

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION,

Plaintiff,

- v -

DAVID LERNER ASSOCIATES, INC.

Defendant.

Civil Action No. /jtCK  
3:05-cv-00292 -J&4C

**CONSENT DECREE**

This cause of action was initiated on or about February 17, 2005 by Plaintiff Equal Employment Opportunity Commission (EEOC), an agency of the United States Government. EEOC filed this action against Defendant, David Lerner Associates, Inc. (Defendant) under Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and retaliation, and to provide appropriate relief to Charging Parties Susan Sheehan (Sheehan), Shawna Mead (Mead), Barbara Mrozik (Mrozik), Rose Carroll (Carroll) (Charging Parties) and a class of other similarly situated female employees who were adversely affected by such unlawful practices. EEOC's Complaint alleged that Defendant unlawfully created and failed to remedy a hostile work environment by subjecting Charging Parties and a class of other similarly situated female employees to sexual harassment and unlawfully retaliated against them for opposing discriminatory employment practices, and constructively discharged them. DLA denies those allegations.

The parties agree that it is in their mutual interest to fully resolve this matter without further litigation.

The parties stipulate and consent to the entry of this Consent Decree as final and binding between the parties and their successors or assigns.

The parties stipulate that appendices G, H, I, J, K and L to this Decree will be sealed.

The parties have agreed that this Decree may be entered without Findings of Fact and Conclusions of Law having been made and entered by the Court.

In consideration of the mutual promises of each party to this Decree, the sufficiency of which is hereby acknowledged, it is agreed and IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOVED:

### **General Provisions**

1. This Decree resolves all of the issues raised by EEOC Charge Nos. 16A-2004-00696, 16A-2004-00030, 16A-2003-02126 and 16A-2004-00267, the complaint filed by EEOC in this action, and the complaints in intervention filed by Sheehan, Mead, Mrozik, and Carroll. This Decree in no way effects EEOC's right to process any other pending or future charges that may be filed against Defendant and to commence civil actions on any such charges as EEOC sees fit.
2. The Court has jurisdiction of the subject matter of this action and over the parties, venue is proper, and all administrative prerequisites have been met.
3. No party shall contest the validity of this Decree.
4. No party shall contest the jurisdiction of the United States District Court to enforce this Decree and its terms, or the right of EEOC to bring an enforcement suit upon the breach of any of the terms of this Decree by Defendant.
5. Breach of any term of this Decree should be deemed a substantive breach. EEOC shall determine whether Defendant has complied with the terms of this decree and is authorized to seek compliance with the Decree in the United States District Court.

6. Defendant and its managers, officers, agents, parent organization, successors and assigns are enjoined from discriminating against any individual because of the individual's sex, and are enjoined from harassing any individual because of the individual's sex.

7. Defendant and its managers, officers, agents, parent organization, successors and assigns are enjoined from retaliating against any individual for asserting her or his rights under Title VII, are enjoined from retaliating against any individual who files or has filed a charge, gives or has given testimony or given assistance with the investigation or litigation of these charges or action, or asserts or has asserted her rights under Title VII. Defendant and its managers, officers, agents, parent organization, successors and assigns are enjoined from retaliating against any individual who engages in or has engaged in protected activity under Title VII, and are enjoined from retaliating against Charging Parties and Claimants.

### **Written Policies and Procedures**

8. Within 30 days of the entry of this Decree, Defendant will implement and maintain the written policies and procedures prohibiting employment discrimination, including sex discrimination, sexual harassment and retaliation, attached as Appendix A.

9. Within 30 days of the entry of this Decree, Defendant will implement and maintain the complaint procedure for employees who believe that they have been discriminated against, harassed, or retaliated against, attached as Appendix B.

10. Within 30 days of the entry of this Decree, Defendant will establish and maintain a functioning, toll-free telephone number for reporting incidents of discrimination, harassment or retaliation. The telephone will be answered by human resources personnel who are trained to investigate claims of discrimination, harassment and retaliation. The telephone will be answered

personally by trained human resources personnel from 9:00 a.m. to 5:00 p.m., Monday through Friday. During other hours, this telephone line will have an outgoing recorded message containing information about the complaint recording procedure and a listing of staffed hours, and will accept recorded messages and complaint.

11. Within 30 days of the entry of this Decree, Defendant will implement and maintain procedures for the investigation and handling of reported allegations of or suspected incidents of discrimination, harassment or retaliation, together with a disciplinary policy for employees who engage in discriminatory, harassing or retaliatory behavior, annexed as Appendix C.

