

FAIR EMPLOYMENT & HOUSING COMMISSION

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**NOTICE OF COMMISSION FINAL DECISION**

DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

v.

RJL GROUP, INC., dba COIT CARPET & DRAPERIES, a California corporation; and
RAYMOND LOPEZ, as an Individual
(Nora Rose, Complainant)

Case No.: E-200910-C-1029-00-s; E-200910-C-1029-01-s
C 10-11-046

Decision No.: 11-12

Enclosed is a copy of the decision of the Fair Employment and Housing Commission in the above-entitled case. (See Cal. Code Regs., tit. 2, § 7434, subd. (a).) The decision becomes effective on **December 5, 2011**. (See Cal. Code Regs., tit. 2, § 7434, subd. (g).)

Should you wish to request the Commission to reconsider this decision, you must file a motion for reconsideration meeting the requirements of California Code of Regulations, title 2, section 7436. The Commission's power to order reconsideration expires on the effective date of the decision stated above, and any motion for reconsideration must be filed with the Commission on or before **November 28, 2011**.

If extraordinary circumstances exist and you need more time to file a motion for reconsideration, you may also file a motion to extend the time within which the Commission can order reconsideration for 30 days, pursuant to the statute and regulations cited above. A motion to extend time for reconsideration must be filed with the Commission on or before **December 5, 2011**. (Cal. Code Regs., tit 2, § 7436, subd. (a).)

Should you wish to seek judicial review, you may do so by filing a petition for writ of mandate in accordance with Code of Civil Procedure section 1094.5, Government Code section 11523 and California Code of Regulations, title 2, section 7437.

Date: November 4, 2011

BEFORE THE FAIR EMPLOYMENT AND HOUSING COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation
of the

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

v.

RJL GROUP, INC., dba COIT CARPET &
DRAPERIES, a California corporation; and
RAYMOND LOPEZ, as an Individual,

Respondents.

NORA ROSE, an Individual,

Complainant.

Case No.

E-200910-C-1029-00-s
E-200910-C-1029-01-s

C 10-11-046

11-12

DECISION

The Fair Employment and Housing Commission hereby adopts the attached Proposed Decision as the Commission's final decision in this matter. The Commission designates this decision as non-precedential.

Any party adversely affected by this decision may seek judicial review of the decision under Government Code sections 11523 and 12987.1, Code of Civil Procedure section 1094.5, and California Code of Regulations, title 2, section 7437. Any petition for judicial review and related papers shall be served on the Department, the Commission, respondents, and complainant.

DATED: November 1, 2011

FAIR EMPLOYMENT AND HOUSING COMMISSION

PATRICIA PEREZ

LINDA NG

STUART LEVITON

KRISTINA RASPE

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C10-11-046

PROPOSED DECISION

Administrative Law Judge Joan Herrington heard this matter on behalf of the Fair Employment and Housing Commission on June 9, 2011, in Fresno, California. Frank Tiesen, Senior Staff Counsel, represented the Department of Fair Employment and Housing. No representative for either RJL Group, Inc. or Raymond Lopez appeared. Complainant Nora Rose attended most of the proceedings.

At the conclusion of the evidentiary hearing and receipt of the transcripts, on June 27, 2011, the matter was deemed submitted. (Cal. Code Regs., tit. 2, § 7432(b).)

After consideration of the entire record, the administrative law judge makes the following findings of fact, determination of issues, and order.

FINDINGS OF FACT

Parties and Jurisdiction.

1. On August 31, 2009, complainant Nora Rose (complainant or Rose) filed written, verified complaints with the Department of Fair Employment and Housing (DFEH) against her former employer, RJL Group, Inc., dba Coit Carpet & Draperies and its President,

Raymond Lopez. The complaints alleged that Lopez sexually harassed Rose, thereby creating a hostile work environment, in violation of the Fair Employment and Housing Act, Government Code section 12900, et seq. (FEHA or the Act).

2. The DFEH is an administrative agency empowered to issue accusations under Government Code section 12930, subdivision (h). On March 29, 2011, Phyllis W. Cheng, in her official capacity as Director of the DFEH, issued an accusation against respondents RJJ Group, Inc., dba Coit Carpet & Draperies, a California corporation, and Raymond Lopez.

3. The accusation alleged that RJJ Group, Inc., dba Coit Carpet & Draperies (RJJ Group) employed Rose as its Office Manager, and that her direct supervisor, Chief Executive Officer Raymond Lopez (Lopez) created a hostile work environment for Rose by subjecting her to unwelcome sexual advances, sexual epithets, and vulgar language, and terminated Rose's employment when she refused to succumb to Lopez's sexual advances, thereby discriminating, harassing, and retaliating against Rose based on her sex, in violation of Government Code section 12940, subdivisions (a), (j), and (h), respectively. The accusation further alleged that RJJ Group failed to take all reasonable steps necessary to prevent discrimination from occurring, in violation of Government Code section 12940, subdivision (k).

4. At the commencement of the hearing, the DFEH withdrew the claims of discrimination, retaliation, and failure to take all reasonable steps necessary to prevent discrimination and retaliation from occurring, in violation of Government Code section 12940, subdivisions (a), (h), and (k), respectively. The DFEH proceeded with its claims of sexual harassment, in violation of Government Code section 12940, subdivision (j), against RJJ Group and Lopez (respondents).

5. At all relevant times, RJJ Group was a California corporation, doing business as Coit Carpet & Draperies at its store located at 3243 N. Cedar Avenue, Fresno, California (the store). At all relevant times, Lopez was RJJ Group's President and Chief Executive Officer. During complainant's employment, RJJ Group regularly employed two or more persons, and thus, was an "employer" within the meaning of Government Code, section 12940, subdivision (j)(4)(A). At the time of the hearing in this matter, RJJ Group was a suspended corporation.

Procedural History

6. On May 6, 2010, Julie Saldana, the DFEH Consultant, served Interrogatories and Requests to Produce on RJJ Group by personally delivering a copy of these discovery requests to Lopez at the store.

7. On July 9, 2010, the DFEH, having received no responses from RJJ Group to its discovery requests, filed a Petition for an Order Compelling Compliance with Investigative Discovery with the Superior Court of Fresno County, in Dept. of Fair Empl. and Hous. v. RJJ Group, Inc., dba Coit Carpet and Draperies, Case Number 10CECG02388.

8. On September 28, 2010, the Fresno County Superior Court granted the DFEH's petition to compel discovery responses.

9. On December 3, 2010, the DFEH, having received no responses from RJL Group, filed a Certificate of Non-Compliance with the Fresno County Superior Court.

