

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

ANA L. SOTO,

Petitioner,

FCHR Case No. 202021947

v.

DOAH Case No. 20-4159

OFFICE DEPOT,

FCHR Order No. 21-007

Respondent.

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**INTERLOCUTORY ORDER REMANDING CASE TO ADMINISTRATIVE LAW  
JUDGE FOR FURTHER PROCEEDINGS ON THE PETITION FOR RELIEF**

This matter is before the Commission for consideration of the Order Relinquishing Jurisdiction and Recommending Dismissal, dated November 2, 2020, issued in the above-styled matter by Administrative Law Judge Robert L. Kilbride.

Findings of Fact and Conclusions of Law

This case contains allegations of an unlawful public accommodations practice.

A review of the Order Relinquishing Jurisdiction and Recommending Dismissal, granting Respondent's Motion to Dismiss, reveals that the Administrative Law Judge concluded that Respondent, Office Depot, was not a "public accommodation" within the meaning of section 760.02(11), Florida Statutes. See Order, FCRA Claim, ¶ 3. While the Office Depot in question may not be a public accommodation, the record does not have competent substantial evidence to support that finding.

The Order Relinquishing Jurisdiction and Recommending Dismissal indicates that Petitioner made no allegations claiming that the Office Depot in question "conducts any of the businesses listed under section 760.02(11)(a)-(d)." *Id.* Respondent's Motion to Dismiss does deny being a business as defined by section 760.02(11)(a)-(c), Florida Statutes; however, Respondent in its Motion makes no representation as to section 760.02(11)(d), Florida Statutes ("[a]ny establishment which is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment" is a place of public accommodation).

In our view, the matter should be remanded to the Administrative Law Judge for further proceedings on the Petition for Relief to determine whether Respondent is a "place of public accommodation" as defined by section 760.02(11)(d), Florida Statutes (2020), and for such further proceedings as may be required based on that determination.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Order Relinquishing Jurisdiction and Recommending Dismissal.

Remand

The Petition for Relief and Complaint of Discrimination are REMANDED to the Administrative Law Judge for further proceedings, as indicated above.

DONE AND ORDERED this 7 day of January, 2021.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Mario Garza, Panel Chairperson;  
Commissioner Darrick McGhee; and  
Commissioner Jay Pichard

Filed this 7 day of January, 2021,  
in Tallahassee, Florida



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Commission on Human Relations  
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Robert L. Kilbride, 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 7 day of January, 2021.

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