

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DORINE ALEXANDER,)
)
 Petitioner,)
)
 vs.) Case No. 09-2849
)
 WAL-MART STORES EAST, L.P.,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

A formal hearing was conducted in this case on January 11, 2010, in Ocala, Florida, before Lawrence P. Stevenson, a duly-designated Administrative Law Judge with the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Dorine Alexander, pro se
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Ocala, Florida 34473

For Respondent: Scott A. Forman, Esquire
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STATEMENT OF THE ISSUE

The issue is whether Respondent committed unlawful employment practices contrary to Section 760.10, Florida Statutes (2007),¹ by discriminating against Petitioner based on

her race or color in its failure to promote her or in its decision to terminate her employment.

PRELIMINARY STATEMENT

On or about October 28, 2008, Petitioner Dorine Alexander ("Petitioner") filed with the Florida Commission on Human Relations ("FCHR") an Employment Complaint of Discrimination (the "Complaint") against Respondent Wal-Mart Stores East, L.P. ("Walmart").² Petitioner alleged as follows:

I believe I was subjected to different terms and conditions, denied training, denied a promotion, unfairly disciplined, and terminated because of my race (black) and my color (dark skinned). I began working with Respondent on August 26, 2004. My last position title was Customer Service Supervisor. I along with a white supervisor (Catherine Durham)^{3/} was assigned to the night shift. Catherine did not do any work and I had to pull all of the cash drawers and handle the accounting issues. I was written up for being late, however, Catherine was late everyday and she was not disciplined. I was given a "D-day" while I was out on approved sick leave.^{4/} Each time I applied for a manager's position I was told my attendance was a problem, although all of the write-ups were reversed. I complained to the corporate office and I only got a response after I missed out on the quarterly training. In September 2007, I was hospitalized and when I returned to work I applied for a hardship loan and Respondent denied my request. However, Catherine applied for a hardship loan and she received it. My responsibilities also increased while I was on this shift. I was responsible for cashiers, accounting, self check out and stock.

On November 14, 2007 I was terminated,[^{5/}] falsely accused of theft and arrested. The allegations were false. I and other supervisors often shared pass codes with each other and cashiers when we were short staffed and extremely busy and nothing was done about it. Catherine was also given vital information about pass codes when employees were under investigation. I never received that information.

The FCHR investigated Petitioner's Complaint. FCHR investigative specialist Pamela Dupree issued an investigative memorandum on March 6, 2009. The memorandum recited Petitioner's allegations regarding the differing conditions of employment and discipline to which she was subjected between August 26, 2004 and September 2007, but concluded as follows:

Complainant filed [her] charge of discrimination with the FCHR on October 30, 2008. The allegations raised by Complainant were not raised within 365 days of the alleged harm and will not be addressed in this report.

The quoted language from the memorandum references Section 760.11(1), Florida Statutes, which provides that any person aggrieved by a violation of the Florida Civil Rights Act of 1992, as amended, "may file a complaint with the commission within 365 days of the alleged violation. . . ." This provision operates as a statute of limitations that bars any claim for damages pre-dating 365 days before the filing of the claim. Greene v. Seminole Electric Cooperative, Inc., 701 So. 2d 646, 648 (Fla. 5th DCA 1997). To extend the time for filing by

equitable tolling, Petitioner would have to establish one of the factors listed in Section 95.051, Florida Statutes. Petitioner has not alleged that any of these factors apply to her situation.

The investigator determined that the only issue raised by Petitioner that was not time-barred was the question of her discharge from employment on November 13, 2007. In a letter dated April 15, 2009, the FCHR issued its determination that there was no reasonable cause to believe that an unlawful employment practice occurred as to Wal-Mart's discharge of Petitioner.

On May 20, 2009, Petitioner timely filed a Petition for Relief with the FCHR. On May 22, 2009, the FCHR referred the case to the Division of Administrative Hearings. The hearing was initially scheduled to be held on August 26, 2009. The case was continued twice and finally was held on January 11, 2010.

At the outset of the hearing, the undersigned affirmed that his jurisdiction extends no farther than that of the FCHR, and that the only issue for decision involved Petitioner's discharge. The undersigned ruled that Petitioner could present evidence regarding events that occurred prior to November 14, 2007, in order to establish a pattern of discrimination and thereby supplement the contention that her ultimate dismissal was due to discrimination.

