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## NO GIRLS ALLOWED: HOW SEXUAL HARASSMENT AND GENDER DISCRIMINATION KEEP WOMEN OUT OF OIL FIELDS

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### *I. Introduction*

Oil fields have long been characterized as a “boys club,” and the majority of employees continue to be male.<sup>1</sup> While it is recognized by many people within the oil and gas and legal professions that oil fields create a hostile work environment for women rampant with sexual harassment and gender discrimination, not much has been done to change the attitudes towards litigating workplace harassment. Judges and juries often side in favor of big industry defendants, leaving women without resources and without hope for positive change. The outcome of the harassment lawsuit against

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\* University of Oklahoma College of Law, J.D. Candidate May 2025. I would like to thank all the strong women in my life who made me the person I am today and gave me the confidence to do anything I put my mind to. Specifically, I would like to thank my Mother, Lori Biasatti, for all the sacrifices she has made for me and continued support she has given me throughout my life. I’d like to thank my supervisor, Professor Zachary Schmoock, and the ONE J Board and Candidates for their mentorship throughout this process. Lastly, I’d like to thank my friends for being a shoulder to lean on and believing in me every step of the way.

1. Kathleen Murphy, Lola Strand, Linda Theron, & Michael Ungar, “*I Just Gotta Have Tough Skin*”: *Women’s Experiences Working in the Oil and Gas Industry in Canada*. THE EXTRACTIVE INDUS. AND SOC’Y Vol. 8 Iss. 2. (2021). <https://www.sciencedirect.com/science/article/abs/pii/S2214790X21000277>; see also *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Plaintiff’s Amended Complaint Against STC* at ¶ 21.

Schlumberger Technology Corporation (now known as SLB since 2022<sup>2</sup>) is no different.

This note will explore the litigation of the sexual harassment and gender discrimination suit brought by plaintiff Jessica Cheatham against Schlumberger Technology Corporation, how the culture of the oil and gas industry might have affected the outcome of this case, and how the community can change its approach to sexual harassment and gender discrimination claims so that women will no longer be facing the same desolate future in male-dominated industries. Section II discusses the background and outcome of the recent litigation brought against Schlumberger Technology Corporation by Jessica Cheatham. Section III outlines the history of the Equal Employment Opportunity Commission (hereinafter “EEOC”) and gender discrimination and sexual harassment law. Section IV focuses on how current sexual harassment policies and litigation have failed to improve the work environment for women in the oil and gas industry. Section V proposes different ideas to change the policies and enforcement of gender discrimination and sexual harassment policies within corporations, and more specifically, the oil and gas industry. Lastly, section VI looks at Schlumberger Technology Corporation’s current guidelines and their pitfalls and how applications of new ideas surrounding gender discrimination and sexual harassment could have helped Jessica Cheatham and will help many women in the future at Schlumberger Technology Corporation if they are implemented.

## *II. Recent Litigation of Workplace Sexual Harassment: Cheatham v. Schlumberger Technology Corp.*

In June of 2020, Sara Saidman and Jessica Cheatham brought a workplace sexual harassment and gender discrimination case on behalf of themselves and all women similarly situated against Schlumberger Technology Corporation (hereinafter “STC”), a major player in the oil industry. The allegations were an exposé on just how hostile the oil field environment is towards women trying to make their way in a male-dominated industry. During the litigation, the plaintiffs were denied class status, but Saidman and Cheatham remained on the case. Before trial, Saidman was dropped as a

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2. Will Feuer & Benoît Morenne, *Schlumberger Rebrands as SLB, Dropping Family Name*, WALL ST. J. <https://www.wsj.com/articles/schlumberger-rebrands-as-slb-dropping-family-name-11666613853>

plaintiff in December of 2022<sup>3</sup>, leaving Cheatham as the only remaining plaintiff.

Before losing their class status, plaintiffs alleged “that the pervasive discrimination, hostile work environment, and culture of disrespect towards women is consistent across various parts of the country . . . [and] [f]ield locations and rigs are predominantly staffed with male employees; there is often only one or two women working on a rig.”<sup>4</sup> Alone, Cheatham’s allegations describing her treatment on oil fields illustrated this “pervasive discrimination”<sup>5</sup> and culture that is deeply rooted in its mistreatment towards and dismissiveness of female employees. Cheatham claimed four violations under Title VII of the Civil Rights Act: (1) sex and gender discrimination; (2) hostile work environment; (3) retaliation; and (4) wrongful termination.<sup>6</sup> Amongst her most poignant factual allegations was Cheatham’s claim that she was forced to share her living quarters with men.<sup>7</sup> As one of the only women on a job site, Cheatham shared a small trailer with three men at a time, and at one point was “required to share a bedroom with one of her male colleagues.”<sup>8</sup> Further, many male colleagues would use inappropriate language around Cheatham, like one instance where a supervisor explained a tool to resemble a “p\*ssy” and implied that you had to “lift up its skirt” to use it.<sup>9</sup> STC admitted to disciplining this employee in their answer but denied knowledge of the employee’s word choice.<sup>10</sup> Cheatham also recounted her male counterparts making inappropriate comments about her work attire, reprimanding her for wearing shorts and claiming she was “asking for it” and that “she didn’t want to see the guys get sexual harassment charges” because

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3. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Order Granting Sara Saidman’s Motion to Dismiss her Claims*. (Sara Saidman reached a settlement agreement with SLB for her sexual harassment and gender discrimination claims). *See also* Amanda Drane, *Jury rules in favor of SLB after ex-employee claimed company allowed sexual harassment against women*, HOUSTON CHRON. (July 28, 2023), <https://www.houstonchronicle.com/business/energy/article/slb-harassment-suit-jury-verdict-18264203.php>

4. *Plaintiff’s Amended Complaint Against STC* at ¶ 15.

5. *Id.*

6. *Id.* at ¶¶ 44-54.

7. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Plaintiff’s Amended Complaint Against STC*.

8. *Id.* at ¶ 96.

9. *Id.* at ¶¶ 99-100.

10. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Defendant’s Answer to Amended Complaint* at ¶ 99-100.

she chose to wear shorts.<sup>11</sup> Coworkers also alluded to her sleeping around and giving out “special favors” to make it as far as she did as a woman in her profession.<sup>12</sup> Lastly, Cheatham alleges that her male colleagues often denied her ability to perform at their level because of her status as a woman. Cheatham recounted one supervisor telling her “[y]ou do not deserve to be here and you’re not going to last long,” along with other comments demeaning her intelligence.<sup>13</sup>

STC’s response to Cheatham’s allegations can be summed up in a series of denials of the allegations made by Cheatham. But, there was an assurance that the offending employees were disciplined, and the appropriate reports were made.<sup>14</sup> Cheatham alleges that, although she made multiple reports to human resources (hereinafter “HR”), her claims were either invalidated or ignored entirely.<sup>15</sup> She was told by HR “guys just do that. This is a man’s field, so they’re bound to say stuff.”<sup>16</sup> Another HR representative confirmed that “this is a man’s industry [so this] is likely to happen.”<sup>17</sup> After making several complaints to HR, Cheatham claims she was retaliated against by demotion to an entry-level position and a remote job offer in Alaska.<sup>18</sup> But again, STC “lacked the knowledge” to admit or deny a majority of Cheatham’s assertions.<sup>19</sup>

In February of 2023, after more than two years of litigation, the court denied STC’s Motion for Summary Judgment (hereinafter “the Motion”).<sup>20</sup> The court stated that “a jury could find for the plaintiff on her retaliation and hostile work environment claims *if she is believed*.” (emphasis added).<sup>21</sup> Further, the court stated STC’s allegation that Cheatham did not file her claim

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11. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Plaintiff’s Amended Complaint Against STC* at ¶ 106.

