

## FROM CHARM TO HARM

### A Content-Analytic Review of Sexual Harassment Court Cases Involving Workplace Romance

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**ABSTRACT:** We reviewed U.S. federal and state sexual harassment court cases involving a prior workplace romance between the plaintiff and alleged harasser. Results of our content analysis show that, unlike employees' decisions, judges' decisions can be predicted from legal but not ethically salient extralegal case features. Hence, when compared to prior research, our study reveals the following discrepancy: judges follow a traditional legal model, whereas employees follow an ethical model when making decisions about romance-harassment cases. Our study also reveals that the mere presence (versus absence) of a prior romance reduces the likelihood of a plaintiff's success in a harassment case. We discuss implications for management practice and research from the perspective of legal and ethical decision making.

**RESUMEN:** Realizamos una revisión de los casos legales de hostigamiento sexual al nivel federal en los Estados Unidos que incluyen un romance previo en el trabajo entre la demandante y el acusado de hostigamiento. Los resultados de nuestro análisis de los casos demuestran que, en contraste a las decisiones del conjunto de los empleados, las decisiones de los jueces se pueden predecir a partir de características legales de los casos, pero no a partir de las características éticas. Por lo tanto, cuando comparamos nuestros resultados con investigaciones anteriores, nuestro estudio revela la siguiente discrepancia: los jueces siguen un modelo legal tradicional mientras que los empleados siguen un modelo ético al tomar decisiones sobre casos de romance en el trabajo que son seguidos de una acusación de hostigamiento sexual. Nuestro estudio también revela que la mera presencia (en contraste con la ausencia) de un romance anterior reduce la probabilidad del éxito de la demanda en un caso de hostigamiento. Consideramos implicaciones para el manejo de romances en el trabajo y futuras investigaciones sobre toma de decisiones con marcos legales y éticos.

Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991 prohibit all forms of sex discrimination including sexual harassment in the workplace. Despite these laws, 24 percent of women in the U.S. labor force report that they have experienced sexual harassment (Ilie, Hauserman, Schwochau, & Stibal, 2003). With respect to formal charges, from 1997 to 2006, an average of 14,384 sexual harassment claims were filed annually with the U.S. Equal Employment Opportunity Commission (EEOC) and Fair Employment Practices agencies.

Each year, between 5 percent and 11 percent of these claims were found to have reasonable cause (EEOC, 2007). Also since the late 1990s, the frequency of consensual romantic relationships has increased in organizations throughout the United States (Society for Human Resource Management [SHRM], 1998; 2002). Approximately 10 million workplace romances develop annually in the United States (Spragins, 2004) and, moreover, about 40 percent of employees have had a workplace romance (Parks, 2006). A workplace romance is a consensual

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dating or marital relationship that entails physical attraction between two employees in the same organization (Mainiero, 1986; Pierce, Byrne, & Aguinis, 1996; Powell, 2001; Powell & Foley, 1998; Quinn, 1977). In contrast, sexually harassing behavior entails unwelcome sexual advances, requests for sexual favors, and other unwanted physical or verbal conduct of a sexual nature (EEOC, 1993; Konrad & Gutek, 1986). Although workplace romance and sexual harassment are prevalent types of social-sexual organizational behavior (Gutek, Cohen, & Konrad, 1990), they are distinct in that romance is legal and harassment is illegal.

Management scholars have examined factors associated with the formation, dynamics, impact, and management of workplace romances, but primarily to the exclusion of sexually harassing behavior (e.g., Foley & Powell, 1999; Jones, 1999; Pierce, 1998; Pierce & Aguinis, 2003; Powell & Foley, 1998). However, we cannot achieve a complete understanding of workplace romance in isolation from sexually harassing behavior (Pierce & Aguinis, 1997; 2001; 2005), because sexual harassment claims occur in organizations as the result of dissolved workplace romances. Indeed, nearly 25 percent of human resource professionals in the United States report that sexual harassment claims occur in their organization as the result of workplace romance (Parks, 2006; SHRM, 1998, 2002). And, from a legal standpoint, sexual harassment claims stemming from a dissolved workplace romance between the plaintiff and alleged harasser have been upheld by the courts (e.g., *Cortes v. Valle*, 2003; *Oakstone v. Postmaster General*, 2004).

To help prevent sexual harassment lawsuits, organizations impose ethics-based restrictions on workplace romance as stipulated in policies and codes of ethical conduct (e.g., romances prohibited between supervisors and subordinates) (Parks, 2006; SHRM, 1998, 2002). The fact that organizations adopt workplace romance policies and codes of ethical conduct to help prevent harassment lawsuits raises an important issue regarding the standards used by observers for making decisions about harassment claims. Specifically, research indicates that to manage harassment claims effectively and prevent costly lawsuits, the decision-making standards used by organizations should correspond with those used by judges (Perry, Kulik, & Bourhis, 2004). Is this feasible in cases where a sexual harassment claim stems from a prior workplace romance between the harasser and alleged harasser? In organizational settings where legal and ethical standards are typically enforced, a prior history of workplace romance affects observers' decisions about ensuing sexual harassment claims (Pierce, Aguinis, & Adams, 2000; Pierce, Broberg, McClure, & Aguinis, 2004; Summers & Myklebust, 1992). However, in judicial settings where only legal standards are supposed to be enforced, we do not know whether a prior history of workplace romance affects judges' decisions about ensuing sexual harassment claims. Thus, it is unclear whether the decision-making standards used by orga-

nizations correspond with the decision-making standards used by judges when responding to romance-harassment cases.

In the present study, we examine judicial decisions regarding sexual harassment claims stemming from a dissolved workplace romance. We assessed judicial decisions to be able to make an initial comparison between judges' and employees' (e.g., managers, human resources staff) cognitive propensities with respect to decisions regarding romance-harassment cases. We know that employees' decisions are affected by ethically salient extralegal features of romance-harassment cases (Pierce et al., 2000; 2004).<sup>1</sup> Are judges' decisions also affected by ethically salient extralegal case features? Judges are trained in the law and thus their decisions should not be influenced by extralegal factors. However, judges' decisions in sexual harassment cases not involving workplace romance are affected by extralegal factors such as their political affiliation and age (Kulik, Perry, & Pepper, 2003). Thus, there is reason to suspect that judges, like employees, may base their decisions about romance-harassment cases on legal and extralegal factors (Pierce & Aguinis, 2005; Welsh, Dawson, & Nierobisz, 2002).

If judges base their decisions on legal and extralegal factors, there would be ramifications for organizations, employees, and society. From an organizational perspective, if judges base their decisions on both types of factors, then human resource practices would need to be modified for risk management. For example, harassment policies and awareness programs would need to warn employees that extralegal features of a prior workplace romance (e.g., whether it was extramarital or in violation of an organizational policy) may affect negatively a judge's decision about an ensuing harassment claim. If instead judges base their decisions on legal factors only, then from a cost-benefit standpoint, organizations may want to reconsider expending resources on imposing ethics-based restrictions on workplace romance. From the perspective of plaintiffs and defendants, there would also be consequences. For example, if judges are like employees and base their decisions on legal and extralegal factors, then defense attorneys could emphasize unethical extralegal features of a plaintiff's workplace romance in an attempt to undermine the credibility of his or her harassment claim. If instead judges are unlike employees and base their decisions on legal factors only, then employees may perceive their organization's procedure for responding to harassment claims as unfair if it considers extralegal factors. Finally, from a societal perspective, our society would not trust how the legal system operates if judges do not follow their training and, like employees, base their decisions on legal and extralegal factors. Considering consequences for the organizations and employees involved as well as our society, it is important to ascertain whether judges base their decisions about romance-harassment cases on legal and extralegal factors.

The goal of our study was to determine whether judges' decisions, like employees' decisions, can be predicted in part from

ethically salient extralegal features of romance-harassment cases. To identify the nature of judicial decisions, we provide the first content-analytic review of U.S. federal and state sexual harassment court cases involving a prior workplace romance between the plaintiff and alleged harasser. In the next section, we develop the theoretical framework and hypotheses for our content-analytic case review based on two competing perspectives: (1) legal decision making versus (2) ethical decision making. We adopt a strong inference approach (Aguinis & Adams, 1998; Vandenberg, 2006) in which these two competing theoretical perspectives provide the rationale for testing rival hypotheses.

## THEORETICAL FRAMEWORK: LEGAL VERSUS ETHICAL DECISION MAKING

### Legal Decision Making

Because harassment is a pervasive legal problem, researchers have examined how observers make decisions about employees' sexually harassing behavior (e.g., Bowes-Sperry & O'Leary-Kelly, 2005; Gutek, O'Connor, Melancon, Stockdale, Geer, & Done, 1999; Summers & Myklebust, 1992; Wiener, Winter, Rogers, & Arnot, 2004). For example, studies by Wiener and his colleagues (Wiener & Hurt, 2000; Wiener et al., 2002) have examined effects of adopting different types of sexual harassment legal standards on evaluations of whether social-sexual conduct legally constitutes harassment. From a legal purist's standpoint, using only legal standards to guide decisions about a sexual harassment case is appropriate because it follows the traditional legal model of decision making.

The traditional legal model of judicial decision making, which judges are taught in law school, advocates the primacy of legal doctrine, legal precedent, and rule application (Wrightsman, 1999). According to this legal model, judges are supposed to consider only the relevant facts, evidence, and issues of a case and relate them to previous court decisions and applicable law. Judges are supposed to disregard their personal ideologies, attitudes, and other extralegal factors while deciding a case (Heise, 2002; Johnson, 1987; Wrightsman, 1999). Furthermore, judges are supposed to disregard the ethical/moral character and immoral behavior of plaintiffs and defendants—that is, they should not engage in judicial moralizing (Walsh, 2007: 255). Based on this traditional legal model of judicial decision making, ethically salient extralegal features of a romance-harassment case (e.g., whether it involves an extramarital workplace romance) should not affect judges' decisions. Instead, only the relevant legal (i.e., harassment-based) case features, such as severity of harassing behavior and presence of witnesses, should affect judges' decisions. Thus, we expected that the results of our content analysis would provide support for the following hypothesis:

*Hypothesis 1: Only legal (i.e., harassment-based) case features predict judges' decisions in sexual harassment cases involving a prior workplace romance between the plaintiff and alleged harasser.*

### Ethical Decision Making

Even if judges are intelligent, trained in the traditional legal model, and conscientious, their decisions can still be affected by extralegal factors (Heise, 2002). For example, judges' political affiliation predicts whether their case opinions are liberal or conservative (Johnson, 1987; Tetlock, Bernzweig, & Gallant, 1985; Wrightsman, 1999). In federal cases of sexual harassment, judges' political affiliation and age predict their decisions (Kulik et al., 2003). To account for the role that extralegal factors play in judges' decisions, legal scholars developed a social-cognitive model of judicial decision making (Lerner, 2004). This model asserts that judges' cognitive processes mediate the relationship between case features and judicial decisions. That is, judges have differing perceptions of case features and evidence, differing interpretations of legal doctrine, legal precedent, and rule application, and thus differing judicial decisions about a case (Wrightsman, 1999). Central to this social-cognitive legal model is the concept of a judge's schema and schema-driven decisions. A judge's schema is an organized collection of knowledge based on his or her past experiences that is used to interpret new experiences. Most of this knowledge stems from judges' legal training, court experience, relevant law and rule application, and prior case opinions, but some is based on their personal ideologies, attitudes, and other extralegal factors (Wrightsman, 1999).

