

## Letterman Debacle Holds Lessons on Sexual Harassment in Workplace

By Holly Culhane, Contributing Columnist



The scandal that keeps growing over late-night television host David Letterman's admission that he had sexual relations with women working on his show is doing more than creating sensational headlines, fodder for stand-up comedians and substance for a "Law and Order" segment.

It is creating a "teachable moment" that must be heeded by every business owner, supervisor and worker.

The simple message: It's not a good idea to become intimately involved with your employee, subordinate or boss.

The more complex and legal "messages" require dissecting the details of Letterman's behavior and determining if it constituted "sexual harassment" and created a "hostile work environment." Those details still are emerging, with the courts likely to decide. But what we already know makes us ask Jay Leno's famous question: *What were they thinking?*

And "they" is more than just Letterman and the women involved. "They" include others associated with the show and the television network that allegedly knew about Letterman's years-long behavior and may have done little or nothing to intervene. Did "they" think they were immune from the potential consequences of state and federal sexual harassment laws?

The story began unfolding in early October, when Letterman admitted to viewers that he had a series of affairs with women working on the show. The admission coincided with the arrest of CBS producer Robert Joel Halderman, who is accused of trying to extort \$2 million from Letterman to keep quiet about the star's behavior. Letterman admitted on his show that Halderman "knows creepy stuff about me."

Halderman denies trying to extort money from Letterman. Instead, he contends he was merely trying to sell him a screen play based on Letterman's behavior. The trial that looms is shaping up to be quite a sleazy media circus.

But the revelations came as no surprise to Nell Scovell, one of the few women to ever work as a comedy writer for the show. She quit the show in the early 1990s after working only a few months. In a Vanity Fair essay, Scovell wrote there were rumors that

Letterman and other “high-level male employees” were having sexual relations with female staff members.

“Did these female staffers have access to information and wield power disproportionate to their job titles? Yes,” Scovell wrote. “Did that create a hostile work environment? Yes. Did that make you feel demeaned? Completely. Did I say anything at the time? Sadly, no.”

Scovell’s observations are at the heart of concerns about sexual harassment. And her failure to complain is not uncommon. She quietly walked away from what reportedly was her dream job because she feared if she complained, her career would be ruined.

In 2004, the California Legislature decided “enough was enough.” Legislators passed AB 1825, which generally requires businesses that employ 50 or more workers to provide two hours of sexual harassment prevention training to supervisors every two years. The law sets standards for this training, including providing information regarding federal and state laws about sexual harassment, and how to correct behaviors.

Often companies will bring in consultants to provide this training to supervisors. Prudent companies that employ less than 50 employees also are advised to obtain this training to head off problems that can create huge legal and financial liabilities.

AB 1825 was sponsored by former Fresno Assemblywoman Sarah Reyes, who contended existing state and federal laws were not doing enough to stop sexual harassment, which creates a hostile work environment and can be quite costly to businesses. Reyes noted that during 2002-2003, the year before she introduced her training requirement, 4,231 sexual harassment cases were filed with the state Department of Fair Employment and Housing, totaling 22 percent of all cases filed with the Department.

A legislative analysis of AB 1825 in 2003 noted harassment costs the average Fortune 500 company \$6.7 million per year in indirect costs alone. Based upon the size of a corporate giant’s workforce, this calculates to wasted expenditures of \$282 per employee and does not include the damages, restitution, reinstatement, back wages, forward wages and other benefits that were paid to the victimized employees. Smaller companies take a much larger per capita hit and realize a more devastating impact.

A California Supreme Court decision handed down after passage of AB 1825 expanded the reach of sexual harassment complaints, making it easier to claim damages resulting from favoritism created in a workplace that condones sexual relations between workers and subordinates, and that looks the other way when harassment is occurring.

No doubt few of us will be able to turn our eyes away from the Letterman case as it unfolds. It’s like watching a train wreck.

But neither should we turn our eyes from the environments we work in or supervise. It is imperative employers meet the “letter” of sexual harassment law and provide required training.

Those employers, however, who develop and support supervisors on a much broader level, create work environments where employee engagement, creativity and productivity thrive.

***This article written by Holly Culhane first appeared in The Bakersfield Californian on November 28, 2009. Holly Culhane is president of P.A.S. Associates, a Bakersfield human resources consulting firm. She can be contacted through her webpage at [www.PASassociates.com](http://www.PASassociates.com) or by phone at 631-2165.***

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