SUBJECT MATTER INDEX
Volume 2

Precedential Decisions from January 2000 through September 2012

Scope and Purpose. The Chicago Commission on Human Relations publishes this Subject Matter Index pursuant to Commission Regulations 270.510 and 270.530, which specify that all published decisions of the Commission shall have precedential effect and may be cited as such. The Regulations also direct the Commission to periodically list all of its published decisions in an index and make the index available for public inspection without cost.

Volume 2 covers decisions from January 2000 through the month stated above. Volume 1 covers decisions from 1990 through December 1999. Both volumes must be consulted for complete research.

The Subject Matter Index includes all rulings issued by the Board of Commissioners after administrative hearings, plus a variety of orders issued by senior Commission staff or hearing officers on substantive and procedural issues. Routine orders which merely apply well-established law to typical fact situations are not included. CCHR Reg. 270.510(a) explains how the Commission decides which decisions should have precedential effect and be listed in the Index. Thus the Index does not reflect the full scope of the Commission’s caseload or adjudicatory work. Nor does the Index necessarily describe all aspects of a particular case or decision. Rather, the purpose of the Subject Matter Index is to support legal research.

Consulting Commission case law is essential to understanding how the Commission has interpreted and applied the Chicago Human Rights Ordinance, the Chicago Fair Housing Ordinance, the Commission on Human Relations Enabling Ordinance, and the Commission’s own Regulations. Complainants and Respondents are strongly urged to use this Index to identify and cite pertinent prior decisions in their position statements, motions, briefs, and other legal arguments.

No description, summary, or characterization of a decision in this publication may be cited as legal authority. See CCHR Reg. 270.530. The Index is prepared by Commission personnel as an aid to legal research. It is a starting point and guide. The decisions themselves should be consulted to assess their meaning and application to later cases.

If you need this document in an alternate format for a person who is blind or has visual impairments, please contact the Commission for assistance.

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Index Organization. The Index is organized alphabetically by topic. A Table of Topics and Subtopics at the beginning of Volume 2 enables users to find topics of interest. In the Index of Decisions, within each subtopic the earliest decision is listed first, followed by each subsequent decision issued during the time period covered by the volume. Each listed decision is briefly described.

Citing Decisions. Commission Regulation 270.520 provides that Commission decisions are cited as follows: case name, case number, date of decision. An example of a typical citation is Chan v. Advocate Health Care et al., CCHR No. 99-E-58 (June 19, 2003). Decision dates are important, because more than one precedential decision may have been issued in a particular case.

If no relevant Commission precedent can be found, CCHR Reg. 270.510 provides that in deciding issues of first impression, the Commission shall look to decisions interpreting other relevant laws for guidance. A party citing the decision of another tribunal must include a copy with the brief or other submission in which it is cited.

A party may cite an unpublished decision of the Commission (other than a determination as to substantial evidence, which is never precedential) but if doing so must include a copy with the brief or other submission in which it is cited. If the Commission cites an unpublished decision in support of any subsequent decision, it will add the decision to its next Subject Matter Index.

Except for making available this Index and copies of its published decisions, the Commission is not required to conduct legal research or to identify relevant published or unpublished decisions for any party or member of the public.

Availability of Index and Decisions. The Commission is working toward making the Subject Matter Index and all precedential decisions available to the public at no charge through its website, located at www.cityofchicago.org/humanrelations. Updates on availability will be announced on the website. Meanwhile, these are the options for accessing the Index and the listed decisions:

- Library and Internet Options. Paper copies of the Subject Matter Index and the decisions listed in it are kept at the Commission’s office and may be read at the office by appointment pre-arranged with the Commission’s Docket Clerk. Paper copies are also available at the Cook County Law Library (29th Floor, Daley Center, 50 W. Washington St.), which is open to the public during announced hours. Currently, most decisions through 2006 are available electronically through Westlaw® and Board of Commissioner rulings from 2007 forward are available on the Commission’s website.

- Purchase of Index and Updates. If you would like to purchase Volume 1 or Volume 2 of the Subject Matter Index, or if you would like to subscribe to future updates of the Index, please contact the Commission’s Docket Clerk. An Order form is included on the last page of Volume 2.

- Requesting Decisions from the Commission. To arrange to purchase any published decision or read it at the Commission’s office, please make a request to the Commission at least two working days in advance, providing the case name (complainant and respondent), case number, and date of the decision. A shorter turn-around time may be possible but cannot be guaranteed. A written request is preferred if you are seeking access to multiple decisions. Requests may be directed to the Commission’s Docket Clerk or may be submitted as “FOIA” requests under the Illinois Freedom of Information Act, including by e-mail to CCHRFOIA@cityofchicago.org.

- Costs and Payment. Individuals may read decisions at the Commission at no charge, by appointment as noted above. Paper copies of decisions may be purchased at $.15 per page. Payment must be made at the time the decisions are received—either by check or money order payable to City of Chicago or by cash in exact amount. A mailing charge may be added for any decisions to be delivered by U.S. Mail. The Commission may fax copies of decisions (to local numbers only) if the order totals fewer than 20 pages.
Explanation of Abbreviations:

- **Case Numbers.** The first two digits of a case number indicate the year of filing. For example, 98 means 1998 and 01 means 2001. The letters in the center indicate the type of case:
  
  “E” = Employment.
  “PA” or “P” = Public Accommodations.
  “FHO” or “H” = Housing.
  “C” = Credit.

