

**Sexual Harassment: Evaluating Organizational Responsibility Attributions and
Organizational Responses to Minimize Liability**

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Je'Anna L. Abbott

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Dedication

I dedicate my professional paper work to my family and friends. A most sincere appreciation to my two loving parents, Frank and Alice Lanza, for pushing to me to be more than I thought I could be and encouraging me to strive to be the best I can be. My colleagues, Mary Dawson, Juan Madera, and Jay Neal who were always there for me through thick and thin and were always encouraging me to continue on when I didn't think I could. I also dedicate this professional paper to all my friends I have made along my journey at the University of Houston and who have supported me throughout the whole process.

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Abstract

Sexual harassment in the workplace remains a serious problem for organizations despite numerous federal and state laws that have been enacted to combat its existence. An allegation of sexual harassment and legal claims stemming from those allegations can be devastating for the victim, for the transgressor, and for the organization in which the harassment has been purported. This dissertation has three papers addressing this important topic. The first paper, “Apologies: Their Psychological Bases.” explores how victims perceive their employer’s responses to sexual harassment claims. Specifically, it explores whether an apology by the organization is even a plausible solution considering that it may be deemed an admission of liability, and assuming that the apology is protected by law: does the apology accomplish its underlying goal of reducing the negative effects of a sexual harassment claim? The second paper, “States’ Apology Laws: A Summary,” summarizes states’ apology laws, provides an overview of apology effectiveness, and discusses directions for future research on the use of an apology as an organizationally-relevant conflict resolution strategy. In the first two papers, apologies are posited to be effective tools in combating the negative consequences of sexual harassment claims. In the third paper, one of many important empirical issues is addressed to further consolidate our understanding of how and when to use apologies as effective conflict-resolution mechanisms. Paper three poses the question of what role attributed responsibility for harassment plays in alleged victims’ reactions to the transgression. I answer this question through an empirical study using an experimental design. Paper three suggests that victims are more likely to engage in legal claiming behavior when they attribute responsibility to the organization versus the alleged transgressor.

Chapter I: Introduction

Sexual harassment in the workplace remains a serious problem for organizations despite numerous federal and state laws that have been enacted to combat its existence. An allegation of sexual harassment and legal claims stemming from those allegations can be devastating for the victim, for the transgressor, and for the organization in which the harassment has been purported. Sexual harassment claims may diminish both the victim's and the transgressor's contributions to the organization by reduced job satisfaction, lower organizational commitment, job withdrawal, absenteeism, turnover intentions, perceptions of organizational injustice, lower morale, distraction, and lower productivity. From the organizational perspective sexual harassment claims lead to both negative organizational outcomes and potential legal risks. A sexual harassment claim can cost the organization upward of \$500,000 in litigation and may expend more than 200 hours of employee and managerial time in preparing for litigation. Sexual harassment claims are harmful from everyone's perspective. Thus, finding a method that will reduce the negative impact of such claims is worth exploring.

Apologies have helped to repair countless relationships and restore trust (Scher & Darby, 1997; Tavuchis, 1991). Within the organizational context apologies can be used to resolve interpersonal disputes, improve customer relationships, and enhance leader effectiveness (Liao, 2007). Thus, it is important to understand the implications of apologies in a wide range of organizational conflict situations. Although conventional wisdom strongly suggests that an apology can be a highly effective technique for resolving interpersonal conflict, very little is actually known about the potentially

complex interactions that may exist among a transgressor, a victim, the nature and context of the transgression, and the apology itself. This conclusion is especially true for apologies that might predictably occur within a managerial/organizational context.

There are many organizational contexts where apologies may prove useful. One such context is where sexual harassment has been alleged. This three paper dissertation addresses three broad areas related to the potential value of apologies for understanding and coping with sexual harassment claims in organizational settings. First, it conceptually explores when and how apologies might be effective in reducing the negative consequences of a sexual harassment claim. Second, it categorizes and summarizes various states' apology protection laws in order to determine the current legal climate of both partial and full apologies and the feasibility of utilizing them within a harassment context. Finally, it will empirically address how victims of sexual harassment attribute responsibility for the harassment to an organization versus the transgressor. This latter empirical question is obviously an important one to address since attributed responsibility is logically an important antecedent to either constructive resolution of a harassment claim, or to the pursuit of legal claiming in response to the organization's attempted resolutions.

It is somewhat surprising that apologies are not employed in business to the same extent that they are seemingly used by our nationally-public figures, despite the fact that research in organizational and other contexts indicates that apologies can, indeed, help to restore trust (Kim, Ferrin, Cooper & Dirks, 2004), facilitate forgiveness (Exline, Baumeister, Bushman, Campbell & Finkel, 2004), reduce aggression (Ohbuchi, Kameda & Agarie, 1989), improve relationships (Hodgins & Liebeskind, 2003), foster

positive perceptions of leaders (Tucker, Turner, Barling, Reid & Elving, 2006), improve the well-being of victims (Witvliet, Ludwig & Bauer, 2002), and reduce settlement amounts in threatened and actual legal actions (Kraman & Hamm, 1999). Given these powerful effects on so many potentially serious consequences of organizational conflict, why then are apologies underutilized in organizational settings (Janove, 2006)?

Despite the antidotal evidence provided by national public figures implying how and when to make an apology, little empirical research exists on the effectiveness of apologies in resolving workplace disputes (Fox & Lamont, 2006). Moreover, there appears to be no empirical research on the effectiveness of apologies in resolving sexual harassment disputes. In the first paper of the proposed dissertation, this gap in the literature will hopefully be filled by studying some of the underlying reasons that apologies are not offered more readily in the early stages of an employment dispute. In order to answer this question, several areas that have not been researched in unison needed to be bridged and consolidated, including sociological research on apologies and organizational research on managerial accounts, as well as examining the apprehension surrounding the apology and the legislation that is being enacted to address these issues. Thus, the first paper, “Apologies: Their Psychological Bases,” explores how victims perceive their employer’s responses to sexual harassment claims, More specifically, it addresses several important questions. First, whether an apology by the organization is even a plausible solution considering that it may be deemed an admission of liability. Second, assuming that the apology is protected by law: does the apology accomplish its underlying goal of reducing the negative effects of a sexual harassment claim?

Various sociologists and social psychologists conducting apology research differ in their description of the components necessary for an effective apology. Some take the narrow view that an authentic apology merely requires that the offender says he is sorry (Tavuchis, 1991). In contrast, Taft (2000) suggests that, for an authentic apology, an admission of wrongdoing must accompany the expression of sorrow. Cohen (1999) adds yet a third element by including an admission of fault, an expression of regret for the harmful act, and an expression of sympathy for the resulting injury as the components for an authentic apology.

The differences among these views revolve around blameworthiness and fault. This distinction is quite important, especially with respect to the organization's protection under present apology laws. Since only partial apologies, expressions of sympathy, benevolence and promises of non-reoccurrence are protected; it is important to determine if a partial apology, extended by the organization to the victim, proves as effective in reducing the negative effects of sexual harassment claims as is a full apology. Furthermore, research has shown that victims are more forgiving when they receive an apology as compared to receiving no apology (Liao, 2007). Victims receiving an apology are less likely to bring litigation and more likely to settle more quickly after receiving an apology. However, research on apologies and what constitutes an effective apology remains limited. In the first paper, I propose that a partial apology made by the organization to the victim of sexual harassment will be more effective than a full apology or no apology, particularly in mitigating the negative effects resulting from sexual harassment claims. Managerial (social) accounts, including excuses, justifications, denials, and apologies have been found to be effective in reducing the harm that is

incurred when negative feedback is given. However, depending upon the context, some managerial accounts are more effective than are others. While there has been very little research conducted as to the effectiveness of apologies in a sexual harassment context, logically an apology (even a partial apology) will be more effective in reducing the negative effects of sexual harassment than will be other types of managerial accounts. Although the research on what constitutes an effective apology is mixed, it is important to note that partial apologies are legally protected in many states and they are not considered to be admissions of liability in some states. Thus, the legal foundations that have been laid in many states suggests that apologies might be useful managerial conflict-resolution mechanisms without necessarily exacerbating organizations' exposure to costly settlements.

As noted above, the research from the first paper of this dissertation indicates that various scholars have different definitions for what constitutes an authentic apology. These differences seem to revolve around blameworthiness and fault. Some scholars claim that there must be an admission of fault in order for the apology to be authentic and effective. Research from the first paper also indicates that apologies can provide positive outcomes in different contexts including those frequently found in organizational settings, yet many individuals are reluctant to apologize due to both real and perceived legal risks. Recognizing the potential conflict resolution benefits and these legal risks, a number of states have enacted apology protection laws. The second paper, "States' Apology Laws: A Summary," summarizes these laws, provides an overview of apology effectiveness, and discusses directions for future research on the use of an apology as an organizationally-relevant conflict resolution strategy.

In the first two papers, apologies are posited to be effective tools in combating the negative consequences of sexual harassment claims. In the third paper, one of many important empirical issues is addressed to further consolidate our understanding of how and when to use apologies as effective conflict-resolution mechanisms. Paper three poses the question of what role attributed responsibility for harassment plays in alleged victims' reactions to the transgression. Specifically, paper three addresses one critical antecedent to when and why victims of sexual harassment engage in legal claiming behaviors, and hence, whether apologies might be appropriate. Factors that lead to organizational responsibility attributions for hostile work environment sexual harassment are the explicit empirical targets of paper three utilizing laboratory experimental methods. Fundamentally, paper three suggests that victims are more likely to engage in legal claiming behavior when they attribute responsibility to the organization versus the alleged transgressor.

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Chapter II

Apologies: Their Psychological Bases

The nationally acclaimed labor and employment law firm Littler Mendelson estimates that on average an organization can incur costs upward of \$750,000 to defend itself against a single sexual harassment claim. The Equal Employment Opportunity Commission (EEOC) received 12,025 claims of sexual harassment in 2006 alone. Thus, the costs of legally defending sexual harassment claims can be staggering. Additional costs may be incurred in increased insurance rates, decreases in stock prices, and damage to the organization's reputation if there is publicity surrounding the claim. Accordingly, any avenue that may resolve a sexual harassment claim before the victim hires counsel or files an EEOC claim is certainly worth exploring. One such avenue is the organizational response of a partial apology to the victim.

Apologies are a normal course of conduct in many cultures; however people from other cultures are often surprised by Americans' reluctance to give an apology. Those in management are likely to be instructed by the company's counsel or human resources director that they may say they "feel bad" for a person who has been harmed by the company's actions or that they are "sorry for [the person's] circumstances," but that they should not say they are sorry for what they or the company did. In addition, generally, managers find it difficult to apologize because they are afraid of appearing incompetent (Krieger, 2004). For frontline employees, the situation is probably worse. They are often instructed not to say anything at all, and to show no sign of sympathy or

benevolence toward the person harmed, as conduct to the contrary could be held against the company later. Why then are apologies avoided or even feared in American culture?

In the American legal system, apologies are generally considered admissions of liability. As such, they can often be used in court as evidence against the party making the apology. Obviously, the fear of being sued will chill one's desire to give an apology. However, there has been some evidence that apologies are actually very effective in *avoiding* litigation. Many plaintiffs claim at the conclusion of their case that all they really wanted from the defendant was an apology. Thirty percent (30%) of plaintiffs in medical malpractice suits claim they never would have filed suit if the doctor had apologized (*see* Comment to Assembly Bill 2804, now Cal. Evid. Code § 1160).

Despite the implications of how or when to make an apology, little empirical research exists on the effectiveness of apologies in resolving workplace and other types of disputes (Fox & Lamont, 2006). Moreover, there appears to be no empirical research on the effectiveness of an apology in resolving sexual harassment disputes. The authors hope to fill this gap in the literature by studying some of the underlying reasons that apologies are not offered more readily in the early stages of an employment dispute, especially where there are issues involving violations of trust. In conducting this research, it is important to bridge several areas that have not been studied in unison. This means bringing together sociological research on apologies with organizational research on social accounts, including the apology within the trust literature. Also, we need to examine the apprehension that surrounds an apology within the legal context, and the legislation that is being enacted to address some of these issues. Additionally, this paper

will address the effectiveness of an apology as an organizational response to sexual harassment claims.

Managerial Accounts Overview

Managerial or social accounts allow a person to manage other persons' impressions of them. Successful explanations make a victim think that the account giver is not as bad as he might otherwise appear (Greenberg, 1991). Accounts are generally given when there is a negative event, and they can help to mitigate the harm or damage that is incurred when something has gone wrong. Four distinct categories of social accounts have emerged. These categories include denials, excuses, justifications, and concessions. Although each of these categories is briefly examined in this paper, the primary focus is on the last category, concessions also labeled apologies.

In a denial or refusal the transgressor claims that the action never occurred. As such, the transgressor is disavowing guilt and claiming that there is no reason to give an excuse, justification, or apology (Tata, 2000). Explanations citing situational circumstances as the cause of a negative event are called excuses. The primary goal of the account giver is to minimize personal responsibility or blameworthiness. (Folger & Cropanzano, 1998). Justifications, on the other hand, assume responsibility for a negative outcome, but attempts to legitimize it (Tata, 2000). Thus, the primary goal of a justification is to legitimize a questionable act, rather than to excuse responsibility.

Concessions, which are also called penitential accounts or apologies, are the final type of social account (Tata, 2000). For purposes of this paper, we will refer to these types of social accounts as apologies. In an apology, the transgressor admits that

something bad happened, and he accepts blame and remorse. As a type of managerial account, apologies have gained more attention. (Bobocel & Zdaniuk, 2005). One reason for this increase in attention may be that apologies are a relatively simple and low-cost strategy to amend conflicts and appears to be an effective way to resolve discord (Folkes & Whang, 2003; Frantz & Bennis, 2005; Risen & Gilovich, 2007; Ryan, Michele, & Monisha, 2010; Tomlinson, Dineen, & Lewicki, 2004). To gain a more complete understanding of the nature of apologies, their psychological and sociological underpinnings are examined in the following sections.

Psychological and Sociological Background of an Apology

Definitions of Apology

To understand why apologies may be effective mitigating tools, one must understand the elements and various purposes of apologies. Simply defined, an apology is an admission of blameworthiness and regret that serves as a social remedy for an undesirable event (Darby & Schlenker, 1982). Various sociologists and social psychologists who conduct apology research differ in their description of the components of an effective apology. Taking a narrow view, Tavuchis (1991) states that an authentic apology merely requires that the offender is in fact sorry, and that he must say so. According to Tavuchis, other elements like “offers of reparation, self castigation, shame...or promises to reform” are implicit in being “sorry.” Taft (2000) adds an admission of wrongdoing to the expression of sorrow as an element of an authentic apology. Cohen (1999) further expands the elements to three including an admission of fault, expression of regret for the harmful act, and an expression of sympathy for the

resulting injury. Goffman (1971) identifies five elements consisting of an expression of remorse and regret, recognition of the appropriate conduct and sympathy for the negative sanctions, verbal repudiation for behaving the wrong way, a promise to behave the right way, and performance or penance including restitution. In summary, it might be said that an apology generally consists of the following three elements: (1) an admission of fault for committing a social wrong; (2) an emotional expression of remorse or regret for the harmful outcome; and (3) a promise to refrain from engaging in such behavior in the future.

Purpose of Apology

The purpose of an apology differs depending on whether the apology is viewed from the perspective of society, from the transgressor who has committed the harmful act, or from the victim who has suffered the harm. From a societal perspective, the purpose of an apology is to acknowledge when the social rules have been broken, to reaffirm the value of social rules, and to regulate social conduct through interpersonal obligations (Darby & Schlenker, 1981).

