

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

Welcome to Episode 3 of the "Hostile Work Place" podcast. I am your host, The Undercover Lawyer. Today we are going to have for our feature segment, Same Sex Sexual Harassment. I am not talking about gay-to-straight, but rather straight male-to-straight male sexual harassment and straight female-to-straight female. Then in our quick tip, we are going to talk about privacy in the workplace, specifically on your computer. You can count on the "Hostile Work Place" podcast coming to you every Sunday night, it will be available at midnight Pacific Standard Time. So, it will be available to most people when they get to work on Monday morning. This is where you learn the same tips and tricks, have the same legal knowledge as the large law firms and large employers, but you can get it without having to hire an attorney for \$300 an hour.

Before we get to our featured segment, the announcements. Our forum posting contest has been going strong during the month of July, and there are three people who are in the clear lead. Although their positions may change, they are probably going to remain in the top three spots in some order. In first place is Solo, in second place is Central USA RN, and in third place is Little Lulu. Now I said before when we had first announced the contest that you had to post in good faith, I would not honor someone coming into the forum, basically crashing it and posting a thousand posts that all said "lol" or "me, too." That is not going to fly with me. So, if you are tempted to try to pull that off and argue that you win the 3G iPhone, do not even try it. However, you should come to our forums because with all these posting over the last month, I have been answering lots of questions that apply to lots of people in their workplace. You can find plenty of good information, much of which applies to not just the person who posted it but to lots of people.

A little about what has been going on over the last couple weeks, if you were in the forums or if you follow me on Twitter, you have seen that I have been just ticked off over the last week really at two national commentators. The first being Michael "Savage" (not his real name) Weiner (his real name) - that is right, his real name is Michael Weiner - and his comments about autism. Now, yes, my son is autistic. So, yes, I take it personal especially when Savage says that about 99% of kids affected by the autism need a dad who will say something like, "Quit acting stupid, quit acting

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

like a moron, and quick acting like a putz. Quit acting like a girl and be a man." He also claims that 99% of people, families with a child with autism, seek to get that diagnosis. That is right, they want it, because he says, "They will get more money from the government and from health insurance.

Now if you have a family member who has autism or friends who have some family member with autism, you know that there is no insurance money for autism treatments. That is maybe changing a bit. You also know that the government is not putting out lots of money for autism treatments. They are studying it, but they are not funding people's treatment. Savage is operating from position of just phenomenal ignorance, and yet maintains that he stands by his words. So, I was ticked at him this week.

Then I got ticked at John Stossel who said on 20/20 that age discrimination is too much of a big deal, and bosses who start companies with their own money should be able to terminate old people if they feel like it. Now, so many people who have purchased the Works Law Exposed book or have posted on the forum are 50ish, they are over 40. They have recently got a boss who is in their 30s, the younger boss is just plain intimidated by the experience and by the knowledge of the 50ish employee. The 30ish boss just becomes obsessed with running the older worker out of their job, just being a jackass in every way toward them. I see it over and over and over, and frankly I believe equal pay for equal work. Equal work means that you do not get run out for simply being older - or for that matter in this country, the wrong gender, the wrong race, the wrong nationality or having a disability, getting pregnant, any of those things. Evidently, Stossel thinks different, but thank the good Lord he does not write the laws for us. In fact, maybe I should send him a copy of my book. I mean, what a Neanderthal.

Couple of other things over the last week, I booked my position or reserved my spot in a motorcycle rally for August 16 which I am looking forward to greatly. I used to have a Harley-Davidson, and I had to sell it. So, I am going to rent one and will still have a great time riding all day and maybe a couple days after that around the beautiful northwest in the summertime. So, that is something that I am looking forward to this

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

summer. I also worked on making some camping plans for very late August before the kids starts school back up in September. I cannot hardly believe we are even talking about that right now.

I have arranged this week to have these podcasts transcribed. So now on the Internet, you will be able to listen to the podcast, and then do not feel like you have to take notes because I will make a transcript available right on the show notes page that you can read and even download. That is right, The Undercover Lawyer is just here to serve you.

