

Attorneys' stories show sexual harassment remains a problem in law firms

By: Peter Vieth ◉ November 27, 2017



As Rachel reflects back on the various instances during her legal career in which she's experienced sexual harassment, she notices a theme. There was the law professor who made inappropriate comments to female students. The night, while she was still in law school, that a partner at a big law firm showed up at her hotel room door after she'd interviewed for a job at the firm. The prominent attorney who grabbed her inappropriately at a reception event.

"I thought it was interesting that all of them were people in power over me, or thought they were," Rachel said. "They had an attitude of nonchalance and that I can do this and I'm entitled to do this. An attorney much more senior than me was taking advantage of their position."

Like all of the legal professionals who spoke to Lawyers Weekly about their experiences with sexual harassment, "Rachel" is identified using a pseudonym to protect her anonymity. Amid a cascade of revelations of sexual harassment—and worse—by high profile men in positions of power, their stories suggest that the legal profession is not unlike the media, movie or political trades in terms of the challenges faced by women in a mostly male-dominated industry.

According to the authors of an article published in the Harvard Business Review earlier this year, two thirds of women working in law firms say that they've witnessed or personally experienced sexual harassment in the course of their career. And while one might hope that changing social norms over the last few decades would have chipped away at those numbers, things actually appear not to have changed very much.

The standard reaction is not to address the problem, but retaliate against the victim, according to Elaine C. Bredehoft of Reston, who handles harassment claims against law firms.

"The legal community to some extent is a small community," Bredehoft said. There's a sense that "the rules don't apply."

"How dare she make an accusation," is the response from management, Bredehoft said. "There's definitely that mentality there. It makes the women fearful to report."

For lawyers who are sexually harassed at work, there's a tremendous pressure not to make a complaint against a powerful attorney and instead muddle through as best they can. "If they say something about sexual harassment, they've signed their death warrant at that firm," Bredehoft said.

Survey data across industries generally suggest that sexual harassment is vastly underreported. Many of the women who spoke to Lawyers Weekly said that they never reported their experiences to anyone, in some cases because they felt like reporting the violator would negatively impact their own careers.

In law firms as in other workplaces, an employee who is a star performer or a successful leader of an organization is less likely to be confronted about misconduct, or disciplined if complaints are raised—although harassers may also project an image of having more power than they actually have.

Jackie said that she was recently at a cocktail hour at a CLE and was shocked when a "pretty big time lawyer" intentionally grabbed her rear end. She said she didn't want to say anything about it at the time because the attorney was so widely respected, but said in retrospect she wishes she had. She also recounted a time when she approached a more senior attorney about a job with his firm. The attorney said that he didn't have any jobs

available but would let her know if a position became available—then shortly thereafter, that same attorney and his wife propositioned her for sex.

“I wonder what element of the job may have been available to me if I had said yes to the sexual proposition,” Jackie said.

“It’s the same thing across all kinds of traditional, male-dominated professions,” said Annette Rubin of Leesburg, who won a high profile gender discrimination case against a large law firm in 2005.

“A law firm is no different from any kind of business in that regard. The climate is slow to change,” Rubin said. Most reports of harassment come with retaliation complaints, too. “That would make complete sense and that has certainly been my experience,” she said

The issue is usually not romance or sex, but an exercise of power by the male employee.

“It’s completely a domination kind of dynamic at work. It’s a form of bullying,” Rubins said.

If you see something

The harm that victims suffer as a result of sexual harassment can be severe, the attorneys said, even when no sexual assault takes place. “It impacts their self-confidence and feeling of self-worth,” Bredehoft said.

Harassment at work often poisons relationships outside the workplace. The result can be a “very unhealthy situation,” Bredehoft said.

A victim who reports abuse risks professional exile, as well, Rubin said.

“Aside from the physical and psychological damage that is done, your career really suffers. It has a lifelong, lasting effect if you lose your job behind something like this,” she said.

Margaret said that at her former workplace, there was a distinct culture of men frequently commenting about women and the way they looked. One colleague in particular began sending her graphic and explicit text messages late at night, and one night at a work conference the same colleague grabbed her inappropriately and without her consent.

Margaret said that as a result, she withdrew socially from other colleagues at the office. She stopped attending happy hours and other similar events, and doubts that her co-workers understood why. She felt isolated, and experience even made her change the kind of work she was doing.

“It was really hard because at the time I was doing domestic violence work,” Margaret said. “The work I was doing was very hard anyway, but the fact was it undermined my own confidence. I felt like, if I can’t keep myself safe, how can I tell other women how to keep themselves safe?”

One of the most important factors in reducing sexual harassment in the workplace, according to research, is for people who see harassment occurring to speak up and say something. In practice, this largely means men confronting other men in the workplace when they see inappropriate behavior. By contrast, Margaret said, her colleague’s behavior towards women was widely known about at her workplace, but the conduct nevertheless continued.

The lawyers said recent attention to the problem has changed the climate for the better.

Recognition of the issue led a Virginia legislative leader to proclaim in a Nov. 17 “open letter” statement that the state House of Delegates has “zero tolerance for sexual harassment or abuse of any kind.”

“Things have changed a lot. Not enough. It’s a good thing we are recognizing this kind of discrimination for what it is. It’s high time,” Rubin said.

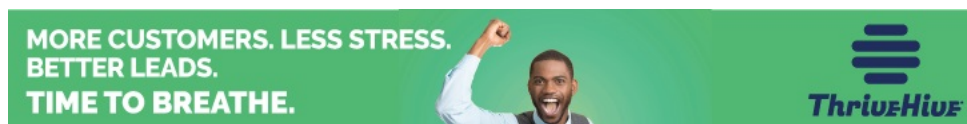
“I’m very pleased with that climate,” Bredehoft agreed. “It’s opening doors and encouraging women to come forward.”

Women should not necessarily fear public exposure if they talk to a lawyer and pursue a claim, Bredehoft said. A willingness not to talk about the experience can be leverage, with employers seeking confidentiality clauses in settlement negotiations.

"I think confidentiality provisions help both sides. Women want to move on. They don't want their name out as someone who has made a sexual harassment complaint," Bredehoft said.

Additional reporting by Peter Vieth of Virginia Lawyers Weekly.

Follow David Donovan on Twitter @NCLWDonovan

A green banner advertisement for ThriveHive. On the left, white text reads: "MORE CUSTOMERS. LESS STRESS. BETTER LEADS. TIME TO BREATHE." In the center, a man in a light blue shirt is shown from the chest up, smiling broadly with his right fist raised in a celebratory gesture. On the right side of the banner, the ThriveHive logo is displayed, consisting of three horizontal blue bars above the word "ThriveHive" in a bold, sans-serif font.