There are many reasons why a transgressor may want to apologize; however, there is little explanation for why victims are so prone to forgive (O'Hara & Yarn, 2002). Often assumed that a victim's response to an apology would be one of indifference or hostility; ironically, this is typically not the case (O'Hara & Yarn, 2002). Instead, victims tend to want an apology even if said apology is a court-ordered or partial apology that merely expresses sympathy or benevolence, and fails to accept blame. This finding contradicts the argument that partial apologies prove completely ineffective. Image

restoration theory may help explain the reason that a partial apology — or one that expresses remorse, but does not accept blame — proves as effective as a full apology.

Under the image restoration theory, the transgression harms the social identity of the victim (Benoit, 1995). Often, committing a transgression against a victim may signal that the victim is vulnerable and an apology serves to restore the victim's social identity. While personal reputation or honor remains a key concern for a victim in an employment setting, it seems particularly critical to victims of sexual harassment. In some instances, a statement of remorse may be all that the victim needs to transcend the incident, especially if the victim's injury is slight or the parties share a close relationship. In such cases, the restoration of the relationship between the parties may be more important than the payment of any damage award. In a similar manner, partial apologies are more likely to resolve disputes “where the extent of each party's fault is unclear.” In such cases, a statement of sympathy, immediately following the incident, may abate the tense atmosphere between the parties, and remove any thoughts of litigation.

From the transgressor's point of view, the purpose of an apology may be explained by several analytical models. Impression management models characterize an apology as an attempt by the transgressor to convince the victim that the harmful act is not a fair representation of what the transgressor is “really like as a person” (Schlenker & Darby, 1981). Under an attribution framework, the transgressor apologizes to convey to the victim that he is sorry, thereby avoiding the attribution of a negative identity by the victim and by any other people who may have witnessed the transgression. Alternatively, correspondent inference theory suggests that a negative act leads to an inference of a negative personality trait. Therefore, a transgressor apologizes to dissuade the victim,

and those who may have witnessed the transgression, from making negative inferences about the transgressor based on his harmful act (O'Hara & Yarn, 2002). While each of these theories employs different reasoning for the transgressor's apology, each theory focuses on the transgressor's motivation to repair his reputation (Benoit, 1995).

Further research has shown that transgressors are willing to offer complete apologies in situations where high responsibility for the action and high consequences coexist (Schlenker & Darby, 1982). In this regard, Schlenker and Darby conducted an experiment using 120 undergraduate students in an introductory psychology class. The subjects were presented with two written scenarios that depicted a central character and a "victim" against whom the central character had committed inadvertently a transgression. In one scenario, the central character was walking through the shopping mall and bumped into the victim. In the second scenario, the central character was walking through a crowd between classes at school and bumped into the victim. The degree to which the central character was responsible for the consequences (low or high) was manipulated, as was the magnitude of the consequences (low, medium and high). The results of this study support the assertion that when the consequences are minimal, people use superficial forms of apology. Increased responsibility causes people to feel a greater obligation to acknowledge the minor transgression. As the severity of the situation increases, superficial responses prove no longer appropriate. The results of this study indicated that the severity of the situation is directly related to both the use of sincere apology and the number of components employed in such apologies. Subjects said that they were more likely to say they were sorry, express remorse, and offer to help the victim as the consequences increased. In fact, when higher consequences and high

responsibility co-existed, subjects were more likely to castigate themselves and explicitly ask for forgiveness (Darby & Schlenker, 1982). Interestingly, this study was conducted on undergraduate students who presumably have not yet been exposed to the legal environment. As such, they may never have been instructed that they should not apologize because their expression of regret or remorse may be deemed an admission of liability. These findings give some credence to the assertion that individuals in the United States want to apologize, but they often do not do so for fear of the consequences an apology may have in any legal action that might ensue. The following sections, discussing apology laws, examine whether these presumed fears are legitimate.

Apology Laws

Background

The law has long recognized that in order to help parties resolve their disputes, they must be able to speak freely, under certain circumstances, without fear that their statements will later be used against them in legal proceedings. To this end, both federal and state rules of evidence provide that statements made during compromise negotiations are inadmissible to prove liability (*see e.g.*, Fed. R. Evid. 408; Tex. R. of Evid. 408).

A number of states have chosen to take this concept further. In an effort to reduce lawsuits and to encourage settlements through the use of apologies, at least eighteen states have already enacted or proposed some form of “apology law.” Commentators and scholars, and increasingly, courts and legislatures, have observed that “many lawsuits, although unquantifiable, result from anger which, in turn, results from a failure of another party to express regret or sympathy” (Cal. Evid. Code § 1160, 2000). Unfortunately, the

rules of evidence discourage “the human tendency to apologize or express regret over an incident caused by negligence,” since apologies and similar forms of expression made by party opponents outside of settlement negotiations are generally admissible in legal proceedings as exceptions to the hearsay rule (Cal. Evid. Code § 1160, 2000). In a protective move, lawyers and insurers typically advise their clients to neither apologize nor express regret for an accident for fear that their words will be used against them labeled an admission of liability or guilt. Ironically, while apologies may actually reduce the anger of those who would otherwise sue out of anger, apologies have historically been “underrated and underused as a tool in legal settings.” (See, Comment to Assembly Bill 2804, now Cal. Evid. Code § 1160, 2000). As one commentator avers, “an ‘apology is too often overlooked as a means for helping to resolve disputes, for serving as a lubricant to advance settlement talks, and for contributing to a resolution that looks to the client’s needs ... [because] there are legal considerations, including the concern that an apology may be tantamount to an admission of guilt or liability’ ” (Cal. Evid. Code § 1160, 2000).

Apology laws attempt to alleviate the problem by barring the admissibility of apologies or other benevolent gestures from certain legal proceedings. Although these laws differ from state to state, they are generally limited to apologies or expressions of sympathy that are made to the victim or to the victim’s close relatives or representatives. Many apology laws are also limited to civil actions or to administrative proceedings brought against healthcare providers in allegations of medical malpractice. Section 1-1708.1H(A) of the Oklahoma Public Health Code provides:

In any *medical liability action*, any and all statements, affirmations, gestures, or conduct *expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence* which are *made by a health care provider* or an employee of a health care provider *to the plaintiff, a relative of the plaintiff, or a representative of the plaintiff* and which relate solely to discomfort, pain, suffering, injury, or death as the result of the unanticipated outcome of the medical care shall be *inadmissible as evidence of an admission of liability* or as evidence of an admission against interest. (emphasis added)

Some states, however, have extended their apology laws to encompass civil actions arising from any *accident*. For instance, Texas Civil Practice & Remedies § 18.061(a) provides in pertinent part that a court in a civil action may not admit a communication that “expresses sympathy or a general sense of benevolence to the pain, suffering or death of an individual involved in an accident ...” in order to prove the communicator’s liability. Section 1160 of the California Evidence Code also makes such expressions inadmissible, and defines “accident” as “an occurrence resulting in injury or death to one or more persons which is not the result of *willful* action by a party.”

Significantly, however, virtually all of these apology laws protect only “partial apologies.” In other words, these laws only exclude as evidence apologies or other expressions of sympathy or benevolence, but they fail to exclude any acknowledgment of fault. For example, Texas Civil Practice & Remedies § 18.061(c) provides that “a communication ... which also includes a *statement concerning negligence or culpable conduct* pertaining to an accident or event is *admissible* to prove [the communicator’s] liability.” In the same vein, Section 1160 of the California Evidence Code provides that “[a] *statement of fault*, however, which is part of, or in addition to, any [apology or expression of sympathy or benevolence] *shall not be inadmissible* pursuant to this section.” In fact, the Comments to CA Section 1160 give two hypothetical examples to

show the type of statements that would be admissible or inadmissible under this rule. First, if an automobile accident occurs and one driver says to the other: “I’m sorry you were hurt” or “I’m sorry that your car was damaged,” the statements would be inadmissible. However, if the same accident occurs and one driver says to the other: “I’m sorry you were hurt, the accident was all my fault” or “I’m sorry you were hurt, I was using my cell phone and just didn’t see you coming,” only those portions of the statement containing the apology would be inadmissible, while the remaining portions of the statement acknowledging fault would continue to be admissible. Other states that have enacted “sympathy laws” protecting only partial apologies include Arizona, Colorado, Florida, Georgia, Hawaii, Maryland, Massachusetts, Missouri, Montana, North Carolina, Ohio, Oklahoma, South Dakota, Virginia, Washington, West Virginia, and Wyoming.

The Benefits of Apology Laws

Although virtually all apology laws protect only partial apologies, legal research indicates that even partial apologies provide a useful tool for settling disputes (Latif, 2001). Therefore, in order to promote settlement negotiations and improve relationships one could argue that laws should be passed making partial apologies inadmissible for purposes of proving the communicator’s liability (Latiff, 2001).

While partial apologies do not admit fault, they may serve other important functions. Consider, for example, the facts and circumstances that led to the enactment of Massachusetts’ apology law. This statute was drafted by a Massachusetts’ legislator after the driver who killed his daughter in a traffic accident failed to apologize or make

any other benevolent statements or gestures following the accident. Subsequently, the legislator learned that the driver had wanted to apologize, but feared that it would amount to an admission of liability in court. A statement of remorse or sympathy – without an admission of fault -- may not have fully satisfied the grieving the father, but it clearly would have been more comforting than sheer silence (Cohen, 1999). For that reason, the father drafted and helped pass Massachusetts’ legislation exempting such statements from use against parties in court.

As mentioned previously, in situations in which the victim’s injury is slight or the parties to the dispute have a close relationship, a partial apology may prove more valuable than a damage award, or it may, at least, be helpful in restoring the parties’ relationship to its status from before the transgression (Latiff, 2001). Moreover, regardless of whether the parties to a dispute have a close relationship or not, an apology even one that omits a statement of blame, can still mitigate the victim’s reaction, reduce the negative attitude that a victim may have toward the transgressor, and, correspondingly, reduce the tension or acrimony that may otherwise impede settlement efforts (Latiff, 2001). For these reasons, protecting partial apologies through legislation seems to make sense.

Furthermore, since protecting partial apologies seems efficacious, perhaps the apology laws should even be expanded to protect *full* apologies that express remorse and admit fault. Again, research indicates that full apologies produce overwhelming benefits to both the victim and the transgressor, benefits that can be categorized as emotional or strategic. The emotional benefits of a full apology protected by legislation (“protected full apology”) coincide with the benefits uncovered through sociological research

(O'Hara & Yarn, 2002). A protected full apology would allow a transgressor to freely express remorse and to accept accountability for his actions (Latif, 2001). By admitting fault, the transgressor could purge himself of his guilt and shame (Latif, 2001), while helping the victim to reduce his anger toward the transgressor (Latif, 2001). A protected full apology would also reduce the amount of tension or acrimony between the parties an occurrence that tends to enhance the likelihood of settlement (Cohen, 2002), and that could possibly prevent "future antagonistic behavior, including litigation" (Cohen, 2002). Additionally, from a societal perspective, a protected full apology might "heal a community by mending the rift caused by the breach of a social norm" (Latif, 2001).

The strategic benefits of a protected full apology lead primarily to an avoidance of litigation and a reduction in settlement amounts. Anecdotal evidence reveals that a failure to apologize may promote litigation or halt negotiations, even after an agreement has been reached regarding the damage amount (Robbennolt, 2003). Research suggests that injured parties who receive apologies may be less likely to file lawsuits, and plaintiffs often request apologies as an integral part of the settlement (Robbennolt, 2003). Furthermore, plaintiffs may willingly accept lower settlement offers, if the settlement includes an apology (Latif, 2001). Therefore, a protected full apology would fulfill the victim's desire for an expression of remorse, while possibly preventing litigation -- or at least protracted litigation -- by increasing the chances of settlement (Cohen, 2002). Also, from the transgressor's point of view, offering a protected full apology may reduce his expected liability at trial (Brown, 2004). Accordingly, in light of both the emotional and strategic benefits of protected full apologies, encouraging legislation that would protect all apologies from being admissible to prove liability appears to be a worthy suggestion.

Criticisms against Apology Laws

While protecting apologies through legislation may provide benefits to both transgressors and victims, there are some ethical concerns. Most of the criticism stems from the fact that virtually all of the apology laws only protect partial apologies. Professor Lee Taft argues that partial apologies -- or mere expressions of sympathy -- are significantly different from the “authentic apologies” that occur in a social context (Taft, 2000). Taft describes an authentic apology as a moral act that must meet two criteria: “[t]here must be an unequivocal expression of sorrow and an admission of wrongdoing” (Taft, 2000). The admission of fault deemed necessary to communicate to the victim that the transgressor is upset about injuring the victim, that the relationship between the parties matters, and that the transgressor is disappointed with himself for having committed the transgression (Latif, 2001). Furthermore, an apology made in a legal context is more harrowing because the apology is essentially an admission or “unequivocal statement of wrongdoing” (Taft, 2000). As such, a transgressor who apologizes in a legal setting not only endures shame and humiliation, but he faces financial risk as well (Taft, 2000). Therefore, an apology made under such circumstances requires great courage, which is a sign of “a truly moral act” (Taft, 2000).

Laws protecting apologies containing no admission of fault also face the valid critique that they encourage transgressors to carefully craft apologies with no admissions of wrongdoing (Taft, 2000). Without an admission of wrongdoing, which again, is the central moral component of an apology, the apology is no longer a honorable act (Taft, 2000). Instead, the apology becomes an “object of exchange,” in which the transgressor offers his carefully crafted apology, hoping, in return, to be absolved from liability by

settling the dispute (Taft, 2000). In this context, the focus of the parties shifts from moral concerns to strategic maneuvers (Latif, 2001), so that legislation protecting partial apologies, it has been argued causes an apology to become, merely a pawn or gambit in a power game, a statement full of words, but devoid of meaning (Taft, 2000). Nevertheless, the legislative trend continues to move in the direction of limiting protection for partial apologies. As such, further research needs to be conducted to determine the actual value of this type of apology.

Empirical Research Examining Apology Effectiveness

The effectiveness of apologies is still an under researched area of empirical study (Bobocel & Zdaniuk, 2005). However, recent research has been conducted on the factors that moderate the effectiveness of apologies (Walfisch, Dijk, & Kark, 2013). These studies have shown that the effectiveness of an apology is moderated by several factors, such as the severity of the offense (Bradfield & Aquino, 1999; Exline, Worthington, Hill, & McCullough, 2003; Liao, 2007). The perceived sincerity of the apologizer (Skarlicki, Folger & Gee, 2004; the closeness between the parties prior to the conflict (Couch, Jones, & Moore, 1999; McCullough et al., 1998), the history of previous offenses in the relationship (Jones & Skarlicki, 2005), the attributions of intent (Stuthers, Eaton, Santelli, & Uchiyama, 2008), the existence of procedural climate (Aquino, Tripp, & Bies, 2006), the regulatory fit between the offended party and the offender's repentance (Santelli, Struthers, & Eaton, 2009), and the offended party's implicit and explicit self-esteem (Eaton, Struthers, Sharmony, & Santelli, 2007). Only one study, to date, has examined the use of apologies in sexual harassment situations. In this study, a sample of employees' evaluating sexual harassment scenarios made lower judgments of sexual

harassment, perceived less offensiveness, and indicated less need for disciplinary action when the alleged harasser provided a manager or organizational representative with a denial or excuse as compared to his rendering an apology (Tata, 2000). This result proves non-remarkable given that the accounts were provided by the alleged harasser to the organization rather than to the victim. An apology in Tata's study was considered an admission of fault, used to provide evidence that the sexually harassing behavior did indeed occur. Thus, the subjects' harassment and offensiveness judgments make sense. Additionally, federal law requires companies to take appropriate corrective action including discipline when evidence of harassment exists. Of interest in the present paper is the mitigating effect of an apology provided by the organization to the harassment victim. Although results of research examining apologies is somewhat mixed, there is evidence that apologies may be an effective tool in diminishing the negative effects of harm to a "victim" in a number of different contexts.

