

Mike Isabella's agreement to address sexual harassment is supposedly 'binding.' Who enforces it?

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Chef Mike Isabella at Kapnos in Arlington in 2015. The chef, whose empire now includes 13 restaurants, is facing a sexual harassment lawsuit from a former general manager within his company.

The attorney for [Chloe Caras](#), the former [Mike Isabella](#) Concepts general manager who sued the restaurateur and several of his business partners for sexual harassment, said Monday that Isabella, [as part of a settlement](#), entered into a “binding” agreement to “take corrective measures, including robust training” to address the issues Caras raised in her lawsuit.

The biggest question: How does that “binding” deal get enforced? How does anyone ensure that anything within the company actually changes? Few details were included in the spare statement release by the parties. As the attorneys on either side of the case are not talking, we reached out to some other lawyers who work on sexual harassment cases and other workforce issues for some context.

Because a settlement agreement essentially serves as a legal contract, it can obligate Isabella follow through on the promise to [provide training and strengthen internal policies](#) — if those provisions were included, according to [Lauren Khouri](#), an associate attorney with Correia & Puth PLLC.

"At a minimum, at all times, if an employer violates a settlement agreement, the plaintiff would have a claim for a breach of contract, could go to court to hold an employer liable," she said.

What can vary is how those provisions are enforced. Sometimes, a settlement deal will appoint a third, external party, such as the D.C. Office of Human Rights or the federal [Equal Employment Opportunity Commission](#), to monitor the progress. Other times, the defendants in the case will be required to provide a copy of the training manual or newly written harassment policy, or the calendar invitation for when the the training sessions were held, said Khouri.

If Isabella's settlement does not include reporting requirements, it would be harder to enforce, said [Lynne Bernabei](#), founding partner of Bernabei & Kabat PLLC, who has been working on sexual harassment cases for more than 30 years.

"The assumption that it's hard to enforce is accurate," said Bernabei. "The best we can do is to try to get them to agree to appoint someone you know who is somewhat independent who is going to do at least training or scaring people that they shouldn't step out of line."

Isabella's case is complicated by the fact that he is the leader of the company — and does not answer to any boss or even board of directors. Often, it's the people above the person who's been accused that help keep them accountable going forward — but at [Mike Isabella](#) Concepts, that person does not exist. (We delved into the reasons behind why Isabella's investors likely won't call for him to apologize or step down earlier last month.)

In addition, other partners and high-level managers who may also be tasked with responding to sexual harassment complaints were also named in the suit. That setup makes the inclusion of some kind of binding language in the settlement agreement all the more important, said Khouri.

"I think these types of provisions are even more important when the person accused of harassment is running the company and setting the tone," she said. "In these types of cases, the policies, the procedures, and the training the other employees have in processing complaints are going to matter that much more because you're dealing with a problem that starts at the top."

Khouri says that plaintiffs' attorneys are asking for — and getting — those checks and balances into settlement agreements more and more now in the #MeToo movement.

“Employers appear to be more willing to include these types of provisions in these agreements, particularly when there’s public exposure about a case, because they want to try to do the right thing — or try to respond to public outrage that they should be doing the right thing,” Khouri said.

That kind of public outrage is still one of the most effective ways to induce change within companies, said Bernabei.

“Unfortunately that’s where we are. That’s why the #MeToo movement exists, because people know the legal system doesn’t work for them,” she said. “We’ve got a lot of work to do to change the law, and to make resources available, in particular to lower wage workers, so they can bring claims.”



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