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Justice in the Post #MeToo Era: Evolving Recognition for Survivors

By Effie Blassberger and Thomas W. Dollar, Guest Contributors

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Societies Conflicting Views and Conflicted Juries

In June, a Manhattan jury convicted Harvey Weinstein of a felony sex crime against his former production assistant, while also acquitting him of another sex crime against a different woman. Regarding a rape charge involving a third woman, the jury was unable to reach a unanimous verdict, and the judge declared a mistrial as to this count. The Manhattan DA's office quickly signaled that it intended to retry him on this last charge.

This outcome followed days of reportedly heated deliberations, in which jurors were said to be yelling and screaming at each other, the jury foreman stated that he was intimidated and afraid to keep deliberating, and jurors accused each other of improperly considering information about Weinstein's reputation that was not part of the evidence at trial.

The recent civil trial in July 2025 involving Sean "Diddy" Combs—where a jury acquitted him of the most serious charges, despite near-universal recognition that his conduct, as acknowledged even by his own lawyers, was morally reprehensible, further illustrates the shift. Jurors are not simply reacting to headlines or public pressure; they are approaching their role with discipline, focusing on the specific claims and evidence before them.

Taken together, in many ways, the mixed outcome and acrimonious deliberations reflect our society's conflicting and conflicted views toward the "#MeToo" movement that erupted in October 2017, after The New York Times and The New Yorker published investigative stories chronicling years of sexual misconduct by Weinstein. This sparked a reckoning that reverberated from Hollywood to Washington to college campuses, corporate boardrooms, and courtrooms across the country and throughout the world. The social-media-centric name "#MeToo" was used to at once express solidarity with victims and highlight the ubiquity of sexual misconduct and other inappropriate behavior. Essentially every industry and sphere of public life was impacted.

From Eight Years Past to the Now Post #MeToo Era

As for Weinstein himself, he was initially convicted of felony sex crimes in Manhattan in February 2020 and in California in December 2022. However, New York State's highest court overturned his original Manhattan convictions in April 2024 on the ground that the jury had improperly been allowed to consider evidence of his alleged "similar" yet uncharged sexual misconduct. This resulted in the retrial, which just concluded.

Nearly eight years on from the original Weinstein reporting, it has become common to speak of a "post-#MeToo era." That is, a backlash to the gender politics of the late 2010s—one in which formerly "canceled" men have returned to the halls of power and women's personal stories of harassment or abuse are no longer met with the same level of sympathy and solidarity.

But how much have things really changed after 2017, and how much have they really changed back? We represent victims of sexual assault and harassment who seek to hold their abusers accountable through the tools that our legal system has to offer. We also represent people who have been accused of serious sexual misconduct in criminal, civil, and Title IX cases as they face potentially life-altering consequences.

Setting Expectations for Companies Seeking to Manage Risk

We have a unique vantage point as attorneys who represent both plaintiffs and defendants. And our view is that referring to a "post-#MeToo era" both oversells and undersells the real policy changes that have been made since 2017, which are now baked into the system, and the extent to which the pendulum has shifted away from some of the initial, impassioned reactions to "#MeToo" stories, which were too quick to "cancel" the accused without a full and fair process. To be sure, it is not our experience that accusers (women and men) are less likely to pursue legal remedies than they were six or seven years ago. But when they do so, it is with the understanding that there is going to be a heavily contested, adversarial process. This article offers a concise overview of the evolution of workplace misconduct and accountability since 2017 and examines the implications of these developments for corporations aiming to manage legal exposure and reputational risk.

Policy Changes and Shifting Legal Implications

One concrete effect of #MeToo has been an expansion at the federal, state, and local levels of laws that impose liability for sexual misconduct—including on secondary actors like employers or schools.

For example, in New York, where we practice, the State Legislature enacted the Child Victims Act (CVA) and Adult Survivors Act (ASA) in 2019 and 2022, respectively. These laws created "lookback windows"—periods of time (which have since ended) in which the ordinarily

applicable statutes of limitations were suspended for civil suits resulting from conduct that would constitute a sex offense under New York law. The CVA applied to alleged sex offenses committed against children under 18, and the ASA applied to alleged sex offenses committed against adults over 18.

During these "lookback windows," lawsuits could be brought over alleged sex offenses that dated back to any point in history. And they were: we alone have litigated cases stemming from allegations of sexual misconduct from the 2000s and 1990s—and even one case from the early 1960s. Notably, these statutes do not require anyone to have ever been charged criminally, let alone convicted. And most significantly for employers, these statutes don't limit their applicability solely to the actual perpetrators of the underlying sex crimes, but to any party whose actions or failures to act, whether deliberate or careless led to those crimes.