10. On December 16, 2010, Edward D. Fanucchi, Esq. (Fanucchi) resigned as agent for service of process for RJL Group.

11. On February 3, 2011, Julie Saldana, the DFEH Consultant, searched the California Secretary of State Business Portal website, and saw that Fanucchi was still listed as the agent for service of process for RJL Group at Quinlan, Kershaw & Fanucchi, 2125 Merced Street, Fresno, CA, 93721 (Fanucchi's address).

12. On February 10, 2011, the DFEH filed a Request for Dismissal of Dept. of Fair Empl. and Hous. v. RJL Group, Inc., dba Coit Carpet and Draperies, Case Number 10CECG02388.

13. On March 29, 2011, the DFEH filed the accusation, and sent a copy of the accusation and accusation package to RJL Group by certified mail addressed to Edward D. Fanucchi, as agent for service of process for RJL Group, at his address. The DFEH also sent a copy of the accusation and accusation package by certified mail addressed to Lopez at the store. Lopez did not accept delivery.

14. On April 4, 2011, the DFEH received the Domestic Return Receipt (green card) acknowledging delivery of the accusation and accusation package sent to RJL Group.

15. On April 12, 2011, the DFEH served a copy of the accusation and accusation package on RJL and on Lopez, by personally delivering two copies of each to Lopez, one individually and the other as an officer of RJL Group, at the store.

16. On May 5, 2011, the DFEH sent a copy of the Notice of Hearing by certified mail addressed to Fanucchi, as agent for service of process for RJL Group, at his address. The DFEH sent the Notice on Hearing by certified mail addressed to Lopez at the store, but Lopez again did not accept delivery.

17. On May 9, 2011, the DFEH received the green card acknowledging delivery of the Notice of Hearing sent to RJL Group.

18. Also on May 9, 2011, the Commission served a copy of the Order Setting Pre-Hearing Conference by regular mail on all parties at their addresses of record. This order contained the correct time, date, and place of hearing in this matter.

19. On May 10, 2011, the DFEH sent copies of the subpoenas it had served on Michael Marin, Nora Rose, and April Imboden by regular mail addressed to Fanucchi, as agent for service of process for RJL Group at Fanucchi's address, and addressed to Lopez at the store. These subpoenas also contained the correct time, date, and place of hearing in this matter.

20. On May 13, 2011, the DFEH sent two copies of the Notice of Hearing by regular mail to Lopez's address, one addressed to RJL Group, and the other addressed to Lopez.

Complainant's Work History with Respondent

21. In October 2007, RJL Group bought the Coit Carpet & Draperies franchise from Tom Jones, the owner of the neighboring business, Martinizing Drycleaners. Lopez was RJL Group's President and Chief Executive Officer. Lopez cleaned customers' carpets and drapes, with intermittent help from Michael Marin (Marin) and other occasional, casual workers.

22. In late October or early November 2007, Lopez recruited Rose from her position as Receptionist for Martinizing Drycleaners, and hired her as RJL Group's Office Manager.

23. Rose's duties as Office Manager included answering telephones, taking orders to clean carpets and drapes, and collecting and delivering carpets and drapes. Within a few months of her hire, Lopez trained Rose to assist him in cleaning carpets and drapes.

24. On January 19, 2008, Lopez loaned Rose \$8,000 to buy a car on the understanding that she would repay him at the rate of \$400 per month. When Rose reported back to work after purchasing the car, Lopez offered her a celebratory drink. When Rose refused the drink, Lopez grabbed her face, and tried to kiss her. Rose pushed him away, stating, "No, that's not happening." Lopez persisted in trying to kiss Rose, and tried to "push himself" on her. Rose told him, "If that's what you think you're getting for helping buy the car, then just take it back." Lopez replied, "I just like to break women, and I think you can be broke (sic)."

25. Thereafter, Lopez began telephoning Rose after hours on a regular basis to urge her to go out with him. Rose believed that Lopez was intoxicated whenever he telephoned her because his speech was slurred and barely coherent. At times, Rose could hear the woman that Lopez lived with screaming at him for asking Rose out on dates. Rose always refused Lopez's invitations. Lopez's after-hours telephone solicitations for dates with Rose continued as "a constant thing" throughout her employment despite her adamant refusals to go out with him.

26. On several occasions in February 2008, Rose tried to avoid Lopez's invitations by refusing to answer his late night telephone calls. Lopez verbally reprimanded her at work the next day asserting that she was "on call" at all times. When Rose responded that her personal time was her own, Lopez threatened to replace her.

27. Around February 2008, Lopez commented that Rose's nipples were hard. Consequently, Rose began wearing her "Coit" jacket to cover herself even inside the store. Rose also began wearing baggy men's trousers, her hair in a ponytail, and did not put on make-up. Lopez complained about her unattractive appearance, and threatened to fire her unless she resumed wearing makeup, keeping her hair loose, and "dressing better." Rose responded that wearing her hair loose around the carpet cleaning machinery was a safety hazard, and she needed to wear trousers when cleaning carpets. Lopez took no reprisals against Rose based on her grooming.

28. Lopez routinely used vulgar language at work, and referred to Rose as "bull-dyke" and "built like a truck" because she was nine inches taller than the five-foot tall Lopez, and had a larger frame. Lopez also referred to Rose as "two-bit dumb ass" or "two-bit," which she interpreted as meaning a "cheap hooker." Rose objected to Lopez's use of these epithets, but the record does not disclose whether Rose objected to Lopez's use of vulgar language.

29. In May 2008, while Lopez was driving Rose and Marin to a job, Lopez asked Rose for a "blow-job." When Rose ignored him, Lopez said, "Stop it, Nora, don't suck so hard." Rose was humiliated by Lopez implying to her co-worker in the back compartment of the van that Rose was having oral sex with Lopez on the front seat of the van.

30. Later in May 2008, Lopez began drinking liquor at work. On several occasions, Lopez became so drunk that he could barely stand up, let alone drive the work van. Lopez began ordering Rose to drive Marin to various jobs, and to drive Lopez home after work. Rose felt particularly vulnerable when she was driving an intoxicated Lopez home. On one occasion, Lopez repeatedly grabbed Rose's hand off the steering wheel and tried to place it on his crotch. Rose protested and kept snatching her hand back. Lopez then asked Rose for a "blow-job." Rose refused.

