

The times, they are a changin'

Fox News lawsuit, Ontario's Bill 132 show sexual harassment no longer tolerated

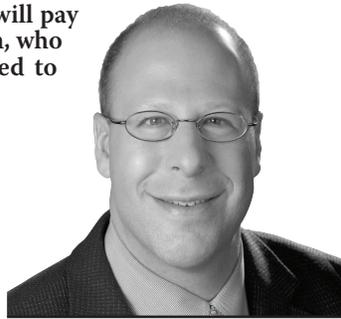
On Sept. 6, we learned Fox News will pay US\$20 million to Gretchen Carlson, who made allegations she was subjected to sexual harassment.

On Sept. 8, Bill 132 came into force in Ontario, creating new obligations for employers designed to address sexual harassment in the workplace.

What do these two events have in common? They are both indicative of the growing intolerance for workplace sexual harassment, as well as the obligation on the part of employers to take reasonable steps to prevent and address sexual harassment in the workplace.

Like many issues of this nature, it has taken a long time to get to this point. For far too long, sexual harassment was tolerated and employers often turned a blind eye, particularly when the harasser was the owner of the organization or one of the "stars."

Even after the Jian Ghomeshi scandal broke at the CBC, it was not uncommon for people to talk about their own organizations and identify a person who was well-known as someone who harassed and abused staff. In most cases, those individuals were seen as "un-



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touchable" due to their role or performance level.

In the Fox News case, reports suggest the issue may have been known years ago, and there were many other victims, but those in charge chose to ignore it.

By addressing the issue as they have in recent months, the current leadership has sent a strong message, confirming sexual harassment will no longer be tolerated — no matter who the perpetrator is.

While that situation has nothing to do with Canadian laws, it is certainly indicative of changing societal norms and expectations.

One good thing that came out of the Ghomeshi scandal is it raised awareness of workplace sexual harassment issues in Canada. As a result, employees were reassured they do not have to tolerate such conduct, and employers received the message they could not allow such conduct.

In addition to legal liability, we have seen several high-profile organizations, including the CBC, subjected to incredibly bad press, which has damaged their reputations.

Bill 132 puts new obligations in place with respect to policies and "programs" to address sexual harassment. Employers in Ontario must have clear policies that set out how an individual is to report an incident of sexual harassment and, in particular, who they should report the incident to if the alleged harasser is the owner or a supervisor of the victim.

The new legislation also sets out requirements for policies to delineate how allegations of sexual harassment will be investigated, and how the results will be reported. Furthermore, the legislation gives the Ministry of Labour the right to retain a private investigator, at the expense of the employer, if an ap-

propriate investigation is not carried out.

The deadline for compliance was Sept. 8. Employers across the province are, or should be, working toward ensuring they are compliant.

The requirements will not go away, and the reality is that sexual harassment in the workplace will not be tolerated.

Employers that fail to take reasonable steps to protect employees expose themselves to liability, as well as bad publicity and the risk they will lose employees and be unable to recruit quality individuals to replace them; simply put, they will not be seen as employers of choice.

Hopefully, the message is now clear: Workplace sexual harassment is unacceptable and employers can no longer bury their heads in the sand and pretend not to be aware of it, rather than confront the perpetrators — even if they are the owners of the organization or star performers.

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