

## **SEXUAL HARASSMENT: IS THE MEDIA MANIPULATING THE FACTS?**

**KIMBERLY C. PELLEGRINO, D.B.A.**

*Cameron University*

**JERRY A. CARBO, II, J.D.**

*Cornell University*

**ROBERT J. PELLEGRINO, D.B.A.**

*Cameron University*

### **ABSTRACT**

This article examines the role the media plays in the issue of sexual harassment. Although media involvement in this issue is indirect, the impact the media has is very powerful because it can sway or alter our knowledge and beliefs. Therefore, the media performs a very important role in the sexual harassment issue. Specifically, this article analyzes the media coverage for what is reported and for what is not disclosed concerning sexual harassment. Media reports surrounding *MacKenzie v. Miller Brewing* (or, as the media likes to refer to it as, "the infamous Seinfeld case") and the recent Astra settlement with the EEOC are examined. A clear agenda begins to emerge regarding the media and sexual harassment. This article explores the media's subtle (and sometimes not so subtle) agenda concerning sexual harassment. Next, we examine why this agenda exists. We conclude by clarifying the real problems of sexual harassment and examining solutions that will work.

In the past several months, the media has waged an all out war on sexual harassment suits. Reporters have done their best to convince the American public that sexual harassment suits are simply a money-making, male-bashing ploy used by disgruntled workers and greedy lawyers [1]. Media reports have portrayed sexual harassment laws as a cause of frivolous lawsuits. The media seems to focus on any story they can find that will raise doubts about the veracity of sexual

harassment suits while, at the same time, ignoring the real problem of sexual harassment in the workplace.

This article analyzes media coverage of sexual harassment. Specifically, we examine how the media used the *MacKenzie v. Miller Brewing* case in their attack on harassment suits. The media coverage of the recent Astra settlement with the Equal Employment Opportunities Commission (EEOC) is explored, and we look beyond these cases for other examples of media manipulation as it relates to sexual harassment. The second section of this article details the facts of the MacKenzie case the media did not report and what should have been emphasized by the media in the Astra settlement. Next, why the media would engage in this agenda is considered, and what constitutes sexual harassment as defined by the courts and the EEOC is examined. Finally, the true problems of sexual harassment in America are discussed.

## **MEDIA COVERAGE EXAMINED**

### **The Media Manipulation of *MacKenzie v. Miller Brewing***

This case may not sound familiar when it is referred to by its true title. However, if we were to call it the "Seinfeld" case, as it was labeled in the media, most of us would at least have some familiarity with it. However, the majority of Americans probably do not know the true story of this case despite the significant media attention it received. Media myth: the case was a sexual harassment suit. Fact: MacKenzie filed a wrongful termination suit and an interference-with-contract suit against Miller. No sexual harassment suit was ever filed; Patricia Best filed only an internal complaint [2]. Media Myth: Jerald MacKenzie was fired for merely talking with a coworker about a racy Seinfeld episode. Fact: whether you believe MacKenzie or Miller Brewing, the case involved much more than just talking. These issues are discussed later. Media Myth: MacKenzie won millions from both Miller and his accuser (Patricia Best) because talking about Seinfeld is not sexual harassment. Fact: MacKenzie won millions from Miller because the jury believed Miller had ulterior motives for firing MacKenzie that were not based on sexual harassment. Further, while the jury did award damages against Best, these damages were thrown out on appeal [3]. The media would like us to believe this case was all about sexual harassment suits gone wild.

### **The Media Coverage of the MacKenzie Case vs. the Facts of the Case**

Numerous media reports suggested Jerald MacKenzie was fired from his position at Miller Brewing because he merely discussed a racy Seinfeld episode with a coworker. The media seemed to suggest the entire firing and the court case were based around this Seinfeld episode. The American public was exposed to