31. On May 31, 2008, Lopez was intoxicated at work. Lopez ordered Rose to put the telephone on hold, and "go into the back of the shop and fuck." Rose refused. When Lopez continued to demand sexual favors, Rose said "something smart" that angered him. Lopez reprimanded Rose for "disrespecting" him. In response, Rose asked Lopez if he thought that demanding sex from her was disrespectful towards her. Lopez replied, "That's your life, you deal with shit like that all the time." Rose was so deeply hurt by this comment that once she reached home, she could not stop crying. That evening, Lopez telephoned Rose to ask her to go with him to the movies the next day. When Rose refused and hung up, Lopez telephoned her repeatedly, and left unspecified "nasty" voice mail messages.

32. In July 2008, Lopez told Rose that she could pay off her car loan "in trade" instead of cash. Rose understood that Lopez meant that he would forgive the balance of her car loan if she had sex with him. Rose refused Lopez, and borrowed money from her grandmother to pay off her car loan in the hopes that Lopez would stop propositioning her.

33. Rose's repayment of the car loan did not deter Lopez, who persisted in soliciting Rose for dates and for sex "all the time" as a "regular course" of conduct throughout the rest

of her employment by RJL Group. Rose always rejected Lopez's requests for sexual favors, and Lopez's standard response was, "I like to break women, and I think you can be broke (sic)."

34. Rose felt trapped in her job. Lopez knew that Rose needed to maintain regular employment to pay off her debt to her grandmother and to regain custody of her son, Gavin, then five years old. Rose had voluntarily assigned Gavin to the guardianship of her sister until she could provide him with a safe and stable home. Also, Rose believed that she would have difficulty finding another job, particularly because Lopez had threatened to blackball Rose if she quit.

35. Rose forced herself to report to work at RJL Group every day, and "vented" to her roommate, April Imboden, every night to "calm [her]self down." As Lopez's solicitations for dates and sex with Rose became "a constant thing," she became increasingly tearful, reclusive, and dependent on Imboden for her daily care. Imboden ensured that Rose ate regular meals, kept herself and her clothes clean and tidy, and paid her bills. Rose felt demeaned, and lost the confidence in herself and her "ability to be a useful person in the community" that she had developed while working for her prior employer, Martinizing Drycleaners. Rose also felt uncomfortable around all men and was "constantly on guard." Rose experienced "chest pain" from anxiety attacks, but could not afford medical treatment.

36. In April 2009, Lopez was incarcerated for driving under the influence of alcohol. Rose worked long hours to fulfill Lopez's business commitments, cleaning carpets during the day, and catching up on record-keeping at night. On his release from custody on a Sunday, Lopez telephoned Rose at home to tell her that she was "fucking stupid" and "had not done things the way they were supposed to be done" at work.

37. On May 29, 2009, Rose's car broke down on her way home from visiting friends. Rose telephoned Lopez to let him know that she was stranded, and would not be able to come to work on time the next day. Lopez told Rose, "Don't even fucking bother coming back in."

38. Rose understood that Lopez had terminated her employment, and did not return to work at RJL Group.

39. In preparation for the hearing, Rose related the events of this case to Saldana, the DFEH consultant. Being forced to remember and recount these events exacerbated the anxiety and depression that Rose had developed as a result of Lopez's treatment of her at RJL Group. On April 3, 2011, Rose sought psychiatric treatment from Dr. Buckwalter (first name unknown) of the Placer County Community Clinic. Dr. Buckwalter prescribed Effexor to treat Rose's anxiety and depression. At the time of the hearing, Rose emotional distress due to Lopez's conduct had not abated, and she was still taking Effexor for the anxiety and depression she developed as a result of the work environment she experienced at RJL Group.

DETERMINATION OF ISSUES

Timeliness of the Accusation

The DFEH filed the accusation in this case on March 29, 2011. An accusation must generally be filed within one year after the filing of the complaint. (Gov. Code, § 12965, subd. (a).) Consequently, the one-year deadline to file the accusation in this case was August 31, 2010. The DFEH alleged that the accusation was timely because the statute of limitations was tolled during the 213 days it pursued discovery sanctions on RJJ Group in Fresno County Superior Court.

Government Code section 12963.5, subdivision (f), provides for the tolling of the time for the filing of an accusation, where the DFEH has filed a discovery petition in Superior Court. (Gov. Code, § 12963.5, subd. (f); *DFEH v. O'Neill Family Trust* (Sept. 16, 2008) FEHC Dec. No. 08-08-P [2008 WL 5869851, at *7 (Cal.F.E.H.C.)].)

The procedural record in this case established that the DFEH, during the investigative phase of this case, propounded discovery to RJJ Group, which failed to respond. On July 9, 2010, pursuant to Government Code section 12963.5, subdivision (f), the DFEH filed a petition in Fresno County Superior Court to compel RJJ Group to respond to its discovery requests. The Court granted the DFEH's petition, but RJJ Group failed to comply with the court's order. The DFEH dismissed the Fresno County Superior Court case on February 10, 2011. The procedural record showed that the DFEH acted reasonably promptly throughout the Fresno County Superior Court's proceedings. Accordingly, this proposed decision finds that the statute of limitations was tolled from July 9, 2010, until February 10, 2011. Thus, the actual deadline for filing the accusation was April 4, 2011.

Accordingly, the DFEH's accusation was timely filed.

Default Proceeding

Neither Lopez, nor a representative of Lopez or RJJ Group, appeared at hearing. Official notice was taken of the fact that RJJ Group was a suspended corporation from at least April to July 2011,¹ and thus was barred from defending itself at hearing on June 9, 2011. (*Grell v. Laci Le Beau Corp.* (1999) 73 Cal.App.4th 1300, 1306.)

The Commission has authority to proceed in a default case and may issue an order adverse to a respondent who does not appear at hearing to contest the DFEH's charges, providing that the DFEH establishes that it has effected proper service on respondent. (Cal.

¹ At the July 18, 2011 status conference in this matter, the administrative law judge notified the parties of her intent to take official notice of the fact that RJJ Group was a suspended corporation from at least April to July 2011. (Cal. Code Regs, tit. 2, § 7231.) In the absence of any opposition or refutation of RJJ Group's status, official notice of this fact was duly taken.

Code Regs., tit. 2, §§ 7407, subd. (e), and 7430, subd. (b); *Dept. Fair Empl. & Hous. v. Fulkerson* (Sept. 18, 2007) FEHC Dec. No. 07-05-P [2007 WL 5172405, at *11 (Cal.F.E.H.C.)].) A suspended corporation is subject to a default judgment and service of process through an officer or its designated agent for service of process. (*Grell v. Laci Le Beau Corp.*, *supra*, 73 Cal.App.4th at p. 1306.)

