

APPENDIX B – KEY LEGAL DECISIONS

Williams v. Saxbe (1976) First case establishing that sexual harassment was a violation of Title VII of the Civil Rights Act.

Meritor Savings Bank v. Vinson (1986) Hostile work environment is a form of sexual harassment. Sexual harassment was originally understood as only “quid pro quo” until the Supreme Court decided that a hostile work environment alone was a form of unlawful discrimination and not just limited to “tangible economic discrimination”. Meritor Bank established that “hostile work environment” harassment is actionable under Title VII of the Civil Rights Act of 1964.

Harris v. Forklift Systems (1993) Damage suffered by a victim is not relevant to determining if sexual harassment occurred. The U.S. Supreme Court decided unanimously that the amount of damage suffered by a victim is not relevant to determining if sexual harassment occurred, clarifying that “harassing conduct didn’t need to lead to a nervous breakdown.” Rather, Title VII merely requires that the discriminatory conduct be so severe or pervasive that it creates an abusive workplace for someone based on their sex. Justice Sandra Day O’Connor wrote that as long as the environment could “reasonably be perceived, and is perceived, as hostile or abusive there is no need for it also to be psychologically injurious.”

Hall v. Gus Construction Co. (1988) Conduct such as hazing, even if not of a sexual nature, can constitute sexual harassment. In *Hall v. Gus Construction Co.*, three women working as “flag persons” were subjected to a range of degrading verbal and physical abuse by their co-workers. One of the women, who developed a skin rash, found herself nicknamed “Herpes.” They found obscenities written in the dust on their car. They were “mooned” by their co-workers, who also urinated in their water bottles and automobile gas tanks. The company’s supervisor was aware of the abusive conduct but did not stop it. The court found this conduct violated Title VII because it was unwelcome conduct of a sexual nature, even though it did not contain “explicit sexual overtones.”

Robinson v. Jacksonville Shipyards, Inc., (1991) Pornography equals a hostile workplace. In this case a female welder at the Jacksonville Shipyard company was continually subjected to nude and partially nude pictures posted by her male co-workers, not only in common areas, but also directly where the victim would find them, including her tool box. Despite the victim’s complaints on a number of occasions that she found these materials offensive, the company’s supervisory personnel provided little or no assistance. The court ruled that pornographic images, including graffiti, create a hostile work environment and the company was ordered to remove the offensive pictures. The decision was critical in that it established that, ‘pornography communicates a message about the way [an employer] views women strikingly at odds with the way women wish to be viewed in the workplace.’ Importantly for women working in a male-dominated environment, the court ruled that the pornography displayed around the workplace

had “a disproportionately demeaning impact” on the female employees and thus “convey[ed] the message that [women] do not belong.” In other cases, courts also rejected the idea that a woman who works in a male-dominated workplace should accept the risk of harassing conduct, asserting that there is no “‘crude environment’ exception, if there was it would only remove the legal “safeguards” for those who need them most.”ⁱ

Ellison v. Brady (1991) Sexual harassment cases the facts can be judged from the perspective of a “reasonable woman”, as opposed to a “reasonable person.” This case established that women and men may have different perceptions of what conduct constitutes workplace sexual harassment. The court provided a refinement in the evaluation of whether or not conduct was sexually harassing, by acknowledging that the traditional standard of a “reasonable person” might not take a woman’s perspective into account.

Oncale v. Sundowner Offshore Services (1998) Sexual harassment also applies to harassment in the workplace between members of the same sex. Joseph Oncale, an oil refinery worker, who worked offshore for long periods at a time, was sodomized, threatened and humiliated by members of his crew. Although he reported the incidents, no action was taken against the offenders, and Oncale voluntarily left his job, citing sexual harassment as his reason. The District Court of Eastern Louisiana ruled against Oncale in his sexual-harassment suit, holding that as a male, he was not protected from the actions of other men. In an appeal, the U.S. Supreme Court, reversed the District Court and declared that same-sex harassment can occur.

Jenson v. Eveleth Taconite Co. Allowed for class action complaints to address sexual harassment. Several female miners at the Eveleth Taconite Co. mine in Minnesota during the 1970s and 1980s were regularly harassed by male workers in a sexual, threatening manner and faced ongoing harassment and retaliation when they complained. Although the case took years to be resolved, the plaintiffs eventually settled with the Eveleth Taconite Co. for \$3.5 million. This case is the subject of the 2005 movie “North Country”, starring the actor Charlize Theron, as the lead plaintiff.