At the intersection of the social-cognitive model of judicial decision making and Jones's (1991) social-cognitive model of ethical decision making is the possibility that judges' schemas are based, in part, on the perceived ethics of a case. An employee's voluntary action or pattern of behavior may be perceived as unethical (i.e., immoral) if it has the potential to harm or alter the welfare of another person (Jones, 1991). For example, a direct-reporting workplace romance that is extramarital and in violation of an organizational policy prohibiting supervisor-subordinate romances may be perceived as unethical (Pierce & Aguinis, 2005; Pierce et al., 2004). In addition, because sexually harassing behavior poses a potential risk to the target's well-being (Schneider, Swan, & Fitzgerald, 1997), it too may be perceived as unethical. Indeed, many organizations, including the Academy of Management (2006), American Bar Association (2004), and American Psychological Association (2002), deem workplace romance and sexual harassment as ethical issues in their codes of ethical conduct. The key point is that sexual harassment is illegal and unethical, whereas workplace romance is legal but can also be perceived as unethical (Bowes-Sperry & O'Leary-Kelly, 2005; Bowes-Sperry & Powell,

1999; O'Leary-Kelly & Bowes-Sperry, 2001). Consequently, perhaps judges' schema-driven decisions are affected by the perceived ethics of romance-harassment cases. It is possible that judges perceive romance-harassment cases in part from an ethics perspective because the American Bar Association (2004) deems sexual harassment as unethical in their code of judicial conduct. Do observers perceive romance-harassment cases from an ethics perspective?

Pierce et al.'s (2000; 2004) results indicate that legal factors such as severity of the harassment, and ethically salient extralegal factors such as whether a prior romance was extramarital or in violation of a workplace romance policy, affect employees' judgments of responsibility and recommended actions regarding a romance-harassment case. Pierce et al.'s (2004) results, like many others (O'Fallon & Butterfield, 2005), support Jones's (1991) ethical decision-making model. Jones's model has the following four stages in which observers' ethics schemas are triggered: recognize the issue as moral in nature, make a moral judgment, establish intentions to behave in accordance with the moral judgment, and engage in moral behavior (cf. Rest, 1986; Trevino, 1986). Pierce et al.'s (2004) results support Jones's (1991) model and are important because they indicate that ethically salient extralegal features of a romance-harassment case trigger observers' ethics schemas and, consequently, affect their judgments and recommended actions regarding the case.

In terms of triggering observers' ethics schemas, Jones's (1991) model purports that ethical issues vary with respect to their saliency or, stated differently, their perceived level of moral intensity. The level of moral intensity of an issue is determined by features of the issue along dimensions such as magnitude of consequences and social consensus (Bowes-Sperry & Powell, 1999; Reynolds, 2006). The greater the perceived magnitude of consequences of, or social consensus regarding, a moral issue, the greater the issue's saliency or level of moral intensity. An issue's level of moral intensity predicts the extent to which an observer recognizes the issue as ethical in nature and, moreover, it predicts each of the subsequent stages of the ethical decision-making process (i.e., judgment, intention, and behavior) (Jones, 1991).

Because we reviewed court cases, we could not measure all four stages in Jones's (1991) model. We therefore based our inference of judges' ethical decision making on whether case features (i.e., moral intensity factors) predict case outcomes (i.e., judges' decisions). If judges' decisions are based in part on ethical standards, then the level of moral intensity of extralegal case features would predict case outcomes. For example, in terms of social consensus, extramarital romances have long been considered immoral in many societies in part because they are emotionally harmful and thus more unethical than nonextramarital romances (Glenn & Weaver, 1979; Spanier & Cole, 1975). Hence, if judges engage in ethical decision making,

then their decisions would favor the plaintiff when extralegal case features are unethical on the part of an alleged harasser (e.g., the workplace romance is extramarital for the alleged harasser). Likewise, judges' decisions would favor the alleged harasser when extralegal case features are unethical on the part of the plaintiff (e.g., the workplace romance is extramarital for the plaintiff). In sum, drawing from Jones's (1991) theoretical model and, moreover, considering that judges may perceive romance-harassment cases in part from an ethics perspective, results of our content analysis could instead provide support for the following hypothesis that rivals H1:

*Hypothesis 2: Legal (i.e., harassment-based) case features as well as ethically salient extralegal case features predict judges' decisions in sexual harassment cases involving a prior workplace romance between the plaintiff and alleged harasser.*

## METHODS

### Sample of Court Cases

Between August 2005 and May 2007, we conducted extensive searches using the law school version of *LexisNexis Universe* to locate all publicly available U.S. federal and state sexual harassment court case summaries. We searched for the following key words in the entire text of case summaries: "date," "dating," "married," "marriage," "romance," "consensual relationship," "sexual relationship," "office romance," and "workplace romance" each paired with "sexual harassment." We also used the LexisNexis "more cases like this" option in relevant cases located.

Our search yielded 46 federal cases and nine state cases dated from 1980 to 2004. In each federal and state case, a sexual harassment claim was made per Title VII stipulations by an individual plaintiff who was previously involved in a workplace romance with the alleged harasser. None of the cases involved a class action lawsuit.<sup>2</sup> Of the 46 federal cases, three were dismissed because of a legal technicality (e.g., filing error) and thus were not included in our sample. In addition, one of the 46 federal cases (*Huebschen v. Department of Health & Social Services*, 1983) did not contain the information needed to code our criterion variable and thus was not included in our final sample of 51 cases. We also did not review cases such as *Miller v. Department of Corrections* (2005) and *Donnelly v. Independent School District 199* (2004) because the plaintiff's sexual harassment claim stemmed from coworkers' workplace romances. In 12 cases in our sample, the plaintiff contested that she was previously involved in a workplace romance with the alleged harasser. However, the courts determined that they were indeed workplace romances and thus we reviewed these cases. For all other cases reviewed, the workplace romance was acknowledged as such by the courts and not contested by either the plaintiff or alleged harasser. (A list of the 51 court

cases we reviewed can be obtained by contacting this paper's first author.)

Per Roehling's (1993) sampling recommendations, we did not aggregate judges' decisions across different levels of the federal judiciary (e.g., appellate and district courts). Instead, we reviewed decisions reached in federal district courts only; hence, we did not have duplicate federal cases in our sample. Similarly, we did not code judges' decisions reached in state appellate cases. Instead, we reviewed decisions reached in state district courts only; hence, we did not have duplicate state cases in our sample. We coded for whether the case was federal or state to ascertain whether type of court case predicts judges' decisions.

## Procedure

For each case, we coded case characteristics examined by Knapp and Heshizer (2001), Kulik et al. (2003), Perry et al. (2004), and Terpstra and Baker (1988; 1992). Specifically, year and geographic location of the case were coded as control variables, and gender of the plaintiff and alleged harasser were coded for descriptive purposes. In addition, the following characteristics were coded because they are legally relevant in sexual harassment cases: severity and frequency of the harassment, legal theory used, presence of witnesses and documents to support the plaintiff's claim, plaintiff's notification of the harassment before filing formal charge, organizational action, consequences of and organization's reasons for harassment, and status of the alleged harasser. Like Knapp and Heshizer (2001), we used Fitzgerald, Gelfand, and Drasgow's (1995) framework to code severity of harassment. That is, the alleged harassing behavior was coded as less severe if it involved gender harassment or unwanted sexual attention (e.g., sexual remarks, staring, leering) and more severe if it involved sexual coercion (e.g., sexual bribery). With regard to harassment legal standards, Perry et al. (2004) found a weak relationship between whether a case followed a reasonable woman precedent-setting case and the likelihood that a judge's decision would favor the plaintiff. Perry et al. also found no relationship between whether a case explicitly used the reasonable woman legal standard and the likelihood that a judge's decision would favor the plaintiff.<sup>3</sup> Thus, we did not code type of sexual harassment legal standard as a case feature.

We did, however, code for several previously unexamined case characteristics to assess whether extralegal features of romance-harassment cases predict judges' decisions. Specifically, we coded the following two extralegal case characteristics because of their high degree of ethical saliency: whether the workplace romance was extramarital for the plaintiff and whether the workplace romance was extramarital for the alleged harasser. We coded the following four extralegal case characteristics because they confirm the presence of, and they capture relational aspects of, a prior workplace romance

between the plaintiff and alleged harasser: duration of the workplace romance, whether the workplace romance dissolved mutually, whether the workplace romance was intact when the harassing behavior occurred, and whether the organization had a workplace romance policy. We also coded the following three case characteristics that were extralegal prior to 1998: whether or not the workplace romance was a direct-reporting hierarchical relationship, indirect-reporting hierarchical relationship, or a lateral relationship. Since 1998, these three case characteristics have been considered legally relevant because sexual harassment law stipulates different standards depending on whether the alleged harasser is a supervisor or peer relative to the plaintiff (see *Burlington Industries, Inc. v. Ellerth*, 1998, and *Faragher v. City of Boca Raton, FL*, 1998, for details about employer liability). A description of all of the case features we coded is provided in Table 1.

