

# The Role of Gender in Sexual Harassment Litigation

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*A recent study, believed to be the first of its kind, directly compares mock jurors' perceptions of male-to-female and female-to-male sexual harassment. The study's findings are important for attorneys who practice employment law, whether they represent plaintiffs or management.*

**T**he courts and the media have focused a great deal on raising public awareness of sexual harassment in the workplace. An indication of the prevalence of sexual harassment litigation is the amount of damages awarded to plaintiffs: In 1996, plaintiffs were awarded a record \$27.8 million in sexual harassment cases.<sup>1</sup> Headline news has focused on events ranging from President Clinton's

sexual relationship with Monica Lewinsky<sup>2</sup> to the largest settlement, \$34 million, for a sexual harassment case.<sup>3</sup> Estimates of the number of workers who are subjected to sexual harassment vary, with most studies reporting that between 40 and 50 percent of women and about 15 percent of men are sexually harassed in the workplace.<sup>4</sup> Costs of sexual harassment are considerable; in addition to litigation-related costs, companies are faced with costs related to lost productivity, claims investigation, training, increased supervision, and rising health care premiums, to mention just a few.<sup>5</sup>

Concurrent with increased focus on sexual harassment by the courts and media is social scientists' increasing study of sexual harassment. A

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recent article<sup>6</sup> stated that there were more than 500 references to sexual harassment in the literature, with most publications occurring in the last five years. Social science research has tracked the reality of litigation, with the vast majority of studies focusing on male-to-female sexual harassment, the victimization pattern that occurs most frequently.<sup>7</sup> Female-to-male sexual harassment has received little scientific scrutiny, despite indications that male sexual harassment victims experience negative consequences in much the same way as female sexual harassment victims.<sup>8</sup>

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Experiences of sexual harassment vary by gender of harasser. Males who harass females tend to use physical force, while females who harass males most often employ coercion and persuasion.<sup>9</sup> While male victims' postharassment responses have been the focus of little research, one study<sup>10</sup> found that, at the time of the study, the level of well-being for male sexual harassment victims was the same as for nonvictims. Another study found that few male victims of sexual harassment experienced long-term negative effects, with the most common aftereffect being a tendency to avoid sexually aggressive women.<sup>11</sup> Based on the dearth of research on male sexual harassment victimization, it is difficult to draw definitive conclusions regarding the similarities and differences in males' and females' responses to being sexually harassed.

Just as there are few studies on male sexual harassment victims' responses to victimization, equally sparse in the literature are studies pertaining to observers' perceptions of female-to-male sexual harassment. Among the few existing studies, however, the general conclusion is that observers perceive female-to-male sexual harassment less negatively than they perceive male-to-female sexual harassment.<sup>12</sup> Judgments about "date rape" are parallel to those about sexual harassment, with "rape" being used less often to describe unwanted female-to-male sexual encounters and disapproval ratings lowest among respondents who were in an experimental condition involving a female-to-male encounter.<sup>13</sup>

Several studies have focused on how the gender of the observer influences perceptions of sexual harassment and rape. A recent study by these authors found differences in mock jurors' attributions of responsibility to the parties based on the jury composition.<sup>14</sup> Jurors in male-dominated juries blamed a corporate defendant more than jurors in female-dominated juries, while jurors in female-dominated juries blamed the female defendant more than jurors in male-dominated juries. The overall conclusion of this study was that, after deliberations, jurors in male-dominated juries reflected the attitudes of men and jurors in female-dominated juries reflected the attitudes of women. Other studies have found that, in general, men blame sexual harassment and rape victims more than women.<sup>15</sup>

While we acknowledge that male-to-female sexual harassment is the appropriate focus of most research because of its widespread prevalence in the workplace, we also believe that other forms of sexual harassment, notably, female-to-male harassment, are deserving of the courts', media's, and social scientists' attention. For this reason, we have conducted what we believe to be the first experimental study of sexual harassment that directly compares mock jurors' perceptions of male-to-female and female-to-male sexual harassment. The remainder of this article will focus on our research and its findings.

