

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

JEFF B. PARSONS,

EEOC Case No. 15D201900467

Petitioner,

FCHR Case No. 2019-18423

v.

DOAH Case No. 19-5134

MONRO D/B/A MCGEE TIRE & AUTO,

FCHR Order No. 21-076

Respondent.

**FINAL ORDER AWARDING AFFIRMATIVE
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Jeff B. Parsons, Petitioner, filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2018), alleging that Monroe d/b/a McGee Tire & Auto, Respondent, committed discrimination against him on the bases of age and disability.

The allegations set forth in the complaint were investigated, and, on August 23, 2019, the Executive Director issued a determination finding that there was no reasonable cause to believe that an unlawful employment practice had occurred.

On September 23, 2019, 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 on December 13, 2019, before Administrative Law Judge Lawrence P. Stevenson. On March 2, 2020, the Administrative Law Judge issued a Recommended Order that recommended the Commission issue an interlocutory order finding that Respondent committed an act of unlawful age discrimination against Petitioner. The Administrative Law Judge further recommended that the Commission remand the case to the Division of Administrative Hearings to establish "the amount of back pay/lost wages owed to Petitioner and to determine the amount of costs, including attorney's fees, owed to Petitioner." The Commission subsequently issued an "Interlocutory Order Finding That an Unlawful Employment Practice Occurred and Remanding Case to Administrative Law Judge to Establish the Amount of Back Pay/Lost Wages Owed to Petitioner, and to Determine the Amount of Costs, Including Attorney's Fees, Owed to Petitioner", dated May 5, 2021, FCHR Order No. 21-032.

On July 1, 2021, an evidentiary hearing was held before Administrative Law Judge Lawrence P. Stevenson. On August 31, 2021, the Administrative Law Judge issued a Supplemental Recommended Order that recommended the Commission issue a final order finding that Respondent committed an act of unlawful discrimination against Petitioner and awarding Petitioner \$370,701.72 in back pay/lost wages, with interest, and \$11,296.04 in attorney's fees and costs.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Supplemental Recommended Order.

Findings of Fact

We find that the Administrative Law Judge's findings of fact are supported by competent and substantial evidence. We adopt the Administrative Law Judge's findings of facts.

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.

In addition, the Administrative Law Judge, in the "Conclusions of Law" section of the Supplemental Recommended Order, awards interest. We conclude that the amount of interest owed Petitioner on the back pay/lost wages award is \$51,616.46 (An Appendix to this Order sets out how this amount has been computed).

Exceptions

Respondent filed exceptions to the Administrative Law Judge's Supplemental Recommended Order. Specifically, the exceptions document contains exceptions to the following Supplemental Recommended Order paragraphs (note the paragraphs are set out in the order in which they appear in the exceptions document): 36, 17, 19, 18, 13, 14, 15, and 26. In each instance, Respondent takes issue with facts found and 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).

Respondent's exceptions except to facts found and inferences drawn by the Administrative Law Judge from the evidence presented. Therefore, the Respondent's exceptions are rejected.

Affirmative Relief

On August 31, 2021, Administrative Law Judge Lawrence P. Stevenson of the Division of Administrative Hearings issued a Supplemental Recommended Order recommending that the Commission issue a final order finding that Respondent committed an act of unlawful discrimination against Petitioner and awarding Petitioner \$370,701.72 in back pay/lost wages, with interest, and \$11,296.04 in attorney's fees and costs. Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, the remedy for the unlawful discrimination found to have occurred in FCHR Order No. 21-032 has been determined.

Respondent Monro D/B/A McGee Tire & Auto is hereby ORDERED:

(1) to pay Petitioner back pay/lost wages in the amount of \$370,701.72; and

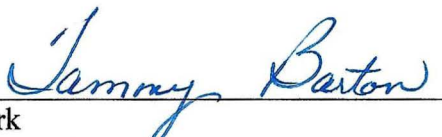
- (2) to pay Petitioner interest on the back pay/lost wages award in the amount of \$51,616.46;
and
- (3) to pay Petitioner attorney's fees and costs in the amount of \$11,296.04.

