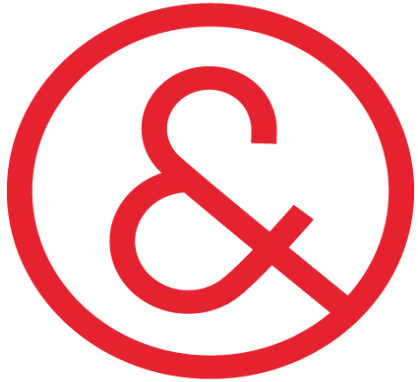


# Litigation Communications

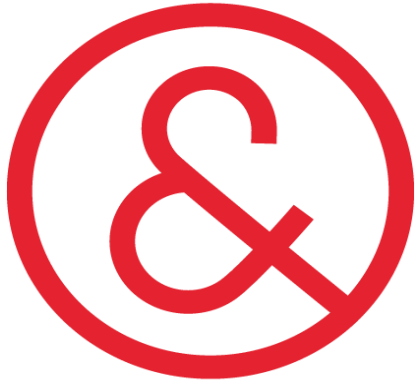
May, 2016



## Definition

- **Strategic public communications and communication management** in relation to litigation
- **Integrated approach** by experts in the fields of law and public relations in litigation cases



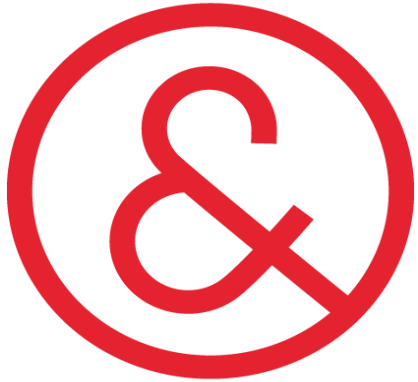


## Why Litigation PR?

**Die Zeit, April 2013**

*Sometimes it may be unfair or exaggerated, but in a corporate world in which the justice system is often subordinate to the corporations, it is one of the most effective weapons against white-collar crime: the court of public opinion.*



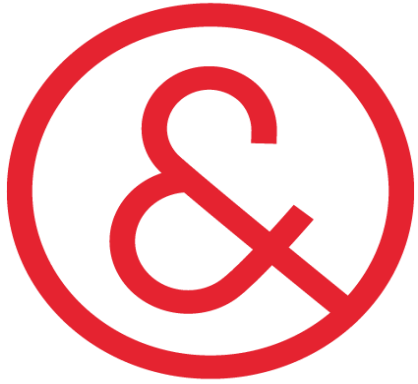


## Why Litigation PR?

- The public is increasingly taking on the role of judge
- The media serves as the prosecutor or the defender
- Public condemnation often takes place long before a potential judgement is handed down
- More often than not this public decision can no longer be changed even if the legal case is later decided in the defendant's favour

**Protecting the reputation of the parties involved is one of the main goals of litigation PR**





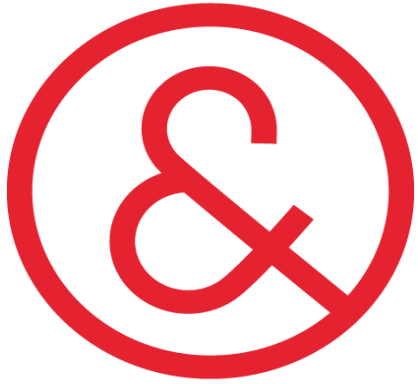
## Media interest is huge

### Example:

Swap-Causa BAWAG P.S.K. vs. Stadt Linz:  
1.800 articles in Austrian media from March to  
May 2013

- Litigation are growing media attention long before the actual start of a process
- Media attention is constantly increasing, journalists are getting more and more under pressure: tough fight for the best story
- General public seeks culprits of the financial and economic crisis

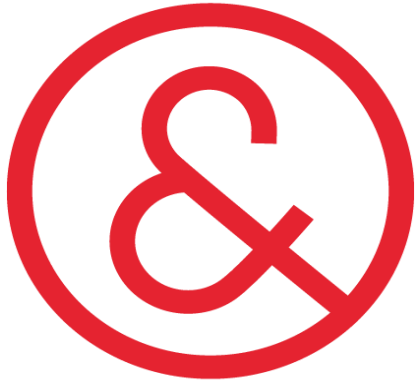




## Why Litigation PR?

- Public prosecutors, judges and experts are not immune to public opinion! **Media have an influence** on the initiation of investigations, the filing of lawsuits, the appointment of expert witnesses and the resolutions and rulings of judges at various stages of the legal process
- **Public prosecutors use publicity**, to push for charges to be filed
- Within the framework of civil law, Litigation PR can help to **ward off** legal action or prevail in ongoing **lawsuits**
- Litigation PR can move opponents to accept (favorable) **out-of-court** settlement
- **Everything leaks** if your are involved in a prominent case
- Journalists are no legal experts and are grateful for **help in research** in legal cases which are often quite complex

