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Litigation Public Relations: Courting Public Opinion

Susanne A. Roschwalb & Richard A. Stack, Eds.

Littleton, Colorado: Fred B. Rothman & Co., 1995, 240 pp.

Reviewed by Gussie W. Postlewaite[†]

Public trials have been everlasting phenomena. Long before *The People v. Orenthal James Simpson*, there were the trials of Sacco and Venzetti and of Julius and Ethel Rosenberg as well as the Scopes Monkey Trial (at vii). Lawyers unfamiliar with the resulting media attention and public scrutiny surrounding these types of very public trials would do well to read this compilation of essays, interviews and instructional guides which seek to give an insight into many aspects of the lawyering process and its need for intelligent decisions with regards to public relations.

The subject is broken up into three sections which, while separate in the book, relate to each other on many levels, thus allowing the reader to see all sides of the topic of public relations. Part One deals with public relations persons and newspeople and their interaction. Part Two specifically addresses lawyers and their role in courtroom activities and beyond. Part Three is a catchall section which looks at specific "publics" that the lawyer will have to address. The target audience the editors had in mind when assembling this compilation is clear: lawyers and their public relations specialists. The editors freely admit that the goal in putting this book together was to provide a starting point for the establishment of a code of standards in this communications subspecialty (at viii). If one was to choose one pervasive theme throughout the book, it would have to be that lawyers and their clients who find themselves the subject of public scrutiny must be very careful in how they deal with the media so that they can win the battle for positive public opinion.

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The separate chapters within sections are varied in their approach and effectiveness, but from a law student's point of view, the most interesting section is Part Two which deals with lawyers. This section is restricted in its scope and does not describe every aspect of a lawyer's role in the process of law, but the areas that are addressed are very interesting and instructive to law students and lawyers alike. One extremely effective chapter written by Cathy E. Bennett and Robert B. Hirschhorn, entitled "How to Conduct a Meaningful and Effective Voir Dire in Criminal Cases," details the best tack for a lawyer to take when trying to solicit prospective jurors' opinions on a particular case (at 71). The authors provide specific strategies to implement when questioning members of the jury pool and how to interpret answers given in order to enable the lawyer to select those persons who are most favorably predisposed to the lawyer's position. Also included are juror questionnaires which can be effectively used to save time and to get specific answers to strategic questions.

Some of the most interesting parts of the book are those sections and chapters which relate actual case scenarios and how effective public relations activities helped the client to get a more favorable result than was otherwise to be expected. Included is comment on the William Kennedy Smith trial, the confirmation hearings of Supreme Court nominee Judge Clarence Thomas and the trial of Washington, D.C. Mayor Marion Barry. One chapter in Part Two, written by Benjamin Todd Langston, entitled "The Trial of Marion Barry: Winning in the Court of Public Opinion," exclusively details the trial of Mayor Marion Barry and the tactics used by his defense attorney R. Kenneth Mundy (at 129). The author here shows the effectiveness of having a good relationship with the media and how to use that relationship to reach into the courtroom to actually sway jury opinion.

A recurring theme in this book concerns the lawyer's ability to make the most effective use of media so that the client is placed in the best light possible. At first one may wonder about the usefulness of this type of public relations activity for the average lawyer when most of the cases a lawyer will be involved with will usually be far removed from the public spotlight. Further, the American experience, which is much different than the reality in Canada, seems to be where this type of analysis is focussed. This raises questions of its relevance here. However, when one considers recent

events such as the trial of Paul Bernardo and the placing of cameras in Nova Scotia courtrooms, it is apparent that the Canadian landscape is changing and that lawyers will soon have to pay more attention to the peripheral activities surrounding any court proceeding. Corporations and their public relations people have been aware of public opinion for years, and lawyers may soon have to employ some of the techniques discussed here whether they are dealing with a routine negligence case or a sensational murder trial.

As mentioned earlier, Roschwalb and Stack see their book as a starting point only. It is meant to provide guidance in some areas of public relations and to provoke comment in other areas where information may be sparse. Therefore, it is not surprising to note omissions in some areas. For instance, some attention could have been focussed on the internal characteristics required to make a lawyer effective in public relations-type activities. More emphasis is placed on process and the practical aspects of the job. While this is satisfactory, it does leave unaddressed the types of individual traits needed to effectively utilize these strategies. Since it is clear that the editors feel that each of the subject areas discussed could easily encompass a book topic in and of itself, it may be that this particular aspect of the process is better left analyzed in that more in-depth milieu.

In Part Three, the editors have included a section dealing with advertising done by lawyers and the most effective ways to reach target audiences. This discussion seems to be incongruent with the rest of the book's themes dealing with public relations. It is true that it does involve public relations activities, but where the rest of the book concerns case and courtroom topics this chapter is purely firm-centered and client-centered. Again, the editors have tried to broach a broad range of public relations activities, so while this chapter does seem a bit awkwardly inserted, it does serve the editors' purposes to some extent.

As a law student, I have enjoyed the material presented here by the editors. Often in law school practicality is sacrificed at the altar of the theoretical, and it is refreshing to take a real-life look at some of the non-legal aspects of handling cases and clients. Very often, as mentioned in the book, a lawyer can miss opportunities to advocate his or her client's position without realizing the possible positive spin-offs. This compilation shows lawyers the secrets of effective

media utilization where "No comment" often speaks volumes to those beyond the immediate vicinity of the courthouse steps.

Roschwalb and Stack, through their compilation, have sought to set in motion a process which will eventually result in a detailed study of the role of public relations in the process of law. Through diverse and engaging articles they have succeeded in, at the very least, providing thought-provoking information in at least some aspects of the law and public relations. Whether their ultimate goal of establishing standards for this communications subspecialty has been met remains to be seen. Lawyers seeking to get guidance in this area would be well served by taking time to read *Litigation Public Relations: Courting Public Opinion*.