

**WHEN KNOCKING THE COMPETITION,
BE PREPARED TO APOLOGIZE**

Pepsi Cola's job recruitment quiz compared its hometown base near NYC with Coca-Cola's hometown of Atlanta. Questions included: a) "Which city offers any food in the world, which has fat backs & grits?"; b) "Which city offers yachting as recreation, which offers cow tipping?" Quiz was administered to college students on career day.

Atlantans were angered -- letters arrived at Pepsi & Coke. Full-page apology appeared in Atlanta Journal & Constitution. "We're sorry it happened. Pepsi certainly does not want to lose your business. But most important, we do not want to lose your respect." Signed by pres Ron Tidmore, Pepsico South (Dallas), letter continued: "As a native Southerner, and one who is proud of my Southern roots, I'm angry and embarrassed."

Afraid of negative attention, Tidmore first decided not to apologize, then changed his mind over the weekend. "I thought we needed to admit we made a mistake and accept responsibility for this."

Good Strategy, Poor Delivery When we contacted Pepsi, pr dep't spokeswoman balked when she found out we were media. "It will take me some time to prepare a response to this, and if that's past your deadline, I'm sorry." When she found out pr is a public relations newsletter, she replied: "I can tell you right now we are not going to participate. We are not going to perpetuate this story in a publication that writes about pr mistakes" [tho our goal is not to criticize, only help everyone learn from the situation]. There's no way I'm going to keep this story alive thru (your publication)."

Can't disagree with her strategy, but the way it was handled might be improved. Telephone manners are critical, especially for a pr dep't. We were asked, "Who's calling?" and "What do you want that for?" by a receptionist when simply trying to find out the name and title of the media rels dir.

WHO'S WHO IN PUBLIC RELATIONS

HONORS. Women in Communications' Nat'l '89 Headliner Awards for recent comm accomplishments & excellence in the field: Barbara Gothard (pres, Gothard Group, Miami); Kathleen Larey Lewton (pres, KL Lewton & Assoc, Toledo).

ELECTED. Nat'l officers: pres, Janice DiNezza (Ladbroke Racing

Corp, Livonia, Mich); pres-elect, Jane Kilburn (Washington Natural Gas, Seattle); vp finance, Jennifer Engle (Goodwill Industries of Lancaster, Pa); vp programs, Michele Edwards (Gothard Group, Miami); vp prof'l dev, Marjorie Groves (Meredith Corp, Des Moines); vp-membership, Carol Zennie (Fort Hamilton-Hughes Hosp, Hamilton Oh)

In adherence to our yearly custom, pr reporter will not be published next week. This is the last issue of 1989. Look for our annual first-of-the-year issue which goes in-depth on a major topic. Happy Holidays!

**LAWYERS' LATEST WRINKLE, "SLAPP SUITS" AGAINST ACTIVISTS:
POTENT STRATEGY? ATTACK ON FREEDOM OF SPEECH? OR WAY TO
ERODE COURT OF PUBLIC OPINION ON WHICH PR FIELD RESTS?**

More and more private citizens are being sued -- by businesses & government officials -- for non-media defamation, i.e. for speaking their minds. What impact will this new wave of litigation have on free speech? On an active citizenry? On grassroots coalition-building?

"SLAPPS" U of Denver profs George Pring & Penelope Canan are researching burgeoning phenomenon of SLAPP (Strategic Lawsuits Against Public Participation) cases. They are brought for: a) contacting a gov't official; b) circulating a petition; c) giving testimony; d) lobbying; e) reporting a violation of law; f) filing a public interest lawsuit; g) communicating with voters in an initiative or referendum.

Without a formal study, Pring & Canan have found 200 recent SLAPPS. It's as tho corporations and gov'ts suddenly found effective recourse against the guy who charges the company with racism, or those people who petition against dump sites, etc. And, lawyers have found a bountiful new potpourri of litigious possibilities.

BNA's Civil Trial Manual speculates SLAPPS are a backlash to the overall explosion of public interest litigation since the early 70s due to:

- 1. liberalization of "standing" requirements to file suits;
- 2. increase in statutes authorizing citizens to bring enforcement suits;
- 3. "irreparable injury" -- where the relief sought is an injunction;
- 4. liberalization of requirements for intervention of public interest groups in private litigation.

"SLAPPS may be an offensive maneuver designed to avoid protracted public interest litigation."

"What's shocking about this type of litigation is that it is a direct violation of the First Amendment right to petition the government. The petition clause is the ultimate, most basic safeguard in a democratic system," Pring told prr. "If every time you try to participate, you are slapped with a multimillion dollar lawsuit, you are going to get the message that the First Amendment is a fraud and a myth."