At the hearing, Petitioner testified on her own behalf and presented the testimony of Jacqueline Cruz, Joan Cameron, and Lawford Cameron, her fellow employees at Wal-Mart. Petitioner offered no exhibits. Wal-Mart presented the testimony of Petitioner; asset protection coordinator Sandra Raines; market asset protection manager Melanie Clemons; and market human resource manager Mark Mathis. Wal-Mart's Exhibits 6, 7, 9, 10, 15 through 24, and 27 through 29 were admitted into evidence. Petitioner testified in rebuttal, and Mr. Mathis testified in surrebuttal.

The one-volume transcript was filed at the Division of Administrative Hearings on January 28, 2010. At the hearing, the parties stipulated to a 30-day period within which to file proposed recommended orders. Walmart timely filed its Proposed Recommended Order on February 25, 2010. Petitioner did not file a proposed recommended order.

FINDINGS OF FACT

1. Wal-Mart is an employer as that term is defined in Subsection 760.02(7), Florida Statutes.

2. Petitioner, an African-American female, was hired by Wal-Mart on or about August 26, 2004. At the time of her dismissal, she worked as a Customer Service Manager ("CSM") on the overnight shift, from 10 p.m. to 7 a.m. As a CSM, Petitioner performed various cashiering and supervisory duties

at the front end of the store. These duties included conducting cash transactions and making refunds to customers.

3. Petitioner's employment with Wal-Mart was terminated on November 13, 2007, for a category of offense styled "Gross Misconduct--Integrity Issue" related to fraudulent returns. In plain language, Petitioner was alleged to have stolen money from Wal-Mart by issuing "refunds" to nonexistent customers and pocketing the money from the cash register.

4. Wal-Mart has a "Coaching for Improvement" policy setting forth guidelines for progressive discipline. See endnote 4, supra, for a brief description of the disciplinary progression. While the progressive discipline process is used for minor and/or correctable infractions such as tardiness, "gross misconduct" constitutes a ground for immediate termination. The coaching policy explicitly sets forth "theft," "dishonesty," and "misappropriation of company assets" as examples of gross misconduct.

5. Prior to her termination, Petitioner's most recent three progressive "coachings" related to her habitual poor attendance and punctuality. A verbal coaching for misconduct related to attendance/punctuality was issued on January 5, 2007. A written coaching for misconduct related to attendance/punctuality was issued on February 23, 2007. A "decision day" for misconduct related to attendance/punctuality

was issued on August 24, 2007, because Petitioner had accumulated six unauthorized absences since the written coaching in February. All of these coachings pre-dated Petitioner's Complaint by more than 365 days.

6. Petitioner conceded that these coachings were unrelated to the reasons for her dismissal from employment. Apart from her unconvincing testimony about an allegedly malfunctioning store time-clock, Petitioner essentially conceded that she had persistent problems arriving on time for work. Petitioner also conceded that, aside from hearsay and rumor on the floor of the store, she had no personal knowledge of anyone else's coachings and thus had no basis for comparing her disciplinary history to that of any other Wal-Mart employee.

7. Wal-Mart's "Promotion & Demotion Criteria" expressly provide that an employee is not eligible for a promotion to management trainee if he or she has an active written coaching. A written coaching is "active" for a period of one year after its issuance, meaning that Petitioner would not have been eligible for promotion to management trainee until February 24, 2008, had she not been discharged on November 13, 2007.

8. Wal-Mart's "Career Preference" system is a computer program that allows employees to express their interest in promotion to other positions. An employee may log onto the Career Preference system and indicate her interest in a

particular job. If an employee has not indicated her interest, she is not considered to have applied for the position and will not be considered for that job opening.

9. A printout of Petitioner's Career Preference history was entered into evidence. It indicates that she never applied for a promotion to department manager.

