

It's Not Just All Pandemic, All the Time!

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As New York employers struggle to reopen their workplaces, implement new workplace COVID-19 policies, manage remote workers, *and* deal with employees who are quarantined, afraid of contracting COVID-19, afraid of the subway, and requesting job accommodations – this is a good moment to remember that all of the ‘old’ employment laws are still alive and well and being enforced.

Earlier today the New York Attorney General [reported a \\$1.5 million dollar settlement](#) of a sexual harassment complaint against a Long Island construction company, claims made by 18 female former employees.

The company, Trade Off Construction, denied all of the allegations and did not admit any wrongdoing in the settlement.

The Claims

The allegations in the complaint included claims that the company turned a blind eye to supervisors who offered to boost female workers' hours in exchange for sex, circulated naked pictures and videos of subordinates, and participated in harassment, including making vulgar comments, touching, and “forcibly” kissing female employees. A number of female employees also claimed they were fired after they complained of the harassment.

In a sign that there were more systemic problems within the company, it is reported that the AG also found “a systemic failure in training, protection, and response to sexual harassment.” The AG pointed to reports of harassment that were shared with alleged harassers, instead of HR, which ultimately opened doors for retaliation and prevented proper response and investigation. The company “repeatedly intervened to protect the harassers and fire women who complained of harassment.”

The Settlement

In announcing the settlement the AG stated, “all employees deserve to work in an environment where they are valued and respected and not subjected to harassment.”

In addition to the seven figure settlement, the AG is also required the company to institute training, enact new policies, and create a new process for handling complaints. Further, the company is required to hire an independent company to monitor the revision of new policies, and implement training to supervisor.

This is an expensive, complex, and onerous settlement to say the least.

Lessons for Employers

This settlement offers some valuable reminders.

First, to state the obvious, this type of behavior, even in a less severe degree, simply cannot happen in any workplace today. Period, full stop—it just cannot happen. Second, employers must start with good policies. And finally, because policies are not enough, employers today must take meaningful steps to ensure that their policies are being followed.

Here's our recommendation:

- Train your managers and make sure they your company's intolerance for such behavior
- Give HR real authority to investigate complaints
- Conduct prompt and robust investigations
- Punish employees who engage in abusive or harassing behavior
- Properly address and respond to every employee complaint
- Never punish those who come forward in good faith to raise complaints