

Minutes of the
Cook County Commission on Human Rights
July 14, 2016

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Attendance:

Present: Chairperson K. Gunn; Commissioners J. Block, E. Clark-Bey, C. Eatherton, G. Orr, H. Ratner, S. Schultz, and A. Smock.

Absent: Commissioners T. Connor, C. Harris, and K. Ayala-Bermejo (due to illness).

Staff present: Executive Director Ranjit Hakim, Legal Counsel Mary Jean Dolan, Human Rights Investigator A. Cahn, and Intern Kurt Naro.

Chairperson Gunn called the meeting to order at 10:11 a.m.

I. Adoption of Agenda

The agenda was approved and adopted by unanimous voice vote.

II. Statements by the General Public

No member of the general public stepped forward to make a statement.

III. Approval of Meeting Minutes —March 10, 2016

The Commissioners approved and adopted the minutes for the March 10, 2016 meeting by unanimous voice vote.

IV. Executive Director's Report

a. Introduction of New Commissioner's

Director Hakim re-introduced Commissioner Orr (who attended the March meeting telephonically) and introduced Commissioner Smock who was recently appointed to fill a vacancy. Director Hakim thanked both for being willing to serve and asked them to introduce themselves.

Commissioner Orr indicated that she is a Director of the Illinois Guardianship and Advocacy Commission.

Commissioner Smock indicated that she is the Director of Advocacy at Access Living where she oversees policy, community organizing and affairs, serving people with

disabilities. As a Commissioner, she hopes to assist the Commission in connecting with disabled individuals who need our services, including those who are impoverished.

Ms. Smock indicates she is Deaf and will require the use of a sign language interpreter in order for her to participate in the Commission meetings.

b. Performance

Director Hakim noted that in the second quarter of 2016, the Commission had contact with 72 individuals at intake (down slightly from the first quarter). The overall docket is holding steady and there are no indications of a developing backlog. The Commission is averaging 3 orders per attorney per month through the second quarter (up slightly from the first quarter) and average time to disposition is 445 days (down from 457 days at the end of the first quarter).

c. Website

Director Hakim indicated the County has revamped all its websites to be more focused on services provided, including the Commission's. As part of this project, the Commission has posted to the website as part of a database, orders issued in the past three years. The Commission will work with the Bureau of Technology and an Open Government specialist to make this database more useful by including more relevant fields to retrieve each order though the technology is currently limited in its ability to allow full text searching of the orders.

While making orders available online increases transparency of these FOIA-able documents and makes the Commission's precedent more readily accessible to new litigants, the Commission is sensitive to the fact that some complainants and respondents may be uncomfortable or embarrassed that orders are more publicly accessible. Director Hakim indicated that the staff will redouble its efforts to remind parties proceeding before the Commission that they are engaged in our public litigation and that the work product of the Commission is accessible to the public.

Commissioner Smock made the suggestion that the Commission's website highlight that Commission meetings are open to the public and that the Commission can receive commentary from the public at such meetings. In addition, she recommended making it clearer that complainants have only 180 days to file a complaint with the Commission. Commissioner Smock will solicit the input of subject matter experts on the accessibility of the new website to visually impaired individuals.

d. Outreach

Director Hakim reviewed recent outreach activity by the Commission staff to ensure that non-profits and public interest firms who may come into contact with Commission litigants are aware of the Commission's services. Recent activity has included meetings

with the ABA-Pro Bono Center, ACLU-Illinois, Metropolitan Tenants Association, the Center on Halsted, CARPLS, Illinois Legal Aid Online and the Chicago Alliance Against Sexual Exploitation. Director Hakim thanked the Commissioners for helping to set up many of these meetings.

Commissioner Orr inquired about outreach to veteran populations. Legal Counsel Dolan indicated that she has been in contact with a veterans' clinic at John Marshall Law School. Chairperson Gunn inquired about the status of source of income cases. Legal Counsel Dolan reviewed data shared with the Illinois Department of Human Rights as part of a statewide housing discrimination study.

e. Representation Project

Director Hakim indicated that in addition to ordinary outreach, the staff continues to contact non-profits and public interest law firms that provide pro bono legal services to ensure that unrepresented parties have the option of counsel at Commission mediations and hearings. To date, two student clinics at Loyola University Law School (Liz Simon) and Northwestern University Law School (Alyson Carrel) are willing to provide attorneys to represent unrepresented litigants at Commission mediations.

The Legal Assistance Foundation (employment/complainant side), Equip for Equality (disability/complainant side), Loevy & Loevy (complainant side), Hughes Socol Piers (complainant side) and Foley & Lardner (respondent side) are willing to provide attorneys to represent unrepresented litigants at Commission hearings to the extent they are able. The staff will continue to cultivate relationships with other potential providers.