So, now for our quick tip, computer privacy in the workplace. As I mentioned before, be very afraid. The rule with computer privacy is that there are none. If you are using a computer at work, work owns that computer, they can do anything they want with it. They can walk to your desk, pick it up and take it away, give you some other loaner. They can go all through it, looking at everything in there or they can just use the network to take a look at everything that is in there.

I have had some friends who are the IT people in our firm before. Let me tell you, they can flip a couple of switches and change their monitor over to a duplicate of what is on your monitor. They can sit there and watch everything you are doing. Now, usually, they do not have enough time to do that, but it is possible. I have seen it done with my own two eyes, and it is easy. Furthermore, you should know that employers love to get their hands on what is on your hard drive if you are getting into a dispute with your employer. What they figure is if you are saying, "Hey, I have been sexually harassed at work or I have been discriminated against on the basis of age at work," that they can pull out your hard drive or copy it, look at everything that is on there and they can look at stuff that has been deleted because it is not really gone. Try to find jokes that make fun of age somehow that you have e-mailed out or that have been e-mailed to you. They will look for racy jokes that were e-mailed to you by someone. They will search around for any kind of comments or photos you have on your system, and they will just try to come up with a reason to fire you. That you have been selling beanie babies on eBay, and that violates the company policy, so you are gone. Do not be at all surprised if your employer tries to do this. If it is the work

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

computer or your computer utilizing the work network, then they can look at it, you have no expectation of privacy.

So if you are at home on your home computer, you sign in to the work network, and the e-mail you use if your work e-mail, you use it for personal and private stuff, work can look at all of that. Your employer can see at it all. Likewise, if you are out on the road, let us say you travel for work, you take your work laptop with you, you use it for personal and private stuff while you are traveling, you employer can look at any of that and use it against you. So if you use any aspect of your work hardware, and that includes their network, their servers, signing into those from home or from the road or the work computer itself, laptop or desktop, then they can look at everything there. So, be afraid, be very afraid.

I know of one large employer who takes the hard drive out of every computer from a departing employee, employee who resigns or quits, labels that hard drive, puts it into a cabinet and then saps a new hard drive in for the new employee who comes to use that computer. The reason the employer does that, they want to have the dirt on those employees should any dispute with them happen in the future.

So, these are a couple of things that you can do. First of all, do not use your work e-mail or your work computer for personal e-mail. If you must check stuff during the day that is personal, and I will admit that I do, set up a web based e-mail and use that. They can look at it while you were using it, if you were checking it from work, but if it is all personal that is in there and you are not accessing it from work, they cannot demand to see everything in it if after you leave there is some dispute. Then second, if you really want to pass notes or e-mails or messages to your co-workers, go low tech. Paper can actually be thrown away and you cannot recover it, put it in the shred bin. E-mails are not like that. E-mails, there is a permanent record of when it was sent, who received it, at what time, was it opened, was it forwarded, did they open it, did they send it on to anyone else. It is not this private between you and the screen thing that no one else sees. It is permanent and it is traceable, do not forget that.

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

Now for our feature segment on straight-to-straight sexual harassment, same gender sexual harassment. The case that stated this all was a case called Oncale v. Sundowner Offshore Services or offshore oil-well drilling, and it was a case that came from an offshore oil platform in the Gulf of Mexico that was owned by Chevron. The employee was Joe Oncale, he was employed as a roustabout on an eight-man crew. He was basically taunted and mocked mercilessly because he as not the manly man that the typical offshore oil-well platform worker is. I guess if you want to think about what they are, they are like the burly, manly man, dripping with testosterone, howls and frowns. They are probably what you think of when you picture an employment lawyer - no, that was a joke, probably far from it. They are probably more the Arnold Schwarzenegger looking type, very burly, very tough, always dirty, make fun of and mock anyone who does work out there but not live up to those super burly standards.

That is what Oncale was, he was not the manly man that they were, and they made his life hell because of it. But he was not gay. In addition to being taunted in front of other people besides his immediate eight-man crew, he was actually sodomized with a bar of soap while showering, threatened with rape. When he complained to the company's safety compliance clerk, they called him a name suggesting that he was gay. So, feeling harassed on a daily basis and dreading working every single day, he finally quit and he asked that his pink slip read that he voluntarily left due to sexual harassment and verbal abuse.

