

Mastering the Facts and Creating the Narrative

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In this video, Proskauer Partner [Kate Gold](#) draws from her deep experience as an award-winning litigator to address the nuances of highly sensitive claims of discrimination and harassment, and how mastering the facts up front can help build the narrative and gain a strategic advantage. Kate explores how taking a proactive approach to building fact patterns from witnesses and documents can lead to a strategic advantage and help steer a matter to resolution.

Kate Gold: When you have a discrimination or harassment complaint, the most important thing is to master the facts right up front. Often when you first get a complaint or you get a demand letter, the allegations are egregious and severe, and the problem can look extremely large. In order to really understand, you really need to go talk to the witnesses. That's really the best way to advise the client on what size of a problem this is and what kind of a problem it is.

I am a big fan of doing all of the witness interviews myself. And the reason for that is that I really think it's a great opportunity to get a feel for the witnesses, their credibility, how they present to a fact finder or a jury, and to just get a sense overall of what happened in the case.

Use witness interviews as an opportunity to determine their credibility and how they'll present to a jury or factfinder.

Kate Gold, Partner, Employment Litigation

It's really important at the outset not to cut any corners in terms of mastering the facts. That includes getting the documents. Sometimes, I think, lawyers think that they'll make a note and they'll collect the documents later, but if somebody has a text or an email and it really shows something important in the case; it shows some misconduct or it shows a performance issue, or it shows a consensual relationship, I really want to see that upfront because that really shapes my view of what happened and it shapes the narrative in the case.

Another thing I really like to do at the outset of a case is start building and creating and building on a fact chronology, so with every witness and with every document, we build the narrative, and we build the story. It's really amazing when you can really see much more clearly what the motivations were for an event, or an incident, when you can see what happened the day before or the week before that.

I'm not a believer in letting the facts just unfold through discovery; that really puts you at a disadvantage. If you can know the facts and the witnesses and the documents right up front, you really have an advantage in the case and you have an advantage in advising your client on how to steer that to resolution.