

# SEXUAL HARASSMENT IN THE WORKPLACE: A RISK WITHOUT EQUAL

A REPORT FEATURING THE RESEARCH AND EXPERTISE OF

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# TABLE of CONTENTS

INTRODUCTION	4
SEXUAL HARASSMENT IN 2006: A RISK WITHOUT EQUAL	7
Responses to Sexual Harassment Lawsuits	7
Attitudes Toward Sexual Harassment in the Early 2000s	11
SEXUAL HARASSMENT IN 2017: A TIPPING POINT	13
The Weinstein Case	13
The Domino Effect	15
“Merchants of Shame”: The Industry Responds	16
No One Too Big to Topple	17
So Why Now?	20
The Hollywood Factor	21
The Power of Social Media	23
What’s Next?	23
In the Tech Industry	24
In Politics	24
In Gaming	25
An Emerging Path to Resolution?	26
An Endemic Problem	27
SHINING A LIGHT: RECOMMENDATIONS FOR BUSINESSES	29
Companies Taking a Stand Against Sexual Harassment	31
Fidelity Investments	31
United Airlines	31
IPG	31

# INTRODUCTION

Between 2017 and 2018, sexual harassment became a defining issue for society.

On October 5, 2017, *The New York Times* published an investigation revealing sexual misconduct allegations against Hollywood mogul Harvey Weinstein dating back to the 1990s.<sup>1</sup> Within months, the story ignited an industry-wide reckoning and a global backlash fanned by mass and social media.

Following the allegations, Weinstein faces a slew of criminal investigations and possible incarceration. He was fired by his company, Weinstein Co., and has become an industry untouchable. And he is not alone; 2017 has seen an unprecedented number of household names accused of sexual harassment. Matt Lauer, Charlie Rose, Roger Ailes, Bill O'Reilly and Kevin Spacey are just a few of the industry's stellar players whose careers have apparently been extinguished by allegations of sexual misconduct.

Meanwhile, the #MeToo social media movement had a galvanizing effect around the world.

It was used in October 2017 on Twitter by actress Alyssa Milano, a Weinstein accuser, and went viral, reaching scores of countries and millions of users within days.<sup>2</sup>

Reaction from the industry was swift. Studios and TV networks were fast to

*“We always say to people that we can’t change what happened to them in the past, but we need to be able to put what happened to them to some constructive purpose.*

*Sometimes it has felt as though we’re standing in a river of pain, and I don’t want to diminish that, but there have also been moments of recognition and hope and connection.*

*The question now is whether or not private pain can be turned into collective strength.”*

Jodi Kantor

Investigative journalist at the *New York Times* who broke the Weinstein story.

<https://www.variety.com/2017/biz/features/new-york-times-harvey-weinstein-report-megan-twohey-jodi-kantor-1202637948/>

<sup>1</sup> <https://www.nytimes.com/2017/10/05/us/harvey-weinstein-harassment-allegations.html>

<sup>2</sup> <https://edition.cnn.com/2017/10/30/health/metoo-legacy/index.html>





## INTRODUCTION

distance themselves from high-profile figures accused of sexual harassment. As a result, canceled films and TV series have left the industry with hefty bills. The Spacey scandal alone is estimated to have cost Netflix \$39 million.<sup>3</sup>

The scale and speed with which accusations and responses flooded the public consciousness with #MeToo points to two things: The ingrained and intractable nature of the problem and the emergence of a tipping point – a shift in culture and attitudes that suggests this might be a pivotal moment in corporate history.

In 2017, the entertainment industry was a lightning rod for sexual harassment scandals. As 2018 began, it reached the public arena – from politics to academia to finance to Silicon Valley – and corporate America is now dealing with the fallout from scores of allegations.

In this climate, leaders have an unprecedented opportunity to intensify focus on the problem and drive efforts to find systematic solutions that create meaningful change.

<sup>3</sup> <https://www.marketwatch.com/story/sexual-harassment-scandals-cost-netflix-39-million-2018-01-22>

### THIS WHITE PAPER WILL LOOK AT

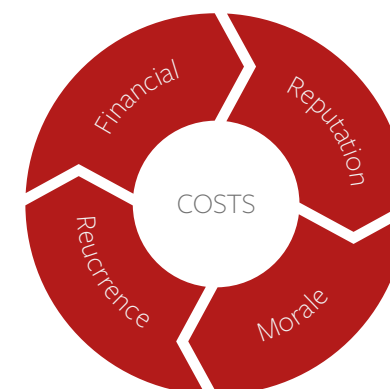
- How sexual harassment allegations do greater damage to reputations and take longer to resolve than any other type of discrimination suit by drawing on research first published in 2006 by experts in workplace diversity and organizational learning Erika James, Dean of Goizueta Business School at Emory University, and Lynn Wooten, Dean of the Charles H. Dyson School of Applied Economics and Management at Cornell University.
- How a failure to institute organizational change has historically marked the corporate response to sexual harassment allegations.
- How 2017 marked a tipping point in tolerance and response from industry, media and society.
- Why businesses and other industries must not wait to be called out and must be proactive in the measures and policies they implement to mitigate risk.

The paper concludes by setting out a number of strategic recommendations for business leaders and other decision-makers who wish to lead this change.

## SEXUAL HARASSMENT IN 2006: A RISK WITHOUT EQUAL

Discrimination lawsuits rank among the leading crises faced by business leaders in the United States. Of these, sexual harassment allegations pose the single greatest threat to corporate reputation, according to “Diversity Crisis: How Firms Manage Discrimination Lawsuits.” This 2006 paper, published by James and Wooten, used institutional theory to explore the role of effective leadership in resolving crises and the importance of organizational learning to prevent crises from recurring.<sup>4,5</sup>

As they researched, James and Wooten wanted to test a hypothesis that firms responded differently based on the type of allegation.



First, they established that the costs to organizations for discrimination lawsuits fell into a number of categories: financial cost in terms of settlements; threats to reputations; negative fallout for employee morale and

commitment; and an increase in the likelihood of recurring claims of discrimination.

James and Wooten then analyzed data from 49 companies – many of them Fortune 500 firms – that had been embroiled in discrimination lawsuits across a number of bases including race, age, gender, religion and disability and compared them with the results of sexual misconduct lawsuits.

The immediate findings were stunning.

### RESPONSES TO SEXUAL HARASSMENT LAWSUITS

When a firm was accused of discrimination its initial response was denial. This would, in time, yield to some acceptance of responsibility and then to settlement.

James and Wooten found that when firms were accused of sexual misconduct, it took them much longer to accept responsibility. In fact, the companies in the study were actually more prone to move to a retaliatory stance

directed not only against the legal process, but often against the plaintiffs.

And more discoveries followed.

While sexual harassment disputes were not the most frequent, they nonetheless took a disproportionately longer amount of time to settle than any other type of claim.

Race and gender-based allegations – the most

<sup>4</sup> James & Wooten, *Leading Under Pressure*, Routledge, June 2011.

<sup>5</sup> James & Wooten, “Diversity Crises: How Firms Manage Discrimination Lawsuits,” *Academy of Management Journal*, December 1, 2006.



## SEXUAL HARASSMENT IN 2006: A RISK WITHOUT EQUAL



common discrimination cases – were typically resolved in 33 to 36 months. Sexual harassment suits, however, took an average of 49 months – more than one year longer – to reach settlement.<sup>6</sup>

In other words, companies accused of sexual harassment were spending just over four years, on average, to settle with plaintiffs. That's four years of denials, rebuttals, trenchant negotiations – and, inevitably – spiraling costs to the firm.

And these costs, argued James and Wooten, weren't

only quantifiable in terms of financial consequences. They also translated into damage to corporate reputations.

The longer a discrimination case took to resolve, the longer it remained in the public domain – exposed to scrutiny and negative publicity from the press and other interested parties.

And this wasn't all.

