

Shana Fulton Writes Article on Internal Investigations and Procedures

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Brooks Pierce attorney Shana Fulton recently published an article with Thomson Reuters Westlaw about how society's demands for transparency have affected the way companies and organizations conduct internal investigations.

The article, entitled "The Impact of Society's Demands for Transparency on Internal Investigations and Their Investigators," discusses the impact of the #MeToo movement and the ethical issues that investigators grapple with in conducting internal investigations in this social environment.

"Increased public scrutiny and demands for transparency regarding corporate investigations of sexual assault and harassment allegations are challenging how these investigations have traditionally been handled," writes Fulton. "The protections provided by the attorney-client and work product privileges may not be available to today's investigators, at least in the same fashion they previously have been. As a result, investigators face challenges in protecting themselves from ethical attacks when the privileges fail."

According to Fulton, there are three types of pressures: increased media scrutiny, more public disclosures due to regulatory and fiduciary requirements, and the potential government involvement before an internal investigation has concluded.

These pressures have resulted in investigators potentially facing more ethical issues while conducting investigations. Fulton discusses several ways attorneys can protect themselves and prevent issues from arising, including through the use of an appropriate *Upjohn* warning.

"An *Upjohn* warning can help to protect the investigation from privilege attacks and insulate the investigator from any ethical attacks if the privilege fails," Fulton says.

The full article is available [here](#).

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