headlines such as “when a beer company executive tried to discuss a racy Seinfeld episode,” “Seinfeld verdict,” and many other headlines that almost made it seem as though Jerry Seinfeld himself were on trial [4-7]. Many news stories and television reports on the case started by replaying or printing parts of the Seinfeld episode in question [8, 9]. Very few news reports informed the American public that MacKenzie had had a prior harassment charge filed against him (a charge Miller Brewing settled for \$16,000) and that MacKenzie had been warned about sexual harassment prior to his dismissal [5]. While the media made sure to describe the Seinfeld episode, most failed to report that MacKenzie’s accuser, Patricia Best, felt she had been harassed by MacKenzie on two prior occasions [5]. Most reports did not inform us that MacKenzie had crowded and shadowed Best at a company picnic prior to the Seinfeld discussion and had followed this up by leaving a questionable message for Best at her hotel room telling her how special she was and informing her he was getting ready to get into bed following the picnic [5]. Many of the reports also ignored the statement by Best that MacKenzie was staring at her crotch while discussing the Seinfeld episode and showing Best a photocopy of the definition of a female anatomy part that rhymed with a character’s name in the Seinfeld episode [5].

Many media reports also failed to mention that MacKenzie’s suit was not only based solely on the sexual harassment charge leading to his dismissal. In fact, as Greta Van Susteran stated in reference to the case, “that was not a sexual harassment case, and nobody gets that” [10]. In fact, the wrongful discharge suit based on the sexual harassment complaint had been thrown out prior to trial [11]. MacKenzie presented evidence that managers at Miller had a vendetta against him and were looking for an excuse to fire him. Miller executives had lied to MacKenzie concerning his position after a restructuring of the company and had reduced MacKenzie’s pay range despite the fact that he was to be grandfathered into the new Miller pay structure under his prior pay range [11]. However, the media seemed to be interested in convincing the public that MacKenzie had been fired simply because Miller believed that innocent discussions of a TV show were, in fact, sexual harassment, and a level of harassment that warranted firing MacKenzie. The media clearly manipulated the facts of this case to serve their own agenda.

Even in covering the verdict, the media seemed to want to cover up facts. The media all reported the jury found Best liable to MacKenzie for over \$1 million. However, few reports informed us that this award was thrown out on appeal [3].

### **Media Manipulation of Yet Another Sexual Harassment Case**

In early February, 1998, Astra USA agreed to the largest sexual harassment settlement ever with the EEOC [12]. During our research, it was much more difficult to find stories related to this settlement than it was to find stories

concerning the MacKenzie case. Further, despite the historical significance of this settlement, most of the stories were not front-page news.

This lack of coverage of the settlement was very disturbing. Astra's entire company culture seemed to have been based on pervasive harassment of female employees. Female sales associates were pressured to dress provocatively, were told socializing with male executives was important for their careers, and were often groped by then-CEO Lars Bildman [12]. Astra was a perfect example of the worst type of harassment in the workplace, yet it was not front-page news, according to our media. While it seemed crucial to report MacKenzie as having been fired for something ridiculous like discussing a sitcom, it was not important, in the eyes of the American media, to report on these inexcusable acts at Astra.

A good example of the media's lack of interest in this story appeared in *The Economist* in 1998 [13]. In a two-page article discussing the problems at Astra, the editors of the *Economist* saw fit to include only one sentence at the end of a paragraph about the pervasive sexual harassment at Astra [14]. A story that should have exposed the seriousness and the pervasiveness of sexual harassment in corporate America for all intents and purposes ignored the issue.

The coverage of the Astra settlement (what little there was) also had a biased tinge to it. Most of the media coverage of the Astra case focused on the size of the settlement. Examples of these headlines include:

"Astra to pay record \$9.85 million"

"Firm to Pay \$10 million in Settlement of Sex Case"

"Record \$10 million payment OK'd in Sex Harassment Case"

"Astra USA Settles Harassment Suit; to Pay \$9.9 Million" [12, 15, 16, 17].

These headlines all stressed the large amount Astra had to pay without stressing just how atrocious the actions at Astra were. The headlines also did not inform us that the settlement was to be split among more than eighty employees [12] at Astra or that this settlement worked out to less than \$125,000 per employee before legal costs.

