

Paltrow Win Offers Lesson In Celebs Staying On Brand At Trial

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At the end of last summer's highly publicized defamation trial between Johnny Depp and Amber Heard, a jury awarded Depp nearly \$10.4 million, and \$2 million to Heard on a counterclaim.^[1]

The trial revealed many salacious details as the two celebrities duked it out. From substance abuse to graphic text messages to an argument over who had left fecal matter in their bed — the televised trial set Court TV network viewership records, trended on Twitter and TikTok, and did not cast either party in a particularly upstanding light.^[2]

The final verdict of this trial was equivocal, and the ultimate payment, after settlement, was relatively nominal. But the fallout, particularly for Heard, was quite significant.

The parties' reputations, personal time and energy, and private information were collateral damage to the war waged inside the courtroom.

Some might say, however, that the trial represented a serious win for Depp — not because of the verdict so much as the way that the public rallied behind him, finding him credible and ultimately, restoring his image and relevance.

We previously outlined some of the challenges Heard faced during her in-trial testimony from a witness presentation perspective.

Since that time, the public has had an opportunity to witness Gwyneth Paltrow appear in a similar role, but with very different results, in March's ski collision trial.

Today's article will take a step back to analyze what is considered a win for high-profile clients with valuable personal brands, acknowledging that the dollar figure at the end of the day is rarely the only, or even the most important, marker.

The Court of Public Opinion

In the era of social media, the public's perception of how an individual acts during high-stakes litigation, including whether they promote the values of authenticity, credibility and recognition of public sentiment can sometimes outweigh the value of a favorable judgment.

Depp provides a perfect example. The \$1 million settlement he ultimately received was not a meaningful amount for him — and he promptly promised to donate it to charity — but the boost to his reputation arguably helped his career immensely.

On the flip side, negative reputational effects can be worse than the settlement amount paid after a loss, as demonstrated by Heard's near-stagnant career.

Fortunately — or unfortunately, depending on how you look at it — the increasingly direct feedback from social media can help defendants keep this in perspective when evaluating possible strategies.

An undeniable aspect of our current legal landscape is the ability to get feedback from a wider variety of people, and more quickly, on high-profile matters.

We most recently saw this play out in the Paltrow ski accident trial, as memes and sound bites from the trial quickly went viral, and nearly 30 million people tuned in.^[3]

As an NBC News article noted, "Viewers' initial reactions to the trial appeared to skew negative, with some seeing Paltrow as the latest example of a celebrity who is trying to avoid accountability. However, the online court of public opinion appeared to swiftly switch in Paltrow's favor."^[4]

Indeed, as Louis Staples wrote in an article in *The Cut* titled "The Surprisingly Delightful Spectacle of Gwyneth Paltrow's Ski Trial," even after a widely lambasted podcast interview in the days leading up to the trial, "all it took was a few suffragette-chic courtroom outfits and memeable moments for naysayers to change their tune," with memes celebrating Paltrow and "satirically characterizing her as a martyr who [was] being unfairly persecuted, or a freedom fighter who threw the first ski at Stonewall."^[5]

While trial lawyers should draw their own conclusions about the reliability of these data points, there is no doubt that Paltrow leaned into her well-established public persona throughout her trial, much like Depp seemed to do in his trial appearance.

The case itself, *Sanderson v. Paltrow* in Utah's Third Judicial District Court of Summit County, centered around a skiing accident at a luxury resort, with a retired optometrist alleging serious injuries.^[6] His team attempted to portray Paltrow as an out-of-touch celebrity skiing dangerously, while her team alleged that he in fact caused the accident, and painted his claim as a shameless cash grab.

Paltrow responded by countersuing for \$1 — which her lawyer made clear was not just symbolic.^[7]

Throughout the trial, Paltrow refused to apologize for or downplay her celebrity. In fact, part of her defense was that she was being unfairly targeted because of it.

Doing this increased her authenticity and ultimately gave her more credibility in the courtroom — and beyond. Her performance demonstrates why lawyers should consider the public's preexisting perception of a high-profile client and not be afraid to leverage it at trial, if appropriate.

Staying On Brand

When seeking to promote authenticity in nonpublic figures, lawyers often coach witnesses to remain calm and polite — giving them a more neutral, respectable presence.

However, a quirk of high-profile or celebrity clients is that they already have a well-established public image, so the jury likely already has some opinion of who they are and what they stand for — making true neutrality impossible.

This is increasingly true in the era of social media, when Instagram and TikTok platforms allow the public to believe they are closer to celebrities than ever before.

When high-profile clients try to follow more traditional courtroom advice — like with Heard — it can come off as inauthentic because it does not comport with the public’s preexisting idea of the individual and who they should be.

When it comes to these high-profile clients, staying on brand can be a very powerful tool for demonstrating authenticity and building witness credibility.

Not only is this valuable in the courtroom, but the client may also gain support and respect from fans online. A win at trial is certainly the goal of litigation, but maintaining or elevating a high-profile client’s public image throughout the litigation process can be just as, if not more, important to their success in the long run.

The Paltrow trial is the perfect example. A major component of Paltrow’s success in the court — especially as it relates to her success in the court of public opinion — was her refusal to pretend that she isn’t an out-of-touch celebrity. Instead, as Naomi Fry wrote in *The New Yorker*, she “unabashedly leaned into every stereotype that has ever been used to label her.”^[8]

In other words, she stayed true to her public persona — giving her a sense of authenticity and credibility that jurors, as well as and fans online, could connect with, even if they couldn’t really relate to her.^[9]

This worked for Paltrow in part because she is known for being unapologetically eccentric. The actress-turned-entrepreneur and wellness guru founded the lifestyle company Goop, which she’s used to promote things like bee venom therapy, vaginal steaming, the idea that water has feelings, and even a \$15,000 sex toy, to offer a few examples.^[10]

Paltrow has made an entire brand out of being unrelatable — and it has worked well for her. In 2009, she herself said, “I am who I am ... I can’t pretend to be somebody who makes twenty-five thousand dollars a year.”^[11]

She maintained this persona at trial — saying, for instance, that the collision inconvenienced her in that she “lost half a day of skiing.”

