

The Settlement of Harassment Claims in the #MeToo Era - *New Jersey Law Journal*

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Yelena Yukhvid

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The #MeToo movement involves a hashtag that has been utilized widely on social media in an attempt to demonstrate the widespread prevalence of sexual harassment and assault. In the past year, the #MeToo movement has had a profound impact on many aspects of U.S. society. Without question, it has raised the national consciousness concerning sexual violence and harassment in the workplace. But, of special interest to lawyers, it has also called into question the processes and practices that many believe have allowed serious allegations to go unreported and unaddressed. One of them is the established practice of using nondisclosure provisions in settlement agreements, provisions that promote settlement but effectively shield allegations of wrongdoing from further scrutiny. In response to the movement's claim that such provisions provide cover to serial abusers, federal and state lawmakers have passed or proposed laws aimed at prohibiting or discouraging their use.

In particular, the federal Tax Cuts and Jobs Acts (TCJA) added a new section to the Internal Revenue Code (the "Code") in an obvious effort to discourage the use of nondisclosure agreements ("NDAs"). Very recently, the state of Washington passed a law limiting the use of NDAs. In addition, there are bills pending in California, Pennsylvania, New York and New Jersey that would impact the settlement of sexual harassment claims. This article will review the proposed bill in New Jersey, summarize the federal law and Washington's new law, and offer suggestions for practitioners.

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