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# Hush Money is Not the Answer

BY COURTNEY\_LEON/ ON APRIL 4, 2022



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Patriarchal social structures, bastions of male privilege, and misogynistic values have been embedded in American culture since the time “the butcher Christopher Columbus and his ilk arrived in the Americas” centuries ago.<sup>1</sup> Not only have women been scrutinized as less equal than cisgender men when it relates to economic and political equality, but also in the sports arena on every spectrum. As March is Women’s History Month,<sup>2</sup> it is important to recognize that despite decades of progress closing the equality gap between men and women, much still needs to be done to address de facto and de jure discrimination against women.<sup>3</sup> “Persistence of discriminatory social norms [and] gender stereotypes . . . between women and men within and outside of the political sphere perpetuate these structural and attitudinal obstacles, devalue women’s contribution to [society] and are the hardest to change.”<sup>4</sup>

In the National Football League, where football is commonly portrayed as a “misogynic ‘boys’ club’ [and] where cheerleaders are only present for male pleasure[.]”<sup>5</sup> females feel as though they are viewed as “replaceable objects,” and thus, the notion of being seen as “replaceable” has concealed toxic, workplace misconduct incidents within the League.<sup>6</sup> Whether female employee’s opportunity to feel safe in reporting misconduct is within the purview of human resource departments, the court system, or Congress, it is clear that American legislation is devoid of preventing not just the NFL, but all companies, from using confidentiality agreements and nondisclosure agreements to silence employees who have experienced sexual harassment and other workplace abuses. In effect, employees are hindered from coming forward with workplace abuses in the fear of retaliation.<sup>7</sup> Over the past year and

during a congressional roundtable investigating the Washington Commanders team's "'toxic workplace[,]'"<sup>8</sup> former female employees within the team's organization have begun to publicly come forward with allegations of workplace misconduct and sexual harassment against team owner Daniel Snyder and other team executives.<sup>9</sup> As reported to the congressional committee by Tiffani Johnston, a former marketing and events coordinator for the Commanders, Ms. Johnston was "'strategically'" positioned next to Snyder at a work dinner not to confer about business matters, but rather to permit Snyder to place his hand on her thigh under the table.<sup>10</sup> Ms. Johnston's testimony also alleged that Snyder "demanded" that she send him an unedited photo of her wearing lingerie for a promotional calendar he was planning on enlarging for his office.<sup>11</sup> Following the roundtable discussion, Ms. Johnston admitted that she had not shared the incident with the attorney hired by the league to conduct an internal investigation out of fear of retaliation from Mr. Snyder.<sup>12</sup> Ms. Johnston's decision to reveal her personal experiences to Congress regarding Snyder's past abuses, along with four other women who presented stories of alleged sexual harassment and discrimination to the House Committee on Oversight and Reform, marked a critical first step in holding the Washington Commanders and other workplaces accountable for this pervasive culture of mistreatment of female employees.

In a more recent incident reported by ESPN's Don Van Natta Jr. on February 16, 2022, the Dallas Cowboys reached a \$2.4 million settlement and non-disclosure agreement due to an incident that occurred in the cheerleaders' locker room where the iconic squad accused a former team executive, Richard Dalrymple, of voyeurism as they undressed during a 2015 event at the AT&T Stadium.<sup>13</sup> Richard Dalrymple, who served as the Dallas Cowboys' senior vice president of public relations and communications, was Jerry Jones' (the team's owner) confidant for thirty-two years.<sup>14</sup> Not only has Mr. Dalrymple, Jones's highest-ranking executives, been accused of recording images of a group of cheerleaders as they were changing clothes, but also—even worse—is the fact that Jones appears to have "covered" for the executive for over six years.<sup>15</sup> When ESPN began contacting the attorneys involved in the \$2.4 million settlement, the executive, Rich Dalrymple, conveniently announced his retirement just a few days later.<sup>16</sup>

On Wednesday, September 2, 2015, during the Cowboys' annual Kickoff Luncheon at the AT&T stadium, after four cheerleaders performed, they returned to their locker room to quickly change their clothes before attending the luncheon.<sup>17</sup> The cheerleaders' complaint against Dalrymple alleged that as they were undressing, they heard the locked back door open and shouted, "We're in here!" to forewarn the person who entered of their presence.<sup>18</sup> Assuming the person was a security guard who departed after being alerted that they were in their locker room, the cheerleaders carried on getting undressed until one cheerleader noticed a man several minutes later holding his phone pointed toward them while they were getting undressed.<sup>19</sup> Subsequently, the cheerleader approached the man and recognized him to be Mr. Dalrymple before he quickly fled their locker room.<sup>20</sup> Although normally two security guards stand outside the cheerleaders' locker room when they are