12. Defendant will distribute a copy of the written policies and procedures described in paragraphs 8 through 11 above to all of its employees within 30 days of the entry of this Decree, and shall distribute a copy of the written policies and procedures to all employees hired thereafter within five business days of the commencement of their employment.

### **Notice and Posting**

13. Within 30 days of the entry of this Decree, Defendant will display and maintain the EEOC poster in each of its facilities in a place visually accessible to applicants and employees of the Defendant.

14. Within 30 days of the entry of this Decree, Defendant will display and maintain in each of its facilities, in a place visually accessible to applicants and employees of the Defendant, a copy of the non-discrimination policy described in paragraph 8, the complaint procedure described in paragraph 9, the disciplinary policy for employees who engage in discriminatory, harassing or retaliatory behavior described in paragraph 11.

15. Within 30 days of the entry of this Decree, Defendant will display and maintain in each of its facilities, in a place visually accessible to applicants and employees of the Defendant, a poster containing the toll-free number for reporting incidents of discrimination, harassment, or retaliation and describing how employees may use the number, attached as Appendix D.

16. Within 30 days of the entry of this Decree, Defendant will display and maintain in each of its facilities, in a place visually accessible to applicants and employees of the Defendant, a remedial Notice pursuant to this Decree, a copy of which is attached as Appendix E, printed on EEOC letterhead.

17. Within 30 days of execution of this decree, Defendant's President and Chief Executive Officer will send a memorandum to all employees emphasizing Defendant's commitment to abide by all federal laws prohibiting employment discrimination, including laws prohibiting sex discrimination and harassment, pregnancy discrimination and harassment, and retaliation, a copy of which is annexed as Appendix F.

### **Anti-Discrimination Training**

18. Within two months from the entry of this Decree, and annually thereafter for the duration of this Decree, Defendant will provide all of its employees with no fewer than one hour of training in federal laws prohibiting discrimination in employment.

- a. The anti-discrimination training will be conducted by Jackson Lewis LLP.
- b. The content of the anti-discrimination training is set forth in Appendix G.

c. Defendant will maintain attendance records identifying the name and job title of the attendees at each session. Within five business days of the training, Defendant will forward to EEOC a copy of the attendance records from the training session.

19. Within two months of the entry of this Decree, Defendant will provide all of its new employees with training in federal laws prohibiting discrimination in employment.

a. The anti-discrimination training will be conducted within five business days of the commencement of employment by a new employee.

b. The anti-discrimination training content is set forth in Appendix H.

c. Defendant will maintain records identifying the name and job title of the employees receiving such training, the date of commencement of employment, and date of training. Each year, for the duration of this Decree, Defendant will forward to EEOC a copy of the records regarding such training.

20. Within two months from the entry of this Decree, and every year thereafter for the duration of this Decree, Defendant will provide no fewer than one and a half hours of additional training in federal laws prohibiting discrimination for all management and supervisory employees of Defendant.

a. The content of the anti-discrimination training is set forth in Appendix I.

b. Defendant will maintain attendance records identifying the name and job title of the attendees at each session. Within five business days of the training, Defendant will forward to EEOC a copy of the attendance records from the training session.

21. Within two months from the entry of this Decree, Defendant will provide all of its new managers and supervisory personnel, within five business days of the date such personnel are placed in a managerial or supervisory position, with anti-discrimination training.

a. The content of the anti-discrimination training is set forth in Appendix J.

b. Defendant will maintain records identifying the name and job title of the employees receiving such training, the date of commencement of each such employee's

managerial or supervisory position, and date of training. Every six months, for the duration of this Decree, Defendant will forward to EEOC a copy of the records regarding such training.

22. Defendant will make a permanent change to its regular employee and managerial training curriculum, to include notification of the content of federal anti-discrimination laws and Defendant's non-discrimination policy, complaint reporting procedure, disciplinary policy regarding discriminatory behavior, harassment, and retaliation, and the memorandum from Defendant's President and CEO described in paragraph 17.

23. Within 30 days of the entry of this decree, Defendant will require the individual who was branch manger at DLA's Darien Connecticut office at the time the charges were filed to undergo a minimum of four hours of training and counseling regarding federal laws prohibiting discrimination.

a. The anti-discrimination training will be conducted by Riley Harvill, Ed.D of the HarBeck Company, Inc.

b. The content of the anti-discrimination training is set forth in Appendix K.

c. Within five business days of the training/counseling, Defendant shall furnish EEOC with proof that the training/counseling was completed.

### **Monetary Damages**

24. Within ten days of entry of this Decree, Defendant shall pay a total of \$1,500,000.00 damages to charging parties and claimants as follows:

a. Defendant shall pay Charging Parties in Appendix L the total sum of \$1,184,000.00, to be distributed to the Charging Parties as set forth Appendix L.

b. Defendant shall establish an interest bearing account for a Claims Fund and shall deposit \$316,000.00 into the account for the benefit of additional Claimants qualified

for monetary relief. Any interest on the account shall become part of the Claims Fund.