### **Media Manipulation Beyond MacKenzie and Astra**

Perhaps some of the most manipulative stories surrounding sexual harassment were not directly related to the news coverage of the *MacKenzie* or *Astra* cases. For instance, John Leo, in an article in *U.S. News and World Report* entitled, "Sexual harassment doctrine needs reform; Euphoria at the water cooler," informs us that sexual harassment is simply a weapon created by Catharine MacKinnon as a defense tactic in her perceived "all-out male war against women" [18, p. B6]. Leo suggested sexual harassment was developed by MacKinnon herself as an attack against men. According to Leo, the current system of sexual harassment litigation allows "crude but minor affronts" to be turned into "federal

cases" [19]. These reports are effective at convincing the public that the sexual harassment problem in our corporate culture is that it is too easy to accuse someone of sexual harassment, not that too many employees are being harassed.

The editors at *The Economist*, who downplayed the importance of the sexual harassment at Astra, have not failed to warn us of the "Perils of Flirtation" in the workplace [20]. *The Economist* informs us that joking about sex or even asking a coworker out on a date can lead to a sexual harassment suit. *The Economist* paints a picture of sexual harassment suits coming from accusers who are out of control.

In the February 1998 issue of *Nation's Business*, Michael Barrier warns that a disgruntled employee and a trial lawyer create a toxic combustion that can lead to a frivolous sexual harassment lawsuit [1]. Barrier blames cutthroat lawyers and rightfully terminated employees for the increase in sexual harassment charges. He does not see the problem as pervasive harassment in the workplace [1].

These are just a few examples of news articles that seem to have attempted to scare the American public about the frivolity of sexual harassment suits. These news reports, when taken together with the MacKenzie coverage and the Astra coverage, seem to be attempts to scare the public into limiting the ability of employees to sue for sexual harassment, and possibly to even bring an end to hostile environment sexual harassment lawsuits. These news stories inform the public that the problem with sexual harassment is not that too many employees are being harassed, but that too many employees are filing frivolous lawsuits over nothing. In the next section of this article, we investigate why the media would be pushing the agenda against sexual harassment suits.

## THE MEDIA'S AGENDA

### What Do These News Reports Accomplish?

Perhaps the biggest accomplishment of these stories is the creation of fear of sexual harassment charges in the workplace. These stories create fear in workers that they themselves could easily fall victim to false complaints, and these stories create fear in employers that they may lose millions if they fire someone accused of sexual harassment. Finally, these stories even create fear in the victims of harassment by raising the possibility that if victims report the harassment, they themselves may become the defendants in a lawsuit.

The media coverage of the MacKenzie case suggested to American workers that they couldn't talk about television shows in the workplace. These news reports suggested that male employees, specifically, need to carefully monitor themselves when discussing any topic in the workplace. In essence, the coverage suggests that, due to sexual harassment suits, the workplace has become so volatile that no type of discussion is safe. It is hard to imagine an American worker who would want to be accused of sexual harassment merely for innocently discussing a TV show. By focusing the reports on the Seinfeld discussion

and leaving out the other facts of the case, the media has implied that this is indeed the environment we work in today. Further, the media has placed this blame squarely on the shoulders of those who accuse workers of sexual harassment and the hostile work environment sexual harassment laws themselves create.

The media's suggestion that Miller Brewing was found liable for millions for merely firing someone they perceived to be a sexual harasser has also created a fear in employers. As Miami management attorney Elizabeth Prior Johnson suggested in reference to the MacKenzie case, employers may have to "defend the harasser's lawsuit" if they jump to conclusions [21]. Statements such as these suggest employers are now faced with a work atmosphere that boils down to a losing situation, no matter which way they turn. Employers clearly must take steps against sexual harassers, or face liability to the harassed [10], but now the media has suggested that by doing so employers are treading on thin ice and just asking for a lawsuit from the accused.

These reports on the MacKenzie case were able to strike fear in employers and employees concerning lawsuits. No one wants to be accused of being a harasser for innocently speaking with a coworker, and as employers we don't want to be sued for following the law and disciplining harassers. The media wants us to believe employers are painted into a corner with only two conceivable ways out: either shrink the concept of hostile environment harassment [19] or repeal the hostile environment sexual harassment laws.