The DFEH established that, on April 12, 2011, it properly served the accusation and accusation package on respondents by personal delivery of two sets of these documents on Lopez, both individually and on behalf of the RJL Group. The address at which respondents were personally served was 3243 N. Cedar Avenue, Fresno, CA, 93726. The evidence established that respondents had been notified of their legal obligation to update their addresses and telephone number with the DFEH. (Cal. Code Regs., tit. 2, §§ 7408, subd. (h)(5), 7411.)

The record showed that respondents evaded timely service of the Notice of Hearing that the DFEH had sent by certified mail. Lopez refused timely delivery of the Notice of Hearing by certified mail, and breached his obligation to update the DFEH regarding RJL Group's contact information following Fanucchi's resignation as the agent for service of process for RJL Group on December 16, 2010. As soon as the DFEH received notice of the non-delivery to Lopez, it served the Notice of Hearing on each respondent by regular mail 26 days, rather than the required 30 days, prior to the hearing. (Cal. Code Regs., tit. 2, § 7414, subd. (b).) The address to which the DFEH mailed the Notice of Hearing to both Lopez and RJL Group was 3243 N. Cedar Avenue, Fresno, CA, 93726. The record also showed that respondents had timely, actual notice of the time, date, and place of the hearing through service of the Commission's Order Setting the Pre-Hearing Conference that contained this information. (Cal. Code Regs., tit. 2, § 7414, subd. (b); *Cory v. Crocker Nat'l Bank* (1981) 123 Cal. App. 3d 665, 669 [substantial compliance with rules governing service of process is sufficient provided defendant had reasonable actual notice].) Accordingly, the DFEH established that it effected adequate service on respondents.

Thus, the Commission has jurisdiction to decide this case as a default proceeding against both respondents. The Commission may base its decision upon the respondents' "express admissions or upon other evidence introduced at hearing" by the DFEH. (Cal. Code Regs., tit. 2, § 7430, subd. (a).) On a finding of liability on the evidence submitted, the Commission is authorized to issue an order adverse to respondents. (Cal. Code Regs., tit. 2, §§ 7407, subd. (e), and 7430, subd. (b); *Dept. Fair Empl. & Hous. v. Fulkerson*, *supra*, 2007 WL 5172405, at *11.)

Liability

The DFEH alleged that, during complainant's employment, respondent Lopez, President and Chief Executive Officer of RJL Group, subjected complainant Rose to verbal and physical sexual harassment, thereby creating a hostile work environment, in violation of Government Code section 12940, subdivision (j), of the Act. The DFEH also alleged that

Lopez conditioned Rose's continued employment on her submission to his sexual advances, in violation of Government Code section 12940, subdivision (j), of the Act.

A violation under Government Code section 12940, subdivision (j), may be established by proving that respondent engaged in harassment based on complainant's sex and that the harassment created a hostile or abusive work environment, regardless of whether the complainant suffered any tangible or economic loss such as a promotion, pay increase, or the job itself. (Gov. Code § 12940, subd. (j)(1); *Dept. Fair Empl. & Hous. v. Bottoms* (March 30, 2005) No. 05-03-P [2005 WL 1182392, *10 (Cal.F.E.H.C.)]; *Dept. Fair Empl. & Hous. v. Jarvis* (Jan. 18, 2001) No. 01-02-P, FEHC Precedential Decs. 2001, CEB 1, p. 8 [2001 WL 273486].)

1. Whether Unwanted Sexual Conduct Occurred

Unwanted sexual conduct can take many forms. It includes, but is not limited to: verbal harassment such as epithets, derogatory comments or slurs; physical harassment such as an assault, impeding or blocking movement, or any physical interference with normal work or movement, when based on an individual's sex; and unwanted sexual advances which condition an employment benefit upon an exchange of sexual favors. (Cal. Code Regs., tit. 2, § 7287.6, subd. (b).)

Rose testified that Lopez's physical assaults on her included repeated attempts to kiss Rose and to put her hand on his genitals, and one attempt to "push himself on [her]." Rose further testified that Lopez's verbal conduct directed at her included continual after-hours telephone calls to urge Rose to go out with him; threats to fire Rose if she did not answer his after-hours telephone calls; humiliating comments in front of a co-worker implying that Rose was having oral sex with him; requests for oral sex, and continual solicitations for sex with her.² Such conduct was patently sexual in nature and objectively offensive.

Whether such conduct occurred depends on the credibility of Rose's uncontested testimony.

Credibility factors include the witness's demeanor and manner, the character of the testimony, the extent of the witness's ability to recollect and recount what occurred, whether the witness has any interest or bias, the consistency or inconsistency of the testimony, and the existence or nonexistence of any fact testified to by the witness. (Evid. Code, § 780, subs. (a), (b), (c), (f), (g), (h), & (i).)

² The record showed that Lopez frequently used vulgar language in the workplace, but did not disclose whether Rose objected to it. Rose did object to Lopez's use of epithets. However, Rose attributed Lopez's referring to her as "bull-dyke" and "built like a truck" to the fact that she was larger than him, rather than to her attempts to make herself appear sexually unattractive to Lopez. Although Rose interpreted Lopez's epithet "two bits" as referring to her as a "cheap hooker," Lopez also referred to her as "two bit dumb ass." Without further evidence of the context in which Lopez used these epithets, their connection to Rose's sex is too attenuated.

Rose testified about Lopez's conduct towards her in a matter-of-fact manner that was without hesitation, evasion, embellishment, or appeals to sympathy. At times, Rose resisted leading questions and testified against her own interest. For example, Rose resisted attempts to link Lopez's "bull dyke" and "built like a truck" epithets to the unattractive appearance she adopted to try to stop Lopez's propositions, but rather attributed them to her physical stature. Rose's candor when there was no evidence to contradict her testimony reinforced the reliability of her testimony. Rose's testimony about Lopez's treatment of her was also internally consistent, and was corroborated in part by contemporaneous documentation. Accordingly, Rose's testimony about Lopez's sexual conduct towards her is found to be credible.

At all times, Rose did not want the sexual conduct that Lopez directed towards her. Rose informed Lopez repeatedly and unequivocally that his sexual advances were unwelcome by resisting them physically and by rejecting them verbally.

Thus, the DFEH established that Lopez made unwanted sexual advances towards Rose.

