

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
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DIVISION OF  
ADMINISTRATIVE  
HEARINGS

BETH THULIN,

EEOC Case No. 15D200800678

Petitioner,

FCHR Case No. 2008-01775

v.

DOAH Case No. 09-0092

CITY OF FLAGLER BEACH, FL,

FCHR Order No. 09-072

Respondent.

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

Preliminary Matters

Petitioner Beth Thulin filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2007), alleging that Respondent City of Flagler Beach, FL, committed unlawful employment practices on the basis of Petitioner's sex (female) by sexually harassing Petitioner, by subjecting Petitioner to unfair discipline and different terms and conditions of employment, and by constructively discharging Petitioner. Petitioner also alleged that Respondent engaged in unlawful retaliation against Petitioner.

The allegations set forth in the complaint were investigated, and, on December 1, 2008, the Executive Director issued his determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioner filed a Petition for Relief from an Unlawful Employment Practice, and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held in Bunnell, Florida, on March 18 and 19, 2009, before Administrative Law Judge Suzanne F. Hood.

Judge Hood issued a Recommended Order of dismissal, dated May 22, 2009.

The Commission panel designated below considered the record of this matter 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

Petitioner filed exceptions to the Administrative Law Judge's Recommended Order in a document entitled, "Petitioner's Exceptions To Recommended Order," received by the Commission on June 9, 2009.

The document contains 16 numbered exceptions paragraphs to the findings of fact, and 5 numbered exceptions paragraphs to the conclusions of law, all containing exceptions to indicated Recommended Order paragraphs.

With regard to the findings of fact, Petitioner's 16 numbered exceptions paragraphs take issue to facts found (8, 13, 14, 16, 18, 10, 19, 20, 23, 24, 25), facts not found (5, 6, 7, 15), and inferences drawn (10, 12, 14, 18, 20, 21, 22, 25) from the evidence presented, (references are to Recommended Order paragraph numbers).

With regard to Petitioner's exceptions to facts found, facts not found, and inferences drawn from the evidence presented, the Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005).

Petitioner's exceptions to the findings of fact are rejected.

With regard to Petitioner's exceptions to the conclusion of law, we have concluded, above, that that Administrative Law Judge's application of the law to facts has resulted in a correct disposition of the matter.

Consequently, we reject Petitioner's 5 numbered exceptions paragraphs to the conclusions of law, some which actually except to factual findings rather than the law applied (see, e.g., conclusion of law exceptions paragraph number 2, excepting to Recommended Order paragraph 36, and conclusion of law exceptions paragraph number 5, excepting to Recommended Order paragraph 41.)

Dismissal

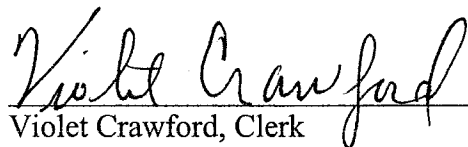
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 18<sup>th</sup> day of August, 2009.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Anice R. Prosser, Panel Chairperson;  
Commissioner Lizzette Gamero; and  
Commissioner Billy Whitefox Stall

Filed this 18<sup>th</sup> day of August, 2009,  
in Tallahassee, Florida.



Violet Crawford, Clerk  
Commission on Human Relations  
2009 Apalachee Parkway, Suite 200  
Tallahassee, FL 32301  
(850) 488-7082

NOTICE TO COMPLAINANT / PETITIONER

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:

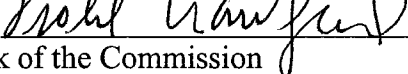
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2707 East Jefferson Street  
Orlando, FL 32803

Suzanne F. Hood, 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 18<sup>th</sup> day of August, 2009,

By:   
Clerk of the Commission  
Florida Commission on Human Relations