Likewise, the media coverage of the Astra settlement can also spark fear in an employer's heart. The reports repeatedly told employers sexual harassment would cost them \$10 million and, remember the Seinfeld case, under the current system harassment can be even an innocent act like discussing a TV show. Articles such as the Leo article entitled, "Every Man a Harasser?" [19] not only imply these assertions, they come right out and tell us that hostile environment suits have run amok and must be reined in. Again, the media appears to want to convince the public that we either need to drastically alter the hostile environment framework or repeal it all together.

### **Why Would the Media Have This Agenda?**

One possible reason for this agenda is that the media used Seinfeld in their headlines because Seinfeld was extremely popular and would grab the reader's attention. In other words, the story is more sensationalized with Seinfeld included and, therefore, it is "better" news. After all, competition in the news industry is intense today. The advent of so many information sources ranging from newspapers and magazines to the Internet to satellite television with hundreds of stations has created a very competitive environment. At first glance, this explanation makes sense. However, when you consider the Astra case, this rationalization falls apart. What could be more sensational than a chief executive officer that

gropes his female employees, women being forced to dress provocatively, and a corporate culture in this day and age based on sexual harassment of female employees? The whole Astra case sounds more like a TV movie of the week. Therefore, the problems with this explanation lead us to another possible answer.

A second explanation for the manipulative nature of the media coverage is an even more unsettling one. The media's motive may be to either drastically modify the hostile environment framework or perhaps even bring an end to these suits. We need to analyze why this agenda would exist. First, it is important to understand who would benefit from the demise of hostile environment suits. As the National Organization of Women reported in its Issue Report on Sexual Harassment, "sexual harassment is a form of violence against women, used to keep women in their place" [22, p. 1]. Sexual harassment suits afford women a defense against this form of violence. An end to these laws would allow employers to strengthen the power they have over their employees. Even if the laws are not eliminated, by raising doubts about the veracity of these lawsuits and scaring those being harassed into not filing complaints, the media is able to make it less likely for a sexual harassment claim to lead to any type of liability against an employer or to even have sexual harassment charges filed. This attack on sexual harassment suits by the media can best be explained as those in power doing everything possible to retain that power. Are television networks not employers? Are newspapers not employers?

The increase in sexual harassment cases reported to the EEOC from 1990 to 1995 was 153 percent [22]. These reported cases show women are more and more willing to take advantage of their defenses when male employers abuse their power. There could really be no better time for the media to start attacking these suits and thus protect the power structure of Corporate America. The media's coverage of these events seems to be a clear attempt at preserving what Christine Littleton would refer to as the sexual subordination of women [23].

### **Could the Media be Reporting the Truth?**

We have described two motives that could persuade the media to manipulate the facts about sexual harassment. However, we must investigate whether there is truth to the claims and assertions made by the American media. If the media has a legitimate reason for reporting these so-called problems with sexual harassment claims, then there really is no hidden agenda. However, the facts about sexual harassment clearly back up this theory of a hidden agenda.

## **THE TRUTH ABOUT SEXUAL HARASSMENT**

To examine the truth about sexual harassment, we start with a definition. EEOC guidelines on sexual harassment start by stating that sexual harassment is a form of sexual discrimination made illegal by the Civil Rights Acts of 1964 and

1991 [24]. There are two forms of sexual harassment: quid pro quo harassment and hostile environment harassment. Quid pro quo harassment occurs when submission to or rejection of sexual advances is used as a basis for employment decisions [25]. There seems little debate that this form of sexual harassment should be illegal, so further examination of quid pro quo is not necessary for our discussion.

