

A photograph of two hands reaching towards each other in a field of tall grass under a clear sky. The hands are positioned as if about to clasp or support each other. The background is a soft-focus field of golden-brown grasses against a pale blue sky.

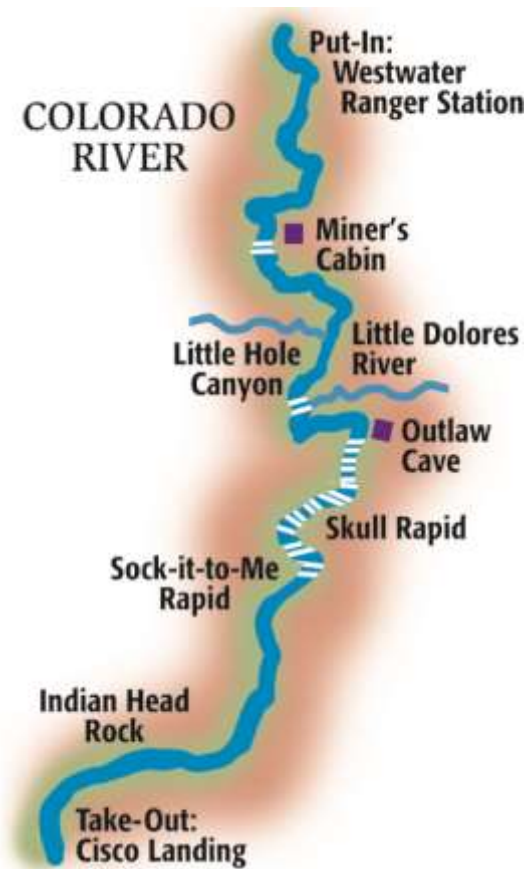
Understanding Unlawful Harassment

Presented by Dennis Westlind

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Where We're Going:

- Recognizing unlawful harassment
- Understanding the legal framework
- Knowing (and reducing) the risks



What is Harassment?

- Can be verbal, visual, physical
- Not limited to sexual harassment
- Can be by person of same or opposite sex
- Can be sexualized treatment of a current or past consenting partner



Two Forms of Harassment

- Quid Pro Quo
 - “This for That”
 - Requires supervisory authority
 - Submission to the conduct is an explicit or implicit condition of employment, or
 - Submission or rejection of the conduct is the basis of an employment decision
- Examples
 - Hiring manager tells applicant she must have sex with him to get the job
 - Supervisor denies promotion to employee who refused to have sex with her

Two Forms of Harassment

- Hostile Work Environment

- Creates an intimidating, hostile or offensive work environment based on sex (or other protected status)
- Can be from supervisors, coworkers, customers and clients
- Far more common

- Examples:

- Sexual jokes, stories, comments at work
- Groping, grabbing, pinching
- unwanted massages or hugs, flirting
- Repeated requests for dates, stalking
- Sexual drawings, photos
- Sexually intrusive questions, suggestive language

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Hostile Work Environment

- Must be unwelcome
 - Subjective: the employee must have been actually offended by the conduct (it must be unwelcome)
 - Objective: a reasonable person in the employee's situation would have found the conduct unwelcome



Liability

- Employer
 - Automatically liable for harassment by supervisors, or if employee suffers a tangible employment action (termination, failure to hire,
 - Liable for harassment by coworkers/customers if employer failed to take reasonable steps to prevent harassment
- Harasser
 - Potentially civilly liable under local “aiding and abetting” laws, battery, etc.
 - Possible criminal liability (assault, rape, stalking, harassment)

Damages and Expenses

- \$50,000 to \$125,000
 - Average legal fees of a harassment settlement
- \$250,000 to \$500,000
 - Average legal fees of a harassment trial
- \$50,000 to \$168,000,000
 - Range of harassment verdicts
 - Includes back pay, front pay, noneconomic damages, punitive damages



Reputational Harm

- Traditional Media
- Social Media
- Online Reviews
- Trade Publications



Preventing and Correcting Harassment

- Policies
 - Zero tolerance
 - Reporting procedures
 - No retaliation
- Training
 - Industry-specific
 - Mixed-gender training teams
 - Focus on inclusivity, diversity, opportunity
- Action
 - Discipline or terminate harassers
 - Enforce anti-retaliation policies
 - Don't be afraid to make public statements

Questions?



Dennis Westlind
dwestlind@bullardlaw.com

THANKS