This is why cases under the Child Victims Act and Adult Survivors Act have been brought against employers, religious institutions, schools, and other institutional actors under traditional tort theories such as poor hiring practices, failure to supervise, or enabling misconduct—including turning a blind eye to known risks.

Ormond Versus Weinstein

We are currently litigating an ASA case based on an alleged sexual assault by Harvey Weinstein in the 1990s, along with co-counsel Wigdor LLP and Law Offices of Kevin Mintzer.

Our client is the actress and film producer Julia Ormond. In the mid-1990s, Ms. Ormond was at the pinnacle of her career, appearing in critically acclaimed films such as *Legends of the Fall* and *Sabrina*. The lawsuit alleges that Ms. Ormond's career was seriously damaged after she was sexually assaulted by Weinstein following a dinner meeting in Manhattan in December 1995. The suit seeks to hold Weinstein accountable for his alleged battery of Ms. Ormond—but also other, institutional actors whose allegedly negligent or deliberately indifferent conduct allowed Weinstein to prey upon her and other young women.

Ms. Ormond's suit claims that her talent agency at the time, the Creative Artists Agency (CAA), was negligent and in breach of its fiduciary duties to her by failing to warn her of Weinstein's known propensity to sexually harass and assault young women and by failing to take other measures to protect her.

Importance of the Adult Survivors Act

Ms. Ormond's lawsuit against Weinstein and CAA survived a motion to dismiss and is ongoing. (Ms. Ormond has since settled the claims she had brought against other institutional defendants in this case.) This lawsuit would not have been possible without the Adult Survivors Act and its broad applicability to institutional actors' negligent acts or omissions, in addition to the intentional acts of the actual alleged perpetrators of sex offenses.

The theory behind the ASA and similar laws is that "bad apples" seldom act alone. Rather, there has to be an architecture of enablement in place that allows a perpetrator access to victims, the power to pressure and silence, and the ability to act with a sense of impunity. By allowing the institutional enablers to be held accountable in court—whether on a theory of negligence, breach of contract or fiduciary duty, premises liability, or other theories—victims can receive justice from institutions who allowed (including by their failure to take corrective actions) a perpetrator's abuse and coercion to occur.

Often this is the only way for a victim to receive justice, since it can be decades before a suit is brought. While people age and pass on, institutions—and their responsibilities—often persist. These lawsuits are not only retrospective in that they seek to right past wrongs, but also prospective as they aim to nudge institutions toward adopting measures that stop the bad actors in the first instance.

New York City Victims of Gender Motivated Violence Protection Act (GMVA)

Another statute that we deal with in New York City is the City's Victims of Gender Motivated Violence Protection Act, or GMVA, which was enacted in 2000 after the U.S. Supreme Court struck down the private right of action under the federal Violence Against Women

Act.

Under the GMVA, victims of gender-motivated crimes of violence (a category that courts have construed to encompass sex crimes) can sue their perpetrators to recover not only compensatory damages, but also punitive damages and attorney's fees. This law also provides a 7-year statute of limitations in which to bring suit—much longer than the 1-year statute of limitations that generally applies to intentional torts. And similar to the CVA and ASA, this law does not require any criminal charges to have been brought in order for a victim to be able to file a lawsuit.

Holding the Enablers Accountable

In 2022, the New York City Council expanded the GMVA to allow suits not only against the perpetrators themselves, but also anyone who "commits, directs, enables, participates in, or conspires in the commission of" these crimes of violence.

While courts are still working out exactly how to construe this language, these verbs are very broad, and they further extend the ambit of liability to employers, educational and religious institutions, and other secondary actors who enable gender-motivated crimes. Companies operating in New York City should be aware of this statute, as it could expose them to liability for the acts of their employees. For example, a company that hosts an event in New York City where alcohol is served may want to review its safety protocols, as the company could incur liability if an intoxicated employee allegedly commits a sexual assault.

The 2022 amendments to the GMVA also contained a provision for reviving previously time-barred claims—although some (but not all) trial courts have concluded that this particular portion of the law is invalid, and the issue will likely be determined on appeal. This amendment follows a broader national trend of legislation permitting the revival of civil claims, as seen in New York's CVA and ASA, as well as similar laws enacted in California, New Jersey, Vermont, Hawaii, and other states.

Still other states, like Texas, have constitutional limitations on retrospective "lookback" periods, but have still extended statutes of limitations for sexual assault claims prospectively. And notably, even in states that do have "lookback" laws, these apply to civil claims only—not criminal prosecutions—as it is generally unconstitutional in the United States to initiate a criminal prosecution after the pre-existing statute of limitations has expired.