Typically, being unrelatable and out-of-touch is not a reliable strategy — and that’s because it isn’t for most people. This only worked well for Paltrow because she was leaning into preexisting and well-established public perceptions.

Similarly, Depp’s trial performance may have come off as flippant or disrespectful if it was anyone else, but because he has a well-established persona, it played as funny and darling.

Depp is well-known for playing unconventional but beloved characters such as Captain Jack Sparrow in the “Pirates of the Caribbean” franchise, a charming antihero with a quirky sense of humor and eccentric mannerisms.

Most Americans have seen, and quite likely enjoyed, these films,^[12] so even if they cannot relate to Depp as a person, they are already familiar with him and maybe even expect him to be a little bit mischievous with his humor.

The key is that staying on brand — whatever that means — is often the most authentic thing a celebrity can do. Trying to change that for trial ignores the reality of their existing widespread impression on the public, and can come off as awkward or off-putting in a way that it might not for a less famous witness.

Obviously, attorneys must exercise judgment with this strategy. A high-profile client with a problematic personal image may not be well-served by strongly leaning into that persona.

For example, we previously noted that the defamation trials against Alex Jones demonstrated how dangerous it was to not conform to the context of the legal process.

Nevertheless, done in the correct way, staying on brand can be a powerful way to demonstrate authenticity, and lawyers should not discount it — even if their client might be a bit unrelatable.

[1] Judge makes jury’s \$10.3M award official in Depp-Heard trial, AP News (June 24, 2022) <https://apnews.com/article/amber-heard-johnny-depp-entertainment-34aef21b1919c540865ce3d941673f70>: “The jury found Depp should receive \$10 million in compensatory damages and \$5 million in punitive damages, but the judge reduced the punitive damages award to \$350,000 under a state cap.”

[2] See, e.g., Court TV sets network viewership record as more than half a million viewers tune in for Depp vs. Heard verdict, PR Newswire (June 7, 2022), <https://www.prnewswire.com/news-releases/court-tv-sets-network-viewership-record-as-more-than-half-a-million-viewers-tune-in-for-depp-vs-heard-verdict-301563115.html>.

[3] <https://variety.com/2023/film/news/gwyneth-paltrow-ski-trial-ratings-30-million-1235570307/>.

[4] <https://www.nbcnews.com/pop-culture/pop-culture-news/gwyneth-paltrow-what-say-sanderson-trial-ski-trial-verdict-memes-video-rcna77512>.

[5] <https://www.thecut.com/2023/03/gwyneth-paltrow-ski-trial-spectacle-analysis.html>.

[6] Sanderson v. Paltrow, Case Number: 190500048 in the Third Judicial District Court of Summit County, State of Utah.

[7] Emily Bloch, Gwyneth Paltrow ski trial verdict: \$1 damages, explained, Philadelphia Inquirer (March 31, 2023) <https://www.inquirer.com/celebrity/gwyneth-paltrow-ski-trial-verdict-one-dollar-20230331.html> (“‘We asked you for a dollar. Not because she had to [stop skiing] early and get a massage, but because it screwed up a very carefully planned, important time in her life,’ Owens told the jury. ‘Thank heavens the family melded together. But we want our dollar.’”).

[8] Naomi Fry, Gwyneth Paltrow’s Trial Is Her Best Role in Years, (March 30, 2023) <https://www.newyorker.com/culture/annals-of-appearances/gwyneth-paltrows-trial-is-her-best-role-in-years>.

[9] This worked well for Paltrow – her daily court outfits received spreads in publications like Vogue and Town & Country. See e.g., Laura Hawkins, In the Courtroom, Gwyneth Paltrow’s Clothes Do All the Talking, Vogue (March 28, 2023) <https://www.vogue.com/article/gwyneth-paltrow-courtroom-style-do-the-talking>. Online fans rallied to her support – with #gwynocent trending on social media and quotes from her trial testimony featured in viral memes and printed on sweatshirts and mugs. See e.g., Andrew Zucker, Concert Tees? Try Trial Merch. The New York Times (May 16, 2023) <https://www.nytimes.com/2023/05/16/style/gwyneth-paltrow-celebrity-trial-merchandise.html>.

[10] Heather Finn, Gwyneth Paltrow’s Most Controversial Goop Moments Over the Years, Good Housekeeping (Jan. 24, 2020) <https://www.goodhousekeeping.com/life/entertainment/g30646031/gwyneth-paltrow-goop-controversial-moments/>.

[11] Naomi Fry, Gwyneth Paltrow’s Trial is Her Best Role in Years, The New Yorker (March 30, 2023) <https://www.newyorker.com/culture/annals-of-appearances/gwyneth-paltrows-trial-is-her-best-role-in-years>.

[12] The Pirates of the Caribbean film has grossed over \$4.5 billion worldwide, one of the highest grossing franchises ever. See Sarah Whitten, The 13 highest-grossing film franchises at the box office, CNBC (Jan. 31, 2021) <https://www.cnbc.com/2021/01/31/the-13-highest-grossing-film-franchises-at-the-box-office.html>.

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