

Fewer women filing claims for sexual harassment

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New York --

More than 40 years after federal law made it illegal, 30 years after courts widely began recognizing it as a form of discrimination and at least 20 years after many companies inaugurated programs to prevent it, sexual harassment remains a stubborn blemish on the American workplace that not only can be ugly but very expensive, as New York Knicks coach Isiah Thomas and his employer, Madison Square Garden, learned Tuesday.

A federal jury in Manhattan found Thomas, president of the team's basketball operations, guilty of sexually harassing Anucha Browne Sanders, a former Knicks marketing executive. It also ordered Madison Square Garden and its chairman to pay Sanders \$11.6 million in punitive damages for maintaining a hostile work environment and improperly firing her for complaining about the harassment.

Sanders, once a women's basketball star at Northwestern University, accused Thomas, a celebrated former point guard for the Detroit Pistons, of making unwanted sexual advances and verbal insults to her, including calling her a "bitch." Sanders was fired from her \$260,000 per year job as senior vice president for marketing and business operations in 2006.

After the verdict, the Chicago-born Thomas vehemently reasserted his innocence and vowed to appeal, as did Madison Square Garden.

Although the case resurrected the debate about sexual harassment, the fact is case filings alleging abuse of that sort are actually on the decline.

Allegations of sexual harassment peaked in 2000 but the problem persists, according to the U.S. Equal Employment Opportunity Commission. Filings of cases with the EEOC and state and local agencies totaled 12,025 in fiscal 2006, down from nearly 16,000 in 2000.

Danielle Gubitosa, a commercial real estate broker in New York, said she was not surprised that there continue to be cases of sexual harassment. "No, the more things

change, the more they stay the same - for all the efforts that companies have made," she said. Efforts against harassment tend to be more stringent in publicly traded companies where the penalty can be steep, said Gubitosa, 30, who has worked at such companies.

In her current field, dominated by men, she said there is harassment training but the atmosphere is looser. "You have to understand the context and where it's coming from. A lot of people don't mean to offend and a lot of people are overly sensitive," she said, noting, however, she would draw the line at being called the name that Thomas allegedly called Sanders.

The ruling in the Knicks case came almost 16 years after Oklahoma law school professor Anita Hill rocked the nation and thrust the issue of sexual harassment into the spotlight by accusing then-U.S. Supreme Court nominee Clarence Thomas of sexual misconduct at his televised U.S. Senate confirmation hearings.

On October 11, 1991 Hill testified Thomas sexually harassed her by introducing lewd remarks about pornographic films and other sexual references into conversation while she worked for him at the Department of Education and the U.S. Equal Employment Opportunity Commission in the 1980's. Among the more notorious allegations was her description of Thomas picking up a soft drink can and asking "Who has put pubic hair on my Coke?"

Thomas, who denied Hill's accusations, was confirmed. On the eve of the publication of Thomas' autobiography, Hill, now a professor of social policy, law and women's studies at Brandeis University, continued this week publicly to assert the veracity of her allegations against Thomas in media interviews and in an op-ed piece on Tuesday in The New York Times.

The Hill-Thomas episode triggered a national debate on the issue of sexual harassment and prompted greater attention to the problem in the workplace. Prior to Hill's allegations, "sexual harassment was largely not discussed at work. Most people recognize the Hill-Thomas hearings as a major watershed," said Freeda Kapor Klein, San Francisco-based diversity consultant and author of the upcoming book, "Giving Notice, Why the Best and the Brightest Leave the Workplace."

"Millions of employers now discuss where is that boundary between appropriate and inappropriate behavior. Is it different with my peers than with my boss? Is it always inappropriate to talk about my sex life?" she said. "There has been a decrease in the more blatant forms of harassment and an increase in the more subtle forms."

The incidence of unwanted sexual attention in the form of teasing, jokes, remarks or questions, remains at 11 percent annually for Caucasian women and 14 percent annually for women of color, according to a 2003 study done by the non-profit Level Playing Field Institute, which was founded by Klein.

Sexual harassment became illegal under Title VII of the Civil Rights Act of 1964, which forbade sex discrimination. However, sexual harassment was not widely recognized as a form of sex discrimination or widely prosecuted until the mid-1970s, a time coinciding with women entering the work force in greater number and agitating for equal rights with men.

Although the current number of cases filed may be lower, "Nevertheless, we're still recovering a significant amount of money for victims, upwards of \$50 million per year, and we are still filing a significant amount of litigation, approximately 100 law suits per year," said EEOC spokesman David Grinberg.

Noelle Brennan is a prominent Chicago employment lawyer and former EEOC attorney who played a pivotal role in some of the agency's biggest cases in Chicago, including a \$34 million settlement in 1998 for about 400 women working at a Mitsubishi factory in Normal. "My perception is that as the work force becomes more educated and as women become more assertive about making complaints, confronting the harasser and taking steps to assert their rights, there are fewer incidents of overt harassment such as the groping," she said. "Unfortunately what I think continues is this more generalized hostility, so you get sex harassment in a different form. It is manifested more through hostility than overt sex acts."

Christopher Uggen, chairman of the sociology department at the University of Minnesota in Minneapolis and a longtime researcher on sexual harassment, agreed. "The goal of harassers is not typically or exclusively sexual conquest. The goal can be domination and power," he said. Uggen noted that the number of cases filed may decline because companies provide more support than in the past and more people may be taking their complaints to their human resources department instead of the EEOC and the courts.

However, the Knicks verdict came a day after the U.S. Supreme Court declined to hear arguments in a sexual harassment case against the women's soccer coach at the University of North Carolina at Chapel Hill.

There are also new technological twists to sexual harassment, according to Jerry Reisman, an employment and workplace attorney for 20 years in Garden City, N.Y. "I think the computer has made it different. Now we have co-workers e-mailing one another. We have cases in which management has brought subordinate employees into their offices and shown them things on the Internet which are offensive," said Reisman, who said he has handled 10 sexual harassment cases this year including two involving e-mail.

"By the way, there's a negative to all this," said Reisman. "Many years ago, people found their mate at work. Today, there are many workers who are sensitive to these issues and who don't go forward and approach another co-worker and try to start a relationship with them" he said. "I'm not saying it doesn't happen anymore, but I'll bet it doesn't happen as frequently as it did."

Anderson reported from New York and Rose reported from Chicago. Visit the Chicago Tribune on the Internet at <http://www.chicagotribune.com>/Distributed by McClatchy-Tribune Information Services.