

FIRM NEWS

SHOULD THE POLICE BE CALLED? HARVEY WEINSTEIN VERDICT SHOULD HAVE EMPLOYERS LOOKING AT THEIR SEXUAL HARASSMENT POLICIES AND PRACTICES

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PROFESSIONALS
Deborah Brouwer

Deborah Brouwer, a partner with Detroit-based management side labor and employment law firm Nemeth Law, P.C., says that yesterday's Harvey Weinstein guilty verdicts on charges of third degree rape and criminal sex acts will impact employers dealing with sexual harassment cases.

"Employers tend to focus on sexual harassment as a violation of policy and conduct investigations accordingly," Brouwer said. "With the Harvey Weinstein guilty verdict, employers - and employment lawyers, too - will need to be even more sensitive to situations where the alleged harassment may also constitute a sexual assault or criminal battery, and where there is the potential for criminal charges to be filed against an employee."

Brouwer added that while Weinstein wasn't an employer in the situations where he was found guilty, he wielded tremendous power over the victim's careers.

"Harassment policies also provide protection to employees from outside vendors and agents doing business with the company," Brouwer said. "The Weinstein case affirms the need for that protection, and for employers to take all claims of workplace harassment seriously, regardless of the role or influence of the alleged perpetrator."

Brouwer states that whenever an employee claims he or she is being sexually or verbally harassed at work, the employer must take such claims seriously, and conduct a thorough and impartial investigation. For complaints involving physical threats or physical contact, employers need to be aware that such claims may rise to the level of a criminal assault/battery and determine the appropriate course of action. In serious cases – a rape occurring at the workplace, for example – the employer may need to involve emergency medical services as well as police.

Employers do need to know that, if the police become involved, the employer still has an obligation to conduct its own impartial investigation. When and how that happens will require employers to communicate and cooperate with the police. Employers also need to communicate with the involved employee and reassure him/her that the company does not retaliate against employees who raise concerns about harassment or

involve the police where such action is taken in good faith.

In the event of civil litigation, employers must be mindful of any ongoing criminal proceedings that will likely conclude prior to any civil lawsuit. But that may not always be the case. Where there are two legal procedures simultaneously progressing through the legal system, each needs to be monitored as to its effect on the other.

About Nemeth Law, P.C.

Nemeth Law specializes in employment litigation, traditional labor law, workplace investigations, and management consultation and training for private and public sector employers. The firm also provides arbitration and mediation services. It is the largest woman-owned law firm in Michigan to exclusively represent management in the prevention, resolution and litigation of labor and employment disputes.