The Court further awarded $20,000 in exemplary damages. The objective of exemplary damages is to punish the Defendant for his conduct and to mark the Court's disapproval of such conduct as the compensatory award was insufficient to punish the Defendant in the present case.

The Court also awarded legal costs to the Plaintiff, which it found to be warranted by the circumstances of the case. The Plaintiff had conducted the proceedings in a reasonable manner, whereas the Defendant refused to settle or to apologize for his wrongful conduct. Furthermore, the Court was of the view that the Defendant should have known from the outset that his conduct was wrong, as every adult should know that it is wrong to make unwelcome sexual advances on another person.

3 A v Chan Wai Tong DCEO 7/2009

◆ Background

The Plaintiff worked with the Defendant in the Food and Environmental Hygiene Department (FEHD) as an Assistant Hawker Control Officer. In the workplace, the Defendant sexually harassed the Plaintiff by making sexual remarks, physical contacts and other unwelcome conducts of a sexual nature against her. The Plaintiff complained to the FEHD which conducted an internal investigation. However, the Plaintiff's complaint was found to be unsubstantiated.

Despite the result of her internal complaint, the Plaintiff persisted and lodged a complaint with the EOC. The Defendant denied the allegation and claimed that the Plaintiff's complaint was a revenge for his gossiping with other colleagues about her relationship with one of her supervisors. The Plaintiff brought her claim against the Defendant to the Court under the Sex Discrimination Ordinance (SDO).

✓ The Court's decision

The Court accepted the Plaintiff's claims, whose timeline and details were corroborated by witnesses and supported by her own notes of the acts. It found that the Defendant committed unlawful sexual harassment. It rejected his defence that the Plaintiff's claim was in retaliation for his gossiping.

The Court indicated that the result of the internal investigation did not affect its ruling in the present case, because the internal investigation adopted the criminal standard of proof of "beyond all reasonable doubt", which is more stringent than the "balance of probability" standard used by the Court.

The Court made an order that the Defendant should give a written apology to the Plaintiff. It also awarded costs and monetary compensation to the Plaintiff as below:

Injury to feelings	HK$ 50,000
Exemplary damages	HK$ 10,000
	HK$60,000

The Court awarded $50,000 in damages for injury to feelings. The Court further awarded $10,000 in exemplary damages to punish the Defendant for his conduct in inflicting harm as he completely fabricated his defence that the Plaintiff's claim was in retaliation for his gossiping.

The Court also awarded costs to the Plaintiff because the Defendant refused to attempt conciliation arranged by the EOC and made a totally fabricated defence.