

# International Litigation PR



CRISIS & LITIGATION COMMUNICATORS  
ALLIANCE

[www.clc-alliance.com](http://www.clc-alliance.com)

## About Hellerman Baretz

With offices in New York City and Washington, DC, Hellerman Baretz Communications works with many of the United States' most prominent law firms and attorneys. HBC specializes in litigation PR in high-stakes, often bet-the-company lawsuits. The agency has managed the PR for many of the nation's most visible disputes involving financial services, healthcare and intellectual property, among many other issues.

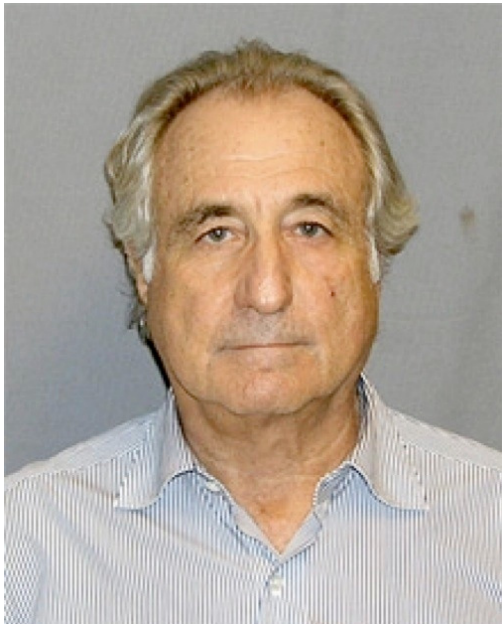


**Spencer Baretz** is a former attorney who practiced at one of New York's largest law firms after clerking for a prominent U.S. Federal Judge. Spencer has counseled some of the world's leading law firms in managing high-profile, high-stakes litigation PR needs and has a client list that is a veritable "who's who" of legal excellence.



## On the Menu: Fraud and Tacos

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***What do Bernie Madoff and Tacos have in common?***

Rampant and pervasive reputational issues in the context of high-profile litigation.

## Madoff's Non-Stop Headlines



**"The Talented Mr. Madoff" -- *The New York Times***

### **VICTIMS**

- "Madoff Scheme Kept Rippling Outward, Across Borders" – *The New York Times*
- "Foundation to Shut Down, Blames Madoff" – *MSNBC*
- "Madoff's Arrest in Billion-Dollar Fraud Case Shocks Palm Beach Investors" – *Palm Beach Post*

### **CLAWBACK SUITS**

- "Did JPMorgan Ignore Madoff's Ponzi Scheme?" – *Forbes*
- "Ezra Merkin's Gabriel Capital to Dissolve on Ties to Madoff Firm" – *Bloomberg News*
- "Noose Tightening Around Madoff Feeder Funds" – *FierceFinance*

### **CONSPIRATORS**

- "Madoff Trustee Sues HSBC for \$9 Billion" – *CNN*
- "Madoff Trustee Sues UBS for \$2 Billion" – *Forbes*
- "LAWSUIT: NY Mets Owner Made \$300M from Madoff Fraud" – *AP*



## Beefed-up PR Response

# Thank you for suing us.

### Here's the truth about our seasoned beef.

The claims made against Taco Bell and our seasoned beef are absolutely false.

Our beef is 100% USDA inspected, just like the quality beef you buy in a supermarket and prepare in your home. It is then slow-cooked and simmered in our unique recipe of seasonings, spices, water, and other ingredients to provide Taco Bell's signature taste and texture.



#### Plain ground beef tastes boring.

The only reason we add anything to our beef is to give the meat flavor and quality. Otherwise we'd end up with nothing more than the bland flavor of ground beef, and that doesn't make for great-tasting tacos.

#### So here are the REAL percentages.

88% Beef and 12% Secret Recipe.

#### In case you're curious, here's our not-so-secret recipe.

We start with USDA-inspected quality beef (88%). Then add water to keep it juicy and moist (3%). Mix in Mexican spices and flavors, including salt, chili pepper, onion powder, tomato powder, sugar, garlic powder, and cocoa powder (4%). Combine a little oats, caramelized sugar, yeast, citric acid, and other ingredients that contribute to the flavor, moisture, consistency, and quality of our seasoned beef (5%).

