

2022 CALIFORNIA STATE HR

ADVOCACY & LEGISLATIVE CONFERENCE

SHERATON GRAND HOTEL - SACRAMENTO

APRIL 20-22, 2022



CALIFORNIA
STATE COUNCIL OF SHRM



Bystander Empowerment:

*Stopping Harassment
By Training Bystanders
To Intervene*

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October, 1991

Clarence Thomas confirmation hearings.



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26 Years later...

2017, one October day on Twitter...



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October, 2017

The New York Times **THE NEW YORKER**

Dozens of women have accused American film producer Harvey Weinstein of rape, sexual assault and sexual abuse over a period of at least 30 years.

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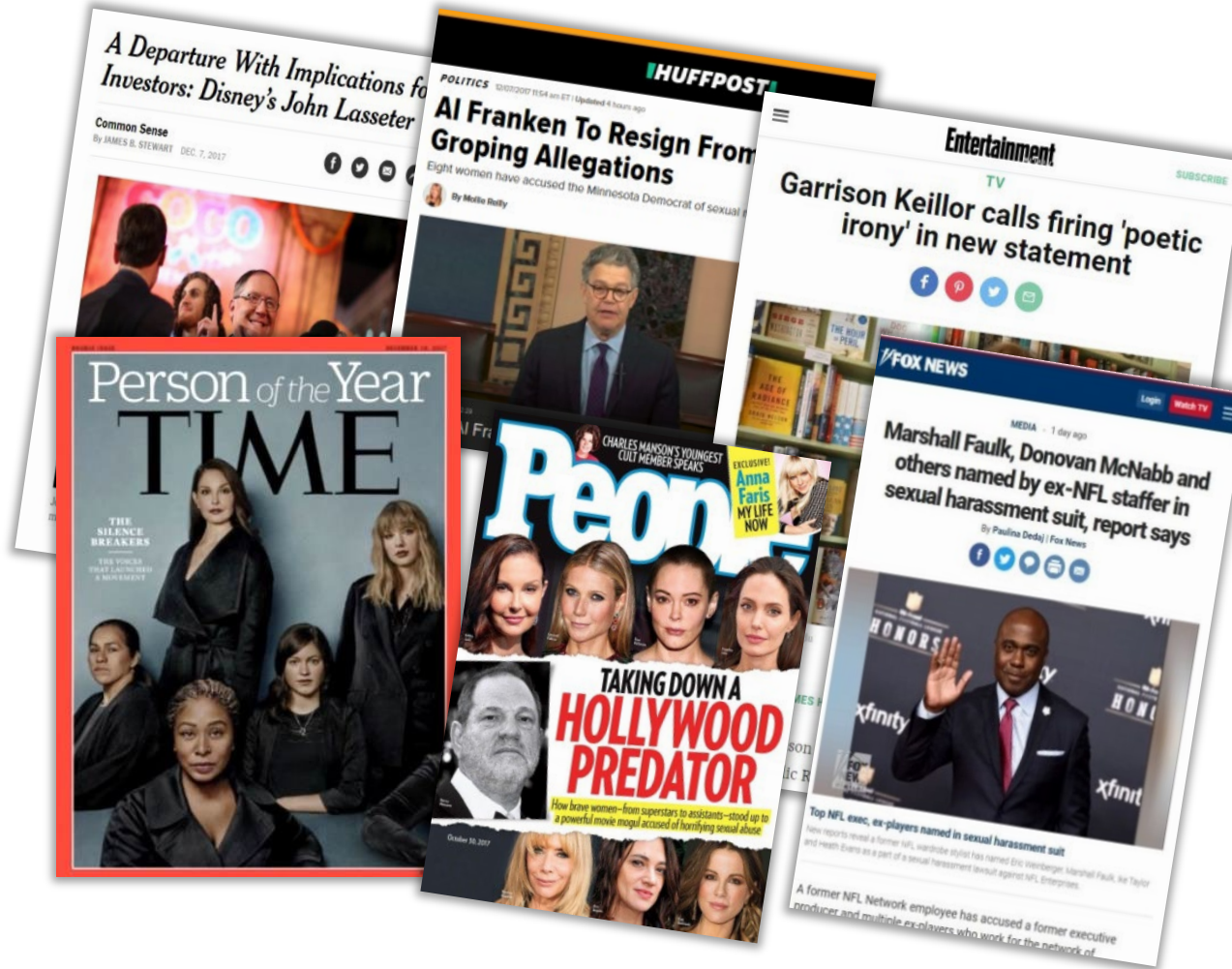
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2017, continued...

- #MeToo:
High profile
leaders face
serious
consequences.
- Legal attacks:
 - NDAs in
settlement
agreements
 - Arbitration of
employment
disputes



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Also In October 2017

- 147 of California's most prominent female political leaders:
"We Said Enough!"
- Sign a letter denouncing a "systemic" and "pervasive" culture of sexual harassment and assault by powerful men in California government and politics.

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What's going on here?

- The Thomas confirmation hearings were in 1991
- Employers have since adopted good internal complaint policies
- Employers provide anti-harassment training
- And yet, in 2017, we had Harvey Weinstein, Charlie Rose, etc. etc.
- So the California legislature responded...



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California Legislative Responses To #MeToo

1. More Defendants

2. Boards of Directors

3. Training

4. Confidentiality Clauses

5. "Love Contracts"

6. Privileged Communications

7. Standards of Proof

8. Data Collection: IHSS

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But We Aren't Done Yet...



August 11, 2021







March 3, 2022

The “Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021.”

So, Why Is This STILL A Problem?

- Persons who are the targets of sexual harassment may respond passively to offensive conduct.
- They often will respond by trying to avoid the harasser.

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So, Why Is This **STILL** A Problem?

- They want the conduct to stop, but they balance that desire against the possibility of maintaining their status within the organization, and against the potential for reprisals should they come forward.
- So, even the very best internal complaint process may not be enough to actually stop harassment from happening – victims tend to suffer along, rather than complain.

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Survey Says...

45%
witnessed sexual
harassment,
and **42%** did nothing
about it.

-Ladders



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Why Don't Employees Who Witness Harassment Do Something?



Didn't know help
was needed



Didn't know how
to help



Fear of retaliation

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So, Let's Try Something Different:



We have tried training supervisors.

We have tried training targets.

LET'S TRY TRAINING THE WITNESSES!

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Is This Required?



BYSTANDER INTERVENTION TRAINING!

California's SB 1300
(Jan. 1, 2019):

- ***Encourages*** (but does not require) employers to provide bystander intervention training

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Thank you!

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