

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

CIRA CAIMINTI,

Petitioner,

v.

THE FURNITURE ENTERPRISES, LLC,  
d/b/a LANE HOME FURNITURE and  
THE LEATHER GALLERIES, INC.,

Respondents.

EEOC Case No. 15D200900240

FCHR Case No. 2009-00709

DOAH Case No. 09-3961

FCHR Order No. 10-022

2010 MAR 7 P 12:27  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS  
FILED

**FINAL ORDER AWARDING AFFIRMATIVE  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE  
AND REMANDING CASE TO ADMINISTRATIVE LAW JUDGE  
FOR ISSUANCE OF RECOMMENDED ORDER REGARDING  
AMOUNTS OF ATTORNEY'S FEES AND COSTS OWED PETITIONER**

Preliminary Matters

Petitioner Cira Caiminti filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2007), alleging that Respondents The Furniture Enterprises, LLC, d/b/a Lane Home Furniture and The Leather Galleries, Inc., committed unlawful employment practices by discriminating against Petitioner on the on the bases of Petitioner's sex (female) and National Origin (Hispanic), and by terminating Petitioner from employment in retaliation for complaining about the discrimination.

The allegations set forth in the complaint were investigated, and, on June 16, 2009, the Executive Director issued his determination finding that there was 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 by video teleconference on October 29, 2009, at locations in Tallahassee and Daytona Beach, Florida, before Administrative Law Judge Suzanne F. Hood.

Judge Hood issued a Recommended Order, dated December 16, 2009, recommending that the Commission find that an unlawful employment practice occurred and recommending affirmative relief.

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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the proceeding before the Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See National Industries, Inc. v. Commission on Human Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Hall v. Villages of West Oaks HOA, FCHR Order No. 08-007 (January 14, 2008), Beach-Gutierrez v. Bay Medical Center, FCHR Order No. 05-011 (January 19, 2005), and Waaser v. Streit's Motorsports, FCHR Order No. 04-157 (November 30, 2004).

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.

### Affirmative Relief and Remand

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, we find that unlawful discrimination occurred in this matter in the manner found by the Administrative Law Judge and have adopted the Administrative Law Judge's recommendations for the remedy of the discrimination, recognizing that interest is to be applied to the back pay amount owed as a matter of law.

Respondent The Leather Galleries, Inc., is hereby ORDERED:

(1) to cease and desist from discriminating further in the manner it has been found to have unlawfully discriminated against Petitioner; and

(2) to remit back pay to Petitioner in the amount of \$26,400, as recommended by the Administrative Law Judge.

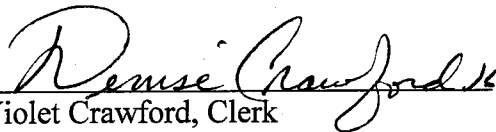
We note that the Administrative Law Judge found that Petitioner requested attorney's fees, but concluded that an Administrative Law Judge does not have jurisdiction to consider such an award. Recommended Order, paragraph 49. We conclude, as is our discretion, that Petitioner is entitled to attorney's fees and costs in this matter, and REMAND the matter to the Administrative Law Judge for the issuance of a Recommended Order to the Commission as to the amount of attorney's fees and costs owed Petitioner by Respondent The Leather Galleries, Inc.

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 26 day of FEBRUARY, 2010.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;  
Commissioner Onelia A. Fajardo; and  
Commissioner Watson Haynes, II

Filed this 26 day of FEBRUARY, 2010,  
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:

Cira Caiminti  
c/o David W. Glasser, Esq.  
Glasser and Handel  
116 Orange Avenue  
Daytona Beach, FL 32114

FCHR Order No. 10-022

Page 4

The Furniture Enterprises, LLC, d/b/a

Lane Home Furniture and The Leather Galleries, Inc.

c/o Dominic Persampiere

Corporate Representative

485 Suncrest Court

Oviedo, FL 32765

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 26 day of FEBRUARY, 2010.

By: Ramse Crawford  
Clerk of the Commission  
Florida Commission on Human Relations