2. Quid Pro Quo Harassment

The DFEH also alleged that Lopez conditioned Rose's continued employment on her succumbing to his sexual advances.

"Quid pro quo" or "this for that" harassment consist of "unwanted sexual advances which condition an employment benefit upon an exchange of sexual favors." (Cal. Code Regs., tit. 2, § 7287.6, subd. (b); *Dept. Fair Empl. & Hous. v. Bottoms, supra*, 2005 WL 1182392, at *12.) Temporal proximity may establish a nexus between the quid pro quo threat and the adverse employment action taken against complainant. (See, *Fisher v. San Pedro Peninsula Hosp.* (1989) 214 Cal.App. 3d 590, 615 [one may infer retaliation by the "proximity in time between protected activity and the allegedly retaliatory employment decision"].)

In February 2008, Lopez made two separate threats to fire Rose: (1) if she did not "dress better," and (2) if she did not accept his after-hours telephone calls. Rose justified her less attractive grooming based on safety needs. Lopez apparently accepted Rose's explanation because there is no further reference to her grooming in the record. Nor was there any evidence to suggest that Rose feared that she would be fired if she rejected Lopez's sexual advances. Despite Lopez's threat, Rose still occasionally refused to answer his continual after-hours telephone calls to avoid his solicitations for dates. Further, the record did not disclose whether Lopez repeated his threat to replace Rose or reprimanded her again for refusing to accept his after-hours telephone calls. On May 29, 2009, Lopez terminated Rose's employment when she failed to report to work because her car had broken down. Absent any explanation for the 15-month delay in their execution, Lopez's threats were too remote in time from the date of Rose's termination to establish the necessary nexus.

Accordingly, the DFEH failed to establish that Lopez terminated Rose's employment with RJI Group because she rejected his sexual advances, in violation of Government Code section 12940, subdivision (j).

3. The Continuing Violation Doctrine

The DFEH alleged that Lopez's sexual harassment of Rose began on January 19, 2008 and culminated in termination of her employment on May 29, 2009 because Rose refused to succumb to Lopez's sexual advances. By seeking recovery for harm allegedly caused by Lopez's conduct that occurred outside the year prior to the filing of Rose's August 31, 2009 complaints against respondents, the DFEH asserted that Lopez's conduct constituted a continuing violation.

"[T]he continuing violation doctrine comes into play when an employee raises a claim based on conduct that occurred in part outside the limitations period." (*Richards v. CH2M Hill, Inc.* (2001) 26 Cal.4th 798, 812). The employer will be liable for the entire course of conduct, including acts that fall outside the one-year limitations period, provided: (1) at least one act occurred within the limitations period, (2) the acts are similar in nature, (3) the acts recur with reasonable frequency, and (4) and that the acts have obtained a sufficient "degree of permanency" by failing to be resolved through the employer's internal complaint process. (Gov. Code, § 12960, subd. (d); *Richards v. CH2M Hill, Inc.*, *supra*, 26 Cal.4th at 823; *Donovan v. Poway Unified School Dist.* (2008) 167 Cal.App.4th 567, 618-619 [continuing violation doctrine extended sexual orientation harassment claim limitations period to three years where Donovan overheard fellow students utter anti-gay slurs and epithets "all the time" in the school hallways].)

The record showed that Lopez maintained a campaign "to break" Rose by forcing her to succumb to his sexual advances from January 19, 2008 until termination of her employment on May 29, 2009. Rose testified credibly that Lopez continued to solicit dates and sex from her "all the time," as a "regular course" of conduct, and as "a constant thing" from January 19, 2008 through May 28, 2009. As in *Donovan*, Rose's testimony that some of the same sexually harassing conduct occurred "all the time" is sufficient to establish that at least one similar act occurred within the limitations period, and that the acts recurred with sufficient frequency.

The "permanency" prong of the continuing violation doctrine relates to whether the employee has exhausted any available internal remedies.³ (*Richards v. CH2M Hill, Inc.*, *supra*, 26 Cal.4th 798, 823.)

³ In creating the continuing violation doctrine, the Supreme Court wished to promote "internal conciliation" while balancing the risks that an employee faces when filing a DFEH complaint. (*Richards v. CH2M Hill, Inc.*, *supra*, 26 Cal.4th at pp. 820-821.) Such risks include forfeiture of rights through resigning before the harassment becomes sufficiently pervasive, and through persisting in conciliation attempts past the limitations period. The Supreme Court did not expect a current employee to file a DFEH complaint, expressly recognizing that "retaining employment while bringing formal legal action against the employer" is not "a viable option for many employees." (*Ibid.*)

The record does not disclose whether RJL Group had anti-harassment policies and procedures in place during Rose's employment. Moreover, during the 16 months that Lopez subjected Rose to unwanted sexual conduct, Lopez and Rose were often RJL Group's only employees. Therefore, even if RJL Group had harassment policies and procedures in place, unlike Richards, Rose had no other employee who could undertake internal conciliation efforts on her behalf. (*Richards v. CH2M Hill, Inc.*, *supra*, 26 Cal.4th at 823.) In light of the comparatively short extension of the statute of limitations at issue and the unavailability of any internal conciliation procedures, the record established that Rose's sexual harassment complaints had not yet reached the "degree of permanency" that would preclude application of the continuing violation doctrine. (Cf., *Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 271 [continuing violation applied where plaintiff endured racial slurs and epithets "non-stop" from 1991 until his discharge on May 9, 2005, despite his continuing protests].)

Thus, the DFEH established that the continuing violation doctrine applied in this case, and that Lopez's entire course of conduct towards Rose from January 19, 2008 to May 29, 2009 was at issue.

4. Hostile Work Environment

Complainant, like all employees, is entitled to the benefit of a work environment free of harassment. (Cal. Code of Regs., tit. 2, § 7286.5, subd. (f)(3); *Dept. Fair Empl. & Hous. v. Jarvis*, *supra*, 2001 CEB 1, at p. 7; *Birschtein v. New United Motor Manufacturing* (2001) 92 Cal.App.4th 994, 1000.)

