

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

MICHAEL HARRISON, Petitioner, v. THE MG HERRING GROUP, INC., Respondent.	EEOC Case No. 15D201700317 FCHR Case No. 2017-00588 DOAH Case No. 17-5067 FCHR Order No. 18-034
_____ MARK SMITHERS, Petitioner, v. THE MG HERRING GROUP, INC., Respondent.	EEOC Case No. 15D201700321 FCHR Case No. 2017-00591 DOAH Case No. 17-5069 FCHR Order No. 18-034
_____ CODY LUCAS, Petitioner, v. THE MG HERRING GROUP, INC., Respondent.	EEOC Case No. 15D201700381 FCHR Case No. 2017-00715 DOAH Case No. 17-5071 FCHR Order No. 18-034
_____ DAVID OKKER, Petitioner, v. THE MG HERRING GROUP, INC., Respondent.	EEOC Case No. 15D201700370 FCHR Case No. 2017-00718 DOAH Case No. 17-5073 FCHR Order No. 18-034

MARVIN L. RAGLAND,

Petitioner,

v.

THE MG HERRING GROUP, INC.,

Respondent.

JACOB P. MILLER,

Petitioner,

v.

THE MG HERRING GROUP, INC.,

Respondent.

KYLIE SMITHERS,

Petitioner,

v.

THE MG HERRING GROUP, INC.,

Respondent.

FAITH TAPPAN,

Petitioner,

v.

THE MG HERRING GROUP, INC.,

Respondent.

EEOC Case No. 15D201700387

FCHR Case No. 2017-00721

DOAH Case No. 17-5075

FCHR Order No. 18-034

EEOC Case No. 15D201700385

FCHR Case No. 2017-00724

DOAH Case No. 17-5077

FCHR Order No. 18-034

EEOC Case No. 15D201700390

FCHR Case No. 2017-00727

DOAH Case No. 17-5079

FCHR Order No. 18-034

EEOC Case No. 15D201700391

FCHR Case No. 2017-00733

DOAH Case No. 17-5081

FCHR Order No. 18-034

BERNARD BROOKS,

EEOC Case No. 15D201700382

Petitioner,

FCHR Case No. 2017-00730

v.

DOAH Case No. 17-5411

THE MG HERRING GROUP, INC.,

FCHR Order No. 18-034

Respondent.

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

Preliminary Matters

Petitioners Michael Harrison, Mark Smithers, Cody Lucas, David Okker, Marvin L. Ragland, Jacob P. Miller, Kylie Smithers, Faith Tappan and Bernard Brooks filed complaints of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2016), alleging that Respondent The MG Herring Group, Inc., committed unlawful employment practices. Michael Harrison and Mark Smithers alleged that Respondent unlawfully subjected them to sexual harassment and unlawfully retaliated against them for complaining about the sexual harassment. Cody Lucas, David Okker, Marvin L. Ragland, Jacob P. Miller, Kylie Smithers, Faith Tappan and Bernard Brooks alleged that Respondent unlawfully retaliated against them for opposing an unlawful employment practice under the Florida Civil Rights Act of 1992.

The allegations set forth in the complaints were investigated, and, in each case, the Executive Director issued a determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

Petitioners filed Petitions for Relief from an Unlawful Employment Practice, and the cases were transmitted to the Division of Administrative Hearings for the conduct of formal proceedings.

On October 2, 2017, the Division of Administrative Hearings issued an order consolidating the nine cases referenced in the caption of this order.

An evidentiary hearing was held in Gainesville, Florida, on December 1, 2017, before Administrative Law Judge John D. C. Newton, II.

Judge Newton issued a Recommended Order of dismissal, dated May 11, 2018.

The Commission panel designated below considered the records of these consolidated cases 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 consolidated cases.

We adopt the Administrative Law Judge's conclusions of law.

Exceptions

Petitioners filed exceptions to the Administrative Law Judge's Recommended Order in a document entitled, "Petitioners' Exceptions to the Recommended Order."

Respondent filed a response to Petitioners' exceptions document.

The exceptions document contains six numbered exceptions.

With regard to the six numbered exceptions to the Recommended Order, in each instance Petitioners take issue with inferences drawn by the Administrative Law Judge from the evidence presented.

The Commission has stated, "It is well settled that it is the Administrative Law Judge's function 'to consider all of the evidence presented and reach ultimate conclusions of fact based on competent substantial evidence by resolving conflicts, judging the credibility of witnesses and drawing permissible inferences therefrom. If the evidence presented supports two inconsistent findings, it is the Administrative Law Judge's role to decide between them.' Beckton v. Department of Children and Family Services, 21 F.A.L.R. 1735, at 1736 (FCHR 1998), citing Maggio v. Martin Marietta Aerospace, 9 F.A.L.R. 2168, at 2171 (FCHR 1986)." Barr v. Columbia Ocala Regional Medical Center, 22 F.A.L.R. 1729, at 1730 (FCHR 1999). Accord, Bowles v. Jackson County Hospital Corporation, FCHR Order No. 05-135 (December 6, 2005), Eaves v. IMT-LB Central Florida Portfolio, LLC, FCHR Order No. 11-029 (March 17, 2011) and Taylor v. Universal Studios, FCHR Order No. 14-007 (March 26, 2014).

Petitioners' exceptions are rejected.

Dismissal

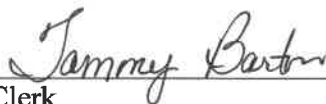
The Petitions for Relief and Complaints of Discrimination are DISMISSED with prejudice.

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 day of July, 2018.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Tony Jenkins, Panel Chairperson;
Commissioner Donna Elam; and
Commissioner Rebecca Steele

Filed this 19 day of July, 2018,
in Tallahassee, Florida.


Clerk
Commission on Human Relations
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Copies furnished to:

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John D. C. Newton, II, 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 day of July, 2018.

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