## THE STUDY

Our research consisted of two studies that allowed a direct comparison of mock jurors' perceptions of a woman who accused her male supervisor of sexual harassment and their perceptions of a man who accused his female supervisor of sexual harassment. Detailed results of both studies have been reported previously;<sup>16</sup> thus, this article will address only the similarities and differences in the overall results of the two studies.

Our research was experimental in nature, allowing us to draw conclusions about causality between and among variables. The methodology involved mock jurors arriving in groups of five to ten, completing demographic and personality questionnaires,<sup>17</sup> viewing photographs of the plaintiff and defendant (varying the gender and race of each), and then listening to the case facts and jury instructions on audiotape. The case facts were recorded by practicing attorneys experienced in sexual harassment litigation. Although presented in an abbreviated fashion, the simulated case

was designed to contain all of the elements of an actual sexual harassment lawsuit in the state where the research was conducted.

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*The litigants' gender had a significant effect on mock jurors' liability and damages decisions.*

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The case facts were identical for all mock jurors and involved a plaintiff (either female or male, and either white or black, depending on the experimental condition) who had traveled with the defendant (either male or female and either white or black, depending on the experimental condition) on an out-of-town business trip. The plaintiff was described as a recent college graduate who was new to the company. The defendant was described as the plaintiff's supervisor, who was a rising star at the company. The scenario involved the defendant inviting the plaintiff into a hotel room, coercing the plaintiff to drink alcohol, and then threatening the plaintiff into having sexual intercourse as a way to maintain job security. The plaintiff was described as initially hesitant, then yielding to pressure. The plaintiff complained to human resources upon returning to the home office, then was eventually fired. The plaintiff ultimately sued both the supervisor who initiated the sexual contact and the company by which he or she was employed (referred to as the corporate defendant).

After receiving all the information necessary to reach a decision, mock jurors were asked to make an individual decision on liability and damages. Next, they elected a foreperson and deliberated until they reached unanimity on both liability and damages. All juries were able to reach unanimity. After they obtained a verdict, mock jurors once again indicated their individual opinions on liability and damages.

The mock jurors who participated in the combined study were 220 college students and 186 jury-eligible citizens. The student mock jurors received course credit for their participation, while the jury-eligible-citizen mock jurors were paid for their participation. (To our knowledge, ours is the only active research program that involves dual samples of mock jurors within the same study. We believe it is critical to study jury-eligible citizens' responses to sexual harassment issues due to college students' limited experiences in general and, particularly, in the workplace.<sup>18</sup> Previous research has shown, for example, that college students' lack

of work experience leads to underestimation of sexual harassment in the workplace;<sup>19</sup> this factor could have a biasing effect on research findings.)

## RESULTS OF THE STUDY

### Liability and Damages Decisions

As depicted in Table 1 on the following page, the litigants' gender had a significant effect on mock jurors' liability and damages decisions. College students attributed less responsibility to the plaintiff and more to the defendant when the plaintiff was male and the defendant was female. Jury-eligible citizens attributed more responsibility to the defendant when the plaintiff was female, but made no distinction in attribution of responsibility of the plaintiff depending on the plaintiff's gender. College students made no distinction in attributions of the corporate defendant's responsibility depending on the plaintiff's gender, while jury-eligible citizens attributed more responsibility to the corporate defendant when the plaintiff was male. College students awarded more damages to the female plaintiff, while jury-eligible citizens awarded more damages to the male plaintiff.

Closer examination of Table 1 reveals several interesting patterns in the results on liability decisions. First, most juries attributed approximately 16 to 17 percent of responsibility to the plaintiff. Only when the plaintiff was male and the mock jurors were college students did the plaintiff receive significantly less blame. Second, college students attributed approximately 55 percent of the blame to the individual defendant when the plaintiff was male; this is the same amount of blame attributed to the individual defendant by jury-eligible citizens when the plaintiff was female. Third, only in the scenario involving jury-eligible citizens and the male plaintiff did the individual defendant receive less than 50 percent of the blame. Fourth, it was only in this latter scenario that the corporate defendant received almost the same amount of blame as the individual defendant. Clearly, jury-eligible citizens viewed the individual defendant's actions as within the corporate defendant's control when the plaintiff was a male who was harassed by a female supervisor. In contrast, college students' most distinctive response was to attribute the least amount of fault to the male plaintiff.