The last 1-3 digits are the serial number for that case type within the year of filing.
Thus CCHR No. 99-E-58 was the 58th employment discrimination complaint filed in the year 1999.

- **Type of Decision.** The letters after each entry and brief description of a decision in the Index indicate the type of decision-maker:
  
  “R” = Ruling of the Board of Commissioners (after an administrative hearing).
  “CO” = Commission order, issued by designated senior staff.
  “HO” = Hearing officer order.

- **Names.**
  
  “CCHR” or “CHR” or “Commission” = the City of Chicago Commission on Human Relations.
  “CHRO” or “HRO” = the Chicago Human Rights Ordinance.
  “CFHO” or “FHO” = the Chicago Fair Housing Ordinance.

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**About this Update**

This updated Volume 2 adds decisions issued from **January 1, 2007 through September 30, 2012.**

The Index no longer includes a list of Board of Commissioners rulings entered after an administrative hearings. All Board rulings are now listed in the *Board Rulings Digest*, a publication available on the Commission’s website and in paper form from the Commission’s office (no charge for single copy).

New topics and subtopics appear in Volume 2 which are not found in Volume 1, and a few more were added with this update. We have not eliminated any topic or subtopic found in Volume 1. When conducting research, it is best to use the Table of Topics and Subtopics at the beginning of Volume 2 to identify all the subject areas by which decisions are classified in the Index.

If all or part of a Commission decision was reversed on review in state court, the reversal will be noted in any relevant entries for the decision in Volume 2. If a decision was affirmed in state court, that will usually be noted only if an appellate-level court issued a published (i.e. precedential) opinion.
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INDEX OF DECISIONS
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This volume includes summaries of only those decisions which the Commission has issued since January 1, 2000. Volume 1 contains earlier decisions about many of the topics included here, and needs to be consulted for complete legal research. Many of the Commission’s leading cases on particular topics are listed in Volume 1.

ACCESS TO FILES – See also Protective Orders section, below.

During Investigation
Cooper v. Park Management & Investment Ltd. et al., CCHR No. 03-H-48 (July 26, 2007) Business Respondent’s request for information about CHR’s attempts to serve individual Respondent denied pursuant to Reg. 220.410(a)(2); CHR does not disclose to parties evidence or other information in investigative file until case dismissed or substantial evidence decision made, nor is CHR required to inform respondents about efforts to serve co-respondents. CO

Rivas v. Lake View YMCA et al., CCHR No. 08-H-19 (Nov. 21, 2008) Motion to seal a portion of the case record granted where one Respondent did not want her contact information disclosed to Complainant due to his harassing conduct toward her, and Complainant ordered to communicate with the Respondent only through her attorney or by submitting any relevant service copy to CHR for forwarding. Same level of protection granted to Complainant, who did not want Respondents to know his current address. Complainant found entitled to copy of information written on closed case file folder flap except the Respondent’s contact information; however, his request for inspection of the file denied because he already received all material to which he was entitled. CO

Mendez v. El Rey del Taco & Burrito, CCHR No. 09-E-016 (Apr. 5, 2010) Respondent need only give CHR at least two business days’ notice to inspect and copy investigative file pursuant to Reg. 220.410. No order from hearing officer necessary. HO

ADVERSE ACTION – See also Complaints/“Trivial” Allegations section, below.

Employment
Thomas v. Intell Mgmt. and Inv. Co., CCHR No. 02-E-51 (Aug. 14, 2002) No adverse action where security supervisor was transferred to another assignment without pay cut or demotion. Similarly, making transfer permanent is not adverse action, especially where Complainant did not seek return to former assignment. CO

Floyd v. City of Chicago Dep’t of Health, CCHR No. 00-E-120 (Nov. 4, 2004) Complainant’s allegations that she was “issued a write-up” and attended a meeting with union and management representatives discussing whether a management action would be rescinded adequately stated a retaliation claim, because they may establish an adverse employment action. CO

Shedd v. 1550 N. Condo. Assn. et al., CCHR No. 01-E-69 (July 22, 2005) Retaliatory harassment, even if it does not result in discharge, is an adverse employment action concerning the “terms and conditions” of employment, and actionable under CHRO. Complaint alleging that Respondent’s representative tried to have Complainant fired over two-year period held sufficient to state retaliatory harassment claim. CO

Slawson v. Minnick, CCHR No. 05-E-105 (Jan. 4, 2006) Allegation that Complainant was subjected to internal investigation pursuant to sexual harassment complaint filed by another employee did not state claim of sex discrimination where Complainant suffered no injury to his employment status as a result. CO

Housing
Denison v. Condo Board, 212 W. Washington, CCHR No. 02-H-85 (Dec. 2, 2002) Where Complainant renting condo unit alleged that Respondent condo board instructed her landlord to evict her, and not that landlord or Respondent were in fact proceeding to terminate her tenancy, no adverse action claimed and so Complaint dismissed. CO

Caproni v. The Ark, Singer Residence et al., CCHR No. 02-H-78 (Aug. 21, 2003) Motion to dismiss asserting insufficient facts to support sex discrimination claim denied where Complaint alleged at least one request for sex by Respondent while providing Complainant with needed household items and also alleged Respondent stopped knocking on Complainant’s door when her husband was present. CO