12. *Id.* at ¶¶ 109, 112.

13. *Id.* at ¶ 123.

14. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Defendant’s Answer to Amended Complaint*.

15. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Plaintiff’s Amended Complaint Against STC*.

16. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Plaintiff’s Amended Complaint Against STC* at ¶ 5.

17. *Id.*

18. *Id.*

19. *Id.* at ¶ 15.

20. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Memorandum and Order Denying Defendant’s Motion for Summary Judgment*.

21. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Court’s Memorandum in Opposition to STC’s Motion for Summary Judgment* at 8.

within the 300-day limitations period lacks merit.<sup>22</sup> Even if all of Cheatham’s allegations did not fall within the time limit, at least some of them did, *and* even if that did not work, she met the requirements to “piggyback” off of Saidman’s claims. To join another plaintiff’s claims, they must have similarities in nature and position.<sup>23</sup> Because of this, and Cheatham’s abundant factual allegations against STC, the Motion by STC failed.

Although the court ruled in her favor on the Motion, Cheatham still came up short in the eight-day jury trial against STC.<sup>24</sup> For over three years Cheatham had been fighting the pervasive sexual harassment and gender discrimination within STC, but it all ended after an eight-day jury trial. Judge Hoyt entered a final judgment asserting that the jury found “the plaintiff, Jessica Cheatham, shall take nothing by her suit.”<sup>25</sup> The jury also found that Cheatham’s claims were insufficient “to prove [STC] allowed the hostile behavior on its rigs” or to show STC “retaliated against her for complaining.”<sup>26</sup> Cheatham has yet to file an appeal.

### *III. Workplace Sexual Harassment and Gender Discrimination in Practice*

For Cheatham to have brought a claim under Title VII of the Civil Rights Act for employment discrimination, she first had to go through the Equal Employment Opportunity Commission (hereinafter “EEOC”).<sup>27</sup> The EEOC is a federally funded commission “responsible for enforcing federal laws that make it illegal to discriminate against a job applicant.”<sup>28</sup> An employee will file a charge with the EEOC and the EEOC will then decide on whether or not the employee has a claim.<sup>29</sup> Once the EEOC has determined that there is a “right to sue,” complainants may file a private action against an employer.<sup>30</sup>

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22. *Id.*

23. *Id.* at 9.

24. Drane, *supra* note 3.

25. *Saidman v. Schlumberger Technology Corp.*, 4:20-cv-02193 (S.D. Tex. June 23, 2020), *Judge Hoyt’s Final Judgment* at 1.

26. Drane, *supra* note 3. (since the entry of the Final Order by Judge Hoyt in 2023, there has yet to be an appeal on file by Ms. Cheatham or her attorneys).

27. *Filing a Charge of Discrimination*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, (2024). <https://www.eeoc.gov/filing-charge-discrimination>

28. *Overview*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N, (2024).

29. *Filing a Charge of Discrimination*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N (2024). <https://www.eeoc.gov/filing-charge-discrimination>

30. Anne Noel Occhialino & Daniel Vail, *Why the EEOC (Still) Matters*, 22 HOFSTRA LAB. & EMP. L.J. 671, 698 (2005).

This section details the creation and improvement of the EEOC, the administrative process a complainant must follow, and a background of the requirements to prove sexual harassment in the workplace found in developing case law.

*A. A History of the Equal Employment Opportunity Commission*

President John F. Kennedy created the EEOC in 1961.<sup>31</sup> The commission aimed to ensure “that applicants are treated without regard to race, color, religion, or national origin.”<sup>32</sup> By 1964, Title VII of the Civil Rights Act was introduced to prohibit employment discrimination in companies that have more than 15 employees on the basis of race, color, religion, national origin, and sex.<sup>33</sup> Title VII also implemented the creation of the EEOC, and “one year after Congress passed Title VII, the EEOC opened its doors for business.”<sup>34</sup>

The EEOC comes from humble beginnings. The Commission described itself as a “toothless tiger” when it first began, as compared to other agencies.<sup>35</sup> Many chairmen were forced out of town by backlash from employers for finally calling them out on their wrongdoings.<sup>36</sup> The Commission struggled to keep enough investigators on staff with the influx of discrimination charges thrown on the investigators’ desks.<sup>37</sup> The implementation of sex discrimination into the language of Title VII of the Civil Rights Act of 1964 at a time when the Women’s Rights movement was full steam ahead, as well as the end of segregation, made the work for new investigators more overwhelming than rewarding.<sup>38</sup> Also, The Commission

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31. *The Early Years*, U.S. EQUAL EMP’T OPPORTUNITY COMM’N (2024). <https://www.eeoc.gov/filing-charge-discrimination>

32. Bernard F Ashe, *Government Efforts to Erase Employment Discrimination*. 11-WTR EXPERIENCE 14 (2001) (Westlaw).

33. *Id.*

34. Occhialino, *supra* note 30, at 672.

35. Rebecca Hanner White, *The EEOC, the Courts, and Employment Discrimination Policy: Recognizing the Agency’s Leading Role in Statutory Interpretation*, 1995 UTAH L. REV. 51, 56 (1995) (citing EEOC, EEOC History: 35th Anniversary: 1965-2000, 1965-1971: A “Toothless Tiger” Helps Shape the Law and Educate the Public (last visited 2024). <http://www.eeoc.gov/abouteeoc/35th/pre1965/index.html>). *See also* Robert Belton, *The Unfinished Agenda of the Civil Rights Act of 1991*, 45 RUTGERS L. REV. 921, 957 & n.177 (1993) (citing Alfred Blumrosen as the source of the phrase “toothless tiger”).

