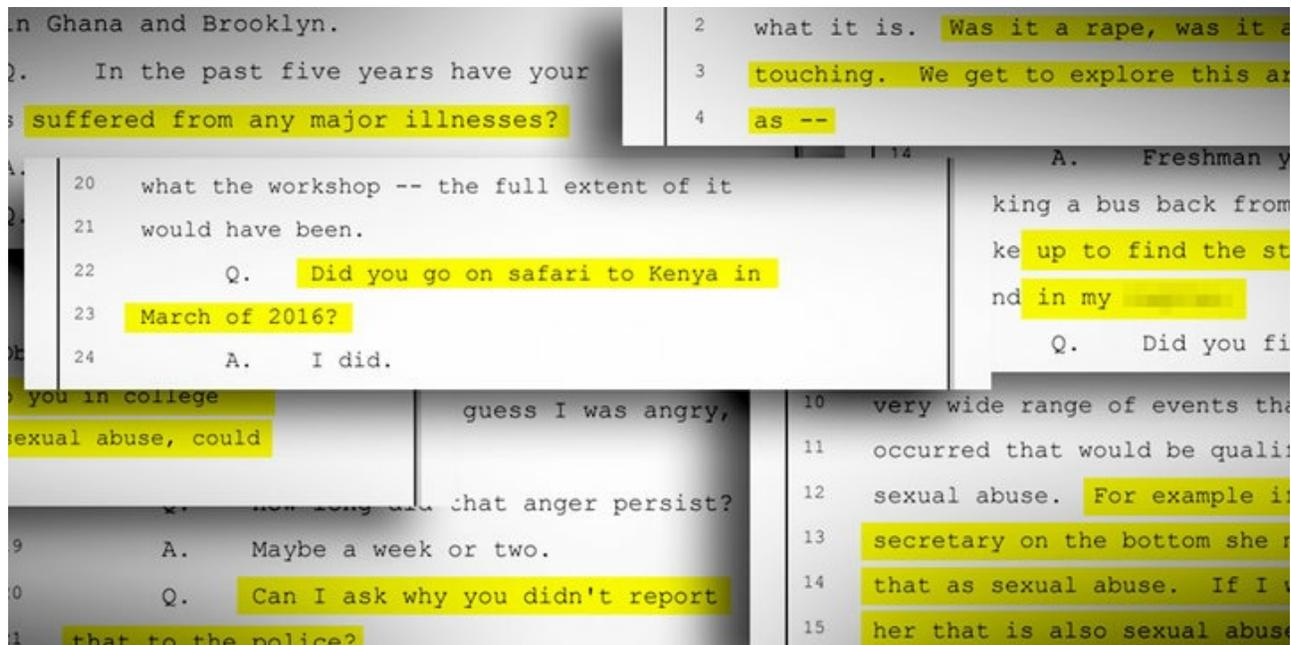


A Major Bank Slipped Up And Showed Why Women Rarely File Sex Discrimination Cases

[huffingtonpost.com/entry/bank-women-sex-discrimination_us_5b577959e4b0de86f4914eb5](https://www.huffingtonpost.com/entry/bank-women-sex-discrimination_us_5b577959e4b0de86f4914eb5)

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By [Emily Peck](#)



Of all the tactics companies use to silence women who speak up about sexual harassment, the way corporate lawyers question victims in depositions may be the most brutal.

In these taped confrontations, defense lawyers interrogate people on every aspect of their sexual histories, medical records and traumas from childhood.

Rarely do the depositions in civil cases get broad public attention. But this week, the Sydney Morning Herald obtained a transcript from a deposition that revealed exactly how lawyers for a major Australian bank, ANZ, grilled a former female employee.

Enilolobo Malika Oyo, a black woman who worked as a vice president in investment banking at ANZ's New York office in 2013 and 2014, sued the bank in federal court in 2016 for sexual and racial discrimination — claims ANZ disputes. Oyo is seeking a multimillion-dollar payout.

Oyo had asked the Sydney Morning Herald not to publish her name, but after details of her lawsuit and deposition became news, she decided to go public. Her lawyers sent a statement to HuffPost on Monday night in which she shared her thoughts.

“One of the reasons I brought this lawsuit was to make sure that ANZ knows that it is not OK to treat the victims of discrimination like they are the ones who should be ashamed,” she said. “I know I have nothing to be sorry for.”

ANZ’s lawyers pressed Oyo in a deposition last spring to recount a sexual assault she experienced as a freshman in college 25 years ago. The attorneys claimed the incident was relevant to how she was treated at ANZ’s New York office and argued that they needed to know what she believed counted as sexual abuse, according to a transcript obtained by HuffPost.

“For example, if I patted my secretary on the bottom, she might view that as sexual abuse,” said Christopher Lowe, an attorney at ANZ’s law firm Seyfarth Shaw, according to the transcript. “If I were to rape her, that is also sexual abuse.” (Lowe has since left the firm and is no longer on this case.)

Oyo was also asked about medications she was taking, if she’d ever sought psychiatric help and if she’d attended a sex workshop.

In court papers filed last week, Oyo’s lawyers argued that the questions were irrelevant and merely served to humiliate, smear, embarrass and demean their client.

“I was disappointed and disgusted when ANZ forced me to relive a sexual assault to punish me for standing up to the discrimination and harassment I experienced while working for the bank,” Oyo said in a statement to HuffPost.

Through a spokesman, ANZ said it had no advance warning that its lawyers would take such an aggressive tact. The bank also shared a letter to Oyo’s lawyers stipulating that notion. “It was not consistent with our culture or values and we don’t consider our former employee’s past sexual history or her being the victim of sexual abuse relevant to our defense,” the spokesman said.

