

# The Noise of High-Profile Cases

JORDAN ESTES

---

The author is a partner at Gibson Dunn & Crutcher, New York City.

In high-profile cases, the courtroom isn't the only battleground: The court of public opinion can be just as important. For attorneys handling headline-making matters, direct (or indirect) media engagement is a critical part of the case. Navigating the media in these matters requires a careful balance between effective advocacy and ethical boundaries.

Having tried high-profile cases on both sides of the *v*, I've seen firsthand how media coverage can influence the trajectory of a case. In this article, I examine the evolving role of the press at each stage of a case—from the initial filing through trial and verdict—and offer practical guidance for attorneys handling the complex intersection of public messaging, courtroom strategy, and ethical obligations. By breaking down media engagement into early, mid-case, and trial phases, this article aims to equip litigators with the tools to manage press interactions effectively, while safeguarding their clients' legal and reputational interests.

From day one of a lawsuit, the media may already be shaping public opinion. Attorneys must decide whether to engage the press, issue statements, or stay silent. Early messaging should align with the legal strategy and anticipate how facts will be framed in headlines and sound bites. Importantly, the degree

of media engagement should depend on the client's goals and whether the case is postured offensively or defensively.

---

## Before Filing

Plaintiffs pursuing impact litigation should develop a comprehensive media strategy before filing. This often includes plans for a press conference, a press release, and coordinated social media outreach. Just as important, the complaint itself should be drafted with dual audiences in mind: the court and the press. While the primary goal of a complaint should be properly pleading the claims, the document also serves as a narrative blueprint for journalists, who often rely on the initial filing to shape early coverage. Ensuring the complaint contains compelling details—such as quotes, timelines, or graphics—can help ensure the plaintiff's framing gains traction in the public sphere.

For defendants, the approach to media can vary widely. Some, whether individuals or corporations, may seek to proactively defend their reputation and counter the plaintiff's narrative. Other defendants may prefer a quieter posture, aiming to minimize press attention and avoid amplifying the controversy.



Defendants face a particular challenge in shaping the initial public narrative. Unlike plaintiffs or prosecutors, they don't have the benefit of filing a complaint or indictment that lays out their version of events. As a result, defense counsel must be more strategic in identifying opportunities to present their client's story, both to the court and to the media.

Speaking directly to the press is one option. A punchy, on-the-record statement—whether written or delivered via video—can carry authority, generate headlines, and promote social media engagement. But when facing a lengthy complaint or indictment,

countering the narrative often requires more. Legal teams may work with trusted journalists to speak on background, framing key facts, highlighting procedural concerns, or casting doubt on opposing narratives. This is especially critical when the client is a public figure whose reputation may influence jury selection or public support.

The aggressive press outreach by Sean Combs's legal team offers a compelling example of early media strategy done well. At the outset of his federal case, Combs's team engaged the press extensively—not just through written statements but also by

Illustration by Islenia Mil

appearing on news programs and even producing TikToks to reach a broader audience. For example, soon after Combs's arrest, one of his attorneys gave extensive commentary on a TMZ documentary about the indictment and their defenses. The messaging helped develop an immediate counternarrative: that the government's case was overreaching and that the racketeering and sex trafficking charges lacked merit. This proactive approach contributed to shaping public perception early on and may have influenced the tone of coverage throughout the proceedings.

Still, there may be many reasons for avoiding direct contact with the press. For example, direct contact may not align with a client's goal of minimizing press coverage, or there may be concern that press contact would anger or annoy the judge on the case. But a client reluctant to speak directly with the press can still engage the press through court filings. Early filings, such as motions to dismiss or oppositions to preliminary injunctions, offer an avenue to provide a lengthier counternarrative. While the primary purpose of these filings should be persuading the court, they also offer an opportunity to emphasize key facts and themes that support the defense narrative. These filings may be the first substantive documents reporters review, making them a valuable tool for influencing coverage.

Defendants may also consider engaging a public relations firm to help craft and execute a media strategy. A seasoned public relations team can help identify the right tone, timing, and channels for public messaging, and can help manage press inquiries in a way that aligns with the legal strategy. Whether the goal is to correct misinformation, protect reputation, or simply reduce visibility, a coordinated approach between the client's legal and communications teams is essential.

Whenever engaging with the media, attorneys must remain mindful of the ethical and local rules governing public statements. Statements at the outset of a case are generally safer because a trial could be years away, making it less likely that any early statement taints a jury pool. See *United States v. Avenatti*, 433 F. Supp. 3d 552, 569 (S.D.N.Y. 2020) (noting that public perception following statements at the outset of a case "probably will have dissipated" and thus presented "no risk to [defendant's] right to a fair trial").

Still, attorneys must abide by the limitations in their jurisdiction on extrajudicial comments. For example, under Rule 3.6 of the New York Rules of Professional Conduct, lawyers are prohibited from making statements that have a "substantial likelihood of materially prejudicing an adjudicative proceeding." This includes remarks about a party's character, statements about anticipated witness testimony, or opinions on the guilt or innocence of a criminal defendant. Navigating these boundaries requires careful coordination between legal and communications teams to ensure that any public messaging supports the client's objectives without crossing ethical lines.

---

## The Media's Perception of Filings

As a case progresses, attorneys should continue to consider how the media may perceive any court filings. Many common mid-case filings, such as motions to compel, motions to suppress in criminal cases, and motions for summary judgment, may not generate headlines on their own. However, they can contain valuable facts, legal positions, or revelations that support the broader narrative. Attorneys should evaluate whether highlighting these developments—through a press release, background conversations with reporters, or even a targeted media pitch—could advance the client's goals.