Overall, studies have found evidence for the effectiveness of apologies in situations involving different forms of negative feedback. In a series of two studies, Baron (1990) found that apologies significantly reduced the negative effects of destructive criticism. In Study 1, students designed a shampoo advertising campaign that was evaluated by a confederate. Subjects provided with an apology expressing regret and sympathy for destructive criticism of the campaign were happier, indicated a lower preference for using avoidance in handling future conflicts, perceived a higher task ability, and more often perceived that the evaluation was fairer than did those who received no apology. Employees surveyed in Study 2 indicated that they perceived apologies as one of the most effective tools in reducing the negative effects of destructive

criticism. Similarly, results of a study in which students were given an unfair evaluation in front of others indicated that subjects viewed the harm-doer more favorably, felt more pleasant, and expressed less aggression when the harm-doer apologized than when no apology was provided (Ohbuchi, Kameda, & Agarie, 1989). Within an organizational context, Tata (2002b) found that employees who had received negative feedback from a supervisor were less angry, perceived more interpersonal justice, and indicated higher intentions to change their behavior in the future when the supervisor provided an apology than did others who received no apology. An interaction between apologies and excuses was also found in the study. Excuses decreased employees' feelings of anger and their perceptions of interpersonal justice more in conditions of high apologies as compared to low numbers of apologies. Tata (2002b) suggests that the mitigating effects of apologies may result from the apology's intrinsic indication.

Research based on face support and impression management frameworks indicates that apologies may be effective when used by supervisors and subordinates in addressing low performance situations. In a study of nurse managers who read vignettes describing incidents of poor performance by a nurse, Wood & Mitchell (1981) found that an apology from the nurse resulted in decreased expectations that the nurse would perform poorly in the future; these perceptions then indicated a less likelihood of recommending disciplinary action, and fewer determinations that the nurse should receive closer supervision. In a second study, however, nurse managers only indicated that a response to poor performance should not be directed at the nurse when the nurse provided an apology compared to no apology; apologies did not significantly affect judgments regarding expectations of future performance, supervision, or disciplinary

action. The authors suggest that the different results may have occurred as a result of the use of the repeated-measures design in Study 1 and the between-subjects design in Study 2, which indicate the role of a manager's past experience with apologies as a potential moderating factor (Wood & Mitchell, 1981). In a study comparing apologies to other types of accounts, Tata (2002a) found that team leaders' evaluations of a team member with low contributions were higher; in addition, social loafing perceptions were lower when the team member provided an apology rather than an excuse. Research indicates that apologies from supervisors can also influence the perceptions of subordinates. In a survey of employees, those who had received low performance appraisal ratings perceived more fairness when they were provided with an apology expressing sympathy than when the supervisor gave them no explanation for the poor rating (Greenberg, 1991).

Studies in different contexts examining perceived harm inflicted by a wrongdoer have found mixed evidence for the effectiveness of wrongdoer apologies. Research in social psychology has found that children who read vignettes depicting a harm-doer causing damage to a victim's possession were more likely to forgive the harm-doer and perceive the individual as less intentional, less morally bad and more remorseful when the harm-doer provided an apology rather than an excuse or showed absolutely no accountability (Ohbuchi & Sato, 2001). Similarly, students viewed a wrongdoer who injured someone on the street more favorably, felt more pleasant, and expressed less aggression when the wrongdoer apologized than they did when no apology was provided (Ohbuchi, Kameda, & Agarie, 1989). In an organizational context, a study examining customers' perceptions of companies' reactions to product complaints found that

customers were more satisfied and more willing to continue to do business with the company when the company provided an apology that acknowledged responsibility for the problem than when the management provided an excuse or when the complaint was totally ignored (Conlon & Murray, 1996). In contrast, apologies were not found to be effective in research that examines the use of apology in a negotiation (Conlon & Ross, 1997). In this study, pairs of students role-played office managers negotiating to settle a dispute. Late in the negotiations, a “product manager” interrupted and imposed a settlement and later provided an account. Justifications for the project manager’s actions resulted in higher fairness perceptions than did full apologies or excuses.

Research in the legal field has been conducted to compare the effect of both partial apologies and full apologies on settlement decisions. In a series of two studies, (Robbennolt, 2003) participants were presented with information regarding a hypothetical pedestrian-bicycle accident and the resulting settlement offer. The first study focused on two variables that profoundly affected the participants’ willingness to accept the settlement offer: the nature of the apology (*i.e.* no apology, partial apology, or full apology), and the type of evidentiary rule involved (*i.e.* no evidentiary rule, protective evidentiary rule, non-protective evidentiary rule). The second study expanded on the first study by varying the strength of the evidence to prove the offender’s fault, as well as the severity of the injuries suffered by the victim. Results indicated that people who received full apologies were more likely to “definitely or probably accept the offer” than were those who received either partial apologies or no apologies at all. In fact, seventy-three percent of the participants in the first study, who received full apologies, were inclined to accept the settlement offer as compared to only thirty-five percent of those who received

a partial apology and fifty-two percent of those who received no apology (Robbennolt, 2003). In both studies, offenders who offered full apologies were perceived more favorably than offenders who offered partial apologies or no apology. In fact, the participants in the second study who received partial apologies actually viewed the offenders as more responsible for the accident and they assessed the victim's injuries as being more severe, compared to the reaction of the participants who received no apology at all. Finally, it should be noted that while the participants were aware of the different evidentiary rules involved, the differences in these rules did not seem to impact the participants' assessments of the sincerity or effectiveness of the apologies they received or did not receive.

Propositions

As previously stated, various sociologists and social psychologists conducting apology research differ in their description of the components necessary for an effective apology. Some take the narrow view that an authentic apology merely requires that the offender says he is sorry (Tavuchis, 1991). Taft (2000) suggests that, for an authentic apology, an admission of wrongdoing must accompany the expression of sorrow. Cohen (1999) adds a third element by including an admission of fault, an expression of regret for the harmful act, and an expression of sympathy for the resulting injury as the components for an authentic apology. The differences between these views revolve around blameworthiness and fault. This distinction is quite important, especially with respect to the organization's protection under present apology laws. Since only partial apologies, expressions of sympathy, benevolence and promises of non-reoccurrence are protected; it is important to determine if a partial apology, extended by the organization to the victim,

proves as effective in reducing the negative effects of sexual harassment claims as is a full apology. Furthermore, research has shown that victims are more forgiving when they receive an apology as compared to receiving no apology. Victims receiving an apology are less likely to bring litigation and more likely to settle more quickly after receiving an apology. However, research on apologies and what constitutes an effective apology remains limited. We believe that a partial apology made by the organization to the victim of sexual harassment will be more effective than a full apology or no apology, particularly in mitigating the negative effects resulting from sexual harassment claims. Managerial (social) accounts, including excuses, justifications, denials, and apologies have been found to be effective in reducing the harm that is incurred when negative feedback is given. However, depending upon the context, some managerial accounts are more effective than are others depending upon the context. While there has been very little research conducted as to the effectiveness of apologies in a sexual harassment context, we believe that an apology will be more effective, in reducing the negative effects of sexual harassment, than will be other types of managerial accounts. Thus, we offer the following propositions:

Proposition 1: A partial apology made by a company to a sexual harassment victim will be more effective, in resolving sexual harassment claims internally prior to the victim taking legal action than will be a full apology or no apology.

Proposition 2: A partial apology made by a company to a sexual harassment victim will be more effective, in reducing the negative organizational effects of a sexual harassment claim than will be a full apology or no apology

Proposition 3: A partial apology made by a company to a sexual harassment victim will be more effective, in resolving a sexual harassment claim internally prior to the victim taking legal action than will be a justification, explanation, or denial.

Proposition 4: A partial apology made by a company to a sexual harassment victim will be more effective, in reducing the negative organizational effects of a sexual harassment claim than a justification, explanation, or denial.

Discussion

Sexual harassment in the workplace remains a serious problem for organizations despite laws that have been enacted to prevent such behavior. A claim of sexual harassment can be devastating for the victim, for the transgressor, and for the organization. From the victim's standpoint, sexual harassment causes anxiety, frustration, loss of job satisfaction, and a reduction in both life satisfaction and overall psychological well-being. From the transgressor's perspective, a claim of sexual harassment can prove quite devastating, especially if the behavior was unintentional. As a result, the transgressor may experience feelings of frustration, anxiety, and remorse. Additionally, because observers may develop a poor perception of the accused, from an image restoration perspective, the transgressor will need to reconcile his "good self" with his "bad self."

In the organizational context, sexual harassment claims lead to both negative organizational outcomes and potential legal risks. Sexual harassment claims may diminish both the victim's and the transgressor's respective contributions to the organization by virtue of reduced job satisfaction, lower organizational commitment, job

withdrawal, absenteeism, turnover intentions, perceptions of organizational injustice, lower morale, distraction, and lower productivity. Additionally, sexual harassment claims may lead to legal action resulting in significant legal costs. In fact, it has been estimated that an organization can incur upwards of \$500,000 in litigation costs and may expend more than 200 hours of employee and managerial time in preparing to litigate a single sexual harassment claim.

Accordingly, sexual harassment claims from everyone's perspective are harmful. Therefore, any method that will help reduce the negative impact of these claims is worth exploring. One method of diffusing the hurtful consequences of sexual harassment may be through an apology. This paper has begun to explore how victims perceive their employers' responses to sexual harassment claims by examining the potential effectiveness of apologies. In doing so, we have addressed some important questions. First, is an apology by the organization even a plausible solution or will it be deemed an admission of liability? Second, assuming that an employer can make an apology without admitting liability; does the apology accomplish its underlying goal of reducing the negative effects of a sexual harassment claim? Overall, the answer to the first question is that partial apologies are legally protected and not admissions of fault. In addressing the second question, the managerial accounts literature was examined, but, the literature concerning the effectiveness of apologies has not yet been thoroughly researched and the results, to date, remain mixed. In some situations, the use of an apology, when giving negative feedback, has been effective. However, in other situations — such as settlement negotiations — the use of an apology has not proven itself an effective tool. There may be a number of reasons why the empirical studies conducted to date have had mixed

results. First, there may be a number of moderating and mediating factors that have not yet been uncovered. Second, there are a lot of important questions that have not yet been posed. For example, are apologies effective as a management impression tactic? Is it the face-saving qualities of an apology that lead to their effectiveness? Are apologies effective because of their aggression control qualities? These are all questions that have not yet been answered in the research conducted to date. Therefore, research that will help answer these questions, and thereby give organizations a better understanding of when and why apologies are effective, is of great practical and theoretical significance. The goal of this paper is to stimulate such research concerning the use of organizational apologies in a sexual harassment context.

Paper 1 of this dissertation represented a conceptual review and analysis of the use of apologies for encouraging the settlement of lawsuits rather than having to litigate them. As discussed in the paper, the law has long recognized the need for people to speak freely, under certain circumstances, without fear that their statements will later be used against them or necessarily interpreted as an admission of guilt in subsequent legal proceedings. To this end, both federal and state rules of evidence provide that statements made during compromise negotiations are inadmissible to prove liability (*see e.g.*, Fed. R. Evid.408; Tex. R. of Evid. 408).

In an effort to reduce lawsuits and encourage settlements, a number of states have taken this concept further. To date, 36 states have enacted various forms of apology laws. These apology laws attempt to alleviate the admission of liability problem by barring the admissibility of apologies or other benevolent gestures from certain legal proceedings. Although these laws differ from state to state, they are generally limited to apologies or

expressions of sympathy (a partial apology) that are made to the victim or to the victim's close relatives or representatives. The analysis also indicated that most apology laws are limited to civil actions or to administrative proceedings brought against healthcare providers in allegations of medical malpractice.

I also found that virtually all extant apology laws protect partial apologies, expressions of sympathy, not fault. Interestingly, legal research does indicate that even partial apologies can provide a useful tool for settling disputes (Latif, 2001). Therefore, it is tempting to argue that states that enact laws that protect the partial apology may see a decrease in legal claims and an increase in settlements. However, such a conclusion remains highly speculative. The effectiveness of apologies is still an under-researched area (Bobocel & Zdaniuk, 2005), and virtually all of the literature examining their effectiveness in a legal context has focused on medical malpractice claims (Ho & Liu, 2011). But, this research is encouraging inasmuch as Ho & Liu (2011) evaluated the economic impact of these state level apology laws on medical malpractice claims and they found that apology laws helped expedite the resolution process and reduce claim frequencies (Ho & Liu, 2011).

Given the encouraging signs that medical malpractice contexts provides, a more detailed analysis of existing individual state laws seems warranted. Apologies are a common part of everyday experience, and they can and do play a significant role in interactions that have economic consequences, such as litigation. Understanding the current state of legal thought about their role is, therefore, a potentially important public policy question to address. As one step toward this end, Paper 2 of this dissertation titled, "Sorry Seems to Be the Hardest Word, but State Laws are Making it Easier to Say,"

summarizes the various state apology laws, and provides an overview of apology effectiveness. It also discusses directions for future research on the use of an apology as an organizationally-relevant conflict resolution strategy.

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Chapter III

States' Apology Laws: A Summary

“Apology makes all business relationships run more smoothly. It fosters respect, compassion, and trust in relationships, whereas the absence of [an] apology often fosters anger, pettiness, and distrust.” (Engel, 2001, pg. 219).

For highly visible individuals across a wide spectrum of activity (sports, entertainment, politics, religion, etc.), the conventional wisdom expressed by Engel (2001) has become a ubiquitous follow-up to the public figure's transgressions, with or without actual direct harm to the intended recipients. Presumably, the power of an apology has been embraced as an essential precursor to the restoration of the public's trust in its leaders, role models, and heroes. In a business context, not all transgressions are adjudicated in the same kind of openly public forum but a wide variety of relationships in which conflicts can arise nonetheless exist; relationships involving customers, owners, managers, employees, boards of directors, stockholders, suppliers, distributors, and many others. Such conflicts can have many potential consequences for both the individuals involved as well as the organizations in which they interact. The negative outcomes associated with business conflict can include erosions of trust, economic harm, and actual physical and/or psychological harm at a number of different levels.

It is somewhat surprising that apologies are not employed in business to the same extent that they are seemingly used by our nationally-public figures, despite the fact that

research in organizational and other contexts indicates that apologies can, indeed, help to restore trust (Kim, Ferrin, Cooper & Dirks, 2004), facilitate forgiveness (Exline, Baumeister, Bushman, Campbell & Finkel, 2004), reduce aggression (Ohbuchi, Kameda & Agarie, 1989), improve relationships (Hodgins & Liebeskind, 2003), foster positive perceptions of leaders (Tucker, Turner, Barling, Reid & Elving, 2006), improve the well-being of victims (Witvliet, Ludwig & Bauer, 2002), and reduce settlement amounts in threatened and actual legal actions (Kraman & Hamm, 1999). Given these powerful effects on so many potentially serious consequences of organizational conflict, why then are apologies underutilized in organizational settings (Janove, 2006)?

The answer to this compelling question is hardly straightforward. While some people resist apologizing because it makes them feel uncomfortable and embarrassed, others fear that an apology will make them appear weak (Tucker et al., 2006; Kellerman, 2006). Additionally, living in a clearly litigious society such as we do in the United States frightens people into believing that their apologies (sincere or otherwise) will be used against them as evidence of fault or liability in legal actions (Taft, 2000; 2005). Ironically, however, there is research indicating that failing to offer an apology can actually lead to the initiation of legal action (Lazare, 2004; Schneider, 2000) that might not otherwise have been invoked.