It is common for hard-hitting defense lawyers to hammer people who try to come after their clients in court, attorneys and harassment victims have told HuffPost.

“The law treats the victim as a liar who has waived all privacy and dignity by suing. It is truly disgusting,” said Nancy Erika Smith, a New Jersey lawyer who represents sexual harassment victims.

Smith said her clients have been confronted in depositions with personal sexual emails sent to their husbands. “In almost every case, the employer seeks all my clients’ medical and therapy records — including gynecology records.”

It is outrageous that victims, rather than harassers, are the ones who have their sexual histories questioned, said Smith, who is best known for representing former Fox News host Gretchen Carlson in her lawsuit against former Fox News chairman Roger Ailes.

“Why don’t we want to see the harasser’s social media to look for sexism and misogyny? All HIS medical records to look for testosterone poisoning? Depose his wife to see [if] he’s a jerk? It’s all backward.”

Plaintiffs sometimes drop their lawsuits after having to deal with a grueling and shaming deposition — which is the point.

Oyo was one of only two women in her department and was one of about four black people in the entire 100-person banking unit, according to her lawsuit. She was subjected to her male colleagues’ crass sexist commentary and racism almost daily, the suit alleges.

The men allegedly rated women’s breasts (“racks,” in their words), talked about picking up “cougars” at the bar, talked about the size of their penises, and speculated on the sexual activity of other traders, even hounding Oyo about her own sex life, according to the suit.

Oyo’s former manager, Ravi Nursey, repeatedly called Oyo a monkey, according to the lawsuit. “You can’t be this stupid,” Nursey once told Oyo, according to the lawsuit, while explaining a project was “so easy any monkey could do it.”

Nursey only used the term “monkey” when speaking to or about black people, according to the suit; he once called a black client a “dumb monkey,” according to a recent court filing.

Under questioning from Oyo’s lawyers at a deposition, Nursey — who is from India — said he didn’t know monkey was often used as a derogatory term used to describe African-Americans. He said he calls his children monkeys. Nursey has since left ANZ didn’t respond to a LinkedIn message seeking comment.

The former head of human resources at the bank, an American woman, also claimed she had no idea “monkey” was used this way, even though Oyo had complained to her about Nursey’s language. “You’ve never heard of black people being compared to apes or gorillas or other simian animals?” she was asked during a different deposition conducted by Oyo’s attorneys.

“Not that I recall,” she said. She is also no longer with the bank.

In a court filing, ANZ’s attorneys said they googled the phrase “so easy a monkey can do it,” which Nursey often said to Oyo. They then argued that the phrase was not discriminatory, attaching the search results to their filing.

Oyo complained repeatedly about her treatment to other managers at ANZ and to the human resources department, according to the suit. At one point, according to her lawsuit, she was told to not take anything too personally, and Nursey threatened to punish her if she complained again.

Sure enough, only a few weeks later in June 2014, ANZ fired Oyo. “It’s not working out and it’s not a good fit,” she was told, according to the lawsuit.

The ANZ spokesman said Oyo was fired for “performance reasons.”

“We will continue to defend the case as we do not consider the plaintiff was subject to race, sex discrimination or victimization,” he said.

Oyo is now working as a real estate agent in the city, unable to secure another job in finance after what happened to her at ANZ.

ANZ CEO Shayne Elliott speaks in Sydney on Nov. 30, 2016.

ANZ still insists that Oyo’s discrimination claims are without merit, but was forced to apologize for the way its lawyers had questioned Oyo after news of the deposition leaked to the press last week. The bank claimed it was unaware that its lawyers planned an abusive line of questioning. In a statement, the bank also seemed to blame U.S. legal practices for what happened.

“We are disappointed this line of questioning was put to our former employee by our external lawyers handling the matter in New York,” reads part of a lengthy statement on the bank’s [website](#). “We are aware that the law and practice in the United States is different to Australia.”

As criticism intensified over the weekend, bank CEO Shayne Elliott issued his own apology.

“I apologise. This is wrong & not acceptable,” Elliott tweeted after the Sydney paper’s story broke. “We were not aware of our external NY lawyers strategy & should have been.”

Elliott said that none of this personal information would be used at trial. In the letter to Oyo’s lawyers, the bank’s attorneys also said they would not be asking such questions.

I apologise. This is wrong & not acceptable. We were not aware of our external NY lawyers strategy & should have been. We have instructed them that this is not to be used during trial & and I will apologise to the complainant personally.

— Shayne Elliott (@ElliottShayne) [July 21, 2018](#)

Oyo and her lawyers both told HuffPost that the idea that ANZ didn’t know what its lawyers were doing is false.

“Three senior representatives from ANZ were present during our client’s deposition, including ANZ’s head of talent and culture,” said Oyo’s lawyers, Renan Varghese and Michael Williams, from the New York firm Wigdor LLP, in a statement. “All three had every opportunity to intervene, but instead sat idly by and watched as their attorney forced the victim of sexual harassment to relive a sexual assault that is completely irrelevant to this case.”

The bank wouldn’t have let this happen if it was committed to doing the right thing, Oyo’s lawyers said. The bank is taking the same kind of “see no evil, hear no evil” position in its defense against Oyo’s lawsuit, they argued.

One of the ANZ employees present at the deposition was Nursey, who had no reason to intervene to help Oyo; the others were not lawyers, the bank’s spokesman told HuffPost.

“They heard the debate and left it to the Judge to decide appropriateness,” he said in a statement. “The Judge ruled the questions were relevant given the plaintiff is seeking significant compensation for emotional distress and tens of millions in punitive damages.”

ANZ's insisted again in its letter that they were unaware of the questions that would be asked in the deposition.

The trial is set to begin in September in federal court in New York.