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When Justice Behaves Unjustly: Addressing Sexual Harassment in the Judiciary

Jaime A. Santos

As the last 18 months have demonstrated, there is virtually no American workplace where female employees can rest assured that they can focus their energy on work without fear that they could be sexually harassed.¹ There is no industry or profession that “knows better,” even though there are a number of industries and professions that plainly should know better.

We have seen public reports of alleged sexual harassment involving members of the media (by some of the same individuals who break news about this very topic²), members of Congress (by individuals tasked with enacting legislative protections from harassment³), members of the legal profession (by partners at firms that specialize in harassment investigations and defense⁴), and countless other professions. The judiciary, unfortunately, is no different.

The issue of sexual harassment in the judiciary came to national public attention last year when the former Chief

Judge of the United States Court of Appeals for the Ninth Circuit, Alex Kozinski, was accused of sexual misconduct by more than a dozen women. The accusers included numerous former Ninth Circuit law clerks, judicial externs, lawyers, a former federal judge, and a law professor.⁵ But while Kozinski's misconduct is perhaps the most well-publicized, it is far from the only reported instance of alleged inappropriate sexual behavior within judicial chambers. Recent years have seen press reports of numerous allegations against state and federal judges, often accompanied by resignations or settlements of harassment claims, in Nebraska,⁶ New York,⁷ Montana,⁸ Pennsylvania,⁹ Kansas,¹⁰ and California,¹¹ just to name a few.

To be clear, sexual harassment in the judiciary is not limited to inappropriate behavior by judges. Over the past year that my colleagues and I¹² have been working collaboratively with the federal judiciary to study and address these issues, we have

