

Sexual Harassment in the Workplace: Law and Practice, third edition, by Alba Conte (New York: Aspen Publishers, 1999) two volumes, 1593 pp., \$265.00 (2000 cumulative supplement).

REVIEWED BY
Stephen M.
Marson, Ph.D.,
ACSW

Sexual Harassment in the Workplace: Law and Practice is the third edition of a work reviewed earlier (*The Journal of Psychiatry and Law*, 1992, volume 20, issue 3, pages 403–404). Conte has developed an impressive array of important, well-written, and highly specialized legal monographs. For those in mental health practice, some of her topics would be considered obtuse and are primarily meant for attorneys (e.g., *Attorney Fee Awards*), while others (e.g., *Sexual Orientation and Legal Rights*) are highly relevant to daily mental health practice. Thus Conte demonstrates two rare talents. First, she has the legal knowledge and skills to write a meaningful synthesis of a vast array of legal research that will ease the load for the practicing attorney. Second, she is able to write for a highly diverse readership. Lawyers and mental health professionals will find her books—particularly *Sexual Harassment in the Workplace*—useful and readable.

“You can’t judge a book by its cover” is an adage that may not be applicable to *Sexual Harassment in the Workplace*. Prior to my writing this review, a colleague lamented to me about sexual harassment she was facing from the medical director of the clinic where she was employed. During our conversation I suggested she merely place Conte’s books on her desk. They are black, but the titles are in gold lettering on a fire-engine-red background; they stand out. Like the eyes of others who entered her office, the medical director’s eyes were drawn to Conte’s books sitting on her desk. The harassment stopped. Hiring a lawyer and filing EEOC reports are costly, time-consuming, and emotionally draining. Strategically placing two books on her desk was not, and may have been more effective than filing a complaint.

The contents of these two volumes are just as poignant as their covers. Conte explains her motivation for writing them by stating:

In 1973, the short-order cook of the Connecticut diner where I worked as a waitress dragged me repeatedly into the walk-in refrigerator and fondled me. When I would resist, he would punish me by later handing me dishes that he rested on a hot grill. He then had his uncle, one of the owners, fire me. The other owner, a man 40 years my senior, rehired me, but then expected me to repay him by complying with his sexual advances. Coworkers were sympathetic, but accepted such "antics" as part of the job. The effort to simultaneously maintain my integrity and pay the bills was exhausting and depressing. (xxvii)

Because of her personal experience, Conte may create the impression that her books serve as a guide for the plaintiff. Although this is true, she is professionally objective throughout this legal treatise, which is just as helpful for a defendant as for a plaintiff. For example, chapter 8 exclusively addresses issues for the defendant.

The 1,593 pages in two volumes include the following chapters:

Volume One: Sexuality, Social Reform, and the Workplace; History of Sexual Harassment Law; Elements of Sexual Harassment Claims; Preparing the Sexual Harassment Case; Administrative Procedures; Trying the Sexual Harassment Case: Pretrial Matters; Trying the Sexual Harassment Case: Trial Matters; Employer Defenses; Sexual Harassment Claims under Other Civil Rights Laws; Common Law Liability and Compensatory Damages; Actions by Alleged Harassers and Other Special Topics. *Volume Two:* State-by-State Survey of Sexual Harassment Law.

The appendices include forms for litigation and current policy guidelines. Biannual supplements will contain a comprehensive treatment of the latest state and federal case law and statutory changes.

Although these chapters may seem to be jammed with legalese, the only section that would attract the exclusive

attention of attorneys and judges is the forms. All readers will be able to comprehend and use Conte's masterful presentation. For example, a mental health professional providing therapy for a victim of harassment would find Conte's work useful in guiding the course of intervention and advocacy.

The state-by-state survey chapter deserves special attention. All 50 states, including Washington, DC, are addressed; however, it does exclude Puerto Rico. If an antidiscrimination statute exists for a state, it is cited and summarized with a presentation of elements relevant to a sexual harassment claim. An interpretation is presented with the court's theory brought under the statute.

Case law is reviewed under the following topics:

Action by alleged behavior, actual damages, assault, assault and battery, attorneys' fees, back pay, battery, breach of duty of fair representation, breach of employment contract, breach of implied covenant of good faith and fair dealing, collateral estoppel, communications, compensatory damages, constructive discharge, damages, defamation, general damages, governmental immunity, homosexual harassment, implied covenant of good faith in employment contract, indemnification, intentional infliction of emotional distress, intentional and negligent misrepresentation, interference with an advantageous business relationship, interference with an economic relationship, interference with contractual relationships and prospective economic advantage, invasion of privacy, judicial misconduct, liability, libel, loss of consortium, negligence, negligent hiring and retention, negligent investigation, negligent supervision, outrage, pendent state claims, punitive damages, retaliation, retaliatory discharge, sanctions, sexual harassment tort, Tort Claims Act, tortious interference with an employment contract, trial, unemployment compensation, workers' compensation, wrongful termination or discharge.

Conte emphasizes the importance of this chapter for attorneys when she writes (p. 7, Vol. II): "Although generalizations may be made regarding state antidiscrimination statutes and state court treatment of common-law claims, the nuances of state law may render a particular litigation strategy feasible

in one state and inappropriate in another.” For mental health practitioners, this chapter provides the foundation for an effective policy-change tool at the legislative level. Contrasting various state laws is a well-known successful strategy that induces state legislative committees to introduce legislation.

This beautifully written and clearly organized book has one major shortcoming: its price may be unrealistically high for persons who are neither law students nor lawyers. Unlike many of the books reviewed in *The Journal of Psychiatry and Law*, these two provide an important public service. They should be available in most public libraries, and readers of this review should make such a recommendation to their public library. In all seriousness, borrowing these books and merely placing them on one’s desk can be an effective strategy to avoid, in Conte’s words, “the effort to simultaneously maintain my integrity and pay the bills” If the strategy works, purchasing the books is a worthwhile investment.

For academic settings, I recommend that all law, prelaw and paralegal libraries obtain a copy. The books will also be extremely helpful for institutions that have academic programs in business, human services, policy, political science, psychiatry, psychology, public administration, social work, and women’s studies. Last, anyone who is responsible for composing a sexual-harassment policy must have access to these well-written books and their accompanying supplement.