Hoskins v. Linton, CCHR No. 01-H-85 (Sep. 9, 2004) Commission cannot find substantial evidence of refusal to rent where there was no substantial evidence that a housing unit was available to rent at the time of Complainant’s inquiry, even though Respondent also told Complainant, a Section 8 voucher holder, that she would not accept tenants with Section 8 vouchers. CO
**Public Accommodations**

- **Blakemore v. Gogola et al.**, CCHR No. 04-P-84 (Apr. 12, 2005) Complaint alleging that employee working in building told Complainant he could not enter it dismissed where security personnel promptly intervened and let him enter; incident not invidious, long-lasting or sufficiently pervasive to state adverse action. CO

- **Blakemore v. Antojitos Guatemaltecos Rest.**, CCHR No. 01-PA-5 (Apr. 20, 2005) No adverse action where restaurant patron was served but while eating was asked more than once whether ready to pay, in polite manner without overtly discriminatory language. At most the action was a nuisance, but trivial and not sufficiently substantial or material to be an adverse action. That African-American Complainant may have been denied a “cultural exchange” because Guatemalan server did not otherwise speak to him not material where Respondent is a restaurant and not offering conversation or cultural education to the general public. R

- **Love v. Chicago Police Dep’t et al.**, CCHR No. 01-PA-34 (July 22, 2005) Where Complainant had to call twice for police assistance and claimed inconvenience and delay in service, such conduct too trivial to constitute adverse action (also held not to constitute public accommodation under CHRO). CO

- **Stark v. Chicago Transit Authority**, CCHR No. 04-P-17 (Dec. 19, 2005) Complaint dismissed for failure to state claim due to lack of adverse action where Complainant claimed CTA employee refused to use his card to give Complainant discounted fare when Complainant feared his own would be damaged, then was verbally abusive but did not use pejorative language or refer to Complainant’s disability. CO

- **Blakemore v. Metro. Water Reclamation Dist. et al.**, CCHR No. 06-P-18 (Mar. 30, 2006) No requirement in CHRO to explain or object to a possibly discriminatory act by another person, especially if the respondent is not an employer or otherwise in control of that person’s conduct. Complaint dismissed as to fellow Commissioners who merely observed Board President’s action in question but did not cause or further it, and as to a Commissioner whose earlier action was cited as a comparative but was not taken against Complainant. CO

- **Blakemore v. Market Place**, CCHR No. 04-P-28 (Apr. 5, 2007) Not every insult, discourtesy or inconvenience will rise to level of adverse action capable of supporting a discrimination claim. While Complainant may have been subjected to crude behavior when told “get your ass out of the store,” there was no evidence this was done because of his race, and he was allowed to make purchases and not forced from store. CO

- **DeVries v. Raw Bar & Grill**, CCHR No. 06-P-66 (Apr. 19, 2007) No adverse action where Complainant was removed from restaurant due to belief he was intoxicated because of uneven gait, but staff apologized and comped drinks as soon as they learned of his disability, cerebral palsy. Prompt corrective action cured the potentially discriminatory conduct, which occurred before Respondent knew of Complainant’s disability. CO

- **Williams v. Bally Total Fitness Corporation**, CCHR No. 05-P-94 (May 16, 2007) No adverse action where employee of health club Complainant frequented enforced club’s closing policy by standing near Complainant and telling him it was time to leave. Single act of rudeness in course of lengthy business relationship not sufficient to establish that use of public accommodation was curtailed. R

- **Williams v. First American Bank**, CCHR No. 05-P-130 (July 16, 2008) No sex discrimination where bank employee initially did not allow Complainant to use bank’s restroom thinking he was not a bank customer, but manager told Complainant he was welcome to use the restroom after confirming he actually was a customer. Complainant failed to prove he was denied use of restroom and conduct was not sufficiently invidious, long-lasting or pervasive to constitute an adverse action. R

- **Blakemore v. Chicago Transit Authority**, CCHR No. 06-P-34 (Sep. 17, 2008) Finding of no substantial evidence or race discrimination affirmed on review. Although Complainant, who is black, was initially not allowed to board a CTA bus while white passengers boarded, the driver promptly acknowledged error, apologized, and let Complainant board. This conduct did not constitute material adverse action against Complainant. Only after Complainant himself prolonged the incident by questioning the driver and accusing him of discrimination and abuse, did the driver call police and have Complainant removed. CO
**Blakemore v. Starbucks Coffee Company**, CCHR No. 07-P-13/91 (Sep. 17, 2008) No denial of full use of public accommodation where Complainant had to argue with store personnel before receiving a requested free cup of ice, where he received the ice within a very short period then was able to sit in the store and consume his beverage. CHR decisions have long limited “full use” provisions to actions which are not “trivial” in nature but rather are invidious, long-lasting, or sufficiently pervasive to state an adverse action. CO

**Blakemore v. Jewel et al.**, CCHR No. 06-P-72 (Feb. 2, 2009) Complaint alleging that African-American store customer was required to provide identification before receiving a wine sample while non-African-American customers received samples without presenting identification cannot be dismissed as trivial or not discriminatory merely because the incident was of short duration and no “overt” discrimination was alleged. Such allegations state a claim and these arguments raise factual issues which cannot be resolved on a motion to dismiss. CO

**Blakemore v. Market Place**, CCHR No. 04-P-28 (Apr. 5, 2007) Not every insult, discourtesy or inconvenience will rise to level of adverse action capable of supporting a discrimination claim. While Complainant may have been subjected to crude behavior when told “get your ass out of the store,” there was no evidence this was done because of his race, and he was allowed to make purchases and not forced from store. CO

**AFFIRMATIVE ACTION PLAN**

**No Discrimination Found**

**Moriarty v. Chicago Fire Dept. et al.**, CCHR No. 00-E-130 (June 13, 2001) CHR granted motion to dismiss case which challenged promotion examination, finding the examination was given and scored in the same manner for all applicants and the fact that weights for different components may have been changed to increase promotions of minorities does not constitute impermissible race discrimination; follows federal decisions. CO

Plan Upheld – No new decisions in this volume.