Defendant shall appoint a Fund Administrator, a Defendant employee, who shall administer the fund and make payments from the fund in accordance with the terms of this Consent Decree and at the instructions of EEOC.

25. Upon five days notice, EEOC may inspect the records of the Claims Fund.

26. EEOC will have sole discretion regarding the distribution of the Claims Fund.

27. Defendant shall pay all costs associated with distributing and administering the Fund and no costs shall be deducted from the fund.

28. For purposes of this Decree, Potential Claimants are defined as female employees of Defendant who worked for Defendant in its Darien, Connecticut facility from August 2001, up to the date of entry of this Decree.

29. Within ten days, Defendant will send all Potential Claimants a Notice of Settlement in the form attached as Appendix M, together with a Claim Form attached as Appendix N. The Claim Form will explicitly advise Potential Claimants of their responsibility to fully respond to each question in the Claim Form and to supply all of the requested information before the expiration of the deadlines set forth herein, and to keep EEOC advised of any change in name, address or telephone number, in order to preserve any rights they may have under the Decree. The deadline for returning the Claim Form will be prominently displayed at the top of the Claim Form. All Claim Forms submitted to EEOC must be postmarked on or before the 90<sup>th</sup> day after the date of entry of this Decree.

30. The Notice of Settlement and Claim Form shall be sent to all Potential Claimants at their last known address both by regular First Class U.S. mail and by certified mail, return receipt requested. Defendant shall make diligent efforts to obtain the addresses of Potential Claimants who are no longer in its employ and shall engage in reasonable efforts to locate any

other Potential Claimants if requested by EEOC. A list of Potential Claimants, their address, telephone number and Social Security number shall be provided simultaneously to EEOC.

Defendant will provide EEOC with mail tracking information. Defendant will pay all costs associated with locating Potential Claimants.

31. Each Potential Claimant will be offered an opportunity to submit a claim to EEOC. Any Potential Claimant wishing to file a claim must submit to EEOC a completed Claim Form to the Boston Area Office of EEOC on or before the 90th day after the date of entry of this Decree, together with all relevant information the Potential Claimant wishes to submit with her claim. EEOC, in its discretion, may request additional information. If a Potential Claimant fails to provide EEOC with a completed Claim Form and all relevant information the Potential Claimant wishes to submit with her claim by the deadline stated in this Decree, the Claim will be denied as untimely. If a Potential Claimant fails to timely provide other information which may be requested by EEOC, EEOC in its sole discretion may deny the claim for failure to cooperate.

32. EEOC will review the Claims Forms and other relevant information timely received by EEOC in order to make a determination of the distribution of the Claims Fund. EEOC shall make all determinations as to eligibility for monetary relief which may include compensatory damages, back pay and/or front pay. EEOC will have sole discretion to deny any claims submitted to it. For purposes of this Consent Decree, an eligible Claimant is a person who EEOC has determined is eligible for relief from the Claims Fund in this matter. EEOC shall divide the Claims Fund among eligible Claimants in amounts to be determined by EEOC. EEOC retains sole discretion to determine the amounts to be awarded from the Claims Fund. No person or party has a right to object to EEOC's determinations.

33. Upon EEOC's determination regarding the distribution of the Claims Fund, EEOC will notify Defendant in writing via U.S. Mail of the eligible Claimants and the amounts

to be paid to each eligible Claimant. EEOC will also furnish Defendant of any updated information which has been received by EEOC from a Claimant regarding the Claimant's name, address, or telephone number. Within ten days of the date EEOC mails the notice to Defendant regarding distribution of the Claims Fund, Defendant will issue and send checks to the eligible Claimants in the amounts directed by EEOC, together with a notice to the eligible Claimant that the check must be cashed within 90 days after the date of the check, or the check will be void and the claim will be denied. Defendant will supply EEOC a copy of the checks and with mail tracking information. Defendant will pay all costs associated with locating the eligible Claimants and with distributing the funds.

34. If a Claimant has not cashed a check within 90 days after the date of the check, the check will be voided and the claim will be deemed denied.

35. On the 120\* day after the entry of this Decree, the Fund Administrator shall advise EEOC in writing of the amount of any funds remaining in the Claims Fund account, including any funds which remain because checks were not cashed, funds which could not be distributed after diligent efforts by Defendant to locate a Claimant, and interest which has accrued. EEOC shall then instruct Defendant in writing to issue a check for the remaining balance in the Claims Fund account to a 501(c) organization in Connecticut selected by EEOC which promotes equal employment opportunities. Defendant shall issue a check to such organization within ten days of mailing of EEOC's instruction regarding final distribution of the funds to such organization, and will send EEOC a copy of the check and cover letter. The Claims Fund account may then be closed.

