

Factitious Sexual Harassment

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Among those claims that trivialize true sexual harassment is a type that the author has come to recognize as factitious (i.e., prompted by the lure of victim status). Women who file factitious sexual harassment cases usually voice their allegations in a very convincing manner and, in the presence of contradictory findings, present a diagnostic challenge. Forensic clinicians must be able to recognize factitious sexual harassment in order to bring objectivity to these complex cases.

According to the DSM-IV, factitious disorders are characterized by the intentional production or feigning of signs or symptoms solely in order to assume the sick role; they may present as one of three subtypes: with predominantly psychological signs and symptoms, with predominantly physical ones, or with a combination of both.¹

The medical literature identifies an alternate incentive that may lead to the formation of a factitious disorder with psychological symptoms: the wish to acquire victim status.² Based on the forensic examination of more than 50 sexual harassment plaintiffs, the author believes that some women who file claims are motivated by the need to portray themselves as victims.

In these times, it is hardly surprising that a sexual harassment plaintiff might suffer from a factitious disorder. Feld-

man³ advises examiners to “take social climates and world events into consideration” when determining whether a patient has a factitious disorder with psychological symptoms. In 1991, the Clarence Thomas/Anita Hill hearings heightened societal awareness of sexual harassment as actionable. Since that time, complaints of sexual harassment have risen steadily. Probably contributing to this phenomenon has been the process of “Sexual-victim identity . . . [serving as] . . . a lightning rod for the inchoate feelings of victimization.”⁴

Sexual harassment is classified as being of either the *quid pro quo* or the “hostile environment” variety. *Quid pro quo* sexual harassment involves a demand for sexual favors in exchange for some job benefit (or to avoid some job detriment), while the “hostile environment” type of harassment does not require such trading.⁵ It is useful to further divide “hostile environment” sexual harassment into criminal behavior, which may involve sexual assault, and less serious behavior (e.g., sexual propositions, epithets,

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dirty jokes, and visual displays). Cases involving the latter type of sexual harassment are the most prevalent and, for their resolution, often require the help of forensic psychiatrists.

Forensic examiners should keep in mind that a diagnosis of factitious sexual harassment may reconcile paradoxical findings such as: (1) an apparently sincere plaintiff whose allegations are documented as false; (2) a large discrepancy between triviality of allegations and intensity of plaintiff's reaction; and/or (3) strong evidence that plaintiff has encouraged alleged sexual harassment.

Determinants of the Need for Victim Status

The forensic examiner must be knowledgeable about the motives that most commonly underlie the wish for victim designation before he or she can recognize those sexual harassment plaintiffs who suffer from factitious disorder. More than one of the following psychodynamics are usually operating in any given case.

Validation of Self-Perception as Victim It has been conjectured that "[f]actitious behavior may serve to stabilize the sense of self by concretizing and legitimizing the subjective experience of distress."⁶ Since there is ample evidence that adult women who have experienced childhood sexual abuse suffer persistent dysphoria⁷ and retain a sense of victimhood,⁸ these women may very well be motivated to file factitious sexual harassment claims by a need for external validation of their inner experiences. This may partially account for the disproportional

representation of women with a history of incest that has been observed⁹ among sexual harassment plaintiffs. The following case scenario illustrates the above phenomenon and, like others in this article, is a composite of actual cases:

Ms. A was a 22-year-old woman who had been both physically and sexually abused by her alcoholic father throughout her childhood and adolescence. She had grown into a timid, fearful individual who avoided men. After graduating from high school, she had used her artistic talent to secure a job in advertising. For the first few years she had no problems at work even though she suffered from unexplained bouts of depression. All of this was to change when her supervisor, a woman, was replaced by a middle-aged man. Ms. A immediately began to feel anxious and, once again, became depressed.

When her new boss, having noticed her competence in graphic design, decided to encourage her professional development, Ms. A misinterpreted his attempts at mentoring. Although outwardly friendly, she resented his attention and grew convinced that he was trying to seduce her. Ms. A confided in her co-workers, who were only too willing to empathize, as they disliked the new boss's hard-driving supervisory style. Thus, she enthusiastically adopted the role of a sexual harassment victim and, on a daily basis, regaled her audience with her suspicions. For the first time in her life, Ms. A felt understood. She also felt strangely energized and was able to produce the best work she had ever done. Ironically, her boss was delighted and became even more attentive, thereby fueling her misgivings. When her boss promoted her to graphics coordinator and suggested that she move into an office adjacent to his, Ms. A—who had never felt better—filed a sexual harassment complaint and alleged numerous psychological symptoms.