Footnotes

1. Although women most commonly experience sexual harassment, men can likewise be the subject of unwanted sexual advances, sexual assault, and other harassing behavior in the workplace. Indeed, when men experience harassment, it can be particularly difficult for them to report it because they fear ridicule and retaliation. This essay, however, focuses primarily on women's experiences with harassment given the greater frequency with which women experience harassment because of their comparative lesser power and representation in many professional workplaces, including judicial employment. And women of color, members of the LGBT community, women who are disabled, and women from other historically marginalized groups are particularly vulnerable to workplace harassment in all of its invidious forms.
2. See, e.g., Paul Farhi, *Glenn Thrush Is Suspended and Reassigned by the New York Times, but not Fired*, WASH. POST (Dec. 20, 2017), <https://wapo.st/2PjROIFc>; Ellen Gabler et al., *NBC Fires Matt Lauer, the Face of 'Today,'* N.Y. TIMES (Nov. 29, 2017), <https://nyti.ms/2iiK9zQ>.
3. See, e.g., Jonathan Tamari, *Rep. Pat Meehan Will Not Seek Re-election after Sexual Harassment Furor*, INQUIRER (Jan. 26, 2018), <https://bit.ly/2UoBpXd>; John Bresnahan & Heather Cole, *Conyers Scandal Rocks House Democrats*, POLITICO (Nov. 21, 2017), <https://politi.co/2AZGfzA>; Rachael Bade, *Lawmaker Behind Secret \$84K Sexual Harassment Settlement Unmasked*, POLITICO (Dec. 1, 2017), <https://politi.co/2BAgoiC>.
4. See, e.g., Meredith Mandell & Hilary Rosenthal, *Proskauer, Law Firm known for Handling High-profile Sex Harassment Cases, Is Accused Itself*, NBC NEWS (May 15, 2018), <https://nbcnews.to/2KsuN4i>.
5. Katherine Ku, *Pressuring Harassers to Quit Can End Up Protecting Them*, WASH. POST (Jan. 5, 2018), <https://wapo.st/2B1xOPc>; Matt Zapatosky, *Nine More Women Say Judge Subjected Them to Inappropriate Behavior, Including Four Who Say He Touched or Kissed Them*, WASH. POST (Dec. 15, 2017), <https://wapo.st/2Ef72gQ>; Dahlia Lithwick, *He Made Us All Victims and Accomplices*, SLATE (Dec. 13, 2017), <https://bit.ly/2QDuk5N>; Matt Zapatosky, *Prominent Appeals Court Judge Alex Kozinski Accused of Sexual Misconduct*, WASH. POST (Dec. 8, 2017), <https://wapo.st/2Qk8G7u>.
6. Todd Cooper & Joe Duggan, *Nebraska Supreme Court Judge Resigned after Ethics Complaint; Sexual Comments Emerge*, OMAHA WORLD-HERALD (Feb. 6, 2018), <https://bit.ly/2G4i2PQ>.
7. Colby Hamilton, *Former Law Clerk Claims State Judge Sexually Harassed Her*, N.Y. L.J. (Aug. 17, 2018), <https://bit.ly/2AVzkcg>.
8. Zach Benoit, *Forsyth Judge Accused of Sexual Harassment Plans Resignation Next Year*, BILLINGS GAZETTE (May 5, 2015), <https://bit.ly/2EiGmvE>.
9. Rich Cholodofsky, *State Agrees to Pay \$52,000 in Westmoreland Sexual Harassment Case*, TRIB LIVE (Apr. 24, 2012), <https://bit.ly/2RHqVjF>.
10. Tim Potter, *Sedgwick County Judge Accused of Sexual Harassment Is Reassigned*, WICHITA EAGLE (May 19, 2014), <https://bit.ly/2QhNjnd>; Tim Potter, *State Supreme Court Upholds Findings Against Former Judge*, WICHITA EAGLE (April 7, 2017), <https://bit.ly/2QxMvG0>.
11. Greg Moran, *State Court Agency Spent \$600,000 to Settle Sexual Harassment Claims Against Judges, Employees*, SAN DIEGO UNION-TRIB. (Mar. 24, 2018), <https://bit.ly/2L02PhD>.
12. The colleagues to which I am referring include Deeva Shah, Sara McDermott, Kendall Turner, Claire Madill, Priya Srinivasan, and Laura Ferguson. Earlier this year, we formalized our group and started an organization, Law Clerks for Workplace Accountability, whose mission is to ensure that the federal judiciary provides a safe workplace environment, free of harassment, for all employees and to assist the judiciary in reaching this goal. We have also received considerable support and assistance from countless other women, including Leah Litman, Emily Murphy, Kathy Ku, Dahlia Lithwick, and Heidi Bond, all of whom bravely came forward publicly about their own experiences with harassment in the judiciary.

spoken with numerous women who experienced or witnessed sexually inappropriate treatment by their co-clerks, by other chambers staff, or by court staff. The issue transcends job title and jurisdiction, and to find a solution (or at least to make progress), we must do so as well.

WHY DOES HARASSMENT OCCUR WITHIN THE JUDICIARY?

Individuals who work for the judiciary—and particularly judges—are vested with the solemn responsibility of ensuring equal justice under the law for all, including in harassment and discrimination cases. So why does harassment happen in the judiciary?

As it turns out, despite the stringent codes of conduct that bind judges and judicial employees, employment within the judiciary (and particularly within judicial chambers) has all of the hallmarks of a workplace environment that makes harassment *more* likely, and that makes speaking up against harassment nearly impossible:

- There is a massive power differential between judges and employees, and a strict hierarchical structure in which chambers employees have a single supervisor.
- Judicial chambers are almost entirely autonomous, and chambers employees are often isolated from others for most or all of the day. As retired federal judge Nancy Gertner described it, “It is as if each chambers is a fiefdom, with its own rules and norms.”¹³
- In many jurisdictions, there is significant turnover in chambers, with new clerks joining every year or two.
- Leadership is frequently male-dominated (certainly in the federal system, although some states are making significant inroads in the gender diversity of the bench¹⁴).
- Law clerks are typically employed at the beginning of their career, when they are most vulnerable and the risk of retaliation is perhaps most acute. They also reasonably expect and rely on mentorship by their judge and a supportive community of the judge’s law clerk family for their entire career.
- There are unique requirements of confidentiality, a culture of non-disclosure, and relationships between judges and employees “mostly built on worshipful silence.”¹⁵
- The judiciary generally has a strong desire to avoid any public disclosure of wrongdoing in the interests of maintaining public confidence.