### REPUTATIONAL COSTS OF DISCRIMINATION

*“Corporate reputation has value and must be managed for it to create and contribute to a firm’s competitive advantage in the marketplace. Because the public uses a firm’s reputation as a signal about the firm’s activities, threats to its reputation, or improper reputation management, can have strategic, marketing and human resource implications. More specifically, an organization’s reputation is threatened when corporate wrongdoing generates national media attention.”*

Anonymous CEO

James & Wooten “Diversity Crises: How Firms Manage Discrimination Lawsuits,” Academy of Management Journal, December 1, 2006.

6. James & Wooten, “Diversity Crises: How Firms Manage Discrimination Lawsuits,” Academy of Management Journal, December 1, 2006.

### THE DIFFERENT PATHS TO SETTLEMENT

James and Wooten looked at the different stages of the lawsuit resolution process and something else caught their attention.

The presence of external stakeholders played a key role in how cases were brought to resolution and impacted the time it took to happen.

These external groups typically organized demonstrations, boycotted goods and services and proactively generated negative publicity for the company.

As the research continued, it became apparent that race-based and sexual harassment cases were more likely than

any other type of lawsuit to galvanize third-party activism. And in the case of sexual harassment, the groups were particularly vocal in their activities. In the U.S., the National Organization for Women worked aggressively to publicize individual cases and engaged with the media to



Denial

Acceptance and settlement

Race & gender

33-36  
months

Sexual harassment

49  
months

### AVERAGE LENGTH OF DISCRIMINATION CASES



## SEXUAL HARASSMENT IN 2006: A RISK WITHOUT EQUAL



call out the firms they dubbed “merchants of shame.”<sup>7</sup>

James and Wooten then found something interesting.

While both race discrimination and sexual harassment allegations were equally likely to mobilize external activists, how the firms responded to these groups was radically different.

With racial discrimination claims, stakeholder activism had a singular impact on the resolution process. Once sanctions were imposed – boycotts, protests, engagement with the media and so on – companies tended to switch from a rhetoric of denial to acceptance of liability. Apologies would be issued, settlements reached and, importantly, senior leadership would publicly commit to efforts to institute cultural change. All this equated to a swifter resolution.

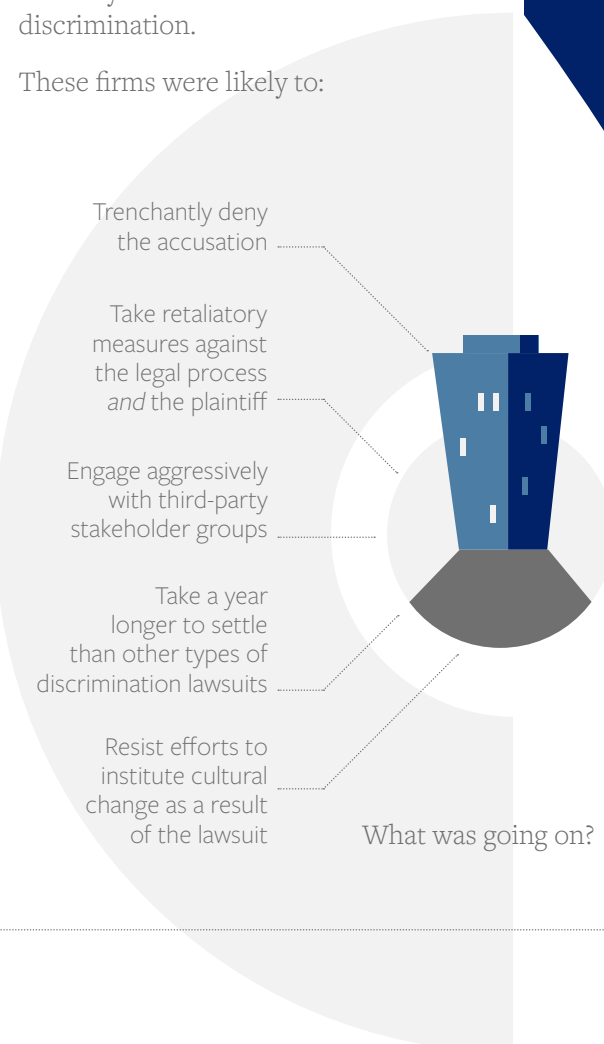
For firms accused of sexual harassment, a very different timeline and corporate reaction played out. In fact, stakeholder activism seemed to antagonize these companies and led to retaliatory actions and accusations that would, at times, become personal attacks on individuals – including the plaintiffs. It was not uncommon for firms to publicize derogatory

information about the plaintiff’s personal relationships, behavior and dress.

In the James and Wooten paper, the authors cited an example involving a senior executive who attempted to influence how the accusations against his company would be perceived by the public by exhorting his employees to counter-demonstrate.

Put simply, in 2006 companies responded more aggressively to sexual harassment accusations than any other form of discrimination.

These firms were likely to:



<sup>7</sup> <https://now.org/resource/wal-mart-merchant-of-shame/>

## SEXUAL HARASSMENT IN 2006: A RISK WITHOUT EQUAL

### ATTITUDES TOWARD SEXUAL HARASSMENT IN THE EARLY 2000S

It’s likely that corporate America in 2006 was taking its cue from U.S. law, which defined and treated discrimination differently than harassment.

Harassment cases were harder to prove. The law placed a higher burden of proof with the plaintiff in a sexual harassment case than any other type of discriminatory lawsuit.

This historically made it easier for firms to view these types of lawsuits as personality conflicts rather than civil rights issues.

Companies typically responded to allegations of sexual misconduct with anger. They de-emphasized the legal aspect of wrongdoing while simultaneously highlighting the subjective nature of the case. Put simply, it became he said, she said. And since the legal mechanisms were ambiguous, coercive pressure from plaintiffs and stakeholder groups were less threatening to the companies accused.

Under these circumstances and unencumbered by formal constraints, firms were more likely to adopt a combative stance toward accusers and their supporters. They were less likely to hasten efforts to find resolution. And less likely to implement meaningful or systemic

## SEXUAL HARASSMENT IN 2006: A RISK WITHOUT EQUAL

measures to address, pre-empt or mitigate the risks of sexual harassment within their organizations.<sup>8</sup>

In a sense, it created a perfect storm. On the one hand, companies felt the law was on their side; sexual harassment was something to deny and to refute. They felt empowered to respond aggressively, to retaliate against accusers and to sweep allegations under the rug without addressing internal culture. On the other hand, sexual harassment played out more than 30 percent longer in the public domain, mobilized aggressive activist groups and incurred greater costs over time.

In 2006, James and Wooten shed light on this and issued a highly prescient warning to corporate America.

They cautioned that the denials, antagonistic engagement with plaintiffs and activists and resolution exclusively by settlement without efforts to institute organizational change, could and would open the door to controversy and diminished control over public perception.

The longer the process continued in the public domain, they warned, the

more time, attention and resources would be diverted from running the business and achieving business continuity.

The law may not have changed substantively since 2006, but attitudes have. This is bad news for firms that have failed to prioritize and address harassment in the workplace. And worse news for those that have failed to learn from their mistakes.

*“Because of the potentially severe consequences that lawsuits can produce, we argue that they should be a central focus of business leaders, crisis managers, diversity practitioners and scholars.”*

**James & Wooten**

“Diversity Crises: How Firms Manage Discrimination Lawsuits,” Academy of Management Journal, December 1, 2006.

<sup>8</sup> James & Wooten, “Diversity Crises: How Firms Manage Discrimination Lawsuits,” Academy of Management Journal, December 1, 2006.

## SEXUAL HARASSMENT IN 2017: A TIPPING POINT

### THE WEINSTEIN CASE

In 2006, James and Wooten warned of the risks sexual harassment claims posed. They said sexual harassment allegations mobilize stronger feelings, create more antagonistic engagement with activist groups and plaintiffs and play out longer in the public arena. Combined, these elements spark increased public interest and drive greater sensationalism of the cases.

