - Contract law
 - Copyright law
 - Defamation law
 - False advertising law
 - Trademark law
 - Any federal and/or state regulations governing the client's business