

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

KATHERINE E. OTTO,

EEOC Case No. NONE

Petitioner,

FCHR Case No. 2011-02501

v.

DOAH Case No. 12-2475

DUVAL COUNTY PUBLIC SCHOOLS,

FCHR Order No. 13-021

Respondent.

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

Preliminary Matters

Petitioner Katherine E. Otto filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2010), alleging that Respondent Duval County Public Schools committed an unlawful employment practice on the bases of Petitioner's race (white), age (DOB: 7-18-61), and sex (female) by terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on June 8, 2012, the Executive Director issued a 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 Jacksonville, Florida, on November 1, 2012, before Administrative Law Judge Robert S. Cohen.

Judge Cohen issued a Recommended Order of dismissal, dated December 28, 2012.

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.

The Administrative Law Judge concluded that Respondent "may" be entitled to reimbursement of its legal fees, costs and expenses in defending this action, and that such determination could be made by filing an action, presumably with the Division of Administrative Hearings, under Section 120.595, Florida Statutes, or Section 57.105, Florida Statutes. Recommended Order, ¶ 81.

We note that awards pursuant to these two statutory sections are within the purview of the Administrative Law Judge and that the Commission does not have "final order" authority over awards made pursuant to these two statutory sections. See, Alexander v. Health Central Hospital, FCHR Order No. 11-035 (April 13, 2011) with regard to Section 120.595, Florida Statutes, and Michael v. Delta Health Group, FCHR Order No. 08-017 (February 26, 2008) with regard to Section 57.105, Florida Statutes.

With this comment, we adopt the Administrative Law Judge's conclusions of law.

### Exceptions

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

### 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 11<sup>th</sup> day of March, 2013.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Gilbert M. Singer, Panel Chairperson;  
Commissioner Onelia Fajardo-Garcia; and  
Commissioner Michell Long

Filed this 11<sup>th</sup> day of March, 2013,  
in Tallahassee, Florida.

\_\_\_\_\_/s/\_\_\_\_\_  
Violet Crawford, Clerk  
Commission on Human Relations  
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Robert S. Cohen, 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 11<sup>th</sup> day of March, 2013.

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