

Long Island Business NEWS

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LISTENING TO WOMEN IN THE WORKPLACE



EXPERTS ADVISE A WORKPLACE FREE OF
SEXUAL MISCONDUCT STARTS AT THE TOP



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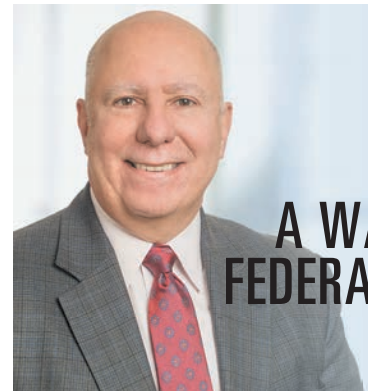
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COVERSTORY

NOT #METOO

There's no room for harassment in workplaces where a culture of respect is fostered at the top



Photo by Compass Workforce Solutions

CHRISTINE IPPOLITO: A culture of respect helps deter sexual harassment and is one that is 'open to communication from any level of employee.'

By **ADINA GENN**

With new disclosures seemingly every week, the #MeToo movement continues to offer moments of reckoning for survivors of sexual harassment and discrimination.

That's serving as a wake-up call for business leaders, regardless of the industry, from media, to government, food and other industries.

For many, it's led to the question: How to create a workplace culture that does not foster, invite or permit sexual harassment or misconduct in the workplace?

That kind of work environment, experts say, starts at the top.

"It goes to diversity in the workplace," said Kenneth Novikoff, a partner at the Uniondale law firm Rivkin Radler's employment and labor practice group.

At Rivkin Radler, "there are senior partners who are women" he added. So if a woman feels she's been subjected to sexual harassment or misconduct, "there are multiple avenues where she can get it addressed."

Diversity along with a culture of respect and workplace-behavior training are just some of the components of a healthy work environment, experts say. And reported problems should be swiftly investigated, and with the help of counsel.

Still, in the wake of the #MeToo and now #Time-sUp – the hashtag for the legal defense fund for those who have experienced sexual harassment, assault or abuse at work – the complaints show no signs of letting up.

"We see this everywhere," U.S. Equal Employment Opportunity Commission Acting Chair Victoria Lipnic recently told Law360. "This happens to women in workplaces all over the place."

This predicament prompted a freewheeling conversation on what business leaders need to know to cultivate a workplace of inclusion took place. The dialog took place at a recent leadership roundtable organized by Long Island Business News, where law firm sponsors shared a big picture view of key areas where businesses should focus. Joe Dowd, LIBN's editor, moderated the discussion.

For instance, at Rivkin Radler, Novikoff noted that the firm, with its diverse leadership, "provides a safe space for women to complain" if needed.

It should go without saying that quid-pro-quo propositions – for example, a supervisor demanding sex from an employee in exchange for the prospect of a promotion – would violate a firm's human resources policy. But as recent news headlines have proven,

"there are always those individuals who think they can get away with it," Novikoff pointed out.

And as incidents from The Weinstein Company, NBC, and elsewhere indicate, "there was a barrier or a perception that some of the people in the organization were untouchable," despite policies and even investigations, said John Diviney, a partner in the Em-

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IF THE TOP SETS THE EXAMPLE,
EVERYONE WILL FOLLOW.'**

ployment & Labor Practice Group at Rivkin Radler.

But reporting sexual harassment or sexual misconduct are "issues where you want to make sure in any organization that the women or other victims have an ability to complain, are treated fairly and that action will be taken," Diviney said, noting that victims at some organizations have said they didn't file official complaints out of concerns of losing their jobs.

"They don't want their career hurt," Diviney said.

Culture of respect

Experts point out that while policies and procedures are important, the culture at a workplace must be one of respect.

To Christine Ippolito, principal of Deer Park-based Compass Workforce Solutions, which provides HR expertise to small businesses, a culture of respect is one that is "open to communication from any level of employee."

In companies where there isn't that level of communication, the leadership team often "is not actively engaged with all employees – people won't tell you [about a problem] because they won't think you want to hear it," Ippolito noted.

Ingredients of a respectful workplace culture include civility and professional courtesy, Ippolito said. And acknowledging others and providing the sense that leadership values so that workers at any level feel comfortable sharing opinions go a long way.

"It flows from the top," Novikoff said. "If the top sets the example, everyone will follow."

But for companies without a formal HR department,

See more information about our roundtable panels on page 20.

or with remote locations where there are fewer eyes in the office, "it's harder to implement," Diviney said. In these circumstances, "the person at the top might designate a chief lieutenant" to "hear these types of complaints and act upon them."

Without a culture of respect, however, trouble can escalate, with bullying and an environment that's not unlike a battle zone.

Ippolito pointed out that "sexual harassment is not about sex, it's about power," where someone is "angry or hurt acts out to get what they want."

And as some liken marijuana to a gateway drug that leads to substance abuse, "an uncivil work environment can be a gateway to harassment," she said. "It's allowing behavior to be bad, and when you allow bad behavior, it allows people to push the envelope."

Still, when there's stress, no one individual acts appropriately at all times, Novikoff noted. "I always try to be more cognizant." So, in the rare event where he has spotted an employee "not acting nicely" to a subordinate, Novikoff will let that person know that "this is not what we do here." Dignity and respect, he added, "improves efficiency" when "those things become the norm."