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 18 day of November, 2021.
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Darrick McGhee, Panel Chairperson;
Commissioner Mario Garza; and
Commissioner Larry Hart

Filed this 18 day of November, 2021,
in Tallahassee, Florida.


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

APPENDIX – Interest Computation

$\$370,701.72/39.42 \text{ months} = 9,403.90 \text{ per month} \times 12 \text{ months} = 112,846.80/52 \text{ weeks} = \$2,170.13$
per week

2018:

2 weeks x \$2,170.13 = \$4,340.26 (.038yr x .0553 = .0021)
13 weeks x \$2,170.13 = \$28,211.69 (.25yr x .0572 = .0143)
13 weeks x \$2,170.13 = \$28,211.69 (.25yr x .0597 = .0149)
13 weeks x \$2,170.13 = \$28,211.69 (.25yr x .0609 = .0152)
 $\$4,340.26 + (\$28,211.69 \times 3) = \$88,975.33 \times (.0021+.0143+.0149+.0152 = .0465) = \$4,137.35$

2019:

52 weeks x \$2,170.13 = \$112,846.76+\$88,975.33 = \$201,822.09
(.25x.0633=.0158) + (.25x.0657=.0164) + (.25x.0677=.0169) + (.25x.0689=.0172) = .0663
 $\$201,822.09 \times .0663 = \$13,380.80$

2020:

52 weeks x \$2,170.13 = \$112,846.76+\$201,822.09 = \$314,668.85
(.25x.0683=.0171) + (.25x.0666=.0167) + (.25x.0603=.0151) + (.25x.0537=.0134) = .0623
 $\$314,668.85 \times .0623 = \$19,603.87$

2021:

$25.82005 \text{ weeks} \times \$2,170.13 = \$56,032.87 + \$314,668.85 = \$370,701.72$

$(.25 \times .0481 = .0120) + (.25 \times .0431 = .0108) + (.385 \times .0425 = .0163) = .0391$

$\$370,701.72 \times .0391 = \$14,494.44$

Total Interest:

2018: \$4,137.35

2019: \$13,380.80

2020: \$19,603.87

2021: \$14,494.44

\$51,616.46

Florida C.F.O. Interest Rates

Effective Date	Rate Per Annum	Daily Rate as a Percentage	Daily Rate as a Decimal
October 1, 2021	4.25%	.0116438%	.000116438
July 1, 2021	4.25%	.0116438%	.000116438
April 1, 2021	4.31%	.0118082%	.000118082
January 1, 2021	4.81%	.0131781%	.000131781
October 1, 2020	5.37%	.0146721%	.000146721
July 1, 2020	6.03%	.0164754%	.000164754
April 1, 2020	6.66%	.0181967%	.000181967
January 1, 2020	6.83%	.0186612%	.000186612
October 1, 2019	6.89%	.0188767%	.000188767
July 1, 2019	6.77%	.0185479%	.000185479
April 1, 2019	6.57%	.0180000%	.000180000
January 1, 2019	6.33%	.0173425%	.000173425
October 1, 2018	6.09%	.0166849%	.000166849
July 1, 2018	5.97%	.0163562%	.000163562
April 1, 2018	5.72%	.0156712%	.000156712
January 1, 2018	5.53%	.0151507%	.000151507

Copies furnished to:

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 c/o Ryan Barnett, Esq.
 Whibbs Stone Barnett, P.A.
 801 W. Romana St.
 Pensacola, FL 32502

Monro d/b/a McGee Tire and Auto
c/o Jeffrey Meyer, Esq.
Nixon Peabody LLP
50 Jericho Quadrangle, Ste. 300
Jericho, NY 11753

Lawrence P. Stevenson, Administrative Law Judge, DOAH

John Scotese, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 18 day of November, 2021.

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