Eliciting Emotional Support Certain variations of factitious disorder, such as factitious mourning, may represent care-eliciting behavior.¹⁰ Similarly, obtaining sympathy probably constitutes one of the intrapsychic motives that drive some

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women to complain of sexual harassment. This goal is most obvious in the presence of a therapist or therapy group's iatrogenic influence. Loftus¹¹ has described the "competition" that can arise in a group for incest survivors: "one woman after another related her grisly stories, progressively upping the ante of horror." The case vignette below illustrates how a plaintiff can be encouraged by her therapy group to file a factitious claim of sexual harassment.

A forensic psychiatrist for the defense conducting the Independent Medical Evaluation (IME) of a 28-year-old assistant buyer, Ms. B, was puzzled by her findings: all of the evidence suggested that Ms. B had enjoyed a cordial relationship with her boss, yet she claimed that he had sexually harassed her. There were no witnesses to her allegations that he had brushed up against her several times and often stared at her breasts. Ms. B also claimed that she had been constructively discharged by her boss's insistence that they take a one-week business trip together (as they had often done uneventfully in the past). She appeared genuinely distraught as she spoke of her boss's sexual interest in her and sobbed as she complained of insomnia and loss of appetite.

Despite strenuous objections to a release of Ms. B's psychiatric records because they allegedly antedated the disputed harassment, the defense eventually gained access to them with a declaration. The records showed that she had joined a therapy group in the aftermath of being abandoned for another woman by her boyfriend. The group had included a few women who were filing sexual harassment claims. According to the records, Ms. B had been devastated by the loss of her boyfriend but several group members had consoled her by assuring her that "all men are abusers."

The records also revealed that, at first, Ms. B had spoken of her job—and her boss—fondly, much to the group's disbelief. Then, gradually, the group had convinced her that she was being sexually harassed by her boss without even knowing it. Eventually, Ms. B agreed to speak

to an attorney recommended by one of the group members "just to see what she would say." The following week, the group warmly applauded her when she announced that she was filing a sexual harassment claim.

Opportunity to Release Anger Some women characterologically harbor a great deal of anger¹² and are constantly looking for opportunities to release it. In addition, or alternatively, they may feel trapped in a situation, such as an abusive relationship, that arouses anger but does not allow its expression. It makes sense to assume that such women are often hoping, more or less consciously, to find a situation that will provide them with a safe outlet for their rage; they look for occasions to use displacement, a defense mechanism defined by the DSM-IV as dealing with an emotional conflict by "transferring a feeling about . . . one object onto another (usually less threatening) substitute object."¹

Projection of diffuse anger onto specific male targets, who are then viewed as abusive, represents one of the factors that has been postulated to account for factitious rape.² That such a mechanism could account for a factitious sexual harassment claim is even more likely: it is far easier to deceive oneself into the belief that one is being harassed than raped. An example of how a factitious sexual harassment claim can arise from displaced anger is outlined below.

Ms. C had excellent secretarial skills and was rapidly promoted to the position of executive assistant to one of the managers in an entertainment company. One day, she appeared in the Human Resources office, angrily complaining that her boss was sexually harassing her. When asked to describe his behavior, Ms. C indignantly claimed that he had been prying into her

personal life and often towered above her in a menacing way. She seemed unable to provide more specific information other than to add that her boss had recently called her "honey," thereby clearly communicating his romantic interest. Ms. C demanded that her boss be fired.

The Human Resources representative immediately summoned Ms. C's boss. The latter seemed astonished by her accusations. He stated that while it was true that he had asked Ms. C about her home situation, he had only done so because, in the last month, she had often arrived late for work and had missed important deadlines; on several occasions, he had walked in on her as she was having a violent argument with someone on the telephone. Ms. C's boss admitted, however, that he might have addressed her one time as "honey" as he feared that he had been too harsh in his criticism of her tardiness.

A full investigation of Ms. C's complaints led to a decision to transfer her to a comparable position with another manager, but not fire the man she had accused. In response, she filed a sexual harassment claim. The forensic psychiatrist who evaluated her for the defense was bewildered by Ms. C's passionate expression of anger at her boss despite her vague allegations. Records of her divorce proceedings showed that Ms. C had recently accused her 6-ft, 5-in husband of physically abusing her but had been afraid to press charges against him. It was noted that her boss had a similar build and even shared the same first name. Psychotherapy records revealed that Ms. C firmly believed that her boss had been planning to assault her but could not explain why. The forensic psychiatrist concluded that Ms. C was suffering from a factitious disorder.

