

## **Samuel N. Lillard - Developing a New Approach to Harassment Prevention in the Era of #MeToo**

Based upon 25 years of litigating harassment claims, and more than 20 years of training managers on harassment avoidance, I have reached a simple, and perhaps obvious, conclusion – that is, the “traditional” anti-harassment training used by most employers simply do not work. Whether training occurs on-line or in-person, it almost always starts with a legal definition, a discussion of the different types of harassment, and ends with various “common” scenarios for employees to ponder. Despite providing such training year in and year out:

- in the last 10 years, Title VII filings involving harassment have increased by nearly 700%;
- Nearly 50% of women report experiencing some form of harassment at work at least once;
- According to a recent NY Times poll, nearly 1/3 of men reported doing something at work within the past year that would qualify as objectionable behavior or harassment; and
- On October 15, 2017, Alyssa Milano tweeted a request to reply if you have been sexually harassed or assaulted, and she received over one million mentions – by the next day.

And one can hardly forget the steady stream of business executives, entertainment moguls, and political leaders scandalized their organizations with outrageous details of men behaving badly. So where have employers, and those who work with them to get it right, gone wrong? Why are the herculean efforts of HR departments calming the rising tide of harassing behavior?

The answer is that we are focusing too much on what not to do under the law (and what we have to do to have a potential defense to liability), rather than providing employees and their managers with tools on how to create positive work relationships and foster psychological safety in their work groups. To be sure, harassing behavior is more than the product of a bad employee; it is symptomatic of a toxic work environment. In such environs we often find:

- An obsession with making the numbers, where outcomes are uncritically adopted;
- Recruitment, promotion, and reward systems focus on individuals’ “strength of personality” or interpersonal aggressiveness while ignoring emotional intelligence;
- Short-term planning governs operations;

- Executives give higher priority to personal friendships than to legitimate business interests; and
- Fear is a dominant, desired workplace emotion, whether deliberately engineered or inadvertently created.

Although there can be much discussion on the cultural causes of sexual harassment, what is clear is that workplace harassment allowed to ferment is the source of serious liability to business. It can be a sales dropping, share price lowering, brand tarnishing business killer.

The #Metoo movement is a paradigm shift and call for a new approach to tackle this problem. The good news is that we have a number of innovators who are solving parts of the problem, and their work can be brought together to form a new training regime that works to prevent harassment. I commend to you Professors Christine Pearson and Christine Porath and their work, “How incivility is damaging your business and what to do about it.” Leonardo Inghilleri’s work on training empathic skills to hospitality employees, and of course Google’s Project Aristotle and its steps for developing effective teams.

So, what is working? Training that includes protocols which teach employees and more importantly managers on how to foster good working relationship in their workgroups. We recommend revamping sexual harassment avoidance training to include 6 protocols.

- 1) Developing an employee “how can I help you” culture;
- 2) Techniques to project empathy or at least the appearance;
- 3) Routine steps to handling any employee concern;
- 4) Managing the unexpected;
- 5) Using the most respectful language possible with random acts of kindness; and
- 6) Bystander training.

A prevention program built around these principles will help employers to do more than just comply with the law – it will reinforce the notion that everyone plays a critical role in preventing workplace harassment (or any other kind of misconduct for that matter) and creating a successful workplace culture. It will also empower employees with the tools to step in and stop it. These, in turn, will help employers to achieve their business goals – from decreasing harassment occurrences to improving performance and morale. It is hard to argue against such benefits. It is clear, change is rapidly occurring and this next generation workforce is not silent.