Concerning damages, no overall pattern emerged in the data, except that college students

awarded more damages to the female plaintiff while jury-eligible citizens, in contrast, awarded more damages to the male plaintiff. These findings are rather unique in that college students attributed the lowest amount of blame to the male plaintiff but awarded him almost \$65,000 less than they awarded the female plaintiff. Jury-eligible citizens' focus appeared to be on the defendants' conduct rather than the plaintiff's; however, they awarded the male plaintiff over \$100,000 more than the female plaintiff.

### Race Effects

Table 2 on the following page depicts the effects of the individual defendant's race on mock jurors' liability and damages decisions. As evident in Table 2, the defendant's race significantly impacted mock jurors' liability judgments in the

scenario involving the male plaintiff. When the defendant was white, mock jurors attributed less responsibility to the male plaintiff than the female plaintiff. In contrast, when the defendant was black, jurors blamed the male plaintiff more than the female plaintiff. When the defendant was white, mock jurors attributed less blame to the individual defendant and more blame to the corporate defendant, as long as the plaintiff was male. These results were obtained regardless of the race of the plaintiff. The results indicate that a male who is sexually harassed by a black female supervisor is viewed as more responsible than plaintiffs in other harassing situations. In addition, when the individual defendant was a white male, mock jurors believed he was the most blameworthy of all types of defendants for the harassment of the plaintiff. In the condition involving the white female defendant, the com-

*Table 1. Mock Jury Decisions of Liability and Damages*

	Type of Mock Juror	
	College	Jury Eligible
<b>Responsibility of Plaintiff</b>		
Male Plaintiff	12.68% (n=103)	16.85% (n=94)
Female Plaintiff	16.31% (n=117)	16.58% (n=92)
<b>Responsibility of Individual Defendant</b>		
Male Plaintiff	55.08% (n=103)	43.16% (n=94)
Female Plaintiff	50.54% (n=117)	54.89% (n=92)
<b>Responsibility of Corporate Defendant</b>		
Male Plaintiff	32.24% (n=103)	39.97% (n=94)
Female Plaintiff	33.28% (n=117)	29.84% (n=92)
<b>Monetary Award</b>		
Male Plaintiff	\$355,796 (n=103)	\$413,404 (n=94)
Female Plaintiff	\$420,769 (n=117)	\$312,500 (n=92)

pany was perceived as much more responsible than the individual defendant.

As in the overall findings on damages, the effect of the defendant’s race on damages was less straightforward. The highest damages awards were obtained by the male plaintiff harassed by a black female defendant. This scenario was, perhaps, unfamiliar to mock jurors, such that they compensated novelty with greater amounts of money. Interestingly, the most typical case seen in the courts, a white male defendant accused of harassing a female, was the one in which the jury awarded the least amount in monetary damages.

**Deliberations Analysis**

In addition to the statistical analyses performed on the jury verdict data, we also analyzed the

comments made by mock jurors during their deliberations. Mock jurors’ comments were categorized, based on their content, into 10 distinct groups:<sup>20</sup>

- plaintiff’s actions *before/during* the incident;
- individual defendant’s actions *before/during* the incident;
- corporate defendant’s actions *before* the incident;
- plaintiff’s actions *after* the incident;
- individual defendant’s actions *after* the incident;
- corporate defendant’s actions *after* the incident;
- plaintiff’s *intimidation*;
- *consensual nature* of the sexual encounter;
- damages; and
- miscellaneous.

