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SELECTED BIBLIOGRAPHY CIVIL RIGHTS AND THE UNITED STATES WORKPLACE: SEXUAL HARASSMENT GENDER AND MASCULINITIES STUDIES

History of U.S. civil rights legislation and policymaking – Books Employment rights and sexual harassment – Books and articles Gender and masculinities studies – Books and articles Civil rights legislation and administrative regulations Leading United States cases on sexual harassment in the workplace

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Title VII of Civil Rights Act of 1991, Pub. L. 102-166, 105 Stat. 1074, 1077.

United States Cases on Sexual Harassment in the Workplace

Barnes v. Costle, 561 F.2d 983 (D.C. Cir. 1977).

Government employee appealed from an order of the United States District Court for the District of Columbia awarding a summary judgment on the ground that the Equal Employment Opportunity Act of 1972 did not offer redress for her complaint that her job was abolished because she repulsed her male superior's sexual advances. The Court of Appeals held that if the female employee's job was abolished because she repulsed her male superior's sexual advances, the superior's conduct violated the Equal Employment Opportunity Act of 1972 (this Act is the amendment to Title VII of the 1964 Civil Rights Act which added public employers as possible defendants).

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998).

Employee who had suffered no adverse job consequences as result of alleged sexual harassment by supervisor brought suit against former employer under Title VII alleging that sexual harassment forced her constructive discharge. The Supreme Court held that: (1) employer is subject to vicarious liability for an actionable hostile environment created by a supervisor with immediate or successively higher authority over employee; (2) in those cases in which employee has suffered no tangible job consequences as result of supervisor's actions, employer may raise an affirmative defense to liability or damages; and (3) affirmative defense requires employer to show that it exercised reasonable care to prevent and correct promptly any sexually harassing behavior and that employee unreasonably failed to take advantage of any preventive or corrective opportunities provided or to avoid harm otherwise. (This case was decided the same day as *Faragher*, below.)

E.E.O.C. v. Prospect Airport Services, Inc., 621 F.3d 991 (9th Cir. 2010).

Equal Employment Opportunity Commission (EEOC) brought Title VII action against former employer on behalf of former male employee, alleging sexual harassment by a female co-worker. The Ninth Circuit overturned the lower court's grant of summary judgment to the defendant. Eventually, the case was settled.

Ellison v. Brady, 924 F.2d 872 (9th Cir. 1991).

Internal Revenue Service employee brought sexual harassment claim against employer. The Court of Appeals held that female plaintiff states prima facie case of hostile environment sexual harassment when she alleges conduct which reasonable woman considers sufficiently severe or pervasive to alter conditions of employment and create abusive working environment.

Faragher v. City of Boca Raton, 524 U.S. 775 (1998).

Former city lifeguard sued city under Title VII for sexual harassment based on conduct of supervisors. The Supreme Court held that: (1) employer is subject to vicarious liability under Title VII to a victimized employee for actionable discrimination caused by a supervisor, but if there is no tangible employment action, the employer may raise an affirmative defense that looks to the reasonableness of employer's conduct in seeking to prevent and correct harassing conduct and to the reasonableness of employee's conduct in seeking to avoid harm, and (2) city was vicariously liable to lifeguard in view of its failure to exercise reasonable care to prevent harassing behavior. This case was decided the same day as *Burlington Industries*, above, and sets forth the same standard of liability.

Harris v. Forklift Sys., Inc., 510 U.S. 17 (1993).

Former employee filed Title VII action, claiming that the conduct of the employer's president amounted to "abusive work environment" harassment on the basis of gender. The Supreme Court held that: (1) to be actionable under Title VII as "abusive work environment" harassment, the conduct need not seriously affect an employee's psychological well-being or lead the employee to suffer injury; (2) the *Meritor* standard requires an objectively hostile or abusive environment as well as the victim's subjective perception that the environment is abusive; and (3) whether an environment is sufficiently hostile or abusive to be actionable requires consideration of all the circumstances, not any one factor.

Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57 (1986).

Female bank employee brought sexual harassment suit against bank and supervisor under employment discrimination statute. The Supreme Court held that: (1) claim of hostile environment sexual harassment is form of sex discrimination actionable under Title VII employment discrimination statute; (2) employee's allegations were sufficient to state claim for hostile environment sexual harassment; (3) district court's erroneous belief that sexual harassment claim will not lie absent economic effect on employee required remand; (4) correct inquiry on issue of sexual harassment was whether sexual advances were unwelcome, not whether employee's participation in them was voluntary; (5) evidence of employee's sexually provocative speech and dress was not per se inadmissible; and (6) mere existence of grievance procedure in bank and bank's policy against discrimination, coupled with employee's failure to invoke that procedure, did not necessarily insulate bank from liability.

Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998).

Male employee brought Title VII action against former employer and against male supervisors and coworkers, alleging sexual harassment. The Supreme Court held that sex discrimination consisting of same-sex sexual harassment is actionable under Title VII.

Price Waterhouse v. Hopkins, 490 U.S. 228 (1989).

Female partnership candidate who was refused admission as partner in accounting firm brought sex discrimination action against firm. The Supreme Court held that: (1) when plaintiff in Title VII case