They warned business leaders about the costs – to their organization, to their reputation, to morale and to continuity.

In 2018, James and Wooten’s findings coalesced into a global phenomenon; a sea change in attitudes is driving an unprecedented reckoning for the worlds of business, education, politics and media.

And it has happened very fast.

Nowhere is this more apparent than in the media and entertainment industry where key events of recent memory commanded global attention.

Undoubtedly the most significant of the sexual harassment cases is the scandal that has engulfed Weinstein. The *New York Times* published an exposé October 5, 2017 alleging Weinstein had reached at least eight legal settlements for sexual harassment allegations dating back over three decades. The case rocked Hollywood, not least because of the scale of the accusations against the producer and the celebrity profile of those making the allegations.<sup>9</sup>

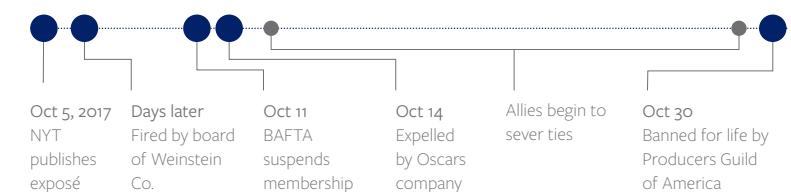
Within days of the report going to print, Weinstein, whose credits included a slew of Oscar-winning movies, was fired by the board of his company, Weinstein Co., as it emerged that his allegedly inappropriate conduct with women was an “open secret” in the industry.<sup>10</sup>

A week later, on October 11, the British Academy of Film and Television Arts announced it had suspended Weinstein’s membership. Three days later, the organization behind the Oscars voted to expel him.

As the allegations continued to stack up against the mogul, key figures and politicians were quick to sever their ties – among these, a number of senior members of the Democratic Party to whom Weinstein had been a noted campaign donor.

On October 30, the Producers Guild of America banned Weinstein for life. In just 25 days, the downfall of one of Hollywood’s most powerful men was complete.

25 Days →



<sup>9</sup> <https://www.nytimes.com/2017/10/05/us/harvey-weinstein-harassment-allegations.html>

<sup>10</sup> [http://www.bbc.com/news/video\\_and\\_audio/headlines/41588203/harvey-weinstein-s-behaviour-was-open-secret](http://www.bbc.com/news/video_and_audio/headlines/41588203/harvey-weinstein-s-behaviour-was-open-secret)



A white silhouette of a person in a suit with arms raised in a 'V' shape, set against a red background with a repeating pattern of the word 'METOO' in various colors and orientations.

## THE DOMINO EFFECT

Allegations about other prominent men in the media acting similarly began to proliferate with a speed and frequency that the media dubbed “the Weinstein Effect.”<sup>11</sup>

First, the viral nature of the accusations – the sheer number of voices and the speed with which they were proliferating – pointed to the endemic nature of the issue. Sexual harassment, this said, had always been there, playing out just beneath the radar; predatory behavior that had gone unchallenged at an enormous scale for many decades across this industry.

wanted to bring the issue into the open. What James and Wooten identified in their 2006 research was playing out in headlines, on the internet, on television screens and on magazine covers across the world: Sexual harassment had an unparalleled power to mobilize public interest. To coin an old expression, sex sells. And the world, it seemed, was ready to buy.

The industry, taking its cue from all of this, was swift to respond.

In the weeks following October 5, some of the biggest careers in film and television toppled like dominoes.

5

## SEXUAL HARASSMENT IN 2017: A TIPPING POINT

### “MERCHANTS OF SHAME:” THE INDUSTRY RESPONDS

In 2017 a new paradigm emerged:  
No career was too big to topple.

Matt Lauer, Charlie Rose, Louis C.K.,  
Kevin Spacey, Bill O'Reilly.

The scandals engulfing these  
figures had an immediate and  
devastating impact on their  
careers and incurred inestimable  
costs to the studios and networks  
associated with them. Within days  
of the sexual harassment scandals  
breaking, many of the industry's

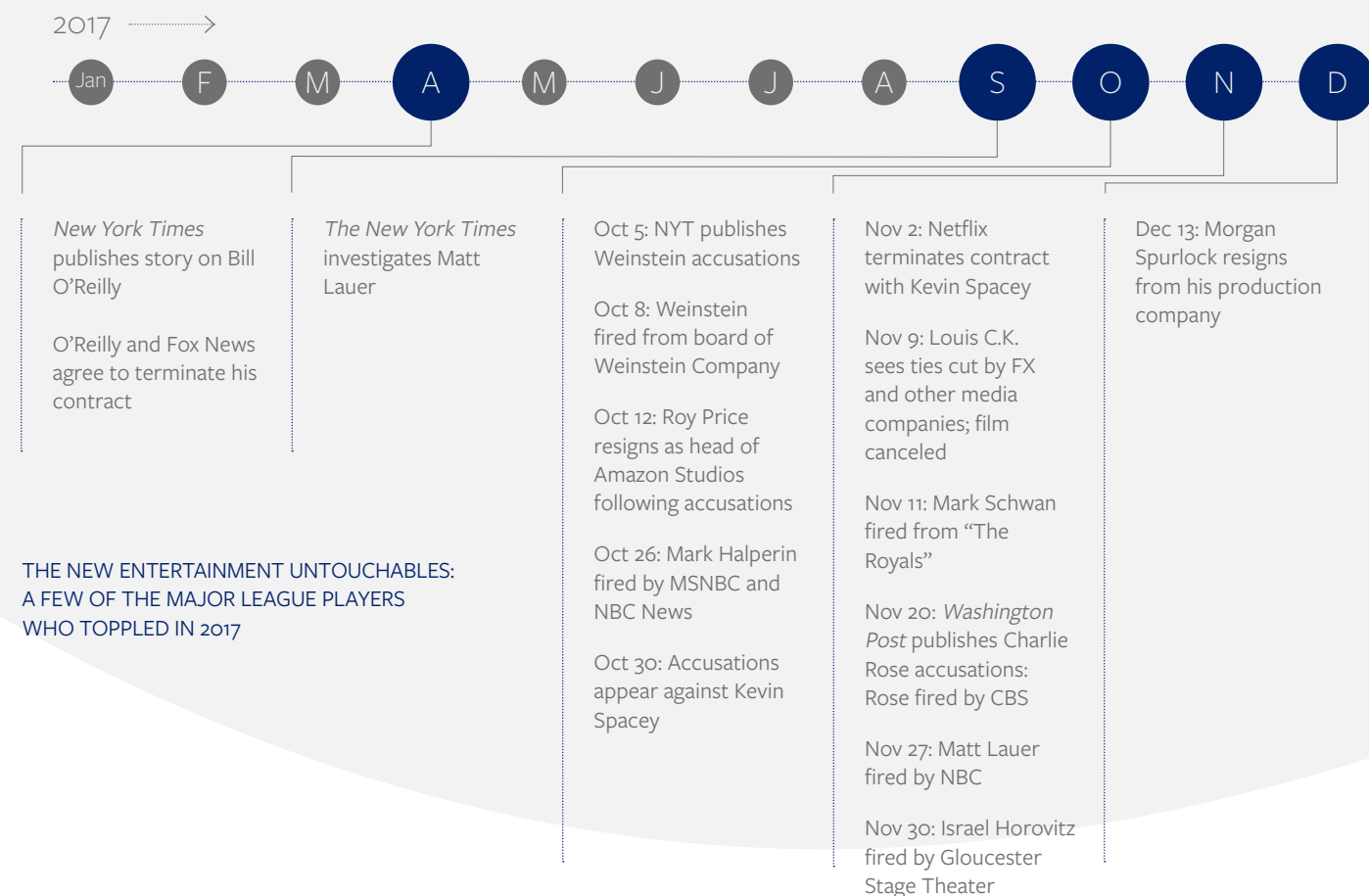
biggest players saw their earning  
capacity flat-line as films, series  
and projects were shelved, one  
after another.

