

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

ROBERT E. PACE, SR.,

EEOC Case No. 15D201700713

Petitioner,

FCHR Case No. 2017-01274

v.

DOAH Case No. 18-2697

SADDLE CREEK CORP.,

FCHR Order No. 19-002

Respondent.

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

Preliminary Matters

On June 19, 2017, Petitioner Robert Pace 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 Saddle Creek Corp. committed an unlawful employment practice against Petitioner on the basis of race, by denying him "light duty" employment while he was injured.

The allegations set forth in the complaint were investigated, and, on May 15, 2018, the Executive Director issued a determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

On May 22, 2018, Petitioner filed a Petition for Relief from an Unlawful Employment Practice, and, on May 23, 2018, the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

On June 6, 2018, a Notice of Hearing was issued, scheduling the hearing for July 30, 2018, in Tampa, Florida. An Amended Notice of Hearing was issued on June 8, 2018, amending the date of the hearing to July 31, 2018.

On July 13, 2018, Respondent filed an unopposed motion to change the hearing location to Lakeland Florida.

On July 16, 2018, Respondent filed an unopposed motion to change the hearing date from July 31, 2018 to a date in August.

An evidentiary hearing was held in Lakeland, Florida, on September 14, 2018, before Administrative Law Judge Hetal Desai.

Judge Desai issued a Recommended Order of dismissal, dated October 22, 2018.

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

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission. In the absence of a transcript of the proceeding before the Administrative Law Judge, the Recommended Order is the only evidence for the Commission to consider. See National Industries, Inc. v. Commission on Human Relations, et al., 527 So. 2d 894, at 897, 898 (Fla. 5th DCA 1988). Accord, Coleman v. Daytona Beach, Ocean Center Parking Garage, FCHR Order No. 14-034 (September 10, 2014), Gantz, et al. v. Zion's Hope, Inc., d/b/a Holy Land Experience, FCHR Order No. 11-048 (June 6, 2011), and Hall v. Villages of West Oaks HOA, FCHR Order No. 08-007 (January 14, 2008).

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. However, in Recommended Order paragraph 44, the Administrative Law Judge concludes that Respondent denying Complainant light duty was not an adverse employment action because no light duty was available. It should be noted that, although that conclusion can be drawn in that case, a denial of light duty can still be considered an adverse employment action in other cases.

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

### Exceptions

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

### Dismissal

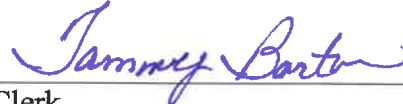
The Petition for Relief and Complaint of Discrimination are DISMISSED with prejudice.

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 17 day of January, 2019.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Latanya Peterson, Panel Chairperson;  
Commissioner Jay Pichard; and  
Commissioner Gilbert M. Singer

Filed this 17 day of January, 2019,  
in Tallahassee, Florida.



Clerk  
Commission on Human Relations  
4075 Esplanade Way, Room 110  
Tallahassee, FL 32399  
(850) 488-7082

Copies furnished to:

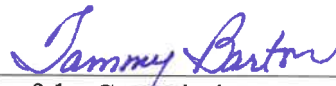
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Hetal Desai, Administrative Law Judge, DOAH

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 17 day of January, 2019.

By:   
Clerk of the Commission  
Florida Commission on Human Relations