

What Happens Next – Sunday April 11, 2021

Autism, Storytelling, Social Injustice, Diversity and Boards, European Politics

Brande Stellings

Larry Bernstein: We're going to go on to our next speaker, Brande Stellings. Brande is going to talk about the MeToo movement. Go ahead, Brande.

Brande Stellings Thanks, Larry. And that seems perfectly set up for a segue from our prior speaker. As I was thinking about talking today, I, for some reason kept going back to a women's leadership conference that I went to several years ago, and this was the leadership summit that was devoted to advancing women lawyers. And our keynote speaker was a professor at the Stanford Business School. And he was talking to us about power; how to get it, how to wield it, how to have more influence. And the thing that really stuck with me was at the end of this talk, he advised us that if we wanted to be more effective, we should get rid of the word, "Women" in our organization's name, even though our mission was about advancing women. Because he said, when men hear the word, "Women" or, "Gender," they stop listening. So I start with the story because I imagine that some people on this call, when you heard the topic was about MeToo, maybe you stepped away to get a snack, or tuned out a little, either because if you're a man, and again I'm generalizing, you might see MeToo as a women's issue, or perhaps because you think you know, given what I do and given the topic that was just discussed previously, I am a women's rights advocate and activist. And so you might think, you know what I'm going to say.

I'm going to use my remaining five minutes and 20 seconds to talk about why MeToo matters as a business issue, not a women's issue, particularly for boards of directors. And then I'm going to share two or three things that I think for those of you who work at companies can do to help mitigate the risk. And these recommendations may seem counterintuitive. So first of all, why should you care if you're in the business world? Plain and simple: money. Sexual harassment and discrimination cases have been around for decades, but the new twist in the last few years is that investors are now seeking and winning relief through the use of corporate and securities laws. So in other words, these lawsuits are claiming harm to the corporation or a drop in the stock price, due to executives and board directors actions, or more critically lack thereof. In other words, turning a blind eye.

So three recent examples that many people on the call have probably heard about: Fox News, obviously settled a large shareholder derivative

lawsuit following the disclosures of large settlements that they paid following the disclosures of the bad acts of Roger Ailes and so forth. Signet Jewelers; this is one that was resolved last summer. This was an interesting one, because it was the first ever successful direct securities class action involving sexual harassment allegations. And basically the case essentially alleged the Signet lied to its investors when its code of conduct, something that almost every company has when it stated quote, "That the company was committed to a workplace without sexual harassment." When in fact the company, it was alleged had a pervasive sexual harassment culture perpetuated by the CEO. This case settled on the eve of trial for \$240 million. And then another one that was on the news a lot last year with Google. Google agreed to a \$310 million settlement and a host of governance reforms. Again, another shareholder derivative lawsuit, alleging that the company's directors breached their duty to shareholders by, among other things approving large payouts to senior executives who have been investigated for very serious sexual misconduct.

So aside from legal liability on the backend, organizations should also care because investors care on the front end. Really, when I see these kinds of scandals, they're usually very often a failure of corporate culture. And some of the leading institutional investors in the world have made clear like, the BlackRocks of the world have made clear for the last several years that corporate culture is one of their priority engagement topics with board directors. So let me just state now that I'm not here to talk about the merits of using securities and corporate law, laws are designed to protect shareholders, as tools to address sexual harassment, but because these suits are here to stay, I do want to share a couple of steps that those who are within the corporate context can use to lessen your risk.

And so the first one of those is just that talking about zero tolerance. And I mentioned that because in the immediate aftermath of MeToo, and other related corporate scandals, many companies, CEOs issued statements that they had a zero tolerance policy for sexual harassment. But what does zero tolerance really mean? I think it sets expectations at a very high bar, and one that's almost impossible to reach. I don't know if people saw professor Paul Bloom had a really interesting article in the Wall Street Journal a couple of weeks ago, where he talks about zero tolerance as being something you reserve for enemies and strangers. And I don't think that really captures the complexities of the relationships that we have at work. And I would say that I found sort of paradoxically in my work advising companies that some HR officers are finding that they felt that there had been a downtick in reporting, that this idea of zero

tolerance was discouraging reporting, because people felt that the punishment did not fit the crime. In other words, they didn't want their coworker to be fired, but they just wanted certain behavior to stop.

So in terms of an alternative, what I advise companies to do is spell it out and be very specific and nuanced in terms of what your expectations are around behavior, and what the consequences are. So for example, some companies publish or distribute a very detailed corrective action matrix. I realize that sounds kind of scary, but basically it's a rubric that sets forth kind of a continuum of behavior from an off-color joke to physical assault. And then describe the range of repercussions that are really calibrated according to what the behavior is. These can range from just a verbal discussion, all the way to termination. Another example, if you want to see one, that's a little bit different, but Uber created a taxonomy of sexual misconduct for classifying reports that they receive from riders, and that's on their website. And my friend and colleague Sylvia Ann Hewlett's book, she did a book that came out a couple of years ago, called #MeToo in the Corporate World. She talks about IBM's road to rehabilitation approach, and that is that for many of these things that come up in the workplace, training or coaching rather than termination, that's really the right response. So in other words, due process and proportionate response are really critical.

I also think it's really important to recognize the realities of the workplace. People are going to date so help provide some details and be specific about your policies. Airbnb, for example, has a, you can ask someone out once rule. So if they say, no, you can't ask them out again, but it's very clear, simple rules. The other area that I'll talk about before I run out of time is engaging men. And so I know you heard a couple of weeks ago [from Christine Rosen] about men's increased reluctance to mentor women in the workplace. And I will say in my work, I've had countless conversations with male executives who told me straight up that they've adopted the Mike Pence rule with respect to their interactions with women in the workplace. And so, for those who feel that way, and I think there's quite a few, I'm going to share the advice that authors of Harvard Business Review's recently published a book called Good Guys: How Men Can be Better Allies For Women in the Workplace. And they're both professors at the US Naval Academy. And this was the advice that they shared with me when we were talking about this recently.

So they describe working with men who followed the pencil suffering from an abnormal fear of women. And then in the field of psychology, the effective treatment for any abnormal fear is exposure therapy. So in

other words, if you're a man who is now afraid of interacting with women, instead of avoiding women, you should actively and frequently seek out more interaction and conversations with women at work. In other words, invite them to coffee or lunch, ask about their career interests or help on a project, basically normalize these kinds of interactions. If you want to see a specific example of that, people can find on JP Morgan's website, a 36 minute pledge that they have their male executives sign up for it, which is basically spending 30 minutes having coffee, or well, back in the days when we could have coffee with a high potential women. Five minutes, each week talking to a female coworker about a recent success or accomplishments in the workplace, and then one minute talking about her accomplishments with others.

And this is really, this topic, is critically important because we know, and I think you talked about this on a prior call that I mentioned, we know from other research that was published in Harvard Business Review, that sexual harassment training will not end sexual harassment, but what does actually have an impact on it is promoting more women. But it's going to be very hard to change that paradigm; a lot of men are leaning out, and women are losing out on that critical relationship capital that's so critical to advancement in the workplace.