In cases alleging hostile work environment sexual harassment, the DFEH must establish that the conduct complained of was severe enough or sufficiently pervasive to alter the conditions of employment and create a work environment that qualifies as hostile or abusive to employees because of their sex. (*Lyle v. Warner Brothers Television Productions*, (2006) 38 Cal.4th 264, 283) The objective severity of the harassment is judged from the perspective of a reasonable person in the complainant's position, considering all of the circumstances, and is guided by common sense and sensitivity to social context. (*Beyda v. City of Los Angeles* (1998) 65 Cal.App.4th 511, 517, citing *Oncale v. Sundowner Offshore Services, Inc.* (1998) 523 U.S. 75, 81; *Dept. Fair Empl. & Hous. v. Bottoms*, *supra*, 2005 WL 1182392, at *12.) "With respect to the pervasiveness of harassment, ...the employee must show a concerted pattern of harassment of a repeated, routine, or a generalized nature." (*Lyle*, *supra*, 38 Cal.4th at pp. 283-284.)

The evidence showed that shortly after Rose began working for RJL Group, Lopez told her, "I just like to break women. And I think you can be broke (sic)." From January 19, 2008 to May 29, 2009, Lopez mounted a campaign "to break" Rose, and force her to succumb to his unwanted sexual advances. Lopez reserved his physical assaults on Rose to times when she was most vulnerable. Lopez repeatedly tried to kiss Rose as soon as he knew that her need to repay the car loan would deter her from quitting her job. Similarly, Lopez

tried repeatedly to force Rose to fondle his genitals while she was driving the work van, and thus, could not easily retreat from him. Also within the confines of the van, Lopez humiliated Rose in front of a co-worker by implying that they were engaging in oral sex on the front seat of the van. The fact that Lopez was Rose's immediate boss, that she worked alone with him much of the time, and that he was often intoxicated at work made his sexual conduct towards Rose even "more emotionally and psychologically threatening." (*Craig v. M & O Agencies, Inc.* (9th Cir. 2007) 496 F.3d 1047, 1054.) Consequently, Lopez's physical sexual assaults on Rose were sufficiently offensive to be considered severe. (*Quantock v. Shared Mktg. Services, Inc.* (7th Cir. 2002) 312 F.3d 899, 904 [company President's repeated propositions made directly to plaintiff on a single occasion may be severe enough to create hostile work environment]; accord, EEOC's Policy Guidance on Sexual Harassment, (March 19, 1990) at § C, subd. (2).)⁴

The record showed that Lopez also engaged in continual verbal sexual abuse directed at Rose. Rose was particularly offended by Lopez's comment that it was not disrespectful of him to demand that she "go into the back of the shop and fuck" him because "[t]hat's your life, you deal with shit like that all the time." In saying this, Lopez undermined Rose's belief that she was finally overcoming her past and becoming "a useful person in the community." In addition, Lopez telephoned Rose after hours to ask her to go out with him, threatened to fire her if she refused to answer his after-hours telephone calls. Lopez's solicitations for dates and sex with Rose occurred with sufficient frequency – "all the time," as a "regular course" of conduct, and as "a constant thing" over 16 months – to be considered pervasive. (*Donovan v. Poway Unified School Dist.*, *supra*, 167 Cal.App.4th at pp. 618-619 [anti-gay slurs overheard "all the time" sufficiently pervasive to create a hostile environment].)

Accordingly, the DFEH established that Lopez's sexual conduct directed at Rose created a hostile work environment for her from January 19, 2008 to May 29, 2009.

5. Respondents' Liability

The DFEH alleged that both Lopez, as the harasser, and RJL Group, as complainant's employer, are liable for the sexual harassment complainant experienced.

Lopez is liable for his own acts of harassment in violation of the Act. (Gov. Code, § 12940, subd. (j)(3).)

⁴ EEOC, *Policy Guidance on Sexual Harassment*, (Mar. 19, 1990), at section C, subdivision 2, states:

The [EEOC] will presume that the unwelcome, intentional touching of a charging party's intimate body areas is sufficiently offensive to alter the condition of her working environment and constitute a violation of Title VII. More so than in the case of verbal advances or remarks, a single unwelcome physical advance can seriously poison the victim's working environment. If an employee's supervisor sexually touches that employee, the Commission normally would find a violation. In such situations, it is the employer's burden to demonstrate that the unwelcome conduct was not sufficiently severe to create a hostile work environment.

An employer is strictly liable for the hostile work environment created by its supervisor's conduct. (Gov. Code, § 12940, subs. (j)(1) & (j)(4)(A); see *State Dept. of Health Services v. Sup. Court* (2003) 31 Cal.4th 1026, 1042 [*McGinnis*]; *Dept. Fair Empl. & Hous. v. Bee Hive Answering Service* (June 7, 1984) No. 84-85, FEHC Precedential Decs. 1984-85, CEB 8, at pp. 11-12 [1984 WL 54296 (Cal.F.E.H.C.)].)

The record showed that Lopez both hired and fired Rose, and thus, was her supervisor. (Gov. Code, § 12926, subd. (r).) Thus, RJL is strictly liable for the hostile work environment that Lopez created for Rose.

Accordingly, the DFEH established that respondents are jointly and severally liable for the sexual harassment complainant experienced at RJL Group, in violation of Government Code section 12940, subdivision (j).

REMEDY

Having established that respondents violated the Act, the DFEH is entitled to whatever forms of relief are necessary to make complainant whole for any loss or injury she suffered as a result. The DFEH must demonstrate, where necessary, the nature and extent of the resultant injury, and respondents must demonstrate any bar or excuse they assert to any part of these remedies, including any lack of mitigation of damages. (Gov. Code, § 12970, subd. (a); Cal. Code Regs., tit. 2, § 7286.9; *Donald Schriver, Inc. v. Fair Empl. & Hous. Com.* (1986) 220 Cal.App.3d 396, 407; *Dept. Fair Empl. & Hous. v. Madera County* (Apr. 26, 1990) No. 90-03, FEHC Precedential Decs. 1990-91, CEB 1, at pp. 33-34 [1990 WL 312871 (Cal.F.E.H.C.)]; *Parker v. Twentieth Century-Fox Film Corporation* (1970) 3 Cal.3d 176, 181-182.)

The DFEH's seeks back pay and emotional distress damages payable to complainant, an administrative fine, and injunctive relief.

A. Back Pay

The DFEH failed to establish that complainant is entitled to an award of back pay because it failed to establish that Lopez terminated Rose employment because she rejected his sexual advances.

