

Form 10A-1: Demand Letter (Sample Form 1)

LAW OFFICES OF Larry Lawyer

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[date]

June Jones, Human Resources
Big Bad Company
123 The Dark Side of the Street
Shady Grove, California 91—

Re: My Disgruntled client

Dear Ms. Jones:

DG has retained me with respect to her employment at Big Bad Company (hereinafter "BBC").

Since [month, year], Ms. Disgruntled has been employed by BBC as a Finishing Manager. Within two weeks of her working at BBC (mid-June 2003), she was approached by (name of perp), BBC's owner. Mr. Monster asked Ms. Disgruntled if they be able to have sex now. During the time that he asked this question, he put his hands on Ms. Disgruntled's rear end and patted it. Later that day, Mr. Monster asked Ms. Disgruntled about _____, a prospective client and person she had recently met, who worked for _____. Mr. Monster instructed Ms. Disgruntled to sleep with Mr. _____ in order to acquire the new account for BBC. Ms. Disgruntled protested and said that she would do no such thing.

Immediately after being spoken to by Mr. Monster, Ms. Disgruntled went to her own supervisor, _____, and explained what had happened. To her knowledge and as the following facts indicate, no action was taken.

In [month, year], Mr. Monster again confronted Ms. Disgruntled and asked if she was interested in him. She told him no and walked away.

At the Christmas party, 2003, Mr. Monster approached Ms. Disgruntled and asked her if she wanted to go up to his suite and "fuck," saying that they should take advantage of the room and make use of it. Mr. Monster went so far as to reach into his coat pocket and produce the key to confirm the room number he had mentioned to Ms. Disgruntled. Ms. Disgruntled declined the offer and again told Mr. Monster to refrain from dealing with her in this way.

After the Christmas party and on or before [date], Ms. Disgruntled and Mr. Monster had a telephone conversation where she informed him, again, unequivocally, that she did not want to have anything romantically or sexually to do with him. Mr. Monster responded that he had more to lose than she did. In mid-January 2004, Ms. Disgruntled approached her supervisor, Mr. Accomplice, for the second time and explained what had occurred between her and Mr. Monster. Mr. Accomplice replied that this incident had happened before and that it would not be the last time it occurred.

On [date], Mr. Monster stated to Ms. Disgruntled that they should have “a nooner,” inferring that they should go somewhere and have sex around the noon hour. Mr. Monster mentioned that they should have a “nooner” because it was, in his words, convenient; Ms. Disgruntled, who worked nights, could easily disappear during the day. Ms. Disgruntled immediately told her supervisor, Mr. Accomplice, about this encounter and expressed to him her concerns about her job.

The next day, [date], Mr. Monster again approached Ms. Disgruntled and whispered to her, inquiring if he had a 50/50 or 60/40 chance of sleeping with her. Ms. Disgruntled informed him, in no uncertain terms, that he had a zero chance of sleeping with her.

Ten days later, [date], Mr. Monster again approached Ms. Disgruntled and said that he would like to “fax” her. Ms. Disgruntled took this to mean that he would like to have sex with her. This conversation happened within earshot and plain sight of Ms. Disgruntled’ supervisor, Mr. _____. Mr. _____, later that day, asked Ms. Disgruntled if she was all right. She told him she was not all right and explained what had occurred. Mr. _____ suggested that Ms. Disgruntled contact Human Resources or set up an appointment with her harasser, Mr. Monster.

Four days later, on [date], Mr. Monster approached Ms. Disgruntled at work in an edit bay and proceeded to touch Ms. Disgruntled’s rear end with his hand. Ms. Disgruntled immediately went to her supervisor, Mr. _____, and told him everything that had just happened.

BBC and Mr. Monster were obligated to treat Ms. Disgruntled in a manner which protected her civil rights. Instead, BBC and Mr. Monster discriminated against and harassed her, physically and verbally assaulted and battered her, amongst other wrongs. Based on the above evidence, Ms. Disgruntled can establish that Mr. Monster and BBC are liable for sex discrimination and harassment, and failure to prevent discrimination and harassment, all in violation of the [State Fair Employment Practices Act].

[Discuss recent comparable jury verdict. For example: According to data compiled by Attorney, Attorney & Attorney, a management law firm law firm based in San Francisco, and the law firm’s survey of jury verdicts from State and Federal Courts in California from 1989 to April 2000, the average jury award for employment cases in Los Angeles Superior Court exceeded \$1,000,000. The Summary of California Jury Verdicts prepared by the firm shows a significant increase in jury awards since 1995, with the average jury award more than doubling from just under \$500,000 to just under \$1,000,000. The average punitive damage award was also up from \$225,000 in 1995 to over \$2,100,000 in 1999. These figures are consistent with trends reported in recent years. In addition, it has been noted that juries put a high dollar value on the loss of jobs and the employment relationship].

In order to settle Ms. Disgruntled’ claims and thereby prevent the necessity of turning to a more formal and costly means of resolution, Ms. Disgruntled requests the following for settlement of all claims against Mr. Monster and BBC:

1. Compensate Ms. Disgruntled for her pain and suffering in the amount of \$500,000;
2. Provide Ms. Disgruntled with a positive letter of recommendation;
3. Reimburse Ms. Disgruntled for her attorneys’ fees and costs incurred as a result of the drastic and upsetting course of events; and
4. Agree to put Mr. Monster through one year of psychotherapy and/or anger management to avoid the abuse of other employees.

Please be advised that if Ms. Disgruntled is forced to file a civil action in this matter, her claim will be substantially greater.

There are several ways in which this matter can be resolved, including the following:

1. Civil Litigation. Litigation will be time consuming, extremely expensive for both parties and could result in adverse publicity. Note, of course, that the complaint filed in this matter will be a public document, and the press could show great interest in the facts of this case, something neither party is really interested in.
2. Discussion. The least expensive way to resolve this dispute is if BBC's counsel and/or you and this office discuss the case through an exchange of correspondence, telephone calls, meetings, etc. Our experience is that if both parties are reasonable and act in good faith, they can settle matters such as these.
3. Mediation: The parties can agree to a private mediation with someone skilled in the employment area. This option works only if both sides are motivated to resolve the case.

If you have an insurance carrier with respect to claims such as this, you may want to contact them at this time.

This letter is written solely for the purpose of furthering settlement discussions. Therefore, neither this letter nor any of the information contained in it may be used for any purpose in any subsequent litigation. This letter is being sent under the protection of [e.g., California Evidence Code Sections 1152, 1154, Federal Evidence Code Section 408], and any other applicable section.

Your immediate review of this matter is requested. We look forward to your reply on or before [date].

Very truly yours,

LAW OFFICES OF LARRY ATTORNEY

By: _____
LARRY ATTORNEY

Form Contributed by:
John D. Weiss
Private practice
Encino, CA