36. Defendant will provide EEOC with copies of transmittal letters and checks sent to Charging Parties and all Claimants within ten days of issuance.

37. Defendant will issue all appropriate tax forms to Charging Parties and to eligible Claimants who have received funds from the Claims Fund.

**Additional Monitoring Provisions**

38. For the duration of this Decree, Defendant shall maintain records of all written or oral complaints or allegations of discrimination, harassment or retaliation made by any of its employees. Within three months of the entry of this Decree, and every six months thereafter, Defendant shall provide EEOC with a written report containing, at a minimum, a summary of each complaint, and for each such complaint: the name of the complaining party or party who was allegedly subjected to discrimination, harassment or retaliation, the name of the person(s) who allegedly engaged in such discriminatory, harassing or retaliatory conduct, the results of any investigation of the complaint or allegation, and any remedial action taken by Defendant. A final report shall be sent to EEOC 30 days before the date of the expiration of this Decree.

39. In addition to the monitoring provisions set forth elsewhere in this Decree, EEOC may monitor compliance during the duration of this Decree by inspection of Defendant's premises, records, and interviews with employees at reasonable times. Upon five business days notice by the EEOC, Defendant will make available for inspection and copying any records requested by EEOC, facilities sought to be inspected by EEOC, and employees sought to be interviewed by EEOC.

40. All materials required by this Decree to be sent to EEOC shall be addressed to:

Equal Employment Opportunity Commission  
Boston Area Office  
Legal Unit  
Attention: Arnold J. Lizana III, Trial Attorney

John F. Kennedy Federal Building, Room 475  
Boston, MA 02203-0506

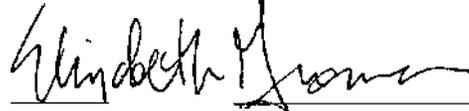
**Duration of Decree**

41. This Decree will remain in effect for three years from the date of entry.

**SO ORDERED, ADJUDGED AND DECREED this 6<sup>th</sup> day of Q c X o W ,  
2006.**

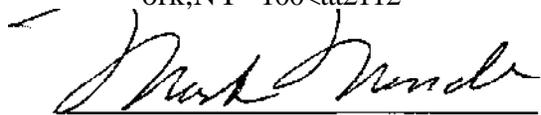
Dated: New York, New York  
f/lfl 2006

Hon. MferkRYKra\}\£  
United States District Judge



Elizabeth G. Grossman  
Regional Attorney  
For Plaintiff, EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
33 Whitehall Street, 5<sup>th</sup> Floor  
New York, NY 10021

Dated: New York, New York  
f I %Y 2006



JACKSON LEWIS LLP  
Attorneys for Defendant

## **APPENDIX A**

### **Employment Policies**

Whether you are a new hire or a former employee returning to DLA, you may find your new surroundings unfamiliar. This is a normal feeling and is expected. Your fellow employees, especially your Manager, want to help you get off to a good start. Feel free to ask them for help concerning anything you don't understand.

A good way to get a general understanding of our approach is to carefully read this Manual.

#### **Equal Employment Opportunity**

DLA has zero tolerance of harassment or discrimination in employment because of race, color, religion, creed, national origin, ancestry, disability, sex, age, veterans status, sexual orientation, or any other characteristic protected by law. The President of DLA has issued the following policy stating the Company's views in this matter:

It is the policy of DLA to:

- strictly follow personnel procedures to offer equal opportunity for all people without regard to race, color, religion, creed, national origin, sex, age, ancestry, marital status, disability, veteran status or any other characteristic protected by law;
- comply with the Americans with Disabilities Act ("ADA"), and State and local laws, by not discriminating against any applicant with a disability or qualified employee with a disability who can perform the essential functions of his/her position with or without a reasonable accommodation;
- make reasonable accommodations wherever necessary for all applicants with disabilities to participate in the application process and to enable otherwise qualified disabled individuals to safely perform essential functions of their job, DLA will provide accommodations that are reasonable and do not impose an undue hardship on the Company or pose a direct threat to the safety of the employees or others;
- make reasonable accommodations wherever possible for all applicants who may have religious needs.
- achieve understanding and acceptance of DLA's policy on Equal Employment Opportunity by all employees;
- thoroughly investigate instances of alleged discrimination and take prompt and appropriate remedial action if warranted;
- identify and correct any practices that may be at variance with the intent of the Equal Employment Opportunity Policy.

