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# When the Biggest Firm Faces Sexual Harassment Suit

By JANE GROSS  
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Correction Appended

**SAN FRANCISCO, July 28—** Martin R. Greenstein was a superstar at Baker & McKenzie, a swaggering bear of a man with a gift for attracting lucrative clients and a standard of perfection that admitted few mistakes.

Rena Weeks was a neophyte legal secretary, in over her head in the firm's intellectual property division, where she misaddressed envelopes, made typographical errors and had trouble transferring telephone calls.

Mr. Greenstein was wondering if his secretary of a few weeks would ever make the grade and Ms. Weeks was considering a less demanding job when they attended a departmental lunch three summers ago at a Sizzler restaurant not far from their Palo Alto offices, according to court documents and statements by lawyers for both of them.

It was upon leaving that lunch, side by side, that the pair embarked on a collision course that landed them this week in San Francisco Superior Court, combatants in a sexual harassment lawsuit that has riveted the nation's legal community, claimed a prime spot on Court TV and might subject Baker & McKenzie, the world's largest law firm, to a multimillion-dollar judgment.

The case involves assertions that Mr. Greenstein forced himself on several female subordinates with bawdy remarks and clumsy gropings while Baker & McKenzie turned a blind eye. It is a cautionary tale for law firms, which legal experts say have been slow to establish sexual harassment policies for themselves while at the same time they have advised clients about this rapidly evolving area of law.

"This is a wake-up call about what can happen if you don't have your act together," said Joe Schwachter, a partner at Littler, Mendelson, Fastiff, Tichy & Mathiason, a labor law firm here.

## Protecting for Profits

And the case highlights the fact that law firms trying to eliminate sexual harassment can be hobbled by their very management structure: the partnership, in which top lawyers share profits and thus have a special interest in protecting each other.

"This is a classic portrait of the difficulty of dealing with sexual harassment in a law firm," said Fraeda Klein, who heads a Boston-based consulting firm that helps employers deal

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with workplace bias. "And looking at all the things that happened in isolation, one can understand why they chose to treat it lightly."

The situation at Baker & McKenzie, which had a sexual harassment policy as early as 1990, earned this rare public airing because of what transpired after members of the property department gathered in 1991 for their fateful lunch.

Outside the restaurant that day, according to Ms. Weeks's accounts, Mr. Greenstein grabbed her breast while dropping M&M candies in the pocket of her blouse. Then he held her arms behind her back, thrust her chest forward and demanded to know which of her breasts was larger. Mr. Greenstein has denied these and other charges.

The conflict between Mr. Greenstein, 49, and Ms. Weeks, 40, would probably have been resolved outside a courtroom, just another footnote in the bewildering text of male-female relations, if Baker & McKenzie was not a rich powerhouse or if the disputed encounter between boss and secretary had been an isolated event.

But the Chicago-based legal giant is the world's largest law firm, with 1,700 lawyers, 500 partners, offices in 30 countries and gross revenue of \$512 million in 1993. And Mr. Greenstein, who was forced to resign last fall, had a history of questionable behavior toward the women who worked for him, some of it long known to his partners and some of it unearthed in the pretrial process of discovery.

In opening statements this week before Judge John E. Munter of Superior Court, Ms. Weeks's lawyer said Mr. Greenstein became more brazen as time passed, harassing at least 10 women in two Baker & McKenzie offices over six and a half years because the firm tolerated and sometimes covered up his behavior.

Among the complaints brought to the firm's attention, before Ms. Weeks's lawsuit, was one by an associate who said Mr. Greenstein tickled her feet beneath a library table and another by a temporary agency that said one of its receptionists refused to return to work because Mr. Greenstein invited her to share a hot tub.

"They knew his behavior was getting worse and they did virtually nothing about it," said Philip E. Kay, Ms. Weeks's lawyer. "The firm had the power to stop this."

Mr. Greenstein's lawyer, Thomas M. Gosselin, said in his opening statement that the many claims against his client were the result of men and women viewing the same event from different perspectives, part of the recent "uncertainty" about "what is O.K. and what is not O.K. in the workplace."

In deflecting Ms. Weeks's charges in particular, Mr. Gosselin said that she was in a "panic" at failing at her new job and that she was "braless" on the day of the departmental lunch.

Baker & McKenzie acknowledged much of the behavior attributed to Mr. Greenstein in its opening statement this week, but said the firm dealt appropriately with all accusations brought to its attention. In Ms. Weeks's case, under the terms of the firm's sexual harassment policy, the partners investigated the incident, transferred her to another department and sent Mr. Greenstein to counseling, said the firm's lawyer, John J. Bartko.

In several of the other cases, including the foot-tickling and the hot tub incidents, Mr. Greenstein was reprimanded by partners, first in Chicago, where he used to work, and later in Palo Alto. In other cases, complainants frustrated investigation by requiring anonymity, and in one situation, Mr. Bartko said, the accuser was considered unreliable because of a past affair with Mr. Greenstein.