36. White, *supra* note 35.

37. *Id.*

38. Occhialino, *supra* note 30.

could not bring actions against employers at this time, the extent of their authority was referring cases to the Attorney General.<sup>39</sup>

In 1972, however, the Equal Employment Opportunity Act was created, providing the agency with “the authority to enforce Title VII against private employers[.]”<sup>40</sup> This expansion proved to be successful in making headway against discriminatory employment practices. The EEOC could now go after employers through litigation and bring claims against companies with as little as fifteen employees.<sup>41</sup> The EEOC, however, was still limited in its enforcement powers. They had “poor leadership, lack of funding, [and] expanded responsibilities and coverage” that shifted their attention to getting through the “backlog of charges.”<sup>42</sup> In 1991, Congress passed a new Civil Rights Act (hereinafter CRA).<sup>43</sup> “The CRA provided that, for the first time, plaintiffs in Title VII and ADA cases had the right to a jury trial and to recover compensatory and punitive damages in cases in which an employer had intentionally discriminated.”<sup>44</sup> This was a huge change in the litigation of employment discrimination cases, mainly because juries are often more sympathetic to plaintiffs than the large corporations on the defense.<sup>45</sup> This could be used to the advantage of plaintiff’s attorneys to appeal to the emotions of the general population and earn them more favorable rulings than before.

The EEOC continued to focus on their “three-pronged approach to eliminate discrimination in the workplace: (1) prevention through education and outreach; (2) voluntary resolution of disputes; and (3) when voluntary resolution fails, strong and fair enforcement.”<sup>46</sup> Today the Commission continues to focus on Alternative Dispute Resolution to ensure claimants get the relief they deserve.<sup>47</sup>

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39. *Id.* at 672.

40. *Id.* at 677.

41. Michael Z. Green, *Proposing A New Paradigm for EEOC Enforcement after 35 Years: Outsourcing Charge Processing by Mandatory Mediation*, 105 DICK. L. REV. 305, 325 (2001).

42. *Id.* at 310.

43. Occhialino, *supra* note 30.

44. *Id.* at 686-87.

45. Valerie P. Hans, *The Illusions and Realities of Jurors’ Treatment of Corporate Defendants*, 48 DE PAUL L. REV. 327, 328–29.

46. Anne Noel Occhialino & Daniel Vail, *Why the EEOC (Still) Matters*, 22 Hofstra La. & Emp. L.J. 671, 688 (2005).

47. *Id.* at 690.

*B. The EEOC's Administrative Process*

To make an employment discrimination claim under Title VII, a claimant must first file a charge, the EEOC's term for complaint, with the EEOC.<sup>48</sup> This filing puts the EEOC "on notice that discrimination has occurred (or is occurring), giving it a chance to remedy the discrimination without resorting to litigation."<sup>49</sup> The Commission then conducts an investigation that will result in the issuance of a "letter of determination."<sup>50</sup> This letter will either state that "the Commission 'is unable to conclude that the information obtained establishes violations' of Title VII" or "gives the claimant a 'notice of a right to sue.'"<sup>51</sup>

If a claimant received the right-to-sue determination, they may now take legal action against the employer using private attorneys.<sup>52</sup> If other claimants similarly situated seek to join the original plaintiff's claim, they may "piggyback" off of the original claim without going through the EEOC.<sup>53</sup> A successful piggyback process requires certain hurdles that need to be met:

First, the plaintiff must be similarly situated to the person who actually filed the EEOC charge. Second, the charge must have provided some notice of the 'collective or class-wide nature of the charge.' Finally, a prerequisite—implicit to be sure—for piggybacking under the single filing rule is the requirement that the individual who filed the EEOC charge must *actually file a suit* that the piggybacking plaintiff may join.<sup>54</sup>

The process of piggybacking creates an avenue for complainants who may have faced similar discrimination but are running out, or have run out, of time to file their own complaint.<sup>55</sup> This can be powerful because it may encourage others who were discouraged from coming forward to do so now and still potentially get the relief they deserve.

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48. Patrick McDermott, Stephen Ichniowski, Katherine S. Perez, and Jennifer Ortiz Prather, *After 20 Years, Mediation is Mainstream at the EEOC*, State Bar of Texas, 2020 TXCLE-ADR 3 ART (2020).

49. Occhialino, *supra* note 30, at 692. See also *EEOC v. Shell Oil Co.*, 46 U.S. 54 (1984).

50. Occhialino, *supra* note 30.

51. *Id.* quoting EEOC, Priority Charge Handling Procedures § II.F.1 (Bureau of Nat'l Affairs 2003).

52. Occhialino, *supra* note 30.

53. *Betcher v. The Brown Schools*, 262 F.3d 492, 494 (5th Cir. 2001).

54. *Id.*

55. *Id.*

Sometimes, filing a formal complaint with the court may not be the best option for a claimant. Beginning in 1995, the EEOC started implementing alternative dispute resolution tactics into their practice.<sup>56</sup> The program became functional nationwide in April of 1999.<sup>57</sup> The EEOC began hiring “mediators who have expertise in both equal employment opportunity matters and the EEOC’s process.”<sup>58</sup> These neutral mediators then helped claimants and employers reach settlement agreements. The mediation process has boasted positive results amongst both employers and employees.<sup>59</sup> Research done by Dr. E. Patrick McDermott, “the primary researcher for the independent study of the EEOC’s mediation program,” concluded that “the EEOC’s mediation program was a rousing success.”<sup>60</sup> As with many other legal fields, there has been a recent push towards mediation with the EEOC when filing discrimination claims.<sup>61</sup> Moving towards a mediation-based approach would allow for the EEOC to “focus its limited resources and funding on enforcement initiatives,” as well as “tackling systematic and class-based problems.”<sup>62</sup> This would result in positive outcomes not only for persons seeking relief against their employers but also in the way employers treat their employees as a whole.

### *C. Case Law Interpreting Harassment and Discrimination Claims*

Title VII of the Civil Rights Act of 1964 “makes it ‘an unlawful employment practice for an employer . . . to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.’”<sup>63</sup> The interpretation of the Act was later expanded to account for claims against employers who created a “discriminatorily hostile or abusive environment.”<sup>64</sup> Where the complainant can show a hostile work environment, “Title VII is violated.”<sup>65</sup>

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56. Patrick McDermott, Stephen Ichniowski, Katherine S. Perez, and Jennifer Ortiz Prather, *After 20 Years, Mediation is Mainstream at the EEOC*, State Bar of Texas, 2020 TXCLE-ADR 3 ART (2020) (Westlaw).

57. Green, *supra* note 41, at 331.

58. McDermott, *supra* note 56.

59. Green, *supra* note 41, at 334.

60. *Id.*

61. *Id.* at 338.

62. *Id.*

63. *Harris v. Forklift*, 510 U.S. 17, 21, (1993) (citing 42 U.S.C. § 2000e-2(a)(1)). *See also* 42 U.S.C. § 2000e-2(a)(1).