With respect to case outcomes, like Knapp and Heshizer (2001), we coded judges' decisions reached in response to the defense's request for summary judgment concerning a plaintiff's charge of sexual harassment. As in Knapp and Heshizer's study, the basis for the defense's motion for summary judgment in all cases we reviewed was for the judge to decide whether or not sexual harassment occurred. A summary judgment is a judicial decision made on the basis of indisputable statements, material facts, and evidence presented for the record without a jury trial. We did not use jury trial verdicts as our criterion variable because they were available in only three court cases. Consequently, per Roehling (1993), the problems associated with combining bench trial decisions with jury trial decisions are not an issue in the present study.<sup>4</sup>

We followed Terpstra and Baker's (1992) procedure for coding case characteristics. Each case summary was coded by two doctoral students, one male and one female. As part of the coders' training before their actual coding commenced, the two coders independently coded eight cases in a practice session. The two coders then met with this paper's first author to discuss the degree of agreement between their classifications. After this practice session was completed, each coder independently coded all 51 case summaries. Upon completion of the coding, the first author compared the two coders' classifications for each case. Any case that did not produce identical classifications for all coded variables was discussed between the two coders and first author until a consensus was reached. As discussed next, we computed the degree of agreement between the coders' initial classifications to assess the reliability of our coding.

## Measures

**Predictor variables.** For our predictor variables, we coded case characteristics in a manner consistent with Kulik et al. (2003), Perry et al. (2004), and Terpstra and Baker (1988; 1992). That is, we used dummy coding (1 or 0) for our nominal-level case

**TABLE I**  
**Coding Scheme and Cohen's Kappas for Characteristics of Sexual Harassment Court Cases Involving Workplace Romance**

Case characteristic	Coding scheme	Cohen's kappa
1. Severity of alleged sexually harassing behavior	1 = more severe (e.g., sexual assault, sexual bribery, unwanted physical contact of a sexual nature) or 0 = less severe (e.g., sexual propositions unlinked to job threats or promises, repeated unwanted requests for romantic dates, offensive remarks or jokes, sexual gestures, staring, leering, display of sexual material, whistles)	0.71
2. Legal theory used for summary judgment	1 = quid pro quo or 0 = hostile work environment	0.79
3. Frequency of sexually harassing behavior	1 = more than one occasion or 0 = only one occasion	0.65
4. Presence of witnesses to support plaintiff's claim	1 = yes or 0 = no	0.51
5. Presence of documents to support plaintiff's claim	1 = yes or 0 = no	0.70
6. Plaintiff notified management or superiors of the harassment prior to filing sexual harassment claim	1 = yes or 0 = no	0.64
7. Organization took investigative or remedial action when notified of alleged harassment	1 = yes or 0 = no	0.69
8. Plaintiff's job-related consequences of harassment	1 = tangible adverse job-related consequences (e.g., discharge, demotion, denial of a promotion or hire, poor job evaluation, unfair wages, retaliation) or 0 = no tangible, adverse job-related consequences	0.64
9. Plaintiff experienced a constructive discharge	1 = yes or 0 = no	0.80
10. Organization's reason for plaintiff's reported adverse employment-related consequences	1 = business/work related (e.g., economic or financial motive, downsizing, poor job performance, law or policy violation) or 0 = not business/work related (e.g., attitude problem, personality conflict, inappropriate behavior, threatening others, poor person-job fit)	0.68
11. Status of alleged harasser	1 = manager, supervisor, or superior or 0 = not a manager, supervisor, or superior	0.88
12. Plaintiff's gender	1 = female or 0 = male	1.00
13. Alleged harasser's gender	1 = female or 0 = male	0.85
14. Plaintiff contested that his or her romantic relationship with the alleged harasser was consensual, but the court determined this relationship was consensual	1 = yes or 0 = no	0.45
15. Workplace romance was intact when harassment occurred	1 = yes or 0 = no	0.52

16. Workplace romance dissolution was mutual	I = yes or 0 = no	0.43
17. Workplace romance was a direct-reporting hierarchical relationship (e.g., supervisor with his or her subordinate)	I = yes or 0 = no	0.71
18. Workplace romance was an indirect-reporting hierarchical relationship (e.g., supervisor with someone else's subordinate)	I = yes or 0 = no	0.49
19. Workplace romance was lateral (e.g., two peers)	I = yes or 0 = no	0.94
20. Workplace romance was extramarital for plaintiff	I = yes or 0 = no	0.79
21. Workplace romance was extramarital for alleged harasser	I = yes or 0 = no	0.75
22. Job-related favoritism between the plaintiff and alleged harasser (e.g., providing lighter workloads, more vacation time, unwarranted promotions or salary increases)	I = yes or 0 = no	0.61
23. Organization had a workplace romance policy	I = yes or 0 = no	Not computable
24. Court noted whether organization had a workplace romance policy	I = yes or 0 = no	0.49
25. Organization had a policy prohibiting hierarchical (e.g., supervisor-subordinate) workplace romances	I = yes or 0 = no	Not computable
26. Organization had a policy prohibiting lateral (e.g., peer-peer) workplace romances	I = yes or 0 = no	Not computable
27. Organization previously had the plaintiff and alleged harasser sign a consensual relationship agreement	I = yes or 0 = no	Not computable
28. Court noted whether organization previously had the plaintiff and alleged harasser sign a consensual relationship agreement	I = yes or 0 = no	Not computable
29. Organization's tolerance for sexual harassment	I = tolerant (e.g., no harassment policy, no harassment training program, prior harassment claims) or 0 = not tolerant (e.g., harassment policy, harassment training program, no prior harassment claims)	0.61
30. Type of court case	I = federal or 0 = state	0.85

characteristics (see Table 1). For each nominal-level case characteristic, we computed Cohen's kappa as an index of interrater agreement between our coders. Unlike a percent agreement index, Cohen's kappa corrects for chance agreement (Cohen, 1960). Kappa values greater than 0.75 are excellent, between 0.40 and 0.75 are good, and less than 0.40 are poor (Fleiss, 1981). All kappa values reported in Table 1 are greater than 0.40, statistically significant at an alpha level of either 0.001 or 0.01, and thus indicate acceptable interrater agreement for each nominal-level case characteristic.

Cohen's kappa was not computable for the following case features because of missing data: the organization had a workplace romance policy, the organization had a policy prohibiting hierarchical workplace romances, the organization had a policy prohibiting lateral workplace romances, and the organization previously had the plaintiff and alleged harasser sign a consensual relationship agreement. Kappa was also not computable for the following case feature because it was a constant for both coders (i.e., all cases were coded 0 = no): the court noted whether organization previously had the plaintiff and alleged harasser sign a consensual relationship agreement. Accordingly, these five case features were omitted from all analyses reported herein.

Finally, we coded the geographic location of each federal and state case as indicated by its respective U.S. federal circuit number (see [www.uscourts.gov/images/CircuitMap.pdf](http://www.uscourts.gov/images/CircuitMap.pdf)) ( $\kappa = 0.96, p < 0.001$ ). We then recoded this geographic location variable into 10 dummy vectors using a dummy variable coding scheme with the 7th circuit as the reference group because it was the most frequent. We also coded the following case characteristics: year of case (interclass  $r = 0.97, p < 0.001$ ) and total duration of plaintiff's and alleged harasser's workplace romance in months (interclass  $r = 0.92, p < 0.001$ ). The large and statistically significant values for the interclass correlations suggest that these two case characteristics were coded reliably. Per Roehling's (1993) concerns about the evolving nature of law and environmental factors affecting case outcomes, we coded the year, type (federal or state), and geographic location of each case to rule out these control variables as factors that predict judicial decisions.

**Criterion variable.** For our criterion variable, we coded judges' decisions reached in response to the defense's request for summary judgment concerning a plaintiff's charge of sexual harassment as follows: 1 = "in favor of the plaintiff/move case forward" or 0 = "in favor of the defendant/do not move case forward" ( $\kappa = 0.54, p < 0.001$ ). The basis for the defense's motion for summary judgment in all of the cases we reviewed was for the judge to decide whether or not sexual harassment occurred. Our criterion variable has been used in previous harassment case reviews (e.g., Knapp & Heshizer, 2001) and is a valid measure of judicial decisions.

## A Priori Power Analysis

We computed a priori the statistical power of our hierarchical regression analysis reported in the Results section to ascertain whether our sample size was adequate to test our two competing hypotheses. Our hierarchical regression analysis contains the following three models—control factors only (control model), control and legal factors (legal model), and control, legal, and extralegal factors (legal and extralegal model). As described next, we used results from prior research to estimate expected  $R^2$  values for each of our three hierarchical regression models.

Results reported by Knapp and Heshizer (2001), Kulik et al. (2003), Perry et al. (2004), and Terpstra and Baker (1992) indicate that control factors such as the year and geographic location of a case are nonsignificant predictors of judges' decisions regarding sexual harassment cases. Thus, we computed power estimates using a small expected  $R^2$  value of 0.01 for our control model. Results reported by Knapp and Heshizer (2001) and Terpstra and Baker (1992) indicate that regression models with legal factors such as severity of harassment and presence of witnesses have  $R^2$  values between 0.43 and 0.54 for judges' decisions regarding sexual harassment cases. Thus, we computed power estimates using an expected  $R^2$  value of 0.48 for our legal model. Results reported by Pierce et al. (2004) indicate that regression models with extralegal factors such as whether a workplace romance was extramarital and whether it was in violation of an organizational policy have  $R^2$  values between 0.36 and 0.47 for employees' decisions regarding romance-harassment cases. Considering results of Kulik et al. (2003) and Pierce et al. (2004) regarding the significant role of extralegal factors, we anticipated that if H2 is correct, extralegal factors would account for a medium-large to large increase in the proportion of variance accounted for in judges' decisions above and beyond legal factors. According to Cohen (1988), a medium-large to large  $f^2$  effect size used to compare two nested regression models is approximately 0.30. We used the following equation for  $f^2$ :  $(R^2_{\text{full}} - R^2_{\text{reduced}})/(1 - R^2_{\text{full}})$  (Aiken & West, 1991: 157). To achieve an  $f^2$  value of approximately 0.30 when comparing our legal (i.e., reduced) model to our legal and extralegal (i.e., full) model requires using an expected  $R^2$  value of approximately 0.61 for the full model assuming the reduced model's expected  $R^2$  value is 0.48.

