

High Stakes and High Risks: Strategies for Handling High Profile Litigation

Tuesday, May 15, 2018

Panelists:

Brenda Aguilar-Guerrero, Principal, Meyers Nave Riback Silver & Wilson, PLC

Diana Luo, Senior Associate General Counsel, Walmart eCommerce

Otis McGee Jr., Chief Assistant City Attorney, Oakland City Attorney's Office

Bobbie Wilson, Partner, Perkins Coie LLP

Moderator:

Camille Hamilton Pating, Principal, Meyers Nave Riback Silver & Wilson, PLC

Panel Discussion Outline:

I. Managing PR Firestorms: (Otis McGee, Jr.)

- A. How do you assure that responses to press inquiries to various individuals are consistent and not contradictory?
- B. Protecting the Brand: How do you best manage public relations issues arising out of litigation for an "unpopular" client, or a client facing "unpopular" issues?

II. Preparing and Examining High-Profile Witnesses in High Stakes Cases:

(Bobbie Wilson and Brenda Aguilar-Guerrero)

- A. What are some of the issues you need to consider in preparing a high-profile witness in a high stakes situation?
 - 1. Do you need to do anything differently than you would any other witness?
 - 2. What challenges might a high-profile witness in a high stakes case face that another witness might not face?
- B. What are some of the issues you need to consider in conducting direct or cross examination of a high-profile witness?

III. Effective Trial Techniques: (Diana Luo)

- A. What are some effective techniques at trial that you have used or experienced?

Group Discussion

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Resources:

I. Managing PR Firestorms:

- J.W. Ehrlich, Controlling Trial Publicity, 1 Am. Jur. Trials 303 (May 2018 Update)
- Handling Publicity, Guide to Multistate Litigation, Ch. 15 (November 2017 Update)
- Meghan Levine, The Competing Roles of an Attorney in a High-Profile Case: Trying a Case Inside and Outside of the Courtroom, 28 Geo. J. Legal Ethics 683 (Summer, 2015)
- Christina Locke Faubel, Cameras in the Courtroom 2.0: How Technology is Changing the Way Journalists Cover the Courts, 2 Reynolds Courts & Media Law Journal 3 (Fall 2013/Winter 2014)
- Rules to Keep in Mind When Interacting with the Media (December 2014), <https://www.americanbar.org/publications/youraba/2014/december-2014/rules-to-keep-in-mind-when-interacting-with-the-media.html>
- Ethical Rules Litigating in the Court of Public Opinion (July 18, 2012), <http://apps.americanbar.org/litigation/committees/ethics/email/summer2012/summer2012-0712-ethical-rules-litigating-court-public-opinion.html>

II. Preparing and Examining High-Profile Witnesses in High Stakes Cases:

- Ethical Witness Preparation and Payment of Fact Witnesses under the Model Rules of Professional Conduct (August 2014), https://www.americanbar.org/content/dam/aba/administrative/litigation/materials/2014_aba_annual/written-materials/ethical_witness_prep.authcheckdam.pdf
- Method and Scope of Examination of Witnesses, Cal. Judges Benchbook, Civ. Proc. Trial § 8.57 (November 2017 Update)

III. Effective Trial Techniques:

- Sonia Chopra, The Psychology of Jury Decision Making, Voir Dire – A Publication of the American Board of Trial Advocates (Fall/Winter 2017)
- A Return to Trials: Implementing Effective Short, Summary, and Expedited Civil Action Programs, Institute for the Advancement of the American Legal System, American Board of Trial Advocates, et al. (October 2012)
- Trial Techniques and Tactics (May 2016), http://www.iadclaw.org/securedocument.aspx?file=document/TrialTechniquesTactics_May_2016.pdf

IV. Relevant Organizations with Additional Resources:

- National Institute for Trial Advocacy, www.nita.org
- American Board of Trial Advocates, www.abota.org
- American Bar Association, Section of Litigation, www.americanbar.org/groups/litigation/committee