If media coverage has dropped off, as is common, legal teams should assess whether reengaging the press serves the strategy. For example, a favorable ruling, a revealing deposition transcript, or a procedural win may warrant renewed outreach. Reconnecting with journalists to point out these developments, if consistent with any protective order in the case, can help reframe the case or correct earlier misconceptions. This is particularly important in cases where public perception may influence not only reputational harm but also settlement posture. A shift in media tone—especially one that casts doubt on the opposing party's claims or highlights weaknesses in the opposing party's case—can alter the leverage dynamics in negotiations.

At the same time, restraint remains key. Not every filing merits a media push, and overexposure can backfire. And at the discovery stage in particular, attorneys must be careful that information provided to the press is consistent with any applicable protective order. The decision to reengage should thus be carefully examined to ensure it aligns with the client's goals and does not run afoul of court orders.

---

## During the Trial

Trial is the part of any case that attracts the most media attention. While the demands of trial can be all-consuming, attorneys must remain attuned to how the proceedings are being portrayed publicly. In cases involving household-name defendants, the legal team's media strategy may need to be as meticulously planned as their courtroom arguments. That's because success in high-profile litigation hinges not only on the verdict but also on how the public perceives the case, making media engagement a critical component of trial strategy.

For starters, clients must be coached on courtroom demeanor, public appearances, and media interactions. Whether the client is a celebrity, a politician, or a prominent company, the client's behavior—and for corporations, that of key representatives or witnesses—will be closely scrutinized. For example, a client's walk into the courthouse is often covered by the media. So it's important to discuss with the client, in advance, what the client

will be wearing, who the client will be walking in with, and how the client will be arriving at the courthouse, because these details may end up in the news or a social media post.

Appearance matters for attorneys as much as it does for clients. Wrinkled suits or messy hair can inadvertently signal disorganization or lack of preparedness, even if the perception is unfounded. In high-profile trials, where optics are scrutinized as closely as arguments, the legal team must present a polished, cohesive image that reinforces confidence in their case and credibility in the courtroom.

Attorneys and clients must also be aware of their behavior in the courthouse. Journalists may be in many public spaces, such as the cafeteria, the elevator, or the security line, so it is important to avoid talking about the case in their presence. Attorneys must also be mindful of their expressions because defeated looks or visible frustration can be misinterpreted and fuel negative media coverage.

---

## Calling a witness might bolster the case legally but backfire in the press.

---

In the courtroom, every decision carries public consequences, and attorneys must weigh legal strategy against reputational risk. Calling a witness might bolster the case legally but backfire in the press, especially if that witness reveals damaging internal practices, controversial affiliations, or emotional testimony that shifts public sympathy. For corporate defendants, the stakes are even higher: A witness who helps win the verdict could simultaneously expose vulnerabilities that erode investor confidence, trigger regulatory scrutiny, or spark social media backlash. Legal teams must anticipate how each moment in trial will be interpreted not just by the judge and jury but also by reporters live-tweeting from the gallery and analysts dissecting every word. In this environment, trial strategy becomes a form of crisis management, where protecting long-term reputation may be just as important as securing a short-term win.

To that end, attorneys must weigh not only the case's legal issues but also its emotional dynamics. The press, like the jury, often see the trial as a morality play. A witness who delivers compelling or emotionally charged testimony may have a greater impact on the media narrative than one whose testimony, while legally significant, is more technical. Understanding which moments are likely to shape public perception is essential to managing both courtroom strategy and media engagement.

During trial, attorneys must carefully consider both the extent and manner of their engagement with the press. The first step is assessing any legal constraints, such as gag orders or court-imposed limitations on extrajudicial statements. Even in the absence of formal restrictions, lawyers must remain vigilant about the potential ethical implications of public commentary. Direct statements to the media, particularly those that could be perceived as prejudicial, may violate professional conduct rules and risk undermining the fairness of the proceedings.

A more prudent approach may be to engage with the press off the record, allowing attorneys to guide coverage toward aspects of the trial that support their narrative. For instance, the legal team might inform reporters when a particularly favorable witness is scheduled to testify, helping ensure that key evidence receives appropriate attention. This strategy enables attorneys to shape the public narrative without risking ethical violations or appearing overtly adversarial.

During trial, the press can also serve as an informal sounding board for legal teams, offering real-time feedback on what aspects of the case are landing with the public—and potentially with the jury. Reporters often pick up on emotional testimony, compelling visuals, or moments of tension that mirror what jurors may be reacting to in the box. If a particular argument or witness draws outsized media attention, it can signal resonance beyond the legal merits. Attorneys may monitor coverage to gauge which themes are gaining traction, which narratives are being reinforced, and whether their messaging is cutting through the noise. In this way, media reaction becomes a proxy for public sentiment.

---

### After a Verdict

Finally, attorneys should have a clear plan for engaging with the press after a verdict is rendered. While some cases result in a decisive outcome, many high-profile matters end with mixed results—for example, a jury may find for the plaintiff but award minimal damages, or convict a defendant on only select counts. In such instances, the media often play a pivotal role in shaping public perception of who truly “won.” Confident post-verdict statements can help influence that narrative, positioning the client favorably even when the legal outcome is nuanced.

In sum, because of today's media-saturated environment, litigators must recognize the press's influence on court proceedings. Public perception can shape reputations, influence settlements, and affect juries. Attorneys should accordingly approach the media with the same strategic thinking they apply to litigation. Ultimately, mastering the intersection of litigation and the press is not just a skill; it's an essential component of modern trial practice. ■

---

*Jordan Estes can be reached at [jestes@gibsondunn.com](mailto:jestes@gibsondunn.com).*