

D&B/TALK

MAKING THE CHANGE

Grace Speights of Morgan Lewis on her work advising clients in changing workplace culture.

THE FIRST OF A REGULAR FEATURE WE INTERVIEW OR PROFILE CASE STUDIES IN WHICH THOSE INVOLVED ARE TRYING TO FUNDAMENTALLY AND PRACTICALLY EFFECT CHANGE TO PRODUCE A MORE INCLUSIVE CULTURE.

In the first feature we speak to Grace Speights leader of the Labor and Employment practice at Morgan Lewis about her advisory work with clients on culture change and how that has achieved even greater resonance in the light of #MeToo and #TimesUp.

While having a successful labor and employment practice, your work also includes advising employers on changing workplace culture and adopting best practices. How did this come about and why do you think it's important?

Counseling employers has always been an important part of my, and my colleagues, labor and employment practices. I really enjoy offering legal advice to employers on how to create environments that allow employees to feel valued, included, and secure in their positions and able to achieve their potential. By working with employers, I'm able to assist them in making systemic adjustments that can make a positive impact on their workplace dynamics and culture.

And what's interesting about the last half-year since the #MeToo movement began is that we have seen employers become much more proactive at examining their workplace cultures. Many companies want to determine if there are workplace issues or problems before they surface, which is a distinctive change in a practice that used to focus on addressing incidents after they happened. Now many companies are assessing their workplaces before allegations are even made and are taking a much more compre-

hensive view of their workplaces rather than just investigating or examining an isolated incident after it occurs.

What kind of changes have you seen in your practice or in client outreach since the #MeToo movement started?

Prior to the #MeToo movement our work related to sexual harassment generally fit into two categories: pre-emptive training and investigations into a specific incident. But that has broadened significantly in light of #MeToo. Many companies want to get ahead of the curve and try to make sure their workplaces are a positive, safe, and inclusive place for all. We're also hearing from shareholders and board members who are holding their companies accountable by requesting independent investigations of allegations of sexual harassment against high-level executives and what their management may have known (and what they did once they gained such knowledge) about such allegations. And we're counseling boards of directors and high-level executives on their responsibilities in connection with providing a safe and sexual harassment-free workplace.

I've read about workplace culture assessments - what exactly is that and how is one done?

A workplace culture assessment doesn't focus on an incident or a specific problem. It's a much more comprehensive look at the employee experience in a workplace. It's a way of proactively determining if there are issues in the workplace



GRACE SPEIGHTS

that can be addressed to make the workplace a better place for employees. It's an attempt to get ahead of issues rather than sitting back and waiting for issues to surface. If that sounds a bit fluid, it is. The framework of a culture assessment is built specifically for each company and the framework may be different for each business unit or organization within a company; there is no "one size fits all." We work with the leaders of an organization to determine what kinds of issues they want to surface or learn about. Lately, one of the issues that many companies want to know about is whether employees know how to report inappropriate conduct like sexual harassment and, if so, whether they would feel comfortable in doing so. Culture assessments involve conducting individual interviews with employees and/or focus groups of similarly situated employees. Going in we don't know what we're going to hear when people start talking. We really focus on listening and let the employees take the lead.

What do clients do with that information after receiving it?

That also differs with each company. When

we present our findings (not specific names or stories, but themes that come up over and over) to the company, we also provide recommendations to address or correct the issues that we found. Some companies share our findings with their employees, others address our recommendations in smaller groups to make changes from the top down. We have seen, for example, more hiring and training of HR professionals, updated and more practical training for employees, the formation of sexual allegation response committees within companies to provide an additional way for employees to report about sexual harassment, and boards asking for external oversight. There is a lot for companies to consider.

Do you think that companies should focus more on their workplace cultures which may include changing things which aren't strictly wrong or illegal?

As I mentioned before, there is no one-size-fits-all answer to addressing or preventing potential incidents of sexual harassment or any other workplace culture challenge. It all depends on the needs and structure of the company. For some,

ANY KIND OF BROAD-BASED SOCIAL CHANGE HAS GROWING PAINS. WHILE I THINK ULTIMATELY THIS MOVEMENT WILL LEAD TO A MORE INCLUSIVE AND EGALITARIAN SOCIETY, IT IS UP TO EMPLOYERS TO MAKE SURE THE PROPER TRAINING, ENVIRONMENT, AND OVERSIGHT IS IN PLACE SO WOMEN'S EMPLOYMENT AND ADVANCEMENT ISN'T ADVERSELY AFFECTED.

making proactive changes to the workplace culture goes a long way to making a better working environment. For others, it's hiring more HR professionals and training them to be both scrupulous and empathetic. But overall, companies need to be both proactive and transparent in however they choose to address these issues.

What do you think are some of the warning signs that may signal a workplace culture has problems?

The obvious one is one or more allegations of inappropriate workplace conduct. But the signs can be more subtle, from what's talked about in the halls but not brought to management to the composition of groups in the lunchroom. A company's HR team is the first line of defense. Whom you pick, how you train them, how they investigate, how they follow up with employees after concluding their investigations, and how they show empathy in the process can make all the difference in how employees feel about their workplace, as well as their willingness to raise complaints and otherwise cooperate with investigations.

#MeToo and #TimesUp have generated a lot of positive focus on the issue of harassment and inequality. Do you think this is here to stay?

It's clear that this movement has national and international support, and we expect to see similar allegations across more industries, so it's definitely here to stay. And it will most likely be working its way through the courts for the foreseeable future as we expect to see more lawsuits filed (or threatened) not just from those alleging sexual

harassment, but by those accused of sexual harassment, and perhaps even from shareholders demanding that their companies do more to respond to and prevent these types of claims.

Some general counsel have said to me they worry that the focus on this area could adversely affect women's employment and advancement. Do you think this is a danger?

Any kind of broad-based social change has growing pains. While I think ultimately this movement will lead to a more inclusive and egalitarian society, it is up to employers to make sure the proper training, environment, and oversight is in place so women's employment and advancement isn't adversely affected. This is not a time for leadership and management within companies to retreat from supporting and advancing women. If anything, it's a time for leadership and management to set the example of appropriate workplace conduct and support for the professional development, retention, and advancement of women.

What would be your one key piece of advice to companies in the light of #MeToo?

Employers must focus on their workplace culture and consider how that culture impacts not only their employees but also their companies' reputation with business partners, clients, and the general public. We recommend that companies assess their culture and implement changes that will promote a positive, transparent, safe, and inclusive workplace.