So Oncale filed a complaint against Sundowner in the Federal Trail Court, this one based in Louisiana, and argued that he was discriminated against because of his sex. The Chevron-Oncale defense attorneys came in and said, "Your Honor, all those horrible facts, things that happened to him maybe true, but the fact is Title VII in US Law does not prohibit straight male-to-straight male sexual harassment. It has to be cross gender, this is a cover, you should throw it out," and the trial court did. So Joe Oncale went to the Circuit Court of Appeals and he said, "Your Honor, these horrible things happened to me. I was mocked day and night, I was physically assaulted. I was threatened with more physical assaults. My life was a living hell all because I do not meet their idea of what a real man is. I was discriminated against on the basis of my gender, and my case should go forward." The defense attorneys came up and they

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

said, "You know, that all that maybe true, all those horrible things, but the fact is Title VII does not cover straight male-to-straight male sexual harassment. So, three-judge appellate panel, you should throw this case out," and they did.

So then, Joe Oncale filed what is called a petition for certiorari, usually called cert. That means "Supreme Court of the United States, please look at my case." The Supreme Court for Oncale granted cert, saying, "Yes, we will look at your case." So he plead his case to the United States Supreme Court, talked about all the horrible things that happened to him, the assault, the verbal abuse the name-calling, mocked. Again, the defense attorney stood up and said, "Even if that is all true, the fact is Title VII and our Federal Laws do not prevent straight male-to-straight male sexual harassment."

So the Supreme Court Justices heard the oral arguments and they retired to chambers, and it is some months before an opinion comes out. You have heard how so many opinions from the Supreme Court these days - well, the last few decades - are announced saying it was a closely divided court, deeply divided court of 5 to 4 who issued this opinion or a deeply divided court who voted 6 to 3 in favor of this, Liberals on one side, Conservatives on the other. It is always talking about how deeply divided it is along political, philosophical lines, Conservatives and Liberals.

So, the court came back on the Oncale case, the justices ruled 9 to 0 that Oncale was covered, Title VII and US Federal Law does cover straight male-to-straight male sexual harassment. In other words, this rule is not changing anytime soon. It is here to stay when it is 9 to 0. The author was Scalia, often considered the most conservative justice on the bench. All the more liberal justices, including Stevens, often considered the most liberal, completely bought in to Scalia's opinion and voted in favor of it.

All nine agreed, a rare occurrence. So now, after Oncale, sexual desire has no part in sexual harassment claims. Sexual harassment can simply be any discrimination based on sex or gender that places the victim in an objectively disadvantageous working condition. It does not matter what the gender of any of the parties or the victim.

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

The struggle here has been the Supreme Court's rule of when the harassment occurs "because of sex," especially since because under Federal Law, not with states or all states but under Federal Law, sexual orientation is not a protected class. So the Supreme Court is telling us sexual orientation is not covered, however, males picking on another male because he is different than them is covered. It is a strange line and difficult to interpret and imply.

Here is an example of how it can be difficult to apply. There was a workplace dispute at the environmental protection agency where a guy named Davis was a supervisor and he disciplined two other security guards, Aaron Smith and Everett Allen for just kind various on-the-job infractions. Well, Smith and Allen then decided that they absolutely had it out for Davis. They were going to run him out of the workplace, especially after Davis was demoted and he was no longer their supervisor. So now, they are all kind of on a level playing field, and Smith and Allen are absolutely gunning for Davis.

So it starts with Smith and Allen slashing Davis' car tires. Davis complains, the company required the three of them to sign a memorandum saying that they would agree to set aside their differences, but that had little effect. I should say, the company, it was a security company that contracted for the equal protection environmental protection agency. So, it was not the EPA specifically but a subcontractor of the EPA. Let me just say that these agreements where everyone says, "Yes, I will act like an adult from here on end," just like last week with the female who worked in a group of males constantly were listening to Howard Stern and using very negative female language in the workplace. Those talks, "Guys, act like men," they never work because the employees realize that the supervisor does not want to deal with it. So, the supervisor just says, "Hey, please stop," and there is nothing more to it, and the workers go right back to what they were doing before.