B. Emotional Distress

Government Code section 12970, subdivision (a) authorizes an award of actual damages for emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount not to exceed, in combination with any administrative fines imposed, \$150,000 per aggrieved person per respondent. (Gov. Code, § 12970, subd. (a)(3).) In determining whether to award damages for emotional injuries, and

the amount of any award for these damages, the relevant factors for consideration are the effects of discrimination on the aggrieved person with respect to: physical and mental well-being; personal integrity, dignity, and privacy; ability to work, earn a living, and advance in his or her career; personal and professional reputation; family relationships; and, access to the job and ability to associate with peers and coworkers. The duration of the injury and the egregiousness of the discriminatory practice are also factors to be considered. (Gov. Code, § 12970, subd. (b).); *Dept. Fair Empl. & Hous. v. Aluminum Precision Products, Inc.* (Mar. 10, 1988) No. 88-05, FEHC Precedential Decs. 1988-89, CEB 4, pp. 8-10 [1988 WL 242635 (Cal.F.E.H.C.).]

Complainant Rose's physical and mental well-being were seriously affected by the hostile work environment created by Lopez. Shortly after Rose began working for Lopez, he told her, "I just like to break women. And I think you can be broke (sic)." Thereafter, Lopez began a campaign to "break" Rose: regularly soliciting her for sex, offering to trade car payments for sex, repeatedly trying, on one occasion, to put her hand on his genitals, continually telephoning her after-hours to ask her out, and threatening to fire her if she refused to answer these telephone calls. Although Rose made it through the day at work, she was reduced to tears by night. Because of her emotional state, Rose had difficulty taking care of herself. As a result, Rose's roommate, April Inboden, had to help make sure that Rose was eating, keeping herself and her clothes clean, and paying the bills. These constant, demeaning propositions made Rose so anxious that eventually her doctor prescribed Effexor, an anti-anxiety medication for her to cope with the symptoms. Rose was visibly emotional while offering her testimony showing that her stress and anxiety had not abated. Rose directly attributed this stress, anxiety and the need for medication to the hostile work environment at RJL Group.

The hostile work environment created by Lopez also damaged Rose's personal dignity, affecting her view of the world and of herself. Rose credibly painted a picture of Lopez as a boss who felt entitled to treat his employee as a sex object. Maintaining her previous job with Martinizing Drycleaners had helped Rose develop her self-esteem, confidence, and independence. However, Lopez's demeaning conduct soon eroded Rose's sense of dignity. Rose credibly testified that on one occasion after rebuffing Lopez's repeated sexual advances, she suggested that his behavior toward her was disrespectful. Lopez's response was to tell Rose, "That's your life, you deal with that shit all the time." When Rose returned home after work that evening she broke down and cried for an extended period of time. Rose had a genuine and strong emotional reaction while giving her testimony regarding this incident, indicating that her dignity was still wounded from this event. In the months that Rose was employed by Lopez, she went from being a confident and independent worker, to being reserved and self-conscious about her value as anything more as a sex object to Lopez.

Lopez's harassment also affected Rose's professional reputation and ability to associate with peers and co-workers. In May 2008, Rose drove Lopez and Marin to a job in the work van. During that ride, Lopez attempted to force Rose to fondle his genitals and repeatedly demanded that she give him a "blowjob." On another occasion, Lopez humiliated

Rose in front of her co-worker by implying to Marin that Rose was giving him a “blowjob” on the front seat of the van. Lopez’s behavior in these instances signaled to her male coworkers that she was sexually available and that it was appropriate to treat her as a sex object. As a result, Rose testified credibly that she was no longer comfortable working around men, and continued to be much more guarded around male coworkers. This reservation to work with men or to be open and outgoing around coworkers demonstrated that the hostile work environment at RJL Group negatively affected Rose’s ability to associate with peers and coworkers.

Considering the facts of this case in light of the factors set forth in Government Code section 12970, subdivision (a)(3), and the duration of her injury as set forth in Government Code section 12970, subdivision (b), respondent will be ordered to pay complainant \$35,000.00 in damages for her emotional distress. This amount represents emotional distress damages that flowed directly from the hostile work environment created by Lopez. These damages do not reflect any emotional distress or other damages that resulted from other stressors the complainant experienced around the same time, including, but not limited to, termination of her employment at RJL Group, and her attempts to regain custody of her son.

Accordingly, respondents shall be ordered to pay jointly and severally the sum of \$35,000 in compensatory damages for complainant’s emotional distress. Interest will accrue on this amount, at the rate of ten percent per year, compounded annually, from the effective date of this decision until the date of payment. (Code Civ. Proc., § 685.010.)

C. Administrative Fine

The DFEH also requested an order for an appropriate administrative fine against respondents because respondents’ conduct was “willful and malicious.” The DFEH asserted at hearing that an administrative fine is appropriate because respondent RJL Group failed to cooperate with the DFEH during discovery.⁵

To warrant an award of an administrative fine, Government Code section 12970, subdivision (d), requires clear and convincing evidence of “oppression, fraud, or malice, expressed or implied, as required by section 3294 of the Civil Code.” (Gov. Code, § 12970, subd. (d); *Dept. Fair Empl. & Hous. v. Wal-Mart* (June 7, 2005) No. 05-04-P [2005 WL 1703228, at *13-14 (Cal.F.E.H.C.)].) “Oppression” is “despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person’s rights.” (Civ. Code, § 3294, subd. (c).) “Malice” is defined to include conduct intended to cause injury or despicable conduct, which is undertaken with a “willful and conscious disregard” of an employee’s rights. (*Id.*) In determining the appropriate amount of an administrative fine, the relevant evidence includes, but is not limited to, the following: willful, intentional, or purposeful conduct; refusal to prevent or eliminate discrimination; conscious disregard for

⁵ The administrative fine is not a discovery sanction. The Legislature did not include respondents’ failure to respond to the DFEH during discovery as a probative factor when determining whether the Commission may impose an administrative fine.

the rights of the complainant; commission of unlawful conduct; intimidation or harassment; conduct without just cause or excuse, or multiple violations of the FEHA. (Gov. Code, § 12970, subd. (d).) Any administrative fine is payable not to complainant but to the state's General Fund, and may not exceed, in combination with any award of compensatory damages for emotional distress, \$150,000 per complainant, per respondent. (Gov. Code, § 12970, subds. (a)(3); (b)(6)(c); and (b)(6)(d).)

The DFEH established by clear and convincing evidence that Lopez' treatment of complainant was not only unlawful, but was also maliciously abusive and oppressive. Lopez sexually harassed Rose unremittingly for 16 months, despite her protests, in violation of Government Code section 12940, subdivision (j). In doing so, Lopez also willfully and consciously disregarded Rose's right to a workplace free from sexual harassment. (Cal. Code of Regs., tit. 2, § 7286.5, subd. (f)(3).) Rose had to endure not only Lopez's continual, unwelcome solicitations for sex at work, but also the invasion of her home refuge by Lopez's badgering, drunken, after hours calls demanding that she go out with him. Moreover, Rose knew that Lopez's unwanted sexual conduct was part of his deliberate, despicable campaign "to break" her because Lopez reminded her of this every time she resisted his sexual propositions.