10. On April 13, 2006, Petitioner attempted to indicate her interest in the management trainee program. However, the Career Preference system will allow only qualified employees to indicate an "interest" and thereby be considered for a job; less-than-qualified employees are shown to have an aspirational "goal" of attaining the position. As of April 13, 2006, Petitioner had at least one active written coaching in her employment file,⁶ had not completed the prerequisites for the management trainee program, and was therefore ineligible for the position. Thus, the Career Preference system did not list her as having an "interest" in the management trainee position and she was not considered for the job.

11. The evidence indicates that Petitioner was not qualified or eligible for a promotion at any time during the 365-day period preceding the filing of her Complaint.

12. Wal-Mart's asset protection coordinators ("APCs") and Market Asset Protection Managers ("MAPMs") work under an entirely different chain of command than those employees

involved in store operations. APCs and MAPMs are not involved in day-to-day decisions regarding employee discipline or promotions.

13. Sandra Raines is the APC for Wal-Mart Store 5326, where Petitioner worked. Her job is to supervise and investigate integrity and facility safety issues, including instances of suspected theft by Wal-Mart employees.

14. Ms. Raines reports directly to Melanie Clemons, the MAPM for 12 stores in Market 481, including Store 5326. Ms. Clemons supervises 12 APCs as to their asset protection duties, which includes allegations of internal theft by Wal-Mart employees.

15. As part of her job, Ms. Raines reviews a weekly refund review report. This report provides information regarding suspicious transactions, such as refunds in excess of \$50 for which the customer did not provide a receipt. The report provides information necessary to trace the transaction: the operator number of the cashier, the number of the register on which the transaction occurred, and whether the transaction was hand-keyed.

16. It is usual Wal-Mart refund practice to scan the Universal Product Code ("UPC") bar code from the receipt into the register. A "hand-keyed" transaction is one in which the register operator manually overrides the register's protocol and

types the information into the register, rather than scanning in the UPC bar code. Ms. Raines testified that, though there are legitimate reasons for using this procedure, a hand-keyed transaction is one of the "red flags" that cause her to look more deeply into a transaction.

17. In the course of reviewing the November 3, 2007, weekly refund review report, Ms. Raines noticed a sale of \$963.92 in merchandise at 3:47 a.m. on October 24, 2007, conducted by Petitioner. She also noticed a refund of \$212.92 related to that receipt at 3:29 a.m. on November 2, 2007. The refund was hand-keyed. The large amount of the refund, the odd hour at which it occurred, and the fact that it was hand-keyed, combined to rouse Ms. Raines' curiosity.

18. Ms. Raines reviewed the electronic journal, a record of every transaction that takes place in the store. She was able to obtain the original receipt from the October 24, 2007 purchase and the receipt for the November 2, 2007 refund. The refund receipt indicated that the returned item was a recliner chair. Ms. Raines' suspicions became greater as she wondered who would return a recliner at 3:29 a.m., then further intensified when she noted the original receipt showed that no recliner was purchased.

19. Ms. Raines' preliminary review of the refund report and the receipts led her to believe that Catherine Durso, a

white female CSM working the overnight shift, conducted the refund transaction. Ms. Durso's operator number was on the refund receipt. Ms. Raines began reviewing store surveillance footage to find visual evidence that Ms. Durso had committed a fraudulent return.

20. Ms. Raines reviewed the video of the original October 24, 2007, sale and saw no recliner. However, she did observe Petitioner printing an additional copy of the sales receipt approximately 11 minutes after the sale.

21. Ms. Raines next reviewed the video of the November 2, 2007 refund transaction. She saw no recliner chair⁷ and no customers present at the register at the time of the refund. Instead, Ms. Raines saw Petitioner conducting the refund transaction on Ms. Durso's register at 3:47 a.m. Ms. Durso was not to be seen in the surveillance footage of this transaction.

22. Based on all the evidence before her, Ms. Raines concluded that Petitioner hand-keyed a fraudulent cash refund for \$212.92, using the UPC code for a recliner chair and the transaction number from the reprinted receipt she had kept from the October 24, 2007 sale.

23. At this point, Petitioner had recorded a cash refund of \$212.92 but had not taken any money from the register. Ms. Raines therefore continued to watch the video to "kind of see what's going to happen next." At 6:03 a.m., Petitioner

recorded a "no sale" transaction on the same register she had used for the refund. A "no sale" can only be performed by a CSM or a member of management because it involves opening the register drawer without actually recording a sale. A "no sale" is typically used when the cashier needs to change out larger bills for smaller ones. On this "no sale," Petitioner appeared to be merely sorting money.