We stand behind the quality of our seasoned beef 100% and we are proud to serve it in all our restaurants. We take any claims to the contrary very seriously and plan to take legal action against those who have made false claims against our seasoned beef.

Greg Creed  
President, Taco Bell

TacoBell.com  
Facebook.com/TacoBell



- When Taco Bell was hit by a class action suit claiming the beef used in its tacos could not be called actual 'beef'.
- That claim by the plaintiffs' lawyers set off a bevy of PR among consumers, the business press, and television and immediately knocks sales.
- The lawsuit also yielded a very interesting and well-crafted litigation response.
- Taco Bell took out a full page ad that reads: "Thank You for Suing Us," spinning the lawsuit as a communications platform for the company to talk about the composition of their tacos.

## Survey of Top Law Firms

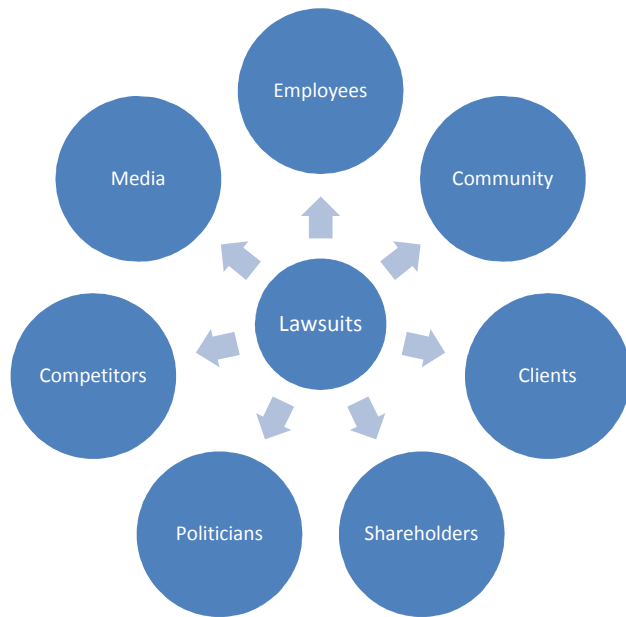
Survey conducted by HBC to heads of litigation of “AmLaw” 100 firms: “ Are PR issues being considered, and PR strategies employed, in the significant litigation matters you are handling today, and if so, how?”

### Sample of findings from Global firms:

- *“The answer to your question is a resounding yes. Every single significant litigation matter we have involves delicate PR and media strategies. Indeed, we find that there are critical--and delicate--issues of communication and messaging internal to the client especially between legal on the one hand and senior business leaders on the other as much or more than the external questions. So, in every case, both the firm’s internal working group as well as the client working group that we arrange includes representatives from the business as well as PR professionals. Every single communication, from emails to pleadings, reflects those considerations.”*
- “ Simply put, the answer is not enough. A strategic solution requires thoughtful analysis, excellent lawyering, sound factual review, but also a comprehensive response to help guide the reaction of the public , the press and the potential plaintiffs and defendants (and any regulators listening) to the public policy implications of regulatory actions and inactions, and successful prosecution of private actions. ”
- *“In every case I can recall where my client's cause has been newsworthy, there indeed is a PR component to the litigation. Generally, the client has had its own, separate PR function, and while I would be at the table while PR was discussed, it was pretty clear I was not to talk to the press, nor was I consulted about who the client should use for PR.”*

