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After Bad Press, When Should Law Firms 'Come Out Swinging'?

Lizzy McLellan, The Legal Intelligencer

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It's not unusual for law firms to issue a formal response after they've been confronted with criticism, hit with litigation or stung by bad publicity. But that approach wasn't enough for a Philadelphia workers' compensation firm after its business practices came under scrutiny this month.

Pond Lehoccky Stern Giordano found itself in the hot seat after the Philadelphia Inquirer and Philadelphia Daily News published a Sept. 22 news report raising questions about firm partners' ownership of a pharmacy. (The Legal Intelligencer [also published an article](#) on the topic.)

In response to the Inquirer article, the law firm posted [a lengthy critique on its own website](#). The statement, titled "A Political Hatchet Job," alleged that the Inquirer reporter "used cherry-picked information to craft his article," criticizing specific sources and descriptions within the report. Pond Lehoccky also provided 24 testimonials from clients of the law firm and Workers First Pharmacy, and pointed to allegations that an ad salesman at Philadelphia Media Network, which owns The Inquirer, Daily News and Philly.com, used the news report in a sales pitch to another plaintiff's firm. PMN has acknowledged that call took place, saying it was improper and that the salesman had been disciplined, [according to a report by Newsworks](#).

Reached for comment Friday on Pond Lehoccky's posted response, a spokeswoman for PMN said in a statement that the organization stands by its article as reported.

In a statement to The Legal, Pond Lehoccky said, "We simply could not allow the story to stand without making our clients and the general public aware of the truth." The firm said it cooperated with the PMN reporter and provided information that was not included in the news report. After the article was published, the firm said, "we felt the need for a strong public response because the story could have damaged our hard-earned reputation."

Abraham Reich of Fox Rothschild represents Pond Lehoccky and said the firm's response online may be unusual, but it was necessary. Reich did not write the response, but he was aware ahead of time that the firm would be posting it, he said.

"There are times when you have to come out swinging, and Pond Lehoccky was not afraid of doing that," Reich said.

Sticking to 'Powerful Points'

Pond Lehoczy's response to the news report seems unique, said Wayne Pollock, founder of boutique law firm Copo Strategies, and a director of communications firm Baretz + Brunelle.

"It seems extremely savvy and it seems like it's as much marketing as it is public relations," Pollock said. "They are responding exactly the way you would expect aggressive plaintiff's attorneys to respond to allegations that they did something wrong."

Richard Levick, CEO of public relations firm Levick, said he might have suggested a similar strategy to a law firm client, but a different execution. Levick said posting a response on the law firm's website was a good move, but the statement itself was too long, and too personal in its criticism of the reporter, William Bender. Other journalists who were not previously interested in the law firm's business ties might now take note, Levick said.

"There were really a few powerful points in [the firm's response], and they should have stuck with the most powerful," Levick said. "Law firms are criticized all the time ... you articulate your best and most powerful of arguments, and you repeat it over and over."

Reich said the length of Pond Lehoczy's statement "was dictated by the number of omissions in the story."

Still, Levick said, "journalism ... has never been about recording everyone's every utterance."

Becoming a 'Thicker-Skinned' Industry

Levick said law firms are increasingly likely to face decisions on how to respond to scrutiny as the legal industry undergoes widespread change. He said a number of trends related to their business will likely cause greater criticism: increasing rate pressures, the commoditization of law, the emergence of artificial intelligence, and the growing prevalence of multidisciplinary practices and nonlegal affiliate businesses.

"Law firms are increasingly businesses, but they still want to think as lawyers," Levick said. "We're already seeing some early signs of privilege [of the legal profession] being whittled away."

As those changes take place, he said, firms have to become "thicker-skinned." They will have to evaluate their business models and anticipate the criticism they will face.

In any case where a law firm faces criticism, failing to respond can cause problems down the road, Pollock said. Still, he noted, a lengthy, detailed statement is not always necessary.

"The majority of negative publicity law firms get is not going to rise to the level of this tone," he said. "Law firms need to have a response that is proportionate to the level of publicity, the tenor of publicity, and the potential impact of publicity."

Pollock said Pond Lehoczy's situation warranted an in-depth response. As another example, he said, law firms should provide a detailed rebuttal if possible when they are publicly confronted with allegations of gender discrimination or inequity, [as several firms recently have been](#).

And crafting such a response requires a key ingredient—accurate information. "Facts matter," Pollock said.

"In a situation where a law firm doesn't get the facts right in its full-throated response, that's a problem," he said. "That could lead to a situation where the blowback to the response is more problematic than the initial negative publicity."

Crafting and posting a rebuttal is a good concept for responding to bad press, Levick said, but it's strengthened by support from people outside the firm, like academics and ethics advisers, who can provide an independent assessment of the firm's practices.

"The most powerful communications come from others," he said. "Who are your third-party allies? Know them before you need them."

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