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# Sexual Harassment Claims Covered

## Workers' Compensation

The New Jersey Supreme Court, in a unanimous decision, ruled that claims of workplace sexual harassment, when the harassment results in bodily injury, could not be excluded by insurance carriers under the employer's liability section of a workers' compensation policy. Lisa Schmidt filed a claim against her employer, Personalized Audio Visual, Inc., and the company's president, Dennis Smith, for sexual harassment in violation of New Jersey's Law Against Discrimination (LAD), assault, battery, invasion of privacy, and intentional infliction of emotional distress.

## SEXUAL HARASSMENT CLAIMS COVERED

The Supreme Court declared that workers' compensation policies must cover not only claims for compensation prosecuted in the workers' compensation court but also claims for work-related injuries prosecuted in the court of common law. The reason that the employer's liability coverage is written in conjunction with the [workers' compensation](#) policy is its intent to serve as a "gap-filler" providing coverage to the employer in situations where an employee has the right to bring a common law action despite the exclusivity provisions of the Workers' Compensation Act. An additional benefit of bringing the action under the umbrella of the workers' compensation policy would presumably be a reduced monetary award payable to the victim when compared to that which might be realized under the tort system. [Schmidt v. Dennis Smith, et al](#), 713 A. 2d 1014 - NJ: Supreme Court 1998.

## SEXUAL HARASSMENT IN THE WORKPLACE

Sexual harassment in the workplace is a serious issue that can have devastating effects on the victims involved. It is defined as unwanted or unwelcome sexual advances or physical conduct of a sexual nature that creates a hostile or intimidating work environment.

There are two main types of sexual harassment: quid pro quo and hostile work environment. Quid pro quo harassment occurs when an individual in a position of power, such as a supervisor or manager, demands sexual favors in exchange for workplace benefits or promotions. Hostile work environment harassment occurs when the conduct is so severe or pervasive that it creates an intimidating or hostile work environment for the victim.

In the United States, sexual harassment is prohibited by federal law under Title VII of the Civil Rights Act of 1964. This law applies to employers with 15 or more employees and prohibits discrimination on the basis of sex, race, color, national origin, and religion. In addition to federal law, many states have their own laws prohibiting sexual harassment in the workplace.

Victims of sexual harassment have the right to file a complaint with their employer or the [Equal Employment Opportunity Commission](#) (EEOC). The EEOC is a federal agency that investigates claims of workplace discrimination, including sexual harassment. If the EEOC finds that there is sufficient evidence to support a claim of sexual harassment, they may try to resolve the issue through mediation or may file a lawsuit on behalf of the victim.

Employers also have a responsibility to prevent sexual harassment in the workplace. This includes having a clear policy against sexual harassment and providing training to employees on what constitutes sexual harassment and how to report it. Employers should also take prompt and effective action to address any reported incidents of sexual harassment.

It is important for individuals to speak out against sexual harassment and for employers to create a safe and respectful work environment for all employees. No one should have to endure sexual harassment in the workplace, and it is important for individuals to know their rights and how to report such events.

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The author, [Jon L. Gelman](#), practices law in Wayne, NJ. He is the author of [NJ Workers' Compensation Law](#) (Thomson-Reuters) and co-author of the national treatise [Modern Workers' Compensation Law](#) (Thomson-Reuters). For over five decades, the [Law Offices of Jon L Gelman](#) 1.973.696.7900 [jon@gelmans.com](mailto:jon@gelmans.com) have represented injured workers and their families who have suffered [occupational accidents and illnesses](#).

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