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Life After the Lawsuit

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Life after the lawsuit

They took their employers to court. They won. But it's not over

Attorney Catherine Broderick said her supervisors gave raises and promotions to women with whom they were having affairs. Architect Marcy Wong alleged she was denied tenure because white male professors were uncomfortable working with an Asian woman. Consultant Ann Hopkins charged she was passed over for partner because she wasn't feminine enough. And ex-cop Melissa Clerkin asserted she was sexually harassed for several years by fellow officers.

Last year, 26,181 workers filed sexual discrimination or harassment claims with the Equal Employment Opportunity Commission, up 47 percent in five years. Sexual harassment claims alone more than doubled in that period.

High-profile suits like the one pending against Mitsubishi Motor Manufacturing of America, which charges that management ignored widespread harassment, seem to have made fighting back more acceptable.

Half the claims never get beyond the initial filing, and an additional 30 percent lack sufficient evidence to be pursued. But even individuals who win or settle for large sums can wind up scarred. Sexual harassment suits invite particularly un-

welcome scrutiny. "Most of the women I know who have filed these suits say they would never do it again," says Freada Klein, a Boston-based consultant on workplace discrimination.

Broderick, Wong, Hopkins and Clerkin waged lengthy court battles that drew splashy headlines. All were vindicated, sometimes reaping large financial rewards. But in the years since, all four, as this follow-up reveals, have struggled to close the book on their cases.

CATHERINE BRODERICK

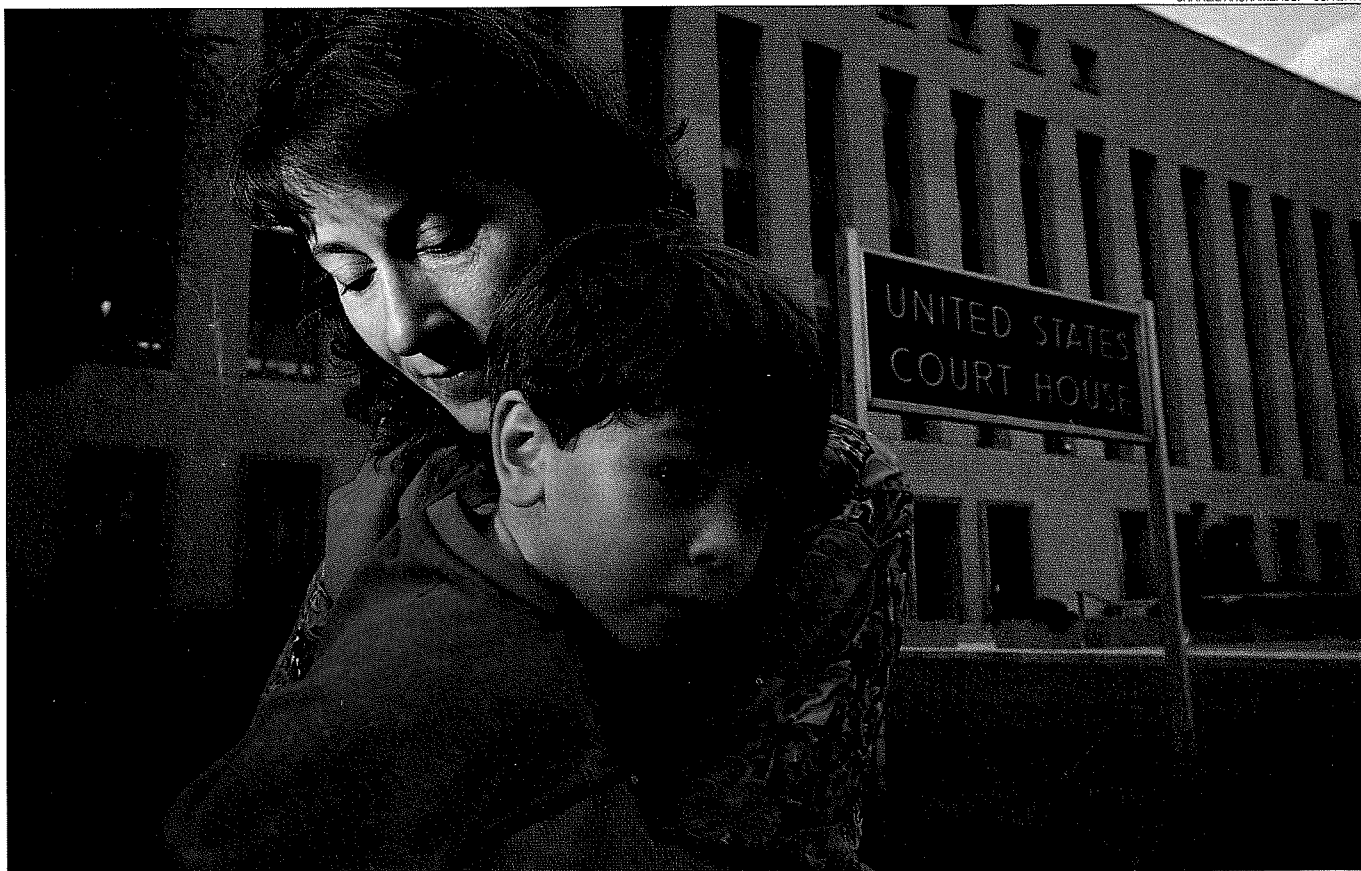
Attorney, 45. Won sexual harassment case against Securities and Exchange Commission