The second, and more controversial, type of sexual harassment is "hostile environment" harassment. This type of harassment occurs when "unwelcome sexual conduct" creates an "intimidating, hostile, or offensive working environment," or "unreasonably interferes with an individual's job performance" [26]. According to much of the media during and after MacKenzie, an employer may be accused of and found guilty of creating such an environment by innocently telling a joke or discussing a television show. However, the EEOC states very clearly that when investigating a charge of hostile environment, the investigator must look at all of the facts and circumstances surrounding the charge [27]. Further, the U. S. Supreme Court in *Meritor Savings v. Vinson*, adopted this EEOC definition of hostile environment [28]. The Court held conduct that would give rise to a hostile environment must be "severe or pervasive." In addition, the Court required the accuser to show the conduct was "unwelcome." Further, the Court held the showing of pervasiveness, severity, and unwelcomeness needed to be shown to the degree that a reasonable person would find such actions to be severe or pervasive and unwanted. The Court also held that in determining whether the conduct created a hostile environment, the trier of fact needed to look at whether the conduct was physical or verbal, how often the conduct occurred, whether the conduct was hostile or potentially offensive, whether the harasser was in a position of power or that of a coworker, and how many harassers and victims were involved in the actions [28]. All of these factors clearly suggest that if an employer were to merely innocently talk about a television show or make a joke at work, s/he would not be found guilty of violating the sexual harassment laws.

The media has also created a fear among employers that if they do punish a harasser, they will face a million-dollar lawsuit. This fear could perhaps be the most damaging effect of the less-than-stellar media coverage because it may lead employers to do little or nothing about actual harassment. The coverage has also created the perception of a double-edged sword: an employer may face a lawsuit if s/he does nothing to discipline an alleged harasser or if s/he does discipline a harasser. Employers may fight back by attempting to get rid of the hostile environment laws through lobbying. However, these fears are really unfounded. A number of court cases show an employer will likely not face a legitimate lawsuit for firing an alleged harasser if s/he does so in good faith. Most recently, the California Supreme Court held that an employee did not have a wrongful termination/interference of contract claim against an employer who had fired him due to sexual harassment charges as long as the employer had acted in good faith

[29]. This court case was able to cite a number of other state cases that had set the same precedent [29]. In *Duffy v. Leading Edge Products*, the Fifth Circuit held Title VII does not prohibit an employer from taking actions the employer feels will end a hostile work environment [30]. In *Miller v. Servicemaster by Rees*, the Arizona Court of Appeals also found there was no claim by an employee fired due to sexual harassment charges where the employer did not fire the employee in malice or without an improper motive [31]. Even in *Lawson v. Boeing Co.*, where the fired employee denied all of the sexual harassment charges, the Washington Court of Appeals held employers had a conditional privilege to fire/discipline employees [32]. Likewise, Florida laws, which promote an employment-at-will environment, also make it very difficult for a fired employee to bring any claims of this type against his former employer [21]. Employment at will is the doctrine under which the majority of American employees work. Under our current employment and legal system, the employer that fires an employee under the good faith belief that the employee had committed sexual harassment can feel safe its decision will be protected. It is important to remember that in *MacKenzie* there were serious allegations that Miller Brewing did not fire MacKenzie due to a good faith belief that MacKenzie had harassed Patricia Best [5].

A final issue the media played up in light of the *MacKenzie* case was that employers could be liable for a hostile environment created by their employees. However, in the 1997-98 session of the Supreme Court, the Court held that an employer will be liable for an employee's sexual harassment only if the employer fails to take preventative measures (sexual harassment policies that stop sexual harassment, etc.) or corrective actions [33].

## **The Real Problem of Sexual Harassment**

Having shown that most of the problems the media portrayed with our system of sexual harassment are either untrue or overblown, it is important to realize sexual harassment is a problem in Corporate America. There are problems with the system we have designed to combat sexual harassment, and in *MacKenzie* a number of major problems became apparent. The media ignored these real problems.

First, as Ellen Bravo, codirector of 9 to 5 Milwaukee pointed out, Patricia Best—MacKenzie's accuser—did what a worker is supposed to do [2]. Best went to her employers and informed them she felt MacKenzie was sexually harassing her [2]. Best did not go to the media or even file a claim with the EEOC. However, for simply reporting the incident, Best found herself on the wrong end of a lawsuit filed by MacKenzie. In fact, a jury was even willing to find Best liable to MacKenzie for \$1 million for simply reporting the incident to her employer [5]. Thankfully, this judgment was subsequently thrown out [3].

However, this sends a terrible message to employees who feel they have been harassed. These employees will now have to consider whether even reporting an incident to their supervisor may lead to a lawsuit. Already, most women do not report when they have been sexually harassed [22]. Thanks to the media coverage of the MacKenzie story, and a horrendous decision by the jury, it is likely even fewer women will report incidents of sexual harassment.