That is exactly what Smith and Allen did in this case, except for after their little written agreement they actually expanded the type of things that they did to Davis. They began to approach him at his work station, a cubicle, and then they would follow

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

him into a copy room which was semi-private. They would pretend like they were going to grab Davis' groin area, then they would grab their own and make kissing sounds, rub their crotch and ask him for oral sex. All kind of low whispered tones so that other people could not hear. It usually was not Smith and Allen doing this, one would do it, then the other one would do it. Smith was kind of the leader for awhile, he got basically caught and put on probation. So Allen picked up where Smith had left off, he began following Davis into the restroom and into the copy room, saying things like, "I want you to give me a blowjob," pretending to rub himself while making kissing noises and gestures toward Davis. I mean it was just really disgusting, and all the supervisor would just say is, "Hey, you guys need to act like men."

So after three years of this going on, Everett and Smith being transferred away to Davis, Smith actually being terminated for unrelated reasons, finally Davis files suit. It sounds a lot like the Oncale suit. He sues saying that the company, Coastal, permitted Allen and Smith to make sexually vulgar gestures and statements, and that the companies actions violated Title VII. Some of the deposition testimony in this case is just unreal. There was an incident where - and this was Davis' testimony - Smith telephoned Davis at home and said, "If my boy (Smith) gets fired, I will burn down your house, trash your vehicle, and then kill you." Then later, Smith himself telephones Davis and said, "If I get fired for harassing you, I will burn down your house and trash your vehicle, and then I will kill you." A week later, he telephoned again and said, "What kinds of bullets do you like motherf*****? What kind of bullets do you like?"

Now, I do not know about you, but it seems to me like that is beyond the pail. So Davis winds up seeking medical treatment. He has high blood pressure, loses his appetite, insomnia, and tries to suppress his memories of all these kinds of thing, nightmares that Allen and Smith are going to rape him. Then with all these going on, he gets another telephone call from Smith who says, "I have not forgotten motherf****, I have not forgot." He calls back the next day and he says, "You are going to die tonight. You are going to die tonight." He also called Davis at home and said, "Your tires will be flattened motherf****, your tires will be flattened." Then finally when

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

Davis did file his lawsuit, Smith called him on the phone and said, "Lawsuit, lawsuit, you are going to die."

Now I think if I were to experience that, I would believe that the law should give me a remedy, and for sure that my employer should put a stop. As a defense attorney who often advises employers, I would absolutely tell them to put a stop to this or face liability. That would be my assumption. But here is what the judge said in this case, he said that for there to be same sex sexual harassment, there are three ways to show that it is illegal, that Davis had to show that the sexual behavior of Allen and Smith was motivated by actual homosexual desire, that the harassment was framed in such sex specific and derogatory terms that it made it clear the harasser is motivated by general hostility toward members of the same gender in the workplace or that there is direct comparative evidence about how the harasser treated members of both sexes in a mixed sex workplace.

That is actually what the attorneys for Davis tried in this case. They argued that Allen and Smith did not do any of these stuff to any women, and women's complaints about sexual harassment were investigated promptly and acted upon the employer, Coastal, where with a male making the complaint, Davis, Coastal blew him off so that he was treated different. The judge, to my shock, said that basically this is just a grudge match between two groups of men, and that is all it is, it has nothing to do with sex.

I just have a real difficult time with that. To me, this seems very much the same as *Oncala v. Sundowner*, maybe the one difference being that in *Oncala*, he actually was sodomized with a bar of soap. In this case, he was just threatened with rape and death, and had his car's tire slashed. So, no actual sodomy. If that is the line, that is a sorry distinction to make. The courts own guidelines do not say that actual physical rape has to occur in order to have same sex sexual harassment.

Now I have often mentioned how state laws can be very similar and yet just slightly different than Federal Law, and so far we have been talking all about Title VII. However, one court case that illustrates how important it is to know how the state law is different, *Robinson v. Ford Motor*. It was a case that interpreted the Michigan Civil

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

Rights Act much like Title VII of our Federal Civil Rights Act. However, in Michigan, same sex sexual harass can be verbal or physical conduct of a sexual nature, and that little phrase made all the difference. Now I do not know what it is about people named Smith, no offense if that is your name, but the bad actor in this case is also named Smith, and Robinson is our good guy.