## Why is Litigation PR Used?

*Because reputation can be significantly affected by courtroom matters.*

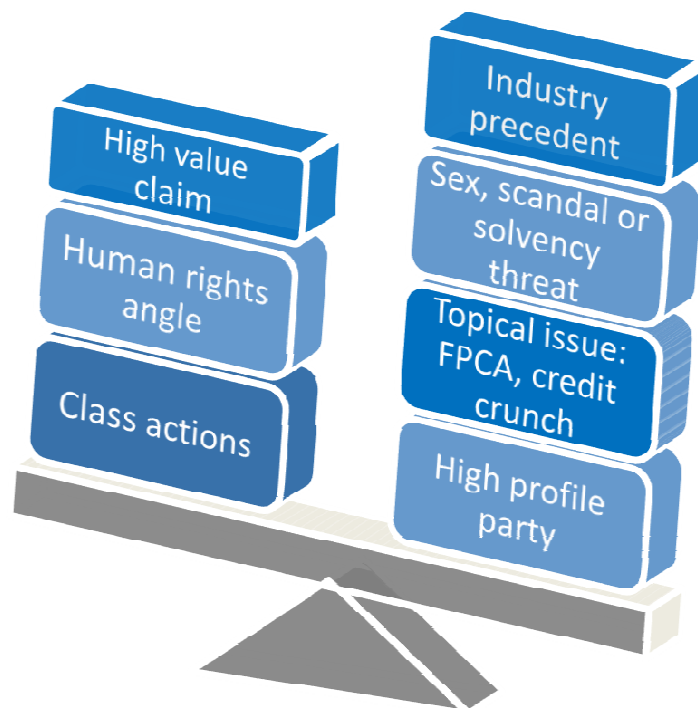


- Court pleadings are often public
- Critical audiences take a view
- Legal arguments, objectives and process may need explaining
- Legal and reputational outcomes are not always coincident
- Voracious appetite by the media for “conflict” and scandal
- Brand equity at stake; perception = reality

*Lawsuits can affect retention rates, customer attitudes, share price, media profile and even the volume of other litigation.*

## When Do You Need It?

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- If a case has at least one of these elements, litigation PR could be critical for your client
- Client value is as much in the preparation as in the delivery



## The Increasing Importance of Litigation PR in Cross-border Cases

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### *Trends include:*

- Increased cross-border cooperation of regulatory agencies
- Global businesses/individuals caught by U.S. legislation (e.g., Anti-Bribery, FCPA, Anti-trust)
- Global media resonance from local actions
- Multi-jurisdictional cases
- Jurisdiction shopping
- ***And, most importantly,*** global businesses and individuals affected by U.S. legislation and case law: Private Securities Litigation Reform Act of 1995 and the Supreme Court's National Australia Bank Case, Foreign Corrupt Practices Act (FCPA), the newly considered Investor Protection Act (IPA)

*Compounded by the rapid global media dissemination of conflict-oriented stories, smart clients see an ever greater need for cross-border PR support from experts in both media and legal dynamics.*

*If left unchecked, reputational stain can outlast the legal life-time.*

## Cross-border Considerations

*Recognize these recent headlines?*

**theguardian**

'US Pension Funds Appoint Lawyers In Class- Action Suit Against RBS'