*Table 2. Effects of Defendant’s Race on Liability and Damages*

	Race of Individual Defendant	
	Black	White
<b>Responsibility of Plaintiff</b>		
Male Plaintiff	20.49% (n=81)	10.60% (n=116)
Female Plaintiff	18.18% (n=100)	14.82% (n=109)
<b>Responsibility of Individual Defendant</b>		
Male Plaintiff	48.90% (n=81)	49.74% (n=116)
Female Plaintiff	50.88% (n=100)	53.90% (n=109)
<b>Responsibility of Corporate Defendant</b>		
Male Plaintiff	30.60% (n=81)	39.66% (n=116)
Female Plaintiff	31.64% (n=100)	31.88% (n=109)
<b>Monetary Award</b>		
Male Plaintiff	\$402,113 (n=81)	\$374,129 (n=116)
Female Plaintiff	\$384,850 (n=100)	\$362,340 (n=109)

The results of the analysis of mock jurors' deliberations comments are presented at the end of this article in Tables 3 through 12.

While these detailed tables in many ways speak for themselves, a few points are worthy of extra consideration. First, regardless of the plaintiff's and defendant's genders, the majority of comments concerned the plaintiff's conduct before and during the harassment (see Table 3). Regarding the individual defendant's conduct before and during the incident, comments were distinct depending on the genders of the participants (see Table 4). For example, when the plaintiff was female and the defendant male, mock jurors' comments centered on their beliefs that many males are preoccupied with sex. In contrast, when the plaintiff was male and the defendant female, comments focused on the defendant's aggressiveness.

When discussing the plaintiff's actions after the incident (see Table 6), mock jurors focused on the male plaintiff's failure to attend a work-related presentation on the day after being harassed. It seems that mock jurors believed a man should "be a man" and honor his professional obligations to a greater extent than his female counterpart. Table 10 reveals the far greater discussion of the consensual nature of the encounter when the plaintiff was female, while Table 11 indicates mock jurors' focus on whether the male plaintiff could find another job. The comments summarized in Tables 3 through 12 are revealing in both their similarities and differences.

## IMPLICATIONS OF THE FINDINGS

Our study revealed that sexual harassment litigants' gender plays an important role in jurors' decision making. When the plaintiff was male and the defendant female, college students engaged in less "victim blaming"; jury-eligible citizens blamed the individual and corporate defendants to the same degree; and jury-eligible citizens awarded more damages. In the study involving female-to-male sexual harassment, jurors' comments centered on the overly aggressive female supervisor and the plaintiff's weakness, as evidenced by his failure to attend a meeting on the day following the harassing encounter. It seems that jurors are likely to respond to the atypical gender conduct of both parties when a man is harassed by a woman, to the point that he may be blamed less and compensated more than his female counterpart.

Several explanations emerge for the results we obtained. Jury-eligible citizens' reluctance to blame

one defendant over the other when the plaintiff was male could be due to their unwillingness to believe a woman could overpower or take advantage of a man. Blaming the company to the same degree as the female harasser in some ways disempowers the female by placing responsibility on the company for negligently putting her in the position of power. When the plaintiff was female, thus fitting jurors' preconceived notions of sexual harassment victimization, no "justifications" were required for jurors' decisions. Trial lawyers with sexual harassment cases that do not conform to the typical male-to-female pattern should take note of the blame shifting that occurs between individual and corporate defendants in the minds of jurors. Blame shifting has obvious consequences due to the relative resources of each defendant.

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Race effects, although not the central focus of our study, emerged as a key factor in jury decision making. Few previous studies have examined cross-racial sexual harassment, and the results across these studies are inconclusive.<sup>21</sup> One study reported that, if the victim's race differed from the defendant's, the defendant was more likely to be found guilty than if the victim and defendant were of the same race.<sup>22</sup> Another study revealed that, in a rape scenario that was identical for all participants, a black woman was perceived as a rape victim less often than a white woman.<sup>23</sup> The results of our study indicate that race will be a focal issue with jurors in combination with other unusual circumstances. For example, when the defendant is both female and black and in a position of authority, male plaintiffs will be seen as more blameworthy, but as deserving of relatively high damages. Perhaps jurors believe that for a black female to attain a position of authority, she must be extremely aggressive.