In spite of its frequent and apparently successful use among public figures and the limited research empirically demonstrating its value, the simple act of sincerely apologizing has the potential to be legally dangerous. Without adequate legal protection, an apology can and often does lead to more negative consequences, especially if that apology conveys an acknowledgement of fault (Schlenker, 1980). At this time, there is

no federal protection for apologies although some legal scholars have argued in favor of revising the Federal Rules of Evidence to make apologetic expressions inadmissible in civil legal proceedings (Runnels, 2009). However, in recognition of both the potential conflict resolution benefits and the legal risks associated with apologies, a number of states have recently enacted laws which provide varying degrees of protection for apologies, presumably with the goal of decreasing unnecessary litigation in mind.

The purpose of this paper is twofold. First, we hope to provide researchers as well as practitioners with an enhanced understanding of the scope and implications of state apology laws. Second, in light of the expanding legal protection for apologies, we aim to explore how apologies might be most effectively utilized as a conflict management tool in business settings and draw attention to questions about apologetic expressions that remain unanswered. Toward these ends, we will discuss the definition and elements of apologies, identify and compare specific protections provided for apologies under state law, and provide an overview of research regarding the effectiveness of apologies.

Apology Definition and Elements

Scholars from a variety of fields have provided basic definitions of apology including, “an expression of sorrow and regret” (Tavuchis, 1991, pg. 23), and “an acknowledgement of an offense and an expression of remorse” (Lazare, 2004, pg. 13). Utilizing a sociological perspective, Goffman (1971) suggests that the “fullest form” of an apology expresses embarrassment, conveys sympathy, recognizes appropriate expected conduct, promises to engage in such conduct in the future, renounces

inappropriate conduct, and offers restitution. In an examination of the philosophical meaning of apologies, Smith (2008) posits that an apology must communicate agreement of facts, accept blame, identify harm(s) suffered by the victim, identify and endorse the moral principles associated with the harm, acknowledge the victim, express regret, provide redress, demonstrate reform, convey sincere intent, and express appropriate emotion. Management scholars have referred to apologies as concessions and penitential accounts in which one admits wrongdoing and fault, provides an expression of regret, and offers to compensate the victim (Greenberg, 1990; Tata, 2000).

In the legal context, apologies have been categorized as “partial” and “full” depending on the elements present in their communication. Partial apologies are those which contain “an expression of remorse or regret without any admission of fault” (Runnels, 2009, pg. 143). Although legal scholars have expressed different opinions regarding the elements of a full apology, the admission of fault or acceptance of blame is common to all conceptualizations. For example, according to Cohen (1999), a full apology includes an admission of fault, expression of regret, and an expression of sympathy. Others have argued that a full apology must acknowledge the wrongful act, express remorse, promise to change behavior in the future, and offer reparations (O’Hara & Yarn, 2002). Taking an even broader view, Orenstein (1999) posits that full apologies: “(1) acknowledge the legitimacy of the grievance and express respect for the violated rule or moral norm; (2) indicate with specificity the nature of the violation; (3) demonstrate understanding of the harm done; (4) admit fault and responsibility for the violation; (5) express genuine regret and remorse for the injury; (6) express concern for future good relations; (7) give appropriate assurance that the act will not happen again; and, if

possible, (8) compensate the injured party” (pg. 239). For the purposes of the present paper, a full apology is defined as a communication of sorrow that includes an admission of fault or acknowledgement of responsibility.

State Apology Protection Laws

Although legal scholars have argued that apologies can be a useful tool in a variety of litigation and alternative dispute resolution contexts (Schneider, 2000; Taft, 2000), rules of civil procedure have historically acted to discourage the communication of apologies and other sympathetic expressions by rendering such communications admissible as evidence of liability in legal proceedings (O’Hara & Yarn, 2002). As a result, lawyers and insurers often advise their clients not to apologize for fear that it will be used against them as an admission of liability or guilt (Cohen, 1999). Recently, however, state legislatures have begun to realize the potential utility of apologies in decreasing litigation. For example, in enacting its apology protection law in 2006, the South Carolina General Assembly acknowledged that apologies can “foster improved communications and respect between provider and patient, promote quicker recovery by the patient, and reduce the incidence of claims and lawsuits...” (Ch.1, Title19 Code of Laws 1976, 19-1-190B, 2006).

In an effort to reduce lawsuits and encourage settlements, thirty-six states and the District of Columbia have recently enacted apology protection laws which bar the admissibility of apologies or other benevolent gestures from certain legal proceedings. Table 1 provides an overview of each state’s statutory provisions including the types of actions covered and the specific communication forms and content that are inadmissible.

Although these laws differ from state to state, they are generally limited to apologies or other expressions of sympathy that are made to a civil victim, or to the victim's close relatives or representatives. Many of these apology laws are also limited at this time to civil actions or administrative proceedings brought against healthcare providers for medical malpractice. Some states, however, have extended their apology laws to all civil actions or to civil actions arising from an accident.

Insert Table 1 here.

Partial Apology Protection

Each of the laws summarized in Table 1 protects communications of sorrow from admissibility; this protection prohibits such communications from being used as evidence of liability. States characterize communications of sorrow in different ways, but the following descriptors are commonly used: apology, sympathy, commiseration, condolence, compassion, regret, and a general sense of benevolence. Legislative bodies that have enacted laws protecting only communications of sorrow (partial apologies) include those in: California, Delaware, District of Columbia, Florida, Hawaii, Indiana, Iowa, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nebraska, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wyoming. Interestingly, the Massachusetts statute was drafted by a Massachusetts legislator after the driver who killed his daughter in a traffic accident failed to apologize or make any

other benevolent statements or gestures following the accident because of the fear that this would amount to an admission of liability in court (Cohen, 1999).

While some legal scholars have argued that partial apologies may have some benefits such as helping to repair relationships between disputing parties, others have suggested that admissions of fault are necessary to communicate appropriate emotions in a dispute (Latif, 2001). Critics of laws protecting only partial apologies have argued that these laws may encourage transgressors to strategically craft apologies to avoid admissions of wrongdoing (Latif, 2001; Taft, 2000). It is further argued that such an apology no longer has meaning and “becomes merely a pawn or gambit in a power game” (Taft, 2000, pg. 1156). Consistent with this criticism, Robbenolt (2003) found that participants in a study who received partial apologies actually viewed the offenders as more responsible for a hypothetical pedestrian-bicycle accident and assessed their injuries as being more severe compared to the participants who received no apology.

Full Apology Protection

To date, the following five states have extended apology protection to full apologies which contain explicit admissions of fault along with expressions of sorrow: Arizona, Colorado, Connecticut, Georgia, and South Carolina. Four additional states (Idaho, Illinois, Utah, and Vermont) provide protection for explanations for mistakes in which admissions of fault or error may be viewed as implicit.

It has been argued that full apologies can produce emotional and strategic benefits to parties in legal disputes (O’Hara & Yarn, 2002). In terms of emotional benefits, a protected full apology could help reduce wrongdoers’ feelings of guilt and

shame, decrease victims' feelings of anger, and increase parties' understanding of each other (Cohen, 2002; Latif, 2001; Schweitzer, 2006). From a strategic legal perspective, research suggests that injured parties who receive full apologies may be less likely to file lawsuits and may be more willing to accept lower settlement offers (Latif, 2001; Robbennolt, 2003).

Apology Effectiveness in Social and Organizational Contexts

Apology laws seem to generally be moving in the direction of offering protection for a partial apology and occasionally extending that protection to a full apology that includes an explanation or admission of fault. Such laws are also expanding the categories of civil disputes to which their protections are relevant. Legal research provides some evidence that partial apologies are less effective than full apologies and might even produce negative outcomes in certain types of disputes such as medical malpractice and personal injury. However, a much broader array of issues may arise in civil business conflicts where apology laws increasingly apply. Thus, as the legal protection for apologies grows and organizations increase the utilization of apologies as a dispute resolution tool, a more comprehensive understanding of the implications and effectiveness of apologies in a variety of business-related conflicts is needed.

Although apologies may benefit disputing parties in a number of ways, they have not been thoroughly researched in the management literature (Bobocel & Zdaniuk, 2005), and therefore, it is difficult to confidently assert exactly when and how they might be an effective conflict resolution strategy. That said, research on apologies in social and

organizational contexts does provides a foundation for extending legal research to broader organizational issues and helps highlight where additional research is needed.

Studies in management and other fields such as social psychology and sociology can generally be described under one of three rubrics defining three different types of conflict including wrongdoer transgressions, negative outcome communications, and service failures.

Wrongdoer Transgressions

Overall, studies examining perceived harm inflicted by a wrongdoer have found evidence for the effectiveness of wrongdoer apologies. For example, when wrongdoers apologize, victims and observers tend to be more forgiving, perceive the wrongful act as less intentional, express less aggression, and view the transgressor as more remorseful than when no apology is offered (McCullough, Worthington & Rachal, 1997; McCullough, Rachal, Steven, Worthington, Brown & Hight, 1998; Ohbuchi & Sato, 2001; Ohbuchi, et al., 1989). The process by which an apology facilitates forgiveness has been explained using a moral perspective (Mullet, Riviere & Sastre, 2007). An apology may serve as a moral step taken by the transgressor that initiates a discussion with the victim. As a result of such discussions, a victim may choose to forgive the transgressor (Tavuchis, 1991). After experiencing a moral wrong, an apology that contains an expression of remorse can provide the victim with a justification to overcome resentment (Taft, 2000). An apology that asks for forgiveness may be viewed as insincere unless it also acknowledges damages and offers to compensate the victim (Schmitt, Gullwietzer, Forster & Montanda, 2004). Additionally, forgiveness may be more likely when victims

know that an apology is motivated by guilt or shame and less likely when the motivation is pity (Hareli & Eisikovits, 2006).

Apologies can also be effective in gaining cooperation and building trust (Bottom, Gibson, Daniels, & Murnighan, 2002; Kim et al., 2004; Kim, Dirks, Cooper, & Ferrin, 2006; Tomlinson, Dineen & Lewicki, 2004). This may be particularly true when the harm is unintentional or if the apology decreases a victim's attributions that a negative outcome was caused by a stable characteristic of the wrongdoer (Tomlinson & Mayer, 2009; Matilla, 2009; Struthers, Eaton, Santelli, Uchiyama & Shirvani, 2008). Research indicates that apologies tend to be more effective in increasing trust intentions following competence-based trust violations than integrity-based violations (Kim et al., 2004). This may be the case because an apology containing an admission of fault for an integrity violation suggests a lack of moral values which can be hard for the transgressor to overcome (Reeder & Coovert, 1986; Kim et al., 2004). Further research has suggested that trust repair is more likely for competence-based violations when an apology contains an internal attribution while trust is more easily repaired for integrity violations when an apology contains an external attribution (Kim et al., 2006).

Negative Outcome Communications

A number of different organizational contexts involve the need for someone to communicate negative information to another person including settings such as job-applicant rejections, negative performance feedback, disciplinary action, and of course, terminations. Apologies offered by managers in such situations can have a number of positive effects. Overall, research suggests that the recipient of a negative outcome is

less likely to blame the manager and more likely to view the outcome or interaction as fair when the manager expresses concern for the employee with a sincere apology (Korsgaard, Brodt & Whitener, 2002; Skarlicki, Folger & Gee, 2004).

Research has found that apologies following negative performance feedback can decrease anger, increase perceptions of interpersonal fairness, increase the intent to resolve future conflicts collaboratively, and increase the intent to change behaviors (Baron, 1990; Greenberg, 1990; Tata, 2002). In this context, apologies can also help enhance the effectiveness of managers' explanations for the negative outcome (Tata, 2002). In one of the few studies examining the use of apologies when delivering disciplinary action, results indicated that recipients perceived more fairness when the manager apologized for the delivery of the discipline and its negative effects (Atwater, Charles, & Goldman, 2006).

Service Failures

In a customer service context, studies examining customers' perceptions of companies' reactions to service failure indicate that apologies can produce a number of beneficial results. For example, Conlon and Murray (1996) found that customers expressed more satisfaction and were more willing to continue the business relationship when the company provided an apology that acknowledged responsibility than when the management provided an excuse or when their complaint was ignored. Other research indicates that customer satisfaction and perceptions of fairness can be enhanced when an apology is combined with some form of compensation (Goodwin & Ross, 1992); perceived fairness seems to mediate the relationship between an apology and customer

satisfaction following a service failure (Liao, 2007). Apologies acknowledging responsibility coupled with modest compensation can also decrease customers' perceptions of betrayal and reduce their desire for revenge against the company (Gregoire, Tripp, & Legoux, 2009). Thus, admissions of fault and offers of reparation appear to be important elements of apologies given in response to service failures.

Conclusion

Although many states' apology protection laws are currently limited to medical malpractice and negligence actions, these laws are evolving. As states continue evaluating the utility of providing legal protection for expressions of sorrow, it is likely that the scope of apology protection laws will expand to additional business-related contexts. Thus it is important to understand the implications of apologies in a wide range of organizational conflict situations. Although conventional wisdom strongly suggests that an apology can be a highly effective technique for resolving interpersonal conflict, very little is actually known about the potentially complex interactions that may exist among a transgressor, a victim, the nature and context of the transgression, and the apology itself. This conclusion is especially true for apologies that might predictably occur within a managerial/organizational context. Regardless of context, the potential complexity is indeed daunting but research has begun to disentangle some of these relationships, although many remain unexplored. The fact that 35 states and the District of Columbia have now provided some form of protection for an apology suggests, however, that many persons believe that apologies are an underutilized and potentially beneficial conflict resolution technique.

With medical malpractice and/or personal injury as the most typical contextual backdrops, legal research comparing full and partial apologies suggests that in some situations, full apologies are more effective than partial apologies or no apologies; that no apologies are more effective than partial apologies; and that evidentiary rules play a minor role in both the victim's assessment of the apology and willingness to settle (Robbennolt, 2003). However, research in other areas such as negative outcome communications does provide some support for the effectiveness of apologies that lack an admission of fault. Given that the legislative trend continues to move in the direction of limiting protection to partial apologies, further research needs to be conducted to better understand the actual value of apologies that lack the admission of fault component.

While instructive, the aforementioned research can only be considered a beginning in a comprehensive assessment of apologies as a conflict resolution technique, especially within the typical organizational setting for any number of reasons. Perhaps most notable among these reasons is the potentially important distinction that exists between an apology to someone for having caused actual physical harm versus an apology that is offered for inflicting psychological harm. Under most circumstances, physical harm will be more obvious and its degree will be more easily assessed than its psychological counterpart. Interestingly, however, it is precisely this latter type of harm that is logically far more common in an organizationally-relevant dispute resolution context; terminations, hostile work environment sexual harassment, and discipline can all cause very real and very serious 'harm' with no tangible physical evidence. Thus, the research to date that exists in the legal literature should only be used to form some preliminary anticipated observations within this latter context.

