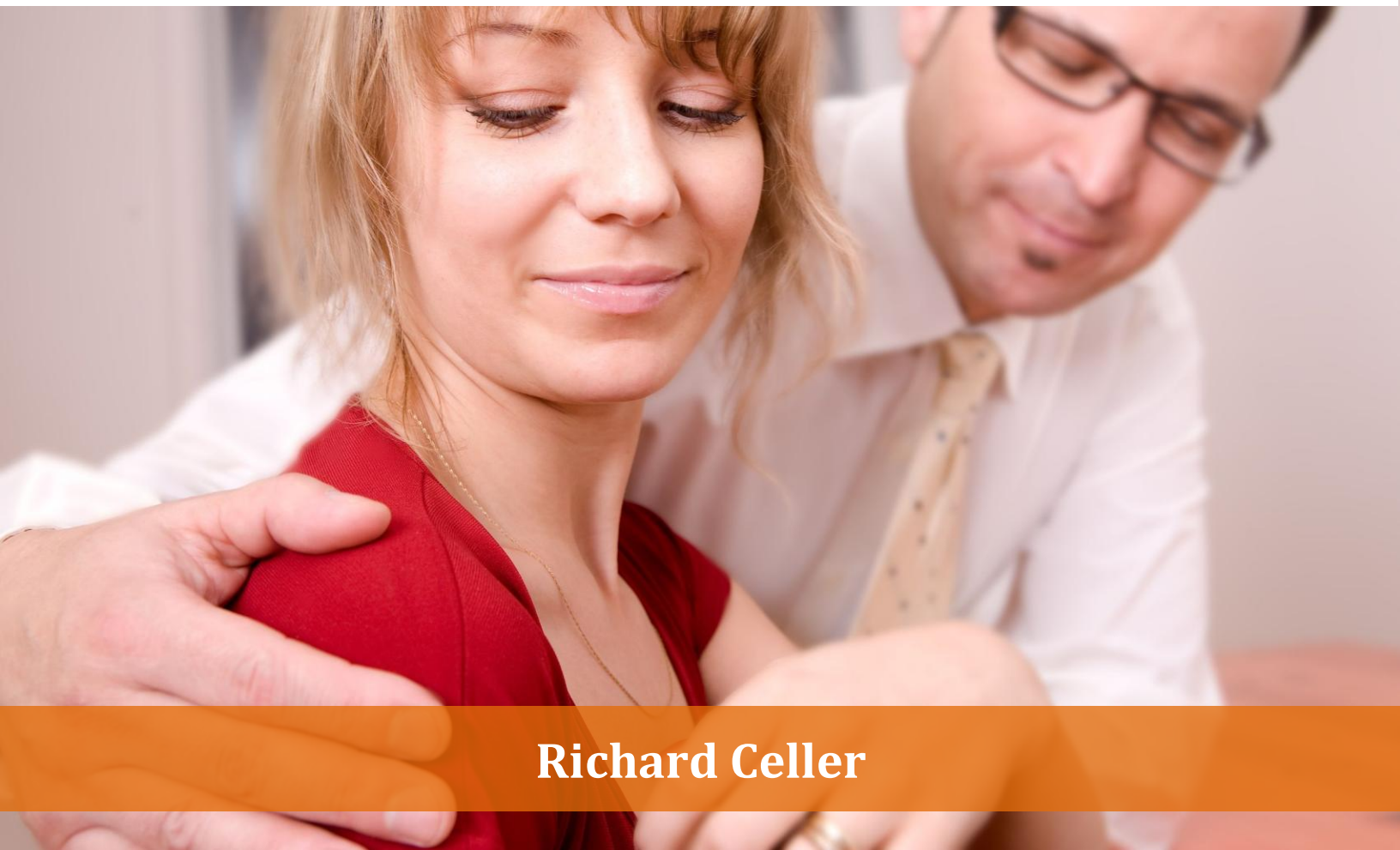


# SEXUAL HARASSMENT IN THE WORKPLACE

*The Word "Harassment" Is a Word that Is Commonly Used to Describe a Wide Range of Conduct that People Find Offensive; However, It Is Important to Understand How the Law Defines "Harassment" If You Believe You Are the Victim of Sexual Harassment in the Workplace*



Richard Celler

Both the Florida Civil Rights Act, or FCRA, and Title VII of the federal Civil Rights Act make it illegal for an employer to discriminate on the basis of your sex. Sexual harassment in the workplace is a form of illegal sex discrimination. Despite these prohibitions, sexual discrimination and harassment in the workplace continue to occur at an alarming rate. The word “harassment” is a word that is commonly used to describe a wide range of conduct that people find offensive; however, it is important to understand how the law defines “harassment” if you believe you are the victim of sexual harassment in the workplace.



Because of the sensitive and personal nature of sexual harassment claims it is always best to consult with an experienced Florida employment law attorney to determine if the facts and circumstances in your situation are legally actionable. A basic understanding, however, of the state and federal laws relating to sexual harassment in the workplace may also be beneficial.

## WHAT LAWS PROTECT ME FROM SEXUAL HARASSMENT?

Both Title VII of the federal Civil Rights Act and the Florida Civil Rights Act protect employees from sex discrimination. Whether or not you pursue a claim at the federal level, the state level, or both is a decision best made after consultation with an employment law attorney. The amount and type of damages

available to a victim differs depending on whether you pursue a case in state or federal court, for example. In addition, Title VII only applies to companies that employ over 15 people as a general rule.