64. *Id.*

65. *Id.*

Once the plaintiff receives a right to sue letter from the EEOC, they may file suit against the defendant in court. In a gender discrimination suit, the burden is placed on the plaintiff to establish the elements of gender discrimination, followed by a burden on the defendant to rebut the charge by providing a “legitimate non-discriminatory justification” for differential treatment.<sup>66</sup> If no legitimate reason can be proven by the defendant, then the action will be considered discriminatory. To establish a prima facie gender discrimination case, a plaintiff must show “(1) that she is a member of a protected class; (2) that she was qualified for the position sought; (3) she was subject to an adverse employment action; and (4) she was replaced by someone outside her protected class or was treated less favorably than other similarly situated employees outside her class.”<sup>67</sup>

Sexual harassment claims fall under the umbrella of gender discrimination but have slightly different elements plaintiffs must prove. The EEOC Guidelines define sexual harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . [where] such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.”<sup>68</sup> There are two different types of sexual harassment claims an employee can invoke against an employer: quid pro quo sexual harassment and sexual harassment that results in a hostile work environment.<sup>69</sup> Quid pro quo harassment “occurs where an employer, by way of a supervisory employee’s actions, requires sexual favors from an employee in exchange for job related benefits.”<sup>70</sup> Alternatively, a hostile work environment claim is used when “harassing conduct was so severe or pervasive” that it “alter[ed] the conditions of the victim’s employment and create[d] an abusive working environment.”<sup>71</sup> The elements of a prima facie hostile work environment claim consist of a demonstration that “(1) [plaintiff] is a member of a protected group; (2) [plaintiff] was the victim of uninvited sexual

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66. *Haire v. Bd. of Sup’rs of Louisiana State Univ. Agric. & Mech. Coll.*, 719 F.3d 356, 364 (5th Cir. 2013).

67. *Id.* at 363 (quoting *Fahim v. Marriot Hotel Servs.*, 551 F.3d 344, 350 (5th Cir. 2008)).

68. *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57, 65 (1986)(citing 29 CFR §§ 1604.11(a), 1604.11(a)(3)).

69. 62 Am. Jur. Trials 235 (Originally published in 1997).

70. *Id.*

71. *Harvill v. Westward Comme’ns, L.L.C.*, 433 F.3d 428, 434 (5th Cir. 2005) (quoting *Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57, 67(1986)) (original alterations omitted, additional alterations added).

harassment; (3) the harassment was based on sex; (4) the harassment affected a ‘term, condition, or privilege’ of [plaintiff’s] employment; and (5) [plaintiff’s] employers knew or should have known of the harassment and failed to take prompt and remedial action.”<sup>72</sup> The determination of severe or pervasive harassment should be one that is both “objectively offensive, meaning that a reasonable person would find it hostile and abusive” and “subjectively offensive, meaning the victim perceived it to be [severe and pervasive].”<sup>73</sup> In order to determine whether conduct is severe and pervasive to be reasonably offensive both objectively and subjectively, courts should consider several factors: “the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee’s work performance.”<sup>74</sup> The plaintiff must only show that the harassing conduct was unwelcome, its “voluntariness ha[s] no materiality whatsoever.”<sup>75</sup> Finally, a sexual harassment claim for hostile work environment is not required to show any economic damages to be granted relief, emotional or physical damage is enough to be granted relief under this claim.<sup>76</sup>

If an employee is discharged after complaining of any form of workplace discrimination, they may also bring a retaliation claim against the employer. In order to show a prima facie retaliation claim, “[plaintiff] must prove that: (1) she engaged in an activity that Title VII protects; (2) [the employer] carried out an adverse employment action; and (3) a causal nexus exists between her protected activity and [the employer’s] adverse action.”<sup>77</sup> In order to be successful in meeting the elements of this claim, plaintiff must show that the “working conditions would have been so difficult or unpleasant that a reasonable person in [her] shoes would have felt compelled to resign.”<sup>78</sup> Several factors are assessed in order to prove this: “(1) demotion; (2) reduction in salary; (3) reduction in job responsibilities; (4) reassignment to menial or degrading work; (5) reassignment to work under a younger supervisor; (6) badgering, harassment, or humiliation by the employer calculated to encourage the employee’s resignation; or (7) offers of early

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72. *Id.* (quoting *Woods v. Delta Beverage Group, Inc.*, 274 F.3d 295, 298 (5th Cir. 2001)).

73. *Id.* (quoting *Shepherd v. Comptroller of Pub. Accounts*, 168 F.3d 871, 874 (5th Cir. 1999); see also *Harris v. Forklift*, 510 U.S. 17, 21-22 (1993).

74. *Id.* (quoting *Harris*, 510 U.S. at 23).

75. *Meritor Sav. Bank, FSB*, 477 U.S. 57 at 62.

76. *Id.* at 65.

77. *Harvill*, 433 F.3d at 439.

78. *Id.* at 440.

retirement.”<sup>79</sup> In order to show a hostile environment was the reason for resignation, the “severity or pervasiveness of harassment” must be greater than “the minimum required to prove a hostile working environment.”<sup>80</sup>

In the case of *Cheatham*, the jury found the facts presented were insufficient to lead to any determinations of a hostile work environment or retaliation.<sup>81</sup>

#### *IV. How Employer Practices and Sex Discrimination Litigation Fails Women in the Oil and Gas Industry*

On average, 81,000 charges of discrimination are filed with the EEOC each year.<sup>82</sup> Many of them still include “egregious acts of harassment, disparate treatment, and retaliation.”<sup>83</sup> Further, the oil and gas industry as a whole seems to be the last to ensure its female employees are provided equal opportunities to their male counterparts, or to be treated with respect *if* they can reach these positions. In a study done by McKinsey & Company, oil and gas was ranked “last in female participation at entry level [jobs,] and second to last in the C-Suite[.]”<sup>84</sup> Even when compared within their own category of Science, Technology, Engineering, and Math (hereinafter “STEM”) industry jobs, which historically employs the lowest number of female workers to begin with, oil and gas continued to come dead last.<sup>85</sup> Field positions specifically have the least female participation, coming in at just 15%.<sup>86</sup> When it is already difficult for women to get into the industry at entry-level positions, it becomes even harder to gain respect from their male counterparts if they do. In order to feel included in the industry, many women feel the need to exhibit “aggressive confidence” or act as “one of the guys” to show that “they can do their job just as well as men.”<sup>87</sup>

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79. *Brown v. Kinney Shoe Corp.*, 237 F.3d 556, 566 (5th Cir. 2001) (quoting *Brown v. Bunge Corp.*, 207 F.3d 776, 782 (5th Cir. 2000)).

80. *Harvill*, 433 F.3d at 440 (quoting *Landgraf v. USI Film Products*, 968 F.2d 427, 430 (5th Cir. 1992)).

81. Drane, *supra* note 3.

82. Occhialino, *supra* note 30.

83. *Id.*

84. Kassia Yanosek, Sana Ahmad, and Dionne Abramson, *How Women Can Help Fill the Oil Industry’s Talent Gap*. MCKINSEY & COMPANY (2019). <https://www.mckinsey.com/industries/oil-and-gas/our-insights/how-women-can-help-fill-the-oil-and-gas-industrys-talent-gap>.

