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# What to Know When Representing Sexual Assault Victims

Commentary by  
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It may seem like it was not too long ago that the initial reports regarding Harvey Weinstein came into the public's purview. Recently, the Golden Globe awards highlighted the lasting changes that were propelled by Weinstein's accusers coming forward with their stories. In that time, others have come forward alleging some form of sexual misconduct against other prominent individuals such as former Alabama Supreme Court Chief Justice Roy Moore, Kevin Spacey and Matt Lauer. These accusations were transmitted through various news outlets and filled living rooms for the final months of 2017. The public was made aware of a growing epidemic which had consumed numerous workplaces and forced victims to live with a secret.

What the public may not be aware of is the process which these accusers must

suffer through in order to have a legal claim against an employer whom has sexually harassed them. With the appropriate legal guidance, the process to help them seek the justice they deserve can be made smoother and more efficient.

Before a lawsuit can be filed, a victim must first file their charge with the U.S. Equal Employment Opportunity Commission (EEOC). This must be done within 180 days of the harassment occurring, or the charge faces the potential to become untimely. The victim must then wait for the EEOC to make a determination as to whether or not it believes a law was violated. The EEOC will conduct its own investigation which can include interviewing the victim's employer, colleagues and other individuals whom may have knowledge of the assault, turning the process into a public matter.

Once an individual seeking to file a lawsuit gets the "right to sue" letter from the EEOC, they can proceed under a couple of theories. A savvy lawyer will understand the different types of harassment that can be filed. Quid pro quo harassment, or "hostile work environment"

harassment is seen in some of the claims against Harvey Weinstein. In this case, the victim is told that they must perform sexual acts if they wish to keep their job, or be promoted. Weinstein allegedly committed this type of harassment frequently when he would threaten to shut down production of films or replace talent if they did not perform sexual acts. Attorneys with this kind of case must stress to their clients that even consensual sex with a direct supervisor can be construed as being quid pro quo harassment in certain circumstances.

Hostile work environment harassment includes intimidation, crude jokes, showing pornographic pictures to others, or consistent comments about individual's physical traits. This is the type of harassment filed in allegations against television show hosts Bill O'Reilly and Matt Lauer. Victims often have a difficult time winning these types of cases as they generally boil down to "he said, she said" unless there is physical evidence such as a text message or email. Urge clients to keep any and all correspondence, even if they are not certain it means much.

Additional factors include a relationship with a direct supervisor or co-workers, previous complaints and whether the employer knew of the behavior that was occurring.

The problem of workplace sexual harassment has been catapulted to the front of many major media sources and for good reason. The catalyst of Weinstein's accusers coming forward has shed a light on the unfortunate truth that comes from many corporations on a daily basis. It also sheds light on the tedious process which must take place before justice can be served on an individual who has committed heinous acts of sexual harassment. Corporations are adjusting their internal procedures for handling sexual harassment claims. Lawyers are honing their skills on how to handle the outpouring of cases. It may also be time for the judicial system to take a look at its procedures for handling the same allegations.

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