

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

FILED
JUN 10 AM 10:48
DIVISION OF
ADMINISTRATIVE
HEARINGS

JASEN BAKER,

EEOC Case No. 15DA301267

Petitioner,

FCHR Case No. 23-03891

v.

DOAH Case No. 05-0623

CARRABBA'S ITALIAN GRILL,

FCHR Order No. 06-007

Respondent.
_____ /

BERNARD SOUTHWELL,

EEOC Case No. 15DA301280

Petitioner,

FCHR Case No. 23-03892

v.

DOAH Case No. 05-0632

CARRABBA'S ITALIAN GRILL,

FCHR Order No. 06-007

Respondent.
_____ /

**FINAL ORDER DISMISSING PETITIONS FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Petitioners Jasen Baker and Bernard Southwell filed complaints of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2001), alleging that Respondent Carrabba's Italian Grill committed unlawful employment practices on the basis of Petitioners' sex by subjecting Petitioners to sexual harassment, and by unlawfully retaliating against Petitioners.

The allegations set forth in the complaints were investigated, and, on January 19, 2005, the Executive Director issued his determination with regard to Bernard Southwell finding that there was reasonable cause to believe that an unlawful employment practice had occurred. On January 26, 2005, the Executive Director issued his determination with regard to Jasen Baker finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioners filed Petitions for Relief from an Unlawful Employment Practice, and the cases were transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding:

The Division of Administrative Hearings consolidated the cases, and an evidentiary hearing was held in Orlando, Florida, on July 27, 2005, before Administrative Law Judge Daniel M. Kilbride.

Judge Kilbride issued a Recommended Order of dismissal, dated November 10, 2005.

The Commission panel designated below considered the records of these matters and determined the action to be taken on the Recommended Order.

Findings of Fact

We find the Administrative Law Judge's findings of fact to be supported by competent substantial evidence.

We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

We adopt the Administrative Law Judge's conclusions of law.

Exceptions

None of the parties filed exceptions to the Administrative Law Judge's Recommended Order.

Dismissal


The Petitions for Relief and Complaints of Discrimination are DISMISSED with prejudice.

The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 6th day of January, 2006.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Billy Whitefox Stall; and
Commissioner Mario M. Valle

Filed this 6th day of January, 2006,
in Tallahassee, Florida.


Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 32301
(850) 488-708

NOTICE TO COMPLAINANTS / PETITIONERS

As your complaint was filed under Title VII of the Civil Rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies furnished to:

Jasen Baker
Bernard Southwell
c/o Jason M. Gordon, Esq.
Gordon & Cornell
103 North Atlantic Avenue
Cocoa Beach, FL 32931

Carrabba's Italian Grill
c/o Kevin D. Johnson, Esq.
Thompson, Sizemore & Gonzalez, P.A.
501 East Kennedy Boulevard, Suite 1400
Tampa, FL 33602

Daniel M. Kilbride, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 6th day of January, 2006.

By: *Kiilit Crawford*
Clerk of the Commission
Florida Commission on Human Relations