Attorneys who practice in the area of employment law, regardless of whether they represent plaintiffs or management, are advised to consider the unique aspects of each case, especially when the litigation does not fit "traditional" patterns of harassment. Just as in other cases involving difficult or unusual issues (or litigants), the best place to begin educating jurors about the nuances of the case is in voir dire. Ignoring or minimizing unusual

aspects of the case (for example, the presence of a black female supervisor who is accused of sexually harassing her male subordinate) will not serve your client's best interests. While it appears that many prospective jurors will have some familiarity with workplace sexual harassment, the trial attorney cannot assume the jurors' experiences will provide an accurate understanding of the case at issue. Supplemental juror questionnaires are essential in voir dire in sexual harassment litigation. Without a supplemental juror questionnaire, it is impossible

to ascertain honest responses regarding prospective jurors' sexual attitudes and experiences.

In conclusion, the authors' study, the first scientific research to compare jurors' reactions to litigants of different genders, provides the trial attorney with a new perspective on the minds of the most important people in a trial, the jurors who decide the fate of one's client. Future research will address sexual harassment in conditions of extreme power differences between the plaintiff and the defendant.

**Table 3. Juror Comments: Plaintiff's Actions Before/During the Incident (75, 71)\***

Plaintiff has some personal responsibility; plaintiff could have left. (29, 34)	Plaintiff has no self-respect. (5, 0)
Plaintiff should have used better judgment. (14, 14)	Plaintiff was unprofessional. (4, 4)
Plaintiff should have known not to go to defendant's room. (14, 12)	Plaintiff should be flattered. (0, 3)
Plaintiff had no idea of what was about to happen. (7, 2)	There was something going on between them before the trip. (2, 0)
	Plaintiff could have a history of these complaints. (0, 2)

**Table 4. Juror Comments: Individual Defendant's Actions Before/During the Incident (46, 41)**

As the boss, the defendant should not have put the plaintiff in that position. (19, 5)	The defendant threatened, but did not force, the plaintiff to have sex. (0, 7)
The defendant invited the plaintiff into the room with sex in mind. (15, 3)	The defendant forced the plaintiff to have sex by threatening the plaintiff's job. (0, 13)
The defendant was a repeat offender. (8, 4)	The defendant is aggressive. (0, 7)
Most men are going to be looking for sex when they are alone with a woman. (4, 0)	The defendant is a sexual predator. (0, 2)

**Table 5. Juror Comments: Corporate Defendant's Actions Before the Incident (58, 70)**

The company was responsible; they knew the defendant's record. (24, 27)	The company paid "hush money" to the other victim. (4, 0)
The company should have made sure the defendant was not left alone with the plaintiff due to the past incident. (10, 16)	The company cannot control its employees at all times. (2, 6)
The company should have fired the defendant after the previous incident. (10, 5)	The company kept the defendant because of superior job performance. (0, 10)
The company was right to give the defendant a second chance. (4, 0)	The company should have sexual harassment awareness classes. (0, 4)
The company should have done a more thorough background check. (4, 0)	The company should have removed the defendant from a supervisory position. (0, 2)

\*The first number in parentheses indicates the frequency with which a type of comment or a particular comment was made in a female plaintiff/male defendant case; the second number indicates the frequency with which a type of comment or a particular comment was made in a male plaintiff/female defendant case.

**Table 6. Juror Comments: Plaintiff's Actions After the Incident (18, 32)**

The plaintiff should have complained immediately. (6, 4)	One third of rape victims do not report it because they are made to feel like they asked for it. (1, 0)
The plaintiff should have gone to the meeting the next morning. (3, 17)	The plaintiff had firm convictions to go through with this. (1, 0)
The plaintiff was fired for poor job performance. (2, 4)	The plaintiff should not have complained. (0, 3)
The plaintiff had too much to lose by lying; the plaintiff's story is true. (2, 0)	A man's complaint about sexual harassment does not have the same credibility as a woman's complaint. (0, 2)
The plaintiff should have gone to a higher-up with the complaint. (2, 0)	The plaintiff is a troublemaker. (0, 1)
If I have a daughter, she's going to know to file a complaint. (1, 0)	Because the plaintiff went back to work, the plaintiff was not upset. (0, 1)