We cannot change the nature or inherent qualities of judicial employment—nor should we. But what we can change are the policies that govern employment within the judiciary, the procedures for reporting misconduct, the training that members of the judiciary and judicial employees receive about workplace

conduct, and the culture of the judiciary. And that is what my colleagues and I have spent the last year trying to do.

DEVELOPMENTS AT THE FEDERAL AND STATE LEVELS

Numerous jurisdictions have begun to examine their own policies, procedures, and training programs related to harassment and workplace misconduct.

At the federal level, the first jurisdiction to take action was the District of Utah, in an effort spearheaded by former Chief Judge David Nuffer. Judge Nuffer began focusing on this issue in 2017, even *before* the public reports of sexual misconduct by Alex Kozinski. To determine the scope of any harassment concerns faced by employees, he and his staff sent a short survey to all court employees, including judges, asking about instances of sexual harassment that they had observed or experienced. Because of the significant number of responses to the survey (119 of 200 recipients completed it), Judge Nuffer engaged a management consultant to provide analysis and recommendations, and he convened a working group to develop and implement action items based on those recommendations. The working group has focused on strengthening the workplace by, among other things, educating employees on harassment and the consequences for misconduct, nurturing a culture of psychological and physical safety for all, building trust and respect, encouraging and promoting more women into leadership roles, reducing barriers for reporting, and providing additional training for staff responsible for fielding complaints and addressing employee disputes.

In 2018, other groups within the federal judiciary began to study and address these issues. The Federal Judicial Center (FJC) revamped its training programs and developed new ones, including computer-based modules for new law clerks to take before starting their clerkships. The FJC also has conducted training programs for countless groups of judges. The Chief Justice of the United States directed the Administrative Office of the U.S. Courts to convene a working group to study these issues and propose recommendations to address deficiencies in the federal judiciary’s current policies and reporting procedures.¹⁶ The Chief Justice recently highlighted the working group efforts in his year-end report on the federal judiciary.¹⁷ Based on the working group’s recommendations, the Judicial Conference of the United States has proposed revisions to the Judicial Code of Conduct and to the Rules Governing Judicial Conduct and Dis-

Law clerks are typically employed at the beginning of their career, when they are most vulnerable and the risk of retaliation is perhaps most acute.

13. Nancy Gertner, *Sexual Harassment and the Bench*, STANFORD L. REV. ONLINE (June 2018), <https://stanford.io/2zNz4fM>.
14. See, e.g., Gavin Lesnick, *State’s High Court Has Female Majority for First Time as Justices Sworn In*, ARK. DEMOCRAT GAZETTE (Jan. 6, 2015), <https://bit.ly/2Qj3n85>.
15. Dahlia Lithwick, *He Made Us All Victims and Accomplishes*, SLATE (Dec. 13, 2017), <https://bit.ly/2QDuk5N>.

16. Administrative Office of the U.S. Courts, *Federal Judiciary Workplace Conduct Working Group Formed* (Jan. 12, 2018), <https://bit.ly/2Qha3DS>.
17. John G. Roberts, Jr., *2018 Year-End Report on the Federal Judiciary* (Dec. 31, 2018), <https://www.supremecourt.gov/publicinfo/year-end/2018year-endreport.pdf>.