**AFFIRMATIVE DEFENSE**

**Burden of Proof**

**Griffiths v. DePaul Univ.**, CCHR No. 95-E-224 (Apr. 19, 2000) Respondent has burden to prove Complainant’s failure to mitigate. R

Lack of Subject Matter Jurisdiction – No new decisions in this volume.

Mitigation of Damages – See Damages/Mitigation section, below.

Mixed Motives – See separate Mixed Motives section, below.

Pleading Not Required – No new decisions in this volume.

Timeliness of Claim – No new decisions in this volume.

Waiver – No new decisions in this volume.

**AGE DISCRIMINATION**

**Early Retirement Offer**

**Russell v. Alliance Hose & Rubber**, CCHR No. 97-E-230 (Oct. 17, 2001) An offer of early retirement is not inherently discriminatory; the circumstances around it, especially whether the employee is given the option of continuing to work, are central. CO

**Russell v. Alliance Hose & Rubber**, CCHR No. 97-E-230 (Oct. 17, 2001) Where there was a credibility-based dispute about whether the over-40-year-old Complainant was terminated just before cancer surgery after rejecting an offer of early retirement, CHR found substantial violation of age and disability discrimination. CO

Jurisdiction – No new decisions in this volume.
Liability Found

Brooks v. Hyde Park Realty Co., Inc., CCHR No. 02-E-116 (Dec. 17, 2003) Prima facie case of age discrimination established where office manager in 50’s was discharged after a year of employment including raise and added responsibility: although told business was slow after loss of major account, she had been asked to hire more staff; moreover, younger employees with similar duties, including one hired after her, were not discharged. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) After order of default, Mexican-American kitchen employee established prima facie case that restaurant owner harassed and discharged her based on age, sex, and national origin when he engaged in repeated derogatory slurs and insults, then discharged her stating “I don’t need her work because she’s already old. And I don’t like Mexicans in my business.” R

Mandatory Retirement Ordinance

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) CHR held that a mandatory retirement ordinance [MRO] for certain police and fire personnel should be read as an implied exception to CHRO; finds MRO to be the more specific and the later passed and also finds that reading the MRO as an exception follows the intent of City Council. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) In construing two conflicting municipal ordinances – CHRO and a mandatory retirement provision – CHR applied statutory construction rules including: giving intent to legislature by presuming it has acted rationally; reading the two ordinances so that both can stand, where possible; determining which ordinance was the later passed; deciding which was more specific; and considering fact that no exception in CHRO permits mandatory retirement. CO See also City of Chicago Authority & Statutory Construction sections, both below.

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) CHR denies request for review of August order [above], again finding that the mandatory retirement order [MRO] for certain police and fire personnel is to be read as an implied exception to the CHRO; among other things, finds MRO to be more specific than CHRO and finds that City Council intended the MRO to be effective. CO See also City of Chicago Authority & Statutory Construction sections, both below.

No Liability Found

Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) CHR found that neither male, over-age-40 Complainant overcame Respondents’ non-discriminatory, performance-related reasons to discharge them; Respondents presented evidence of malfeasance and poor performance and any comments about their age and sex were made by personnel who did not make the discharge decisions. R

Ingram v. Got Pizza, CCHR No. 05-E-94 (Oct. 18, 2006) No prima facie case of age discrimination where 45-year-old pizza delivery driver was not returned to delivery schedule after his car broke down while attempting deliveries; no evidence showed younger drivers were treated more favorably in similar circumstances. R

Anguiano v. Abdi, CCHR No. 07-P-30 (Sept. 16, 2009) No age-based harassment where, in course of argument during cab ride, driver called Complainant “old,” “unable to get a job,” and “unable to support himself.” In context of both sides exchanging personal insults and Complainant causing the incident, statements not sufficiently separating or belittling to create hostile environment. R

Glowacz v. Angelastri, CCHR No. 06-E-070 (Dec. 16, 2009) No age discrimination where 56-year-old store clerk was laid off in that a younger employee was also laid off, Respondent showed cost reductions were needed due to declining business, and other employees but not Complainant were willing to work less than full time. Respondent’s business decisions found not so unreasonable that they imply age discrimination. R

Johnson v. Anthony Gowder Designs, Inc., CCHR No. 05-E-17 (June 16, 2010) Complainant failed to prove age was a factor in decision to reduce his status from full time to freelance after hip replacement surgery. Owners’ explanations that decision was reluctantly made due to need to cut costs were found credible and not pretextual, as were their decisions to retain full-time staff who had managerial skills Complainant lacked. Age-related comments by owners found unconnected to the adverse employment action and insufficient to establish age-based animus or intent. R

