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Thomas-2 Says Sexism is Alive and Well in the Workplace

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It's certainly ironic that that 16-year bookends of high profile sexual harassment cases both involved men named Thomas. Less remarkable is the fact that they both denied it and fell back to the go-to tactic of denying their actions and blaming their accusers. "I didn't do it. And, besides, she's got issues."

It worked for Clarence Thomas - barely. In his bitter book, he chose to ignore the fact that Anita Hill complained to four others about his behavior, and was directly corroborated by another of Thomas's female subordinates. His response when questioned about that: they lied.

Isaiah's lawyers drew up his defense the same way. But unlike Anita Hill, Anucha Browne Sanders faced a jury of her peers instead of a Committee of middle-aged white men. And the jury was having none of it - to the tune of \$11.6 million.

The two cases say something else that should come as no surprise to working women: sexual harassment - which we might hope had gone the way of mimeographs and rotary phones - is still slithering through the workplace.

Many point to the decline in harassment lawsuits as proof of progress. But there are more to the decline than meets the eye.

In the wake of the Browne Saunders case, an EEOC spokesman David Grinberg said something interesting. Any kind of discrimination - especially sexual harassment - is very tough to prove. "Even though charges are down," he said, "it doesn't mean there is less sexual harassment."

When Clarence Thomas was accused of announcing that something was amiss in his Coke can and Senator Orin Hatch found himself making what was no doubt the first public reference to a porno movie on the Senate floor, sexual harassment was politicized in televised pageantry. Unfortunately, issues of women in the workplace lost badly to salacious detail.

But in the confirmation's sordid wake, complaints to the U.S. Equal Opportunity Commission more than doubled. Along with visibility was a change in federal law that allowed both compensatory and punitive damages - which quickly got the attention of attorneys.

Today, they are at about 1993 levels. One reason is that court cases began to create some precedent about what is and isn't harassment, and most attorneys agree the case law has evolved in favor of employers. Employers also figured out that the best way to defend yourself against charges of harassment is before the fact -- make sure you can prove you have appropriate policies and training in place to prevent it.

As case law became clearer and the chances of losing became greater, the person making the charge has had to consider the possibility of returning to an employer not in the mood to make nice. It might not get you fired, but it's hardly a ticket to the fast-track advancement program. When the defense inevitably turns to accusing the accuser an employee's records are scoured by an army of associates - and routine margin notes can become something much more.

Still another reason for fewer complaints is that companies have their own procedures to handle them. Warnings are given, notations are made in files, and matters are handled within the family.

Could it be? After all this time, after all those women rising to positions of power, after all those hours of sensitivity training, could women still be battling the unwanted attentions of men on the job?

Apparently so.

Forget counting court cases. The real measure of progress or lack of it is to look into the workplace. A 2004 Harris Poll found that 31 percent of female workers reported they had been harassed at work. For men, it was 7 percent. Of the women, 70 percent said they were harassed by a supervisor or someone senior to them. More than 60 percent said they took no formal action.

The question in these numbers is: why? Or more to the point: why still?

Sociologists say it's a complex mix of closeness, intensity and, of course, power. Reports of harassment of women are higher in fields that have been traditionally closed to them - fire fighting, police work, surgery, technology and other areas where women are breaking barriers. Many of those dynamics aren't going to change: work is hard, close and someone is in charge. And it is going to be a long time before males no longer dominate supervisory positions.

So the question is this: Is Anucha Browne Sanders right when she said the jury's verdict is a "wake up call" to employers? Or is it an alarm that just keeps ringing?