24. However, Petitioner recorded a second "no sale" three minutes later, at 6:06 a.m. This time, Petitioner removed money from the large-bill slot of the register and concealed the money in a black jacket draped over her left arm.

25. Petitioner admitted removing the money from the register and placing it under her jacket. She claimed that she did so in order to safely move the money from the front of the store to the accounting office in the back. This claim was not credible.

26. Ms. Raines testified that there is never a situation in which a CSM should hide money under a jacket. Wal-Mart provides blue register bags for transporting money and requires their use, for reasons of safety and employee integrity.

27. Based on her observation of the fraudulent return transaction, and the removal and concealment of money from the register drawer, Ms. Raines concluded that Petitioner was stealing money from Wal-Mart.

28. Ms. Raines continued her investigation, and discovered two additional fraudulent returns performed by Petitioner. Both of these returns were hand-keyed, and both used the receipt from the October 24, 2007 purchase. One refund transaction occurred on October 24, 2007, the same date as the purchase. Petitioner hand-keyed a refund for a recliner chair in the amount of \$212.92, the same amount as the November 2, 2007 refund. The second refund occurred on October 26, 2007. Petitioner hand-keyed a \$249.09 fraudulent refund for a Barbie Jeep, a battery-operated toy car large enough to hold two young children. No Barbie Jeep was purchased on October 23, 2007.

29. For both of these refunds, Petitioner used the same \$963.92 receipt from October 24, 2007, that Ms. Raines observed Petitioner reprinting 11 minutes after the actual purchase. Ms. Raines viewed the store video to confirm that no customers were present when these refunds were conducted. She also confirmed that no recliner or Barbie Jeep entered the store on the dates in question.

30. Finally, Ms. Raines observed that on October 13, 2007, Petitioner's register was \$300 short at the end of her shift. The surveillance video for that date showed Petitioner performing nine "no sale" transactions. Under the guise of performing an audit of the cash register, Petitioner was removing money from the drawer.

31. Ms. Raines notified her supervisor, Ms. Clemons, of her observations and her conclusion that Petitioner conducted several fraudulent refunds in order to steal money from Wal-Mart.

32. Ms. Clemons reviewed the evidence gathered by Ms. Raines. She reviewed the store videos to verify that Petitioner conducted three fraudulent refund transactions. At the conclusion of her independent review of the evidence, Ms. Clemons was convinced that Petitioner had stolen money from Wal-Mart.

33. Ms. Raines and Ms. Clemons scheduled an interview with Petitioner on November 13, 2007. At this interview, Ms. Clemons terminated Petitioner's employment with Wal-Mart because of gross misconduct.

34. During the interview, Petitioner admitted that she conducted fraudulent returns. She wrote out a statement in her own words:

I had a couple of returns that were not actually returns. They were used for emergency personal purposes due to severe hardship and past-due medical bills.

To my recollection, it has only started just recently around October 2007 and only 3x's that I remember.

I do apologize for the integrity issue and am willing to pay back the 3 that I know and remember.

I felt I was pushed over the edge by personnel and corporate or none of this would have happened. Everyone goes through hardships and I guess it was just my turn and that's how I chose to deal with [sic].

Again, I apologize and am willing to repay Wal-Mart, given the opportunity.

35. At the hearing, Petitioner unconvincingly claimed that she was "coerced" into writing the above statement by a promise that Wal-Mart would not pursue criminal charges for the theft if she made a written confession. She claimed that the statement was not true, but was the result of putting herself "in a theatrical acting mode," imagining what would make someone do the things of which she stood accused. This testimony was not credible.

36. Ms. Raines and Ms. Clemons credibly testified that Petitioner was not coerced into admitting her guilt. Ms. Clemons stated that she offered Petitioner the opportunity to write a statement out of adherence to Wal-Mart procedures. Ms. Clemons did not need the statement. She already had all the evidence she needed and would have fired Petitioner whether or not she wrote the statement.