With this cautionary note in mind, we do appear to know that apologies must be perceived as sincere if they are going to be effective (Skarlicki, et al., 2004). Although admissions of fault can increase effectiveness and perceptions of sincerity (Scher & Darley, 1997) other components including expressions of regret and remorse (Janove, 2006; Darby & Schlenker, 1989; Gonzales, Haugen & Manning, 1994) and compensation offers (Scher & Darley, 1997; Zechmeister et al., 2004) can also produce the same results. Additional research is needed to examine how apology components such as these are perceived by recipients in different types of conflict situations, especially given the breadth of relevant contexts that exist in organizational settings. And, it is also clear that an admission of fault undoubtedly has dramatically different implications for a surgeon who is negligent and for a co-worker who happens to offend someone in a meeting with some insensitive comments. Nonetheless, it is important for research to begin to understand how and when an apology can be used as a conflict resolution technique since we are all too familiar with the unanticipated consequences that even some seemingly harmless insensitive comments may have on a work-group's productivity and/or morale.

Finally, it is important to build a more complete understanding of other components' effects on the consequences of an apology including sincerity, fairness perceptions, trust restoration, forgiveness, aggression reduction, relationship improvement, and litigation reduction. Future research should examine the effects of both partial and full apologies across the different types of interpersonal conflict that occurs within an organizational setting to help us to begin understanding how apologies can be most effectively combined with other accounts such as explanations to avoid or at very least reduce the negative consequences of conflict.

The first two papers included in this dissertation examined apologies and posited both directly and by implication that they might be effective tools in combating the negative consequences of sexual harassment claims. Specifically, these conceptual analyses suggest the intriguing possibility that an apology might reduce if not eliminate the likelihood that a victim of sexual harassment will pursue legal avenues to resolve her/his allegations. With this general contextual backdrop, Paper 3 looks at the continuing problems associated with sexual harassment claims and poses the question of what role attributed responsibility for harassment plays in alleged victims' reactions to the transgression. One of the main premises of this third paper is that understanding why and how victims attribute responsibility for an act of harassment is a fundamental piece of knowledge for ultimately determining the role that a transgressor's apology can serve in the dispute-resolution processes within an organizational setting.

Should organizations still be concerned with sexual harassment claims in this day and age? National statistics and empirical research both suggest that the answer to this question is a definite 'yes'. Research indicates that perceived sexual harassment is still high among women in today's workplace. Meta-analytic research indicates that twenty-four percent of female employees report having experienced sexual harassment while fifty-eight percent believes that they have been subjected to potentially harassing behaviors (Ilies et al. 2003). A more recent survey suggests that fifty-two percent of women have been sexually harassed in the workplace (Rospenda, Richman, & Shannon 2009).

Young, single females are the typical employees of restaurants with about half being under twenty-five years (National Restaurant Association 2011). Additionally,

eighty-four percent of the sexual harassment charges received by the Equal Employment Opportunity Commission (EEOC) in 2009 were filed by women (Equal Employment Opportunity Commission 2010). A study of discrimination claims in the restaurant industry found that (1) sexual harassment represented twenty-nine percent of sex-based discrimination claims, (2) women were the majority of the claimants representing seventy-five percent of the claims, and (3) supervisors were the primary source of sexual harassment (Slonaker, Wendt, & Baker 2007). Legal action associated with sexual harassment claims can result in staggering organizational costs. The labor and employment law firm Littler Mendelson estimates that an organization can incur costs upward of \$750,000 to defend itself against a single sexual harassment suit (DV Initiative: Costs of Sexual Harassment).

Given the high costs associated with sexual harassment litigation and a continued unacceptably high rate of harassment in organizations, companies need to do whatever they can to minimize harassment's occurrence and the legal and psychological costs associated with ensuing claims. Obviously, the over-arching goal is to ensure that harassment does not occur. However, employees often engage in sexual harassment in spite of organizations' best efforts. So how can organizations decrease the likelihood that someone who believes that she has been the victim of sexual harassment will take legal action? Answering this question requires a clear understanding of the circumstances under which an individual favors legal claiming in response to an alleged incidence of sexual harassment.

Research on wrongful termination and other discrimination contexts has found that victims reported stronger legal claiming intentions and were more likely to engage in

actual legal claiming behaviors if they attributed blame to the organization (Groth et al. 2002; Lind et al. 2000). Knowing when victims perceive that an organization is responsible for the harassment should, therefore, facilitate an understanding of when they are likely to take legal action against the transgressor and/or the organization.

The extent to which observers attribute blame to a victim versus a perpetrator has been examined in past studies (e.g., Pierce, Aguinis, & Adams 2000; Valentine-French & Radtke 1989). Research has not yet explored, however, how victims attribute responsibility to an organization in a sexual harassment context. The purpose of the third paper is to begin addressing this issue by examining factors that lead to organizational responsibility attributions for hostile work environment sexual harassment using laboratory experimental methods. More specifically, Paper 3 addresses some of the logical critical antecedents to when and why victims of sexual harassment engage in legal claiming behaviors, and hence, give a better understanding of whether an apology might be effective as a deterrent to costly litigation.

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Table 1: Summary of State Apology Protection Laws

States	Statutory Provisions	Types of Actions Covered	What is Protected?			
			Form of Communication	Communication of Sorrow	Offers and Acts of Reparation	Admissions and Explanations
Arizona	A.R.S. 12-2605 (2005)	Civil actions and arbitration proceedings related to unanticipated outcomes of medical care	Statements, affirmations, gestures, and conduct	Expressions of apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	Expressions of responsibility or liability
California	Evidence Code 1160 (2000)	Civil actions involving accidents	Statements, writings, and actions	Expressions of sympathy or a general sense of benevolence	None specified	No protection
Colorado	Revised Statute 13-25-135 (2003)	Civil actions and arbitration proceedings related to unanticipated outcomes of medical care	Statements, affirmations, gestures, and conduct	Expressions of apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	Expressions of fault
Connecticut	Public Act No.	Civil actions and	Statements, affirmations	Expressions of apology,	None	Expressions of

ut	05-275 Sec.9(20 05) amended (2006) Conn. Gen. Stat. Ann. 52- 184d	arbitration proceedings related to unanticipated outcomes of medical care	, gestures, and conduct	sympathy, commiseration , condolence, compassion, or a general sense of benevolence	specified	fault
Delaware	Del. Code Ann. Title 10 Sec. 4318 (2006)	Civil actions for unanticipated outcomes of medical care	Statements, writings, gestures, and affirmations	Expressions of apology, sympathy, compassion, condolence, or benevolence	None specified	No protectio n
District of Columbia	D.C. Code Ann. Sec. 16- 2841 (2007)	Any civil action or administrative proceeding alleging medical malpractice against a healthcare provider	Writings, oral expressions, conduct	Expressions of sympathy or regret	None specified	No protectio n
Florida	Stat 90.4026 (2001)	Civil actions involving accidents	Statements, writings, and benevolent gestures	Expressions of sympathy or a general sense of benevolence	None specified	No protectio n
Georgia	Title 24 Code GA Annotate d 24-3- 37.1	All civil actions	Statements, conduct, and activities	Expressions of benevolence, regret, sympathy, or apology	Offers of assistance	Expressi ons of mistake or error

	(2005)					
Hawaii	HRS Sec.626- 1 Rule 409.5 (2006)	All civil actions	Statements and gestures	Expressions of sympathy, commiseration , or condolence	None specified	No protectio n
Idaho	Title 9 Evidence Code Chapter 2 .9-207	Civil actions and arbitration proceedings related to unanticipated outcomes of medical care	Written and oral statements and affirmations , gestures, and conduct	Expressions of apology, sympathy, commiseration , condolence, compassion, or a general sense of benevolence	None specified	Expressi ons of explanati on
Illinois	735 ILL. Comp. Stat. 5/8- 1901 (2005)	All civil actions	Any expression	Expressions of grief or apology by a health care provider about an inadequate or unanticipated treatment or care outcome that is provided within 72 hours of when the provider knew or should have known of the potential cause of such outcome	None specified	Explanati on by a health care provider about an inadequa te or unanticip ated treatment or care outcome that is provided within 72 hours of when the provider knew or should have known of

						the potential cause of such outcome
Indiana	Ind. Code Ann. 34-43.5-1-1 to 34-43.5-1-5	All causes of action in tort	Statements, gestures, acts, conduct, and writings	Expressions of apology, sympathy, or a general sense of benevolence	None specified	No protection
Iowa	HF 2716 (2006)	Any civil action or arbitration proceeding for professional negligence, personal injury, or wrongful death against a healthcare facility or licensed professional	Statements, affirmations, gestures, and conduct	Expressions of sorrow, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	No protection
Louisiana	R.S. 13:3715.5 (2005)	Civil actions against health care providers	Oral and written statements, gestures, and conduct	Expressions of apology, regret, grief, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	No protection
Maine	MRSA tit. 2907	Any civil action for	Statements, affirmations	Expressions of apology,	None	No protection

	(2005)	professional negligence or related arbitration proceeding against a health care practitioner, health care provider, or their employees	, gestures, and conduct	sympathy, commiseration, condolence, compassion, or a general sense of benevolence	specified	n
Maryland	MD Court & Judicial Proceedings Code Ann. 10-920 (2004)	Civil actions against health care providers	Writings, oral expressions, and conduct	Expressions of regret or apology	None specified	No protection
Massachusetts	ALM GL ch. 233, 23D (1986)	Civil actions involving accidents	Statements, writings, and gestures	Expressions of sympathy or a general sense of benevolence	None specified	No protection
Michigan	M.C.L.A. 600.2155	Civil actions against health care providers	A statement, writing, or action	Expresses sympathy, compassion, commiseration, or a general sense of benevolence relating to the pain, suffering, or death of an individual	None specified	No Protection

Missouri	Mo. Ann. Stat. 538.229 (2005)	Tort actions based on improper healthcare	Statements, writings, and gestures	Expressions of compassion or commiseration	None specified	No protection
Montana	Code Ann.26-1-814 (Mont. 2005)	Civil actions for medical malpractice	Statements, affirmations, gestures, and conduct	Expressions of apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	No protection
Nebraska	Neb. Rev. Stat. Sec. 27-1201 (2007)	Civil actions for an unanticipated outcome of medical care and related arbitration proceedings	Statements, affirmations, gestures, and conduct	Expressions of apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	No protection
New Hampshire	Rev. Stat. Ann. 507-E:4 (2005)	Medical injury actions	Statements, writings, and actions	Expressions of sympathy, compassion, commiseration, or a general sense of benevolence	None specified	No protection
North Carolina	General Stat. 8C-1, Rule 413	Medical actions	Statements and gratuitous acts of assistance	Expressions of apology	Offers of corrective or remedial treatment	No protection
North Dakota	NDCC Sec. 31-04-12 (2007)	Civil actions against a health care provider	Statements, affirmations, gestures, conduct	Expressions of apology, sympathy, commiseration, condolence,	None specified	No protection

				compassion, or benevolence		
Ohio	ORC Ann 2317.43 (2004)	Civil actions for the unanticipated outcomes of medical care and related arbitration proceedings	Statements, affirmations, gestures, and conduct	Expressions of apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	No protection
Oklahoma	63 OKL. St. 1-1708.1H (2004)	Any medical liability action	Statements, affirmations, gestures, and conduct	Expressions of apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	No protection
Oregon	Rev. Stat. 677.082 (2003)	Any civil action against a person licensed by the Board of Medical Examiners	Oral statements, writings, and gestures	Expressions of apology or regret	None specified	No protection
South Carolina	Ch.1, Title19 Code of Laws 1976, 19-1-190 (2006)	Civil actions related to unanticipated medical outcomes	Conduct, statements, and activities	Expressions of benevolence, sympathy, or apology	Voluntary offers of assistance	Expressions of mistake or error
South Dakota	Codified Laws 19-12-14	Medical malpractice negligence	Statements and actions	Expressions of apology	Assistance, offers of corrective or	No protection

	(2005)	actions			remedial treatment	
Tennessee	Evid Rule 409.1(2003)	Civil actions involving accidents	Statements, writings, and benevolent gestures	Expressions of sympathy or a general sense of benevolence	None specified	No protection
Texas	Civil Prac and Rem Code 18.061(1999)	Civil actions involving accidents	Statements, writings, and gestures	Expressions of sympathy, a general sense of benevolence, a sense of compassion, or commiseration	None specified	No protection
Utah	Utah Code Ann. 1953 Sec. 78-14-18 (2006)	Civil actions and arbitration proceedings related to unanticipated outcomes of medical care	Unsworn statements, affirmations, gestures, and conduct	Expressions of apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	Descriptions of the sequence of events relating to the unanticipated outcome of medical care and the significance of events
Vermont	S 198 Sec. 1.12 V.S.A. 1912	Any civil or administrative proceeding against a healthcare or healthcare	Oral expressions made within 30 days of when a healthcare	Expressions of apology or regret	None specified	Explanations of how a medical error

	(2006)	facility related to medical errors	provider or facility knew or should have known the consequences of a medical error			occurred
Virginia	Code of Virginia 8.01-52.1 (2005)	Wrongful death action against a health care provider and related arbitration or medical malpractice review panel proceedings	Statements, writings, affirmations, conduct, and gestures	Expressions of apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	No protection
Washington	Rev Code Wash 5.66.010 (2002)	Civil actions involving accidents	Statements, writings, and gestures	Expressions of sympathy or a general sense of benevolence	None specified	No protection
West Virginia	10 W.VA. Code Sec. 55-7-11a (2005)	Any civil action against a healthcare provider who provided healthcare services to a patient and related alternative dispute resolution proceedings	Statements, affirmations, gestures, and conduct	Expressions of apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence	None specified	No protection

Wyoming	Wyo. Stat. Ann. 1-1-130	Any civil action or arbitration for an unanticipated outcome of medical care against a health care provider	Statements, affirmations, gestures, and conduct	Expressions of apology, sympathy, commiseration, condolence, compassion or a general sense of benevolence	None specified	No protection
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Chapter IV: Perceived Sexual Harassment: Organizational Responsibility Attributions and Legal Claiming Intentions

Research indicates that perceived sexual harassment is high among women in today's workplace. Meta-analytic research indicates that twenty-four percent of female employees report having experienced sexual harassment while fifty-eight percent believes that they have been subjected to potentially harassing behaviors (Ilies et al. 2003). A more recent survey suggests that fifty-two percent of women have been sexually harassed in the workplace (Rospenda, Richman, & Shannon 2009).

Young, single females are the typical employees of restaurants with about half being under twenty-five years (National Restaurant Association 2011). Additionally, eighty-four percent of the sexual harassment charges received by the Equal Employment Opportunity Commission (EEOC) in 2009 were filed by women (Equal Employment Opportunity Commission 2010). A study of discrimination claims in the restaurant industry found that (1) sexual harassment represented twenty-nine percent of sex-based discrimination claims, (2) women were the majority of the claimants representing seventy-five percent of the claims, and (3) supervisors were the primary source of sexual harassment (Slonaker, Wendt, & Baker 2007). Legal action associated with sexual harassment claims can result in staggering organizational costs. The labor and employment law firm Littler Mendelson estimates that an organization can incur costs upward of \$750,000 to defend itself against a single sexual harassment suit (DV Initiative: Costs of Sexual Harassment).

Given the high costs associated with sexual harassment litigation, companies need to minimize such claims. One of the best ways is to ensure that harassment does not occur.

However, employees often engage in sexual harassment in spite of organizations' best efforts. So how can organizations decrease the likelihood that someone who believes that she has been the victim of sexual harassment will take legal action? Answering this question requires a clear understanding of the circumstances under which an individual favors legal claiming in response to an alleged incidence of sexual harassment.