Ordinance Coverage

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) CHR held that a mandatory retirement ordinance [MRO] for certain police and fire personnel should be read as an implied exception to CHRO; finds MRO to be the more specific and the later passed and also finds that reading the MRO as an exception follows the intent of City Council. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) CHR denies request for review of August order [above], again finding that the mandatory retirement order [MRO] for certain police and fire personnel is to be read as an implied exception to the CHRO; among other things, finds
MRO to be more specific than CHRO and finds that City Council intended the MRO to be effective. CO

Chatman v. Woodlawn Cmty. Dev. Corp. et al., CCHR No. 05-H-22 (Jan. 27, 2006) (1) Purpose of CFHO is to prohibit discriminatory favoritism for the relatively young over the relatively old; it does not prohibit reverse age discrimination. Therefore, 43-year-old Complainant’s claim that rental housing provider tried to get rid of tenants under age 62 was dismissed. (2) Dismissal was not based on Respondents’ asserted entitlement to CFHO’s age exemption where no evidence was presented that any age restriction was “authorized, approved, financed or subsidized” by some level of government for benefit of that age group. CO

AGENCY LAW

Agent Liability

Aljazi v. Owners of 4831 N. Drake, et al., CCHR No. 99-H-77 (Apr. 27, 2000) CHR notes that the CFHO states that respondents can include agents of an owner or individuals with authority to rent a housing accommodation, even if the individual is not herself an owner. CO

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR found Respondents liable for having an “adults-only” policy which they used to discourage Complainant/owners from selling unit to Complainant/buyers who had a child. R

Gallegos v. Baird & Warner et al., CCHR No. 01-H-21 (Jan. 18, 2002) While director of corporation can rarely be held liable for action or inaction of corporation, this individual was named as a respondent for his own alleged failings; CHR denied motion to dismiss individual in order to determine whether he may be an agent of corporation as required by CFHO; discusses agency standards. CO

Gallegos v. Baird & Warner et al., CCHR No. 01-H-21 (Jan. 18, 2002) CHR denies motion to dismiss, rejecting argument that agents cannot be liable for acts of disclosed principal; finds that whether the acts were done at direction of the known principal was a question of fact and holds that the case law cited states that agents of known principals can be liable to the third party, here Complainant, if agent owes a separate duty to that third party as the CFHO creates. CO

Leadership Council for Metro. Open Comms. v. Chicago Tribune, CCHR No. 02-H-19 (Apr. 11, 2002) CHR dismissed newspaper which printed housing ad refusing rental based on source of income finding it is not an owner, lessee or other entity, including agent, listed by CFHO and so not proper respondent under it. CO

Leadership Council for Metro. Open Comms. v. Chicago Tribune, CCHR No. 02-H-19 (June 6, 2002) CHR upholds prior decision [above] that the Tribune is not an “agent” of a housing provider merely by publishing a housing advertisement and so is not a proper respondent under the CFHO. CO

Jara v. Shoreline Towers Condo. Assn. et al., CCHR No. 05-H-18 (Nov. 10, 2005) Building manager for condominium association is inferred by title and alleged conduct to be subject to CFHO as agent of expressly covered entities; motion to dismiss as respondent denied but any factual issue as to actual authority can be addressed in investigation. CO

Pruitt v. Grubb & Grubb Property Mgmt., Inc., CCHR No. 05-H-68 (Apr. 3, 2006) Property management companies and individual property managers of condominium associations are covered by the CFHO as agents. CO

MacEntee & Arvanites v. 539 Stratford Condo. Assn. et al., CCHR No. 05-H-46/50/48/51 (May 18, 2006) Condominium associations and their property managers are covered by the CFHO as agents. CO

De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Aug. 23, 2006) Condominium associations, individual board members, property management companies, and individual property managers of condominiums may be properly named as respondents under CFHO as agents. CO

Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Business Respondent held vicariously liable for store manager’s race discrimination and retaliation. Store manager found most directly responsible and subject to higher penalties where she knew about the incidents while the business owners did not because manager failed to inform them. R

Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 15, 2009) Contracted security guard found owner’s agent and acting within scope of agency, in that his discriminatory conduct occurred within authorized time and space of agency, conduct was foreseeable, owner consented to his assignment, and owner included indemnity provision in agreement with security company. R

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Corporate property owner and building management company both held vicariously liable for employee’s discriminatory refusal to rent where employee and management company were authorized to rent units on the owner’s behalf and employee served as leasing agent for management company. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Employer vicariously liable for harassment where supervisor repeatedly harassed employee. Employer also directly liable where it did not maintain harassment-free work environment due to failure to investigate internal complaints and take corrective action under its own policies. R
Indemnification Agreement
Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 15, 2009) Discriminatory actions of contracted security guard in agency relationship with respondent owner were foreseeable to owner and therefore within scope of agency, in part because owner included an indemnity provision to protect itself from financial responsibility for tortious acts of guards in its agreement with security company. R

Known Principal
Gallegos v. Baird & Warner et al., CCHR No. 01-H-21 (Jan. 18, 2002) CHR denies motion to dismiss, rejecting argument that agents cannot be liable for acts of disclosed principal; finds that whether the acts were done at direction of the known principal was a question of fact and holds that the case law cited states that agents of known principals can be liable to the third party, here Complainant, if agent owes a separate duty to that third party as the CFHO creates. CO