Using ZumaStat's (version 4.0.1; <http://zumastat.com>) power analysis module, we computed power estimates based on the following values: alpha level of 0.05, sample size of 51 court cases, and expected  $R^2$  values of 0.01 (control model with two predictors), 0.48 (legal model with 11 predictors), and 0.61 (legal and extralegal model with 15 predictors). The estimated power for comparing the control model to the legal model is 0.99. The estimated power for comparing the control model to the legal and extralegal model is 0.99. The

estimated power for comparing the legal model to the legal and extralegal model is 0.80, which is adequate according to Cohen (1988). In sum, our a priori power analysis indicates that we have reasonably sufficient power to test the relative merits of our two competing hypotheses.

## RESULTS

### Descriptive Analyses

Table 2 displays means and correlations for all study variables. The mean case year is 1997 (median = 1999). Further analysis showed that although there were only one to three cases per year from 1980 to 1996, there were three to eight cases per year from 1997 to 2004. Hence, consistent with SHRM's (1998; 2002) findings, during the past decade there was an increase in the number of publicly reported harassment lawsuits stemming from a prior romance between the plaintiff and alleged harasser. These lawsuits occurred in every region of the United States. The means in Table 2 show that the most frequent locations are the 7th (Wisconsin, Illinois, Indiana) and 6th (Michigan, Ohio, Kentucky, Tennessee) circuits. The average duration of the workplace romances was more than one year (mean = 22.5 months; median = 13.5 months; range = 1 to 110 months). Further analysis showed that although 15 percent of the romances were less than three months in duration, 52 percent were more than 12 months in duration. Thus, the majority of romance-harassment court cases in the United States entail romances of considerable duration rather than brief flings gone sour.

In all 51 cases, the workplace romance was heterosexual. The plaintiff was female in 94 percent of the cases, whereas the alleged harasser was female in only 6 percent of the cases. In 82 percent of the cases, the alleged harasser was in a management or supervisory position. In 59 percent of the cases, the workplace romance was a direct-reporting relationship (e.g., supervisor with his subordinate). The workplace romance was extramarital for the plaintiff in 16 percent of the cases and extramarital for the alleged harasser in 22 percent of the cases. Finally, the courts noted whether the organization had a workplace romance policy in only 4 percent of the cases. When notified of the harassment, organizations took investigative or remedial action in 63 percent of the cases. However, in 47 percent of the cases, the organization was coded as tolerant of sexual harassment.

The most notable statistic reported in Table 2 is the mean for judges' summary judgments (mean = 0.31 for judicial decision). The judges' summary judgments favored the plaintiff in only 31 percent of the cases even though 67 percent of these cases entailed alleged harassing behavior coded as more severe, 51 percent entailed harassing behavior reviewed under *quid pro quo* standards, 96 percent entailed harassing behavior that

occurred more than once, and 86 percent entailed tangible adverse job-related consequences for the plaintiff.

To summarize, the typical romance-harassment court case we reviewed involves the following characteristics: a female plaintiff who experienced tangible adverse job-related consequences; a male alleged harasser in a management or supervisory position; a direct-reporting romance (e.g., male supervisor with his female subordinate) that was nonextramarital, more than one year in duration, and resulted in an allegation of severe harassing behavior that occurred more than once; and an organization that took investigative or remedial action upon notification of the harassment.

### Logistic Regression Analysis

To test our competing hypotheses, we conducted a hierarchical binary logistic regression analysis. Table 3 displays results of this regression analysis.

For the control model shown in Table 3, we entered two of our control variables into the equation (i.e., year and type of case). Results based on entering all three of our control variables into the equation (i.e., year, type, and geographic location of case) lead to the same conclusion. That is, none of our control variables are significant predictors of judges' decisions and the model-fit indices indicate poor fit. For the sake of brevity, because geographic location of the case requires 10 dummy variables, none of which correlate significantly with our criterion, the control model reported in Table 3 includes only year and type of case as covariates (i.e., predictor variables).

For the legal model shown in Table 3, we added harassment-based covariates to our control model that were examined by Knapp and Heshizer (2001), Kulik et al. (2003), Perry et al. (2004), and Terpstra and Baker (1988; 1992). Specifically, we added severity and frequency of the harassment, presence of witnesses and documents to support the plaintiff's claim, severity of plaintiff's job-related consequences of harassment, plaintiff's notification of the harassment before filing a formal charge, organizational action, organization's reasons for harassment, and status of alleged harasser. Results indicate that severity of the harassment ( $b = 3.69, p < 0.05$ ) and presence of witnesses ( $b = 4.05, p < 0.01$ ) are significant predictors of judges' summary judgments. Consistent with H1 and the traditional legal decision-making model (Heise, 2002; Johnson, 1987; Wrightsman, 1999), judges were more likely to decide in favor of the plaintiff when the case entailed more (versus less) severe harassing behavior that others witnessed (versus did not witness) as constituting harassment. Although our legal model does not quite reach the 0.05 level of significance ( $\chi^2 [11, N = 51] = 18.42, p = 0.07$ ), it does have an improved fit over our control model ( $\Delta\chi^2 [9, N = 51] = 17.05, p < 0.05$ ).

For the legal and extralegal model shown in Table 3, we added legal and extralegal covariates to our legal model that

**TABLE 2**  
**Means and Correlations for Study Variables**

Variable	Mean <sup>a</sup>	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
1. Judicial decision	0.31																			
2. Year of case	1997	0.06																		
3. Type of case		0.82	0.09	-0.04																
4. 1st circuit		0.08	0.27	0.21	0.14															
5. 2nd circuit		0.08	-0.20	-0.04	-0.25	-0.09														
6. 3rd circuit		0.04	0.08	0.14	0.09	-0.06	-0.06													
7. 4th circuit		0.08	-0.20	-0.37**	0.14	-0.09	-0.09	-0.07												
8. 5th circuit		0.06	0.01	0.08	0.12	-0.07	-0.05	-0.07	-0.07											
9. 6th circuit		0.14	-0.02	0.02	-0.11	-0.12	-0.08	-0.12	-0.10	-0.10										
10. 7th circuit		0.25	-0.01	-0.03	0.27	-0.17	-0.12	-0.17	-0.15	-0.23	-0.15									
11. 8th circuit		0.06	0.19	-0.26	-0.32*	-0.07	-0.05	-0.07	-0.06	-0.10	-0.07	-0.07								
12. 9th circuit		0.08	-0.20	0.21	-0.44**	-0.09	-0.06	-0.09	-0.07	-0.12	-0.17	-0.07	-0.07							
13. 10th circuit		0.06	0.19	-0.06	0.12	-0.07	-0.05	-0.09	-0.06	-0.12	-0.17	-0.07	-0.09	-0.07						
14. 11th circuit		0.08	-0.04	0.12	0.14	-0.09	-0.06	-0.09	-0.07	-0.12	-0.17	-0.07	-0.09	-0.07	-0.10					
15. Severity		0.67	0.30*	-0.11	0.22	-0.10	0.14	0.05	-0.18	-0.20	0.13	0.00	-0.10	0.18	-0.10	0.38**				
16. Legal theory		0.51	0.27	-0.16	0.14	0.15	0.21	0.15	-0.27	-0.14	-0.06	0.14	-0.09	0.26	-0.16	0.07	-0.21			
17. Frequency		0.96	0.14	-0.03	0.19	0.06	-0.32*	-0.48**	0.05	0.08	0.12	0.05	0.05	0.05	0.06	0.07	-0.02	0.14		
18. Witnesses		0.32	0.36**	0.00	0.10	0.27	-0.04	0.11	-0.17	0.27	-0.11	-0.17	-0.20	0.01	0.11	-0.08	-0.02	0.10	0.19	
19. Documents		0.20	-0.02	0.15	-0.03	0.04	0.41**	-0.10	-0.12	0.09	0.05	-0.12	-0.14	-0.12	0.04	-0.07	-0.22	0.10	0.19	
20. Notification		0.71	-0.12	0.16	0.15	0.19	0.03	-0.31*	0.16	0.01	-0.12	-0.02	0.03	-0.02	0.19	-0.27	-0.51**	0.33*	0.08	0.21
21. Organizational action		0.63	-0.27	-0.24	0.20	-0.25	-0.09	—	0.17	0.02	-0.11	0.08	0.02	0.08	0.02	0.01	-0.21	0.20	-0.25	0.04
22. Job-related consequences		0.86	0.28*	-0.03	0.14	0.12	0.12	0.08	0.12	0.10	-0.20	-0.15	0.10	-0.14	0.10	-0.09	0.09	0.31*	-0.08	-0.08
23. Constructive discharge		0.29	-0.07	0.07	0.30*	0.13	-0.13	-0.19	-0.16	-0.13	0.22	-0.16	-0.19	0.02	0.29*	0.09	-0.06	0.13	-0.08	0.22
24. Organization's reasons		0.53	0.00	-0.09	0.29	-0.18	-0.02	0.29	0.07	-0.10	0.02	-0.02	-0.11	0.07	-0.02	-0.05	0.01	0.24	0.03	0.09
25. Status of alleged harasser		0.82	0.09	-0.20	-0.08	-0.06	-0.17	0.14	-0.10	-0.11	0.04	0.12	0.14	0.12	-0.25	0.33*	0.28	0.17	-0.13	-0.29
26. Plaintiff gender		0.94	-0.19	-0.13	-0.12	-0.24	0.07	0.05	0.06	0.10	0.15	0.06	0.07	-0.29*	-0.24	-0.18	-0.08	-0.05	-0.37**	-0.09
27. Alleged harasser gender		0.06	0.19	0.13	0.12	0.24	-0.07	-0.05	-0.06	-0.10	-0.15	-0.06	-0.07	0.29*	0.24	0.18	0.08	0.05	0.37**	0.09
28. Contested romance		0.28	0.12	-0.24	-0.10	-0.20	0.11	-0.14	-0.17	0.05	0.11	0.11	-0.02	0.24	-0.14	0.13	0.25	0.09	-0.14	-0.10
29. Duration of romance		22.54	0.06	0.08	-0.15	0.23	-0.01	-0.10	-0.07	-0.15	0.41**	0.03	0.08	0.02	-0.14	0.17	-0.13	0.10	0.13	0.14
30. Intact romance		0.35	0.03	-0.16	-0.09	-0.06	0.06	0.09	-0.19	-0.06	-0.06	-0.01	0.24	0.16	-0.06	0.09	0.12	0.15	0.05	-0.26
31. Mutual romance dissolution		0.23	-0.15	0.01	-0.06	0.01	-0.15	-0.12	0.07	-0.03	0.15	-0.15	0.40**	-0.15	-0.15	0.00	-0.18	0.12	0.00	-0.15
32. Direct-reporting romance		0.59	0.14	-0.18	-0.07	-0.05	0.24	-0.04	0.10	-0.13	-0.01	0.04	-0.05	0.04	-0.20	0.17	0.10	0.03	-0.02	0.01
33. Indirect-reporting romance		0.18	0.02	0.20	0.08	0.06	-0.14	-0.09	0.10	-0.19	0.08	-0.12	0.06	0.10	0.06	0.11	0.04	0.10	0.01	-0.10
34. Lateral romance		0.24	-0.18	0.12	0.14	0.01	-0.16	0.13	-0.16	0.18	-0.01	-0.14	0.01	-0.14	0.18	-0.29*	-0.21	-0.12	0.12	0.19

