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# Richard Levick – The Message vs. The Truth



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*“Manners are a sensitive awareness of the feelings of others.  
If you have that awareness, you have good manners, no matter what fork you use.”*

*– Emily Post*

Early this morning I had the opportunity to give a keynote address and moderate a panel for the Law Firm Marketing Summit (<https://lawfirmmarketingsummit.com/>) in London on *Brand Authenticity: The Message vs The Truth*. It was, of course, a great deal of fun, with a terrific panel on Multidisciplinary Perspective on Brand Authenticity (<https://cnp.wavecast.io/law-firm-marketing-summit-2021/discussion-panel-multidisciplinary-perspective-on-brand-authenticity>).

We make our money usually by defending companies and countries in the court of public opinion, so I am reluctant to criticize companies and feed the beast; but truth, as they say, demands honesty. If there is a “versus” between your truth and your message, you are not authentic. Fish rots from the head and so do organizations. There is no more current example of a company struggling with the versus between its message and the truth than Facebook, which is having a bad fortnight, including a long outage, a brilliant and highly critical multi-part *Wall Street Journal* series, leaks, an exceedingly articulate and sympathetic whistle blower, congressional hearings and more.

Facebook has been using the same communications playbook for years, which includes three parts: 1) Denial and shock; 2) Diversion – ‘Look at all the good things we are doing;’ and 3) A promise to do better the next time. A promise seldom kept.

If Facebook was a movie, it would be Casablanca with Captain Renault on an endless reel. “I’m shocked, shocked to find that morals have broken down here!” (<https://www.commpro.biz/>) ([https://www.youtube.com/watch?v=SjbPi00k\\_ME](https://www.youtube.com/watch?v=SjbPi00k_ME))” Is it any surprise that Facebook’s algorithms are modeled on gambling algorithms?

If we want to come across as authentic, we have to be, well, authentic. This means that communications is never about spin, it is about fixing the problem – saying *and* doing the right things.

The key question at our session and for many large defense law firms is, “We are increasingly criticized for the work we do and the clients we represent. Do we stay neutral or do we evaluate our work politically?”

I keep thinking of those law students at Harvard, Yale, New York University and other elite law schools who last year threatened to boycott Paul Weiss because they represent Exxon, a contributor to – and for a long time, a denier of – global warming. Even though I spent my first career as an environmental lobbyist and community organizer, working on dozens of issues designed to protect the environment, I found myself offended by, rather than sympathetic to, the students’ protests.

The difference between democracy and mob rule is the rule of law. And the bedrock of the rule of law is that everyone deserves legal representation – a tenet so early recognized as essential to our Republic that John Adams defended Captain Thomas Preston and the eight British soldiers accused of murder in the Boston Massacre. Even though Adams bitterly hated the British cause, his commitment to justice and due process for all prevailed.

Like the opening shot at the battles of Lexington and Concord, the students’ protest was a shot heard around the law firm world today. Increasingly, large defense law firms are asking if their own brands will be tarnished by their clients’ reputations. This is an issue (<https://chiefexecutive.net/its-war-the-new-dilemma-for-corporations-and-social-issues/>) that companies need to wrestle with. But law firms?

What, pray tell, would Paul Weiss have done decades ago about its groundbreaking representation – often pro bono – in *Brown v. Board of Education* (<https://www.oyez.org/cases/1940-1955/347us483>); of Thurgood Marshall; on early LGBTQ rights cases? They are the first law firm where Jews and gentiles practiced together. That’s right. This too was a barrier that needed to be broken. At the time, unpopular issues, all.

Were we to judge the protesting students by their own criteria – one strike and you’re out – we would find that they singled out a pioneering law firm that – *long before it was popular* – stood for civil and gay rights and helped to end religious discrimination in the practice of law. Sometimes the mirror is more powerful than the sword.

