

FIRM NEWS

TIME'S UP CAMPAIGN COMPELS EMPLOYERS TO PURPOSEFULLY ADDRESS SEXUAL HARASSMENT IN THE WORKPLACE

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PROFESSIONALS
Deborah Brouwer

Nemeth Law attorney advances the conversation with considerations to help facilitate a safe environment

Given the surge in harassment claims coming from all industries, Deborah Brouwer, a partner with Detroit-based labor and employment law firm Nemeth Law, says it's important for employers to keep the momentum that is powered by #MeToo and #TimesUp going beyond heightened awareness of sexual harassment.

"Our firm is getting anxious calls from clients daily on a variety of situations that are coming to light as a direct result of this movement; more employers are understanding that a wait-and-see approach is generally not an effective or advisable option," Brouwer said. "It is better to follow-up on a claim and perhaps even pursue an investigation than let a situation play out on its own and then take action."

The challenge, Brouwer acknowledged, is that even though #TimesUp is serving as a strong call to action on the part of employers, they rightly have numerous questions on determining if harassment occurred and, if it did, how to measure the egregiousness of the offense.

"The approach to handle this issue is not always clearly defined and may vary on a case-by-case basis depending on the complexity of the matter. The level of action may be contingent on who is making the allegation or complaint—a primary source or a third-party observer; whether age, awareness and generational issues are a factor; and whether the impact on corporate image forces a public holding statement even if all the facts have not been verified," Brouwer said.

"There are differentials on the continuum of sexual harassment, from inappropriate comments, behavior and conduct to criminal sexual assault and rape. There is absolutely a need to develop more consistent standards to deal with each of these offenses, but we're not there yet."

In the meantime, she offered the following considerations for employers when they've been approached with a complaint:

- Be cautiously proactive, not reactive
- Determine if the allegation warrants additional investigation
- Establish the best person to investigate the complaint and bring in an attorney or professional investigator
- Look at the perspectives of all parties involved
- Appropriately manage both the alleged victim and alleged wrong-doer
- Determine the impact on corporate image and how to best handle media inquiries

In order to see real change with respect to workplace sexual harassment, employees need to know that harassment will not be tolerated by those at the highest levels in the company, and that there will be consequences when harassment is identified. “This culture of respect may begin with education and re-education of all executives and employees on an ongoing basis as the #MeToo and #TimesUp movement evolves,” Brouwer said.

About Nemeth Law, P.C.

Established in 1992, Nemeth Law specializes in workplace investigations, employment litigation, traditional labor law, management consultation/training for private and public sector employers, and arbitration and mediation. 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.