

# The Value of Public Apologies in Crisis

Winning in a Court of Law or the Court of Public Opinion?



## Introduction

The value and risk of apology has been highly debated in crisis communication. Lawyers, who are frequently critics of apology, argue that it opens the door to future litigation and can be used at trial as evidence of fault. PR practitioners often claim the opposite, arguing that apology can be a powerful rehabilitative tool that frequently is a first step in restoring a client's image. However, there is little known about the legal implications of public apologies. Compounding this issue of public apology is the introduction of the so-called "non-apology apology," in which celebrities and organizations attempt to parse apologies allowing them preserve their right to refute future claims. This study addresses the legal consequences of public apologies, and how the specific language of public apologies can both legally benefit or harm an individual or organization.

## Apology in Crisis

Scholarship on apology and its role in a crisis shows that apology is warranted in certain crises (Coombs and Holladay, 2008; Coombs 2013). However, apology is not without legal risk. Even though some states disallow apologies from being used at trial, the fear that an apology can increase lawsuits or even demonstrate organizational wrongdoing is still prevalent in the legal community (Myers, 2016). This tension between apologizing or remaining silent highlights the larger tension between legal and PR management of crises.

- Coombs, W. & Holladay, S. (2008). Comparing apology to equivalent crisis response strategies: Clarifying apology's role and value in crisis communication. *Public Relations Review*, 34, 252-257.
- Coombs, W. (2013). An overview of the challenges facing collective apologies: Their use in the corporate world. *At the Interface/Probing the Boundaries*, 86, 229-247.
- Myers, C. (2016). Apology, sympathy, empathy: The legal ramifications of admitting fault in U.S. public relations practice. *Public Relations Review*, 42, 176-183.

## Takeaways for PR Practitioners

- Apologies can benefit and harm a crisis. Know the difference.
- Many times apologies do cause problems for litigation because they are, as research warns, construed as admissions of fault.
- Know that apology is frequently linked to the subject matter knowledge of the speaker. A speaker with little knowledge of the underlying facts issuing an apology is not interpreted the same as someone who knows the underlying facts.
- Craft the apology carefully. Be sure not to be so specific that the apology intentionally qualifies as an admission. One state, Georgia, even has case law that specifically states "vague" public relations apologies are insufficient for constituting admission. *Law v. BioLab, Inc.*, 325 Ga.App. 5000 (2013).
- Know the PR pitfalls of the so-called "non-apology" and its implications for crisis.

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## Methods

This study examines the legal implications of public apologies by analyzing U.S. cases that specifically address public apologies. These cases range in jurisdiction from state to federal courts, and include both civil and criminal issues. Using legal analysis, this study examines what circumstances public apologies mitigated damages, and when public apologies actually led to greater legal sanctions. This legal analysis is a form of textual analysis that looks at patterns, themes, and interpretations of laws. Examining these cases are important because they show both how the legal system interprets the role of apology in litigation and how apology as a legal tactic is evolving among jurisdictions. This study concludes with practical suggestions for PR practitioners as well as implications for public relations crisis communication theory.

## Conclusions and Future Research

This study shows that this dichotomy of legal and PR is not so neatly defined as previously thought. Apologies in some circumstances reduce legal damages, including the amount of money owed to victims, and, in some cases, legally indicates the good faith and lack of culpability of a party. Conversely, public apology can sometimes exacerbate legal issues indicating fault. Because of this, crafting a public apology requires a certain degree of nuance. Examining this nuance of apology shows that apologizing as a strategy does not necessarily mean choosing between admitting legal fault or improving public perception. Instead apology as a legal and PR strategy can be a very powerful, but risky, option.