Repetition Compulsion The role of repetition compulsion in sexual harassment litigation has been described elsewhere.¹³ Simply stated, a woman with a history of childhood sexual abuse may be motivated by repetition compulsion to reenact the victim role in her relationships with men; to that end, she may employ projective identification¹⁴ to coerce oth-

ers into behaviors outside of their usual repertoire.

It is important to note that a finding of repetition compulsion does not necessarily signify that there has been no actionable sexual harassment. However, it heightens the probability that the woman has filed a claim based, at least in part, on factitious psychological symptoms. She may also be misidentifying the origin of actual symptoms or distorting events so that she can label them as sexual harassment. The following is a scenario that illustrates how repetition compulsion can lead to factitious sexual harassment:

Ms. D had only been employed as an assembler in an electronics company for eight months when she left her job precipitously and filed a sexual harassment claim against her team leader. An investigator interviewing her co-workers found that everyone, without exception, was extremely surprised: the consensus was that she was a provocative young woman with few inhibitions who had been pursuing the team leader. Yet it was also felt that Ms. D was an honest person who would never make false accusations.

One year later, a forensic psychiatrist performing an IME was impressed by Ms. D's forthright demeanor and diagnosed her as suffering from a posttraumatic stress disorder. Not long thereafter, it was discovered that Ms. D had a history of childhood abuse, had undergone surgeries for breast augmentation, and had subsequently filed two sexual harassment claims that had gone uncontested despite considerable evidence of "welcomeness." Of note, just as in the present case, Ms. D had based both prior claims on allegations that she had endured repeated comments about her breasts and had been forcibly kissed on the lips. In addition, police records showed beyond any doubt that, several years earlier, she had made false rape allegations against a man with whom she had had a consensual relationship. Upon being provided with the newly available information, the forensic psychiatrist recognized that Ms. D was

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motivated by repetition compulsion and had filed a factitious claim.

Factitious Disorder and Borderline Personality Disorder

Many researchers have pointed to a relationship between factitious disorder and borderline personality disorder. Stone¹⁵ presented the detailed case history of a patient with factitious illness whom he diagnosed as having a borderline personality organization, while Nadelson¹⁶ expressed the belief that all forms of falsification of illness represent a subgroup of the borderline character.

The connection between factitious disorder and borderline personality disorder is highlighted by at least one common feature: *pseudologia fantastica*. The DSM-IV includes *pseudologia fantastica*, or pathological lying, in its general discussion of factitious disorders.¹ The same phenomenon in the borderline patient has been described as "a syndrome characterized by a superstructure of some actualities erected on a foundation of fantasy."¹⁷ In his discussion of *pseudologia fantastica*, Snyder¹⁸ warns that "it often is difficult to determine whether the lies are an actual delusional distortion of reality or are expressed with the conscious or unconscious intent to deceive."

Factitious Disorder Versus Malingering

Individuals with factitious disorder are to be distinguished from those who malingering by an absence of external incentives such as economic gain, avoiding legal responsibility, or improving physical well-being.¹ Since the prospect of sec-

ondary gain in the form of financial award is an inherent feature of litigation, the process of differentiating factitious disorder from malingering is seldom simple. Furthermore, as has been pointed out, factitious disorder and malingering can overlap, rendering it difficult for the examiner to arrive at a correct diagnosis.³ The recognition of antisocial features should alert the forensic examiner to the possibility of malingering.

Conclusion

The determination that a sexual harassment plaintiff suffers from a factitious disorder motivated by the wish to acquire victim status may have significance on more than one level. At the very least, such a finding has a bearing on her credibility or lack thereof. Moreover, as discussed in a previous publication, the forensic psychiatrist is in a unique position to not only contribute valuable information for the determination of whether the plaintiff meets the "reasonable woman" standard but also to help elucidate the question of "welcomeness."¹⁹ Depending on what has triggered the factitious sexual harassment claim, there are usually implications for one or more of the legal issues that must be considered by the trier of facts for a just resolution of the case. The author recommends that forensic psychiatrists consider a diagnosis of factitious sexual harassment when they encounter cases that include a perplexing discrepancy between the plaintiff's apparent sincerity and objective facts that seem to discredit her allegations.

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