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Business of Law

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Lessons for Lawyers from L'affaire de Tiger Woods

Although I have never idolized professional athletes or even viewed one as a role model, I certainly have been in awe of their skills, courage, and accomplishments on their particular fields of battle. Among current athletes, Tiger Woods was unmistakably at the top of my personal list, as golf is my first love and he can do otherworldly things with a golf ball that are beyond anything I could even dream of doing.

It was thus with profound disappointment that I, along with seemingly everyone else in the world, leaned of his accident and the resultant torrent of stories. While the veracity of those stories remains unknown, the onslaught has clearly harmed a rather pristine image that had been built over the past two decades.

It led me to ponder what lessons can be learned by lawyers from these developments, especially as it relates to crisis management. It is important to note that I have no inside information and only offer personal opinions that are based on observations from afar.

First, in situations like this, particularly where there is a well known and strong person in the cross hairs, there is a tendency for those in his inner circle to follow the boss's dictates. This often stems from others being afraid of offering countering views due to potential repercussions, whether such concerns are valid or not. This results in the *groupthink* phenomena (popularized by Irving Janus) in which a comfortable consensus is reached after the leader announces his views.

No one knows, for sure, what type of counsel Tiger's advisers gave him, but the end result was that very little information was provided to the public, especially in the crucial first 24 hours. There also have been no live pronouncements, at least as of this writing. Several commentators have suggested that this is consistent with Tiger's inclination to keep things very close to the vest.

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It is important for one to have a circle of persons he works with who can provide checks and balances, especially when important advice is needed. There is an inherent danger, especially with powerful partners, managing partners/CEOs, and general counsel, to be insulated from dissenting opinions and other challenges.

Consequently, lawyers would thus be well served by developing relationships with others who not only merit their respect, but also have the temerity to tell them they are wrong, if necessary. For those in leadership positions, this can be tricky, as they need others to execute their plans. Nevertheless, their organizations would greatly benefit from these leaders encouraging others to voice their opinions, even when they are contrary to their own. I worked directly for a CEO who excelled at creating such a culture, which made him a highly effective and revered person in our company.

Second, many accomplished athletes and professionals, such as lawyers, ascend to great heights by being able to control their environments. Routine is their friend and proves, over the long run, to be a much more predictable path to success than relying on quixotic and helter skelter bursts of brilliance. Thus, there is an understandable tendency in crises to attempt to control the situation. This is pronounced among those who are controlling by nature, as an emergent development only exacerbates that instinct to take charge of the situation.

The challenge that Tiger faced was that the crisis that engulfed him was unlike any other he had faced. The natural inclination to attempt to control it by employing normal procedures with the press and public, which had worked throughout his life, was almost destined to fail. Crises tend to present a dizzying array of de novo challenges that come from a myriad of directions.

If there is one lesson to be learned, then, it is the importance of being flexible under fire. Critical thought, sound logic, and an insatiable desire to gather all key facts remain crucial requirements in such situations, especially with lawyers who are helping clients in crisis. Nevertheless, each crisis has its own twist, which requires one to adapt to its nuances and to take actions that may not be consonant with how he acts in a normal course. Essentially, trying to control the uncontrollable, by normal means, is not a winning formula.

Third, it is vital to fight the inclination to wait and hope that the situation will simply go away. Moving quickly by getting out ahead of the story can pay huge dividends. Johnson & Johnson's handling of the Tylenol scare in 1982 epitomized how a scandal can be tamed by proactive communications.

A vexing issue for lawyers is balancing what is required or appropriate in the competing courts of law and public opinion. In Tiger's case, he likely was given counsel that all he needed to provide after his accident was name, driver's license number, and insurance information. From a legal perspective, this was perfect advice. Unfortunately, this was but one piece of an interlocking puzzle of considerations, which, on balance, weighed heavily toward stepping forward to more fully address the situation.

For lawyers, then, the takeaway is to be more fully cognizant of the bigger picture when they are called upon for counsel in crisis situations. A lawyer can still provide sound legal advice but the savvier practitioner will place that counsel in perspective as to the entire situation. Clients ultimately pay for, demand, and need business judgment—not just a recitation of what the law may be, so do your best to provide that more holistic assessment in such situations.

Finally, it also helps to develop good relationships with the media. Tiger is reported to have felt burned by a 1997 article that appeared in *Esquire* and recounted some jokes that he supposedly had uttered and hoped were off the record. Many have speculated that this has led Tiger to be professional, but rather curt with the media, which seems to have kept them generally at arm's length for the past twelve years.

A comprehensive how-to on building relationships with the media is well beyond the scope of this month's article. A few key points are in order, though. First, when reporters call in the normal course, it is good to return those calls. If you cannot talk (and that may be dictated by clients), explain that and do your best to help in other ways, if at all possible. Second, be unfailingly honest in your discussions, as misdirections or telling outright falsehoods will come back to haunt you. If you are asked about four points, but, for whatever reason, can only address two—that is fine, just be straight up in your answers.

Reporters are ultimately going to do their job in any situation. But, if you have developed a reputation with them (and others) of being straightforward and helpful, this will help you, and clients. It may not change their conclusion but could, at a minimum, provide a vehicle to get your client's story out in a more favorable forum. You also, over the years, will develop skills through your media interactions that will help you in your communications during a crisis.

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