Lauer, Rose, O'Reilly and Spacy went  
from media darlings to industry  
pariahs. Employers were fast to fire,  
replace and sever ties with them.

In its haste to manage the  
contagion, Hollywood seemed  
to finally grasp what James and  
Wooten warned of in 2006: The

slur of sexual harassment has the  
capacity to damage reputations  
unlike any other.

Between October 1, 2017, and  
December 31, 2017, *The New York  
Times* reported that no fewer than  
71 men with an estimated net  
worth of as much as \$1 billion saw  
their careers flat-line.<sup>12</sup>



<sup>12</sup> <https://www.nytimes.com/interactive/2017/11/10/us/men-accused-sexual-misconduct-weinstein.html>

## SEXUAL HARASSMENT IN 2017: A TIPPING POINT

### NO ONE TOO BIG TO TOPPLE

Household names saw  
their careers unravel with  
exponential speed as  
momentum began to reach  
critical mass in 2017.

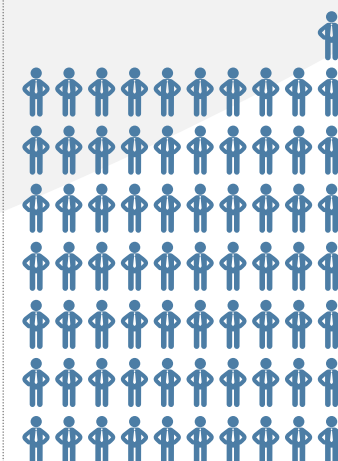
From Bill Cosby in 2014, a case  
that pre-dates the Weinstein  
Effect, to Charlie Rose in  
November 2017, the fall from  
power of those accused of  
sexual predation has been  
happening with increasing  
speed and decisiveness.

Interestingly, in these key  
examples, only the case of Bill  
Cosby has so far been tried in  
a court of law. The other cases

have seen decisive action by  
networks and organizations  
to suspend the employment  
of the men on the basis of  
accusations alone. This could  
be the beginning of a shift away  
from litigation and toward  
unchallenged acceptance.

This, in turn, might point to  
an acceptance of the scale and  
gravity of the problem within  
corporate America that lines up  
with shifting public attitudes.<sup>13</sup>

71 men  
\$1 billion  
net worth



<sup>13</sup> <http://www.telegraph.co.uk/news/2017/06/17/bill-cosby-case-ends-mistrial-jury-fail-agree-verdict-sexual/>

| SEXUAL HARASSMENT IN 2017: A TIPPING POINT

Matt Lauer

**September – November 2017**  
The New York Times conducts an investigation into alleged sexual misconduct by the NBC anchor.

**November 27**  
Female employee files sexual assault complaint against Lauer with NBC.

**November 29**  
NBC announces Lauer’s employment has been terminated.

**November 30**  
Lauer issues a statement apologizing for his actions

Charlie Rose

**November 20**  
The Washington Post runs an exposé about allegations made against the journalist and TV host.

**November 20**  
CBS issues a statement confirming Rose’s contract has been terminated.

**November 20**  
PBS severs ties with Rose and cancels distribution of his programs.

**November 24**  
Walter Cronkite School of Journalism and Mass Communication rescinds Rose’s Walter Cronkite Award for Excellence in Journalism.

Kevin Spacey

**October 30**  
Actor Anthony Rapp tells BuzzFeed News Spacey sexually assaulted him in 1986 – when Rapp was aged 14.

**October 30**  
Spacey issues a statement via Twitter saying he does not remember the incident but offers an apology to Rapp nonetheless.

**October 31**  
Further allegations surface.

**October 31**  
Netflix suspends sixth series of “House of Cards”.

**October 31**  
The Old Vic commences investigations into allegations.

**November 2**  
Spacey is dropped by Creative Artists Agency and Polaris PR.

**November 3**  
Netflix terminates Spacey’s contract for “House of Cards” and the film project Gore is shelved.

**November 9**  
Spacey is dropped from Ridley Scott film, “All the Money in the World”, a Hollywood “first.”

**December 4**  
Netflix confirms “House of Cards” will resume without Spacey.

Sexual harassment claims moved slowly prior to 2017

Bill Crosby

**2000**  
Lachele Covington files a police report saying she was inappropriately touched by Cosby.

**2005**  
Andrea Constand sues Cosby for sexual assault. The case is settled out of court in 2006.

**2014**  
Over the year, dozens of women publicly accuse Cosby of sexually assaulting them. His live shows are canceled across the country amid protests.

**Nov 2014**  
NBC scraps plans for a new show with the comedian following allegations by TV presenter Janice Dickinson that he assaulted her in 1982. Repeats of the “Cosby Show” are also pulled from air. are also pulled from air.



Career longevity: 1980 - 2017



Net worth: \$60m



Timeline to termination: 3 days

<https://www.vanityfair.com/hollywood/2017/11/matt-lauer-sexual-misconduct-allegations>  
<http://time.com/money/5041018/matt-lauer-net-worth/>

Career longevity: 1972 - 2017

Net worth: \$23m

Timeline to termination: 24 hours

<https://www.usatoday.com/story/life/tv/2017/11/21/cbs-morning-addresses-charlie-rose-scandal-charlie-does-not-get-pass-here/884102001/>

Career longevity: 1986 - 2017

Net worth: \$100m

Timeline to termination: 4 days

<http://www.bbc.com/news/entertainment-arts-41884878>

Career longevity: 1963 - 2014

Net worth: \$400m

Timeline to termination: 11 months

<https://www.reuters.com/article/us-people-cosby-career-timeline/timeline-bill-cosbys-career-and-accusations-against-him-idUSKBN0UD1UF20151230>  
<http://www.bbc.com/news/entertainment-arts-33673593>

#METOO

“I ask myself would it have played out the same way if the really famous women had not come forward? I’m not sure it would have.”



## | SEXUAL HARASSMENT IN 2017: A TIPPING POINT

### SO WHY NOW?

In 2018 there is a sense the public might have arrived at a breaking point in terms of tolerance for sexual abuse and harassment.

To understand why this happened, it is first important to understand the scale and the endemic nature of the problem itself. And this is becoming increasingly clear as the volume of people speaking up continues to grow.

Public awareness of the issue is, of course, nothing new.