37. Petitioner admitted that she was discharged solely as a result of the investigation performed by Ms. Raines and Ms. Clemons. Petitioner was criminally prosecuted for the

theft. She pled guilty and was convicted of grand theft, was sentenced, and paid restitution to Wal-Mart.

38. Petitioner testified that she does not believe and does not contend in this forum that either Ms. Raines or Ms. Clemons discriminated against her because of her race or color. She testified that the discrimination did not involve Ms. Raines and Ms. Clemons: "I was fired by them, but the case of discrimination goes way before that."

39. Even if the time-barred elements of the Complaints were considered, Petitioner provided no evidence beyond her bare assertions that she suffered from discrimination on account of her race or color. She believed that Ms. Durso received favored treatment, not because she was white and Petitioner was black, but because Ms. Durso had relatives in management and friends in the store. Also, Ms. Durso had computer skills that Petitioner lacked, which at times enabled Ms. Durso to sit at a desk in the back of the store while Petitioner did the heavy lifting in the front. Given Petitioner's obvious lack of candor as to the central issue of her termination, the undersigned is reluctant to base tangential findings on Petitioner's word alone. Even if Petitioner's testimony were credited as to the preferential treatment accorded Ms. Durso, Petitioner alleged no motive related to race or color in any of this treatment.

40. Petitioner offered no record evidence that she was qualified for, applied for, and was denied a promotion. To the contrary, the evidence showed that Petitioner kept herself ineligible for promotion under Wal-Mart rules by having written "coachings" on her record for persistent lateness and unapproved absences from work.

41. Petitioner offered no evidence that a similarly situated employee of another race or color committed a similar theft and was not discharged from employment with Wal-Mart.

42. The greater weight of the evidence establishes that Petitioner was terminated from her position with Wal-Mart due to gross misconduct on the job in form of fraudulent refunds that attempted to cover her theft of money from her employer.

43. The greater weight of the evidence establishes that Wal-Mart has not discriminated against Petitioner based on her race or color.

CONCLUSIONS OF LAW

44. The Division of Administrative Hearings has jurisdiction of the subject matter of and the parties to this proceeding. §§ 120.569 and 120.57(1), Fla. Stat. (2009).

45. The Florida Civil Rights Act of 1992 (the Florida Civil Rights Act or the Act), Chapter 760, Florida Statutes, prohibits discrimination in the workplace. Subsection 760.11(1), Florida Statutes, provides that any person aggrieved

by a violation of the Act must file a complaint within 365 days of the alleged violation. This is a statute of limitations, and restricts Petitioner's Complaint to violations alleged to have occurred 365 days or less prior to October 30, 2008. Greene v. Seminole Electric Cooperative, Inc., 701 So. 2d 646, 648 (Fla. 5th DCA 1997); St. Petersburg Motor Club v. Cook, 567 So. 2d 488 (Fla. 2d DCA 1990) (referencing the then-current 180-day limitations period).

46. The evidence established that the only adverse employment action suffered by Petitioner at the hands of Wal-Mart between October 30, 2007, and October 30, 2008, was her dismissal from employment on November 13, 2007. All of Petitioner's other allegations are time-barred.

47. Subsection 760.10(1)(a), Florida Statutes, states the following:

(1) It is an unlawful employment practice for an employer:

(a) To discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, national origin, age, handicap, or marital status.

48. Wal-Mart is an "employer" as defined in Subsection 760.02(7), Florida Statutes, which provides the following:

(7) "Employer" means any person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.

49. Florida courts have determined that federal case law applies to claims arising under the Florida's Civil Rights Act, and as such, the United States Supreme Court's model for employment discrimination cases set forth in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973), applies to claims arising under Section 760.10, Florida Statutes. See Paraohao v. Bankers Club, Inc., 225 F. Supp. 2d 1353, 1361 (S.D. Fla. 2002); Florida State University v. Sondel, 685 So. 2d 923, 925 n.1 (Fla. 1st DCA 1996); Florida Department of Community Affairs v. Bryant, 586 So. 2d 1205 (Fla. 1st DCA 1991).

