# The First “Me Too” Verdict in New York Should Send A Strong Message to Managers and Employers

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On Friday, July 27, after a 3 week trial in Manhattan, a jury awarded $1.25 million in damages to Enrichetta Ravina, a former professor at Columbia University Business School, who claimed that she was denied tenure and forced to resign in retaliation for complaining that a senior professor, Geert Bekaert, had sexually harassed her. Professor Bekaert will owe her $500,000 in punitive damages, and Columbia will owe $750,000 in punitive damages.

Ravina first prevailed Thursday on her retaliation claims against Bekaert and against Columbia based on his conduct. The jury also held Thursday that Bekaert, but not Columbia, could be held liable for punitive damages. Jurors rejected Ravina’s gender discrimination claims against both. The money verdicts then came in on Friday.

Interestingly, the jury found that **there was no sexual harassment or gender discrimination**. The verdict was on the retaliation claims. The jury also did not give the plaintiff the back pay and front pay she had sought. They awarded only punitive damages, against both defendants.

This was a hard fought case, and both the university and Professor Bekaert continue to vigorously deny plaintiff’s allegations. Very briefly, plaintiff, who had once worked closely and claimed that she was mentored by Bekaert, alleged that the relationship went sour after she rejected his sexual advances. She claimed that he unfairly stalled her research, criticized her, and derailed her bid for tenure. This all began in 2014, and by 2016 her tenure bid was over and she was forced to leave.

She alleged that she reported the harassment to Columbia, but that the university did not do enough to address it.

Columbia and Professor Bekaert denied there was any romantic relationship, and maintained throughout that the plaintiff was using the allegations as an excuse for her poor academic performance and reviews. Once she saw that she was not getting tenure, according to defense attorneys, this was her ‘backup plan’. The Defendants’ position has been consistent, that they did nothing unlawful and Columbia noted that its decision to deny Plaintiff tenure was upheld as lawful.

However, one key piece of evidence seemed to be a series of emails which Bekaert had written about the plaintiff, where he made very critical comments about Ravina and her work.

Plaintiff was also able to secure a good position at Northwestern University, where she earned more than when she left Columbia. That is likely why the jury decided not to award her compensatory damages.

Ravina's attorney, David Sanford of Sanford Heisler Sharp LLP, said in a statement Friday that the award "should send a clear message to Columbia University and the world of higher education that workplace retaliation and abuse of power in academia will not be tolerated."

On that point – I agree with plaintiff's counsel. This verdict should send a message, not just to academia, but to all employers:

**What is that message?**

1. All companies and institutions need to be on notice that behavior that could be perceived as **'harassing' or 'bullying'**, particularly when directed by a superior against a lower level employee of another race or gender, is a red flag. What the boss may regard as 'tough' or 'harsh', a jury could see as discrimination or harassment.

2. **Be careful with email** and **text messages**. These can be preserved, and abusive words preserved in an email will hold a lot of sway with a judge or jury. Emails remain the most potent piece of evidence in employment litigation today, and everyone needs to be cautious about what they say via email and text. One "nasty" email can influence a jury, as may have happened here.

3. Employers need to learn to **empower their bystanders**. An employer cannot always prevent a bad actor from behaving badly. However, an employer can empower those who are aware of or witness that behavior to report it, before it goes too far.

4. Be sure to **investigate** and **respond** to internal complaints promptly, and **carefully document** those investigations. No one knows what happened at Columbia except those involved in that situation, but again – juries today will be expecting to see evidence that there was a prompt and thorough response to any claim. Now, even more than before the "ME Too" era, consider bringing in outside experts to investigate when necessary, in order to avoid the appearance of bias. And, where there is bad behavior take effective action to stop it.

5. Individual executives need to remember that New York State and City law (like many other local laws) allows for **individual liability** if you are found to have engaged in harassment, discrimination, or retaliation. Like the defendant professor in this case, you could be looking at a sizeable award against you personally, if a jury believes that you broke the law.

6. Finally, **be careful of retaliation claims**, as they are serious business and present real liability. Again, without commenting on what happened here, clearly the jury felt that this plaintiff was treated poorly after she made her complaint – even though they did not credit the complaint itself! That is very frustrating. This is not the first (and will not be the last) case where a jury find that there was NO discrimination, but also finds that the plaintiff was unlawfully retaliated against for making the complaint.

In conclusion, the only real solution here is education and training. Beginning this fall, New York mandates sexual harassment training for all employees. Take this message and if you have not already done so, invest in live training for your executives. It will be well worth the time and effort.