So Robinson is working on an assembly line for Ford and Smith does things like expose his junk, his testicles, and tries to get Robinson to touch them. Smith hits Robinson in the butt, he pulls Robinson pants until it is down, until Robinson's underwear shows. He sticks his finger between Robinson's buttocks. Smith shoves his hand between Robinson's legs and starts moving it up toward Robinson's crotch area. Then also, Smith would try to pinch Robinson's nipples, and then he would grab the property of other employees, including Robinson - I do not know what they are talking about, [lunchbox sear] or something - and rub the stuff against his own genitals. Then finally, what finally caused the lawsuit was Smith jumps on Robinson's back and pushes him to the floor, put his fingers in Robinson's mouth. Robinson later says he can feel Smith's erect penis on his back while Smith is pushing his fingers into Robinson's mouth.

Now the backdrop of all this is Robinson claims that he knew that Smith, Daron Smith, was involved in a bunch of antics with a couple of co-workers where they kind of made a game of hitting each other in the butt with paddles and throwing stuff at each other, squirting fire extinguishers at each other. Basically, acting like teenager boys in a locker room. So, Daron Smith seems to be enjoying taunting Robinson in front of his other juvenile buddies, and Smith would say things to Robinson like he wanted to see Robinson's butt naked, he wanted to see if Robinson's penis was bigger than his, and said that he wanted to see Robinson naked in a bath of KY Jelly. He also said he wanted to crack to Robinson's ass and told Robinson, "You are my b***h, I own your ass."

I am just shaking my head. I mean, who are these people? Yet at the same time, if you have worked in an offshore oil-well platform, in a factory where it is mostly all male, a lumber mill around here - a lot of people my age worked in lumber mills growing up - you know that these stuff happens. There seems to be this idea that as

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

long as it is just a bunch of guys, if it is one gender, then sexual harassment is not possible.

So in the Davis case, which presented seemingly similar facts, Davis lost. It was just a grudge match between the guys. But in the Robinson case, also against a defendant names Smith, it was more than a grudge match. It was action based on sexuality, and the State Civil Acts Right protected Robinson, and he was allowed to sue.

We are coming now to the final case in this episode of our circus of the sexually insane. Here is an even different twist on the whole sexual harassment scenario. This is a female harassing a male in a gypsum wallboard plant. The court set out the parameters here of what it takes to make out a discrimination case on the basis of gender, and it is kind of funny because it is he instead of she, the usual actor here. He is a member of a protected group, he was subject to unwelcome sexual harassment. The harassment was based on sex. The harassment affected a term condition privilege of employment - like they lost pay, they lost a shift, they were forced out of their job. Then finally, the employer knew or should have known of the harassment and failed to take proper, remedial action.

So, Jones is the good guy in this case, and the bad girl is Carol [Antel]. So before this suit was filed, and this is how it often is, the male and the female were on very friendly terms. They would engage in friendly banter at work, and sometimes over beer after work. Jones, the male, would massage [Antel's] shoulders and put his arm around here. Jones did not consider these actions inappropriate or sexual harassment, and Jones himself said he is not offended when co-workers hug or kiss at work.

I want to give some kind of idea of the sort of woman that [Antel] was. Someone has previously said [Antel] was a women's liber. [Antel] responded by yelling, "The hell I am," and she raised up her shirt to show her bra to everyone and said, "I did not burn my bra." Another time she faked like she was going to grab a different male co-worker's groin and then stopped short of it, then told the guy that she loved him in a joking manner. Another time she was in a glassed in office when some male co-workers walked by, she put her face on the glass and basically French-kissed it. I

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

cannot make this stuff up - so, [Antel] who is a 53 year old woman, mind you, on numerous occasions according to court documents would take out her dentures then take the lining out of her hat so it sat down real low covering most of her eyes. Put her glasses on upside down, and then asked male employees if they "wanted to f**k." This woman just disgusts me, and yet she is fascinating all at once.

I have said way too many bad words during this podcast, but you should know I am reading them out of court documents. This is not my talk even though I am saying it, I am quoting it.