**Table 7. Juror Comments: Individual Defendant's Actions After the Incident (11, 5)**

The defendant's story was a cover-up. (7, 0)	The defendant is an important employee; the defendant will not do this again. (1, 0)
The defendant will do this again if the company is let off the hook. (2, 0)	A woman scorned will seek revenge. (0, 1)
Supervisors should not advertise their sex lives. (1, 4)	

**Table 8. Juror Comments: Corporate Defendant's Actions After the Incident (29, 39)**

The plaintiff became the sacrificial lamb. (8, 1)	The company should fire the defendant. (1, 5)
The company should have investigated the situation more thoroughly. (8, 2)	The company would have behaved differently if the plaintiff had not had sex with the defendant. (1, 0)
The company has a responsibility to its employees. (6, 20)	The company engaged in a cover-up. (0, 8)
The company told the plaintiff not to complain. (4, 1)	The company is protecting its best employee. (0, 2)
The company cannot assume responsibility for employees' actions. (1, 0)	

**Table 9. Juror Comments: Plaintiff's Intimidation (36, 35)**

The plaintiff consented to have sex because of fear of being fired. (11, 12)	When the defendant threatened the plaintiff, it "crossed the line." (4, 5)
The defendant's position of power intimidated the plaintiff. (9, 4)	The plaintiff was young and easily intimidated. (2, 2)
The plaintiff got into a bad situation and could not get out. (8, 6)	Because of the plaintiff's probationary status at the company, the plaintiff had to go along with the defendant. (2, 3)
	This situation would not intimidate a man. (0, 3)

**Table 10. Consensual Nature of the Encounter (32, 8)**

This was not rape; the plaintiff agreed to have sex. (14, 2)	If the plaintiff had not agreed to have sex, we would not be here. (6, 0)
Consent is responsibility. (6, 1)	
The plaintiff used poor judgment, but agreed to have sex. (6, 0)	Both the plaintiff and the defendant enjoyed themselves. (0, 5)



Table 11. Damages (50, 59)

The plaintiff will have difficulty finding another job. (10, 21)	The company should be punished. (4, 6)
There was no force involved; plaintiff does not deserve much money. (10, 0)	The company has deep pockets. (3, 0)
The plaintiff is asking for too much money. (8, 2)	The attorneys' fees will have to be paid. (3, 3)
The plaintiff will need counseling. (7, 7)	The plaintiff has no pain and suffering. (0, 4)
The plaintiff can find another job. (5, 15)	Insurance will pay the award. (0, 1)

Table 12. Juror Comments: Miscellaneous (19, 11)

Stories are conflicting; cannot discern truth. (5, 3)	The plaintiff was victimized. (1, 1)
Drinking often leads to sex. (3, 3)	This is still a man's world. (1, 0)
Company policy regulates business trips. (3, 0)	All hotels have conference rooms for business meetings. (1, 0)
People try to get money from these situations. (2, 1)	This would be different if it involved a male boss and a female victim. (0, 2)
Both the man and the woman knew better than to do this. (2, 0)	This is just like the movie <i>Disclosure</i> . (0, 1)
It could have been an attraction. (1, 0)	

## ENDNOTES

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<sup>2</sup>J. Kronholz & A. Bodipo-Memba, *What if It Were a Corporate Executive and an Intern?*, Wall St. J., Sept. 11, 1998, at B-1.

<sup>3</sup>R. Sharpe, *EEOC Sues Mitsubishi Unit for Harassment*, Wall St. J., April 10, 1996, at D-1.

<sup>4</sup>Office of Merit Systems Review and Studies, Merit Systems Protection Board, *Sexual Harassment in the Federal Workplace* (Washington, D.C. 1981); T.L. Stawar, *A Model for Sexual Harassment Behavior*, 8(9 & 10) Forensic Examiner 30 (1999).

<sup>5</sup>Stawar, *supra* note 4, at 30.

<sup>6</sup>L.F. Fitzgerald et al., *Antecedents and Consequences of Sexual Harassment in Organizations: A Test of an Integrated Model*, 82(4) J. Applied Psychol. 578 (1997).

<sup>7</sup>*Id.* at 580.

<sup>8</sup>T.S. Jones & M.S. Remland, *Sources of Variability in Perceptions of and Responses to Sexual Harassment*, 27(3/4) Sex Roles 121 (1992).

