



# I Wonder How Many Other Hollywood Personalities Wish that they had Promised their Boss a Missouri Whooping?

Insights

11.12.17

I am not encouraging workplace violence, even for individuals who may deserve a good old fashioned whooping. However, it is worth noting that one of the few Hollywood celebrities to have largely survived the onslaught of harassment claims with some dignity is Brad Pitt. As everyone knows, while dating a young Gwyneth Paltrow, Brad Pitt reportedly confronted Harvey Weinstein, told him to stop harassing Miss Paltrow, and threatened a “*Missouri Whooping*.” Given the story, I tend to suspect that he actually promised a “*Missouri Ass Whipping*” (pardon my language).

Putting aside the issue of how a Missouri Whooping differs from the North Georgia whoopings handed out where I grew up, **it is depressing that few people have come out looking responsible. Fellow actors, executives and attorneys are all accused of at best, standing by ...**

I do not think that Brad Pitt would overplay his courage, although there was some risk in any confrontation with Harvey Weinstein at the peak of his power, but at least Pitt did something.

Hollywood and the entertainment industry is unique. While it is a commercial enterprise, some behavior is tolerated and even encouraged that would not fit within many business efforts. Let's just be honest, even those of us who enjoy that industry, we must admit that the process of delivering entertainment requires unique people and settings. But harassment is not among Hollywood's acceptable behavior. Nor is the problem limited to the entertainment industry.

The sheer volume of apparently valid reports suggest a serious problem with subordinates being reluctant to complain about harassment and bad behavior by others. Equally disturbing is the fact that others took no action. Some people's inaction was due to fear but other reasons also account for inaction.

## **What about Reporting Safety Hazards or Confronting Coworkers Acting Unsafely?**

In the course of determining why workplace fatalities occurred, we often learn that coworkers did not confront an employee about violating safety rules or acting unsafely even when an immediate risk of death was involved. It's not that coworkers were narcissistic, but rather, people are reluctant to involve themselves in other people's affairs - except for when they have the anonymity of a keyboard and social media. Also, perhaps we have all become a bit too jaded and disbelieve reports.

## **Some Reluctance to Believe Claims is Understandable.**

## **Some reluctance to believe claims is understandable.**

As a management labor attorney, I've been involved in defending against countless harassment claims based on sex, race, national origin and other protected factors. Similarly, I have been involved in investigating claims of harassment and bad behavior. Over 33 years, I became frustrated by the sheer number of harassment lawsuits and EEOC charges that proved to be groundless because of the person's bad motives, selective memory, or even emotional problems. Likewise, many claims represented bad judgment and unwarranted discharge of the offender, but did not meet the legal elements of a harassment claim. By contrast, I found that employees who had the courage to seek help from management, generally had a valid claim. So you can imagine my tendency to view very public harassment claims with some degree of legal skepticism ... and to be disappointed that we had not more consistently eliminated bad behavior in the workplace and a willingness to seek early intervention.

## **Apparently a lot more bad stuff has been going on than we optimistically believed.**

Last week, a NBC/Wall Street Journal poll found that nearly one-half of working women still report that they've experienced harassment. The percentage of employees reporting that they had experienced sexual harassment was greatest for those who were 18 to 34 years of age, but it was a fairly equal number of responses for people with and without college degrees, Democratic and Republican, etc.

Given how aggressively we have worked to eliminate harassment in the workplace, I am a bit depressed by these reports. I will write some more in subsequent post, but clearly there are problems with our training efforts and perhaps with management and leadership commitment.

## **But for this post I have two important observations:**

1. We need to do more to make employees and others feel comfortable reporting harassment, discrimination, and bullying.
1. **We need to also ensure that employees feel equally comfortable reporting Unsafe situations.** I vigorously disagreed with Jordan Barab and the Obama OSHA about their position that employers engaged in wholesale retaliation against employees for reporting recordable injuries or complaining about unsafe conditions. I have not changed my position because we simply have not encountered active effort to retaliate against or discourage employees from reporting unsafe conditions or reporting recordable injuries. **However, the harassment claim explosion concerns me because I wonder if employees may" self-regulate" and choose not to report unsafe conditions, even if the employer has not taken any steps to discourage reports.**

I'll write more in future posts.

Howard