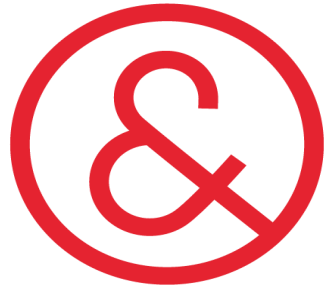




## Litigation PR covers diverse fields!

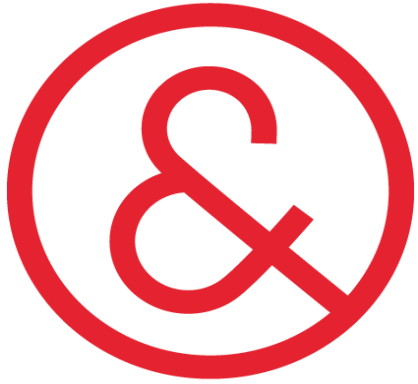
- Labour law: lawsuits by employees on the grounds of discrimination, unlawful termination, harassment
- Class action lawsuits by consumer protection organizations or consumer attorneys – they use media to get new clients
- Product warranty lawsuits
- Insider trading
- Corruption
- Suspicion of fraud and embezzlement
- Anti-trust law
- States also need Litigation PR: ongoing communications in relation to cases involving the European Human Rights Convention
- Prominent persons involved in litigation (artists, managers, etc.)





# Principles of Litigation PR



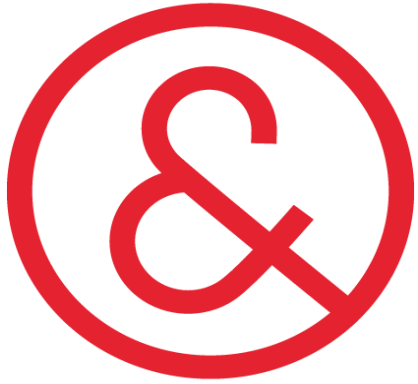


## § 1 Coordination and cooperation

- Litigation PR Team: CEO (speaker of the Board), accused party, corporate lawyer, media spokesperson, outside lawyers, crisis communications consultant
- Litigation PR Team, which regularly and openly consults on progress in the proceedings, the strategy and related measures
- Mutual understanding for the work of legal and PR advisors

**The communication strategy almost always follows the legal strategy. At the same time, when utilising legal means it is important not to forget that the reputation of an individual or a company is at stake.**



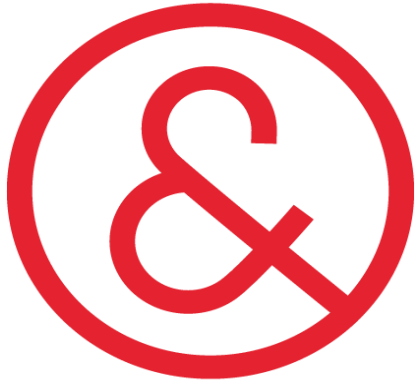


## § 2 humility and restraint



- ➔ Humility towards justice and public as a sign of respect and decency
- ➔ Neutral choice of words, moderation in statements, restraint in press releases show professionalism

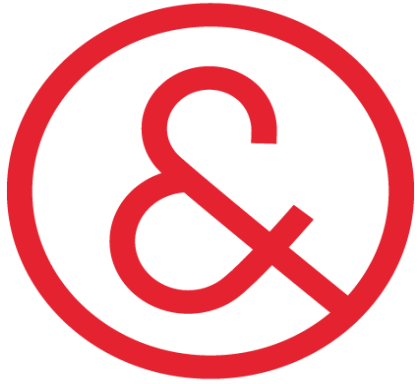




## § 3 open, proactive, fast communications!

- Build **trust and credibility** with journalists and readers!
- Provide all media **equally with information!**
- Address **critical issues** proactively!
- The more active a company is in its communications, the more quickly the story becomes uninteresting.
- **Background discussions**, to explain the legal situation to the media!