Action, training are key

Once a complaint is filed, it should be investigated appropriately, with discipline applied equally, regardless of who the offending individual is, according to Rivkin Radler. Counsel should be involved early, especially if a complaint involves senior management.

Routine training for all employees is key so that



Photo by Judy Walker

(From left) KENNETH NOVIKOFF and JOHN DIVINEY, OF RIVKIN RADLER: Firms can create workplaces that never foster, invite or permit sexual harassment.

employees gain an understanding of harassment. Consider for example, an off-color joke. The person telling the joke may know that people he's speaking with won't be offended, "but that doesn't mean that the person sitting three cubicles away isn't offended," Novikoff said. "Someone who doesn't understand the relationship will [consider] that a

problem."

Employees, especially those new to the workforce, may not yet be able to determine what kind of actions or comments cross the line.

But, Novikoff said, "that's where the training comes in."

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About Rivkin Radler LLP

Through five offices and 180 lawyers, Rivkin Radler consistently delivers focused and effective legal services. We're committed to our best practices, requirements that go beyond professional and ethical standards. Our work product is clear and delivered on time. As a result, our clients proceed with confidence.

We provide strong representation and build even stronger client relationships. Many clients have



been placing their trust in us for more than 25 years. Our unwavering commitment to total client satisfaction is the driving force behind our firm.

We are the advisor-of-choice to successful individuals, middle-market companies and large corporations. And for clients who prefer to speak their native language, we can communicate in French, French and Haitian Creole, Greek, Hebrew,

Hindi, Italian, Korean, Panjabi, Polish, Russian, Spanish, Tagalog and Urdu.

Rivkin Radler's attorneys are leaders in legal, business and political arenas. Many of our attorneys have received Martindale Hubbell's AV Preeminent® ranking, signifying that "a lawyer's peers rank him or her at the highest level of professional excellence." Time and again, our attorneys are recognized as

leaders by peer review programs, including Best Lawyers/U.S. News & World Report and Super Lawyers. The Firm is also accredited by the Better Business Bureau.

Our attorneys and professional staff occupy leadership roles in many organizations. We have been named among the Top 100 Private Companies on Long Island by Newsday and are consistently ranked among the New York Law Journal's 100 Largest Law Firms in New York. The Firm is proud to have received Advancement for Commerce, Industry and Technology's, Commitment to Excellence and Leadership Award.

KENNETH A. NOVIKOFF Partner

Kenneth A. Novikoff has tried many cases before courts, (state and federal) and arbitration panels, on behalf of corporations, municipalities, and individuals in varied complex commercial litigation matters, including partnership disputes, employment and housing discrimination matters, and civil rights lawsuits.

A partner in Rivkin Radler's Commercial Litigation and Employment & Labor Practice Groups, Ken handles multi-million dollar commercial disputes and recently successfully represented a leading New York City law firm in a multi-million dollar partnership dispute with a former founding partner.

Ken provides advice and counsel to clients on employment and housing discrimination matters and has defended hundreds of discrimination claims in federal and state courts, as well as before various state and federal administrative bodies.

Ken successfully defended one of the largest real estate management companies in New York State on claims of housing discrimination against the handicapped, resulting in a decision on summary judgment that created new law and that had nationwide implications for the housing industry. *Salute v. Stratford Greens*, 918 F. Supp. 960 (E.D.N.Y.



Photo by Judy Walker

1996). He successfully argued the appeal before the U.S. Court of Appeals for the Second Circuit, which affirmed the District Court's decision. *Salute v. Stratford Greens*, 136 F.3d 293 (2d Cir. 1998). Recently, Ken successfully resolved a claim of housing discrimination against a prominent real estate development and management corporation.

Additionally, Ken has significant experience in regulatory matters and the representation of municipalities on Long Island, including the Long Beach City School District, the Valley Stream Board of Trustees, the Valley Stream Zoning Board of Appeals, and the Town of Hempstead Zoning Board of Appeals.

Ken was named a Super Lawyer in the Metro New York Area in Business Litigation from 2013-2017.

JOHN K. DIVINEY Partner

John K. Diviney represents clients in labor arbitrations and grievances; unfair labor practice charges; employment discrimination, harassment, and retaliation claims; wrongful competition and restrictive covenant disputes; and wage and hour collective and class actions.

A partner in Rivkin Radler's Employment and Labor Practice Group, John regularly appears before federal and state regulatory agencies, including the National Labor Relations Board ("NLRB"), the Equal Employment Opportunity Commission ("EEOC"), state and federal labor departments, and various fair employment practices agencies.

John also has acted as the lead negotiator for collective bargaining with major unions across the country. He has handled negotiations in the transportation, defense, manufacturing, and service industries, in addition to public sector bargaining in the State of New York.

Clients routinely call on John to consult on union avoidance and campaign issues, as well as contract grievances and arbitrations. John regularly counsels clients on regulatory compliance under state and federal statutes, including the Family and Medical Leave Act ("FMLA") and



Photo by Judy Walker

the Americans with Disabilities Act ("ADA"), wage and hour issues, and the review of layoffs, discipline, and termination decisions.

John has been featured in the Who's Who in Labor Law section in Long Island Business News. He has served as the co-chair of the Labor and Employment Law Committee of the Suffolk County Bar Association and is a former officer of the Suffolk Academy of Law.

Currently, John serves on the board of directors at John T. Mather Hospital and, for over 10 years, he has been a member of the Three Village Central School District Board of Education, serving as its president, vice president, and chairperson of its audit committee.