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BLOGS

Diversity & Inclusion; Social Media & Technology; Workplace Policies

Sexual Harassment: Is There An App For That?

Recent news coverage of Republican Presidential Candidate Herman Cain reminds us that sexual harassment in the workplace is still a powerful issue. The events alleged by Mr. Cain's former employees took place before social media emerged as the force it is today, so it's doubtful that email, text messages, or other forms of electronic communication were relevant to the investigations done by the National Restaurant Association back in the 90s. In today's technology-saturated workplace, however, any and all forms of electronic communication may be critical sources of information in the prompt, thorough investigation of sexual harassment complaints that the law requires.

Our experience suggests that sexual harassment in the workplace is alive and well, and that quite a lot of it goes on via email and text messaging. As previously discussed [here](#), employees can send hundreds of thousands of personal emails to each other during work, and don't always use good judgment in doing so. Unwanted sexual comments, sexually explicit jokes or materials, and requests for romantic or sexual encounters can all constitute sexual harassment if they are sufficiently frequent and offensive.

Employers have an obligation to take reasonable steps to prevent such harassment from occurring. They must also take timely and appropriate action to investigate complaints. In a wired workplace, that almost certainly means reviewing email exchanges or text messages sent and received on the employer's systems and equipment. Whether the review findings support or disprove allegations of sexual harassment, they are an essential part of any investigation involving workers who have access to electronic communication. Investigation may also reveal inappropriate conduct by employees not directly involved in a sexual harassment complaint, allowing the employer to intervene and correct behavior before it creates liability.