85. *Id.*

86. Murphy, *supra* note 1.

87. *Id.*

With the limited number of female field workers, they are often forced to share living quarters with men and are not provided proper accommodations for privacy, making it a ripe environment for the possibility of sexual harassment claims. Statistically, “harassment tends to occur more often in highly sexualized work environments, male-dominated work environments, and work environments in which the employers exercise little or no control over behavior.”<sup>88</sup> Further, “[t]he presence of harassing role models may also trigger others . . . to engage in sexually harassing behavior.”<sup>89</sup> This is exactly the environment that is created on field jobs for female field workers. Cheatham spent the majority of her time in fieldwork in predominantly male living quarters with no privacy.<sup>90</sup> This may not typically be a problem when same-sex employees are sharing living quarters, or even if more than one woman was present and they were allowed to share living quarters. But when one woman is forced to live with all men, sometimes even sharing a room, discomfort and safety become major issues. Cheatham’s complaint points out the lack of supervision on the sites and the toxic culture created by male employees and supervisors.<sup>91</sup> This environment is where the majority of the adverse behavior Cheatham reported occurred, further reinforcing what older research has shown.<sup>92</sup>

The majority of employment discrimination cases will never see a courtroom.<sup>93</sup> Notwithstanding sexual harassment claims alone, “seventy percent of all employment discrimination claims end in settlement[.]”<sup>94</sup> Evidenced by Cheatham’s case itself, it is very difficult to win at the trial level against big corporations that have extensive legal teams and all the money in the world to fight complaints such as Cheatham’s. Further, workplace harassment and sexual harassment generally are extremely sensitive topics, making it difficult for victims to even come forward in the first place. The “[m]ajority of employees who experience harassment in the workplace will fail . . . to report the misconduct.”<sup>95</sup> Alternatively, victims turn to “enduring the conduct, denying its occurrence, avoiding the harasser,

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88. Kate Webber Nunez, *Toxic Cultures Require a Stronger Cure: The Lessons of Fox News for Reforming Sexual Harassment Law*, 122 PENN. ST. L. REV. 463, 502 (2018).

89. *Id.*

90. *Plaintiff’s Amended Complaint Against STC* at ¶¶ 13-14.

91. *Plaintiff’s Amended Complaint Against STC* at ¶¶ 18-20.

92. Webber Nunez, *supra* note 88, at 501.

93. Robert D. Friedman, *Confusing the Means for the Ends: How a Pro-Settlement Policy Risks Undermining the Aims of Title VII*, 161 U. PA. L. REV. 1361, 1362 (2013).

94. *Id.*

95. Webber Nunez, *supra* note 88, at 478.

or blaming oneself.”<sup>96</sup> With the lack of victims even willing to come forward in the first place, it makes it difficult for the law to be applied properly, and to see courts expand and adapt the law to a changing workplace environment.

Worst of all, sexual harassment and gender discrimination has become a shared experience between female employees. As a young female professional, it is difficult to find others who do not share the experience of some form of gender discrimination, harassment, or inappropriate behavior from coworkers and employers. About 81% of women will be harassed in their lifetime, 38% of this coming from harassment within the workplace.<sup>97</sup> But this behavior is tolerated because many female employees believe that without their tolerance, they would be out of a job.

Nearly 3 in 4 sexual harassment claims will not be reported, with 63% of those potential claims being held by women.<sup>98</sup> Out of the ones that do get reported, the EEOC released a report in 2020 showing that 55% of victims of sexual harassment that do report will experience retaliation from their employer.<sup>99</sup> While these statistics may seem shocking, not much has been done to improve workplace sexual harassment, and the oil and gas industry is falling even more behind than its more “progressive” corporate counterparts. Because the oil and gas industry is the lowest employer of women, they may see no reason to change their practices because it works perfectly for the environment they have sustained for decades.<sup>100</sup> But with a new wave of women in STEM careers<sup>101</sup>, the industry will be forced to adapt if they want to remain on the pulse of the industry.

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96. *Id.* (citing Louise F. Fitzgerald et al., *Why Didn't She Just Report Him? The Psychological and Legal Implications of Women's Responses to Sexual Harassment*, 51 *J. Soc. Issues* 117, 119-20 (1995)).

97. Rhitu Chatterjee, “A New Survey Finds 81 Percent of Women Have Experienced Sexual Harassment,” NPR. 2018. See also *16 Sexual Harassment in the Workplace Statistics You Need to Know*, INSPIRED LEARNING. <https://inspiredelearning.com/blog/sexual-harassment-in-the-workplace-statistics/#:~:text=A%20report%20released%20by%20the,fosters%20a%20toxic%20work%20culture>.

98. *Id.*

99. *EEOC Releases Fiscal Year 2020 Enforcement and Litigation Data*. EEOC Press Release, EEOC (2021). <https://www.eeoc.gov/newsroom/eeoc-releases-fiscal-year-2020-enforcement-and-litigation-data>

100. Yanosek, *supra* note 84.

101. National Science Foundation, *Diversity in STEM: Women, Minorities, and Persons with Disabilities*, NAT'L CTR. FOR SCI. AND ENG'G Statistics (2023).

*V. Proposed Ideas for Strengthening Employer Guidelines and Sexual Harassment and Gender Discrimination Litigation*

Corporate employers are strongly encouraged to implement some sort of guidelines for what they define as sexual harassment, as well as the proper reporting process.<sup>102</sup> There is no mandated way that a company must design their sexual harassment guidelines, allowing the defendant's legal team to assert their clients did "adopt internal procedures," regardless of their depth and clarity.<sup>103</sup> Further, much of the existing sexual harassment policies and reporting procedures were developed as "risk management" for the corporations, rather than being more employee-focused.<sup>104</sup> However, company guidelines for discrimination and workplace harassment reporting are still an extremely important aspect of employee safety and ensure that employees have some process for recourse for any wrongdoings they may face in the workplace.

This section proposes three new ways to think about sexual harassment policies and guidelines for employers and litigators. The first idea is centered around promoting an approach that focuses on protecting the complaining employee, rather than the employer. The second proposal, which may seem obvious but is still yet to be implemented, is placing more female supervisors and HR representatives on field sites. Lastly, the third idea is adverse event reporting, which has already been implemented in the medical field. This would require employers to report any enumerated adverse employment events, and a report would be issued to the public noting all of these events. It has proven to be successful in the medical field and may be a useful tool here. These three proposed approaches can generate new ways to think about improving how employee complaints are handled in the oil and gas industry.

*A. Employee-centered reporting and investigation*

The issue of sexual harassment is an extremely sensitive one, and one that most women shy away from reporting. Reporting becomes a heightened obstacle in a male-dominated workplace where sexual harassment is pervasive, yet the resources are more than lacking. As found by a study done on sexual harassment of women at the U.S. Naval Academy, out of 96.8% of the women who reported experiencing sexual harassment within the last six months, only *twenty-six* women formally reported instances of harassment

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102. Webber Nunez, *supra* note 88, at 477.

