



**FCRA WAGE PROJECT
CHAPTER 6: SEXUAL HARASSMENT
[ALL-IN-ONE DOCUMENT]**

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EEO LAW BASICS

CHAPTER: 6 SEXUAL HARASSMENT

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ITEMS: A through L



6-0 | CHAPTER INTRO - SEXUAL HARASSMENT

I think I am being sexually harassed at work.

- a. What Does "Quid Pro Quo" sexual harassment look like?
- b. What Does "Hostile Work Environment" sexual harassment look like?
- c. I think I am being sexually harassed at work, how do I prove it?
- d. How do I show that my employer knew what was going on?
- e. Can I file a claim against my boss/supervisor or other co-workers under the FCRA?
- f. I complained to my employer and they reprimanded the harasser. Can I still file a claim?
- g. I reported to my employer, but they didn't do anything - can I still file a claim?
- h. Is one incident of sexual harassment sufficient basis for a claim?
- i. Can I get damages for emotional distress?
- j. How do I show that this conduct affected my ability to work?
- k. What is the difference between sex discrimination and sexual harassment?
- l. What could my employer do to deny my allegations, and how do I respond to the denials?
- m. Does it matter when the discrimination occurred? (new window to WDTLS)
- n. What options do I have if I my employer has fewer than fifteen employees? (new window to WDTLS)
- o. If I prove my Equal Pay claim, what kind of remedies am I entitled to? (new window to Remedies)

(unknown authors)



6-A | WHAT DOES "QUID PRO QUO" SEXUAL HARASSMENT LOOK LIKE?

If a supervisor demands sexual favors of you in order for you to keep your job or get a promotion, this would be considered "quid pro quo" sexual harassment.³⁵ In such a situation, if the supervisor harassing you terminated you, denied your promotion, or took any other action against you, this is known as a tangible employment action, which makes your employer automatically liable.³⁶

(unknown authors)

Footnotes

³⁵ See Stockett v. Tolin, 791 F. Supp. 1536, 1553 (S.D. Fla. 1992)

³⁶ Speaks v. City of Lakeland, 315 F. Supp. 2d. 1217, 1223-1224 (M.D. Fla. 2004), see also Walton v. Johnson & Johnson Services, Inc., 347 F.3d 1272 (11th Cir. 2003)



6-B | WHAT DOES "HOSTILE WORK ENVIRONMENT" SEXUAL HARASSMENT LOOK LIKE?

If you are repeatedly subjected on the job to threats, insults, or ridicule based on gender, even if the conduct is not sexual in nature, this can be considered "hostile work environment" sexual harassment.³⁷ In such a situation, where no "tangible employment action" was taken, the employer can defend itself by asserting that it exercised reasonable care to prevent and correct promptly the sexually harassing behavior. (see question g)³⁸

(unknown authors)

Footnotes

³⁷ *King v. Auto, Truck, Industrial Parts and Supply, Inc.* 21 F. Supp. 2d. 1370, 1378-1379. (N.D. Fla. 1998)

³⁸ *Speaks*, 315 F. Supp. 2d. at 1224.



6-C | I THINK I AM BEING SEXUALLY HARASSED AT WORK, HOW DO I PROVE IT?

To demonstrate “quid pro quo” sexual harassment, you must show that your employer has altered your job conditions because of your failure to submit to sexual demands.³⁹ To demonstrate that you have been subjected to a hostile work environment, you must show that:

1. you belong to a protected group (women are considered a protected group);
2. you were subjected to unwelcome sexual harassment;
3. the harassment was based on sex;
4. the harassment was so severe or pervasive that it altered the terms and conditions of employment;
5. there are grounds to hold you employer directly or indirectly liable.⁴⁰

(unknown authors)

Footnotes

³⁹ Stockett, 791 F. Supp. at 1552.

⁴⁰ Snoke v. Staff Leasing Inc., 43 F. Supp. 2d 1317, 1326 (M.D. Fla. 1998)



6-D | HOW DO I SHOW THAT MY EMPLOYER KNEW WHAT WAS GOING ON?

