

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

RACHEL LYNN BIVINS,

EEOC Case No. 425201100282

Petitioner,

FCHR Case No. 2011-00755

v.

DOAH Case No. 11-4540

WEST FLORIDA HOSPITAL,

FCHR Order No. 12-063

Respondent.

**ORDER REMANDING CASE TO ADMINISTRATIVE LAW JUDGE
FOR RE-ISSUANCE OF RECOMMENDED ORDER**

This matter is before the Commission for consideration of the Recommended Order, dated September 18, 2012, issued in the above-styled matter by Administrative Law Judge James H. Peterson, III.

Findings of Fact and Conclusions of Law

The Recommended Order reflects that it was sent to Petitioner at 4344 Langley Avenue, Apartment 121-D, Pensacola, FL 32504. Petitioner's Proposed Recommended Order, filed with the Division of Administrative Hearings on August 13, 2012, prior to the issuance of the Recommended Order, states that Petitioner has relocated and that Petitioner's address is 11237 Genova Terrace, Hampton, GA 30228. We are concerned that Petitioner may not have received a copy of the Recommended Order, thereby impacting Petitioner's ability to file exceptions to the Recommended Order should Petitioner desire to do so.

Consequently, we remand the matter to the Administrative Law Judge for the re-issuance of the Recommended Order, using the address for Petitioner set out in Petitioner's Proposed Recommended Order, starting anew Petitioner's time for filing exceptions. Accord, Jackson v. Dollar General Corporation, FCHR Order No. 09-022 (March 6, 2009), Van Sandt-Fuller v. Coastal Cosmetic Center, Inc., FCHR Order No. 06-051 (May 24, 2006), and Francis v. Department of Juvenile Justice, FCHR Order No. 06-094 (November 13, 2006). (We note that in both Van Sandt-Fuller and Francis, supra, which were remanded to the respective Administrative Law Judges for the same reason as this case, the Administrative Law Judges, upon reviewing the computer mail-out system of the Division of Administrative Hearings, subsequently found that the Recommended Orders had been mailed to the correct addresses and that the addresses on the Recommended Orders were typographical errors. The Administrative Law Judges consequently declined the Commission's remand of the cases. See, for Van Sandt-Fuller, "Order Declining Remand" in DOAH Case 05-4057, dated June 5, 2006, and for Francis, "Order Declining Remand" in DOAH Case 05-2958, dated November 20, 2006.)

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order.

Remand

The Petition for Relief and Complaint of Discrimination are REMANDED to the Administrative Law Judge for the re-issuance of the Recommended Order, as indicated above.

DONE AND ORDERED this 16th day of November, 2012.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;
Commissioner Onelia Fajardo-Garcia; and
Commissioner James Johns

Filed this 16th day of November, 2012,
in Tallahassee, Florida.

/s/
Violet Crawford, Clerk
Commission on Human Relations
2009 Apalachee Parkway, Suite 100
Tallahassee, FL 32301
(850) 488-7082

Copies furnished to:

Rachel Lynn Bivins
11237 Genova Terrace
Hampton, GA 30228

West Florida Hospital
c/o Tomas M. Findley, Esq.
Messer, Caparello & Self, P.A.
Post Office Box 15579
Tallahassee, FL 32317

James H. Peterson, III, 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 16th day of November, 2012.

By: _____/s/
Clerk of the Commission
Florida Commission on Human Relations