Months after she won her case, everyone still wanted

'I feel like people don't take me seriously because I got here through a court order.'

CATHERINE BRODERICK

CHARLIE ARCHAMBAULT—US&WR





to talk to Catherine Broderick. She received calls at work and at home from women embroiled in similar cases. She was interviewed by the national media. She appeared on "Oprah" and "Donahue."

But after a while, the phone calls slowed. Eight years after a U.S. District Court judge found that the SEC's sexually "hostile work environment" had harmed Broderick emotionally and professionally, she still struggles to separate herself from the case that consumed her for nearly a decade. So, too, she suspects, do many of her colleagues and superiors at the SEC, where she continues to work as an attorney in the office of the general counsel. "I feel like people don't take me seriously because I got here through a court order," she says.

Given the circumstances that drove her to sue, it may be hard to imagine why Broderick chose to return to the SEC. Shortly after Broderick began a new job at the agency's Arlington, Va., regional office in 1979, her supervisor, according to court documents, started making sexual advances toward her.

'As soon as the case was over, I suddenly felt very strong. I had all this energy.'

MARCY WONG

When she complained that other women in the office were having open affairs with male superiors and were being rewarded with raises and promotions, Broderick's performance appraisals were downgraded. An internal investigation by the SEC's equal employment opportunity office confirmed that "drinking and sexual involvements among staff" occurred in the regional office but rejected Broderick's claim that such an atmosphere threatened her career. So Broderick sued. She was awarded \$128,000 in back pay and promoted to senior litigation counsel, a supervisory position.

Broderick suspected her second life at the SEC would not be easy. Several of the supervisors involved in the case remained at the agency. But Broderick had few other options. "I was black-balled all over town," says Broderick,

who despite a law degree from New York University and expertise in securities law couldn't find a job at any Washington, D.C., law firm. Broderick's relationship with a man she hoped to marry collapsed under the stresses of the case. But she wanted to be-

come a mother and needed the regular hours of a government job. Still single, she has since had a son, now 4, through artificial insemination.

Broderick frets that she hasn't been given more responsibility in her job. Despite her management title, she functions as a staff attorney. Both male and female colleagues believe that Broderick's superiors are harder on her than on others. "I think she has to prove herself above and beyond what the other attorneys do," says one colleague, adding that she has observed situations in which both have turned in similar work and supervisors were more critical of Broderick. The agency declined to comment.

Clearly reluctant to wage another battle, Broderick has yet to complain. But she vows that she will demand more responsibility at her next perform-



ance review. If she is rebuffed enough times, Broderick says, she will do what she has done before: She'll fight back.

MARCY WONG

Architect, 44. Settled sexual discrimination case against the University of California—Berkeley

Most of Marcy Wong's friends marveled at her unflappability. "People kept telling me that my ability to seem so strong in the face of what was happening to me was extremely unusual," recalls the former assistant professor of architecture at the University of California. In fact, her calm masked a growing inner turmoil.

For 10 years, Wong was consumed by what she describes as a "Kafkaesque nightmare." In 1985, according to documents in Wong's case, an ad hoc committee of three members of the architecture department unanimously recommended her for tenure. It was denied the following year. Wong and her attorneys claim she was blackballed by a "good-old-boys club" that felt she didn't fit in.

Wong filed several grievances with

'This is the work I always wanted to do. This is what I love.'

ANN HOPKINS

the university. A review committee found that the then chairman of the architecture department had solicited reviews of Wong's work on seismic design from the engineering department—but after the comment deadline had passed, giving her no chance to respond. They were the only negative letters in her file, according to Wong's complaint. The university committee concluded, however, that Wong had failed to prove that the procedural violations would have affected the tenure decision. In addition, the committee acknowledged that the department had "carelessly prepared" her case.