inside, this alleged incident occurred on a day when only one security guard was working and thus, with the back entrance being left unguarded, only those with a security key card—which Dalrymple, among others, had possessed—could use to enter the room.<sup>21</sup> The cheerleaders proceeded to report this occurrence to the security guard outside of the room, who, despite initially wanting to call the Arlington police department, never did notify the police.<sup>22</sup> Instead, later that day following the incident, the cheerleaders brought their complaint to the Cowboys' Human Resources department. Once the Dalrymple investigation commenced, Cowboys' General Counsel, Jason Cohen, confiscated Dalrymple's work-issued phone to check if any of there were any photos or videos corresponding to the cheerleaders' concerns on the device and conducted multiple interviews with Dalrymple.<sup>23</sup> While admitting to using his security key card to enter what he "thought" was an empty locker room that day, Dalrymple vehemently denied using his phone to take pictures of the cheerleaders.<sup>24</sup> Eight days after the alleged disturbing event, the cheerleaders finally met in-person with the Human Resources Department, who "assured the cheerleaders that Dalrymple had only entered the locker room to use the bathroom."<sup>25</sup> Noting that there was a men's restroom twenty feet away from the cheerleader's locker room,<sup>26</sup> the women were angry because they felt that the team officials concluded that Dalrymple was innocent before the investigation even took place.<sup>27</sup> "Rather than reporting the incident to the police, the Cowboys are said to have conducted their own investigation. This is laughable."<sup>28</sup> Even after Mr. Jones learned about Dalrymple's accusations, the proclamation that Dalrymple was "this close" to being fired was a false reality because Jones took nosubstantive action to discipline Dalrymple (aside from revoking Dalrymple's access to the cheerleader's locker room) for his alleged actions.<sup>29</sup> Thus, Dalrymple continued working for the Cowboys, in his same role, for nearly six years following the incident.<sup>30</sup>

Per ESPN, Mr. Dalrymple was investigated by the Cowboys four months prior to the cheerleader's locker room allegation when he was separately accused by Randy Horton, a lifelong Cowboy's fan, of taking upskirt photos of Charlotte Jones Anderson, the team's senior vice president and daughter of the team's owner Jerry Jones, during the 2015 NFL Draft.<sup>31</sup> Horton professed that while watching a video livestream of the Cowboy's draft "war room" on April 20, 2015, he observed Dalrymple taking inappropriate photos of Charlotte.<sup>32</sup> As a father and as a protector of his daughter, the disturbing inquiry then emanates: if this incident about Charlotte was actually being investigated by the Dallas Cowboys as the team contends, why did Jerry Jones continue to allow Dalrymple to have a security key card that would give him access to the cheerleader's locker room? "A Cowboys representative told ESPN that both incidents were investigated[,] and no evidence of wrongdoing was found."<sup>33</sup> Eventually, after the cheerleaders were informed by their lawyers that they could either go public with the event or settle quietly, they chose to settle,<sup>34</sup> and in May of 2016, a settlement was reached and nondisclosure agreements were signed that bound the cheerleaders and team executives to secrecy in addition to barring the cheerleaders from discussing in public thereafter any aspect of the Charlotte Jones Anderson "war room" incident.<sup>35</sup>

If “[t]he NFL continues to cover up their wrongdoings with dirty hush money” and leave cheerleaders with no other choice but to sign a NDA, female employees can unknowingly sign away their rights and be silenced from speaking out.<sup>36</sup> Despite society’s innate tendency to rationalize men’s behavior on the notion that all males are preprogrammed to act in such ways, there can be no “boys will be boys” excuses in the face of workplace misconduct. When our society and culture buy into the idea that males are biologically hardwired for violence and aggression, we perpetuate a toxic foundation to boys’ senses of self, and further attempt to put a tidy bow of oversimplification on individual behavior. To fully realize the promise of our nation’s anti-discrimination laws in order to adequately protect workers from retaliation and to safeguard another “hush money”<sup>37</sup> incident from occurring, all segments of the world’s populace at large must learn that social justice requires fostering a culture defined not by archaic gender stereotypes, but by mutual responsibility and accountability in which all voices are heard and given equal value. As these alleged workplace wrongdoings are surfacing the news, it is critical now—more than ever—that our federal, state, and local enforcement agencies work together to integrate policies that encourage employer transparency, revitalize legal doctrines that align with the purpose of anti-discrimination laws, and enact stronger incentives for employers to take responsibility and prioritize workers’ civil rights.

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silenced female employees within the National Football League to keep workplace misconduct quiet.”).

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27. Camenker, *supra* note 25.

28. Justice, *supra* note 15.

29. Valente, *supra* note 5 (“The issue herein lies in the fact that Dalrymple was ‘this close’ to being fired, but in reality was never disciplined for his alleged actions, he kept his job, and he kept the power. . . The Dallas Cowboys team officials failed to properly investigate the alleged allegations by not providing the women the security camera footage that would confirm or deny the exact timing of the allegations. The team officials did not investigate the very legitimate possibility that Dalrymple could have been using another iPhone, but instead choose to believe Dalrymple.”).

30. Justice, *supra* note 15.

31. Javad, *supra* note 26.

32. Valente, *supra* note 5.

33. Paulina Dedaj, Cowboys Reach \$2.4M Settlement with Four Cheerleaders over Claims Team Executive Secretly Filmed Them: report, Fox Sports (Feb. 16, 2022, 5:39 PM), <https://www.foxnews.com/sports/cowboys-settlement-cheerleaders-team-executive-secretly-filmed> [<https://perma.cc/U6CE-KMC5>].

34. Camenker, *supra* note 25.

35. Van Natta, *supra* note 13.

36. Kerry J. Byrne, Former NFL cheerleaders allege ‘dark toxic culture’ of hush money, misogyny and humiliation, NY Post (Feb. 19, 2022, 4:22 pm), <https://nypost.com/2022/02/19/ex-nfl-cheerleaders-allege-dark-toxic-culture-of-hush-money-misogyny/> [<https://perma.cc/KLA4-5B83>].

37. Workers World Party, *supra* note 1.