

# EOC Court Cases

*The following cases, unless otherwise indicated, were given legal assistance by the EOC after conciliation attempts were unsuccessful during the complaint handling process.*

*In cases where damages for injury to feelings were awarded, the Court generally took into account precedents set by local and overseas cases of a similar nature.*

## Sexual Harassment

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### **B v King of the King Group Limited DCEO 9/2010**

#### ◆ **Background**

The Plaintiff was sexually harassed by a dim sum worker employed by the Defendant. The harassment incident involved the dim sum worker making a sexual remark and touching her chest. The Plaintiff complained to the Defendant, but it did not take any prompt action. When the Plaintiff wanted to report the harassment to the police, the Defendant pressured her not to do so or both she and the harasser would be dismissed.

The Defendant eventually arranged a meeting during which the harasser was told to apologize to the Plaintiff. However, he did so in a disrespectful manner. Aggravated by the harasser's disrespect, the Plaintiff slapped the harasser in the face. She was then dismissed by the Defendant. The Plaintiff filed a complaint

with the EOC against the harasser and the defendant for sexual harassment and vicarious liability for the harassment respectively. The Plaintiff's claim against the harasser was settled via conciliation, while the Plaintiff's case against the Defendant was brought to the Court under the Sex Discrimination Ordinance (SDO).

✓ **The Court's decision**

The Court accepted the Plaintiff's evidence and found that the acts committed by the harasser amounted to unlawful sexual harassment. The Defendant, as the harasser's employer, was liable for his acts because it did not take reasonably practicable steps to prevent sexual harassment against the Plaintiff in the workplace. However, the Court ruled that the dismissal was because the Plaintiff slapped the harasser, not because she was sexually harassed or she is female. The Court awarded damages to the Plaintiff for injury to feelings in the sum of HK\$80,000, as well as costs to the Plaintiff.

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**L v David Roy Burton**  
**DCEO15/2009**

◆ **Background**

The Plaintiff was offered a position with a marketing firm, of which the Defendant was the general manager. Before the Plaintiff commenced her employment and during her employment, the Defendant made numerous sexual advances towards her and twice touched her inappropriately. The Plaintiff rejected the Defendant's advances every time. The Defendant's attitude