Sample Cases According to California Journal, SLAPPs are not limited to activists & town blowhards. A housewife near Santa Cruz complains to her local paper about a proposed development -- she's slapped with a \$3 million suit by the developer; Beverly Hills League of Women Voters criticizes condo projects to a local paper -- gets nailed with a \$63 million suit. Other examples from Eugene Roberts, exec ed, Philadelphia Inquirer:

A) Cathy Blight, ex-pres, Humane Society of Livingston County (Mich) discovered 22 area dog pounds were giving strays to a kennel operator who sold them for medical experiments. She wrote to a local paper demanding county & townships cancel contracts with the broker. Several did, and kennel operator sued 1) Monroe County, 2) newspaper, 3) Blight. County settled out of court. Newspaper, backed by libel insurance, settled. But Blight, without a safety net, suffered setbacks in court. She: a) must pay kennel operator \$135,000; b) has cashed in her retirement savings; c) has a lien against her house because of the libel award.

Nat'l Law Journal: "There have been & will continue to be cases in which the project proponent suffers the heavy direct costs of defending a suit and the often heavier indirect costs of substantial delay of the project. Those costs should be avoided, and there should be a remedy in a case that is frivolous or wrongfully brought under a different standard." [But lawyers bring frivolous actions all the time as delaying or scare tactics. Is it ok for them, wrong for private citizens?]

B) Calif design consultant Alan LaPointe (Richmond) opposed plans for a trash incinerator. His campaign revealed questionable expenditures by West Contra Costa Sanitary District, resulting in 2 grand jury investigations. After state atty general ruled construction funds had been improperly spent, LaPointe filed taxpayer suit. A year later, the district countersued him for \$42 million-- he had killed the plant project by speaking out against it. The district lost, so LaPointe is planning to sue for malicious prosecution. Tho he's ahead, he says he plans to be a much more cautious activist.

Justifiable Cause? But what of the developer whose project is stymied at exorbitant costs by a hysterical group of preservationists? And what of the town which suffers expensive delays on construction of a much-needed dump because no one wants it "in their neighborhood"?

Developers claim defamation action is their only recourse. But Canan says SLAPPs typically attack advocacy of a community issue before a gov't body. And developers often file after activists succeed in delaying projects.

SLAPPs are also effective in squashing a spark of public criticism. Even tho 83% of SLAPP cases are ultimately dismissed, Pring says few defendants can afford to bear such legal expenses, rarely covered by insurance. Instead, many drop out of the civic arena altogether. "Civil participation is chilled by such suits."

WHILE IT MAY BE TEMPTING to see SLAPP suits as a way to get rid of pesky critics, practitioners could do harm to public relations with such a view. 1) It risks public condemnation for employers or clients, since stifling dissent isn't the American way. 2) The Court of Public Opinion is why public relations is essential to society -- and here it is being undercut by lawyers (again!). 3) Because big biz or gov't organizations bring these suits against the little guy (citizens or activist groups), this is also a rich vs. poor issue. Should money rule? Or does even it require public consent? 4) In the American system, neither biz nor gov't has vested rights. The people can question anything: that's what 1776 was all about. As Lou Golden's classic book title puts it, Only by Public Consent.

NURSING HOMES PERFORM PUBLIC SERVICE BY PUTTING RESIDENTS TO SANTA'S WORK

The Hillhaven (Tacoma) nationwide system of nursing homes has created Hotline to Santa Claus. For several hours every afternoon, kids can make last minute additions to their wish lists by dialing 1-800-442-XMAS. Line gets inundated with calls, so local numbers are also available via directory assistance. Santas are really seniors, trained on Santa lore and the latest trends in toys. Harry Ting, vp mktg, says program makes tots happy and seniors get a kick from it.

Ho Ho Academy Seniors are trained on how to project authentic, hearty "ho ho ho's." Also briefed on:

1. How to respond to requests. "We tell them never to promise anything. Instead say, 'I'll try to find that toy,' or 'I'll put that on my list.'"
2. How to deal with sensitive issues. Seniors have heard questions like "I want my daddy to stop beating me." They are trained to respond adequately & to contact proper authorities. Other tricky questions may include "My dog died last summer. Can you bring him back?" Santas have to be able to counsel a bit.
3. The latest in toys & gadgetry. Toy store managers come in and give product demonstrations. "Seniors learn what's hot and what's new in the way of children's toys."

Seniors receive a "diploma" after Christmas. Next year, graduates, or "deans," will train new Santas. "We have 300 participating nursing homes. We don't have a problem getting residents to sign up. It's a lot of fun for them." Ting says that most residents are female, so if you call "Ho Ho Hotline," don't be surprised if you reach Mrs. Claus. To avoid post-Yuletide blues in the nursing homes, Hillhaven has an 800 "thank you" number for a few days after Christmas.