

Sex claims suddenly high priority

BY SAMANTHA MASUNAGA

Lurid allegations of sexual misconduct and sexual harassment lawsuits swirled for years around former American Apparel founder and Chief Executive Dov Charney.

As early as 2004, a reporter from *Jane* magazine wrote that Charney masturbated in front of her. (Charney has asserted that the act was consensual. In a follow-up story, the reporter said she was not a victim and was not exploited.) A year later, former employees filed lawsuits that claimed he fondled himself in front of them or appeared in the office only in his underwear.

It wasn't until summer



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MATT LAUER was fired after NBC received a detailed complaint of "inappropriate sexual behavior."

2014 that the Los Angeles company's board suspended Charney as president and CEO, citing allegations of improper behavior and misuse of company funds. By the end of the year, Charney was officially fired.

That was then. In today's post-Harvey Weinstein era, employers are taking days, rather than months, to deal with accusations of sexual misconduct.

The accelerated responses to harassment scandals reflect a calculation by organizations that any delay could cast them as uncaring or evasive — and land them on the wrong side of social media and news reports swirling around each new scandal.

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Quick reactions after allegations

[Response, from C1]

"You want to report your bad news," said Tracy Williams, chief executive and founder of Olmstead Williams Communications, a crisis and reputation management firm based in Los Angeles. "If somebody else reports it, then it looks like you've been hiding, which is the worst thing you can do."

On Wednesday morning, NBC reported its own bad news first — abruptly announcing that "Today" show co-anchor Matt Lauer had been fired after the network received a detailed complaint Monday about "inappropriate sexual behavior in the workplace." Entertainment trade publication Variety later reported that Lauer had been accused of sexual harassment by multiple women.

That same day, Garrison Keillor said he was fired by Minnesota Public Radio after the news organization said it was notified in October of allegations of inappropriate behavior while Keillor was responsible for producing "A Prairie Home Companion."

The latest responses are not only swift but, in many cases, sweeping.

Minnesota Public Radio said it would stop rebroadcasting "The Best of A Prairie Home Companion," hosted by Keillor, and end distribution and broadcast of his show, "The Writer's Almanac."

Netflix halted production of its hit series "House of Cards" amid allegations that actor Kevin Spacey had committed harassment and assault — in some cases toward minors — and Sony Pictures dropped the actor from his lead role as J. Paul Getty in the upcoming film "All the Money in the World." Spacey's scenes were reshot with actor Christopher Plummer.

And not only did political journalist Mark Halperin lose his job at NBC after allegations of sexual harassment, but Penguin Press pulled the plug on his book about the 2016 presidential election.



GARRISON KEILLOR, shown on a live broadcast for "A Prairie Home Companion," said he was fired by Minnesota Public Radio after the organization was notified of allegations of inappropriate behavior.

"The process of analyzing allegations and making determinations about misconduct hasn't changed," said Stephen Hirschfeld, founding partner and co-managing partner at employment and higher education law firm Hirschfeld Kraemer. "What has changed is the pressure that employers feel under right now to move quicker, to be more decisive with the decisions and, in some cases, to publicize their actions."

Companies have a number of reasons to act quickly. The heightened public sensitivity to sexual misconduct after the Weinstein scandal means that brands' reputations — and their market

value — could take a hit if consumers deem that firms aren't taking allegations seriously.

"We really are in a period where there's heightened consumer awareness, in general, of companies' social policies, their environmental policies," said Rosemary Batt, the Alice Cook professor of women and work at Cornell University. "Customer-facing companies, particularly media and information services, depend on the goodwill of their consumers."

Discrimination and harassment laws dictate that companies must take "immediate and appropriate action" when allegations are

made, though the "appropriate" aspect is up to the employer, Hirschfeld said.

The law could say that a less-serious allegation and first-time offense in which the employee admits what he or she did could be used as an opportunity to educate the person and hopefully get him or her to change, he said.

But if an employee has a track record of activity or has been warned, employers normally have to terminate the person, Hirschfeld said. Accusations of sexual assault, molestation or inappropriate touching should result in firing because of potential litigation and to protect the health and safety of the victim and the rest of the

company, he said.

Crisis communications specialists counsel companies to be the first to disclose a problem, take action quickly and be honest. A case that's often cited is Johnson & Johnson's strong actions after seven people died in the Chicago area after taking cyanide-laced Tylenol capsules in 1982. J&J quickly urged consumers to stop taking the capsules. Then it yanked Tylenol — a major profit generator — off shelves in Chicago and later nationwide. After additional poisonings several years later, J&J made the costly decision to no longer sell any medication in capsule form because it could not guaran-

tee their safety.

Publicizing the circumstances around a high-profile employee's departure — as the "Today" show did with Lauer and CBS News did with journalist Charlie Rose — is "unusual," Hirschfeld said.

In the "old days" — which Hirschfeld defined as a year ago — outsiders might hear about allegations and then an employee would suddenly no longer be with the company. For high-level executives, maybe a press release would be issued, saying they wanted to "spend more time with their family."

But companies now find it necessary to give consumers more information so they have an idea of what happened and how it was dealt with.

Employers now must perform a "balancing act" between protecting people's privacy and making sure that those who come forward with allegations feel they are taken seriously, Hirschfeld said.

Sharon Vinick has represented victims of sexual harassment and misconduct as a managing partner with Levy Vinick Burrell Hyams. She recently represented an assistant to UC Berkeley's former law school dean, who admitted to inappropriately hugging, kissing and touching the assistant and later resigned from his position. Vinick said the usual drill for a large company faced with allegations of sexual misconduct is to conduct an internal investigation or hire an outside firm to talk to the accuser, witnesses and the accused.

She said she's seen no variation from that script so far, but acknowledges that Weinstein "completely changed the conversation."

"For someone to be accused on Monday and fired on Wednesday, that's unheard of in a pre-Harvey Weinstein world," Vinick said. "You just never saw that speed of action before."

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