In addition because the Commission is contacted about cases outside of its jurisdictional authority, the Commission staff received training from CARPLS about common referrals for non-discrimination/harassment legal matters. The Illinois Legal Aid Online website is another tool available to the intake staff.

V. Proposed Orders

Director Hakim presented a draft order to the Commission that would adopt the Administrative Law Judge's final recommendation on liability and remedies in *Robertson v. Allstate-Louis Dodd Agency*, 2013E030. The proposed order would find that respondent violated the Human Rights Ordinance for terminating the complainant and award \$8,466 in compensatory damages. Director Hakim offered an amendment to the proposed order that would make the due date of any request for reconsideration consistent with the Commission's procedural rules.

Commissioner Block noted that the Commission was awarding post-judgment interest only. Chairperson Gunn moved to adopt the proposed order as amended. The motion was approved by unanimous voice vote.

VI. Requests for Reconsideration

Director Hakim advised that a request for reconsideration of a dismissal for a lack of substantial evidence at the end of the investigation was filed in *Almazon v. Liuna Laborers Local Union 225*, Case No. 2015E014. The matter is fully briefed and ready for a decision. Chairperson Gunn and Commissioner Eatherton volunteered to advise on the reconsideration order.

VII. Case Pending Report

Director Hakim presented the case pending report, a copy of which is attached to these minutes.

VIII. Proposed Amendment to the Commission's Procedural Rules

a. Rule 120.140 (Admission to Practice Pro Hac Vice)

Legal Counsel Dolan presented an amendment to the procedural rules that would eliminate the need for out-of-state attorneys to associate with local counsel or go through the formality of being admitted pro hac vice under the same rules that apply in Illinois courts.

Commissioner Eatherton inquired whether relieving out-of-state counsel of the formalities of Illinois Supreme Court Rule 707 would limit the ability of their clients to seek relief for legal malpractice. Director Hakim indicated his belief that malpractice claims would continue to be available despite a more liberal admissions policy to practice at the Commission. Commissioner Eatherton suggested that the Commission could protect Commission litigants by requiring proof of admission to an out-of-state bar or confirming the same. Commissioner Block suggested obtaining an advisory opinion from the ARDC to determine whether out-of-state attorneys were at risk of being accused of the unauthorized practice of law.

The Commission staff committed to further research on the topic but proposed an amendment of the existing rule to correct the mis-citation of the applicable Supreme Court Rule to 707 (from 711). Chairperson Gunn brought a motion for such amendment, which was approved by unanimous voice vote.

IX. Commissioners' Reports

Commissioner Schultz gave an update on her work with supportive housing for the mentally ill in Wheeling and Palatine.

Commissioner Smock invited her fellow Commissioners to join Access Living on the July 23, 2016 for the annual Disability Pride Parade.

Commissioner Orr reviewed IGAC's legal advocacy related to mental health discrimination at several VA hospitals.

X. Other Business, If any

There was no other business.

XI. Adjourn

By a unanimous voice vote, the meeting was adjourned at 11:39 a.m.

Cases Pending Report July 14, 2016

PENDING INVESTIGATIONS

As of July 1, 2016: 18 pending investigations

CASES SCHEDULED FOR MEDIATION CONFERENCE

2014PA001 Orozco v. Summit Food and Liquor Disability/National Origin

Alleges respondent public accommodation failed to allow epileptic complainant to shop with seizure detecting service dog. Also alleges discriminatory comment about Mexicans. Found Substantial Evidence of disability discrimination and a Lack of Substantial Evidence of national origin discrimination on September 3, 2015. Assigned for Hearing to Administrative Law Judge Joanne Kinoy on September 4, 2015. At the November 24, 2015 status, parties requested assistance in reaching a settlement. Notice of Mediation Conference issued on November 25, 2015 for a mediation to occur on December 17, 2015 at 9:30 a.m. The parties notified the Commission on the eve of the mediation that they had reached a settlement in principle. The Commission advised that it would hold the matter on its docket until March 15, 2016 before issuing an order of dismissal. The Commission entered an order of dismissal on March 18, 2016.

2015H003 Daniels v. WayPoint Homes Source of Income
Alleges respondents refused to show her a rental property in South Holland, give her a rental application or let her rent the subject property after she indicated that she was a participant in the Housing Choice Voucher Program. Respondent requested mediation and complainant opposed but indicated that she would participate in good faith if ordered. Notice of Mediation Conference issued on March 9, 2016 for a mediation to occur on April 12, 2016. Parties cautioned that investigation would continue during mediation efforts so as to not cause undue delay if settlement efforts failed. Complainant to be represented at the mediation by Anthony Pollinzi under the supervision of Liz Simon of the Center for Advocacy, Mediation Advocacy Program or Loyola University Chicago School of Law. Mediation occurred on April 12, 2016 and parties failed to reach an agreement.