Wong decided to sue, charging sexual and racial discrimination. A faculty review committee independently reported in 1992 that the department had ignored complaints of sexual harassment from female graduate students

and favored white males, spending more time, for example, reviewing their projects. The university settled Wong's case last January, paying \$1 million to Wong and her attorneys. The university contends that it settled the suit because a trial would

have been too costly and that Wong justifiably had been denied tenure.

As the case dragged on, Wong started her own architecture business and had three children. She gradually began taking on outside projects and eventually opened her own office. But she fell apart physically. She blames the stress of the case for the severe pneumonia and bronchitis she suffered for several winters in a row. "As soon as the case was over, I suddenly felt very strong," says Wong. "I had all this energy that I hadn't had since my early 30s."

The years of frustration and anger, however, are never far away. Wong has yet to gain back the considerable weight she lost from her small frame during the arduous battle. And she lives with the knowledge that the professional damage has made her return to an academic career unlikely. Still, Wong, who

YOUR TURN

Do you have the stamina?

You believe you're a victim of sexual harassment or discrimination. Should you sue?

The answer largely depends on your tolerance for stress. Will family and friends support you as your character and talents are pummeled? Can you put your career on hold while the case plods along?

Only after exhausting employee grievance procedures should you file a claim with a government agency. The Equal Employment Opportunity Commission operates a toll-free line (800-669-4000) that connects callers to its nearest office.

Be patient. It takes an average of a year to investigate a claim. If reasonable cause is found—hard evidence as opposed to mere assertion—the EEOC tries to settle the case. If that fails, the commission can sue. The EEOC found reasonable cause in 451 of the 13,802 harassment investigations it completed last year and took 66 harassment cases to court. Many employees don't want to wait to sue, but they first need a "right to sue" letter from the EEOC. The agency must issue the letter within six months after a request is made.

Attorneys typically handle these cases on a contingency basis. If you win, the attorney collects 30 to 40 percent of the award. If you lose, you pay a few thousand dollars for out-of-pocket expenses, usually upfront. For a list of lawyers in your area who take employment discrimination cases, send a written request with a self-addressed, stamped envelope to the National Employment Lawyers Association, 600 Harrison Street, Suite 535, San Francisco, CA 94107.

A 14-year survey in California found that employees won fewer than half of sexual harassment and discrimination cases. In general, 80 to 85 percent of such cases are settled or dismissed before trial. The median jury award prior to appeal was \$100,000. After subtracting attorneys' fees, vindication may be the biggest reward.—A.S.



netted about \$500,000 from the settlement after attorneys' fees, says it never occurred to her not to sue. "What they did to me was wrong," she says.

ANN HOPKINS

Management consultant, 52. Won sexual discrimination suit against Price Waterhouse accounting firm

She still wears no makeup. Her blue blazer and pinstriped shirt are emphatically unfeminine. And then there are her words—brusque, impatient, unconcerned about how the world judges her.

Ann Hopkins was not out to impress the mostly male partnership at Price Waterhouse. And in 1983, despite having brought in more business than any of the other candidates for partner that year, she failed to make the cut. When Hopkins inquired why, one partner advised her to "walk more femininely, talk more femininely, dress more femininely, wear makeup, have her hair styled and wear jewelry." Hopkins sued. A seven-year legal battle ended in 1990 when a U.S. Circuit Court of Appeals found that she was a victim of sexual discrimination. Price Waterhouse was ordered to make her a partner and give her nearly \$371,000 in back pay.

Hopkins now is back in her old division, the firm's office of government services. She still is a consultant to federal agencies—but "partner" now follows her name. Although the case left Hopkins with enemies, most of her col-

'My job gave me so much satisfaction. Now that's all gone.'

MELISSA CLERKIN

leagues say they respect her fortitude. "Coming back was an extremely gutsy thing for her to do," says Fran Engoron, a senior partner. "This is the work I always wanted to do," says Hopkins. "This is what I love."

Hopkins and the firm first thought she should make a fresh start, consulting with clients in the private sector. But with few contacts and little experience, she floundered. She considered returning to her old job at the World Bank, where she had worked as a budget planner during what she calls her "sabbatical" from Price Waterhouse. Instead, Hopkins persuaded the firm to send her back to government services. With ample contacts, she quickly brought in business and gained the admiration of colleagues.

Hopkins knows, of course, that she will always be identified with the suit she brought against her employer. She hears the whispers in the halls, mostly now from young M.B.A.'s who studied her case in school. But Hopkins refuses to dwell on the past. She has learned to mask any pain with an all-business tone that belies the hardships of the past decade, including the end of her marriage to a man who left her for another woman during the case. To many at