[F]or an institution not historically known for turning on a dime, the progress that has been made thus far is impressive.

ability Proceedings.¹⁸ And the Administrative Office of the U.S. Courts has recently hired a Judicial Integrity Officer, who will be able to spearhead these efforts on a permanent basis.¹⁹

Several of the Circuits, including the Seventh, Ninth, and D.C. Circuits, have begun to take action as well by revising their policies governing confidentiality, procedures for reporting misconduct, and training for new employees and judges. Three particular innovative developments to note from these efforts:

First, the Ninth Circuit created a new position called a “Director of Workplace Relations,” who will be responsible for the court’s ongoing effort to prevent and resolve workplace harassment.²⁰ Second, the D.C. Circuit adopted one of the recommendations that my colleagues and I offered by creating a Law Clerk Advisory Group, an Employee Advisory Group, and an Employee Sounding Board, which will be able to serve as informal resources for court employees and provide input to the D.C. Circuit regarding future recommendations and initiatives. Third, the D.C. Circuit is also creating programs to protect employees who come forward to report misconduct by, for example, providing for a transfer or alternative work arrangement for that employee.²¹

Finally, California’s State Supreme Court Chief Justice Tani Cantil-Sakauye recently announced that she has formed a working group to study and address these issues to ensure that the court system is safe for all employees.²²

Because these developments are new—and many have not yet been implemented—it is not yet known what impact they will have on preventing harassment, increasing reporting when harassment occurs, or changing the culture of the judiciary. But for an institution not historically known for turning on a dime, the progress that has been made thus far is impressive.

By comparison, the United States Senate and House of Representatives were unable to muster up enough support for a modest bill that simply revises Congress’s own sexual harassment policies until nearly a year after legislation was introduced in the House and more than six months after both the

House and the Senate passed different bills to address harassment concerns.²³ Given the Senate Judiciary Chairman’s admonitions to the federal judiciary that it was not acting quickly enough to address harassment concerns and that the judiciary must “deal with” its harassment “problem . . . or Congress will have to do it for the courts,” Congress’s extended inability to take even modest action to address harassment in its own two houses was bewildering.²⁴

BARRIERS TO PROGRESS

Courts are starting to make progress in addressing harassment concerns, but there is much more work to be done and, thus far, progress only in particular pockets of the state and federal judicial system. The reasons for the lack of progress thus far are many. First, these issues are really, really difficult to address in any workplace, much less in a workplace that has the judiciary’s unique characteristics, such as strict confidentiality rules. They give rise to many complicated questions. For example: Should judges who are informed that their colleagues may have engaged in misconduct be required to report that misconduct through official channels (which could chill disclosure by employees), or should they have discretion whether to do so if confidentiality is requested of them (which could allow misconduct to continue unabated for years)? What types of concrete actions can be taken to actually prevent retaliation when an employee is brave enough to come forward to report misconduct? How can the judiciary structure its avenues for reporting misconduct to actually encourage reporting despite the significant power dynamics in play and employees’ fear of retaliation? Once adequate systems are in place, how does the judiciary convince employees that it really does want them to report misconduct?

Second, the working groups tasked with answering these difficult questions have, for the most part, been composed almost entirely of judges, who generally lack experience and expertise crafting these types of policies and procedures and who have not been on the low end of a significant power differential in many, many years. These groups have rarely brought in experts who do have such expertise or key stakeholders, such as the law clerks and other lower-level employees who are most vulnerable to becoming victims of harassment or sexual misconduct. Indeed, some judges have expressed vehement opposition to stakeholders who are not judges having any role in these initiatives: one sitting federal

18. The Judicial Conference held a hearing on the proposed changes in November 2018. The changes, a link to the hearing (at which I testified), and witness statements are available at <https://bit.ly/2OF2PrA>.

19. Debra Cassens Weiss, *Federal Judiciary Hires Its First ‘Judicial Integrity Officer’ to Handle Workplace Conduct Matters*, A.B.A.J. (Dec. 4, 2018), <https://bit.ly/2SAn4Fj>.

20. News Release, U.S. Courts for the Ninth Circuit, *Ninth Circuit Announces Appointment of First Director of Workplace Relations* (Nov. 13, 2018), <https://bit.ly/2QSanoN>.