These are just a few of the many factors that go into deciding which forum to use for your complaint. The law protects both men and women from sexual harassment in the workplace. Although women were historically victimized by male superiors in the workplace, times have changed. More and more men are suffering sexual harassment in the workplace and the law protects them as well.



## HOW DOES THE LAW DEFINE SEXUAL HARASSMENT?

Most people would argue that they know sexual harassment when they see it or hear it. While this may be the case, for a victim to be able to pursue legal action against an employee, the conduct must meet the legal definition of sexual harassment. Under federal law, two categories of sexual harassment are prohibited:

- **Quid Pro Quo** –this involves a boss, supervisor, or someone in a position of authority over the victim requesting sexual favors in exchange for hiring, promoting, or providing some other workplace benefit to the victim. Although this type of sexual harassment certainly exists, it is not as common as a “Hostile Work Environment”.
- **Hostile Work Environment** –this involves a broader spectrum of conduct. A “hostile work environment” occurs when a boss, or other employee, makes sexually suggestive comments, verbally or by other means of communication. Occasional teasing or objectionable comments will not suffice to establish a hostile work environment. The conduct needs to be pervasive and/or severe to the point where it creates an offensive work environment and/or interferes with a victim’s work performance **OR** accepting the conduct needs to be a condition of employment. When deciding if a workplace was a hostile work environment, several factors are typically considered, including:
  - Whether the conduct was verbal, physical, or both



- How frequently it was repeated
- Whether the conduct was hostile or patently offensive
- Whether the alleged harasser was a co-worker or supervisor
- Whether others joined in perpetrating the harassment
- Whether the harassment was directed at more than one individual.

## WHAT ROLE DOES THE E.E.O.C. PLAY?

The Equal Employment Opportunity Commission, or E.E.O.C., is the federal agency responsible for enforcing anti-discrimination laws in the United States. As the victim of discrimination, you

should file a claim with the E.E.O.C. The claim will be investigated; however, even if the investigation confirms the alleged sexual harassment there is no guarantee that the E.E.O.C. will file a lawsuit on your behalf.

Moreover, it can take years for an E.E.O.C. claim to make it to

litigation. A private employment law attorney, however, can request the right to move your lawsuit along by filing a Request to Sue with the E.E.O.C., thereby eliminating the need to wait out the agency's lengthy bureaucratic investigation process.



## DAMAGES IN A SEXUAL HARASSMENT LAWSUIT

Although sexual harassment laws existed prior to the 1990s, the laws did very little to help victims because the damages available to a victim were minimal. A victim facing sexual harassment risks much by speaking out. In return, a victim could only receive back pay and reinstatement to a job that she didn't want under the original federal Civil Rights Act.



Thanks to a 1991 Amendment of the Act, a victim is now entitled to compensatory damages that may include future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses. If the victim can show that the employer acted with malice or with reckless or callous indifference punitive damages

may even be awarded. Damages available under the FCRA are similar to those available under federal law.

If you believe that you are the victim of sexual harassment in the workplace you should make an attempt to document the harassing behavior by keeping a private journal at home.

Write down each instance of harassment, including details about the conduct and who was present at the time. In addition, speak to an experienced Florida employment law attorney as soon as possible.

U.S. Equal Employment Opportunity Commission, [Sexual Harassment](#)

National Women's Law Center, [Sexual Harassment in the Workplace](#)

American Association of University Women, [Know Your Rights: Sexual Harassment in the Workplace](#)

University of Akron, [Sexual Harassment in the Workplace: A Primer](#)

## About the Author



### Richard Celler

Richard Celler is the Managing Partner of Richard Celler Legal, P.A., a/k/a the Florida Overtime Lawyer. He created this firm after having served as the Founding Member and Managing Partner of one of the largest employee/plaintiff side employment law divisions in the United States.

In November 2013, Mr. Celler left big firm life with the idea of reopening his own litigation firm with an emphasis on something most big firms cannot provide -- a lower volume of cases, and more focus on the needs and attention of every single client.

Mr. Celler's practice focuses on all areas of the employment context from discrimination, harassment, and retaliation under the Florida Civil Rights Act, Title VII, the Family Medical Leave Act, and other employment related statutes. Additionally, Mr. Celler represents individuals in whistleblower and wage and hour litigation (overtime, minimum wage, commissions, final paychecks).

Many firms charge clients for an initial consultation to discuss their claims. Mr. Celler does not. You can call him or email him to discuss your case for free. If he elects to represent you, your case will be handled on a contingency basis, which means that he only gets paid, if you get paid. We encourage you to look at the remainder of our website for information on your rights and benefits in the workplace – [www.floridaovertimelawyer.com](http://www.floridaovertimelawyer.com).

### **Richard Celler Legal, P.A.**

7450 Griffin Road, Suite 230

Davie, FL 33314

Phone: 866-344-9243

Email: [richard@floridaovertimelawyer.com](mailto:richard@floridaovertimelawyer.com)

Website: [floridaovertimelawyer.com](http://floridaovertimelawyer.com)