50. Under the McDonnell analysis, in employment discrimination cases, Petitioner has the burden of establishing by a preponderance of evidence a prima facie case of unlawful discrimination. If the prima facie case is established, the burden shifts to Wal-Mart, as the employer, to rebut this preliminary showing by producing evidence that the adverse action was taken for some legitimate, non-discriminatory reason.

If the employer rebuts the prima facie case, the burden shifts back to Petitioner to show by a preponderance of evidence that Wal-Mart's offered reasons for its adverse employment decision were pretextual. See Texas Department of Community Affairs v. Burdine, 450 U.S. 248, 101 S. Ct. 1089, 67 L. Ed. 2d 207 (1981).

51. In order to prove a prima facie case of unlawful employment discrimination under Chapter 760, Florida Statutes, Petitioner must establish that: (1) she is a member of the protected group; (2) she was subject to adverse employment action; (3) she was qualified to do the job; and (4) her employer treated similarly-situated employees of other races or colors more favorably. See, e.g., Williams v. Vitro Services Corporation, 144 F.3d 1438, 1441 (11th Cir. 1998); McKenzie v. EAP Management Corp., 40 F. Supp. 2d 1369, 1374-75 (S.D. Fla. 1999).

52. Petitioner has failed to prove a prima facie case of unlawful employment discrimination.

53. Petitioner established that she is a member of a protected group, in that she is an African-American female. She is also dark-skinned. Petitioner was subject to an adverse employment action insofar as she was terminated. Petitioner was qualified to perform the job of customer service manager, the job she held at the time of her dismissal.

54. Petitioner failed to demonstrate that she was qualified for promotion to management trainee or department manager, either during the 365-day period at issue in this case or during the time-barred period of her employment.

55. Petitioner presented no evidence that her race or color played any role in her termination or in her failure to achieve promotion at Wal-Mart. She presented no evidence, aside from her own less-than-reliable testimony, that any similarly situated employee was treated any differently or better than was Petitioner. Having failed to establish this element, Petitioner has not established a prima facie case of employment discrimination.

56. Even if Petitioner had met the burden, Wal-Mart presented evidence of legitimate, non-discriminatory reasons for terminating Petitioner, thereby rebutting any presumption of racial or color discrimination. The evidence presented by Wal-Mart established that Petitioner was terminated for gross misconduct on the job, namely the calculated, brazen, and repeated theft of money from her employer. The evidence presented by Wal-Mart also established that Petitioner's failure to advance in the company was entirely due to her own unreliability.

57. Petitioner wholly failed to prove that Wal-Mart's reasons for firing her are pre-textual.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that the Florida Commission on Human Relations issue a final order finding that Wal-Mart Stores East, L.P. did not commit any unlawful employment practices and dismissing the Petition for Relief.

DONE AND ENTERED this 6th day of April, 2010, in Tallahassee, Leon County, Florida.



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Filed with the Clerk of the
Division of Administrative Hearings
this 6th day of April, 2010.

ENDNOTES

^{1/} Citations shall be to Florida Statutes (2007) unless otherwise specified. Petitioner was discharged from her position with Walmart on November 13, 2007. She filed her Charge of Discrimination with the Florida Commission on Human Relations on October 30, 2008, which could lead to the conclusion that the 2008 edition of the Florida Statutes should be employed in this case. In any event, Section 760.10, Florida Statutes, has been unchanged since 1992, rendering the question irrelevant.

^{2/} "Wal-Mart Stores East, L.P." is the legal name of the company, but "Walmart" is the trademark of the company and is the spelling most commonly used.

^{3/} The white supervisor's name was actually Catherine Durso.

^{4/} Wal-Mart employs a progressive discipline system. An employee is first given verbal "coaching," then written coaching, then is given a "decision day," or D-day. The D-day is a paid day off from work in which the employee is to decide whether she will make the requested improvement in her performance or behavior. After a D-day, which can also entail a demotion, termination is the only remaining level of discipline.

^{5/} The evidence established that Petitioner's actual termination date was November 13, 2007.

^{6/} Petitioner was issued a "decision day" coaching for accumulated unapproved absences on June 15, 2005.

^{7/} Ms. Raines also watched video of the store entrance to confirm that no one brought a recliner into the store on the morning of November 2, 2007.

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.