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#MeToo Should Really Be #AllofUs

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By **Nina Pirrotti** | March 15, 2019

As a civil rights lawyer and former prosecutor devoted to empowerment, I rejoiced when the #MeToo movement went viral in October 2017. Yet, even though the movement's second-year anniversary is now in full swing, I believe #MeToo has yet to evolve into what it should be: #Allof Us.

While the world's Matt Lauers and Bill O'Reillys continue to fall, lesser-known sexual predators are still

thriving in their roles as co-workers, supervisors and even CEOs. And their



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prey—those who have yet to claim empowerment in the #MeToo movement—continue to suffer, as too many employers choose to bury their heads in the sand rather than confront the harassers who line their pockets.

Since the movement's inception, I have represented several women who have been subjected to sexual harassment, and even sexual assault, in a variety of workplaces before they summoned the courage to come to me. All recounted work environments in which sexualized comments and conduct were the norm. Yet, their employers took no meaningful actions to address their concerns until they were faced with the prospect of very public lawsuits.

I graduated from law school as Anita Hill spoke truth to power. Professor Hill planted critical seeds in the soil of the #MeToo movement then. Why did these seeds take so long to sprout and blossom? How is it that, notwithstanding the movement's recent revitalization, so many of us find ourselves in the same position in which we were more than 27 years ago? The answers can be found, at least in part, in employers' failure to climb aboard.

Last year began auspiciously with Time Magazine naming as its Person of the Year the Silence Breakers. The magazine's cover photo featured courageous women who personify the #MeToo movement. It also included a cropped elbow, to symbolize millions who remain in the shadows, due to reasonable fears that their careers, reputations, relationships and even personal safety would be jeopardized by speaking out.

I know those fears well. Though clients, colleagues and adversaries have described me as "fearless," I too was sexually harassed when I was a newer attorney. Shortly after I rejected a supervising partner's sexual advances, his interactions with me turned hostile. I joined the ranks of my sister "elbows" and never reported him.

Since then, I have represented extraordinary women who have come forward, despite compelling reasons not to do so. One of them, who I call “The Tenacious One,” was sexually harassed and assaulted by a co-worker at a major company. Her supervisors discredited her when she reported his conduct. They even accused *her* of being the problem. Eventually, her health became so compromised she could no longer work.

The Tenacious One could have accepted a seven-figure settlement and gone gentle into that good night. But she insisted on a key term: the company's commitment to revamping its sexual harassment training, reporting avenues, investigating mechanisms and resources for the survivor.

The company agreed to her terms because it wanted to get the deal done. But there are significant benefits for employers who voluntarily undertake such a pledge. They include deterring offenders, empowering survivors, improving morale, retaining employees, and even reducing lawsuits.

My client and I collaborated on a “wish list” for employers who seek to maximize their returns from participating in the #MeToo movement. That list follows:

Conduct Live Trainings

Online training prevents employees from being fully engaged in the process. Live trainings should include demonstrations of inappropriate conduct and allow participants to dialogue with the presenters to ensure they understand the concepts.

Investigate Responsibly

Investigations should be prompt, thorough and, when feasible, conducted by an objective third party.

Reject the “He Said/She Said” Cop Out

The vast majority of investigation reports I have reviewed in sexual harassment cases default to the “he said-she said” excuse to avoid making culpability findings. Sexual predators rarely act in the presence of neutral witnesses. Investigators should be expected to evaluate the accuser and the accused using the same time-honored factors judges instruct jurors to consider, including motives to lie, internal inconsistencies, demeanor, etc. If the accuser is credible, investigators should find an accused culpable based on her word alone.

Presume that the Accuser is Being Honest

The Tenacious One, like countless others, was just as traumatized by her supervisor’s refusal to believe her as she was by the assault itself. The presumption of innocence is appropriate in the criminal context, where liberty interests are at stake, but it is not the same in the workplace. According to the National Sexual Violence Resource Center, false reporting of sexual assault is uncommon. Unless the facts point elsewhere, employers should presume the survivor is telling the truth.

Incentivize the Bystander to Come Forward

Bystanders should know that they can report their observations without fear of repercussions. The Tenacious One suggested that employers support bystander involvement by offering incentives (monetary or otherwise, such as paid time off) to those who come forward, where the allegations are ultimately substantiated.

Support the Survivor

Larger companies could offer the survivor employer-subsidized therapy, and even smaller companies could provide survivors with paid time off. When the investigation concludes, employers should apprise the survivor of all findings and actions taken.

If the #MeToo movement progresses as it should, more employers will seize the “win-win” opportunities their participation provides. Those who do may even go down in history as having played starring roles in #MeToo finally becoming #Allof Us.

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