

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

JEFF KLIMCZAK,

EEOC Case No. NONE

Petitioner,

FCHR Case No. 2012-01199

v.

DOAH Case No. 12-3489

DIGITAL NOW, INC.,

FCHR Order No. 13-046

Respondent.

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

Preliminary Matters

Petitioner Jeff Klimczak filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2011), alleging that Respondent Digital Now, Inc., committed an unlawful employment practice on the basis of Petitioner's marital status (not specified in complaint but identified in Recommended Order as "separated") by terminating Petitioner from employment.

The allegations set forth in the complaint were investigated, and, on September 26, 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 Pensacola, Florida, on January 16, 2013, before Administrative Law Judge Diane Cleavinger.

Judge Cleavinger issued a Recommended Order of dismissal, dated April 17, 2013.

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

Respondent filed an exception to the Administrative Law Judge's Recommended Order in a document entitled, "Respondent's Exception to Recommended Order," received by the Commission on or about May 1, 2013.

Referencing the "Preliminary Statement" section of the Recommended Order, Respondent's exception states, "Administrative Law Judge Diane Cleavinger has asserted that the Respondent filed an Amended Proposed Order on March 8, 2013. However, the DOAH Clerk records clearly reflect that the Respondent filed a Proposed Order on March 7, 2013, and never filed an Amended Proposed Order."

A review of the record of this case indicates that it was Petitioner who filed an amended proposed order on March 8, 2013, and that Respondent's proposed order was filed on March 7, 2013.

Respondent's exception is accepted.

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 19<sup>th</sup> day of June, 2013.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

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

Filed this 19<sup>th</sup> day of June, 2013,  
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:

Jeff Klimczak  
c/o Tiffany Rousseau Cruz, Esq.  
Marie A. Mattox, P.A.  
310 East Bradford Road  
Tallahassee, FL 32303

Digital Now, Inc.  
c/o Michael John Stebbins, Esq.  
Michael J. Stebbins, P.L.  
504 North Baylen Street  
Pensacola, FL 32501

Diane Cleavinger, 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 19<sup>th</sup> day of June, 2013.

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

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

Jeff Klimczak,

Petitioner

vs.

Case No. 12-3489  
2012-01199

Digital Now, Inc.,

Respondent

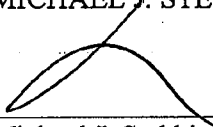
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**RESPONDENT'S EXCEPTION TO RECOMMENDED ORDER**

The Respondent, Digital Now, Inc. by and through its undersigned counsel pursuant to Section 120.57(1)(k), Florida Statutes, hereby files this exception to the Recommended Order issued on April 17, 2013 by Administrative Law Judge Diane Cleavinger, Division of Administrative Hearings. Accordingly, Respondent timely and respectfully requests the Director, Florida Commission on Human Relations to reject the following from the Recommended Order:

**Page 2, Preliminary Statement, Last Paragraph:** Administrative Law Judge Diane Cleavinger has asserted that the Respondent filed an Amended Proposed Order on March 8, 2013. However, the DOAH Clerk records clearly reflect that the Respondent filed a Proposed Order on March 7, 2013 and never filed an Amended Proposed Order.

MICHAEL J. STEBBINS, P.L.



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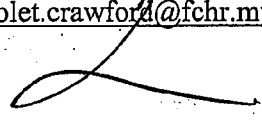
Michael J. Stebbins, Esq.  
Florida Bar No. 616583  
504 North Baylen Street  
Pensacola, Florida 32501  
(850) 434-9922  
(850) 432-2028 (fax)  
Attorney for Respondent  
Primary E-Mail: [mjsteb@bellsouth.net](mailto:mjsteb@bellsouth.net)  
Secondary E-Mail: [kasobiecki@aol.com](mailto:kasobiecki@aol.com)

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing RESPONDENT'S EXCEPTION TO RECOMMENDED ORDER was sent by E-Mail on this 1<sup>st</sup> day of May 2013 to:

Tiffany Cruz, Esq.  
Marie A. Mattox, P.A.  
310 East Bradford Road  
Tallahassee, FL 32303  
[tiffanyc@mattoxlaw.com](mailto:tiffanyc@mattoxlaw.com)  
Attorney for Petitioner

Denise Crawford  
Clerk of the Commission  
Florida Commission on Human Relations  
2009 Apalachee Pkwy., Ste. 100  
Tallahassee, FL 32531  
[violet.crawford@fchr.myflorida.com](mailto:violet.crawford@fchr.myflorida.com)



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Michael J. Stebbins

pc: Pam Turner (via email)