DLA requires all personnel to share the Company's commitment to a workplace free of harassment and discrimination.

Please check the employee information bulletin boards for all related equal opportunity and job announcements.

## **Harassment Policy**

DLA intends to provide a work environment that is free from intimidation, hostility or harassment that might interfere with work performance. Harassment of any sort - verbal, physical, and visual - will not be tolerated.

### **What is Harassment?**

Harassment can take many forms. It may be, but is not limited to: words, signs, jokes, pranks, intimidation, physical contact, or violence. Prohibited harassment is not limited to sexual harassment in nature. Prohibited harassment also includes words, jokes, comments, intimidation, physical contact based on an individual's race, color, national origin, age, disability, creed, veteran's status, or any other characteristic protected under federal, state or local law.

Sexually harassing conduct may include unwelcome sexual advances, requests for sexual favors, or any other unwelcome verbal or physical contact of a sexual nature that creates an intimidating, hostile or offensive working environment, or when such conduct is made a condition of employment or compensation, either implicitly or explicitly.

### **Responsibility**

All DLA's employees, and particularly Managers, have a *responsibility* for keeping our work environment free of harassment. Any employee who becomes aware of an incident of harassment, whether by witnessing the incident or being told of it, must report it to his/her immediate Manager, a representative of Human Resources or any other management representative. When management becomes aware that harassment might exist, DLA will take prompt and appropriate action including a thorough investigation of the allegations of misconduct.

### **Reporting**

Any incident of harassment must be immediately *reported* to a Manager or member of Human Resources. ALL MANAGEMENT IS REQUIRED TO REPORT IMMEDIATELY ANY INCIDENT OF HARASSMENT TO THE HUMAN RESOURCES DEPARTMENT. Appropriate investigation and disciplinary action will be taken. All reports will be promptly investigated and kept as confidential as possible to enable a thorough investigation. Any employee found to have harassed a fellow employee or subordinate will be subject to disciplinary action including discharge. DLA will also take any additional action necessary to appropriately remedy the situation. No

adverse employment action or retaliation of any kind will be taken against any employee making a report of harassment or any employee who participates in an investigation.

All staff are required to sign a Harassment Policy statement.

# Harassment Policy

DLA has zero tolerance of harassment or discrimination in employment because of race, color, religion, creed, national origin, ancestry, disability, sex, age, veterans status, sexual orientation, or any other characteristic protected by law. DLA intends to provide a work environment that is free from intimidation, hostility or harassment that might interfere with work performance. Harassment of any sort - verbal, physical, and visual - will not be tolerated.

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adverse employment action or retaliation of any kind will be taken against any employee making a report of harassment or any employee who participates in an investigation.

I have read and understand the above policy.

Signed & dated

## APPENDIX B

### **Complaint Procedure**

David Lerner Associates, Inc. ("DLA") wants all employees to know that they are not required to endure discriminatory, harassing or retaliatory conduct based upon race, color, religion, creed, national origin, ancestry, disability, sex, age, veterans status, sexual orientation or any other characteristic protected by law while they are at work. DLA requires that each person exhibit in his/her conduct or communication, sound judgment and respect for every other employee, guest, client and vendor of the Company. Employees have a right to file a complaint with the Company. Employees are urged to promptly bring a complaint of sexual harassment or any form of harassment or discrimination to the Company's attention. This may be done in writing or orally.

Employees who feel comfortable doing so should inform the person(s) engaging in such harassment that the conduct is unwelcome, offensive, and that it must stop.

Further, any employee who believes he/she is experiencing sexual harassment or any form of harassment or discrimination should report such circumstances to Company management immediately. This may be done in writing or orally, and may be done to a supervisor, a manager or to any member of our Human Resources Department.

If the employee is not comfortable discussing the issues with an immediate supervisor or member of management, the employee may bring a complaint to DLA's attention by contacting a toll-free number: 800-645-1611 to speak to a human resources professional.

Any employee in a supervisory role who is informed of alleged harassment activities or discrimination occurring within the Company has the responsibility to immediately report such conduct to their immediate supervisor or, if not appropriate, directly to the Human Resources Department at Corporate Headquarters.

The Human Resources Department will, where warranted, investigate and attempt to resolve, in a timely and effective manner, all complaints of harassment or discrimination.

All information obtained during an investigation will be treated confidentially and will only be disclosed on a need-to-know basis in order to investigate and resolve the matter. Employees who disclose confidential information to unauthorized parties will be subject to disciplinary action, which may include termination.

Investigations may include interviews with the complainant and witnesses, as well as the person alleged to have committed the harassment or discrimination.