What can defense law firms do? The recent letter (<https://www.nytimes.com/2021/08/30/business/dealbook/spac-lawsuits.html>), quickly signed by more than 60 national firms condemning lawsuits targeting special purpose acquisition companies (SPACs), is an example of how the legal industry can come together...and quickly.

Until then, global law firms will make their representation decisions on a variety of factors – ethics, conflicts, *kill et al.* – but law firms should [\(https://www.commpro.biz/\)](https://www.commpro.biz/) steer away from making decisions based on whether something is politically popular. Already, approximately three quarters of American college students are afraid to say what they are really thinking for fear of being castigated by those who disagree with them politically – an incredibly powerful form of prior restraint, also known as mob rule. We will rue the day when law firms make their client decisions under the same pressures. Will no one take the next *Brown*?

Each of the panelists – and the Editor-in-Chief of the *Global Legal Post* – was kind enough to appear on *In House Warrior*, the daily podcast I host for the *Corporate Counsel Business Journal*.

Bendita Cynthia Malakia is a former large law firm lawyer and in-house counsel at two global financial institutions who now leads Hogan Lovells' global DEI strategy with the aim of ensuring that historically underrepresented professionals can thrive. She is a catalyst for underrepresented colleagues to be their authentic selves in the workplace and for others to structure for their development and success, including working across differences to create community – by building systems, inspiring investment and cultivating connections.

Legal rebel Michele DeStefano – Professor at the University of Miami School of Law, affiliated faculty at Harvard Law School Executive Education and Founder and Director of LawWithoutWalls (<http://lawwithoutwalls.org/>) – discussed the practice of law, legal education, law firm recruitment and the importance of humility, inclusivity and risk.

James Batham, a partner at Eversheds Sutherland in London, discussed his approach to selling long term “annuity” clients, which involves active listening and a “you, we, I” approach, which centers on the clients’ needs and not the lawyer’s expertise. As James says, “You can never ask the client enough questions.”

Moray McLaren, founder of Lexington (<https://www.lexingtonconsultants.com/team>), a premier global legal consulting firm, talks about the latest challenges for law firms including resilience, price sensitivity, doing too well during COVID-19, an age of unhappy but well-compensated associates, new competition and more.

Kenny Robertson is the In-House Lawyer of the Year at the 2018 Law Awards of Scotland who heads the Outsourcing, Technology & IP legal team at the Royal Bank of Scotland. He spoke candidly about what law firms get right and get wrong in their effort to be more technologically savvy and how they can improve their services to clients.

*Global Legal Post* Editor-in-Chief John Malpas, a longtime British, European and Chinese law firm journalist, discussed law firm challenges from fees and growth to ESG and DEI. He also spoke about the issue of law firms increasingly being criticized or lauded for the positions they take or don't take.

*“Seek first to understand, then to be understood.”*

Stephen Covey

Enjoy the shows.

Richard Levick

*Listen to Getting DEI Right* ([\(https://www.commpro.biz/\)](https://www.commpro.biz/)  
(<https://levick.com/getting-dei-right-with-bendita-cynthia-malakia-of-hogan-lovells/>)

*Listen to Michele DeStefano, Legal Rebel* (<https://levick.com/michele-destefano-legal-rebel-and-professor-of-law-at-the-university-of-miami-school-of-law/>)

*Listen to Brand Authenticity and the Law Firm* (<https://levick.com/brand-authenticity-and-the-law-firm-with-james-batham-a-partner-at-everheds-sutherland/>)

*Listen to Law Firms and the Next Frontier* (<https://levick.com/law-firms-the-next-frontier-with-moray-mclaren-founder-of-lexington-a-premier-global-legal-consulting-firm/>)

*Listen to The Struggle for Law Firms to Get Technology Right* (<https://levick.com/the-struggle-for-law-firms-to-get-technology-right-with-kenny-robertson-head-of-the-outsourcing-technology-ip-legal-team-at-the-royal-bank-of-scotland/>)

*Listen to The View From Europe* (<https://levick.com/the-view-from-europe-with-global-legal-post-editor-john-malpas/>)

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