

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

ASHA J. LOGAN,

EEOC Case No. 15D01700327

Petitioner,

FCHR Case No. 2017-00432

v.

DOAH Case No. 17-5005

BROW ART 23 CORDOVA MALL,

FCHR Order No. 19-030

Respondent.

**INTERLOCUTORY ORDER PLACING CASE IN ABEYANCE AND
REQUIRING STATUS UPDATE FROM RESPONDENT**

This matter is before the Commission for consideration of the “Petitioner’s Status Report,” dated February 6, 2019, and “Response to Status Report,” dated March 13, 2019, filed in response to the “Order Requiring Status Update,” issued by the Florida Commission on Human Relations on January 17, 2019, for the above-styled matter.

Findings of Fact and Conclusions of Law

Petitioner Asha J. Logan filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2016), alleging that Respondent, Brow Art 23 Cordova Mall, committed an unlawful employment practice on the basis of Petitioner’s race by subjecting her to workplace harassment and effectively terminating her from employment.

The allegations set forth in the complaint were investigated, and, on August 11, 2017, the Executive Director issued a determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

On September 13, 2017, 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 ordered by Administrative Law Judge Yolanda Y. Green, for November 25, 2017. However, on November 23, 2017, both parties filed a Motion to Continue the hearing and the hearing was rescheduled until January 16, 2018.

An evidentiary hearing was held on January 16, 2018, as scheduled, by teleconference in Pensacola and Tallahassee, Florida, before Judge Green. However, during the hearing, it was determined that a witness would not be available by phone and the case was recessed until February 2, 2018.

A final evidentiary hearing was held by teleconference until completion on February 2, 2018, as scheduled.

Judge Green issued a Recommended Order, dated May 23, 2018, recommending that the Commission find that an unlawful employment practice occurred and recommending affirmative relief.

On August 2, 2018, the Commission issued an Interlocutory 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.

On August 6, 2018, the Division of Administrative Hearings re-opened the case.

On August 24, 2018, a telephonic status conference was held.

On August 27, 2018, Judge Green issued an Order Placing Case in Abeyance requiring a status report from the parties advising of the status of the case, the length of time required for the final hearing, and several mutually-agreeable dates for scheduling the final hearing, by September 24, 2018. The order advised that failure to timely advise would result in the conclusion that the issue was resolved, and the file would be closed.

On September 20, 2018, Petitioner filed an Affidavit for Attorney's fees. However, it did not include a mutually agreed upon status report filed by both parties.

Accordingly, on November 2, 2018, Judge Green issued an Order Closing File and Relinquishing Jurisdiction.

On January 17, 2019, the Commission issued an "Order Requiring Status Update" ordering a status update from both parties because the status of the case was unclear.

On February 6, 2019, the Petitioner filed the "Petitioner's Status Report," which stated that the claim had not been resolved, but that the Respondent had declared Chapter 11 Bankruptcy and was currently in bankruptcy proceedings.

On March 13, 2019, the Respondent filed the "Response to Petitioner's Status Report" confirming that the Respondent declared Chapter 11 Bankruptcy and attaching the "Notice of Chapter 11 Bankruptcy Case" with a request to stay any action on this case until the bankruptcy claim was resolved.

Based on the above-findings, we conclude the case should be placed in abeyance until the underlying bankruptcy petition is closed, dismissed or otherwise discharged. We further place on Respondent the responsibility of updating the Commission on the status of the underlying bankruptcy petition. Respondent is directed to inform the Commission immediately upon the closure, dismissal or discharge of the petition, or of any event lifting the bankruptcy stay. Upon receipt that the stay is lifted, the case will be transmitted back to the Division of Administrative Hearings. Further, regardless of whether the bankruptcy stay has been lifted, Respondent is directed to file with the Commission a status report by close of business on July 23, 2019. If no status report is received from Respondent by that time, the assumption will be made that the bankruptcy stay has been lifted and the case will be transmitted back to the Division of Administrative Hearings for further proceedings on attorney's fees and costs. The Commission will not pursue this information from the Respondent, or otherwise check on the status of the bankruptcy claim.

Abeyance and Status Report Directive to Respondent

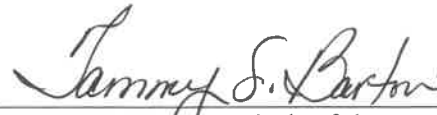
It is hereby ORDERED, this case is placed in abeyance pursuant to the operation of the bankruptcy stay.

Respondent is hereby ORDERED, to inform the Commission immediately upon the lifting of the bankruptcy stay. If no status report is received by the Commission from Respondent by close-of-business on July 23, 2019, the Commission will conclude the bankruptcy stay has been lifted and the matter will be transmitted to the Division of Administrative Hearings for further proceedings on the Petition for Relief.

DONE AND ORDERED this 23 day of April, 2019.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Rebecca Steele, Panel Chairperson;
Commissioner Jay Pichard; and
Commissioner Tony Jenkins (absent, not voting)

Filed this 23 day of April, 2019,
in Tallahassee, Florida.



Tammy S. Barton, Clerk of the Commission
Florida Commission on Human Relations
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Yolanda Y. Green, Administrative Law Judge, DOAH

Sarah Stewart, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 23 day of April, 2019.

By: Tommy S. Barton
Clerk of the Commission
Florida Commission on Human Relations