35. Extramarital plaintiff	0.16	0.17	-0.13	0.20	-0.13	-0.09	-0.13	-0.11	-0.17	0.24	-0.11	-0.13	0.35*	0.28	0.08	0.10	0.09	0.05	0.06
36. Extramarital alleged harasser	0.22	-0.05	-0.21	-0.13	0.20	-0.11	-0.15	-0.13	-0.07	0.02	0.07	0.02	0.07	0.20	0.07	0.15	-0.15	-0.16	-0.02
37. Job favoritism	0.08	0.27	0.15	0.13	0.19	0.32*	-0.09	-0.08	-0.12	-0.01	-0.08	-0.08	-0.08	-0.09	0.21	0.15	0.06	-0.05	0.04
38. Court noted romance policy	0.04	-0.14	0.03	0.09	-0.06	-0.04	-0.06	-0.05	-0.08	0.11	0.38**	-0.06	-0.05	-0.06	-0.07	0.00	0.04	-0.14	-0.10
39. Harassment tolerance	0.47	0.39**	-0.17	0.02	0.17	0.02	0.15	0.10	-0.07	-0.03	-0.01	-0.07	-0.28	-0.13	0.26	0.38*	-0.15	0.30*	-0.07
<b>Variable</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>32</b>	<b>33</b>	<b>34</b>	<b>35</b>	<b>36</b>	<b>37</b>	<b>38</b>
20. Notification																			
21. Organizational action	0.31*																		
22. Job-related consequences	-0.13	-0.35*																	
23. Constructive discharge	0.04	0.05	0.15																
24. Organization's reasons	0.09	0.16	0.31*	-0.04															
25. Status of alleged harasser	-0.07	0.05	0.11	-0.04	0.09														
26. Plaintiff gender	0.02	0.17	0.14	0.16	0.11	0.32*													
27. Alleged harasser gender	-0.02	-0.17	-0.14	-0.16	-0.11	-0.32*	-1.00**												
28. Contested romance	-0.16	0.09	0.04	-0.07	-0.03	0.13	0.17	-0.17											
29. Duration of romance	0.16	-0.09	-0.17	-0.16	0.00	0.19	0.02	-0.02	-0.22										
30. Intact romance	-0.06	0.06	-0.21	-0.21	-0.20	0.13	0.01	-0.01	0.59**	-0.04									
31. Mutual romance dissolution	0.00	-0.05	-0.06	0.12	0.19	0.24	0.15	-0.15	0.07	0.01	0.03								
32. Direct-reporting romance	-0.10	0.03	0.12	0.19	0.02	0.55**	0.30*	-0.30*	0.21	-0.02	0.12	0.13							
33. Indirect-reporting romance	-0.04	0.00	-0.11	-0.19	0.14	0.21	-0.10	0.10	-0.13	0.07	-0.13	-0.01	-0.45**						
34. Lateral romance	0.16	-0.03	-0.04	-0.05	-0.04	-0.84**	-0.25	0.25	-0.22	0.04	-0.12	-0.15	-0.66**	-0.26					
35. Extramarital plaintiff	0.04	0.31*	-0.14	0.08	0.03	-0.08	-0.12	0.12	0.35*	-0.22	0.25	0.02	0.14	-0.20	0.02				
36. Extramarital alleged harasser	0.03	0.23	-0.23	0.08	-0.15	0.24	0.13	-0.13	0.37*	-0.03	0.11	-0.15	0.15	0.01	-0.29*	0.17			
37. Job favoritism	0.02	0.03	0.12	0.13	0.30	0.14	0.08	-0.08	0.18	0.08	0.10	0.01	0.25	-0.14	-0.17	0.07	0.04		
38. Court noted romance policy	0.13	0.17	-0.21	0.09	0.14	0.09	0.05	-0.05	-0.14	-0.15	-0.15	0.14	0.17	-0.09	-0.11	-0.09	-0.11	-0.06	
39. Harassment tolerance	-0.36*	-0.62**	0.17	-0.09	-0.12	0.08	-0.10	0.10	0.05	0.08	0.22	-0.19	0.08	0.03	-0.11	0.14	-0.02	0.01	-0.19

Notes:  $N = 51$ . <sup>a</sup> Except for year of case and duration of workplace romance, variables were dummy coded either 1 or 0 and thus their means can be interpreted as proportions. \*  $p < 0.05$ , \*\*  $p < 0.01$ .

**TABLE 3**  
**Hierarchical Logistic Regression Analysis of Judicial Decisions**

Variable	Control model		Legal model		Legal and extralegal model	
	<i>b</i>	Standard error	<i>b</i>	Standard error	<i>b</i>	Standard error
Intercept	-120.85	165.07	-40.22	43,810.45	124.16	43,379.28
Year of case	0.06	0.08	0.00	0.10	-0.09	0.20
Type of case	0.99	1.17	-1.43	2.14	-1.51	2.45
Severity			3.69**	1.93	4.03*	2.31
Witnesses			4.05***	1.63	5.18**	2.36
Job-related consequences			25.67	17,430.93	29.97	16,313.39
Frequency			16.19	40,192.99	15.61	40,193.01
Documents			-2.05	1.78	-2.74	2.19
Notification			1.05	2.30	1.03	2.47
Organizational action			0.88	1.50	-1.54	2.69
Organization's reasons			0.03	1.28	-0.40	1.62
Status of alleged harasser			-2.92	2.29	-3.75	3.07
Harassment tolerance					-2.28	2.58
Direct-reporting romance					0.76	1.49
Extramarital plaintiff					3.40	3.04
Extramarital alleged harasser					-0.39	2.75
Model chi-square <sup>a</sup>	1.37		18.42*		21.72	
Improvement chi-square <sup>b</sup>			17.05**		20.35*	
Cox and Snell $R^2$ <sup>c</sup>	0.04		0.41		0.46	
McFadden $R^2$ <sup>c</sup>	0.03		0.42		0.50	
Nagelkerke $R^2$ <sup>c</sup>	0.05		0.58		0.65	
Classification accuracy (percent)	68.60		91.40		91.40	

*Notes:*  $N = 51$ . The logistic regression predicts the likelihood of a judicial decision (i.e., summary judgment) in favor of the plaintiff. <sup>a</sup> The model chi-square is defined as  $-2$  times the difference between the log likelihood of the estimated model and the log likelihood of the intercept-only model. This statistic is distributed as chi-square with degrees of freedom equal to the number of covariates in the estimated model.  $-2 \log$  likelihood = 40.84 for the intercept-only model. <sup>b</sup> The improvement chi-square tests whether an incrementally nested model adds explanatory power and is based on the log likelihood difference between the control model and the nested model (e.g., legal model), with degrees of freedom equal to the number of additional covariates. <sup>c</sup> Index is a pseudo  $R^2$  and thus should be interpreted with caution. \*  $p < 0.10$ , \*\*  $p < 0.05$ , \*\*\*  $p < 0.01$ .

ethically are very salient. These additional covariates, which were not examined in previous reviews of harassment court cases cited herein, are as follows: organization's tolerance for sexual harassment, whether the workplace romance was a direct-reporting hierarchical relationship, whether the workplace romance was extramarital for the plaintiff, and whether the workplace romance was extramarital for the alleged harasser. Results support H1 and indicate that only severity of the harassment ( $b = 4.03$ ,  $p = 0.08$ ) and presence of witnesses ( $b = 5.18$ ,  $p < 0.05$ ) predict judges' summary judgments. Consistent with the traditional legal decision-making model (Heise, 2002; Johnson, 1987; Wrightsman, 1999), judges were more likely to decide in favor of the plaintiff when the case entailed more (versus less) severe harassing behavior that others witnessed (versus did not witness) as constituting harassment. Inconsistent with H2, none of the other legal or extralegal case features (e.g., whether the romance was a direct-reporting relationship,

whether the romance was extramarital for the plaintiff or the alleged harasser) are significant predictors of judges' decisions. Although the legal and extralegal model does not fit our data well ( $\chi^2 [15, N = 51] = 21.72$ ,  $p > 0.05$ ), it does have a slightly improved fit over our control model ( $\Delta\chi^2 [13, N = 51] = 20.35$ ,  $p < 0.10$ ). Moreover, the fit quality of our legal and extralegal model does not differ from our legal model ( $\Delta\chi^2 [4, N = 51] = 3.30$ ,  $p > 0.05$ ). Our analytical goal was to summarize the content of all 51 court cases rather than merely identify a good-fitting regression model. Nevertheless, we added and dropped extralegal covariates in our legal and extralegal model but it did not alter the quality of its fit to our data. In sum, results of our regression analysis support H1 but not H2.

**Probability analysis.** Each of the logistic regression equations shown in Table 3 predict the log odds of a summary judgment in favor of the plaintiff. It is also useful to predict the probabil-

ity of a summary judgment in favor of the plaintiff assuming, for example, low and high values for severity of harassment and presence of witnesses. Because it is our best-fitting model, we used the regression equation for our legal model to transform the log odds into probabilities using the procedure described by Cohen, Cohen, West, and Aiken (2003: 487–491). First, we entered the mean values (from Table 2) for each of the other covariates into the equation and computed the estimated log odds under the following four conditions: (1) harassment is more severe and witnesses are present, (2) harassment is more severe and witnesses are not present, (3) harassment is less severe and witnesses are present, and (4) harassment is less severe and witnesses are not present. Second, we computed the estimated odds for each of these conditions by exponentiating the log odds obtained in the first step. Third, we computed the estimated probabilities of a summary judgment in favor of the plaintiff using the following equation: estimated probability = estimated odds/(1 + estimated odds). Results indicate that the estimated probability of a summary judgment in favor of the plaintiff is 0.92 if the harassment is more severe and there are witnesses to support the plaintiff's claim. However, the estimated probability is only 0.17 if the harassment is more severe and there are no witnesses, 0.23 if the harassment is less severe and there are witnesses, and 0.01 if the harassment is less severe and there are no witnesses.