If sexual harassment or any form of harassment or discrimination is found to have occurred, it will not be tolerated and disciplinary action up to and including termination of employees who have violated this policy will occur. Employees may also file a formal complaint, in addition to the complaint resolution procedures outlined in this policy.

## APPENDIX C

### **Investigation Procedure**

Once a complaint is received, a record of the complaint will be made. David Lerner Associates, Inc. ("DLA") will, where warranted, investigate and attempt to resolve, in a timely and effective manner, all complaints of violations of this policy. The investigation will be conducted by designated individuals in either the Human Resources or Legal departments. Investigation may include interviews with the person making the complaint as well as with others having knowledge of the situation giving rise to the complaint. You may be asked to provide a written statement of the complaint to assist in our investigation. No adverse employment or retaliation of any kind will be taken against anyone who makes a report of discrimination or participates in our investigation.

If discrimination is found to have occurred, appropriate action remedying the situation will be taken. In addition, appropriate disciplinary action, up to and including termination of employment of persons found to have violated this policy, will be taken. Once an investigation under this policy is completed, the Company will so inform the person making the complaint, disclosing such detail as may, under the circumstances, be appropriate.

In addition to the complaint procedure outlined in this policy, any person wishing to pursue other avenues may contact the appropriate government agencies.

## TOLL-FREE NUMBER

David Lerner Associates, Inc. ("DLA") has established the following toll-free phone number for you to call if you feel you have been discriminated against, harassed or otherwise retaliated against in violation of DLA policy: 1-800-645-1611. This phone line will be operational between 9:00 a.m. and 5:00 p.m. If you call before or after those hours, please leave a voicemail message and a representative of our Human Resources Department will return your call within two (2) business days.

Appendix E



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
New York District Office

33 Whitehall Street, 5<sup>th</sup> Floor  
New York, NY 10002-2112  
Phone (212) 336-3620  
TTY (212) 336-3622

**NOTICE TO ALL EMPLOYEES OF  
DAVID LERNER ASSOCIATES, INC.**

This NOTICE to all employees of the David Lerner Associates, Inc. ("DLA") is being posted and provided as part of a Consent Decree between David Lerner Associates, Incorporated and the U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, in EEOC v. David Lerner Associates, Inc Civil Action No. 3:05-cv-00292 (D.Conn). In that action the EEOC alleged that DLA subjected a class of female employees to sexual harassment and unlawful retaliation and as a result some female employees felt compelled to quit. DLA denies those allegations. DLA, as part of the resolution of this matter, re-affirms that it does not discriminate against any individual because of the individual's sex, subject persons to differential treatment regarding the terms and conditions of employment because of their sex, or engage in sex-based harassment toward any employee.

Federal law requires and DLA's policy provides that there be no discrimination against any employee or applicant for employment because that person made a complaint of discrimination because of sex, race, national origin, color, age, disability, or religion with respect to hiring, compensation, promotion, discharge, or other terms, conditions or privileges of employment.

DLA will comply with such Federal law in all aspects, and reiterates that it will not take any action against employees because they have exercised their rights under the law by filing charges or cooperated with the U.S. Equal Employment Opportunity Commission or by otherwise opposing employment practices made unlawful under federal law.

DLA maintains an Open Door policy through which employees may, and are encouraged to raise any concerns regarding their employment, including our sexual harassment policy or any issues relating to perceived discrimination or harassment. Employees may use the Open Door by discussing the matter with their Branch Manager, Vice President, Human Resources or General Counsel directly at 1-800 645-1611.

Should you have a complaint of discrimination or harassment you may contact:

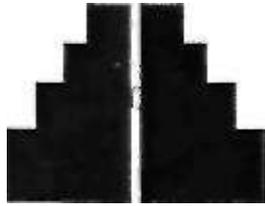
U.S. Equal Employment Opportunity Commission  
33 Whitehall Street  
New York, NY 10002  
(212) 336-3620 or (800) 669-4000  
Website: [www.eeoc.gov](http://www.eeoc.gov)

Date: \_\_\_\_\_

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE ALTERED, OR  
DEFACED BY ANYONE OR COVERED BY ANY OTHER MATERIALS**

This NOTICE must remain posted for three years from the date shown above and must not be altered, defaced or covered by any other materials. Any questions regarding this notice or compliance with its provisions may be directed to the U.S. Equal Employment Opportunity Commission at the above numbers, (800) 669-4000, or TTY (800) 669-6820, or to your Manager or Human Resource representative.

