

Good Business Means Sometimes Having to Say I'm Sorry

On October 19, Solomon McCown & Company (SM&) and *Massachusetts Lawyers Weekly* examined the current place for the public apology at the latest edition of the **SM& Presents** panel series. The distinguished list of panelists comprised Ralph Martin, Partner, Bingham McCutchen LLP; Ashley McCown, SM& Executive Vice President; Maureen Mondor, Vice President of Risk Management, ProMutual Group; and Donna Morrissey, Divisional Director, Public Relations and Corporate Affairs, American Red Cross. David Yas, Publisher and Editor-in-Chief of *Massachusetts Lawyers Weekly* moderated the lively, eye-opening discussion.

What You Say Can Hurt You – and Help You

Why is apologizing so difficult in the business setting? Entrenched ideas about what it means to lead or to be an accomplished person can play a role. Mondor explained that apologies are critical in the physician/patient relationship because of the element of trust. But for doctors “the first barrier to apologizing is dealing with the idea that ‘I have failed’ and looking inward.” McCown noted that what leaders say in the business setting can have very real and immediate implications: “Stock prices rise and fall based on the words of leaders.” The seriousness of the potential impact can lead to hesitation: “You don’t want to make a decision without all of the information,” said Morrissey. The threat of liability, whether real or imagined, has a chilling effect. “In a business and political context, it is wise to take a 360 degree view of the ramifications of anything you say,” said Martin, “and all of us in our professional lives are trained to do that.”

The panelists underscored the fact that an apology can serve its purpose for the speaker and listener but not result in liability. “You can take responsibility but not do so in a way that litigation could successfully come back against you,” said Martin. An expression of empathy alone does not trigger legal ramifications when made with care. “Doctors need to realize that saying ‘I’m sorry’ does not mean that you made a mistake. It means you are sorry for the situation,” said Mondor. Martin agreed. “If you are a corporate executive and something has gone wrong, you can demonstrate that you are looking for answers, and you can demonstrate empathy. That goes a much longer distance than ‘no comment.’” Martin foresees the emergence of a new type of corporate leader, replacing the charismatic CEO who has often found him or herself the subject of scandal. The modern leader is backed by an independent board and able to “demonstrate empathy in the public arena.”

All of the panelists saw a significant value to issuing an apology. “Some view apologizing as a defensive strategy, but I see it as an offensive strategy that paves the way for forgiveness and resolution,” said McCown. She cited two incidents associated with highly publicized apologies: the Planned Parenthood shootings of ten years ago, and more recently, the death of Victoria Snelgrove after the Red Sox

victory that placed the team in the World Series. Planned Parenthood was headed by Nikki Nichols Gamble, and SM& president and CEO Helene Solomon, with McCown, handled the PR around this crisis. "Both Planned Parenthood and the Boston Police Department were led by smart, forward-thinking women," noted McCown. "In both instances it was about pushing aside the blame game, not pointing fingers, but asking, 'What went wrong, and how can we fix it?' There was never a law suit filed against Planned Parenthood, and a year later they had the best fundraising effort in their history." Martin recalled his decision to apologize in the case of a wrongful conviction during his tenure as Suffolk County DA: "It wasn't a case my office had processed. But I just couldn't imagine what it would be like to try to duck and hide on that. Think how you'd be if they thought you'd lied when someone spent years in prison unnecessarily."

When Pressed by the Press...

The media usually uncovers the situation meriting an apology and is also the vehicle by which that apology is publicly conveyed. "You don't want multiple news cycles going by without comment. The sooner you can get out in front of a story the better," said McCown. "They're going to write the story regardless – the question is will you be in it or not." Morrissey noted that advisors in crisis matters need to be sensitive to the time constraints of the media: "The news cycle is vastly different from business hours. You need someone on call who knows to ask 'What do you need?' and to say 'I'm going to look into it and give you a response as soon as I can.'"

Obtaining the relevant information is "as important as saying 'I'm sorry,'" said Morrissey, "because otherwise it could hurt the company." Being responsive to reporters means assembling all of the relevant facts and players: "I've worked closely with attorneys. It's important that everyone be at the table. You don't want to say 'no comment' -- something I couldn't always do." McCown agreed. "You can't answer without talking to legal counsel. But if you can get a statement of two lines that legal can support, then you can at least be in the story." When team members are responsive, ethical, and honest with media members there is great potential for the long term. "Some of our best relationships with media are borne out of crisis situations."

Act — and Get the Facts

Even the most well-positioned apology is no substitute for action. "It's important to have your actions reinforce your words so they cannot come back to bite you," said Morrissey. Added McCown, "You have to walk your talk. An apology is not a panacea." Mondor cited a case where the physician removed the wrong kidney. While the physician apologized immediately, it was not the apology alone but the actions taken by the physician that mattered so much to the patient. The physician agreed to participate in grand rounds and discuss the incident. The patient felt that the loss was not in vain, that it would serve to influence other physicians, and the doctor was never sued. In her work for the archdiocese around the scandal of

sexual abuse allegations, taking action was a priority for Morrissey. Of the actions ultimately taken within the organization, she said, "I'm proud of the changes."

Companies and leaders can minimize their chances of having to apologize in the first place by nurturing a communicative environment in which leaders have as much information as possible and take a hard look in advance at anything controversial. Martin noted that the need to issue an apology in the corporate setting most often arises as a result of "disgruntled employees — dimedroppers and whistle blowers." He suggested that leaders develop "a system to find out what your problems are before someone feels the need to go outside of the organization. Give people a chance to approach someone with the responsibility to do something before the problem ripens." Morrissey agreed: "Have an open environment where people are not afraid to come forward. In the right setting, where the impact is immediate and finite, you can do something before it gets worse."

"Have a code of ethics and a crisis plan," suggested McCown. "Most of the time the need for an apology arises out of a smoldering issue — most are not surprises." Certainly, for all leaders and those who advise them, planning, communication, transparency, and empathy can go a long way toward fulfilling goals and ensuring that they bask in the spotlight — rather than find themselves blinded by it.

For information on developing a crisis plan, contact Ashley McCown at amccown@solomonmccown.com or visit www.solomonmccown.com.