The record does not disclose whether RJL Group had any anti-harassment policies or procedures in place. Even if RJL Group had taken such steps to prevent harassment, and had designated an employee to attempt internal conciliation, Lopez's status as President and CEO, disregard of Rose's protests, and express animus towards women, suggested that he would have ignored any remediation attempts by a subordinate.

Lopez's continuing course of unlawful conduct in violation of the FEHA warrants an administrative fine in the amount of \$10,000, payable to the state's General Fund. (Civ. Code § 3294; Gov. Code § 12970, subd. (d).) Interest will accrue on this amount at the rate of ten percent per year, from the effective date of this decision until the date of payment. (Code Civ. Proc., § 685.010.)

D. Affirmative Relief

The DFEH requested that respondent RJL Group be ordered to cease and desist from harassing its employees based on their sex; create, disseminate, and implement an anti-harassment policy, and train its managers and supervisors regarding this policy; post a notice for one year stating that respondent has violated an employee's FEHA rights and specify the remedies that the Commission has ordered; and, provide proof to the DFEH and the Commission of respondent RJL Group's compliance with these orders.

Government Code section 12970, subdivision (a)(5), authorizes an order for affirmative relief to effectuate the purposes of the Act. (Gov. Code, § 12970, subd. (a)(5).)

There was no evidence that RJL Group had sexual harassment policies and procedures in place. Lopez's sexual harassment of Rose, despite her protests showed that he needed training regarding Rose's right to a harassment-free workplace guaranteed by FEHA.

Accordingly, the DFEH's request for affirmative relief is granted. Respondents RJL Group and Lopez shall be ordered to cease and desist from sexually harassing RJL Group's employees. In addition, RJG Group shall be ordered to (a) create, disseminate, and implement an anti-harassment policy that complies with FEHA and its regulations; and (b) train its managers and supervisors regarding this anti-harassment policy. Respondent Lopez shall be ordered to undertake training in sexual harassment prevention at his own expense. Finally, both respondents shall be ordered to provide proof to the DFEH and the Commission of respondent's compliance with these orders.

ORDER

1. Respondent RJL Group, Inc., dba Coit Carpet & Draperies, and Raymond Lopez, jointly and severally, shall cease and desist from sexually harassing any employees, as made unlawful under the Fair Employment and Housing Act.
2. Within 60 days of the effective date of this decision, respondents RJL Group, Inc., dba Coit Carpet & Draperies, and Raymond Lopez, jointly and severally, shall pay complainant Nora Rose \$35,000 in compensatory damages. Interest shall accrue on this amount at the rate of ten percent per year, compounded annually, from the effective date of this decision until the date of payment.
3. Within 60 days of the effective date of this decision, respondents RJL Group, Inc., dba Coit Carpet & Draperies, and Raymond Lopez, jointly and severally, shall pay to the state's General Fund an administrative fine in the amount of \$10,000, together with interest on this amount at the rate of ten percent per year, accruing from the effective date of this decision to the date of payment.
4. Within 60 days of the effective date of this order, respondent RJL Group, Inc., dba Coit Carpet & Draperies, shall create, disseminate, and implement an anti-harassment policy that complies with the Fair Employment and Housing Act, and train its managers and supervisors annually regarding this policy.
5. Within 60 days of the effective date of this decision, respondent Raymond Lopez shall undergo, at his own expense, training on sexual harassment prevention under the Fair Employment and Housing Act. Raymond Lopez shall secure advance approval from the Department of Fair Employment and Housing of the training provider, and the form and

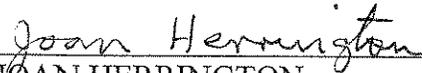
content of the training and shall provide written certification of his completion of the training to the Department and Commission.

6. Within 60 days of the effective date of this order, respondent RJL Group, Inc., dba Coit Carpet & Draperies, shall post a notice stating that respondent has violated an employee's FEHA rights and specifying the remedies that the Commission has ordered (Attachment A) at each of its facilities within California for a period of 90 days.

7. Within 90 days of the effective date of this order, respondents RJL Group, Inc., dba Coit Carpet & Draperies, and Raymond Lopez shall provide proof of their compliance with all requirements of this order to the Department of Fair Employment and Housing and the Fair Employment and Housing Commission.

Any party adversely affected by this decision may seek judicial review of the decision under Government Code section 11523, Code of Civil Procedure section 1094.5 and California Code of Regulations, title 2, section 7437. Any petition for judicial review and related papers should be timely served on the Department, Commission, respondents, and complainant.

DATED: August 26, 2011



JOAN HERRINGTON
Administrative Law Judge

ATTACHMENT A

NOTICE TO EMPLOYEES AND APPLICANTS

Posted by Order of the FAIR EMPLOYMENT AND HOUSING COMMISSION, an agency of the State of California

After a full hearing, the California Fair Employment and Housing Commission has found that Raymond Lopez and RJI Group, Inc., dba Coit Carpet & Draperies, violated the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.). (*Dept. Fair Empl. & Hous. v. RJI Group, Inc. dba Coit Carpet & Draperies*, No. 11-____.)

As a result of the violation, the Commission has ordered RJI Group, Inc., dba Coit Carpet and Draperies, to post this notice and to take the following actions:

1. Cease and desist from harassment based on sex.
2. Pay the employee compensatory damages for emotional distress.
3. Pay an administrative fine.
4. Create and implement a formal written policy prohibiting sexual harassment.
5. Provide training to its employees on prevention of sexual harassment.

Dated: _____

By: _____

[Authorized Representative]
RJI Group, Inc., dba Coit Carpet &
Draperies

THIS NOTICE IS REQUIRED TO BE POSTED UNDER PENALTY OF LAW BY THE CALIFORNIA FAIR EMPLOYMENT AND HOUSING COMMISSION. IT SHALL REMAIN POSTED FOR NINETY (90) CONSECUTIVE WORKING DAYS FROM THE DATE OF POSTING AND SHALL NOT BE ALTERED, REDUCED, OBSCURED, OR OTHERWISE TAMPERED WITH IN ANY WAY THAT HINDERS ITS VISIBILITY

