

Abstract

SEX, HARASSMENT AND THE WORKPLACE

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Last year, high profile individuals, such as presidential candidate Herman Cain, former IMF chief Dominique Strauss-Kahn, and WikiLeaks founder Julian Assange, made major media coverage, because of alleged issues relating to SEX. Now that I have your attention, this paper targets sexual harassment, therefore we will not be dealing with Strauss-Kahn's alleged sexual abuse charge, nor Julian Assange's sexual assault charges. The focus is on sexual harassment, not to commit violations of Title VII of the Civil Rights Act of 1964 and its amendments, but to help educate employers, in order to prevent these costly legal actions and payment of damages, or if they cannot be prevented, then to reduce the exposure involving actions that might not have been preventable.

The Civil Rights Act and its amendments do not require a general civility code on employers, nor does it require a utopian work environment, but it does require that employees not be sexually harassed, with one exception. Dealing with the "based on sex" element requiring that the harassment that occurred because of the complainant's gender, and did not occur to members of the opposite sex. *Steiner V. Showboat*

Operating Co., and *Harris v. Forklift Systems Inc.* both deal with this issue. This issue is evident in *Harris*, when the president of Forklift Systems is found to have made comments to female employees, often in front of others, regarding their appearance and their intelligence; in one instance, he called an employee a “dumb ass woman,” and in another situation, he suggest that a female employee and he “go to the Holiday Inn to negotiate your raise.” The president also asked only female employees to retrieve coins from his front pants pocket, and threw objects on the ground in front of the women and asked them to pick them up. He made no such requests of male employees.

This paper also deals with quid pro quo tangible employment action issues and a hostile work environment, which includes constructive discharge. The theory of vicarious liability under agency-relation legal standard will indicate why and how employers can be liable for actions of their employees, in addition, the liability of employers for actions of customers for sexual harassment will be covered.