INVESTIGATIONS OF SEXUAL HARASSMENT ARISE...

**Before Relationships**
Employers checking out the past behavior of potential hires

**During Disputes**
Looking into allegedly improper activities relevant to litigation

**After Allegations**
Conducting investigations when allegations are reported
HOW #MeToo ALLEGATIONS & INVESTIGATIONS HAVE EXPLODED IN THE U.S.

ALLEGATIONS

• Employers now concerned about even consensual relationships between supervisors and subordinates, because of blow-up potential

• Workplace relationships are increasingly ending with a demand for money; and “shakedowns” become part of what needs investigating

• Beyond supervisor-employee harassment, any power relationship can now lead to a claim, including client relationships. (Did the accused have power over the accuser?)

• By the way, “he” and “she” no longer convey the parties, given the number of female-on-male & gay harassment cases

• Conduct outside the workplace, including with non-employees, can trigger investigations by the employer

• The Brett Kavanaugh hearing is playing out across US corporations: A long-ago allegation surfaces when someone’s big promotion is announced.

• Allegations have expanded out from sexual bullying to just bullying.
INVESTIGATIONS

• Some employers’ reputations have recently suffered for not following up vigorously on allegations. This encourages full investigations.

• Investigations are finding that some opportunists are jumping on the bandwagon with false allegations, but indefensible abuses outnumber untrue finger-pointing by a lot.

• A thorough look at the accuser’s and accused’s backgrounds often finds a relevant pattern. (The leopard rarely changes his/her spots)

• E-discovery is at least as important in personal as in regulatory investigations. (Almost nobody has the “tradecraft” to keep a harassment or an affair entirely offline.)

• Investigators get clues about who’s guilty because they try to cover up (in real time!)

• Misconduct is being found related to the funds used in secret settlements with accusers

• There are corporate cultures caught out by this cultural change who are now having to pay departing woman after departing woman to not sue and keep silent about their experiences

• Thorough, balanced, timely internal investigations are earning praise from courts and the press