<sup>9</sup>C. Struckman-Johnson & D. Struckman-Johnson, *Men Pressured and Forced into Sexual Experience*, 23 Archives Sexual Behav. 93 (1994).

<sup>10</sup>*Id.* at 110.

<sup>11</sup>C. Struckman-Johnson, *Forced Sex on Dates: It Happens to Men, Too*, 24 J. Sex Res. 234 (1988).

<sup>12</sup>M.J. Allen et al., *Severity and Gender Effects on Ratings of Sexual Harassment*, Paper Presented at the Western Psychological Association Meeting, San Francisco, CA (1988); Jones & Remland, *supra* note 8, at 124; S. Valentine-French & H.L. Radtke, *Attributions of Responsibility for an Incident of Sexual Harassment in a University Setting*, 21(7/8) Sex Roles 545 (1989).

<sup>13</sup>L.F. Fitzgerald & S.L. Shullman, *Sexual Harassment: A Research Analysis and Agenda for the 1990's*, 42 J. Vocational

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<sup>14</sup>H.S. Hyme et al., *A Comparison of Male and Female Dominated Juries in a Case of Coerced Sex with a Male Plaintiff*, 17(3) Am. J. Forensic Psychol. 67 (1999).

<sup>15</sup>E.P. Gerdes et al., *Perceptions of Rape Victims and Assaultants: Effects of Physical Attractiveness, Acquaintance, and Subject Gender*, 19 Sex Roles 141 (1988); I.W. Jensen & B.A. Gutek, *Attributions and Assignment of Responsibility in Sexual Harassment*, 38 J. Soc. Issues 121 (1982); J.W. Selby et al., *Sex Differences in the Social Perception of Rape Victims*, 3 Personality & Soc. Psychol. Bull. 412 (1977); M.A. Whatley & R.E. Riggio, *Gender Differences in Attributions of Blame for Male Rape Victims*, 8 J. Interpersonal Violence 502 (1993).

<sup>16</sup>L.A. Foley & M.A. Pigott, *An Experimental Study of a Sexual Harassment Lawsuit* (1999) (manuscript submitted for publication, on file with authors); L.A. Foley et al., *Factors Affecting Jurors' Perceptions of Male Sexual Harassment* (1999) (manuscript accepted for publication, Journal of Forensic Psychology Practice); M.A. Pigott & L.A. Foley, *Individual and Corporate Responsibility in a Sexual Harassment Lawsuit*, 20 Trial Dipl. J. 347 (1997).

<sup>17</sup>See Foley & Pigott, *supra* note 16 (manuscript at 12, on file with authors); Foley et al., *supra* note 16 (manuscript at 10, on file with authors); and Pigott & Foley, *supra* note 16, at 349 for reports of additional findings.

<sup>18</sup>S.S. Diamond, *Illuminations and Shadows from Jury Simulations*, 21 L. & Hum. Behav. 561 (1997); D. Sears, *College Sophomores in the Laboratory: Influences of a Narrow Data Base on Social Psychology's View of Human Nature*, 51 J. Personality & Soc. Psychol. 515 (1986).

<sup>19</sup>P.A. Frazier et al., *Social Science Research on Lay Definitions of Sexual Harassment*, 51 J. Soc. Issues 21 (1995); T. Reilly et al., *The Factorial Survey: An Approach to Defining Sexual Harassment on Campus*, 38 J. Soc. Issues 99 (1982).

<sup>20</sup>Please note: The deliberations comments for the study involving the female plaintiff and male defendant were previously published; see Pigott & Foley, *supra* note 16, at 355.

<sup>21</sup>L.A. Foley et al., *Date Rape: Effects of Race of Assailant and Victim and Gender of Subjects on Perceptions*, 21(1) J. Black Psychol. 6 (1995); M.A. Gowan & R.A. Zimmerman, *Impact of Ethnicity, Gender, and Previous Experience on Juror Judgments in*

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<sup>22</sup>Hymes et al., *supra* note 21, at 630.

<sup>23</sup>Foley et al., *supra* note 21, at 15.