Principal Liability
Sorto/Espinosa v. DiStefano, Permex Mgt., et al., CCHR No. 00-H-63/66/67 (Apr. 12, 2001) In dicta, CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CO

Doxy v. Chicago Public Library, CCHR No. 99-PA-31 (Apr. 18, 2001) The duty of the owner a public accommodation not to discriminate is non-delegable and so the owner may be held liable for the acts of its agents. R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent found liable where his agent/building manager harassed Complainant due to race of her boyfriend and children as owner had non-delegable duty not to discriminate or to permit discrimination. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Evidence showed that owner of building had right to control manner and method by which building manager carried out his work and that manager had ability to affect legal relationship of principal. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) “Scope of employment” test is not applicable in fair housing cases where principal “cannot free itself of liability by delegating to an agent the duty not to discriminate;” citing CHR and federal cases. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents; here, non-acting co-owner held liable for discrimination of other owner. R

Manning v. AQ Pizza LLC d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sep. 19, 2007) Business corporation held liable for manager’s sexual harassment, race discrimination, and retaliation against employee regardless of whether any other owner or manager knew or should have known of the manager’s discriminatory conduct. R

Alexander v. 1212 Restaurant Group et al., CCHR No. 00-E-110 (Oct. 16, 2008), aff’d Cir. Ct. Cook Co. No. 09-CH 16337 (Feb. 19, 2010), aff’d Ill. App. Ct. No. 1-20-0797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No. 113274 (Jan. 25, 2012). Individual Respondent was supervisory employee not unpaid consultant where working 20-30 hours per week for valuable consideration in form of future ownership interest in company and Complainant employee was required to perform under his direction as designee of majority owner. Majority owner of company not liable for the supervisor’s conduct as employer because company was the employer, but found liable for own actions or inactions in connection with workplace harassment. R

Sercye v. Reppen and Wilson, CCHR No. 08-H-42 (Oct. 21, 2009) Liability found against building owner and real estate agent jointly and severally where agent told Complainant the owner did not accept Section 8 vouchers and both Respondents admitted liability. R

Montelongo v. Azarpira, CCHR No. 09-H-23 (Mar. 16, 2011) Agency relationship inferred where property owner acted through his authorized agent in extending and then withdrawing an offer to rent an advertised apartment. R

Manzanarees v. Lalo’s Restaurant, CCHR No. 10-P-18 (May 16, 2012) Restaurant-club owners may not have been aware of conduct of employees who discriminated against transgender Complainant, but were responsible for harm caused when excluded based on gender identity. R
Standard to Determine Agency

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Illinois requires considering whether principal, here owner of building, had right to control manner and method by which agent, here building manager, carried out his work and whether agent had ability to affect legal relationship of principal. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) “Scope of employment” test is not applicable in fair housing cases where principal “cannot free itself of liability by delegating to an agent the duty not to discriminate;” citing CHR and federal cases. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]

Gallegos v. Baird & Warner et al., CCHR No. 01-H-21 (Jan. 18, 2002) Sets forth two-pronged test CHR has adopted from state courts to determine if an individual is an agent – whether the principal has the right to control the manner and method in which work is carried out by the alleged agent and whether the alleged agent can affect the legal relationships of the principal. CO

Easter v. Eyecare Physicians & Surgeons et al., CCHR No. 05-E-13 (Aug. 3, 2005) Complaint dismissed as to one business Respondent listed in caption but mentioned in body of Complaint only by statement that owner of other business Respondent was married to owner of this Respondent, because it could not be determined how it could be liable based on agency principles. However, no dismissal as to owner of dismissed business Respondent in her individual capacity acting on behalf of second business Respondent; she may be held personally liable where as its office manager she personally took allegedly discriminatory actions against Complainant. CO

McCray v. Salvation Army of Metro. Chicago et al., CCHR No. 05-E-46 (Oct. 25, 2005) Complaint dismissed as to two individual Respondents listed in caption but not mentioned at all in body of Complaint, because it could not be determined how they could be liable based on agency principles. CO

Garrett-King v. Salvation Army of Metro. Chicago et al., CCHR No. 05-E-48 (Oct. 25, 2005) (same) CO

Roberts v. Salvation Army of Metro. Chicago et al., CCHR No. 05-E-47 (Oct. 25, 2005) (same) CO

Blakemore v. Jewel et al., CCHR No. 06-P-72 (Feb. 2, 2009) Whether there was an agency relationship between the two Respondents held to involve factual issues which could not be resolved on a motion to dismiss. CO


Diaz v. Wykurz et al., CCHR No. 07-H-28 (Dec. 16, 2009) Agency relationship is based on right to control manner in which work is done. No agency relationship found between two elderly parents and daughter who were co-owners of a rental property, where only the daughter exercised control and made the discriminatory decision without delegation of authority by the parents, who were held not vicariously liable. R

AMENDMENT OF COMPLAINT

Additional Claim/Basis

Byrd v. Hyman & Rodriguez, CCHR No. 97-H-2 (Jan. 25, 2001) Hearing Officer denied request to add a new claim where Complainant did not show that she did not know of the new claim before she filed the initial complaint, as required by Reg. 210.150(c)(1)(i). HO