CASES SCHEDULED FOR ADMINISTRATIVE HEARING

2013E030 Robertson v. Allstate-Louis Dodd Agency Disability
Alleges employment discrimination (termination of employment and medical benefits) based on disability and failure to accommodate disability. Found Lack of Substantial Evidence on November 20, 2014, with respect to all claims. Reconsideration granted on May 14, 2015 with respect to unlawful termination claim. Assigned for Hearing to Administrative Law Judge Joanne Kinoy. Initial Status Date June 16, 2015 at 9:30 a.m. Discovery closed. Hearing held on November 10, 2015. The parties received an extension until February 16, 2016 to submit post-hearing briefing due to the health of Respondent's counsel. Complainant and Respondent filed a post-hearing brief on February 16, 2016. ALJ Kinoy issued an initial proposed order on liability and damages on April 15, 2016. Respondent filed exceptions on May 5, 2016. Complainant filed exceptions and a fee petition on May 6, 2016. ALJ Kinoy issued a final proposed order on liability and damages on July 6, 2016.

2014E008 Yankaway v. Beauty 4 U Sexual Harassment
Alleges sexual harassment by a supervising manager. Supervising manager quit when confronted with the allegations by the employer. Case referred to Center for Conflict Resolution for mediation on July 9, 2015. Mediation held September 14, 2015, but the parties could not arrive at an agreement. Found substantial evidence to merit a hearing on November 10, 2015. Assigned for Hearing to Administrative Law Judge Joanne Kinoy. Initial Status Date January 12, 2016 at 10:00 a.m. Parties indicated that they are close to settlement at February 22, 2016 discovery status. Parties indicated by email on March 8, 2016 that they have settled. Asked to keep the March 22, 2016 status date at 10:00 a.m. to execute final release and exchange funds. At that status, the parties indicated to Judge Kinoy that all terms of the settlement had been met and Yankaway voluntarily withdrew. The Commission entered an order dismissing with prejudice.

2015E002 LaCaria v. Gail Carriage Inn Pregnancy
Alleges employment discrimination (termination) based on pregnancy. Found substantial evidence on April 6, 2016. Assigned for Hearing to Administrative Law Judge Joanne Kinoy on April 8, 2016. Next status date, July 12, 2016. On Schedule for an administrative hearing on September 1, 2016.

PENDING LITIGATION

13 CH 17663 Walker v. Cook County Sheriff's Department (2008E017) Sex/Age/Sex
Harassment/
Retaliation

Administrative Hearing held by Hearing Officer Steven Saltzman on December 13 and 14, 2010, and resumed January 11, 2011. The Commission issued a Decision and Order on January 8, 2013. Commission Respondent filed writ. Commission is represented by the Office of the State's Attorney via ASA Jacqueline Carroll. Administrative record filed with circuit court on January 16, 2014. Briefing for and against writ completed on May 12, 2014. Motion heard on July 30, 2014. Circuit Court ruled in favor of the Commission on February 11, 2015. The Commission's decision is supported by the manifest weight of the evidence and the relief ordered is within its legal authority and not arbitrary or capricious. The Sheriff's Department took an appeal to the First District Appellate Court on March 11, 2015. The record on appeal was filed on May 13, 2015. Petitioner filed its brief on September 28, 2015. The Commission joined Appellee Walker in responsive briefing and filed its brief on November 2, 2015. Petitioner filed its reply brief on November 16, 2015. The Appellate Court ruled in favor of the Commission on May 20, 2015 without oral argument. The Appellate Court specifically affirmed the existence of age harassment claims under the Human Rights Ordinance and the authority of the Commission to impose broad prospective injunctive relief for violations of the Human Rights Ordinance.

1-16-0094 Pryor v. Universal Foot Care Products, Inc. (2007E035, Race
12CH31377)

Petition for Writ of Certiorari filed by Complainant on November 9, 2012. Commission is represented by the Office of the State's Attorney via ASA Alvin Portis. Court ordered remand to Hearing Officer Kinoy for explanation of evidentiary determinations. Supplemental Order issued by the Commission on April 7, 2014. Petitioner reasserted objections on August 8, 2014. Commission filed response brief, and Petitioner sought leave to amend to add a due process claim under section 1983. Judge Rudolfo Garcia continued petition for leave to amend on June 23, 2015 for resolution of the underlying petition for writ. Petitioner filed reply brief in support of petition for writ. On December 9, 2015, Court held oral argument on the petition for writ. Court ruled from the bench to confirm the Commission's decision and

deny Petitioner's request for leave to file a 1983 action against the Commission. Petitioner filed a notice of appeal to the First District on January 8, 2016. The record on appeal must be filed by March 8, 2016. The record on appeal was filed on March 10, 2016. Petitioner requested and received two extensions to file his brief in support to June 23, 2016. Petitioner has requested a third extension to file his brief in support.