21. Press Release, U.S. Courts, District of Columbia Circuit, *Chief Judges Announce Adoption of Workplace Conduct Policies* (Nov. 28, 2018), <https://bit.ly/2FQsBWG>.

22. *California Chief Justice Calls for Sexual Harassment Policy Review*, CBS Sacramento (Oct. 11, 2018), <https://cbsloc.al/2L0DLAM>.

23. Jackie Kucinich & Andrew Desiderio, *Congress Still Can’t Pass Its Own Sexual Harassment Bill*, DAILY BEAST (Sept. 26, 2018), <https://thebea.st/2RLrnOc>; Congressional Accountability Act of 1995 Reform Act, Pub. L. No. 115-397 (2018).

24. The Chairman made these comments at a Senate Judiciary Committee hearing in June 2018. See Senate Judiciary Committee, *Confronting Sexual Harassment and Other Workplace Misconduct in the Federal Judiciary: Hearing Before the Senate Committee on the Judiciary* (2018), <https://bit.ly/2Jq1Aqq>; see also Nina Totenberg, *Sen. Grassley Says Report on Sexual Harassment in Judiciary Simply Kicks the Can*, NPR (June 14, 2018), <https://n.pr/2MrRjT>.

judge publicly ridiculed the efforts of my colleagues and I as the “New Spanish Inquisition” and referred to us as “uninformed busybodies who should largely be ignored.”²⁵ When courts have invited the views of experts and stakeholders, they have done so only at the information-gathering phase and not when hammering out the details of any proposed changes. And as we all know, the devil is in the details.

Third, in many jurisdictions, there is a lack of interest in addressing this issue, animated by a belief that there is no real problem—just a couple of bad apples, at most—or that delving deeply into the issue may reveal information about misconduct that could reflect poorly upon the institution. At the same time, courts have largely (with the exception of the District of Utah and the D.C. Circuit) refused to conduct any comprehensive survey of current and former employees to determine the scope of the problem—a measure that the former Chair of the EEOC,²⁶ an ethics expert,²⁷ and my colleagues and I have all argued is essential to effectively tackle the issue. Such a head-in-the-sand approach not only virtually ensures that reform measures will be inadequate and ineffective, it also sends a strong message to employees that the judiciary says it wants employees to come forward to report misconduct but it has no *actual* interest in receiving that information.

Finally, perhaps the most necessary reform that must be made to have any hope of effectively addressing harassment by judges is also the most difficult: judges must hold each other accountable when they become aware of misconduct by their colleagues. This is an incredibly challenging thing to do. A culture of autonomy and independence is an integral part of our judicial system. Moreover, there are power dynamics *within* the judiciary—within each courthouse, within each jurisdiction, and within the judiciary as a whole—that make it daunting for judges to stand up to each other when they witness or learn about wrongdoing by their peers. My colleagues and I have heard time and time again that it is largely a pipe dream to expect judges to report misconduct by their colleagues—that a judge cannot realistically be expected to tell another judge how to run his chambers or treat his employees. But if judges cannot have the courage to do so, how can they possibly expect law clerks or other employees to? This culture of autonomy and independence must yield when it is important enough. The only question is whether we think a workplace in which women can focus on work without having to experience or fear sexual harassment is important enough.

WHAT YOU CAN DO TO HELP

Because of the autonomy and independence of most chambers, each individual judge has an opportunity to make a significant difference in addressing harassment concerns, irrespective of any systemic initiatives that may or may not be underway in your jurisdiction.

25. Roberta Kaplan & Rachel Tuchman, *Time’s Up for Lawyers Too*, N.Y.L.J. (July 27, 2018), <https://bit.ly/2PpMp2x>. Luckily, for every judge who makes such negative and uninformed comments, there are many more on both the state and federal bench who are supportive of our efforts to ensure that the judiciary’s initiatives are effective.

