



# Are You Ready?

## Managing the Major Corporate Crisis

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# Meet the Speakers



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# Massive 10-Alarm Fire Breaks Out at NJ Chemical Plant, Residents Asked to Avoid Area – NBC New York



# Cyberattack causes MGM Resorts to shut down its systems | SC Media



# Deadly Listeria outbreak possibly linked to Blue Bell ice cream

## Recall

- Scoops
- Chocolate Chip Country Cookie Sandwiches
- Great Divide Bars



**CALL 7 CONSUMER ALERT**

**ICE CREAM SNACKS RECALLED DUE TO LISTERIA**

**BLUE BELL'S FIRST RECALL IN 108 YEARS**

# Pre-Crisis Planning



- Identify broad range of potential emergency situations
- Create individual, flexible response modules
- Designate appropriate chain of command
- Clarify channels of communication
- Articulate process for mobilizing resources (both external and internal)

**“By failing to prepare, you are preparing to fail”**  
**-Benjamin Franklin**

- **Crisis Management Plan**
  - Written plans
  - Drills
  
- **Crisis Management Team**
  - Business
  - Legal
  - PR
  - Technical





# Initial Response



# Immediate Objectives

- **Mobilize**
- **Stabilize**
- **Preserve**

# Early Messaging

**From:** Communications Director [cd@yourcompany.com]  
**Sent:** 2-2-12 02:21 PM  
**To:** [stakeholder@interested.com](mailto:stakeholder@interested.com)  
**Subject:** 2-2-12 Incident

At approximately 1:30 p.m. local time, an incident occurred at our facility in Smithville. We are working with all necessary authorities to address and assess the situation. At this time, we are still gathering information, and are not in a position to comment further. Any requests for information or questions may be directed to John Smith at 123-456-7890.

**Chris Jones**  
Director of Communications & Public Affairs  
YOUR COMPANY, INC.

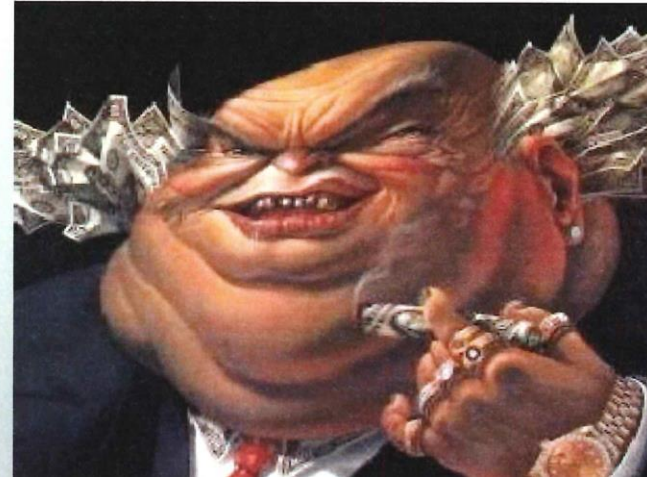
# Evidence Considerations

- **Legal Hold**
- **Preservation Interviews**
- **Collection**

# Investigations

- **Type & Scope**
  - Root Cause
  - Privileged v. Non-privileged
  - Disciplinary
  - Systemic Issues

# Many Faces, Many Issues



# Media

- **Cycle**
  - Crisis = “Breaking News!” = immediate coverage
  - Cable + Internet = 24/7 coverage
  - Need for information = anyone can become a reporter
- **Source**
  - Television
  - Print
  - Radio
  - Internet



# Internal Stakeholders

- **Employees**
- **Executives**
- **Board of Directors**

# External Stakeholders

- **Shareholders**
- **Local Officials**
  - **Elected Officials**
  - **City & State Agencies**
- **Federal Officials & Agencies**

# Federal Agencies



# Civil Litigation

- **Expect Early Activity**
  - TRO
  - Early discovery
  - Press Conference
- **Different Types**
- **Preservation Letters/Demands**

# The Potential “Game Changer”

Counsel represents the Company, not the individual being interviewed or any other individual employee of the company;

Communications between Counsel and the individual being interviewed are protected by an attorney-client privilege;

The attorney-client privilege belongs to the Company alone, and the Company can decide to exercise the privilege or waive it by instructing counsel to share information learned from the individual being interviewed with the government or others.

# With So Many Moving Parts . . .

**Your crisis can be  
defined in**



**... 10 Seconds**



# Minding the Herd





# Pitfalls

- Inconsistent Messaging
- Unexpected Drivers
- Unintended Consequences



**CHINA**  
**HUGE CORPORATION**  
**BLAMES VICTIMS**  
**FOR THEIR DEATHS**

# This Could Be Your First Depo Exhibit


**From:** Ernie Employee  
**Sent:** Monday, January 15, 2013 12:15 AM  
**To:** Future Deponent  
**Subject:** Same Old Problems

I know I shouldn't be sending this, but I can't believe how much pushback we are getting from "you know who" in re the explosion. If we don't understand what caused our problems, how can we avoid them in the future. I will tell you more tomorrow – but go ahead and DELETE THIS ASAP!!

Ernie Employee  
*Investigations & Learnings Manager*  
Manufacturing & Co.

# No RFP Required

 johndoeemployee  
johndoeemployee  
I know I will end up taking the fall when the \$%!\*  
hits the fan....

 **Anonymous**  
anonymous

I'm no lawyer but I'm sure there was some negligence there.

13 RETWEETS 6 FAVORITES

11:27 AM - 29 Feb 2013 · via Twitter Embed this Tweet

Reply Delete Favorite

**EmployeeX**  
a few minutes ago

My job title should be "Magic Man" - I can make things disappear and reappear.

# Trial By Deposition

- **Any Witness Can Be “THE” Witness**
- **Significant Preparation**
- **Uses of a Bad Deposition**
- **Unavailability Not Required**

# Solutions



# Two Keys

- **Identify Primary Objective**
- **Define Your Message**

# Conclusion

- **Cardinal Rule: Don't Make Things Worse!**
  - Plan
  - Strategize
  - Coordinate
  - Experience



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