The Surge in "Lookback" Statutes

Why the surge in state "lookback" statutes? Their origin can be traced back to a number of outrageous scandals from the 2000s and 2010s, where hard-hitting investigative journalism showed that trusted and cherished institutions had, for years, covered up and enabled large-scale sexual abuse, including against children.

As depicted in the Oscar-winning film *Spotlight*, reporting in *The Boston Globe* and other newspapers revealed the extent to which Roman Catholic dioceses throughout the United States and the world had covered up allegations of sexual abuse by priests and moved suspected pedophile priests from parish to parish. The Boy Scouts of America faced multiple lawsuits, resulting in a $2.4 billion settlement that still remains the subject of litigation. Pennsylvania State and Michigan State Universities faced suits over their alleged involvement, respectively, in the sexual abuse of assistant football coach Jerry Sandusky and gymnastics-team doctor Larry Nasser.

At the same time, many alleged victims found themselves without a legal avenue for relief. In some instances, they were learning for the first time in the 2000s or 2010s about institutional cover-ups of sexual abuse that they had suffered decades prior. And although a number of novel legal theories were tried, lawsuits kept getting dismissed on statute-of-limitations grounds. Hence, the groundswell of pressure from the public (and some lobbying from trial lawyers' associations) for state legislatures to allow at least a limited window of time in which these previously expired claims could be brought.

These state revival laws are not the only post-#MeToo legislative action in the United States—changes have also been made at the federal level. In 2022, Congress enacted the Speak Out Act and Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act, both of which passed by large, bipartisan majorities and were signed into law by then-President Biden. These two new laws limit the

enforceability of mandatory-arbitration clauses and non-disclosure agreements (NDAs) as they pertain to sexual assault and sexual harassment. However, both statutes apply only to limit pre-dispute agreements—not agreements entered into to resolve an existing dispute, such as settlement agreements. Indeed, NDAs are still often an important provision to include in settlement agreements where consideration is being paid to settle a claim or dispute that has already accrued.

Another area of federal law that gets less bipartisan backing involves the Title IX proceedings that apply to accusations of sexual misconduct and dating violence by and against American university students. Here, we've seen an oscillation from the Obama to Trump to Biden administrations regarding what procedural rules to adopt in these cases, which often end in mini trials before specially appointed adjudicators. Generally, the Democratic administrations favor lower evidentiary standards and burdens of proof, even dispensing with the need for a live trial, which make these cases easier to win for the accusers and cause the accused to complain of diminished due-process rights. Now, with a second Trump administration, it is likely that the governing rules will be changed once again in a way that would give more procedural safeguards to those accused of sexual and gender-based misconduct, and in turn make it more difficult for accusers to prove their cases.

Backing and Backlash Beyond the Courtroom

The examples of legal changes we gave above underscore how the judicial system has changed to accommodate allegations of abuse and misconduct in the wake of "#MeToo." But what about the cultural shifts beyond the courtroom?

The biggest criticism we hear is that, while "#MeToo" was a necessary corrective to a culture of enablement and impunity, the pendulum swung too far in the other direction toward "cancellation," denying the accused (mostly men) their right to a fair hearing in which they could defend themselves.

Here, examples abound. Former U.S. Senator Al Franken, who resigned in December 2017 after accusations surfaced that he had forcibly tried to kiss or grope several women, later stated that he regretted his resignation. Notably, several of his Senator colleagues also stated that they regretted pushing him to resign, especially before the Senate Ethics Committee was able to finish its planned investigation.

In New York, former Governor Andrew Cuomo resigned in August 2021 after the State Attorney General published a report detailing allegations of sexual harassment made against him by several women. But he also has stated that he regrets resigning, and one of his accusers voluntarily dropped her lawsuit against him. Cuomo is currently attempting a political comeback as a candidate for Mayor of New York City.

And it's not just politicians. Joe Paterno, the head coach of Penn State football for more than 40 years, was abruptly terminated in November 2011 as outrage mounted over his failure to stop his assistant coach Jerry Sandusky's years-long sexual abuse of children. Paterno died just over two months later, after which the NCAA vacated all of Penn State's football wins dating back to 1998. Despite the enormity of Sandusky's crimes, many opposed the collective punishment of the school, the football team, and Paterno. This widespread backlash actually led to a student riot. Later, Paterno's and Penn State's win record was restored following a lawsuit and settlement in 2015.

More recently, the 2022 lawsuit between actors Johnny Depp and Amber Heard—involving public accusations of physical abuse by her against him, defamation claims by him against her, and defamation counterclaims by her against him—were simultaneously litigated on social media as well as inside the courtroom, becoming something of a societal Rorschach test. And the jury's seemingly contradictory verdict—finding that both Depp and Heard were liable for defamation against the other, albeit awarding Depp significantly higher damages—was in line with the recent Weinstein verdict as another apparent example of jurors being no better than the rest of us at reaching consensus as to these sorts of cases.