Research on wrongful termination and other discrimination contexts has found that victims reported stronger legal claiming intentions and were more likely to engage in actual legal claiming behaviors if they attributed blame to the organization (Groth et al. 2002; Lind et al. 2000). Knowing when victims perceive that an organization is responsible for the harassment should facilitate an understanding of when they are likely to take legal action. The extent to which observers attribute blame to a victim versus a perpetrator has been examined in past studies (e.g., Pierce, Aguinis, & Adams 2000; Valentine-French & Radtke 1989). Research has not yet explored, however, how victims attribute responsibility to an organization in a sexual harassment context. The purpose of this paper is to begin addressing this issue by examining factors that lead to organizational responsibility attributions for hostile work environment sexual harassment using experimental methods. As depicted in Figure 1, the present study investigates the joint effects of (1) the harasser's organizational role, (2) the existence of sexual harassment policies, and (3) the company's past responses to sexual harassment complaints on mock victims' organizational responsibility attributions and legal claiming intent. We propose that organizational responsibility attributions mediate the relationship between these variables and expressed intentions to take legal claiming action.

Insert Figure 1 here.

Organizational Responsibility Attributions

Definition of Responsibility

After an unfavorable event, individuals explain its occurrence through social judgment processes including attributions of responsibility (Shaver 1985). Research has frequently equated responsibility with an assessment of cause (Brockner et al. 2007). But, responsibility may be defined in much broader terms with causality serving as one component. According to Shaver (1985), social judgments of responsibility include:

(a) some connection (usually a causal one) between an actor and an occurrence, (b) a generally accepted set of moral principles by which that occurrence is judged harmful, (c) the view that the set of causes of events includes elements produced by human action, (d) the assertion that the actor whose behavior is being judged voluntarily produced (or voluntarily chose not to prevent) the harmful outcome, and (e) an examination of the extenuating circumstances that might release the actor from answerability for producing the outcome” (Shaver 1985: 70).

Shaver (1985) identifies five dimensions that comprise responsibility attributions: causal, coercion, knowledge of consequences, intentionality, and appreciation of moral implications. The causal dimension is “a measure of the extent to which the actor was the direct and proximate efficient cause of the occurrence for which the accusation is being made” (Shaver 1985: 85). The coercion dimension represents an assessment of the extent to which an actor could have done something different. Knowledge of consequences refers to the extent to which an actor was aware or should have been aware that their actions would result in “morally reprehensible

consequences” (Shaver 1985: 85). Intentionality assesses the extent to which an individual acted intentionally rather than accidentally. Finally, appreciation of moral implications is the extent to which an individual understands that they have committed a wrongful act.

Organizational Responsibility Factors

As actors, organizations are viewed legally as possessing life and have been referred to as “juristic persons” which may be attributed responsibility in evaluations of negative events (Coleman 1982; Coleman 1993; Folger & Cropanzano 2001). We propose that when evaluating sexually harassing behavior, victims’ organizational responsibility attributions occur through two mechanisms. First, the organization may be perceived as a vicarious actor who is responsible for the actions of its employees. Second, the organization may be held responsible for omissions; it may not be perceived as having committed the harassment, but rather it failed to prevent the harassment. Responsibility attributions for omissions are made “when there is a clear normative expectation that a certain beneficial action be taken” (Folger & Cropanzano 2001: 14). To fully understand when sexual harassment victims attribute responsibility to organizations, we must examine the circumstances under which organizations are viewed as vicarious actors as well as victims’ expectations regarding preventive actions.

Organizations as vicarious actors. According to Shaver (1985: 88), responsibility perceptions “vary in direct proportion to the personal force thought to be involved.” Personal force is reflected in levels of responsibility attribution including association, causality, foreseeability, intentionality, and justifiability. The level of association between the target of evaluation and the wrongdoer is a critical component in assessing the causality dimension of responsibility. “Within an association, some kinds of connections drawn between stimulus

person and event will be more plausible than others, and in the case of the legal system, some associations will produce vicarious responsibility while others will not” (Shaver 1985: 105).

One way to conceptualize the level of association within vicarious responsibility is through an agency framework. The *Restatement (Third) of Agency* (Section 1.01, 2006) states that, “agency is the fiduciary relationship that arises when one person (a ‘principal’) manifests assent to another person (an ‘agent’) that the agent shall act upon the principal’s behalf and subject to the principal’s control, and the agent manifests assent or otherwise consents so to act.” When an agency relationship exists, the agent is acting as the principle. In an organization, supervisors should be viewed as having a closer association with the company than a non-supervisor because of the decision-making powers they typically possess. Victims may perceive that when the supervisor acts, ipso facto the company is acting. This might explain why women are more upset by sexual harassment when the perpetrator is of higher status and there is an element of organizational power involved (Bourgeois & Perkins 2003). Consequently, once a target of evaluation is believed to have produced an event, strong attributions of causality are made which are consistent with the notion of strict responsibility (Hamilton 1980).

When a supervisor is viewed as an agent of the company, we can expect victims to assume that the vicarious actor caused the behavior. Considering the other dimensions of responsibility, the actor could have chosen not to engage in the behavior; sexual harassment is behavior that a reasonable person knows is morally reprehensible and could result in harm to the victim, and harassing behaviors involving inappropriate touching typically occur intentionally. Strict organizational responsibility perceptions should exist when the harasser is a supervisor. In situations involving non-supervisors, weaker causal connections should exist thereby allowing the mitigation of responsibility judgments by other factors to occur.

Preventive actions. When clear expectations for beneficial preventive actions exist, responsibility attributions for omissions are likely (Folger & Cropanzano 2001). Clear expectations exist for the prevention of sexual harassment in organizational settings. According to the EEOC, organizations should have comprehensive anti-harassment policies and practices that include “a clear explanation of prohibited conduct; assurance that employees who make complaints of harassment or provide information related to such complaints will be protected against retaliation; clearly described complaint process that provides accessible avenues of complaint, assurance that the employer will protect the confidentiality of harassment complaints to the extent possible; a complaint process that provides a prompt, thorough, and impartial investigation; and assurance that the employer will take immediate and appropriate corrective action when it determines that harassment has occurred” (Equal Employment Opportunity Commission 1999, V.C.1). Although attributions of company responsibility for sexual harassment have not been examined, research has indicated that organizations may be viewed less favorably when fewer harassment policies and practices are in place (DuBois et al. 1998). We believe that failing to take preventive actions such as those recommended by the EEOC may also lead to attributions of company responsibility by omissions.

An extrapolation of Shaver’s (1985) responsibility dimensions to a sexual harassment context further suggests that responsibility will be attributed to organizations that do not take proper actions to prevent harassment. Applying the knowledge dimension, a victim may perceive that sexual harassment is foreseeable by a company when appropriate preventive measures are not in place. An organization should have known that sexual harassment would occur in the absence of comprehensive anti-harassment policies. The intent dimension of responsibility may be more strongly influenced by the accumulation of observations over time in

comparison to the observation of a single incident of harassment. When there is evidence that a company has not responded appropriately to sexual harassment in the past, inferences of intentionality should increase. Interestingly, research has indicated that organizational intolerance of sexual harassment is more effectively communicated through severe responses to alleged incidents (Nelson, Halpert, & Cellar 2007) and observers' perceptions of harassment are strengthened if they believe that harassers persist with their behavior after an alleged target has indicated that she is not interested in their advances (Osman 2007).

Appreciation of moral wrongfulness can be based on expectations of what a reasonable person would do. Policies and proper responses are well-communicated legal expectations of actions that a reasonable company should take. In assessing the coercion dimension of responsibility, judgments of whether the company could have done something different are made. This dimension is consistent with fairness theory (Folger & Cropanzano 1998; 2001) which asserts that procedural fairness influences perceptions of responsibility through counterfactuals. When procedures are unfair, the recipient of an unfavorable outcome may perceive that better procedures could have been used which would have resulted in a more favorable outcome. Thus, a comparison is made between procedures that were used and those that should have been used.

Organizational Responsibility Attributions and Legal Claiming Intentions

Models of organizational justice suggest that negative responses to an unfavorable outcome are directed toward those viewed as responsible for the outcome (Folger & Cropanzano 1998). Research indicates that organizational blame is positively related to both commitment to legal claiming (Groth et al. 2002) as well as legal claiming behaviors and that consideration of

legal claiming is related to actual claiming behaviors among terminated individuals (Lind et al. 2000). Results of research examining legal claiming antecedents suggests that factors similar to those that lead to attributions of company responsibility may also influence legal claiming intent. Harassment victims use advocacy seeking coping strategies including legal claiming when larger power differences exist between the harasser and the victim (Malamut & Offerman 2001). Larger power differences are present when an employee is sexually harassed by a supervisor. The use of unfair procedures can also lead to commitment to engage in legal claiming behaviors (Goldman 2001). A lack of anti-harassment policies would logically be viewed as procedurally unfair by sexual harassment victims.

Research suggests that responsibility attributions may act as a mediator, explaining how different factors influence victims' legal claiming intentions. A series of studies examining fairness theory found that subjects perceived organizational authorities as more responsible for an unfavorable compensation decision when unfair procedures were used. Responsibility attributions for an unfavorable outcome also mediated the relationship between procedural unfairness and employees' reactions including commitment to legal claiming (Brockner et al. 2007). We, therefore, make the following predictions consistent with the necessary conditions for mediation (Baron & Kenny, 1986):

Hypotheses

Hypothesis 1: There will be an interaction between the harasser's organizational role and the existence of sexual harassment policies. Specifically:

- (1a) Organizational responsibility attributions should be higher when sexual harassment is committed by a supervisor than when it is committed by a non-supervisory coworker (main effect)

- (1b) In addition, for sexual harassment committed by a supervisor, there will be no difference in organizational responsibility attributions when harassment policies exist compared to when the policies don't exist
- (1c) However, for sexual harassment committed by a non-supervisory coworker, organizational responsibility attributions will be greater when no sexual harassment policies exist than when policies exist (interaction effect)
- (1d) Legal Claiming intentions should be higher when sexual harassment is committed by a supervisory than when it is committed by a non-supervisory coworker (main effect)
- (1e) In addition, for sexual harassment committed by a supervisor, there will be no difference in legal claiming intention when harassment policies exist compared to when the policies don't exist
- (1f) However, for sexual harassment committed by a non-supervisory coworker, legal claiming intention will be stronger when there are no sexual harassment policies than when policies exist (interaction effect)

Hypothesis 2: There will be additional interaction effects between the harasser's organizational role and the organization's past responses to sexual harassment. Specifically: **Partially supported**

- (2a) For sexual harassment committed by a supervisor, there will be no difference in organizational responsibility attributions when the organization has responded inappropriately compared to when it has responded appropriately to past harassment complaints.
- (2b) However, for sexual harassment committed by a non-supervisory coworker, an organization will be held more responsible when it has responded inappropriately compared to when it has responded appropriately to past harassment complaints. **Supported**
- (2c). For sexual harassment committed by a supervisor, there will be no difference in legal claiming intention when the organization has responded inappropriately compared to when it has responded appropriately to past harassment complaints. **Supported**
- (2d) However, for sexual harassment committed by a non-supervisory coworker, legal claiming intention will be stronger when the organization

has responded inappropriately compared to when it has responded appropriately to past harassment complaints. **Supported**

Hypothesis 3: Responsibility attributions will have a significant positive effect on subjects' legal claiming intent.

Hypothesis 4: Responsibility attributions will serve as a mediating variable in the direct and indirect relationships between:

- (4a) The harasser's organizational role and the existence of sexual harassment policies on legal claiming intent
- (4b) The harasser's organizational role and an organization's past responses to harassment complaints on legal claiming intent

Methods

Sample

One hundred and twelve female student-participants were recruited from undergraduate classes in Hotel and Restaurant Management at a major southwestern, urban university. Participation in the research was voluntary but class credit was offered for completion of all measures. The average age of the participants was 20.7 years; fifty-three percent of them were Caucasian while forty-seven percent were non-white. Seventy-one percent of the sample was currently employed either on a full or part time basis and slightly more than seventy-one percent of the participants had worked in the hospitality industry. Finally, approximately thirty-five percent of the sample reported that they had personally experienced some form of sexual harassment while working. We take caution with this result because sexual harassment was not formally defined for the participants.

Procedure

Participants first completed a short biographical that included their perceived experience with sexual harassment. Then, each participant read one of eight scenarios that depicted an incident of sexual harassment at a fictitious restaurant. These scenarios contained the three manipulated independent variables including the “Harasser’s Organizational Role,” the “Existence of Sexual Harassment Policies,” and the “Prior Responses to Sexual Harassment.”

Scenario Development

The U.S. Supreme Court recognized “hostile work environment” sexual harassment as an actionable form of sex discrimination under Title VII in *Meritor Savings Bank v. Vinson* in 1986 (477 U.S. 57). “Hostile work environment” is defined by the Equal Employment Opportunity Commission (EEOC) as unwelcomed behavior from the victim’s perspective that “has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment” (29 C.F.R. 1604.11(a)(3)). The Supreme Court also stated in *Meritor* that the harassment must be “*sufficiently severe or pervasive* to alter the conditions of the victim’s employment and create an abusive working environment” (477 U.S. at 64). The EEOC guidelines, however, state that “a single, unusually severe incident of harassment may be sufficient to constitute a Title VII violation... This is particularly true when the harassment is physical” (29 C.F.R. 1604.11).

We modeled our scenarios on a case which recognized that “even a single incident of sexual assault sufficiently alters the conditions of the victim’s employment and clearly creates an abusive work environment for purposes of Title VII liability” (*Tomka v. Seiler Corp.*, 66 F.3d 1295 at 1305, 1995). We used the facts presented in *Fall v. Indiana University Board of*

Trustees, where a single incident consisting of the defendant's "forced groping of an intimate part of the Plaintiff's body" was sufficient to violate Title VII. (12 F.Supp.2d. 870 at 881, 1998).

For each scenario, an employee of Reilly's Steakhouse named Mike sexually harasses another employee named Carol. The scenarios indicated that:

Carol was gathering up her personal belongings and walking through the kitchen area toward the back door of the restaurant. Mike followed her and asked her to step into the employees' break room which is located right near this back door. He said that he needed to talk to her about an incident that he'd seen earlier in the evening. Carol entered the office followed closely by Mike. As he shut the door behind him, Mike put his hand on Carol's shoulder, ran his hand down the middle of her back and patted her on the butt. As he did so, Mike said, I really don't know how much longer I can stand it; you are so hot I can't stop thinking about you all shift long.

Other than information directly related to the manipulated variables, all information was held constant. All participants were told that Mike and Carol had a good working relationship but had never interacted socially.

Participants were asked to read one of the scenarios and then imagine that the incident had happened to them personally. After reading the scenario, the participants completed the measures of organizational responsibility attributions and intention to seek legal remedies.

Manipulations

Harasser's Organizational Role. The harasser, Mike was described as either a nonsupervisory coworker of Carol's or as her immediate supervisor. Other information about their working relationship was held constant.

Existence of Sexual Harassment Policies. The scenarios depicted the restaurant either as one in which there were extensive, well-documented policies regarding sexual harassment or one in which there were no formal policies regarding such behavior. Where policies existed, participants were told that:

The restaurant provides employees with sets of written, formal human resource policies that are compiled in its Employee Handbook. In this professionally developed Employee Handbook, there is an extensive section on the restaurant's anti-sexual harassment policy. As per recommendations provided by the Equal Employment Opportunity Commission, this section of the handbook clearly defines sexual harassment for the employees; it provides a clear explanation of what conduct is prohibited by the policy; a description of specific complaint procedures that can be followed when an employee believes that he/she has been sexually harassed; and a statement of the restaurant's assurance that it will take immediate and appropriate corrective action when it determines that harassment has occurred.