So besides asking men if they wanted to have sex with her when her dentures were out, she would also change her shirt in full view of all the men at work as well. So then one day they were talking about age discrimination, ironically, and [Antel] says, "I will show you what I do with a 50 year old man," meaning someone who would try to terminate her, and she grabs the front of Jones's pants. He later says that she grabbed his penis through his pants, hit his testicles and caused him a lot of pain. She says she just grabbed the front of his pants and pulled them forward but none of his actual body, and she was just trying to grab his belt buckle.

Well, Jones reported this to one supervisor, another supervisor called another supervisor who called HR, they sent [Antel] to another part of the plant and told her she was not to talk to Jones at all anymore, and if she did anything like that she would be terminated. Then nevertheless, Jones sued. The court looked at everything, and because the company did exactly what it was supposed to do, separate the two employees, make sure they do not interact anymore, administer appropriate discipline to the bad actor, the company did not have to pay Jones anything. All the previous incidents were said to be consensual, that Jones was too friendly with [Antel] to say that all those kind of really questionable incidents in the past were something that was unwelcome to him - as you may remember the unwelcomeness key from the last show.

I was recently asked if I have ever seen anything like this in my own world, advising employers in the northwest, and actually I have. I used to think it would never happen

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

out here because we are so friendly and nice to each other. Well, I got a call from an employer who had some workers who were doing physical labor, outdoors landscaping folks. One of the workers, Worker One, had some property out on the edge of town - this is kind of a rural area - where he had some llamas. So one of the other workers, Worker Two, began to taunt the owner of the llamas, Worker One, on a regular basis in front of everyone, like when they would come in the morning and report for work and during lunch breaks. Worker Two would say, "Hey, did you hear that Worker One sodomizes his llamas?" But he did not say sodomize, although that is what he meant. Then on another occasion, he would say, "Hey, did you hear Worker One likes to give blowjobs to the boss?" Yet on another occasion, he said, "Hey, did you hear that Worker One's wife is leaving him? She is upset that he can only get it up for farm animals."

Again, I am not making this stuff up, I could not. So, I was alarmed at all this and I told them that we were lucky Worker One had not filed a suit yet, and we had to absolutely put a stop to this right away. We had to delicately find out what Worker One would see as sufficient resolution to this matter without telling him that he could sue. So you can see kind of the split that occurs when you truly believe in your heart, [in this attorney], that someone's got a lawsuit and they have every right to sue, yet you are working for the employer and you have to try to convince the person that they really should not sue or just sort of not tell them by omission. Thus, kind of beginning my work here as The Undercover Lawyer.

So, yes, I have seen this kind of stuff and I have seen it more and more as time has gone on, and learned that it is not limited to men in the workplace. I have had cases where younger female employees are talking very graphically about what they did with their boyfriends over the weekend or one who is in her cubicle giving phone sex to her boyfriend over the phone during work hours, and then other workers nearby who are horrified and offended by this behavior feel like it is creating a hostile work environment based on sex. My opinion is, yes, it does. They should complain immediately to HR or to their boss, and the company had better put a stop to it right away.

DATE: **2008 July 28**
PODCAST: **The Undercover Lawyer**
TITLE: **Episode 3: Straight-to-Straight Same Sex Harassment**

So although the cases that I have provided are mostly male-on-male sexual harassment, I do not think it is limited to that. It can occur with female-to-female, and although the Federal Courts have been strict in applying this, it has been growing and expanding. If it is alleged, there are not too many companies that will rely on a very strict reading of the case law in order to deny someone some kind of settlement. Also, let us face it, you read this stuff, it is going to look really bad for the company when everybody reads about it because court documents are public records.

Also in sum, do not forget that your computer hardware, including the network of your company, you have no privacy right. Keep stuff off of there that you do not want your employer to see. Be careful of it, especially if you are in a dispute with your employer or you feel that one is brewing.

If you have any follow up questions raised by this podcast, feel free to come to UndercoverLawyer.com/forum. We will be discussing there, we will have a thread started for podcast Episode 3, Same Sex Sexual Harassment. Thank you for listening to the show. You can tune in two weeks to hear Episode 4. This is The Undercover Lawyer singing off.

-End-