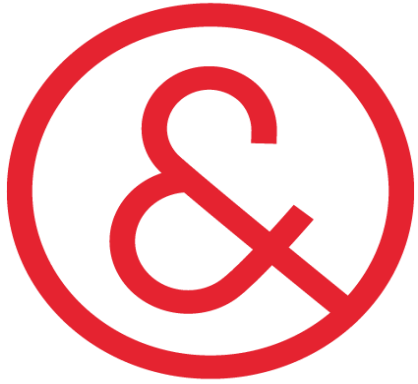
## § 4 It's not only what you say, it's how you say it and who

**Media training!**

**The best effect is achieved by independent, third-party opinions**

- When experts are commissioned, tell your side of the story by answering the questions through legal experts
- Guest commentary
- International examples, comparisons, experts

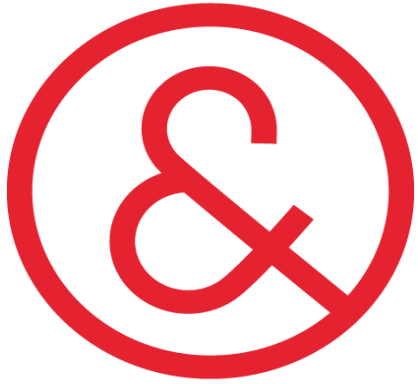




## § 5 Leave some leeway for judges and prosecutors!

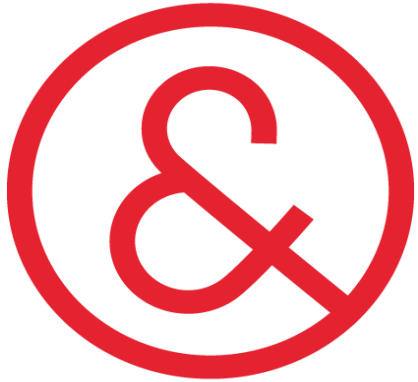
- Carefully analyze all statements to the judicial authorities in respect of possible reactions
- Judges rarely like to be told how to decide by the media
- If an attack is too strong, it is very likely that the judicial authorities will pull together and close ranks
- Always try to ensure that prosecutors or judges who are exposed to media coverage are left room to make a decision in favor of the accused and are left with exit options





## § 6 Pay attention to the pictures!

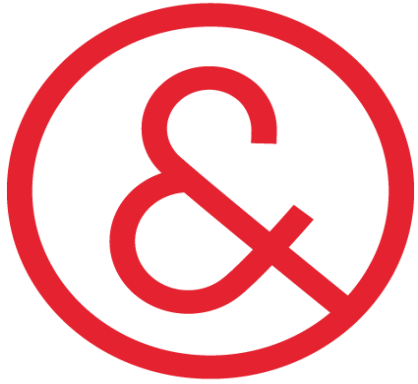




## § 7 Digital communications matters

- Social media as part of an integrated communications approach and a natural aspect of Litigation PR
- Social media **accelerates coverage**; very difficult to react
- **Proactive communications** about the case is very important, so that your own message comes across
- Increasing trend of inviting people to join class action suits via blogs, Facebook and Twitter (class action recruitment pages on Facebook)
- Bloggers do not consider themselves to be journalists, but merely spread their own opinions
- Important: **Once something is on the internet, it's there to stay**
- New trends: Live blogging or Twittering (sometimes even by the jury) from the courtroom



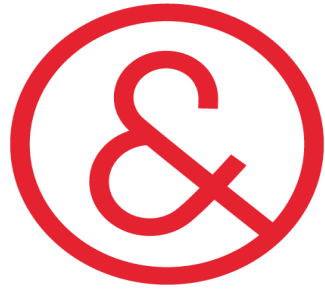


## Social media and blog monitoring

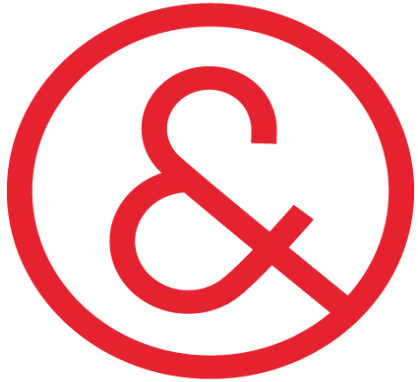
- ➔ **Google** is now the **most important research** tool used by journalists
- ➔ In this regard, it is crucial that your own interpretation of the case be high up on the hit list: this can be done with **search engine optimization**, creation of microsites and blogs with third-party opinions
- ➔ Webpage with the history of the case, FAQs, contact information, to become the first contact point for media and critical citizens







What does that mean for the lawyers?



## The role of the lawyer

- Preparation of very often complex material and translation into a PR suitable language
- Lecturer for adapting texts such as press releases, which are addressing the general public
- Interview partner for selected media (press conferences guest commentaries, background talks)
- Technical discussions with judicial staff

**But: Suppress profiling addiction as best as possible: the client or 'the matter' must not be misused as an instrument for selfmarketing**





Thank You!