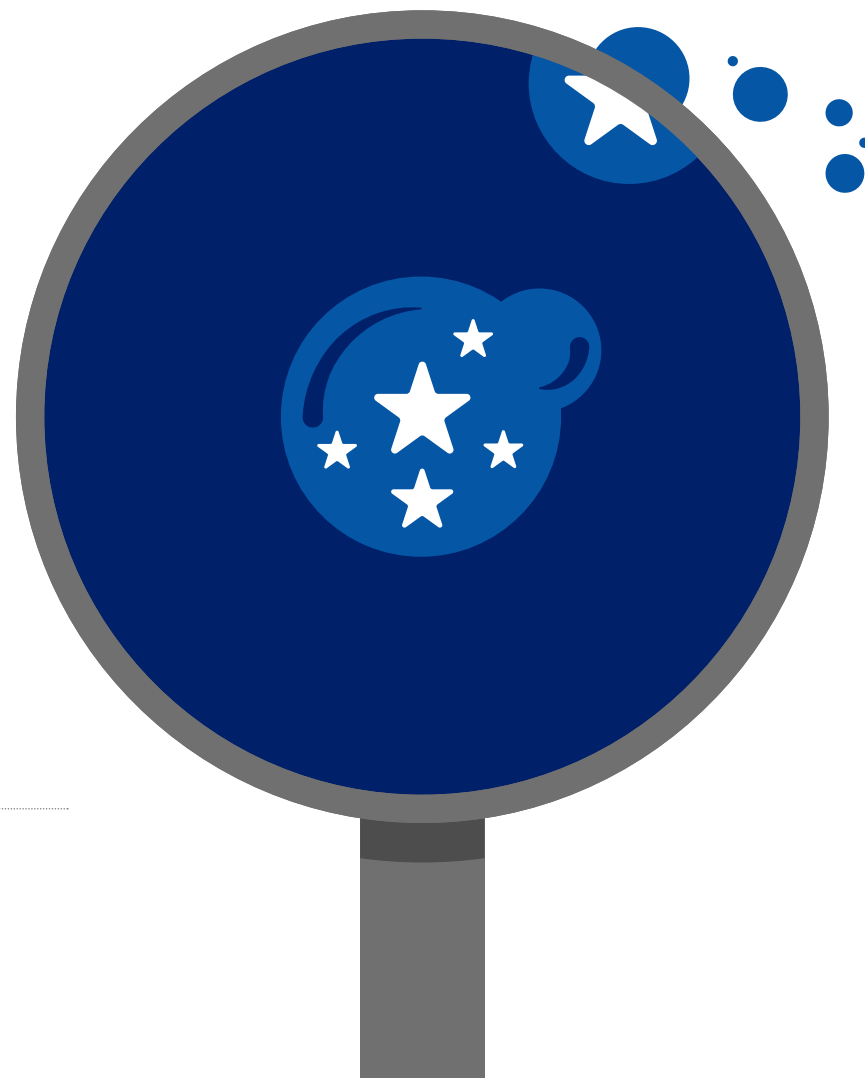
Back in 1991, U.S. attorney Anita Hill became a national figure when she accused then-U.S. Supreme Court nominee, Clarence Thomas, of sexually harassing her. The case ignited a nationwide debate about what constituted sexual misconduct in the workplace and what laws and policies of protection needed to be put in place.<sup>14</sup>

At the time, very little changed in terms of public attitude after the initial reactions died down. Thomas was confirmed to the Supreme

Court, where he continues to serve, and Hill's concerns were mostly sidelined. Until now.

Nearly 30 years later, Hill has been appointed to lead the charge for the Sexual Harassment and Advancing Equality in the Workplace Commission, backed by Lucasfilm, the Nike Foundation and others.<sup>15</sup>

And this is just the beginning; 2018's shift in attitude is driven by a number of interesting determinants.



<sup>14</sup> <https://www.theatlantic.com/politics/archive/2017/12/clarence-thomas-anita-hill-me-too/548624/>

<sup>15</sup> <http://variety.com/2017/film/news/anita-hill-sexual-harassment-commission-1202643105/>

## | SEXUAL HARASSMENT IN 2017: A TIPPING POINT

### THE HOLLYWOOD FACTOR

It is perhaps unsurprising that the tinder was lit by events within the entertainment industry in 2017.

This, in part, is because of the nature of the industry itself.

Some commentators pointed to the structural framework of film and TV industries and said it made them “perfect breeding grounds” for sexual abuse to occur. It embraces the notion that any behavior is acceptable in pursuit of art; creates an environment that fosters intimacy and makes it easier for lines to be crossed; and the star “equity” of certain individuals – around whom entire productions are often based – makes them less dispensable to studios and networks.<sup>16</sup>

But the entertainment industry is also unique in its appeal to public curiosity.

Star power is a major determinant here.

People are interested in the private lives of the famous. This is evident in the abundance of newspaper, television and online content about famous actors and directors churned out daily across the globe. The people who made accusations against powerful Hollywood figures in 2017 were often powerful and famous as well.<sup>17</sup> And this created a media hurricane.

The Hollywood element lifted the issue out of the partisanship context, which had dogged it when Hill had made her allegations in 1991.

And then, of course, there was power in numbers.

Fox News anchor, Gretchen Carlson, whose accusations led to the sacking of Fox News CEO Roger Ailes, spoke of a “key dynamic.” Women gave each other courage, she said, by speaking out despite the risk of retaliation.

Courage, Carlson said, can be “contagious.” It could not only spread from person to person but ignite a global movement.<sup>18</sup>

And where multiple voices were simultaneously being raised, another dynamic came into play – one foreseen by the research of James and Wooten.

And that was the dynamic of public activism. Fanned, now, by the power of social media.

*“I have to concede that the impact of big stars like Ashley Judd, Angelina Jolie and Gwyneth Paltrow going on the record was enormous, in part because they were saying it’s not shameful to tell your story. I ask myself would it have played out the same way if the really famous women had not come forward? I’m not sure it would have.”*

**Jodi Kantor**

Investigative journalist at *The New York Times* who broke the Weinstein story.

[variety.com/2017/biz/features/new-york-times-harvey-weinstein-report-megan-twohey-jodi-kantor-1202637948/](http://variety.com/2017/biz/features/new-york-times-harvey-weinstein-report-megan-twohey-jodi-kantor-1202637948/)

<sup>15</sup> <https://www.vox.com/culture/2017/11/17/16651316/hollywood-harassment-why>

<sup>17</sup> <https://www.theguardian.com/film/2017/oct/11/the-allegations-against-harvey-weinstein-what-we-know-so-far>

<sup>18</sup> <http://www.chicagotribune.com/news/nationworld/ct-harvey-weinstein-sexual-harassment-20171007-story.html>



“The slogan was brought back into the spotlight in October 2017 by actress Alyssa Milano, a Weinstein accuser... Within 24 hours,

## | SEXUAL HARASSMENT IN 2017: A TIPPING POINT

### THE POWER OF SOCIAL MEDIA

James and Wooten’s research had already established that sexual misconduct cases had enormous potential to mobilize wide-spread stakeholder activism in support of victims, and that these groups were prepared to engage aggressively with organizations.

What that research could not have anticipated was that in 2018, social media would skyrocket this kind of activity into a global phenomenon.

The #MeToo hashtag was created by women’s rights activist, Tarana Burke.<sup>19</sup> She coined the term in the early 2000’s while working with sexual violence survivors.

The slogan entered the spotlight in October 2017 thanks to actress Alyssa Milano, a Weinstein accuser. She used the hashtag on Twitter to encourage others to share their experiences of sexual violence. Within 24 hours, the hashtag had reached 500,000 people.<sup>20</sup>

By November, Twitter confirmed 1.7 million tweets were created worldwide using the hashtag. Facebook,

meanwhile, confirmed to CBS News that in the 24 hours following Milano’s tweet, the hashtag had appeared in a stunning 17 million posts and comments.<sup>21</sup>

In December 2017, Time Magazine named the #MeToo social media movement as the most influential “person” of the year.<sup>22</sup>

By the end of 2017, #MeToo and its translations had been used in 85 countries around the world.<sup>23</sup>

### WHAT NEXT?

The allegations against Harvey Weinstein unleashed an outpouring on social media in 2017 and were met with echoing volleys of accusations about many other prominent figures – not only in media and entertainment, but also in government, tech, finance and beyond.