To help with the implementation of its 'zero tolerance' sexual harassment policy, all assistant managers are required to attend a sexual harassment seminar conducted by the Society for Human Resource Management. At the time of hiring, all employees are given a copy of the Employee Handbook. Furthermore, at the time that they are hired, new employees are required to sign an affidavit indicating that they have read and fully understand the restaurant's written description of the sexual harassment policy. Finally, the restaurant has also adopted a brief but informative computerized sexual harassment training program that all employees (including the assistant managers) are required to complete one time each year.

To help with the enforcement of the sexual harassment policy, the restaurant has established a complaint system that meets current professional standards. All employees have access to this system and it allows them to confidentially report any sexual harassment issues to the appropriate manager who then is expected to deal immediately with the issue.

In contrast, the scenarios depicting an absence of policies informed participants that:

The restaurant has few if any written policies and procedures. Most of the procedures at Reilly's are simply taught to new employees by the assistant managers. One of the most obvious omissions from Reilly's written policies is any mention of an

anti-sexual harassment policy. The restaurant has no written policy that prohibits sexual harassment. The employees are provided with no explicit guidance on what kind of behavior constitutes sexual harassment nor are they told what to do if they believe that they have been sexually harassed. The restaurant does not provide any written assurances to its employees that the restaurant is committed to a harassment-free work environment

Training at Reilly's is similar to its general view of human resources inasmuch as the assistant managers assume the primary responsibilities for seeing that new employees are taught how to do their jobs. These assistant managers have never completed any formal training on sexual harassment and, as such, employees are also not provided with any formal anti-sexual harassment training.

If an employee believes that he/she has been sexually harassed while working at Reilly's, there is no written description of the proper manner to file a complaint.

Past Responses to Sexual Harassment. Previous responses to sexual harassment claims were manipulated through descriptions of the prevailing beliefs of its employees. The 'appropriate past responses' version of this manipulation informed participants that:

The employees at Reilly's have a strong belief that the restaurant does not tolerate any form of sexual harassment. And, the employees are also convinced that the restaurant has always vigorously investigated and dealt appropriately with allegations of sexual harassment that may have occurred."

The 'inappropriate past responses' version informed participants that:

The employees at Reilly's have a strong belief that the restaurant tolerates many forms of sexual harassment. And, the employees are also convinced that the restaurant has typically "looked the other way" when an employee complains about being harassed since nothing seems to happen after someone complains.

Measures and Psychometric Analyses

Following Hinkin's (1998) recommendations, we developed measures for perceptions of organizational responsibility and intentions to engage in legal claiming behaviors. First, we used theories to guide the item development. Second, exploratory factor analysis and internal consistency were assessed. Third, confirmatory factor analysis was used for further evidence of validity. Fourth and last, convergent and discriminant validity were examined.

Organizational Responsibility Attributions. Perceptions of organizational responsibility were measured with five items that were written by the authors to reflect Shaver's (1985) dimensions of responsibility including causality, intentionality, knowledge of consequences, appreciation of moral implications, and coercion. Participants were asked to respond to 7-point, Likert-format items anchored with Strongly Agree (6) to Strongly Disagree (0). There was one item per dimension. For example, the "appreciation of moral implications" dimension was tapped with the following item: "Reilly's understands that its policies and practices are wrong." Since these five dimensions or facets are theoretically all components of attributed responsibility, participants' responses to the five items were summed and averaged.

Interitem correlations and an exploratory factor analysis with Varimax rotation were conducted. All the interitem correlations were above the .40 cutoff scores and the exploratory factor analysis revealed one factor accounting for 61.34% of the variance. The factor loadings were also above the .40 cutoff score, ranging from .75 to .81. The Coefficient Alpha reliability estimate was .84.

In addition to the internal consistency tests, the convergent validity of the measure was examined using confirmatory factor analysis (CFA). Four fit indices were examined: (a) the χ^2 and degrees of freedom, (b) the comparative fit index (CFI), (c) the incremental index of fit (IFI),

and (d) Standardized Root Mean Square Residual (SRMR). It is suggested that good fit indices for CFI and IFI are greater than .90 and SRMR less than .08 (Barrett 2007; Byrne 2001; Ullman 2001; Vandenberg and Lance 2000). The CFA results demonstrated good fit: $\chi^2 = 9.05$, $df = 5$, $p > .05$; CFI = .97; IFI = .98; SRMR = .036. Convergent validity was also demonstrated because all indicators loaded significantly at $p < .05$ (Fornell & Larcker 1981). The average variance extracted (AVE) for the scale was .74, which was greater than the .50 cutoff (Bagozzi and Yi 1988), also demonstrating convergent validity.

Legal Claiming Intent. Participants' intentions to engage in legal claiming behaviors were measured with three 7-point Likert-format items using the same anchors of Strongly Agree (6) to Strongly Disagree (0). Theory suggests that legal claiming intentions often lead to actual legal claiming and that such intentions include seeking professional legal advice, filing claims with the EEOC, and filing a lawsuit against an organization (Goldman 2003; Groth et al. 2002; Lind et al. 2000). These items asked participants what they would do if they had personally experienced Mike's behavior. The three items asked about their intention to 1) report the incident to the EEOC, 2) get legal advice from an attorney, and 3) pursue legal action against the restaurant. Responses were summed and averaged.

Interitem correlations and an exploratory factor analysis with Varimax rotation were conducted. All the interitem correlations were above the .40 cutoff scores and the factor analysis revealed one factor accounting for 79.68% of the variance. The factor loadings were also above the .40 cutoff score, ranging from .84 to .92. The Coefficient Alpha reliability estimate was .87. Convergent validity was examined using CFA, which resulted in a good fit: $\chi^2 = 3.81$, $df = 1$, $p > .05$; CFI = .98; IFI = .98; Standardized RMR = .026. All indicators loaded significantly at $p <$

.05 (Fornell & Larcker 1981). The AVE for the scale was .85, which was greater than the .50 cutoff (Bagozzi & Yi 1988).

To demonstrate discriminant validity, the squared correlation between pairs of constructs should be lower than the AVE for each individual construct (Fornell & Larcker 1981). Adequate discriminant validity was demonstrated since the AVE for the measures were greater than the squared correlations between the two measures ($r^2 = .16$). Thus, the psychometric analyses demonstrated internal reliability and validity of our measures.

Results

Analysis of variance and covariance were used to test our hypotheses. We conducted the full factorial analysis to provide a complete picture of the extant relationships among variables. Subsequently, analysis of covariance was utilized to more directly test for the hypothesized mediating role of responsibility attributions.

Manipulation Checks. Participants had been asked to identify the organizational role of the harasser with customer, supervisor, coworker, and cook as the options. The results showed that 54 out of the 56 (ninety-seven percent) participants correctly identified the supervisor role and 53 out of the 56 (ninety-five percent) participants correctly identified the coworker role. The participants were also asked if the company had a written policy prohibiting sexual harassment with yes and no responses; only one participant did not correctly identify the manipulation. Lastly, the participants were asked if the company had ignored sexual harassment complaints in the past with yes and no responses; only 3 participants did not respond correctly. None of the

results change with the exclusion of the participants who failed the manipulation checks and therefore all 112 participants were included the analyses.

H1: Effects of Harasser's Role and the Existence of Harassment Policies

As can be seen from the analysis of variance results shown in Table 1, we did not find support for the primary hypothesized interaction effect between the harasser's role and the existence of policies (H1b-c; H1e-f). However, a significant main effect of the harasser's organizational role was found on legal claiming intention (H1d); the supervisor harasser condition resulted in a stronger intent to take legal action (mean=3.61, SD=1.64) than the non-supervisory coworker condition (mean=2.82, SD=1.62). In addition, although not explicitly hypothesized but consistent with our theoretical assertions, we also found significant main effects for the existence of policies such that subjects reported weaker attributions of organizational responsibility and legal claiming intention when the company had anti-harassment policies (responsibility mean=2.44, SD=1.04; legal claiming intention mean=2.93, SD=1.63) than when no such policies existed (responsibility mean=3.55, SD=1.04; legal claiming intention mean=3.51, SD=1.67).

H2: Interactive Effects of Harasser's Role and Past Responses to Harassment

As also shown in Table 2, the results provided partial support for hypothesis 2. A statistically significant interaction between harasser's organizational role and past responses was found on organizational responsibility attributions. As shown in Figure 2, when the harasser was a supervisor, there was virtually no difference in responsibility attributions as a function of inappropriate (mean=2.85, SD=1.23) versus appropriate (mean=3.17, SD=1.01) past responses (H2a). Consistent with H2b, the organization was held less responsible for non-

supervisory coworker harassment when it had responded appropriately in the past (mean=2.70, SD=1.25) than when it had responded inappropriately (mean=3.26, SD=1.89).

Because research has found that victims' sexual harassment experience (McCabe & Hartman 2005) and ethnicity (Gruber & Bjorn 1986) influence their sexual harassment perceptions, we statistically controlled for these variables. We also controlled for subjects' experience in the hospitality industry given research findings regarding the prevalence of sexual harassment in this industry (Aaron & Dry 1992; Eller 1990; Wood & Kavanaugh 1994). Among these control variables, ethnicity was significantly related to organizational responsibility and legal claiming intent with stronger organizational responsibility attributions and legal claiming intent expressed by non-whites (organizational responsibility mean=3.34, SD=1.08; legal claiming intent mean=3.91, SD=1.49) than by Caucasians (organizational responsibility mean=2.68, SD=1.19; legal claiming intent mean=2.60, SD=1.59).

Insert Tables 1 and 2 here.

Insert Figure 2 here.

H3 and H4: Effect of Responsibility on Legal Claiming Intent and Responsibility as a Mediator

Analysis of covariance was used to assess the extent to which organizational responsibility attributions mediated the relationship between our independent variables and subjects' legal claiming intentions. The control variables were used as simultaneous covariates in this analysis. Results reported in Table 2 indicate that there was a significant positive relationship between organizational responsibility attributions and legal claiming intent. In support of Hypothesis 3, subjects reported a stronger intention to take legal action against the company when they viewed the company as being responsible.

Although we did not find the harasser's role by policies interaction we expected, we nevertheless chose to explore whether attributions mediated the main effects we found. With attributions statistically controlled, results reported in Table 2 indicate that the harasser's organizational role still had a significant main effect on legal claiming intent while sexual harassment policies was no longer significant. Thus, responsibility attributions did not mediate the relationship between the sexual harassment policies x harasser's organizational role interaction and legal claiming intent, the relationship between sexual harassment policies and legal claiming intent was explained by these attributions.

Using Preacher and Hayes' (2008) tests of indirect effects, we examined two mediated moderation models to also further test Hypothesis 4 and to verify the results of the analysis of covariance. In this mediation moderation test, the relationship between the interaction effect (i.e., predictor) and the criterion measures are tested with and without the addition of the mediator and with the main effects as covariates. The indirect effect tests address whether the total effect of

the interaction effect on the criterion is significantly reduced with the addition of the proposed mediator. The Sobel test and bootstrapped formula of Preacher and Hayes (2008) were used to test the indirect effects with a 95% confidence interval.

The results for the first model did not show a significant interaction between harasser's organizational role and sexual harassment policies on the mediator, responsibility attributions ($\beta = .10, p > .05$). The mediator, responsibility attributions was significantly related to legal claiming intentions ($\beta = .58, p < .05$). The direct effect of the interaction between harasser's organizational role and sexual harassment policies on the legal claiming intentions ($\beta = -.03, p > .05$) was not statistically reduced by the mediator ($\beta = -.08, p > .05$). The Sobel test was not significant, $Z = .97, p > .05$; 95% confidence interval = $-.05$ to $.18$, thereby not supporting Hypothesis 4a.

The results did show that the harasser's organizational role still had a significant direct main effect on legal claiming intent ($\beta = -.39, p < .05$), without a mediated effect of responsibility attributions. In contrast, the direct effect of sexual harassment policies on legal claiming intentions ($\beta = .29, p < .05$) was fully mediated by responsibility attributions (i.e., reduced to non-significance, $\beta = -.02, p > .05$), $Z = 3.34, p < .05$; 95% confidence interval = $.16$ to $.56$.

The results for the second model showed a significant interaction between harasser's organizational role and past responses on the mediator, responsibility attributions ($\beta = .22, p < .05$). The mediator, responsibility attributions was significantly related to legal claiming intentions ($\beta = .56, p < .05$). The direct effect of the interaction between harasser's organizational role and past responses on the legal claiming intentions ($\beta = .11, p > .05$) was not statistically significant and not reduced by the mediator ($\beta = -.02, p > .05$). The Sobel test was

not significant, $Z = 1.84, p > .03$; 95% confidence interval = .01 to .29, thereby not supporting Hypothesis 4b. Consistent with the first model, harasser's organizational role had a significant main effect on legal claiming intent ($\beta = -.39, p < .05$), while past responses was no longer significant $\beta = -.01, p > .05$

Discussion

The results of the mediation moderation models suggest that a harasser's organizational role may be the most important factor for predicting a victim's legal claiming intent. As expected, legal claiming intent is higher when the harasser is an immediate supervisor than a nonsupervisory coworker. Interestingly, supervisors are a primary source of sexual harassment in the hospitality industry (Slonaker, Wendt, & Baker 2007) and employers are exclusively liable for sexual harassment from supervisors, regardless of knowledge of the alleged harassment (Sherwyn 2010). The results suggest an intriguing possibility that supervisors are a primary source of sexual harassment legal claims in hospitality because of their organizational role and not simply because a heightened frequency of occurrence. It might be that coworkers are just as likely to sexually harass employees, but legal claiming might be less frequent.

Our results also suggest that organizational responsibility attributions are a significant predictor of legal claiming intentions. This effect appears to be particularly important for an organization that does not have sexual harassment policies. In this case, the absence of well-defined policies may lead to enhanced perceptions of a failure to take preventive actions (DuBois et al. 1998; Folger & Cropanzano 2001). Concomitantly, an absence of policies appears to be related to Shaver's (1985) knowledge dimension. Victims may perceive that future sexual harassment is probable when appropriate preventive measures are not in place.

The present research studied several key facets of responsibility attributions among a sample of mock victims of sexual harassment. Although our hypotheses were not fully supported, the results of the study suggest that Shaver's (1985) model of responsibility may hold a number of clues about when organizations are blamed for harassment and more importantly, when a victim of harassment might seek legal remedies. Our results suggest that mock victims viewed an organization as more responsible for sexual harassment committed by a supervisor irrespective of the existence of potential mitigating factors. In contrast, these mock victims were willing to consider mitigating effects when the harasser was a non-supervisor.

Intentions to seek legal remedy were also directly related to the organizational role of the sexual harasser. Moreover, we did find partial support for our assertion that victims' attributions of responsibility mediated these effects. Attributions of responsibility were positively related to legal remedy seeking but when we controlled for this relationship, the variance associated with the harasser's organizational role was not eliminated.

The lack of more convincing evidence of a mediating role for company responsibility is disappointing but not completely unexpected. The present study was never intended to be a test of a comprehensive theoretical model. Given the complexity of the phenomenon under investigation, it is likely that we failed to capture variables that might help to explain the relationships among harasser, mitigating circumstances, company responsibility, and legal remedy seeking. For example, a victim of harassment will undoubtedly conduct a psychological cost/benefit analysis before actually taking legal action. This analysis could include an assessment of responsibility, but it might also include issues such as job security, the likelihood of future harassment, and an evaluation of the value of winning a lawsuit.

Another intriguing explanation for the weak mediation effects of responsibility attributions is the competing role that a psychological contract might play. Defined by Rousseau (1989) as “individual beliefs in a reciprocal obligation between the individual and the organization,” it is possible that an organization with anti-harassment policies creates a strong psychological contract that includes expectations for future intolerance. Observers might feel that breaches of such a contract represent trust violations and these violations should lead to negative attributions toward the organization, perhaps including a desire to ‘punish’ it when harassment occurs.