26. Testimony of Jenny R. Yang, *Confronting Sexual Harassment and*

1. Talk about these issues with your clerks (both men and women).

It can be awkward to talk about harassment and other forms of workplace misconduct. But simply hoping that these issues will never arise has not, thus far, turned out to be an effective way to prevent or address them. And the more we talk about these issues, the less awkward they become. So ask your employees about their own experiences in past workplaces—what they’ve experienced and what they’ve witnessed—and make clear that your door is always open to talk about any concerns they may have about harassment or misconduct by any employee or judge, whether those concerns involve challenges that they are facing or that others in the courthouse are facing. Having these conversations will empower the employees you work with and demonstrate that you are an ally on these issues.

Even more importantly, you will learn something every time you have one of these discussions. Many of the judges who have engaged meaningfully on these issues have done so in part because they have experienced harassment themselves or because people they care for or respect have shared their own personal experiences with harassment; these conversations have helped them to develop a genuine understanding about

Having these conversations will empower the employees you work with and demonstrate that you are an ally on these issues.

ADDITIONAL RESOURCES

Law Clerks for Workplace Accountability
<http://clerksforaccountability.org/>

Equal Employment Opportunity Commission, Report of the Select Task Force on the Study of Harassment in the Workplace (June 2016).
<https://bit.ly/28IwmK5>

American Bar Association, Zero Tolerance: Best Practices for Combating Sex-Based Harassment in the Legal Profession (2018) and Zero Tolerance Program Toolkit (2018).
<https://bit.ly/2C7zjCL>

Judicial Conference of the United States, Proposed Amendments to the Code of Conduct for U.S. Judges and Judicial Conduct and Disability Rules (2018).
<https://bit.ly/2UrYN5T>

Report of the Federal Judiciary Workplace Conduct Working Group (2018). <https://bit.ly/2PqJTt3>

Other Workplace Misconduct in the Federal Judiciary: Hearing Before the S. Comm. on the Judiciary (2018), <https://bit.ly/2SC53G1>.

27. Testimony of Renee Newman Knake, *Comments on the Proposed Changes to the Code of Conduct for U.S. Judges and Judicial Conduct and Disability Rules: Hearing before the Committee on Codes of Conduct and Committee on Judicial Conduct and Disability* (2018), <https://bit.ly/2BXOMWZ>.

**The judiciary . . .
has the
opportunity to
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. . . .**

the long-term negative effects of harassment—both on individual victims and on the legal profession as a whole.

2. See what resources are available for employees in your jurisdiction.

Pretend for a moment that you are an employee who has just

experienced or witnessed harassment by a judge or a supervisor and you want to come forward to report the incident through the appropriate channels. Is information about the reporting avenues easy to find? Can you easily find the relevant policies that can help you determine whether the conduct you (pretend to have) experienced is prohibited? Can you tell from the resources available what an investigation will look like—who will investigate, who will adjudicate, what your rights will be during the process, and what remedial relief is available? Would you be able to find and understand all of this information if you were a staff member without a college degree? Without a high school degree? If you had limited English-language abilities?

If you cannot answer yes to each of these questions, you probably need to reform the policies and procedures—or at least explanatory materials—in your jurisdiction. And once you have done so, with the assistance of local experts in this area and with the input of key stakeholders (hint: law clerks and other employees), you will need to train all employees about the modified policies and procedures.

3. Learn how to receive complaints about inappropriate conduct.

Now that you have made clear that your door is open to employees who want to discuss or report any harassment concerns, it is imperative that you know how to field these questions and concerns effectively. The way in which a judge responds to reports of harassment—whether harassment by another judge or harassment by another employee—can have an enormous impact on how a victim decides to handle the situation. If an employee who reports harassment not only receives empathy, but also is thanked for her bravery in coming forward and is told that she is believed, that she is supported, that she can receive help in finding counsel, that considerable efforts will be taken to ensure she is not retaliated against, and that she should continue to come forward with any concerns, she will be much more likely to feel comfortable pursuing any reporting avenues.