## Appendix F



**DAVID LERNER**  
ASSOCIATES, INC.

Dear Employees:

David Lerner Associates, Inc. ("DLA") is committed to providing a harassment free environment and abiding by all federal laws prohibiting discrimination, harassment and retaliation based upon gender, race or any other protected characteristic under the law. Specifically, federal law prohibits discrimination against any individual because of his or her sex and all aspects of the employment relationship, such as pay, promotion, assignments, hours and any other terms, conditions or privileges of employment.

To help enforce this policy, DLA is introducing a toll free number which may be used to contact a Human Resources professional if you believe you have been subjected to discriminatory or harassing conduct. That number is 1-800-645-1611 ext. 5523. Sexual harassment or other forms of harassment in the workplace will not be tolerated. Your claims will be investigated and, where appropriate, corrective action will be taken. No one will be subjected to retaliation for bringing such a complaint to the Company's attention. Federal law prohibits retaliation against any individual by an employer because the individual complains of discrimination, participates as a witness or potential witness in litigation, or otherwise exercises his or her rights under the law.

Please avail yourself of the Company's complaint procedure should you feel you are a victim of harassment, discrimination or retaliation. This is something we take very seriously. We wish your work experience at DLA to be as rewarding and productive as it can be.

Very truly yours,

David Lerner

**APPENDIX M**

**NOTICE OF SETTLEMENT**

*[On DLA Letterhead]*

FIRST NAME LAST NAME  
STREET  
CITY, STATE ZIP  
Via Certified Mail

September \_\_, 2006

Re: EEOC v. David Lerner Associates, Inc CA#: 3:05 -00292

Dear Ms. LAST NAME:

A Consent Decree has been entered by the United States District Court for the District of Connecticut, in an action commenced by the Equal Employment Opportunity Commission (“EEOC”) and four former employees of David Lerner Associates, Inc. (“DLA”) against DLA to resolve certain claims of sexual harassment, sex discrimination and retaliation. Pursuant to that Decree, women who were employed by DLA in its Darien office, at any time from August 1, 2001 to the *[insert date of entry of consent decree]*, and who believe that they were subjected to harassment or discrimination because of their sex, or retaliation for complaining of such conduct, may present their claims in writing to the EEOC. The EEOC is authorized to award compensation to any such women who demonstrate that they are entitled to recover for unlawful harassment or discrimination.

If you believe that you have such a claim, you must contact Arnold Lizana, Trial Attorney, United States Equal Employment Opportunity Commission, Boston Area Office, John F. Kennedy Federal Building, Room 475, Government Center, Boston, MA 02203-0506, and make such claim in writing, which must be postmarked on or before September \_\_, 2006. If Mr. Lizana has not received notification from you in writing which was postmarked by *[insert date which is 90<sup>th</sup> day after date of entry of decree]*, you will not be allowed to make any such claim for compensation and any claims you might have will be barred. Your claim form should be returned to EEOC. **DO NOT RETURN YOUR CLAIM FORM TO DLA.** DLA will not take any adverse action against any current or former employees for making such a claim.

Sincerely yours,

Arnold J. Lizana III  
EEOC Trial Attorney

Joseph Pickard  
General Counsel



## APPENDIX N

CONNECTICUT: CASE NO.

### **PLEASE READ THE FOLLOWING INSTRUCTIONS AND DEFINITIONS CAREFULLY**

#### **INSTRUCTIONS**

1. If you wish to submit a claim, this Claim Form must be completed and sent to the Equal Employment Opportunity Commission (EEOC) 475 JFK Federal Building 4<sup>th</sup> Floor Boston, Massachusetts 02203 AND MUST BE POSTMARKED ON OR BEFORE: [INSERT DATE OF THE 90<sup>TH</sup> DAY AFTER THE DATE OF ENTRY OF THIS DECREE]
2. Your claim will be denied if:
  - a. your claim form does not contain all of the requested information. You may staple extra sheets to this form if you need additional space to respond.
  - b. **your claim form is not timely received by EEOC**
  - c. EEOC determines that you are otherwise ineligible,
3. You must immediately notify EEOC of any change in your name, address or telephone number.
4. If you have any question, call Arnold J. Lizana, Trial Attorney at (617) 565-3210.

#### **DEFINITIONS**

1. Sexual Harassment: Sexual harassment is a form of sex discrimination which is prohibited by federal and state law.

Conduct which is considered sexual harassment includes:

- unwelcome sexual advances;
- unwelcome requests for sexual favors; and/or
- unwelcome verbal or physical conduct of a sexual nature.

