

EMPLOYMENT ALERT

FOR THE GUYS!

By Karen A. Khan, Esq.

Remember when former Representative Mark Foley left Congress in 2006? He resigned amid claims that he sent messages of a sexually explicit nature to one of his male pages. Most recently, Representative Eric Massa announced that he will not seek re-election for health reasons. There were also allegations that Massa made advances toward a male staffer. Whether the allegations are verified or not, one fact is clear: Male on male sexual harassment is on the rise.

In 2009, the EEOC reported that approximately 16% of sexual harassment claims were filed by men, the majority of whom alleged that they were sexually harassed by other men. I suspect that the number of men who are sexually harassed by other men at work is much higher, but they simply do not report the harassment for fear of being labelled as weak or gay.

In 1998, the Supreme Court paved the way for male on male sexual harassment claims in ***Oncale v. Sundowner Offshore Services***. In that case, Joseph Oncale was an employee working on an oil platform. He was the shortest man working on the rig and claimed that he was verbally attacked by his male co-workers and a male supervisor. The attacks escalated to physical violence and Mr. Oncale alleged that he was sodomized with a bar of soap. The Supreme Court held that *same-sex sexual harassment* is a viable claim.

How then, does one recognize signs of male on male sexual harassment? Some examples of conduct that can be viewed as sexual harassment are:

- Taunts about a male employee's genitals
- Simulating sexual intercourse
- Locker room horseplay with sexual overtones
- Vulgar language
- Groping private parts
- Pinching or grabbing a male employee's rear end
- Physical or verbal abuse

This conduct signifies the male harasser's intent to intimidate and exercise control over his male victim. But gone are the days when a male employee's only recourse was to either '*grin and bear it*', respond with violence to assert his masculinity or worse yet, quit and look for

another job. Societal pressure to 'take it like a man' **must** yield to a man's legal right to be free from sexual harassment on the job.

Employers would be well advised to include examples of male on male sexual harassment in their training materials and employee handbook and encourage their male employees to come forward. And guys, you would be well served by immediately complaining of the offensive behavior in writing. Do not be concerned with being perceived as weak. And try not to be affected by co-workers who laugh and think that the offensive behavior is funny. It is not. What matters is whether the conduct is unwelcome and severe or pervasive enough to create a hostile, intimidating or offensive work environment that affects your ability to perform your job.

Times are hard. Responding with violence would only lead to discipline and possible termination. Quitting? Think about how long it will take you to find another job in this economy. 'Grin and bear it'? Why should you? Not even men should have to endure such behavior just to earn a living.

The contents of this Employment Alert are intended for informational purposes only and must not be considered as legal advice.

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The Khan Law Group, PLLC is a Washington, D.C. based employment law firm representing corporate clients as well as individual employees with employment issues in Washington DC, Maryland, Virginia, and nationwide. The Group is dedicated to providing the highest calibre of personalized legal services and representation.

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