

Md. attorneys see culture shift on sexual harassment allegations

Employers need to be especially aware during holiday season, lawyers say

By: [Anamika Roy](#) Daily Record Legal Affairs Writer December 15, 2017

Since movie producer Harvey Weinstein's decades of sexual misconduct was brought to light, countless men and women have come forward in a variety of industries to expose similar workplace behavior. For local employment attorneys, these scandals have sparked conversations with clients about workplace harassment policies and making sure complaints are handled responsibly.



Renee Lane-Kunz (The Daily Record / Maximilian Franz)

"These are not new concepts," said Renee Lane-Kunz, chief operating officer at Shapiro Sher Guinot & Sandler P.A. in Baltimore. "This culture now, this environment in which we are all operating has changed significantly. For the first time in a long time, employers are seriously listening to and investigating claims of harassment."

"A number of my clients," added Julie C. Janofsky, another Baltimore practitioner, "go through annual reviews of company policies and we're going to be looking at this to make sure they have their bases covered."

Janofsky, of Fedder & Janofsky LLC, has been handling sexual harassment issues since the Supreme Court first recognized it as a claim more than 30 years ago.

"This is an issue that cuts across industries, all workplaces and all sizes of businesses large and small," she said.

Lane-Kunz knows that firsthand, as she spent more than a decade in the hospitality industry before embarking on a legal career. Because of her background in corporate America and now as an employment attorney, dealing with harassment issues has always "played a part in my world," she said.

"It's important for employers to not only have policies in place, but the communication of those policies to their employees is tantamount," Lane-Kunz said.



Julie Janofsky (The Daily Record/Rich Dennison)

In her role as COO, Lane-Kunz said the increased attention toward sexual harassment in the workplace hasn't necessarily heightened her "consciousness" on the issue but she did review the firm's handbook with her human resources manager ensure the language was appropriate.

"Most employers have some anti-discrimination policies in place. Now is the time for them to review those policies and make sure the policies say what they mean and are being followed and enforced," Lane-Kunz said.

'Dog bite rule'

As sexual harassment allegations stay in the headlines, Brian Markovitz, an employment attorney with Joseph Greenwald & Laake P.A. in Greenbelt, said he has been getting more cases. "People are more comfortable" coming forward in a world where high profile-people such as Sen. Kirsten Gillibrand, D-N.Y. and actress Gwyneth Paltrow are openly talking about being sexually harassed, he said.

"None of this should be new or shocking to anybody. It's just that people have had enough," said Markovitz.

When an employee brings a complaint in writing or multiple people come forward with a complaint against the same person, Markovitz advises employers to fire the person against whom the complaints are made.

Markovitz calls it the "dog bite rule," where a dog gets one free bite before being considered a dangerous animal.

"If you know someone who's a sexual harasser, there's usually something wrong with this employer. They will act again and you will be responsible for that as you would be as a dog owner," Markovitz said.

Complaints should be made in writing, Markovitz said, to ensure there is evidence of the harassment being reported to human resources or an immediate supervisor. An employee should follow up an oral complaint with an email, he added.

Janofsky warns employers against promising absolute confidentiality to an employee making a harassment claim, as the complaint has to be shared with the alleged harasser, witnesses and decision makers. The complaint may also be used in subsequent legal proceedings.

"It's not accurate and that should not be part of an effective harassment procedure," Janofsky said.

Holiday time

Employers can also be held liable for sexual harassment even if the employee never complained but faced an "adverse employment action" such as a demotion, for resisting a superior's sexual advances. The company can also be on the hook for sexual harassment by vendors, customers and other outside people who interact with employees if the company knew or should have known about the misconduct and did not take corrective steps, Janofsky said.

“This stuff gets tricky when the company makes it tricky,” Markovitz said, referring to when companies are reluctant to fire an employee despite harassment accusations. “When you start to dance with the devil, you have a problem.”

During this time of year, with holiday festivities in the workplace, companies should be especially cognizant of behavior that could be considered harassment. Markovitz tells clients to talk to take preventative steps including cutting off an open bar or simply ending a holiday party earlier than normal.

“Be very clear about your lines,” Markovitz said.