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Several women did not step forward until the lawsuit had been under way for more than a year, Mr. Bartko said, at which point the firm forced Mr. Greenstein's resignation. Among these late accusers are an associate who said Mr. Greenstein asked if she was wearing underwear and a secretary who said he put his hand down her blouse.

Despite the firm's insistence that it did all it could, many experts in sexual harassment and employment law say Baker & McKenzie had ample opportunity to see a pattern of abuse and failed to do so, perhaps because Mr. Greenstein was a so-called rainmaker, one of its top income-producing partners.

"If I had that many complaints, even if somebody denied it every time, I'd be very suspicious," said Alan Berkowitz, a labor and employment lawyer at Schachter, Kristoff, Orenstein & Berkowitz in San Francisco. "It's too much of a coincidence. But there's a tension about dealing with a partner who controls a large amount of business. There's a tendency to shuffle it under the rug."

Paul Salvatore, a labor and employment partner at Proskauer, Rose, Goetz & Mendelsohn in New York, agreed. "Personalities are allowed to dominate and idiosyncrasies are tolerated if you're a major rainmaker," he said. "And if your idiosyncrasy is liking women, everybody says, 'That's the way he is.'"

For a long while after Ms. Weeks's complaint and subsequent lawsuit, Baker & McKenzie staunchly defended Mr. Greenstein, whose thriving trademark and copyright practice included Silicon Valley software publishers like Borland International Inc. and the Oracle Corporation.

In a letter to the Federal Equal Employment Opportunity Commission in 1992, the firm called Ms. Weeks a "bounty hunter" and said she either had an "extraordinary imagination" or had "irrationally misunderstood" behavior that others found to be "perfectly normal." At the time, five women had already complained about his advances, according to depositions and the firm's memorandums in the case.

But Baker & McKenzie later distanced itself from Mr. Greenstein, hiring separate counsel and initiating settlement talks with Ms. Weeks. By the time the firm forced Mr. Greenstein to resign, several new complainants had stepped forward and a mock jury convened by Ms. Weeks's lawyers had reached an eight-figure verdict based on a condensed version of the case.

Law firms face a special challenge in coping with such accusations against upper-echelon lawyers because of the peculiarities of partnership, experts say. In a partnership, a structure common to accounting and investment banking as well as law, there is a tier of owner-managers of equal stature who rule the roost -- the ultimate old boys' network.

"The notion that you would walk into a fellow partner's office and confront him is distasteful," said Elizabeth Walsh Pino, the ombudsman for sexual harassment complaints at Palmer & Dodge in Boston, the first law firm in the nation to establish such a post.

"These conversations are never easy, but in a corporate hierarchy, where, say, a vice president confronts a general manager, they are a bit easier."

Another problem law firms face is a particularly narrow definition of sexual harassment. Experts say that businesses in general tend to minimize women's complaints about crude remarks or innuendo, asking, in effect, what's the big deal? But law firms are the least likely to intervene, said K. C. Wagner, a faculty member at Cornell University's School of Industrial and Labor Relations, unless behavior "clearly reaches the legal threshold."

## Did Action Come too Late?

In the Baker & McKenzie case, Ms. Wagner said, hewing to that standard allowed a bad situation to fester. "If you solely evaluate your problem based on a legal standard, you lose the opportunity to nip things in the bud," she said. "Was the legal threshold reached in each of these incidents? Well, perhaps not. But it's in your best interest as an employer not to wait for that."

Whether Baker & McKenzie waited too long to clamp down is at the crux of this case. In trial briefs, the firm concedes that Mr. Greenstein "had a history of boorish or childish behavior," but that "no serious or severe conduct" was communicated prior to Ms. Weeks's suit. Ms. Weeks's lawyers argued, by contrast, that the firm "knew for many years" but still "subjected its women employees to his ongoing perverted and pervasive molestations and abuse."

Asked to speculate on what Baker & McKenzie knew and when it knew it, Ms. Klein referred to the retreats she organizes for law firms. At those retreats, she said, she often asks partners this rhetorical question: "If you heard tomorrow that you were being sued for sexual harassment, who would you guess the charges were against?"

The assembled partners, she said, never say that such a thing could not happen at their firm. And they never put forward an array of names. "They can, without a moment's notice, put a name, at most two, on the table," she said. "They know who it is who's crossing the line."

The obvious follow-up question, Ms. Klein said, is "Why haven't you dealt with it?" Then, she said, she hears a flurry of answers: "That's his style. That's none of my business. He had a hard year because his wife left him. Our clients love him. We haven't had a complaint. Or, that really isn't sexual harassment, is it?"

Photos: Rena Weeks, who filed a harassment suit against Baker & McKenzie, with her lawyer, Philip E. Kay.; Martin R. Greenstein, the Baker & McKenzie partner accused of sexual harassment, confers with his lawyer, Thomas M. Gosselin, left. (Photographs by Maya Alleruzzo/The Recorder for The New York Times)

**Correction:** July 30, 1994, Saturday

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