Teen Girls the subject of Sexual Harassment

The press as well as employment lawyers have significantly educated the American public as to the problem of sexual harassment in the workplace. Many adults were subject to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which had the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment. However, over the past few years, the general public has been made aware of not only how unprofessional and unethical such practices are, but more importantly how such conduct can lead to significant litigation costs and massive judgments for emotional distress.

Employers and supervisors in Massachusetts may not sexually harass their employees by way of either direct or indirect innuendo. Where a supervisor's conduct has the purpose and effect of unreasonably interfering with employee's work performance by creating intimidating, hostile, humiliating, and sexually offensive work environment, Massachusetts courts have classified such conduct as sexual harassment. *Cardona v. Conn. Car Rental, 20 Mass. L. Rep. 82 (2005).* More specifically, under Massachusetts law, it is an unlawful practice for an employer, as defined *in Mass. Gen. Laws ch. 151B, § 1(5)*, to sexually harass any employee. Moreover, Sexual harassment is not limited to any verbal conduct of a sexual nature which is found to interfere unreasonably with an employee's work performance through the creation of a humiliating or sexually offensive work environment can be sexual harassment under Mass. Gen. Laws ch. 151B. *Melnychenko v. 84 Lumber Co., 424 Mass. 285 (1997).*

Under Massachusetts law, an employee has the right to be free from unreasonable, substantial, or serious interference with privacy, as stated in *G. L. c. 214, § 1B, ID.* Where a supervisor's misconduct occurs at the defendant's place of business while he or she holds a supervisory position, the sexually harassing conduct falls within the scope of employment for purposes of G. L. c. 214, § 1B. *College-Town, Div. of Interco, Inc. v. Massachusetts Comm'n Against Discrimination, 400 Mass. 156, 165-167, 508 N.E.2d 587 (1987).*

As a result of the forgoing, many companies have since instituted sexual harassment policies, which they require all employees to read prior to commencing their employment. In addition, many companies have training programs for their adult workforce. The problem is that many companies employee part time teenage employees, who neither understand the ramifications of sexual harassment nor take part in any of the training programs, read the manuals or are spoken to regarding sexual harassment by their supervisors, who in many cases are also teenagers. This is particularly a problem for businesses one would commonly find in a shopping mall, such as fast food, retail and amusement park companies.

During 2007, according to the Equal Employment Opportunity Commission (EEOC), referring to 16 – 19 year olds, "charges filed and anecdotal evidence indicates that discrimination is a problem for teenagers." According to a professor of social work,

Susan Fineran, 35% of high school students surveyed claimed they were subject to sexual harassment at work, of which over 60% were teenage girls. According to a report in the magazine, Nation's Restaurant News, over the past decade, restaurant's alone have paid out in excess of $7.3 million dollars to battle sexual harassment lawsuit regarding teenagers.

What is the gist of all of this? If corporate America wants to avoid costly prolonged litigation, must do a much better job educating teenage part time employees, in the same way they have done so with their full time adult workforce.

Attorney Michael Goldstein drafted the forgoing article for the Law Office of Goldstein and Clegg, a Massachusetts sexual harassment attorney. Some of the statistics form the forgoing article was derived from April 2008, ABA Journal.