## DISCUSSION

We used two competing theoretical perspectives—namely, the traditional legal model of judicial decision making (Heise, 2002; Johnson, 1987; Wrightsman, 1999) and an ethical model of decision making (Jones, 1991)—as lenses through which to analyze U.S. federal and state sexual harassment court cases involving a prior workplace romance between the plaintiff and alleged harasser. The purpose of our case review was to determine whether judges' decisions follow the traditional legal model or an ethical model of decision making. Our results indicate that above and beyond legal case features, ethically salient extralegal case features do not predict judges' summary judgments. Instead, in support of H1 and the traditional legal model of judicial decision making, our results suggest that only legal case features predict judges' summary judgments.

We found that severity of harassment and presence of witnesses predict judges' decisions. These two legal features predict summary judgments and trial verdicts in sexual harassment cases that do not involve a dissolved workplace romance (Knapp & Heshizer, 2001; Kulik et al., 2003; Perry et al., 2004; Terpstra & Baker, 1988, 1992). Our review confirms that severity of harassment and presence of witnesses are vital case features for predicting judges' summary judgments even when there is a prior workplace romance between the plaintiff and alleged harasser. One of the novel contributions of our

study is that, when compared to prior research, it uncovers a discrepancy between judges and employees with respect to how they make decisions about romance-harassment cases. Specifically, judges follow the traditional legal model, whereas employees follow an ethical/moral model.

## Implications for Organizations, Employees, and Society

When compared to prior research (Pierce et al., 2000; 2004), our study uncovers the following discrepancy with respect to how observers make decisions about romance-harassment cases: judges follow the traditional legal model, whereas employees follow an ethical/moral model. With respect to this discrepancy, it is important to note that a management dilemma that organizations face constantly is balancing legal compliance with their values and ethical codes of conduct. According to Roehling and Wright (2006), organizations are often faced with having to make decisions about employees that are either "legal-centric" (e.g., based solely on sexual harassment law) or "organizationally sensible" (e.g., based on a careful balance between an organization's ethical code of conduct and sexual harassment law). This may explain why some sexual harassment training programs are framed from a compliance-oriented legal perspective, whereas others are framed from a values-oriented ethical perspective (Bowes-Sperry & Powell, 1999; O'Leary-Kelly & Bowes-Sperry, 2001). Roehling and Wright's "legal-centric" perspective is consistent with previous research that indicates that to manage harassment claims effectively and prevent costly lawsuits, the decision-making standards used by organizations should correspond with those used by judges (Perry et al., 2004). This correspondence may not be feasible in romance-harassment cases. Organizational decision makers rely on legal and ethical standards (Pierce & Aguinis, 2005; Pierce et al., 2000, 2004), whereas our results show that judges rely only on legal standards when responding to romance-harassment cases. It is acceptable practice for organizations to impose ethics-based restrictions on workplace romance and make "organizationally sensible" decisions based on pertinent legal and extralegal factors. However, from a cost-benefit standpoint, organizations may want to reconsider expending resources on imposing ethics-based restrictions on workplace romance if their primary concern is harassment lawsuits. Organizations should be aware that their rules about workplace romance stated in codes of ethical conduct (e.g., romances prohibited between employees in the same department; Parks, 2006; SHRM, 2002) may be considered irrelevant by judges when they decide romance-harassment cases.

From the perspective of employees, organizations should be concerned about their perceptions of fairness of the procedures used for managing romances and responding to harassment claims (Adams-Roy & Barling, 1998; Foley &

Powell, 1999). If an organization's procedure for responding to romance-harassment cases considers ethics-based extralegal factors, then employees may perceive this procedure as unfair because it is inconsistent with how the case would be handled by the legal system. Last, from a societal perspective, the present study suggests that our society can trust how U.S. judges decide romance-harassment cases because to date they have based their decisions on legal factors only.

Our review also indicates that the majority of romance-harassment cases do not move past summary judgment even though they involve alleged harassing behavior that was severe, occurred more than once, and entailed tangible adverse job-related consequences for the plaintiff. In contrast, more than half of sexual harassment lawsuits in general move past summary judgment if the plaintiff and alleged harasser were not previously involved with one another in a workplace romance (Knapp & Heshizer, 2001). Given these additional findings, organizations should consider managing policies and implementing risk management programs in a manner that informs employees explicitly about the potential hazards of partaking in workplace romances. Our study identifies one risk for complainants. If harassing behavior occurs during or after a workplace romance and the target of the harassment seeks assistance outside his or her organization by filing a lawsuit, then the claim is unlikely to move beyond summary judgment if the plaintiff was involved in a prior romance with the alleged harasser. According to our probability analysis, one exception is if the harassment was severe and witnessed. Thus, from a litigation standpoint, organizations should be most concerned when a dissolved romance leads to a legal claim of severe harassment that was witnessed. As discussed next, another novel contribution of our study is that it reveals a difference between the summary judgments reviewed herein and summary judgments in sexual harassment cases in general.

### Summary Judgments in Harassment Cases with Versus Without a Prior Workplace Romance

One important question that arises from our study is whether there is a difference between the outcomes of summary judgments from harassment cases in which there was versus was not a prior workplace romance between the plaintiff and alleged harasser. Workplace romance and sexual harassment entail social-sexual behavior between employees (Gutek et al., 1990; Pierce & Aguinis, 1997, 2001). Because going from romantic to harassing behavior may be perceived on a continuum from welcome to unwelcome social-sexual behavior, it could be difficult for judges to ignore one type of social-sexual behavior while making decisions about the other type of social-sexual behavior. Specifically, perhaps the prior consensual social-sexual behavior weakens the credibility of a plaintiff's claim of unwanted social-sexual behavior and,

consequently, the romance may have a negative effect on the outcome of a summary judgment. To shed light on this issue, we first revisit the outcomes of summary judgments reviewed herein and then we compare outcomes of summary judgments from harassment cases in which there was versus was not a prior workplace romance.

Judges' summary judgments favored the plaintiff in only 31 percent of the cases we reviewed, even though the overwhelming majority of these cases involved alleged harassing behavior that was coded as more severe, occurring more than once, and resulting in tangible adverse job-related consequences for the plaintiff. This figure of 31 percent may not seem surprising because prior reviews of sexual harassment cases report figures ranging from 31 percent to 38 percent of cases decided in favor of the plaintiff (Kulik et al., 2003; Perry et al., 2004; Terpstra & Baker, 1988, 1992). However, these previous figures are based on a mixture of different types of case outcomes used as the criterion. Some studies combined bench trial verdicts with jury trial verdicts (e.g., Terpstra & Baker, 1992), whereas others examined only bench trial verdicts (e.g., Kulik et al., 2003; Perry et al., 2004). We did not combine bench trial verdicts with jury trial verdicts because Roehling (1993) recommends against this method, and, furthermore, jury trial verdicts were available in only three cases we reviewed. Instead, like Knapp and Heshizer (2001), we coded judges' decisions reached in response to the defense's request for summary judgment concerning a plaintiff's charge of sexual harassment.

To ascertain whether the summary judgments analyzed herein differ from summary judgments in sexual harassment cases in general, note that Knapp and Heshizer (2001) reviewed 85 federal harassment cases in which the plaintiffs and alleged harassers were not necessarily previously involved with one another in a workplace romance. The authors report that judges' summary judgments favored the plaintiff in 53 percent of the cases they reviewed. The difference between our figure of 31 percent of federal and state cases having a summary judgment in favor of the plaintiff and Knapp and Heshizer's figure of 53 percent of federal cases having a summary judgment in favor of the plaintiff is significant ( $z = 2.61, p < 0.01, 95\% \text{ CI [confidence interval]} = 5.46 \text{ to } 38.54$ ). If we consider only the 42 federal cases we reviewed, judges' summary judgments favored the plaintiff in 33 percent of these cases. The difference between our figure of 33 percent of federal cases having a summary judgment in favor of the plaintiff and Knapp and Heshizer's figure of 53 percent of federal cases having a summary judgment in favor of the plaintiff is also significant ( $z = 2.21, p < 0.05, 95\% \text{ CI} = 2.26 \text{ to } 37.64$ ). Considering these differences, judges' summary judgments may be holistic with respect to determining the plaintiff's credibility and whether the alleged sexual conduct is unwelcome. That is, judicial summary judgments seem to be affected by the mere presence (versus absence) of a prior workplace romance between the

plaintiff and alleged harasser rather than by specific extralegal features of the romance. If so, this would be additional evidence in support of H1 and the traditional legal model of judicial decision making because the issue of whether or not the plaintiff has a sexual history with the alleged harasser has been legally admissible evidence since the early 1980s (Lindemann & Kadue, 1992; Patton, 2006).

### Implications for Management Theory and Research

The level of moral intensity of an ethical issue is a function of the saliency of its features (Jones, 1991; Reynolds, 2006). Features of an ethical issue are salient if, for example, they involve harm or there is communal agreement that they are inappropriate. In a romance-harassment court case, a feature such as whether the plaintiff or alleged harasser participated in an extramarital workplace romance is a salient extralegal characteristic that could trigger observers' ethics schemas. Nevertheless, in support of H1 and the traditional legal model, results of our regression analysis show that none of the ethically salient extralegal case features are significant predictors of judges' decisions. Furthermore, the correlations reported in Table 2 indicate that none of the extralegal case characteristics (i.e., workplace romance variables) are significantly associated with judges' decisions.

