

Sex and Power: Lessons from a Boutique Law Firm and an Ivy League University

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Two seemingly unrelated news items today impart a lesson that, while not new, bears repeating.

First, as reported by [Law360](#), the long-running lawsuit by a female associate against her former law firm, Faruqi and Faruqi, and the individual partner who she claims sexually assaulted and harassed her came to an end, with a jury verdict in the plaintiff's favor of \$140,000 in compensatory and punitive damages. Of course, this is not the sum total of the "cost" of that lawsuit to the firm, which likely paid millions in defense fees, and now is liable to also pay the plaintiff's attorneys fees. Commentators are also talking about the potential damages to the firm's reputation and ability to recruit top talent. Putting aside who was "right" or "wrong" and I do not know the facts, this lawsuit has likely come at great cost to this law firm.

The second item, reported by Ashley Southall and Tamar Lewin in today's [New York Times](#), was that Harvard had adopted an official policy which banned sexual or romantic relationships between faculty and undergraduates. My reaction for one was – "wasn't that already banned"? It was not, and I applaud Harvard for having done the right thing. As the Times reported, Harvard determined that any professor who had the power to grade a student should not then be engaging in a sexual relationship with that student. Whether real or perceived, there would always be a possibility that the student (and other students not in this relationship) could believe that it was a "quid pro quo" and that the relationship would result in more favorable treatment for the student.

So what is the lesson? The lesson is that sexual/romantic encounters are a danger zone in any situation where someone of power can exert that power to coerce (directly or indirectly) someone with less power to engage in a relationship. Whether it is a VP at a bank, a partner at a law firm, or a professor in college – when one person has the power to award raises, bonuses, good reviews and good grades to another, that person also has the power to convince the subordinate to engage in conduct or start a relationship that is not 100% "consensual." Often in the light of day, or when the relationship ends, the employer or institution will face charges that the relationship was forced or constituted harassment, claims that are very difficult to defend.

These articles should be a reminder to all in positions of authority that sex and jobs or sex and school rarely are a good mix. If you are a manager, you should not be asking for or engaging in sexual relationships with those that you manage, and the same goes for educators. Like oil and water, the two don't mix well.

Finally, and to remind all general counsel and human resource professionals of the obvious, the best thing you can do is make sure that your sexual harassment policy is more than just a piece of paper. Make sure that senior leadership leads by example, make sure that conduct in the workplace is

always professional, and make sure that complaints are promptly investigated.