103. *Id.*

104. *Id.*

within a five year period.<sup>105</sup> A study done on women working in the Canadian mining industry, another male-dominated area, showed that one-third of women experienced sexual harassment and gender-based discrimination while at work.<sup>106</sup> The study also found that these experiences led to decreased job satisfaction and negative mental health impacts.<sup>107</sup> Most women in male-dominated fields have found that to be successful, or even just equally considered, next to their male counterparts, they have had to have “thick skin.”<sup>108</sup> Too often this translates into hiding instances of harassment or discrimination. The worst part is the results of these studies will not be surprising to many women who work in male-dominated industries today.

That being said, not all hope is lost when looking toward the future of sexual harassment and gender-based discrimination guidelines and enforcement. There is a new landscape of employment lawyering that helps focus on counseling companies on creating effective workplace guidelines and reporting procedures.<sup>109</sup> These guidelines will focus more on changing the way the initial interview process looks, from one that protects the reputation of the company, to one that is more focused on asking the right questions and placing the safety and comfort of the victim at the forefront.<sup>110</sup> Companies should focus on “what the complaining employees really need[] from an intake conversation,” not “what the employer needs.”<sup>111</sup> No employer ever needs sexual harassment complaints, but employees need the ability to report these instances to feel safe in an environment where they spend the majority of their day. Employees “need to feel heard, they need to share what they can about their experience, and they need to be offered appropriate interim support.”<sup>112</sup> To do so, employment lawyers suggest that “HR professionals could use an open-ended, employee-centered approach ... [modeled after] [t]he forensic experiential trauma interview (FETI) technique.”<sup>113</sup> This approach focuses on what the employee can recall during their experience, how they felt about it, the difficult parts they will never forget about, and allowance for the investigator to circle back to areas where

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105. Jena L. Pershing, *Why Women Don't Report Sexual Harassment: A Case Study of an Elite Military Institution*, GENDER ISSUES 21, 3-30 (2003) (citing the abstract).

106. Murphy, *supra* note 1.

107. *Id.*

108. *Id.*

109. *Employee-Centered Complaint Intake: New Approach for Changing Times?*, McAfee & Taft, 27 No. 10 Okla. Emp. L. Letter 6 (Westlaw).

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.*

they feel the employee may have left out important facts.<sup>114</sup> An employee-centered approach would possibly encourage more victims to come forward and stop them from feeling further discriminated against when they attempt to report their experience.

*B. Putting more female supervisors and HR representatives on remote job sites*

Another more troubling aspect of the oil and gas industry is the amount of fieldwork required for engineers and the lack of safety guidelines in place for female engineers while on these job sites with predominantly male employees.<sup>115</sup> It seems almost counterintuitive for an employer of a large corporation to want to structure their business such that female employees are exposed to situations that could cause discomfort or harm their personal safety. The oil and gas industry has yet to reckon with this problem because the industry employs few women, especially as field engineers.<sup>116</sup> But, just because there is a lack of women in a specific area of oil and gas, which is an issue in and of itself, does not mean the area is not ripe for improvement. Allowing women to have their own living quarters on remote sites or having at least one female supervisor or HR representative present would not only reduce the opportunity for sexual harassment to occur, but also force big oil and gas companies to make their industry more inclusive and promote more women to higher supervising positions.

Workplace sexual harassment reporting could also be improved by creating a requirement that all reports go through HR instead of direct supervisors. Many company handbooks provide that a complaint must go to a supervisor before it reaches HR.<sup>117</sup> HR representatives are properly trained in how to receive these complaints and investigate them, increasing the likelihood that they will be handled properly. Further, having an HR representative stationed on field locations could create a deterrence effect for poor behavior because there would be the ability to hold employees accountable where they could normally get away with poor behavior.<sup>118</sup> There are times when HR representatives are unreliable, but with the proper training and neutrality, this could become a very helpful resource for women

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114. *Id.*

115. Murphy, *supra* note 1.

116. Yanosek, *supra* note 84.

117. *Harvill*, 433 F.3d at 432.

118. Webber Nunez, *supra* note 88, at 491.

seeking to report sexual harassment and gender discrimination to someone other than their supervisor.<sup>119</sup>

*C. Implementing Adverse Event Reporting (AER) from the medical field into employment law*

Lastly, adverse event reporting, a practice that has been around for years in public health law, could be a useful implementation in employer practices. In the year 2000, the Institute of Medicine Committee on Quality of Health Care in America published an article titled “To Err is Human: Building a Safer Health System.”<sup>120</sup> This article proposed the idea of creating a mandatory reporting system for preventable adverse events that occur at hospitals each year. It claimed that “one way to learn from errors is to establish a reporting system.”<sup>121</sup> It recognized two purposes for reporting systems that could improve a health care system that was currently failing at protecting its patients: (1) “they can hold providers accountable for performance,”; or (2) “they can provide information that leads to improved safety.”<sup>122</sup> The first function would be satisfied by implementing mandatory reporting of preventable adverse events. These would be operated by “state regulatory programs” such as the state Department of Health<sup>123</sup>, as well as implementing a state statutory obligation to report adverse events. The Texas Health and Safety Code Title 2 Chapter 98 details the list of preventable adverse events that legally must be reported.<sup>124</sup> The Texas Department of State Health Services also provides Preventable Adverse Events (PAE) that must be reported annually<sup>125</sup>, and a report of all PAEs will be made and posted every six months.<sup>126</sup> The second type of reporting suggested is a voluntary reporting system, kept confidential from the public.<sup>127</sup> This type of reporting focuses more on events that were not detrimental to any patient’s

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119. *Plaintiff’s Amended Complaint Against STC*.

120. Institute of Medicine (US) Committee on Quality of Health Care in America, Linda T. Kohn, Janet M. Corrigan, Molla S. Donaldson, eds., *To Err is Human: Building a Safer Health System*. Washington, D.C.: National Academies Press (2000).

121. *Id.* at 86.

122. *Id.*

123. *Id.*

124. 2 THSC, ch.98 (2015).

125. *PAE Reporting*, TX DEP’T OF STATE HEALTH SERV.’S (updated 2023). <https://www.dshs.texas.gov/preventable-adverse-events/pae-reporting>.

126. *Texas Health Care-Safety (HAI/PAE) Reports by Healthcare Facility*, TX DEP’T OF STATE HEALTH SERV.’S (updated 2023). <https://txhsn.dshs.texas.gov/hesreports/>.