Your employer is liable if it knew or should have known of the conditions you complained of and failed to take action against it. If you complain directly to your employer about the situation, then the employer is charged with "actual knowledge," and if the condition is open and observable, the employer is charged with "constructive knowledge."⁴¹

(unknown authors)

Footnotes

⁴¹ Scelta v. Delicatessen Support Services, Inc., 57 F. Supp 2d. 1327, 1340 (M.D. Fla. 1999)



6-E | CAN I FILE A CLAIM AGAINST MY BOSS/SUPERVISOR OR OTHER CO-WORKERS UNDER THE FCRA?

While the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) Does not permit suits against individuals,⁴² you can still sue individuals who have harmed you under other statutes or judge-made law.

For example, depending on the nature of the harassment which you have experienced, you may have claims against individual supervisors or co-workers for battery (improper touching), invasion of privacy, intentional infliction of emotional distress, or false imprisonment.⁴³

(unknown authors)

Footnotes

⁴² *Blount v. Sterling Healthcare Group, Inc.*, 934 F. Supp. 1365, 1367 (S.D. Fla. 1996)

⁴³ See *Stockett*, 791 F. Supp. at 1555 (discussing defendant's individual liability under state law claims).

6-F | CAN I GET DAMAGES FOR EMOTIONAL DISTRESS?

Yes.

The FCRA
(http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm) provides for damages due to mental anguish.⁴⁴

See What do I get if I win? for details on what remedies you are entitled to.

(unknown authors)

Footnotes

⁴⁴ Fla. Stat. Ann. §760.11(5)



**6-G | I COMPLAINED TO MY EMPLOYER AND THEY REPRIMANDED THE HARASSER
- CAN I STILL FILE A CLAIM?**

Yes, but your employer can defend itself by asserting that it exercised reasonable care to prevent and correct promptly the sexually harassing behavior and that you did not take advantage of opportunities to correct or prevent the harm.

For example, there must be a complaint procedure which allows sexual harassment victims to make their complaint by bypassing the offending supervisor if necessary.^{[45](#)}

(unknown authors)

Footnotes

⁴⁵ Walton, 347 F.3d at 1286.



6-H | I REPORTED TO MY EMPLOYER, BUT THEY DIDN'T DO ANYTHING - CAN I STILL FILE A CLAIM?

Yes, and in this case the employer would have a more difficult time asserting such a defense.

(unknown authors)



6-I | IS ONE INCIDENT OF SEXUAL HARASSMENT SUFFICIENT BASIS FOR A CLAIM?

Generally, courts do not consider isolated incidents of harassment actionable unless they are severe.^{[46](#)}

(unknown authors)

Footnotes

⁴⁶Id. at 1285 n. 12.



6-J | HOW DO I SHOW THAT THIS CONDUCT AFFECTED MY ABILITY TO WORK?

There are four factors you need to show for the court to make this determination:

1. the frequency of the conduct;
2. the severity of the conduct;
3. whether the conduct is physically harassing or humiliating, or merely offensive;
4. whether the conduct unreasonably interferes with your job performance.⁴⁷

(unknown authors)

Footnotes

⁴⁷ Id.



6-K | WHAT IS THE DIFFERENCE BETWEEN SEX DISCRIMINATION AND SEXUAL HARASSMENT?

Sexual harassment is a type of sex discrimination, because the harassment is based on your sex.^{[48](#)} Furthermore, any harassment or conduct which would not occur but for your sex may constitute harassment, even if it is not clearly sexual in nature.^{[49](#)}

(unknown authors)

Footnotes

⁴⁸ *King*, 21 F. Supp. 2d. at 1379.

⁴⁹ *Russell*, 887 So.2d at 378.



6-L | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO ITS DENIALS?

Once you establish your case, your employer must give a legitimate, non-discriminatory reason for its actions. You must then show that the reasons your employer has provided are false.⁵⁰

(unknown authors)

Footnotes

⁵⁰ Snoke, 43 F. Supp. 2d at 1323.



APPENDIX



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