Statements made by the MacKenzie jury also point to other problems with our society's view of sexual harassment. For instance a juror stated that because Best had used the f-word at the office, she should not have been offended by MacKenzie's actions [34]. Has this jury set a precedent that if we use profanity at work we are setting ourselves up for attacks in the workplace and attacks we will not be able to claim as creating a hostile environment? The fact that someone uses curse words in no way makes him/her less vulnerable to sexual harassment.

The jurors also claimed that because Best was a veteran workers, she should have understood the environment of Corporate America and not been offended by MacKenzie [5]. Again, this is very disturbing. As female employees become more experienced in the workplace, it should be expected they would have at least begun to climb the corporate ladder. Because sexual harassment is about power and keeping women down, it would be expected that the more experienced female workers, who have worked themselves into positions where they are starting to infringe on the traditional male power structure would, in actuality, be more likely to be harassed. Now we have a jury telling us that experienced female workers should accept these acts because they should understand the corporate environment. The *MacKenzie* case is not the only instance of the harassed being attacked in our court system. For instance, in *Burns v. McGregor*, the victim of sexual advances by coworkers was told by a jury that because she had posed nude in a magazine prior to working at McGregor, she should have expected the actions and that the actions did not constitute sexual harassment [35]. (This case was later reversed.) In addition, women who bring charges of sexual harassment are more likely to lose their jobs than to win monetary settlements [22]. Under our current system of sexual harassment, the victims are not only attacked by the harasser, but also may be attacked in the courtroom, and by their employers being fired.

Another problem with our system that was discussed in the *MacKenzie* coverage was how ridiculous society finds it that telling a racy joke or discussing a racy television show at work could be sexual harassment. However, in reality, the telling of jokes that are demeaning to women can indeed create a hostile environment in the workplace. Telling demeaning jokes about women shows men believe women are inferior and should be kept in their place, the main reason that sexual harassment exists. Further, what is the real difference between a racial joke and a sexually demeaning joke? Would we be nearly as accepting of an

employer that insisted on telling racial jokes in the workplace? However, the media has suggested that we should accept the employer that tells sexually demeaning jokes.

Perhaps the biggest problem with sexual harassment is that despite the fact that it has been illegal under federal law since 1977 [36], it is still so pervasive in our society. The corporate culture at Astra is a perfect example of how pervasive sexual harassment can still be in the workplace. At Astra, the CEO himself was engaged in severe forms of sexual harassment [12]. This man was an experienced businessman who should have understood what sexual harassment was and that sexual harassment is simply unacceptable. However, it appears many employers still do not take sexual harassment seriously. For instance, in a *Business Week* survey in 1998 of 2800 human resource professionals, 72 percent reported they had no office romance policies [37]. Further, studies have "found that 50-75 percent of employed women will experience sexual harassment on the job [22, p. 1]. We have seen the increase in cases reported to the EEOC, and this increase should send a message that employers need to start cracking down on unacceptable behavior in the workplace. Instead, the media suggests we need to start cracking down on those filing the suits. This attitude that sexual harassment is really not all that bad even exists in our schools. According to a 1993 NOW legal defense fund survey, 89 percent of women and girls had been harassed at school and 39 percent were harassed daily [22]. The Pentagon, 1995, even reported 78 percent of women in the military had been sexually harassed [22]. The media could have used the Astra settlement as a perfect example of how serious the problem of sexual harassment still is and to express the fact that employers need to take actions to end these acts in their workplace. However, the media simply did not treat this settlement as front-page news.

The final problem with sexual harassment in our workplace is what many suggest as the solution to the problem. We have already shown how the media has, in essence, suggested we start attacking the accusers, limiting the suits that can be brought, and perhaps even throwing out hostile environment harassment laws. However, the media is not the only source of ludicrous solutions. The Kassebaum-Baker commission suggested in 1997 that the solution to harassment in the military should be to resegregate the military [38, p. 7]. This seems like a huge step backward in our struggle to create equality for all people regardless of race, sex, creed, religion, or national origin. Perhaps the next suggestion from Congress will be to resegregate our schools to solve the race problem that exists in our country.