**Bloomberg.com**

**Lehman Seeks to Speed \$5 Billion Lawsuit  
Against Barclays**

March 10, 2010, 9:52 PM EST

**THE WALL STREET JOURNAL**

MARCH 4, 2010, 7:32 P.M. ET

**Citigroup Argues To Move Terra Firma Lawsuit To London**



**California sues Toyota for hiding defects**

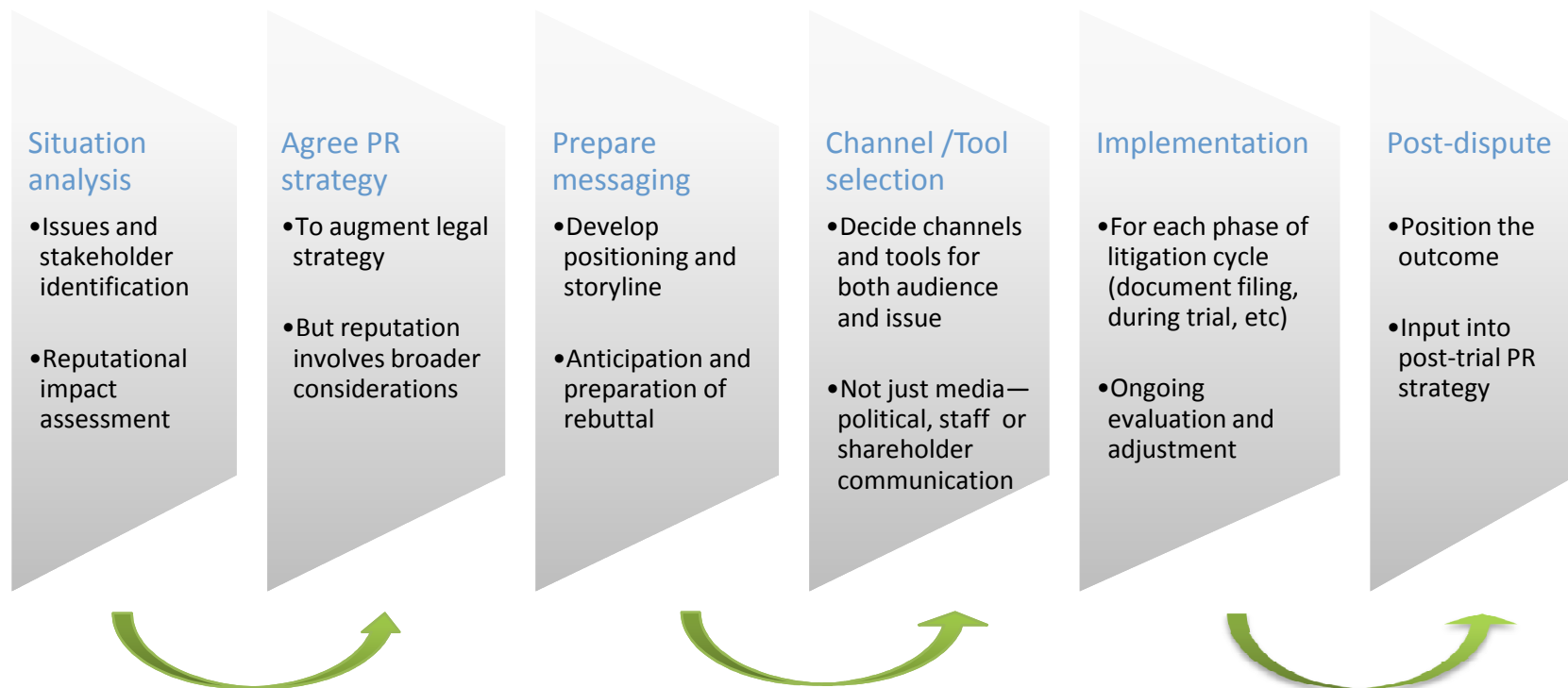


**US Settlement Shaves Profits off Party Poker**  
Written by Matt W | Saturday, March 6th, 2010

**Bloomberg.com**

**Madoff's 'Lie' Ensnarers Victims From Paris to Tokyo**

## How Does it Work?



**Aim:** to steer the communications process systematically, aligned to the legal process and client objectives, rather than leaving reputation to chance or as an afterthought

## Cross-border Considerations

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### *U.S. Courts/Media*

- High level of transparency, certain courts even televised
- Diverse, complex and segmented media landscape (regional, specialist trade business, broadcast, strong political ties)
- Powerful role of TV
- Tendency to sensationalize media reporting
- Relative PR sophistication of plaintiffs and attorneys

## Recent CLCA Case Study

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### *Litigation PR support for minority shareholders against Novartis:*

- **Situation:** Minority shareholders of eye-care maker Alcon saw red when Swiss pharmaceutical giant Novartis' bid to buy the company potentially left them with 18 % less per share
- **Strategy:** CLCA members launched a media outreach plan to get the shareholder's lawsuit maximum publicity in U.S. and Swiss press
- **Outcome:** In a mere 48 hours, the CLCA successfully helped its client get impactful and positive media exposure across continents, despite the complexity of the case



## CLCA Capabilities

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*CLCA member firms have experience in the following types of litigation:*

- Shareholder disputes and anti-trust litigation
- Securities disputes
- Regulatory / fraud matters
- Professional negligence claims
- Personal injury actions
- Environmental /catastrophe claims
- Class actions /employment claims
- Breach of contract disputes
- Product liability claims
- Divorce
- Libel actions
- Extradition



## Conclusion

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- Litigation PR's purpose is to engage audiences beyond the court room to reinforce or rebut perceptions.
- Used strategically, it offers a professional approach to communications, rather than leaving reputation as an afterthought or a vacuum for opponents to fill.
- Litigation PR requires litigation PR specialists—the CLCA is the *only* international PR network dedicated to international litigation matters.