Likewise, situational factors such as third-party support for the victim could dramatically influence her post-incident behavior (Groth et al. 2002). The company’s and/or the supervisor’s initial response to the incident could also play a role. Research has demonstrated that behavior varies with the type of managerial account that is offered for some negative incident (Tata 2002). These same effects might be manifested after an incident of sexual harassment. While there is currently no research of which we are aware that investigates the effects of apologies on legal remedy seeking intentions, one can also speculate that they play a role in victims’ reactions.

Implications for the Hospitality Industry

The implications for hospitality management are threefold. First, providing sexual harassment training for supervisors is important. Not only does this organizational role influence legal claiming intentions, but supervisors are a major source of sexual harassment claims (Slonaker, Wendt, & Baker 2007). One of the reasons that larger, chain restaurants are involved with fewer sexual harassment claims than small, independent restaurants is that the large chains have the resources to offer more formal training. As Sherwyn, Wagner and Gilman (2004)

suggest, training is not always successful because it is often frustrating and embarrassing. Sadly, the cost of not training supervisors may be even greater.

Second, having a formal policy against sexual harassment is another important factor, which is another reason why large chain restaurants experience lower numbers of sexual harassment claims. Large chains are likely to have policies in place. The results of the current study showed that one reason why formal policies work is that a victim is less likely to perceive the organization as responsible when organizations have anti-sexual harassment policies.

Third, perceived organizational responsibility is a direct predictor of legal claiming intentions. For hospitality management, this suggests that an organization might reduce its costs and liabilities if it proactively takes steps to shape victims' responsibility attributions. One factor that immediately comes to mind is the willingness to conduct a thorough, procedurally fair investigation. Research on discrimination claims suggest that a victim is more likely to engage in legal claiming behaviors when they perceive that the organization's response to a complaint is unfair or not taken seriously (Goldman 2003). Clearly, a legitimate investigation of a claim should help to mitigate these potential negative reactions.

Limitations and Future Research

As with any scenario-based, mock victim research methodology, the present study has its limitations. The dilemmas created by attempting to study certain highly emotionally-charged yet hopefully infrequently occurring events permeate all such research and our study is no different. We tried to improve its ecological validity by using participants who were currently students in a College of Hospitality Management and the hospitality industry was the context used in our scenarios. We further tried to improve the study's quality by statistically controlling

participants' perceptions of harassment and their own experiences. However, one can never be certain that mock victims' reactions will not differ from actual victims' reactions; such is the nature of most research on discrimination and sexual harassment.

If one views the results of the present study within these limitations, we feel that it presents an interesting, albeit incomplete picture of an area whose importance will logically increase in the coming years. We encourage researchers to use this study as a starting point for more detailed investigations into the causes and consequences of attributions of company responsibility for sexual harassment. Using Shaver's (1985) work as a conceptual framework, we believe that researchers can learn more about where blame comes from within this context. Obviously, the best way to avoid being blamed for a hostile work environment is to engage in reasonable preventive practices. However, even the well-intended organization cannot totally eliminate harassment. Once the antecedents of blame are more thoroughly understood, then research can examine how organizations might mitigate their legal liabilities. We encourage researchers to continue to study such perplexing questions.

The current study focused on legal claiming intentions as an outcome of sexual harassment. However, research shows that victims do not always seek legal remedy. In fact, victims of sexual harassment might never report an alleged incident. Future research might examine why some employees choose not to disclose sexual harassment. It might also examine why some employees report sexual harassment to a human resources department but not pursue legal action. Logically, the more claims that can be resolved internally, the better. So an imperative question for subsequent research is how do we convince employees to resolve these types of disputes internally while not making them feel that they are being coerced into not pursuing their legal rights? Many questions remained unanswered.

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Figure 1. Research model of organizational responsibility perception's role in explaining legal claiming intention.

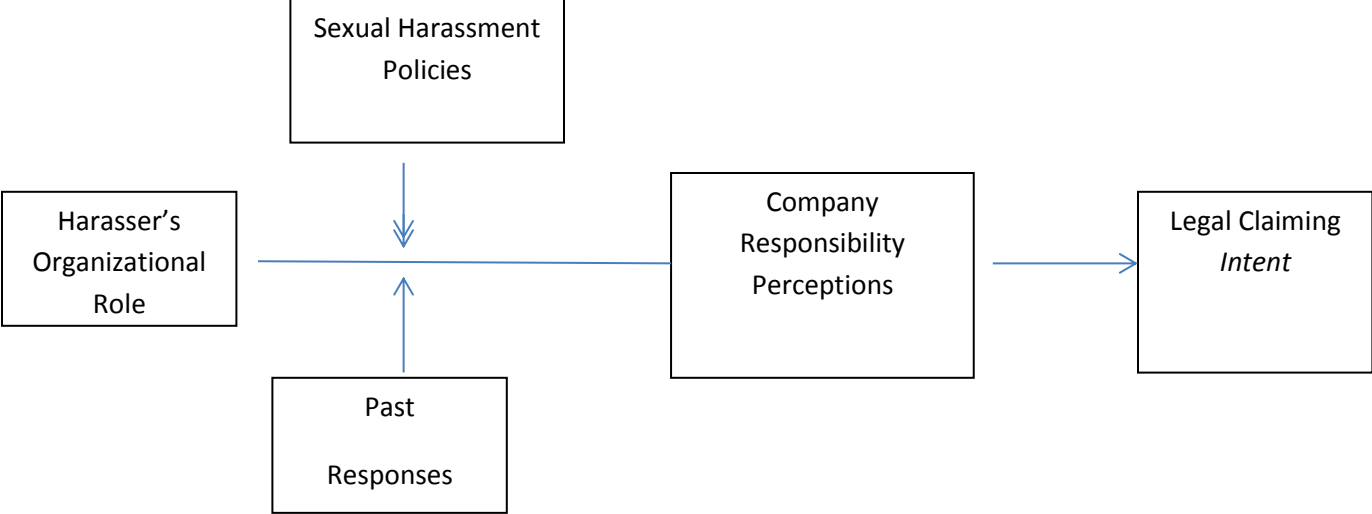


Table 1

Analysis of Variance Summary

Source	Attributions of Organizational Responsibility			Legal Claiming Intent		
	MS	F	R ²	MS	F	R ²
Harasser's Organizational Role (A)	0.01	0.01	0.00	10.86	4.57*	0.04
Sexual Harassment Policies (B)	28.76	27.58***	0.19	6.42	2.70*	0.02
Past Responses (C)	0.31	0.29	0.00	0.24	0.10	0.00
AxB	1.11	1.06	0.01	0.05	0.02	0.00
AxC	4.02	3.85*	0.03	0.21	0.09	0.00
BxC	0.11	0.11	0.00	1.57	0.66	0.01

AxBxC	0.27	0.26	0.00	0.05	0.02	0.00
Sexual Harassment Experience	1.00	0.96	0.01	1.66	0.70	0.01
Hospitality Industry Experience	0.01	0.01	0.00	1.70	0.72	0.01
Ethnicity	6.99	6.70**	0.05	24.29	10.22**	0.08

*** p < .001

** p < .01

* p < .05

Table 2

Analysis of Covariance Summary

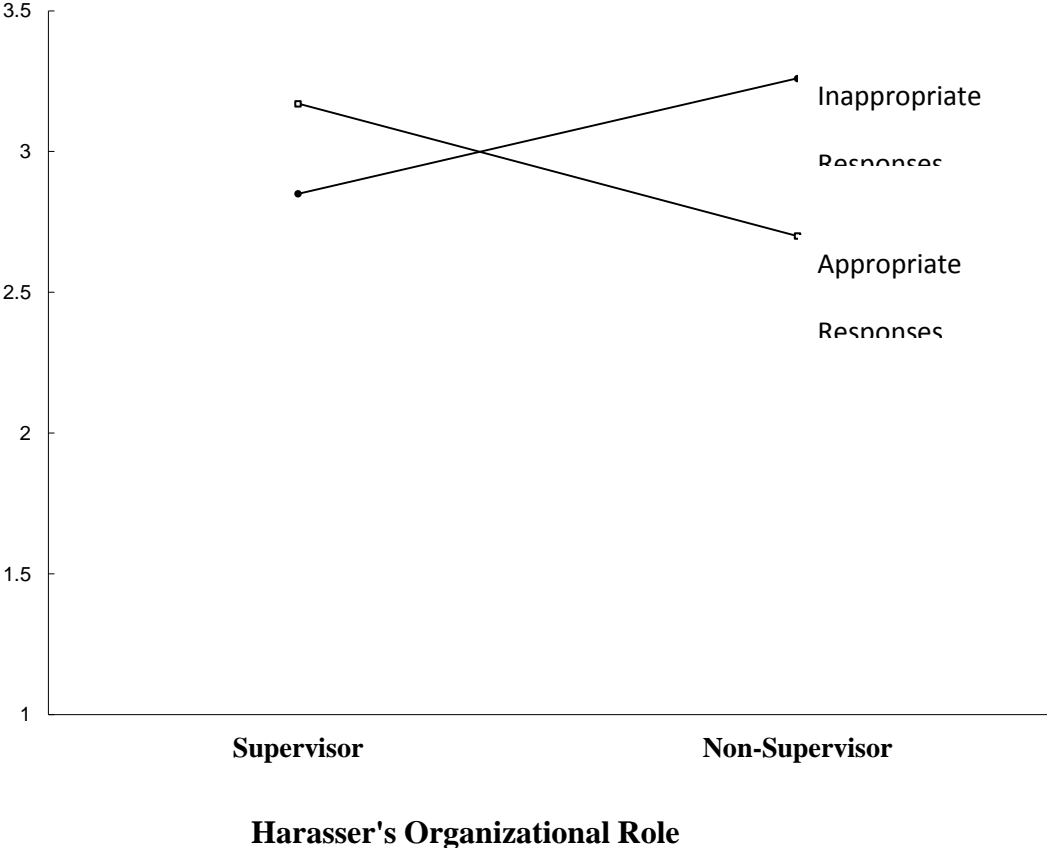
Source	Legal Claiming Intent		
	MS	F	R ²
Harasser's Organizational Role (A)	11.20	5.24*	0.04
Sexual Harassment Policies (B)	0.02	0.01	0.00
Past Responses (C)	0.05	0.02	0.00
AxB	0.56	0.26	0.00
AxC	0.28	0.13	0.00
BxC	1.18	0.55	0.00
AxBxC	0.24	0.11	0.00

Organizational Responsibility	26.43	12.37***	0.09
Sexual Harassment Experience	3.18	1.49	0.01
Hospitality Industry Experience	1.84	0.86	0.01
Ethnicity	12.18	5.70*	0.04

*** p < .001

* p < .05

Figure 2. Interaction Between Harasser's Organizational Role and Past Responses



Chapter V: Conclusion

Sexual harassment remains a serious problem despite federal and state laws that have been enacted to fight its existence. Clearly, sexual harassment of women remains a frequent and recurring issue in today's workplace, particularly in the hospitality industry. Sexual harassment claims can be devastating for the victims, transgressors, and the organizations. In addition to the human toll, legal action associated with sexual harassment results in staggering organizational costs.

Given the high financial and human costs associated with sexual harassment and its litigation, companies should explore and implement policies and procedures to minimize formal legal claims when harassment does occur. Resolution of harassment through internal processes rather than relying on the courts is in all parties' best interests.

Apologies have been found to be useful in repairing trust in relationships (Scher & Darby, 1997; Tavuchis, 1991). Apologies have been studied in the organizational context, and research has indicated that they can be useful tools. For example, we have seen apologies used to resolve disputes, improve customer relationships and enhance leadership effectiveness (Liao, 2007). Yet, there has been little research on the effectiveness of apologies as conflict resolution mechanisms within asexual harassment context.

The overarching purpose of this three-paper dissertation was to address this latter void in the existing literature. Specifically, the present study examined three broad areas related to the potential value of apologies for understanding and coping with sexual harassment claims in organizational settings. The first paper conceptually explored when and how apologies might be effective in reducing the negative consequences of sexual harassment claims. The second paper

categorized and summarized the various States' apology laws in order to determine the current legal climate of both partial and full apologies as well as the feasibility of using them in a sexual harassment context. The final paper was an initial step in a broader examination of the question of how an organization can decrease the likelihood that someone who believes that she has been the victim of sexual harassment will take legal action against the organization.

To answer this latter question I reasoned that it would be useful to first understand the circumstances under which an individual would see an organization as responsible for the sexual harassment that had allegedly occurred. Thus, paper three was an empirical investigation of several factors that logically and theoretically would predict victims' attributions of responsibility and subsequent intentions to legal claim.

Paper three was predicated on a belief that a claim is more likely if a victim believes the organization is at fault. Research on wrongful termination and other discrimination contexts supports this contention. These lines of inquiry have found that victims did, in fact, report stronger intent to make a legal claim and they were more likely to actually make a claim if they attributed blame to the organization (Groth et al. 2002; Lind et al. 2000). Consequently, knowing when victims perceive that an organization is responsible for sexual harassment should help further our understanding of when they are likely to take legal action against a harasser and the organization.

Using written scenarios, the third paper examined the influence of (1) the harasser's organizational role (that is, a supervisor or co-worker), (2) the existence of sexual harassment policies, and (3) the company's past responses to sexual harassment complaints. The results suggested that the harasser's organizational role was the most important factor for predicting

whether an individual would pursue a sexual harassment claim. Respondents' assessments regarding whether a victim should take legal actions were higher when the harasser was an immediate supervisor than a nonsupervisory coworker. Perceived organizational responsibility was also a direct predictor of intent to make a claim.

The results of paper three provide a clearer understanding of when an individual is more likely to favor making a legal claim in response to alleged sexual harassment. The practical implications of these findings include the following: (1) sexual harassment training for supervisors is important because their sexual harassment is most likely to lead to a legal claim; (2) anti-sexual harassment policies have the effect of reducing the likelihood that a victim will perceive the organization as responsible for failing to prevent a supervisor's action; and (3) organizations should make clear their opposition to sexual harassment both to discourage harassers and to divert a victim's attribution for responsibility away from the organization if an incident takes place.

In conclusion, the conceptual and empirical results of these three papers advances our understanding of how and when organizations will be seen as directly responsible for sexual harassment perpetrated by an employee. This knowledge is an important albeit first step toward helping organizations to better manage the dispute resolution that ought to occur when harassment occurs in order to minimize victims' intentions to legally pursue a claim. Moreover, the present dissertation also provides a very preliminary step toward understanding how apologies might eventually be used as organizationally-sanctioned conflict resolution mechanisms for allegations of sexual harassment.

However, this dissertation raises as many questions as it answers. Using the present study as a starting point, I encourage future research to further investigate the antecedents and

consequences of attributions of responsibility within a sexual harassment context. And, clearly, future studies that tie perceptions of organizational responsibility to apologies and their effects on legal claiming are now warranted. Not only should future research continue to examine the contextual influences of factors such as the harassers' organizational roles, but it should also be quite interesting to look at both victims' and harassers' individual personality characteristics to see what, if any effects they have. For example, since self-construals are related to perceptions of forgiveness and desires to sanction offenders, they might also be an important determinant of legal claiming intentions.

Finally, to the extent that completely eliminating sexual harassment is a highly improbable goal in the near future, organizations, transgressors, and victims alike should benefit from better and less costly modes of resolving the problems that inevitably stem from such misconduct. Research needs to continue to provide organizations with advice on viable strategies for minimizing the economic and emotional costs of sexual harassment. Hopefully, this dissertation will stimulate additional work toward this end.

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