## CONCLUSION

The media has painted a picture of sexual harassment suits out of control. News reports tell us greedy attorneys and gold diggers will sue for sexual harassment in

attempts to get rich. However, the media has totally missed the real problem with sexual harassment in our society. Sexual harassment suits are still a big problem today, because employees are still being harassed. Many employers either don't understand what sexual harassment is, or simply don't care that it is illegal.

Sexual harassment is part of Corporate America, and the problem needs to be rectified. The solution is not simply resegregate the workplace or to change the laws. The solution is to alter the behavior of these harassers. Employers need to educate employees as to what is unacceptable in the workplace. We must have constant reminders of the seriousness of sexual harassment and strict guidelines to stop sexual harassment from becoming a problem in our workplace. In addition, the court system itself needs to begin making a statement that sexual harassment will not be accepted. Instead of attacking victims, the court needs to attack the perpetrators. Awards in sexual harassment suits should be more in line with those in other discrimination suits. In addition, it should be investigated as to why more victims of harassment are fired than ever receive monetary damages. This fact is simply unacceptable.

Finally, it is not time for us to lighten up about what is acceptable in the workplace. The office is not a barroom or a gym; it is a place to work, and it should be a place where every employee can feel comfortable while working. If this means that sexually oriented discussions and jokes are not allowed in the workplace, then that is how it should be. We need to start considering how our actions affect others, not to simply attempt to justify our actions by claiming the person offended must have had thin skin.

It is time to alter sexual harassment in the workplace, but not in the way the media has suggested. Instead, it is time to rid America's corporate culture of this demon that disempowers male and female employees alike.

\* \* \*

*Kimberly C. Pellegrino is an Assistant Professor of Management at Cameron University. Dr. Pellegrino received her undergraduate degree from The Pennsylvania State University and her Masters of Business Administration from West Virginia University. She then went on to receive her doctorate from Louisiana Tech University.*

*Jerry A. Carbo is the Manager of Labor Relations for Carrier Corporation in McMinnville, Tennessee. Mr. Carbo received his undergraduate degree from Texas Christian University and then received a juris doctorate from The Pennsylvania State University. He has just recently completed a Masters in Industrial Labor Relations from Cornell University.*

*Robert J. Pellegrino is an Assistant Professor of Marketing at Cameron University. Dr. Pellegrino received both his undergraduate and Masters of Business Administration from Western Illinois University. He then went on to receive his doctorate from Louisiana Tech University.*

