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Crisis of the Week: MGM Explains Decision to Sue Vegas Shooting Victims

By

Ben DiPietro

Jul 31, 2018 12:20 pm ET

0 COMMENTS



Windows broken at the Mandalay Bay Resort and Casino in Las Vegas in the room from where a gunman fired on a nearby music festival, killed 59 people on Oct. 1, 2017. PHOTO: ASSOCIATED PRESS/JOHN LOCHER

This is a weekly commentary by external experts.

MGM Resorts International, owner of the Mandalay Bay Casino and Resort in Las Vegas from where a gunman killed 59 people last year, is trying to protect itself against significant legal liability by filing lawsuits against some of the shooting victims.

MGM alleges federal law protects it from liability stemming from the massacre, and claims more than 2,500 people have sued it or its subsidiaries, or have threatened to do so. It wants all cases to be heard in one court to make it easier for witnesses, and says having just one trial will help more quickly bring closure to victims and families.

“The Federal Court is an appropriate venue for these cases and provides those affected with the opportunity for a timely resolution,” a spokeswoman said. “Years of drawn out litigation and hearings are not in the best interest of victims, the community and those still healing.” The spokeswoman issued a second response that said, in part, “It is heartbreaking to hear these personal accounts of an unspeakable tragedy. We grieve with all of the victims..”

MGM Chief Executive Jim Murren said in a July 27 letter to employees “the way things have been portrayed has left many feeling confused, hurt and disappointed. I am sorry for that... .” It goes on: “MGM Resorts is not suing victims for damages or attempting to extract monetary payment from the victims in any way,” and is doing so to consolidate the cases. Such a move “benefits all victims by providing an opportunity for closure in a swift and fair manner.”

Three crisis-communications experts analyze MGM’s public communications.

Adonis E. Hoffman, chairman and chief executive, the Advisory Counsel Inc., and adjunct professor at Georgetown University: “MGM Mandalay Bay will forever be linked to the tragic Las Vegas shooting and MGM’s corporate reputation could be forever shaped by its decision to sue the victims. Although it faces immense liability, MGM needs to balance caution with compassion for the victims, even as it prepares for trial.

“MGM’s terse statements asserting lack of liability under federal law, along with references to Congress and the Safety Act, show little sympathy for the victims. As a lawyer I appreciate the need for cautionary public statements, both in the court of law and the court of public opinion, but MGM’s words only add insult to injury. Just because a company has the right to sue doesn’t mean it should exercise that right, let alone communicate it publicly.

MGM states its actions will avoid ‘years of drawn-out litigation,’ and that may be correct. Its clumsy communications not only ‘confuse victims’ but create the ‘inaccurate’ impression it is concerned only with saving itself. Although MGM may be justified in ‘filing for declaratory relief,’ it must show it has a soul and not just a strategy for self-preservation. Embracing the victims with empathy and equity must be part of its crisis response if it is to be trusted.”

Davia Temin, president and chief executive, Temin and Co.: “MGM has put itself in a tortuous public position by seeking legal relief from the thousands of lawsuits coming its way by actually suing back the victims who have sued it. Though the move may make business sense, on a humanitarian and communications basis it appears callous, heartless, even evil. Worse, MGM appears to have let its lawyers control its communications—and we all know lawyers often are terrible communicators, especially on sensitive issues.

“What was it thinking? MGM touts customer service, customer care, yet its initial communications in the media and to those it sued were so ham-handed and legalistic, it appears the company has learned none of the lessons about humanizing messages. Moreover, MGM’s attempts to do damage control after the fact, in letters to employees and the media, alternate between sappy emotional overkill and more legalistic jingo. It would be almost embarrassing if they weren’t so tone-deaf and infuriating.

“In such tragic and high-profile cases, taking an unpopular, self-protective move is dangerous enough. But to so callously communicate about it, and leave it so open to misinterpretation, has got to define worst crisis management practice in the age of terrorism.”

Ira Kalb, assistant professor of clinical marketing at the University of Southern California’s Marshall School of Business: “For two weeks the news media has reported MGM Resorts International has filed legal actions against some of the shooting victims of the worst massacre in U.S. history. While MGM’s approach may be part of an effective legal strategy, it has already caused damage to the company’s corporate image. When there is a dispute, the marketplace tends to side with victims over large companies.

“According to an internal communication from Mr. Murren, its legal actions are not aimed at the victims but at getting all litigation related to this matter into one federal court. If that is the case, MGM Resorts made some communications errors by allowing the wrong information to get into the minds of the public via the news media for nearly two weeks. It should quickly distribute the corrected information [about wanting to consolidate the cases] so the public can understand its true intentions.

“To win the public, MGM might consider taking actions to help the victims. There is more than a zero-cost to this approach but it could yield a better return on investment. By helping the victims it can turn the negative word-of-mouth pyramid into a positive one, which may improve MGM’s public image.”

Write to Ben DiPietro at ben.dipietro@wsj.com, and follow him on Twitter @BenDiPietro1.