127. Kohn, *supra* note 120, at Chapter 5.

health but should still be avoided.<sup>128</sup> The purpose of this type of reporting is to help hospitals improve their practices to ensure the best and safest environment for their patients and prevent adverse events before they occur.<sup>129</sup>

Employment law imposes no system comparable to that in the health care system. There is no sort of accountability for employers who allow discrimination or harassment to occur within their walls. The majority of employment discrimination or harassment cases will settle before they ever see a courtroom, making it difficult to even keep a record of how many complaints corporate giants receive from their employees each year.<sup>130</sup> The first real form of a public call-out to employers who let sexual harassment go was in the year 1991, when Anita Hill spoke out about her experiences with workplace sexual harassment by Justice Clarence Thomas in his confirmation hearing.<sup>131</sup> After that, workplace sexual harassment claims to the EEOC increased by 53% in 1992.<sup>132</sup> Interestingly enough, Clarence Thomas still went on to become Justice Thomas. Since then, the only other public display of harassment claims against employers began in 2017, with several claims against Harvey Weinstein for sexual harassment in the workplace<sup>133</sup>. The #MeToo Movement started as a “call-out to victims of sexual harassment to raise awareness by sharing their stories on social media using the viral hashtag.”<sup>134</sup> Multiple social media forums are being used to hold perpetrators and employers accountable for their actions, including the University of Oklahoma’s Sociology professor Meredith Worthen on her Instagram page with the handle @metoomeredith<sup>135</sup>. She uses this platform to anonymously share the stories of survivors, and each year she publicly displays excerpts of stories written on signs and placed in the University’s South Oval with the help of other professors.<sup>136</sup> Because of the growth of the

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128. *Id.*

129. *Id.*

130. Friedman, *supra* note 93.

131. *The #MeToo Movement’s Effect on Workplace Harassment Law*, 2018 TXCLE-AGL 13-I (Westlaw).

132. *Id.*

133. *Harvey Weinstein Timeline: How the Scandal has Unfolded*, BBC (Feb. 24, 2023), <https://www.bbc.com/news/entertainment-arts-41594672>

134. *Id.*

135. @metoomeredith, Instagram.com.

136. Emma Keith, *OU Professor Brings Survivors’ Stories to Campus with #MeToo Event*, THE NORMAN TRANSCRIPT (Oct. 16, 2019), [https://www.normantranscript.com/news/ou-professor-brings-survivors-stories-to-campus-with-metoo-event/article\\_a6dc1342-6352-5cff-9d6d-62aee0d510ec.html](https://www.normantranscript.com/news/ou-professor-brings-survivors-stories-to-campus-with-metoo-event/article_a6dc1342-6352-5cff-9d6d-62aee0d510ec.html)

Movement, “introduction of ‘me too’ evidence at trial has become a vital method of establishing an employer’s liability for sexual harassment.”<sup>137</sup> And many employers have been forced to listen.

Using this idea of mandatory adverse event reporting from public health law, coupled with the positive impact the public display of the #MeToo Movement has had on workplace harassment law, creates a solid basis for implementing some sort of mandatory reporting of workplace discrimination and harassment. Accountability is the catalyst of change in the legal environment, and holding employers like SLB accountable for their actions and lackluster harassment policies can completely alter the landscape of the oil and gas industry for female employees. The healthcare community is now able to hold more people responsible and indicate areas needing improvement due to adverse event reporting, and the EEOC has seen more claims of harassment each year after the #MeTooMovement.<sup>138</sup> Combining these ideas could revolutionize employment law and create an all-around safer and happier environment for women working in the oil and gas industry.

#### *VI. Shaking Up Schlumberger’s Sexual Harassment Policy*

As stated earlier, corporate employers typically have some sort of company guidelines for reporting instances of sexual harassment.<sup>139</sup> This could help them avoid liability in the future when cases like *Cheatham* are brought against them.<sup>140</sup> The following sections outline SLB’s current sexual harassment guidelines after their re-brand following *Cheatham*, as well as how the above proposals can be applied to SLB’s policies to improve the safety of their employees.

##### *A. Schlumberger’s current sexual harassment guidelines*

SLB’s sexual harassment guidelines are accessible to the public on their website.<sup>141</sup> The company defines sexual harassment as

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137. Vanessa M. Rodriguez, Matthew W. Gordon, *The Compelling Evidence of “Me Too” in Meeks v. Autozone, the California Court of Appeal Recently Found Me Too Evidence to Have “Unquestionable” Probative Value*, 27, 42 Sep. L.A. Law 26 (September 2019).

138. National Center for Biotechnology Information, *Adverse Events*, National Library of Medicine, (2023).; see also *The #MeToo Movement’s Effect on Workplace Harassment Law*, 2018 TXCLE-AGL 13-I (Westlaw).

139. Webber Nunez, *supra* note 88.

140. *Id.*

141. *SLB Sexual Harassment Policy*. SLB (updated 2019). <https://www.slb.com/-/media/files/about-us/2023-policies-and-procedures/sexual-harassment-policy-2023.ashx>

unwelcomed sexual advances or propositions; any verbal or physical conduct of a sexual nature which unreasonably interferes with another person's ability to work or creates an intimidating, hostile, or offensive work environment; personnel decisions such as hiring, promotion, compensation, and continued employment which are based on an employee's acceptance or rejection of sexual advances; [and] inappropriate attempts at sexual humor.<sup>142</sup>

This definition is almost word for word what the EEOC defines sexual harassment as, which suffices to say it is an accurate definition.<sup>143</sup>

As for reporting instances of sexual harassment, SLB outlines a process lacking access to anyone with any real authority to do something about the complaint. They require that:

Anyone believing in good faith that she or he has been subjected to sexual harassment by anyone in SLB, or anyone with whom SLB does business, should immediately contact her or his supervisor, Personnel Manager, or any other SLB manager. Complaints and questions regarding possible sexual harassment will be treated in a confidential manner, and all complaints will be investigated. There will be no retaliation for making complaints or asking questions under this policy, or for responding to questions during any investigation of these matters.<sup>144</sup>

What this policy does is create a reporting avenue for employees that may be victims of sexual harassment or gender discrimination. But, it requires this reporting to go to SLB managers, and not an HR representative or some other professional trained in resolving employee conduct. In the state of Texas specifically, "[employers] should provide a clear path for reporting outside the complainant's chain of command," which SLB clearly does not do.<sup>145</sup> The avenue for reporting that SLB suggests is weak at best. But there are some things SLB is doing right. Keeping complaints confidential is extremely valuable to the safety and mental health of the complainant. This allows for employees to feel more comfortable when coming forward and may encourage an increase in reporting overall.

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142. *Id.*

143. *Meritor Sav. Bank, FSB*, 477 U.S. at 65.

144. *SLB Sexual Harassment Policy*, SLB (updated 2019). <https://www.slb.com/-/media/files/about-us/2023-policies-and-procedures/sexual-harassment-policy-2023.ashx>

145. *The #MeToo Movement's Effect on Workplace Harassment Law*, 2018 TXCLE-AGL 13-I.

SLB maintains a very basic, lackluster set of guidelines for sexual harassment reporting. While the company must have this in place in the event of sexual harassment, more can be done to ensure that women feel comfortable coming forward and to help them feel that their complaints are being taken seriously.