Reckoning and Counter-Reckoning

And the reckoning and counter-reckoning have not been limited to the United States. In Latin America, a number of countries have enacted specific laws targeting "femicide"—recognizing the targeted killing of women as something more serious and deserving of greater punishment than simple homicide. More recently, Argentina's right-wing President Javier Milei has proposed repealing his country's "femicide" law—a backlash that has in turn further engendered counter backlash by outraged defenders of the law. France is going through its own sea change as fallout continues over the horrific Pelicot case, the accusations of Judith Godrèche about misconduct in the film industry, and prominent men such as Gérard Depardieu being found guilty of sexual assault. Even in highly censored China, there have been social-media campaigns using sly puns and double entendres to subtly critique sexism in society.

Finding a Way Forward

So where do we go from here? As lawyers who specialize in these hard cases–and who represent both accusers and accused–we can see a synthesis in the many disparate views of the "#MeToo" movement. Our most important takeaway is that a fair judicial forum, with straightforward procedures and an unbiased arbiter, is essential for both alleged victims and those being accused. The Court of Twitter (or now X!) cannot be a substitute for this. The catchphrases "Believe Women" or "Believe Victims" were oversimplifications of how fair and robust procedures are meant to work. All claimants should be afforded a forum in which to bring their accusations–but this begins the inquiry, not ends it. The next step is an evidence-mustering one, and the fact is that some cases (and some plaintiffs) are stronger and more credible than others. The accused also must also have the opportunity to present a real defense, while also not having to have the burden of proof shifted onto them.

As attorneys, we find that our defendant-side work informs our work and makes us stronger when we go on to represent plaintiffs. Lawyers for alleged victims contemplating a lawsuit must understand the pitfalls in their own clients' cases and make these clients aware right from the very first conversation just how scrutinizing and exacting litigation can be.

That means really probing any potential inconsistencies or gaps in the client's story right from the very first client meeting—and not assuming that there will be a quick and easy settlement, no matter how horrible the allegations sound. Being too quick to accept a client's account may backfire, because judges, juries, and, certainly, opposing counsel are not simply going to believe an accuser just because they're claiming harm. (This healthy dose of skepticism is also needed when representing defendants–but there the difference is that a lawsuit is likely coming regardless of what the client tells you.)

Advice for Companies

But what should companies and other institutional actors do, given all these muddled reactions and uncertain outlooks? After all, in many of these "#MeToo" cases both accuser and accused are the company's employees or other stakeholders.

We find that the best thing a company can do to mitigate risk is to have clear policies, procedures, and defined roles and responsibilities for company personnel before any disputes arise. Companies can get in trouble when they do things on an informal or *ad hoc* basis–even if this seems like the easier path at the time. Maintain multiple reporting channels. Conduct prompt neutral investigations, which may include retaining an independent law firm. Conduct regular, interactive training sessions on sexual harassment and workplace conduct–these might be required by law in any event, as they are in New York City.

Holding Senior Leadership Accountable for Company Culture

Hold senior leadership accountable for corporate culture. Consider voluntarily waiving NDAs and confidentiality clauses for employees who make harassment or assault allegations (and, as noted above, these might not be enforceable anyhow). These are just a few proactive steps companies can take to avoid situations that might lead to costly litigation.

The flip side is that, once a lawsuit is filed, a company that had a rulebook and followed it without fear or favor may have a defense to liability–or at the very least, an argument for reduced damages. For example, under federal workplace law governing harassment and toxic environments, an employer can present the Faragher-Ellerth defense by showing that it took reasonable steps to prevent and

respond to misconduct, and that the affected employee unreasonably failed to take advantage of those measures, which the employee unreasonably failed to take advantage of.

Know the Laws and Seek Proper Guidance on Following Them

Note that this particular defense to employer liability is not available for claims under some state and local laws, including New York City's. This leads to our next best practice for employers: know what the laws are that you have to follow and have someone to help you follow them. If your company is too small to have a GC, have a local law firm advise you in every jurisdiction you do business. All too often, companies learn about some state or local law or regulation only when they're served with a lawsuit alleging failure to comply with it.

In short, no amount of AI or online legal guidance is a substitute for a real, honest-to-goodness lawyer who knows the legal landscape and understands your company's needs. Society may not be able to reach a consensus about what it means to be in a "post-#MeToo era" --or whether we're in one at all. But law and society live in a feedback loop, and attorneys with the right expertise can help a company understand what its legal rights and risks are, as well as how to navigate the inconstant sea of public opinion.

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