

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

PAUL NOEL,

EEOC Case No. 15D201500042

Petitioner,

FCHR Case No. 2015-00011

v.

DOAH Case No. 15-1179

C AND S WHOLESALE SERVICES,  
INC.,

FCHR Order No. 15-044

Respondent.

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

This matter is before the Commission for consideration of the Recommended Order of Dismissal, dated May 19, 2015, issued in the above-styled matter by Administrative Law Judge D. R. Alexander.

Findings of Fact and Conclusions of Law

Judge Alexander's Recommended Order of Dismissal reflects that Petitioner failed to comply with an order dated April 23, 2015, directing Petitioner to appear to be deposed by Respondent on May 6, 2015.

We note that, generally, Commission panels have concluded that a Petitioner's failure to respond to orders of an Administrative Law Judge amounts to a voluntary dismissal of the Petition for Relief. See, generally, Pierce v. Bright Horizons Children's Centers, LLC, FCHR Order No. 14-010 (March 26, 2014), Herard v. MasTec, Inc., FCHR Order No. 13-034 (May 1, 2013), Cawley v. Primrose Center, Inc., FCHR Order No. 12-009 (February 21, 2012), Roundtree, et al. v. Advenir at Stonelake, LLC, FCHR Order No. 11-069 (August 30, 2011), Biggers v. Rooms To Go, FCHR Order No. 09-045 (May 12, 2009), Shook v. Riverside National Bank, FCHR Order No. 08-029 (May 6, 2008), Clifton v. Krys, et al., FCHR Order No. 07-062 (November 7, 2007), Bordonaro v. The Green at the Heather Condominium Association, Inc., FCHR Order No. 07-010 (February 14, 2007), Butler v. The Pepsi Bottling Group, FCHR Order No. 06-107 (December 4, 2006), Castellanos v. Express Net Airlines Pilots Association, FCHR Order No. 05-061 (June 15, 2005), Mayfield v. Karl's Haberdashery of Florida, Inc., FCHR Order No. 04-020 (March 10, 2004), and Kenny v. Florida Department of Corrections, FCHR Order No. 02-020 (June 3, 2002).

In addition, we note that a Commission Panel has recognized the authority of an Administrative Law Judge to dismiss an action as a sanction for a Petitioner's failure to attend

his noticed deposition. See, Bowleg v. LNR Property, FCHR Order No. 14-032 (September 10, 2014).

Further, with regard to the Administrative Law Judge's recommendation that, "Respondent's request for other sanctions in the form of attorney's fees and costs should be denied," we recognize the authority of the Administrative Law Judge to determine appropriate sanctions for failure to comply with discovery requests, and we conclude that the Commission does not have "final order" authority over those determinations. See, Bowleg, supra, and authorities cited therein.

Based on the foregoing, we conclude that the Petition for Relief should be dismissed.

Exceptions

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

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 31 day of July, 2015.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Michael Keller, Panel Chairperson;  
Commissioner Derick Daniel; and  
Commissioner Sandra Turner

Filed this 31 day of July, 2015,  
in Tallahassee, Florida.

Tammy Barton  
Clerk  
Commission on Human Relations  
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D. R. Alexander, 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 31 day of July, 2015.

By: Sammy Barton  
Clerk of the Commission  
Florida Commission on Human Relations