*B. How the earlier proposed changes could have been implemented to SLB's policies to help Cheatham and other female employees*

The following sections detail how future female employees could benefit, and how Cheatham could have been helped, by the above-proposed changes in the way sexual harassment is handled at SLB. Any one of these changes could have a massive impact on the way women are treated at SLB, and in the oil and gas industry as a whole.

*1. Employee-centered reporting and investigation*

Jessica Cheatham's complaint details her negative experience with HR. She claimed, "women who have courage to seek recourse . . . are promptly blacklisted by Human Resources and management personnel."<sup>146</sup> Further, "when formal complaints are lodged, Schlumberger's preferred course of action is to ignore them entirely."<sup>147</sup> It is not uncommon that women are not taken seriously when reporting sexual harassment in the workplace, especially those that are male-dominated like oil and gas.<sup>148</sup> What Cheatham experienced when reporting her harassment to HR was nothing out of the ordinary. Cheatham informed her Process Lead Lori Rose of comments made to her by Lead Hand Fusilier comparing a tool to a vagina and saying, "you know all about this," amongst many other disturbing allegations.<sup>149</sup> Processing Lead Lori Rose informed Cheatham that she should bring her complaint to HR.<sup>150</sup> So Cheatham did just that. But, all HR Representative Zorrilla did from there was inform Cheatham that "this is a man's field, so they're bound to say stuff."<sup>151</sup> Cheatham, obviously dissatisfied with that response, wrote a detailed complaint and was told a formal investigation would be opened, but that never happened.<sup>152</sup> She was forced to keep working in the same vicinity as Lead Hand Fusilier while he faced no detrimental

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146. *Plaintiff's Amended Complaint Against STC* at ¶ 5.

147. *Id.*

148. Pershing, *supra* note 105 (citing to the abstract).

149. *Plaintiff's Amended Complaint Against STC* at ¶¶ 99-100.

150. *Id.* at ¶ 101.

151. *Id.* at ¶ 102.

152. *Id.* at ¶ 103.

repercussions.<sup>153</sup> Had HR Representative Zorrilla implemented employee-centered reporting tactics, like asking Cheatham how she felt about the incident, reassuring her it was not her fault, and taking steps to reprimand Lead Hand Fusilier in a way that would have changed his behavior and that of others, perhaps it would have gone much differently. It may have looked something like Cheatham leaving the meeting feeling heard and that her safety was of importance to her employer. And maybe HR Representative Zorrilla would have opened that investigation on Lead Hand Fusilier and given him more than a slap on the wrist. Future implementation of this tactic at SLB could prevent female employees from feeling hopeless after reporting to HR or being deterred altogether.

*2. Putting more female supervisors and HR representatives on remote job sites*

One of the biggest issues pointed out in Cheatham's complaint was the lack of female supervisors and HR representatives on the oil rigs. The complaint described a "'male-dominated' and 'good ole boy culture' that dictated management decisions."<sup>154</sup> Further, "Schlumberger knowingly expose[d] women to unsafe living and working conditions on oil rigs. Women were often required to live in small, shared trailers" with men.<sup>155</sup> "One woman went to sleep with a broken bottle for protection after a man entered her room . . . multiple times without her permission."<sup>156</sup> But this was just "standard operating procedure."<sup>157</sup> Female employees were "groped, harassed" and one woman was even "secretly filmed by a hidden camera that was placed in her bedroom on a rig."<sup>158</sup> Having a female-only trailer as a bare minimum could have prevented many of the instances of harassment described in the complaint. Placing men with a documented disposition of harassment in a trailer *alone* with a *woman* and even *sharing a room* in some instances opens up the possibility for a breadth of issues to arise. It does not take much to understand how a stronger female presence could have changed the outcome for so many of SLB's female employees. Perhaps one victim would not have had to sleep with a makeshift weapon in her bed to feel safe at night. Further, an increase in female representation is good for everyone.

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153. *Id.* at ¶ 104.

154. *Id.* at ¶ 16.

155. *Id.* at ¶ 20.

156. *Id.*

157. *Id.* at ¶ 17.

158. *Id.*

It creates more jobs and correlates to higher success rates.<sup>159</sup> Having more women in general, but especially more women in supervisory and HR positions, could create a safer workspace for the women at SLB, and in turn could increase sexual harassment reporting, helping to hold more people accountable. Women complained that

Schlumberger's policies, practices, and procedures---including its practice of minimizing, ignoring, mishandling, or otherwise failing to adequately respond to women's complaints---have allowed the gender discrimination and sexual harassment to which women are subjected to exist on a systemic, Company-wide basis.<sup>160</sup>

A male HR Representative told one employee he “did not want to ‘waste his time’ on her ‘girl problems.’”<sup>161</sup> This shows how little SLB and male HR representatives care about their female employees. Pushing for more women to enter this industry would ideally help resolve these issues, especially at SLB.

### *3. Implementing Adverse Event Reporting from the medical field into employment law*

Lastly, adverse event reporting has two main goals: (1) holding people accountable, and (2) providing important information that helps improve people's safety.<sup>162</sup> This seems to be two major things on which SLB is lacking. Having the incentive to report to the state any instances of employer discrimination, including sexual harassment, could finally give them the push they need to make bigger changes. Not only could this help SLB, but it could change the oil and gas industry as a whole by making it a safer space for women to operate. It would also motivate SLB to improve their work environment for women because “[they] have long known that women who work on rigs are subjected to gender-based harassment and discrimination” but have not made any substantial changes.<sup>163</sup> Having these publicized reports could also have kept many women from going to work for SLB, protecting their mental health and physical safety. Accountability is the first step to getting large corporations like SLB to change, and increased safety for their female employees is just one of the positive outcomes that would

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159. See Yanosek, *supra* note 84.

160. *Plaintiff's Amended Complaint Against STC* at ¶ 23.

161. *Id.* at ¶ 25.

162. Kohn, *supra* note 120.

163. *Plaintiff's Amended Complaint Against STC* at ¶ 14.

ensue. Ideally, adverse event reporting would work best on a larger scale for all employers subject to EEOC guidelines, but looking at the changes it could make at SLB is a great place to start.

### *VII. Conclusion*

Jessica Cheatham and Sara Saidman are just two examples of how women are treated within the oil and gas industry. The environment the industry creates for women is one that denies their inclusion and opens them up to workplace harassment without any recourse on their employers and perpetrators. With the growing number of women entering STEM jobs, oil and gas included, and the public support growing for women who report their experiences of sexual harassment in the workplace, change is on the horizon. But this change will not happen without turning the attitudes of tolerance, secrecy, and the boy's club mentality in the oil and gas industry on its head. Results happen when women are included in any industry, and without the oil and gas industry's participation, they risk falling behind. Change is happening and big oil and gas should fight to keep up with the times.