<sup>19</sup> [https://www.theguardian.com/world/2018/jan/15/me-too-founder-tarana-burke-women-sexual-assault?CMP=share\\_btn\\_link](https://www.theguardian.com/world/2018/jan/15/me-too-founder-tarana-burke-women-sexual-assault?CMP=share_btn_link)

<sup>20</sup> <https://www.hollywoodreporter.com/news/metoo-sexual-assault-movement-reaches-500000-tweets-1049235>

<sup>21</sup> <https://www.cbsnews.com/news/metoo-more-than-12-million-facebook-posts-comments-reactions-24-hours/>

<sup>22</sup> <https://www.reuters.com/article/us-time-person/time-magazine-names-metoo-silence-breakers-as-person-of-the-year-idUSKBNiEoiO7>

<sup>23</sup> <https://www.bustle.com/p/this-is-how-many-people-have-posted-me-too-since-october-according-to-new-data-6753697>

# SEXUAL HARASSMENT IN 2017: A TIPPING POINT

## In the tech industry

### UBER

It has long been understood that the tech industry suffers a power imbalance linked to gender inequity. Major-league players like Google and Facebook have publicly acknowledged how few women occupy their ranks, especially in the higher echelons of management.<sup>24</sup> Recently, female engineers and women in tech have begun to voice their concerns.<sup>25 26</sup>

Ride-hailing behemoth, Uber, was called out for sexual harassment in 2017 by former engineer Susan Fowler. Her allegations about entrenched sexual misconduct set off a chain of internal investigations that culminated in the sacking of 20 senior executives and the resignation of CEO Travis Kalanick.<sup>27</sup> Uber’s fate has remained uncertain since Kalanick’s departure. The enfant terrible of digital disruption had become synonymous with what the FastCompany and others have dubbed “workplace toxicity.”<sup>28</sup>

## In Politics

The two major political parties in the U.S. have also been rocked by sexual harassment scandals as the #MeToo movement continues.

Democratic Senator Al Franken announced his resignation from Congress in December 2017 after accusations against him surfaced. Franken saw his political aspirations felled after Leeann Tweeden, a radio news anchor from California, accused him of inappropriate sexual contact.<sup>29</sup> His fate was sealed when the Democratic Party sought to distance itself from him – nearly unanimously calling for his resignation on December 6. Once tipped as a contender for the U.S. presidency, Franken was the third member of Congress to leave under a cloud of alleged sexual impropriety over a three-day period in December 2017.

In his resignation speech, Franken took parting shots at President Donald Trump and Roy. S Moore, a Republican candidate for the Senate at the time. Both Trump and Moore have also been accused of sexual misconduct.

Moore’s bid for an Alabama Senate seat surfaced a slew of accusations from women saying he had sexually

molested them in their teens – one accuser said he assaulted her when she was only 14.

Press and media pundits were quick to attribute Moore’s defeat to the “polarizing effect” of the accusations. Many commentators pointed to fault lines the scandal exposed within the Republican party. *The Guardian* described the concession of a Republican stronghold to a Democrat as a “red-line” for the Trump administration that could play a key role in redrawing the political map of the country.<sup>30</sup>

The slur of sexual predation has also reached the highest echelons of political power in the United States.

The final days of Trump’s presidential candidacy were dogged by more than a dozen accusations of sexual assault and they haven’t disappeared since he was elected. In a significant precursor to the outpouring of accusations over Weinstein and the #MeToo movement, hundreds of thousands of women joined a Women’s March in Washington and other cities the day after Trump’s inauguration in January 2017. In February 2018, the President increased public outrage after

# SEXUAL HARASSMENT IN 2017: A TIPPING POINT

he engaged in an unprecedented social media exchange with one of his accusers, Rachel Crooks.<sup>31</sup> Sexual harassment and assault allegations continue to trouble the Trump presidency. It appears likely he will face at least one of his accusers in court.<sup>32</sup>

## In Gaming



The latest powerful career to fall in the wake of sexual misconduct allegations is that of Steve Wynn who resigned from his company, Wynn Resorts, in February 2018.

The severance deal served on Wynn is particularly noteworthy in terms of its stringency. The casino mogul was effectively forced out without severance or compensation and is prohibited from working in competitive gambling until 2020. Additionally, Wynn has been compelled to cooperate with investigations and lawsuits covering his time at the helm of the company, which may continue to mount.<sup>33</sup>

24 <https://www.nytimes.com/2018/03/09/technology/google-diversity-lawsuits.html>  
25 <https://www.nytimes.com/2017/06/30/technology/women-entrepreneurs-speak-out-sexual-harassment.html>  
26 <http://www.businessinsider.com/sexual-harassment-scandals-tech-industry-2017-7>  
27 <https://www.nytimes.com/2017/06/21/technology/uber-ceo-travis-kalanick.html>  
28 <https://www.fastcompany.com/3068475/this-is-what-caused-ubers-broken-company-culture>  
29 <https://www.nytimes.com/2017/12/07/us/politics/al-franken-senate-sexual-harassment.html>  
30 <https://www.theguardian.com/us-news/2017/dec/12/roy-moore-defeat-trump-future-republican-party-trumpism>

31 <https://www.theguardian.com/us-news/2018/feb/21/trump-twitter-spat-woman-accused-sexual-harassment>  
32 <https://www.nytimes.com/2018/03/20/nyregion/trump-defamation-lawsuit-new-york-summer-zervos.html>  
33 <https://www.cnbc.com/2018/02/16/the-associated-press-wynn-gets-no-money-in-termination-deal-with-casino-company.html>



# | SEXUAL HARASSMENT IN 2017: A TIPPING POINT

## AN EMERGING PATH TO RESOLUTION?

The James and Wooten research found in 2006 that where there was an accusation of sexual predation, firms would typically follow a particular trajectory to resolution. It usually involved protracted denial of wrong-doing; stakeholder mobilization; retaliatory measures from the organization directed at the process, stakeholders and plaintiffs; and eventually settlement.

By aggregating the examples cited in this white paper, it is interesting to model what appears to be a new or emerging path for firms and organizations in 2018.

The Weinstein Company (Harvey Weinstein), Netflix (Kevin Spacey), NBC News (Matt Lauer), Fox News (Roger Ailes), CBS (Charlie Rose) and Wynn Resorts (Steve Wynn)

have responded to accusations of sexual predation in a manner that contrasts sharply with the behavior modeled by firms in James and Wooten’s 2006 sample. While many of these cases are ongoing, we can nonetheless draft a preliminary model contrasting the response of firms now compared to a decade ago.

## AN ENDEMIC PROBLEM

For all the signs that attitudes toward sexual harassment may be shifting, the problem itself is unlikely to go away soon.

The *Washington Post* and ABC News polled more than 1,000 women in the U.S. in 2017 about the issue. The findings were published in February 2018 and are nothing short of stunning.

The poll established 54 percent of American women have experienced “unwanted and inappropriate sexual advances” in their lives.<sup>34</sup> And in the workplace, just under a third of all women endured that type of behavior from male colleagues. A full quarter of these women said that harassment came from men who held sway over their careers.<sup>35</sup>

Sexual harassment is an intractable

issue. It is entrenched across much of corporate America, and the costs to businesses can be substantial.

The Equal Employment Opportunity Commission reported a total of \$46.3 million was paid out to employees in 2017 for sexual harassment complaints – an increase of 13.8 percent from 2016.<sup>36</sup>

But the costs go beyond financial.

The damage to employee morale is enormous. The damage to corporate reputation is massive. And the damage to future employee recruitment is, quite simply, incalculable.

If the wakeup call issued by James and Wooten did not reach decision-makers in 2006, the shift in attitudes and awareness signaled

by 2017 and the beginning of 2018 must surely compel business leaders, managers and practitioners to ensure the issue of sexual harassment is front of mind today.