Sexual harassment may include a range of subtle and not-so-subtle behaviors. Whether certain behavior constitutes sexual harassment depends upon the specific circumstances, including whether the recipient of the behavior finds it unwelcome or offensive, and whether the behavior is severe or pervasive, *e.g.*, whether it is extreme or continuous in nature. The following are specific

examples of behaviors, which, depending upon the circumstances, may be considered sexual harassment:

- derogatory or vulgar statement regarding one's sexuality or gender;
- unnecessary touching or attention to one's body;
- subtle or overt pressure for sexual favors;
- physical assault;
- strip search;
- making unwanted sexual compliments, innuendos, suggestions or jokes;
- telling lies or spreading rumors about a person's sex life;
- turning work discussions into sexual topics;
- displaying sexually suggestive visual materials; or
- sexually suggestive remarks about a person's physical anatomy or characteristics.

Conduct as described above can constitute sexual harassment when that conduct affects an individual's employment, interferes with the individual's work performance or creates an intimidating, hostile or offensive work environment.

2. Retaliation: Retaliation is a form of employment discrimination prohibited by federal law. Retaliation occurs when an employee formally or informally complains, protests or opposes sexual harassment and the employer takes a negative or adverse employment action against the employee because of his or her complaint, protest or opposition.
3. Constructive Discharge: Constructive Discharge occurs when you are forced to leave your employment because you reasonably find your work environment intolerable because of the discrimination - sexual harassment or retaliation - which exists in the workplace.

## CLAIM FORM

1. Please print the following identification information:			
NAME (First, Middle Initial, Last)			
ADDRESS (Residence)			CITY
COUNTRY	STATE		ZIP CODE
HOME PHONE		SOCIAL SECURITY #	
DAY PHONE (work or cell)		BEST TIME TO CALL	
2. When were you employed with David Lerner Associates Inc. (DLA) ?			
Start Date	End Date	Location	
3. What positions did you hold during your employment with DLA? For each position, please provide the departments where you worked, the name of your immediate supervisor and the dates for which you held each position. If you are unsure of the exact dates, approximate the dates using month or season and year.			
Positions Held	Department	Immediate Supervisor	Dates You Held Position
<b>PHYSICAL HARASSMENT</b>			

4. If you believe that you that you have been sexually harassed (as sexual harassment is defined on the attached "Definitions" page) due to inappropriate physical contact, provide below specific information about each contact, including who touched you, how were you touched, what part of your body was touched, the location of the incident, and whether anyone witnessed the incident.

If you cannot provide the name and title of your harasser, at least indicate whether that individual was your supervisor or co-worker. If you cannot provide the exact date of the event, at least provide the month or season and year. **If no dates are provided, your claim cannot be properly assessed.**

### VERBAL HARASSMENT

5. If you believe that you have been sexually harassed verbally, such as through sexual comments, jokes, or propositions, provide below specific information about each communication, including what was said to you, who made the statement, where the statement was made, and whether anyone witnessed the communication.

If you cannot provide the name and title of your harasser, at least indicate whether that individual was your supervisor or co-worker. If you cannot provide the exact date of the event, at least provide the month or season and year. **If no dates are provided, your claim cannot be properly assessed.**

6. Did you complain or inform anyone at DLA about the incident(s)?		
		Yes ___ No ___
7. If the answer to question 6 is yes, please state what you said and to whom?		
Who you complained to or informed (provide dates)	What you said	Their response

8. If the answer to question 6 is no, please explain below why you did not inform DLA of the incident(s).

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9. Did you complain about the sexual harassment to anyone outside DLA, including any attorney; organization, or federal, state or local government agency? If so, state below when you complained and what was your complaint? Did that entity resolve your complaint? How?

Who you complained to or informed (provide dates)	What you said	Their response

**RETALIATION**

10. If you believe that DLA retaliated against you (*as retaliation is defined on the attached "Definitions" page*) because you objected, protested, refused to tolerate or complained about the sexual harassment, please provide specific information about each action against you, including what action was taken against you, who took action against you, when action was taken against you, and how you were affected by the adverse action.

If you cannot provide the name and title of the individual who retaliated against you, at least indicate whether that individual was your supervisor or co-worker. If you cannot provide the exact date of the event, at least provide the month or season and year. **If no dates are provided, your claim cannot be properly assessed.**

Who took action against you? (job title)	What specific action was taken against you?	When was this action taken?	How were you affected by this action?

11. If you are no longer employed with DLA, please state below why you are no longer working at DLA.

12. Indicate whether you are presently employed and, if so, name your employer(s), its address and your position.

Present Employer	Address	Your Position	Length of employment

13. Please enclose any documents, papers, notes, diaries, etc. which you believe support or corroborate any information you provided on this form. Please list here the documents you are enclosing.

List enclosed documents:

I declare under penalty of perjury that the statements in this Claim Form are true.

SIGNATURE

DATE