It is noteworthy that these results differ from organizational research that shows legal and extralegal features of romance-harassment cases affect employees' judgments of responsibility and recommended actions about a harassment claim (Pierce et al., 2000; 2004). Granted, personnel decisions in work settings may not have the same ramifications as summary judgments in legal settings. Decisions in both types of settings are, however, similar in that they involve judgments of responsibility and recommended actions regarding employees' social-sexual behavior. From a legal standpoint, our study reveals good news in that extralegal features of romance-harassment cases do not predict judges' summary judgments. As ironic as it may sound, judges should not be guided by an ethical/moral model of decision making—that is, their individual ethics schemas should not affect their decisions. Instead, as Kulik et al. (2003) noted, judges are supposed to make careful, systematic, thoughtful decisions that are unaffected by extralegal factors. In other words, judges are supposed to follow the traditional legal model of judicial decision making that stipulates a disregard for the moral character and immoral behavior of plaintiffs and defendants (Walsh, 2007). Perhaps because of their formal legal training and experience, judges do not pay attention to (or are able to disregard) ethically salient extralegal features of romance-harassment cases. In contrast, employees pay attention to (or are unable to disregard) ethically salient extralegal features of romance-harassment cases (Pierce et al., 2000; 2004). Unlike judges, observers in organizational settings may

be close emotionally or professionally to employees involved in a romance-harassment scenario. Thus, ethical aspects of the case may be more apparent. Because managers, human resources staff, and other employees typically do not have formal legal training and experience, they may be more likely than judges to consider ethically salient extralegal factors.

The difference between our results and Pierce et al.'s (2000; 2004) results leads us to offer a proposition to guide future research. Unlike judges, employees may recognize but then have difficulty disregarding ethically salient extralegal features of a romance-harassment case while judging responsibility and recommending courses of action. This begs the question of what happens when employees are called upon to serve as jurors in a romance-harassment case? Given their lack of formal legal training and experience, it is also likely that jurors may recognize but then have difficulty disregarding ethically salient extralegal features of a romance-harassment case. If this proposition is valid, then the theory-based link between recognizing ethically salient extralegal features of a romance-harassment case and judging the case may be moderated by the observer's degree of formal legal training and experience. In terms of a potential boundary condition of Jones's (1991) model, future research could examine whether the recognition–judgment link is moderated by attributes of the observer such as whether he or she is a judge, juror, or manager.

### Limitations and Directions for Future Research

Three study limitations should be noted. First, our analyses are based on a sample of only 51 court cases. However, this sample includes all publicly available U.S. federal and state sexual harassment cases to date on LexisNexis that entail a prior workplace romance between the plaintiff and alleged harasser. Despite what may be perceived as a small sample size, our a priori power analysis shows that the statistical power of our hierarchical regression was sufficient to test the relative merits of our competing hypotheses. Thus, our nonsignificant predictors reported in Table 3 and overall support for H1 but not H2 cannot be easily explained by a low statistical power argument given that our anticipated effect size is the best estimate available based on previous harassment research. Before concluding that our sample size is insufficient, note that very few victims report sexual harassment experiences to their employer and not all reported harassment complaints result in a court case (Fitzgerald, 1993). Nevertheless, our analyses reveal that since the mid-1990s, there has been an increase in the number of publicly reported harassment lawsuits stemming from a prior romance between the plaintiff and alleged harasser. Considering that the prevalence of romance-harassment cases is on the rise, a sample size of only 51 court cases to date should not be interpreted as reflecting an unimportant organizational phenomenon.

Second, according to Roehling (1993), conducting content analyses of legal cases to assess judicial decisions is a problematic method. We addressed Roehling's concerns. For example, instead of ignoring the following variables, we coded year of case, geographic location of case, type of case, and type of legal theory used in each case. None of these variables were significantly associated with judicial summary judgments. Also per Roehling's recommendations, we did not combine jury trial verdicts with bench trial verdicts, individual plaintiff cases with class action cases, or decisions from different levels of the federal or state judiciary. Nonetheless, contrary to Roehling's recommendations, we did not review cases settled outside of court. Because we only reviewed case opinions available via the law school version of LexisNexis, our sample may suffer from range restriction with respect to its case features and outcomes. Thus, our results should not be generalized to romance-harassment cases settled outside of court.

Third, a summary judgment differs from a jury trial decision with respect to the legal processes involved. A summary judgment is a preliminary judicial decision made on the basis of indisputable statements, material facts, and evidence presented for the record without a jury trial. In contrast, a jury trial decision is made by a group of jurors on the basis of all indisputable and disputable statements, material facts, and evidence including eyewitness testimony. Considering the difference in the legal process between judicial summary judgments and jury trial decisions, our results should not be generalized to jury trial decisions in romance-harassment cases. When a sufficient number of jury trial decisions accumulate from romance-harassment court cases, future research could examine whether jurors' decisions are based on legal and extralegal factors.

Despite our study's limitations, we avoided many of the common methodological pitfalls of sexual harassment research that were identified by Lengnick-Hall (1995). Specifically, we did not administer a survey to a convenience sample, use college students as participants in an experiment, or use hypothetical "paper people" as experimental stimuli.

## Conclusion

Our study shows that legal case characteristics, but not ethically salient extralegal case characteristics, predict judges' summary judgments in sexual harassment cases stemming from a dissolved workplace romance. The unique contribution of our study is that, when compared to prior research (Pierce et al., 2000; 2004), it reveals the following discrepancy with respect to how observers make decisions about romance-harassment cases: judges follow the traditional legal model whereas employees follow an ethical/moral model. This discrepancy has clear implications for management practice and research.

First, because the decision-making standards used by

observers in organizational settings differ from those used by judges in U.S. courts, organizations should be concerned about the following: (1) the costs versus benefits of expending resources on imposing ethics-based restrictions on workplace romance if their main concern is harassment lawsuits, and (2) their employees' degree of perceived fairness of the procedures used for managing workplace romances and responding to ensuing harassment claims. Second, in terms of a potential boundary condition of Jones's (1991) theoretical model, the link between recognizing ethically salient extralegal features of a romance-harassment case and judging the case may be moderated by the observer's degree of formal legal training and experience. Future research could therefore examine whether the recognition-judgment link is moderated by attributes of the observer such as whether he or she is a judge, juror, or manager.

Finally, it is important to consider the perspective of romance participants. Although workplace romances are not always detrimental to participants' work experiences (Pierce & Aguinis, 2003), our results suggest that organizations should consider informing employees about their potential risks. Judicial summary judgments favored the plaintiff in only 31 percent of the cases we reviewed. Moreover, our probability analysis indicates that without witnesses, the estimated likelihood of a summary judgment in favor of the plaintiff is only 0.17 if the harassment is more severe and 0.01 if it is less severe. These results may be because the issue of whether or not the plaintiff has a sexual history with the alleged harasser is legally admissible evidence in a harassment case (Lindemann & Kadue, 1992; Patton, 2006). Thus, if employees partake in a workplace romance, they should be forewarned that if they are the target of their current or former partner's harassing behavior, then a sexual harassment lawsuit is unlikely to surpass summary judgment unless it entails severe harassment that is witnessed. In closing, employees who partake in workplace romances may be vulnerable as targets of harmful yet legally defensible social-sexual organizational behavior.

## NOTES

1. Extralegal features of a romance-harassment case are characteristics not included in sexual harassment legal doctrine in the United States. Examples of extralegal case features examined herein are whether the workplace romance was extramarital for the plaintiff, whether the workplace romance was extramarital for the alleged harasser, and duration of the workplace romance. In contrast, legal features of a romance-harassment case are characteristics included in sexual harassment legal doctrine in the United States. Examples of legal case features examined herein are severity of harassment, frequency of harassment, presence of witnesses, and whether the plaintiff notified management of the harassment before filing a formal charge (Lindemann & Kadue, 1992; Perry et al., 2004; Terpstra & Baker, 1988, 1992).

2. In the United States, a class action lawsuit is a lawsuit brought by many plaintiffs who have had their rights violated in a similar fashion by the same defendant (Walsh, 2007).

3. In the United States, the reasonable woman legal standard is an objective standard used to help investigators determine whether or not offensive behavior, as judged from the perspective of a reasonable woman, is unwanted as well as sufficiently pervasive and severe to constitute sexual harassment (Gutek et al., 1999; Perry et al., 2004; Wiener & Hurt, 2000).

4. In the United States, a bench trial is a trial before a judge with no jury and, thus, only the judge determines the trial outcome (Knapp & Heshizer, 2001).