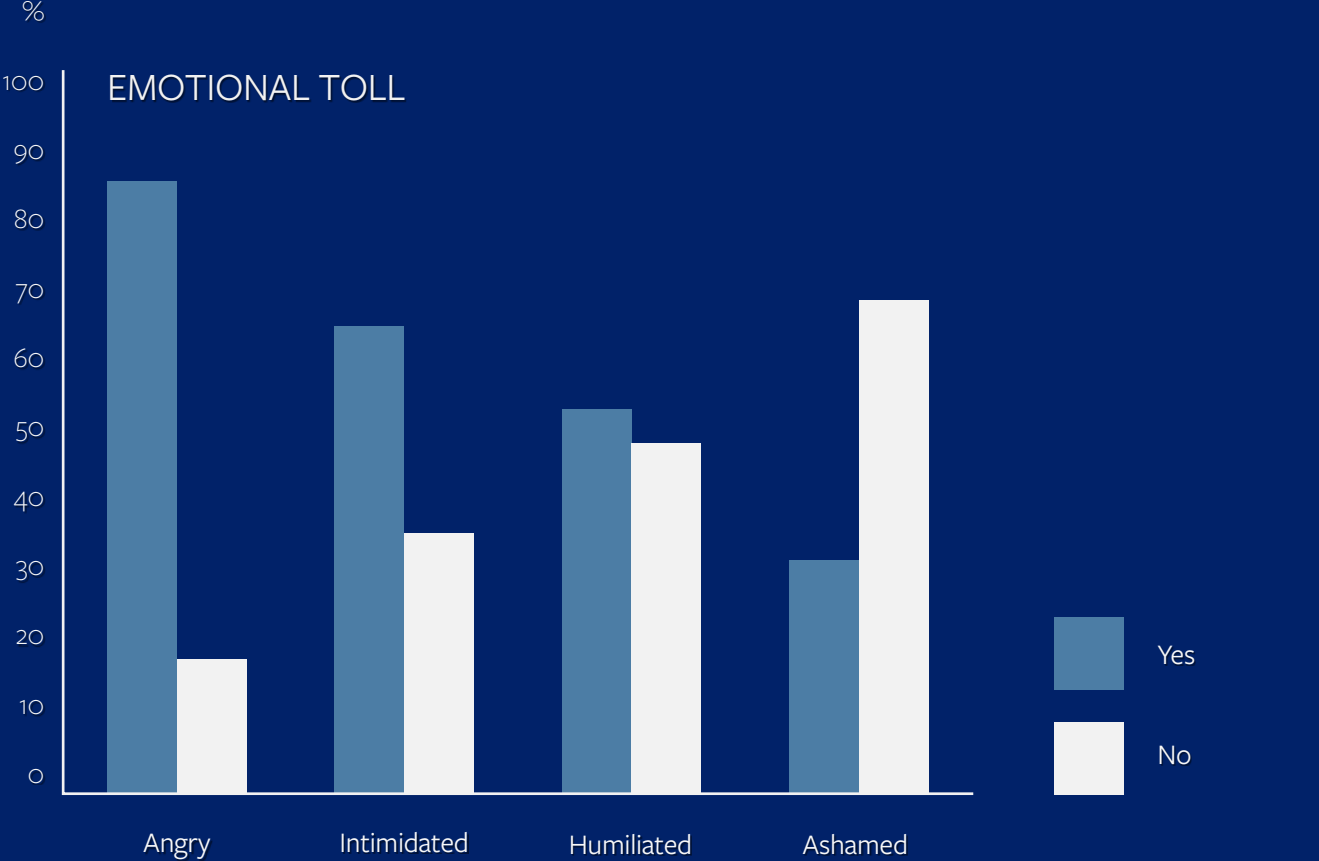
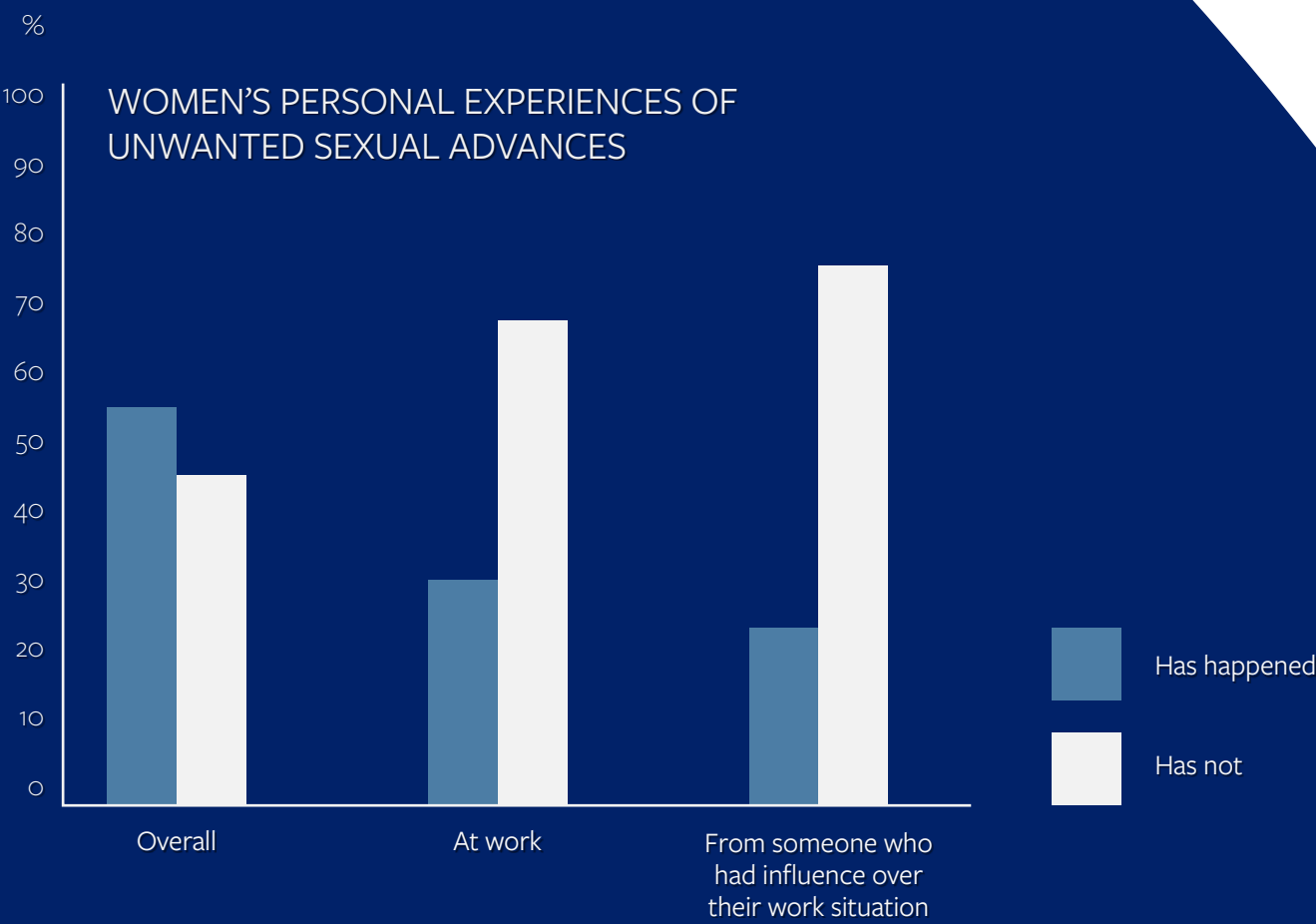
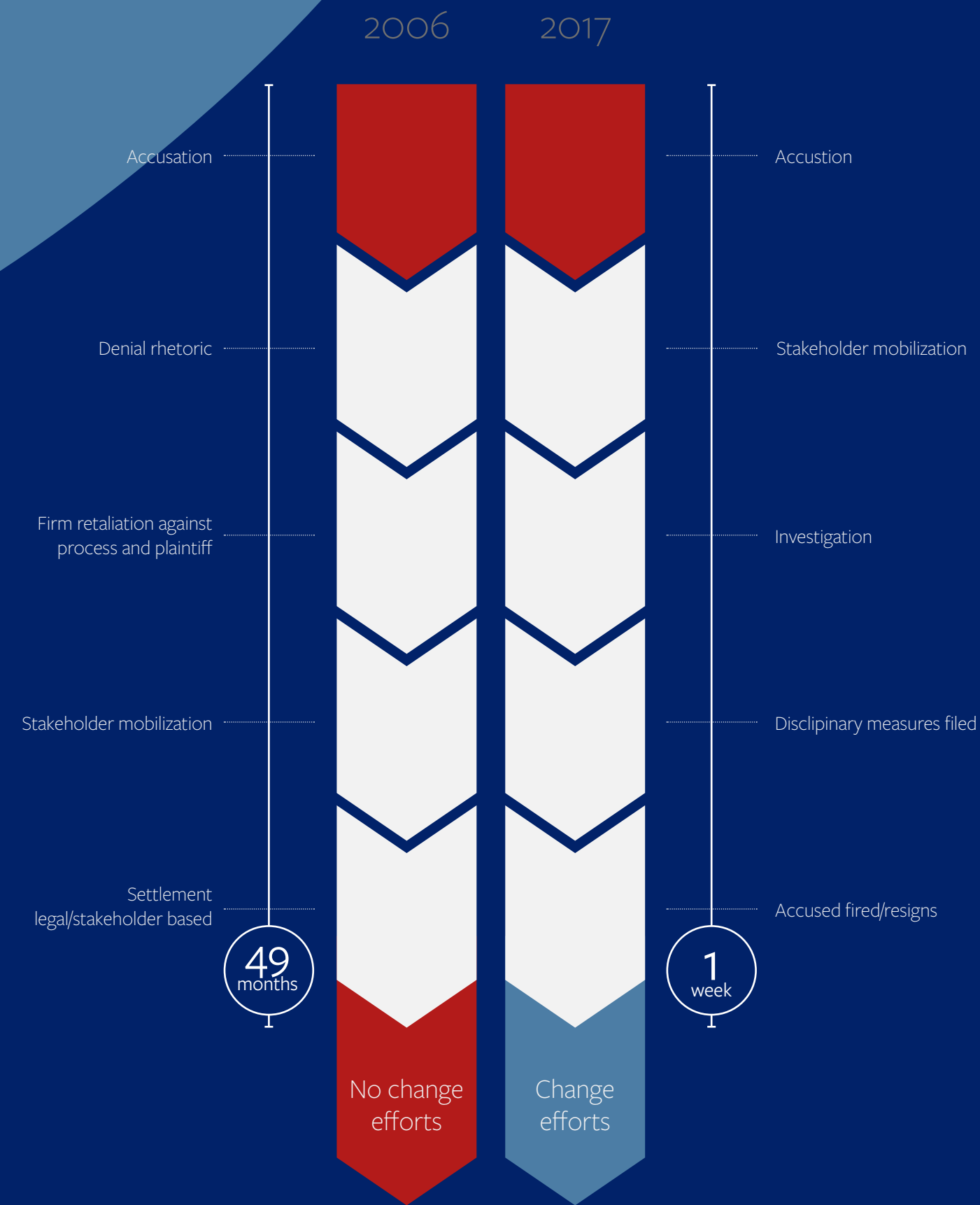
*“The costs associated with discrimination are real, and there are a number of reasons why organizational leaders should be concerned, not only about discrimination lawsuits but also about developing appropriate strategies for managing these crises.”*