Responding to harassment concerns is hardly intuitive. Just as it requires training to effectively respond to questions during oral argument in a way that will actually assist a judge in coming to the right answer, it likewise requires training to effectively respond to a complaint about harassment. Ensure that you have that training or partner with departments or organizations that can provide it to you.

4. Examine whether your court has studied this issue recently.

If it has been some time since your court has examined issues of harassment or workplace misconduct, establish a working group to study and address these issues. Partner with a local university to conduct workplace climate surveys to determine the scope of any problem. Contact other jurisdictions that have already begun to engage in these efforts to seek any resources or materials they can provide and any lessons learned. Invite law clerks and other lower-level employees as *formal members* of the group—members who do not simply provide ad hoc suggestions but who are part of the decision-making process. Invite respected diversity consultants and employment lawyers to join.

5. Don't recreate the wheel.

Develop innovative initiatives while taking advantage of the important work that others have already done to address harassment and workplace misconduct. Reach out to the Equal Employment Opportunity Commission, any state agencies that address or resolve harassment concerns, the Federal Judicial Center, and the National Center for State Courts to see if they might have resources that you can adapt to the needs of your court.

6. Publicize your efforts.

If your court undertakes efforts to study and address these issues, *please* brag about it—and if you prefer not to do so, contact Law Clerks for Workplace Accountability and we will be happy to do it for you. The more that courts study and address these issues, the more that other courts will be encouraged to do so. Publicizing your efforts will also strengthen public confidence in your court and send a strong message to employees that the court is committed to improvements in this area.

The legal profession as a whole is doing a fairly abysmal job of preventing and addressing harassment against women. The judiciary, however, has the opportunity to set an example for the rest of the profession about the changes that can be made when each member is committed to it. The judiciary is the initial stomping ground for many lawyers—it is where they received their initial legal training and where they learned how to treat colleagues and subordinates.

For first-generation professionals like myself and many of my Law Clerks for Workplace Accountability colleagues who did not enter the profession with the connections that are often the key to success in this field, the opportunity to work in the judiciary can provide a huge leg up and, indeed, be a great equalizer. But the converse of this is also true: if the judiciary does not act to prevent harassment, encourage reporting of harassment, and properly handle harassment complaints when they are reported, the lessons that men and women learn about the workplace will continue to reproduce within other workplaces when they leave the judiciary. Worse yet, women will simply leave the legal profession,²⁸ only exacer-

28. Amanda Taub, *The #MeToo Moment: How One Harasser Can Rob a Generation of Women*, N.Y. TIMES (Dec. 14, 2017),

<https://nyti.ms/2AMHgiW>.

bating the well-documented gender disparities within the profession.²⁹ Your commitment to change can have a huge impact on the profession.



Jaime A. Santos is an appellate litigation attorney at Goodwin Procter LLP in Washington, DC. She has worked with working groups established by the D.C. Circuit, Ninth Circuit, and Chief Justice of the United States to improve the federal judiciary's policies and processes governing inappropriate conduct in

the workplace, and she has testified before the Senate Judiciary Committee and the Judicial Conference of the United States regarding these issues. She clerked for Judge Raymond Fisher on the United States Court of Appeals for the Ninth Circuit and Judge George King, the former Chief Judge of the United States District Court for the Central District of California.

29. See, e.g., Jimmy Hoover, Amanda James & Annie Pancak, *Making Her Case: Will the Future of the Supreme Court Bar Be Female?*, Law360 (Oct. 15, 2018), <https://www.law360.com/articles/1087277>; Tony Mauro, *Supreme Court Clerks Are Overwhelm-*

ingly White and Male. Just like 20 Years Ago, USA TODAY (Jan. 8, 2018), <https://bit.ly/2E63XPr>; ABA, *A Current Glance at Women in the Law* (2018), available at <https://bit.ly/2xJvnX8>.

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