## REFERENCES

- Academy of Management. 2006. Academy of Management code of ethics. *Academy of Management Journal*, 49 (6): 1270–1277.
- Adams-Roy, J., & Barling, J. 1998. Predicting the decision to confront or report sexual harassment. *Journal of Organizational Behavior*, 19 (4): 329–336.
- Aguinis, H., & Adams, S.K.R. 1998. Social-role versus structural models of gender and influence use in organizations: A strong inference approach. *Group and Organization Management*, 23 (4): 414–446.
- Aiken, L.S., & West, S.G. 1991. *Multiple regression: Testing and interpreting interactions*. Newbury Park, CA: Sage.
- American Bar Association. 2004. *Model code of judicial conduct*. Chicago.
- American Psychological Association. 2002. Ethical principles of psychologists and code of conduct. *American Psychologist*, 57 (12): 1060–1073.
- Bowes-Sperry, L., & O'Leary-Kelly, A.M. 2005. To act or not to act: The dilemma faced by sexual harassment observers. *Academy of Management Review*, 30 (2): 288–306.
- Bowes-Sperry, L., & Powell, G.N. 1999. Observers' reactions to social-sexual behavior at work: An ethical decision making perspective. *Journal of Management*, 25 (6): 779–802.
- Burlington Industries, Inc., v. Ellerth*, 118 S.Ct. 2257, 1998.
- Cohen, J. 1960. A coefficient of agreement for nominal scales. *Educational and Psychological Measurement*, 20: 37–46.
- . 1988. *Statistical power analysis for the behavioral sciences*, rev. ed. New York: Academic Press.
- Cohen, J., Cohen, P., West, S.G., & Aiken, L.S. 2003. *Applied multiple regression/correlation analysis for the behavioral sciences*, 3d ed. Mahwah, NJ: Lawrence Erlbaum.
- Cortes v. Valle*, 253 F. Supp. 2d 206, D.P.R. 2003.
- Donnelly v. Independent School District 199*, 2004 Minn. App. LEXIS 931, Minn. Ct. App. 2004.
- Equal Employment Opportunity Commission (EEOC). 1993. Proposed guidelines on harassment based on race, color, religion, gender, national origin, age or disability. *Federal Register*, 58: 5126–5129.
- . 2007. Sexual harassment charges EEOC & FEPAs combined: FY 1997–2006. Washington, DC, January 31 (available at [www.eeoc.gov/stats/harass.html](http://www.eeoc.gov/stats/harass.html)).
- Faragher v. City of Boca Raton, Fl.*, 118 S. Ct. 2275, 1998.
- Fitzgerald, L.F. 1993. Sexual harassment: Violence against women in the workplace. *American Psychologist*, 48 (10): 1070–1076.
- Fitzgerald, L.F., Gelfand, M.J., & Drasgow, F. 1995. Measuring sexual harassment: Theoretical and psychometric advances. *Basic and Applied Social Psychology*, 17 (4): 425–445.
- Fleiss, J. 1981. *Statistical methods for rates and proportions*. New York: Wiley.
- Foley, S., & Powell, G.N. 1999. Not all is fair in love and work: Coworkers' preferences for and responses to managerial interventions regarding workplace romances. *Journal of Organizational Behavior*, 20 (7): 1043–1056.
- Glenn, N.D., & Weaver, C.N. 1979. Attitudes toward premarital, extramarital, and homosexual relations in the U.S. in the 1970s. *Journal of Sex Research*, 15 (2): 108–118.
- Gutek, B.A., Cohen, A.G., & Konrad, A.M. 1990. Predicting social-sexual behavior at work: A contact hypothesis. *Academy of Management Journal*, 33 (3): 560–577.
- Gutek, B.A., O'Connor, M.A., Melancon, R., Stockdale, M.S., Geer, T.M., & Done, R.S. 1999. The utility of the reasonable woman legal standard in hostile environment sexual harassment cases: A multimethod, multistudy examination. *Psychology, Public Policy, and Law*, 5 (3): 596–629.
- Heise, M. 2002. The past, present, and future of empirical legal scholarship: Judicial decision making and the new empiricism. *University of Illinois Law Review*, 2002 (4): 819–850.
- Huebschen v. Department of Health & Social Services*, 716 F.2d 1167, 7th Cir. 1983.
- Ilies, R., Hauserman, N., Schwochau, S., & Stibal, J. 2003. Reported incidence rates of work-related sexual harassment in the United States: Using meta-analysis to explain reported rate disparities. *Personnel Psychology*, 56 (3): 607–631.
- Johnson, C.A. 1987. Law, politics, and judicial decision making: Lower federal court uses of Supreme Court decisions. *Law and Society Review*, 21 (2): 325–340.
- Jones, G.E. 1999. Hierarchical workplace romance: A experimental examination of team member perceptions. *Journal of Organizational Behavior*, 20 (7): 1057–1072.
- Jones, T.M. 1991. Ethical decision making by individuals in organizations: An issue-contingent model. *Academy of Management Review*, 16 (2): 366–395.
- Knapp, D.E., & Heshizer, B.P. 2001. Outcomes of requests for summary judgments in federal sexual harassment cases: Policy capturing revisited. *Sex Roles*, 44 (3–4): 109–128.
- Konrad, A.M., & Gutek, B.A. 1986. Impact of work experiences on attitudes toward sexual harassment. *Administrative Science Quarterly*, 31 (3): 422–438.
- Kulik, C.T., Perry, E.L., & Pepper, M.B. 2003. Here comes the judge: The influence of judge personal characteristics on federal sexual harassment case outcomes. *Law and Human Behavior*, 27 (1): 69–86.
- Lengnick-Hall, M.L. 1995. Sexual harassment research: A methodological critique. *Personnel Psychology*, 48 (4): 841–864.
- Lerner, A.M. 2004. Using our brains: What cognitive science and social psychology teach us about teaching law students to make ethical, professionally responsible, choices. *Quinnipiac Law Review*, 23: 643–706.

- Lindemann, B., & Kadue, D.D. 1992. *Sexual harassment in employment law*. Washington, DC: Bureau of National Affairs.
- Mainiero, L.A. 1986. A review and analysis of power dynamics in organizational romances. *Academy of Management Review*, 11 (4): 750–762.
- Miller v. Department of Corrections, 36 Ca1.4th 446, 115 P.3d 77, 2005.
- Oakstone v. Postmaster General, 2004 U.S. Dist. LEXIS 23828, D. Me. 2004.
- O'Fallon, M.J., & Butterfield, K.D. 2005. A review of the empirical ethical decision-making literature: 1996–2003. *Journal of Business Ethics*, 59 (4): 375–413.
- O'Leary-Kelly, A.M., & Bowes-Sperry, L. 2001. Sexual harassment as unethical behavior: The role of moral intensity. *Human Resource Management Review*, 11 (1–2): 73–92.
- Parks, M. 2006. 2006 workplace romance poll findings. Alexandria, VA: Society for Human Resource Management.
- Patton, K.M. 2006. Unfolding discovery issues that plague sexual harassment suits. *Hastings Law Journal*, 57 (5): 991–1008.
- Perry, E.L., Kulik, C.T., & Bourhis, A.C. 2004. The reasonable woman standard: Effects on sexual harassment court decisions. *Law and Human Behavior*, 28 (1): 9–27.
- Pierce, C.A. 1998. Factors associated with participating in a romantic relationship in a work environment. *Journal of Applied Social Psychology*, 28 (18): 1712–1730.
- Pierce, C.A., & Aguinis, H. 1997. Bridging the gap between romantic relationships and sexual harassment in organizations. *Journal of Organizational Behavior*, 18 (3): 197–200.
- . 2001. A framework for investigating the link between workplace romance and sexual harassment. *Group and Organization Management*, 26 (2): 206–229.
- . 2003. Romantic relationships in organizations: A test of a model of formation and impact factors. *Management Research*, 1 (2): 161–169.
- . 2005. Legal standards, ethical standards, and responses to social-sexual conduct at work. *Journal of Organizational Behavior*, 26 (6): 727–732.
- Pierce, C.A., Aguinis, H., & Adams, S.K.R. 2000. Effects of a dissolved workplace romance and rater characteristics on responses to a sexual harassment accusation. *Academy of Management Journal*, 43 (5): 869–880.
- Pierce, C.A., Byrne, D., & Aguinis, H. 1996. Attraction in organizations: A model of workplace romance. *Journal of Organizational Behavior*, 17 (1): 5–32.
- Pierce, C.A., Broberg, B.J., McClure, J.R., & Aguinis, H. 2004. Responding to sexual harassment complaints: Effects of a dissolved workplace romance on decision-making standards. *Organizational Behavior and Human Decision Processes*, 95 (1): 66–82.
- Powell, G.N. 2001. Workplace romances between senior-level executives and lower-level employees: An issue of work disruption and gender. *Human Relations*, 54 (11): 1519–1544.
- Powell, G.N., & Foley, S. 1998. Something to talk about: Romantic relationships in organizational settings. *Journal of Management*, 24 (3): 421–448.
- Quinn, R.E. 1977. Coping with cupid: The formation, impact, and management of romantic relationships in organizations. *Administrative Science Quarterly*, 22 (1): 30–45.
- Rest, J.R. 1986. *Moral development: Advances in research and theory*. New York: Praeger.
- Reynolds, S.J. 2006. Moral awareness and ethical predispositions: Investigating the role of individual differences in the recognition of moral issues. *Journal of Applied Psychology*, 91 (1): 233–243.
- Roehling, M.V. 1993. “Extracting” policy from judicial opinions: The dangers of policy capturing in a field setting. *Personnel Psychology*, 46 (3): 477–502.
- Roehling, M.V., & Wright, P.M. 2006. Organizationally sensible versus legal-centric approaches to employment decisions. *Human Resource Management*, 45 (4): 605–627.
- Schneider, K.T., Swan, S., & Fitzgerald, L.F. 1997. Job-related and psychological effects of sexual harassment in the workplace: Empirical evidence from two organizations. *Journal of Applied Psychology*, 82 (3): 401–415.
- Society for Human Resource Management (SHRM). 1998. *Workplace romance survey*. Alexandria, VA: SHRM Public Affairs Department.
- . 2002. *Workplace romance survey*. Alexandria, VA: SHRM Public Affairs Department.
- Spanier, G.B., & Cole, C.L. 1975. Mate swapping: Perceptions, value orientations, and participation in a midwestern community. *Archives of Sexual Behavior*, 4 (2): 143–159.
- Spragins, E. 2004. Dangerous liaisons: As small firms relax their rules on office romances, some face unexpected consequences. *Fortune Small Business* (February 1) (available at [http://money.cnn.com/magazines/fsb/fsb\\_archive/2004/02/01/360633/index.htm](http://money.cnn.com/magazines/fsb/fsb_archive/2004/02/01/360633/index.htm)).
- Summers, R.J., & Myklebust, K. 1992. The influence of a history of romance on judgments and responses to a complaint of sexual harassment. *Sex Roles*, 27 (7–8): 345–357.
- Terpstra, D.E., & Baker, D.D. 1988. Outcomes of sexual harassment charges. *Academy of Management Journal*, 31 (1): 185–194.
- . 1992. Outcomes of federal court decisions on sexual harassment. *Academy of Management Journal*, 35 (1): 181–190.
- Tetlock, P.E., Bernzweig, J., & Gallant, J.L. 1985. Supreme Court decision making: Cognitive style as a predictor of ideological consistency of voting. *Journal of Personality and Social Psychology*, 48 (5): 1227–1239.
- Trevino, L.K. 1986. Ethical decision making in organizations: A person-situation interactionist model. *Academy of Management Review*, 11 (3): 601–617.
- Vandenberg, R.J. 2006. Statistical and methodological myths and urban legends: Where, pray tell, did they get this idea? *Organizational Research Methods*, 9 (2): 194–201.
- Walsh, D.J. 2007. *Employment law for human resource practice*, 2d ed. Mason, OH: Thomson/South-Western.
- Welsh, S., Dawson, M., & Nierobisz, A. 2002. Legal factors, extra-legal factors, or changes in the law? Using criminal justice research to understand the resolution of sexual harassment complaints. *Social Problems*, 49 (4): 605–623.
- Wiener, R.L., & Hurt, L.E. 2000. How do people evaluate social

- sexual conduct at work? A psycholegal model. *Journal of Applied Psychology*, 85 (1): 75–85.
- Wiener, R.L., Winter, R., Rogers, M., & Arnot, L. 2004. The effects of prior workplace behavior on subsequent sexual harassment judgments. *Law and Human Behavior*, 28 (1): 47–67.
- Wiener, R.L., Hackney, A., Kadela, K., Rauch, S., Seib, H., Warren, L., & Hurt, L.E. 2002. The fit and implementation of sexual harassment law to workplace evaluations. *Journal of Applied Psychology*, 87 (4): 747–764.
- Wrightsman, L.S. 1999. *Judicial decision making: Is psychology relevant?* New York: Kluwer.