*James & Wooten*

“Diversity Crises: How Firms Manage Discrimination Lawsuits,” *Academy of Management Journal*, December 1, 2006.

34 <http://www.langerresearch.com/wp-content/uploads/1192a1SexualHarassment.pdf>  
35 <http://abcnews.go.com/Politics/unwanted-sexual-advances-hollywood-weinstein-story-poll/story?id=50521721>  
36 <http://www.latimes.com/business/la-fi-sexual-harassment-training-20180220-story.htm>

MODEL OF FIRMS' HANDLING OF SEXUAL HARASSMENT ALLEGATIONS / LAWSUITS IN 2006 & 2017



# SHINING A LIGHT: RECOMMENDATIONS FOR BUSINESSES

Two thousand and seventeen will go down as a landmark year in the fight against sexual discrimination and harassment in the workplace.

It ushered in a new era of awareness and activism that represents a pivotal moment. Business leaders have an opportunity to be part of this change and intensify focus on the issue instead of turning a blind eye. To lead toward solutions instead of scrambling to perform damage control.

The entertainment sector was ground zero for sexual harassment in 2017, but all sectors are vulnerable to this issue in today's global economy where diversity is a key business asset.

The prescient work of James and Wooten highlighted the risks faced by firms that fail to adopt measures aimed at driving organizational change and preempting the risks associated with sexual harassment and discrimination accusations.

Armed with these insights, business leaders can make

a choice. They can wait to be called out and suffer the consequences or be proactive in tackling sexual misconduct within their organizations.

It is the view of this paper that today's decision-makers need to have the policies, strategies and tools in place to tackle sexual harassment in a systemic and pan-organizational manner. Leaders need to ensure they are doing what it takes to prevent harassment from taking place and creating a culture where harassment cannot thrive and resolving issues effectively if they occur.

## SHINING A LIGHT: RECOMMENDATIONS FOR BUSINESSES

### ORGANIZATIONAL POLICY AND MEASURES CAN INCLUDE:

- Devise, articulate and enact clear and comprehensive anti-harassment policies.
- Ensure harassment policies are communicated and accessible to all employees.
- Clearly define what harassment means.
- Do research and learn from the experiences of other businesses
- Clearly define the complaint process and include avenues, platforms and points of contact.
- Clearly define the investigation procedures that defend the rights of the accuser and the accused.
- Clearly define anti-bias measures.
- Articulate and enforce measures to ensure the well-being of complainants – consider workplace safety measures such as schedules, work spaces, escorts, etc.
- Share a statement underscoring zero tolerance in cases of retaliation against accusers.
- Commit to investigating all complaints fairly and transparently.
- When claims are made:
  - Be sure to follow appropriate internal procedures for examining claims and identifying potential bias.
  - Inform all employees or parties of their rights and detail steps to be taken.
  - Enforce an atmosphere of trust and transparency where an individual's voice can be heard and recognized.

For business leaders and decision-makers there is a clear imperative to take the lead in combatting and preventing sexual harassment. It is incumbent on these leaders to set the tone. They must model transparency, integrity and commit to abide by policies and strategies they implement.



# COMPANIES TAKING A STAND AGAINST SEXUAL HARASSMENT



In 2017 Fidelity Investments hit the headlines after two of its most prominent fund managers were fired following allegations of sexual harassment. CEO Abigail Johnson took a number of actions that underscored a shift to zero tolerance – a move that saw her (literally) take prevention measures to the next level.

<https://www.ft.com/content/03aa6570-b82b-11e7-9bfb-4a9c83ffa852>

<https://www.bostonglobe.com/business/2017/11/16/with-mix-symbolism-and-action-fidelity-ceo-gets-tough-harassment/W3PM7DjXvKHoWm1RNbEDN/story.html>

- In November, Johnson moved her office at the company's headquarters from the executive suite to the 11th floor, bringing her into close daily proximity with key fund managers, analysts and traders.
- Johnson formed a committee to capture harassment concerns made up of representatives from legal, human resources, the business department and an external lawyer.
- The company conducted a wide-scale internal culture survey.
- Sexual harassment training is now mandatory.



In December 2017, United Airlines CEO, Oscar Munoz, chose to respond to allegations of sexual harassment made by flight attendants by changing the company's policies concerning harassment. As senior executive, Munoz articulated a "zero tolerance" approach by:

- Sending a letter to all employees that said, "There is no place for sexual harassment at United."
- Confirming a commitment to "listening" to employee issues
- Putting out a call to action for employees which said, "This is an issue that affects all of us."
- Vowing to ensure all employees felt empowered to report issues



CEO Michael Roth issued a memo to more than 50,000 employees in October 2017 that:

<http://www.adweek.com/agencies/ipg-ceo-issues-memo-promising-zero-tolerance-for-sexual-harassment/>

- Defined harassment
- Underscored zero tolerance for "all forms of sexual harassment"
- Drew attention to the company's code of conduct
- Highlighted an anonymous tip line for employees and guaranteed zero reprisals for "whistleblowers"
- Created mandatory online anti-harassment training for U.S. staff