## ENDNOTES

1. M. Barrier, Lawsuits Gone Wild, *Nation's Business*, February, 1998, p. 12.
2. E. Bravo, Let's Get the Facts Straight in Miller Harassment Case, *Milwaukee Journal Sentinel*, July 31, 1997, p. 11.
3. Worker not Liable in Seinfeld Case, *The Washington post*, October 8, 1997, p. A15.
4. Seinfeld Verdict, *Star Tribune*, Minneapolis, Minnesota, July 19, 1997, p. 18A.
5. J. Greenya, When a Beer Company Executive Tried to Discuss a Racy Seinfeld Episode with a Female Co-Worker He was Fired. But He Got the Last Laugh, *The Washington Post*, October 5, 1997, p. F01.
6. D. Jones, Seinfeld Case Fallout Award Creates Catch-22 for Companies, *USA TODAY*, July 17, 1997, p. 4B.
7. What's Up? Rhymes with Loot Seinfeld Costs Brewery, *The Charleston Gazette*, Charleston, West Virginia, December 12, 1997, p. 3D.
8. D. Gregory, It Rhymes with . . . ; Jerry MacKenzie Wins Multi-Million Dollar Settlement Against Miller Brewing Company and Patricia Best for Claiming He was Fired for Telling Joke He Heard on Seinfeld Episode, *Dateline NBC*, August 4, 1997 NBC News Transcripts.
9. J. Avila, Milwaukee Man Awarded \$26.6 Million for Sexual Harassment Suit, *TODAY*, July 16, 1997 NBC News Transcripts.
10. G. Van Susteran and R. Cossak, Burden of Proof for August 11, 1997; Employees Fire Back, CNN Burden of Proof, August 11, 1997 Transcript #97081100V12.
11. Holland and Hart, Miller time: What the Newspapers Didn't Tell You, *Wyoming Employment Law Letter*, November, 1997, p. 2:11.
12. K. Blanton, Astra to Pay Record \$9.85m; EEOC Says Sex Harassment Pervasive; Up to 80 Victims Could Share the Settlement, *The Boston Globe*, February 6, 1998, p. C1.
13. Too Much Sex, Not Enough Drugs, *The Economist*, February 14, 1998, p. 70.
14. Fourth paragraph last three lines: *Equally embarrassing is Mr. Bildman's alleged sexual harassment of young female sales staff. Some of the women sued Astra. The firm has settled, but its reputation has suffered* [13, p. 70].
15. K. Gilpin, Firm to Pay \$10 Million in Settlement of Sex Case, *The New York Times*, February 6, 1998, p. A16.
16. S. Armour, Record \$10 Million Payment OK'd in Sex Harassment Case, *USA TODAY*, February 6, 1998, p. 1A.
17. M. Maremont, Astra USA Settles Harassment Suit; To Pay \$9.9 Million, *Wall Street Journal*, February 6, 1998, p. B6.
18. J. Leo, Sexual Harassment Doctrine Needs Reform, Euphoria at the Water Cooler, *Chattanooga (Tenn.) Free Press*, February 8, 1998, p. B6.
19. J. Leo, Every Man a Harasser? *U. S. News & World Report*, February 16, 1998, p. 18.
20. The Perils of Flirtation, *The Economist*, February 14, 1998, p. 25.
21. Tuning Out Sex, *Broward (County, Florida) Daily Business Review*, January 9, 1998, p. A9.
22. National Organization of Women Issue Report; March 1997 at <http://www.now.org/issues/wfw/>.
23. C. Littleton, Equality and Feminist Legal Theory, 48 *University of Pittsburgh Law Rev.* 4 (Summer 1987), pp. 1043-1059.
24. EEOC Compliance Manual, Vol. II Section 615.2.

25. 29 Code of Federal Regulations @ 1604.11 (a)(2).
26. 29 Code of Federal Regulations @ 1604.11 (a)(3).
27. 29 Code of Federal Regulations @ 1604.11 (b).
28. *Meritor Savings Bank v. Vinson*, 477 U. S. 57 (1986).
29. *Cotran v. Rolling Hudig Hall International*, Cal. LEXIS 1 (Cal. 1998).
30. *Duffy v. Leading Edge Products*, 44 F 3d 308 (5th Cir. 1995).
31. *Miller v. Servicemaster by Rees*, 851 P.2d 143 (Ariz. Ct. App. 1992).
32. *Lawson v. Boeing Co.*, 792 P.2d 545 (Wash. Ct. App. 1992).
33. S. Armour, Ruling Guides Employers, Court Helps Clear Up Sexual Harassment Issue, *USA TODAY*, June 29, 1998, p. 6B.
34. R. Shalit, When the Harasser Becomes the Victim; In a Legal Twist in the Workplace, Sexual Harassment Claims have Spurred Reverse Litigation, *The Orlando (Florida) Sentinel*, November 9, 1997, p. G1.
35. *Burns v. McGregor Electronic Industries*, 989 F.2d 959 (8th Cir. 1993).
36. A. Fischer, After All This Time, Why Don't People Know What Sexual Harassment Means?, *Fortune*, January 12, 1998, p. 156.
37. W. C. Symonds and S. Ham et al., Sex on the Job, *Business Week*, February 16, 1998, p. 30.
38. Gender Mending; Defense Sec. William Cohen Should Adopt Kassebaum Baker Commission Recommendations about Resegregating Male and Female Soldier, *The New Republic*, January 19, 1998, p. 7.

Direct reprint requests to:

Professor Kimberly Pellegrino  
Cameron University Department of Business  
2800 W. Gore Blvd.  
Lawton, OK 73505-6379