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR adopted Hearing Officer’s decision to deny the request Complainants made at the Hearing to amend their complaint because Reg. 210.150(c)(1) does not contemplate adding new claims at that time, although it permits adding new issues (factual allegation relating to an existing claim); further, claim raised was based on facts known to Complainants when they initially filed and occurred more than 180 days before request to amend. R

Chapman v. City of Chicago Public Library et al., CCHR No. 03-E-71 (Nov. 8, 2004) Where a complainant files multiple amended complaints in a case, all must be read together as supplementing each other. Because Complainant made allegations against individual Respondents in one of her earlier complaints, the Commission denied their motion to dismiss a later amended complaint which did not contain allegations against them. CO

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (Feb. 14, 2006) Amended complaints stating no new, timely claims within CHR jurisdiction were dismissed. CO

Zurko v. Gold Coast Multiplex Clubs et al., CCHR No. 03-P-152 (May 3, 2006) Complainant not allowed to add new basis where it was not alluded to in original or amended Complaints and where more than 180 days had passed since the alleged incidents occurred; amendment considered a new claim and not mere clarification. CO

Zurko v. Galter Life Center, CCHR No. 04-P-20 (July 31, 2006) Complainant may not amend to add discrimination basis not mentioned or alluded to in original or amended Complaints where more than 180 days had passed since alleged incidents; amendment considered new claim and not mere cure of technical defect. CO
Staton v. Woodlawn Org. et al., CCHR No. 05-H-65 (Aug. 29, 2006) Motion to dismiss arguing duplication denied where subsequent Complaint named additional Respondents and alleged additional discriminatory conduct; improper to dismiss one Complaint simply because some allegations and Respondents are the same in both. Subsequent Complaint treated as amendment to first Complaint and cases consolidated. New allegation not treated as relating back to date of first Complaint, but Complainant allowed to present evidence to support finding of relation back. CO

Calamus v. Chicago Park District & Konow, CCHR No. 01-E-115 (Mar. 4, 2008) Complainant may not amend complaint after substantial evidence finding to add constructive discharge claim, as it would raise new legal and factual issues not considered in CHR investigation. HO

Warren et al. v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 30, 2008) Pre-hearing motion to amend to add new claims and allegations regarding conduct of independent contractor denied where it raised new and material factual and legal issues not considered by CHR in its investigation. HO

Blakemore v. Metropolitan Water Reclamation District of Greater Chicago et al., CCHR No. 07-P-54 (Jan. 29, 2009) CHR denied motion to dismiss amended complaint adding as an individual Respondent the president of the business Respondent and alleging an additional act of race discrimination which occurred within 180 days of filing of amended complaint although over a year from filing of initial complaint. Such amendment is timely and permitted by Reg. 210.150(b) before CHR’s determination as to substantial evidence. That different incidents and individuals were involved in the amended complaint not material under CHR procedures. CO

Robinson v. Winfield Moody Health Center et al., CCHR No. 07-P-48 (Sep. 2, 2009) CHR denied motion to amend complaint to add an incident which occurred after the substantial evidence finding but before any hearing, because it had not been considered in the investigation as required by Reg. 210.150(c)(1). CO

Additional Complainants

Pudelek/Weinmann v. Bridgeview Garden Condo Assoc., et al., CCHR No. 99-H-39/53 (Aug. 2, 2000) Grants request to add additional complainants, spouses of original complainants, where Respondents did not object, where spouses are discussed in text of complaints, where Respondents had knowledge of spouses’ involvement in case and where no new factual issues are raised by adding them. HO

Additional Respondents

Belcastro v. 860 North Lake Shore Dr. Trust, CCHR No. 95-H-160 (Jan. 18, 2000) Hearing Officer denied Complainant’s request to add the Chicago Commission on City Landmarks as an additional respondent finding that the Landmarks Commission has not ruled that Respondent building cannot be altered to become accessible for wheelchairs and that it is speculative that it would so rule; also notes that Complainant does not assert that the Landmarks Commission has violated the CFHO and notes that it is unlikely that CHR has the authority to invalidate the ordinance governing the Landmarks Commission. HO

Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) Where individual showed that he had not received notice of the request to add him as a respondent and had not received the order granting that request, CHR agreed to review the request to add him de novo. CO

Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) Where individual sought to be added was general counsel at time of original complaint, helped draft the response to it, and knew that he was personally described in the text of that complaint as a primary, allegedly-discriminatory actor, CHR found that he had the requisite knowledge of the original complaint and of the fact that “he might be involved therein” to allow him to be added as a respondent. CO

Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) Fact that some possibly supportive witnesses no longer live in Illinois found not sufficient prejudice to defeat request to add former general counsel as individual respondent where he knew of original complaint, helped draft the response to it, and knew that he was personally described in the text of that complaint. CO

Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) Fact that former general counsel chose not to substantially address harassment claims in the company’s original response to the complaint is what causes much of the alleged “prejudice” he now claims in opposition to the request to add him as an individual respondent; business respondent could be found liable for harassment by management personnel and its original response should have addressed those claims even when the managers themselves were not individually named. CO

Long v. Chicago Public Library, et al., CCHR No. 00-PA-13 (Feb. 21, 2001) Where amended complaint added an individual respondent who had been discussed by name in several paragraphs of the initial complaint, CHR found it sufficient to substantially apprise that respondent that the amended complaint referred back to the initial allegations but did not re-state them. CO

Diabor v. Kenny-Kievit-Shea Joint Venture et al., CCHR No. 01-E-118 (Dec. 18, 2002) Amended Complaint against new respondent found untimely and not relating back to date of original Complaint where filed
over one year after last incident of harassment, where equitable tolling found inapplicable, and where no evidence that new respondent was aware of original Complaint and that its allegations were directed toward him. That new respondent allegedly played “pivotal role” in events at issue does not render Complaint timely; no matter how central prospective respondent’s role in alleged discrimination may have been, any complaint against him must still be filed on time.

Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Complainant’s renewed oral motion at hearing to add corporate franchisor as respondent denied where Complainant offered no evidence of causal connection between alleged discriminatory acts and franchisor control. R

Warren et al. v. Lofton & Lofton Management d/b/a McDonald's et al., CCHR No. 07-P-62/63/92 (July 30, 2008) Pre-hearing motion to amend to add contracted security company as new Respondent under vicarious liability theory denied where CHR investigation did not consider the new factual and legal issues associated with the vicarious liability. HO

Blakemore v. Metropolitan Water Reclamation District of Greater Chicago et al., CCHR No. 07-P-54 (Jan. 29, 2009) CHR denied motion to dismiss amended complaint adding as an individual Respondent the president of the business Respondent and alleging an additional act of race discrimination which occurred within 180 days of filing of the amended complaint although over a year from filing of initial complaint. Such amendment is timely and permitted by Reg. 210.150(b) before CHR’s determination as to substantial evidence. That different incidents and individuals were involved in the amended complaint not material under CHR procedures. CO

Diaz v. El Tropico, Inc., et al., CCHR 08-P-62 (Feb. 23, 2009) Hearing officer allowed amendment of complaint after substantial evidence finding to add respondents where a signed response had been filed on behalf of the two individuals and corporation sought to be added, acknowledging them as owners of the business originally named. They had opportunity to participate in investigation and were not prejudiced by amendment. However, unnamed bouncer-bartender alleged to have told Complainant to leave could not be added. HO

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Aug. 11, 2009) Addition of individual respondent allowed after discovery but before hearing where new respondent verified the response and participated in CHR investigation, six of ten allegations in complaint mentioned her by name, she participated in employer's internal investigation before CHR complaint was filed, and employer’s defense was based on denial of her alleged conduct; first three criteria for amendment were met and no prejudice was established. HO

Peterson v. Rosenthal Collins Group, LLC et al., CCHR No. 06-E-57 (May 7, 2010) Amended complaint adding Respondent held to relate back to original filing date where it alleged the new Respondent's president was former manager for initial Respondent and thus had notice of original complaint and fact that it might be involved. Evidence disputing the allegation could be presented in the investigation. CO

Johnson v. Dominick's Store #2153 et al., CCHR No. 09-P-52 (Aug. 19, 2010) Motion to dismiss amended complaint adding Respondents during investigation stage as untimely was denied where there was evidence the new Respondents knew of the Complaint, and when they learned of it was a question of fact which could not be decided on a motion to dismiss. CO

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Board denied request for review of hearing officer’s decision to allow amended complaint adding individual supervisor where amendment met requirements of Reg. 210.160(b)(2). No new issues raised because supervisor’s conduct is the basis for vicarious liability and requested relief not required in complaints. No prejudice to supervisor where she had nearly two months to prepare for hearing or seek additional time. R

Amendment to Conform to Evidence at Hearing – No new decisions in this volume.

At Hearing

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR adopted Hearing Officer’s decision to deny the request Complainants made at the Hearing to amend their complaint because Reg. 210.150(c)(1) does not contemplate adding new claims at that time, although it permits adding new issues (factual allegation relating to an existing claim); further, claim raised was based on facts known to Complainants when they initially filed and occurred more than 180 days before request to amend. R

Clarification Allowed

Blakemore v. Walgreens Co., CCHR No. 05-P-109 (Mar. 17, 2006) Complaint may be amended to clarify and amplify allegations of original complaint pursuant to Reg. 210.150(b) without independently stating a claim, where original complaint does state a claim. Motion to dismiss amended complaint for failing to allege an adverse action denied even though introduced with a statement that it “include[s] new allegations.” CO
Differing Allegations

Chapman v. City of Chicago, Chicago Public Library et al., CCHR No. 00-E-65 (Aug. 13, 2003) Where Respondent asserted that Third Amended Complaint contained allegations contradictory to those in original Complaint with respect to dates of adverse employment actions, CHR did not dismiss Third Amended Complaint, considering inconsistency as factual dispute to be resolved through investigation. CO

Effect on Motion to Dismiss – No new decisions in this volume.

Misnomer

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 30, 2001) Where complaint names Chicago Public Library and not the Chicago Library Board and where Respondents presented no explanation to the relationship between them, CHR considered naming the Chicago Public Library to be a mere misnomer, correctable at any time. CO

Gallegos v. Baird & Warner et al., CCHR No. 01-H-21 (Jan. 18, 2002) Where complaint listed “Baird & Warner” as respondent and did not distinguish between its holding company and its management group, CHR treated that as a simple misnomer as text of complaint showed Complainant was addressing management group. CO

New Basis – No new decisions in this volume.

Standards – Adding Complainants


Standards – Adding Respondents

Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) Reviews and applies standards set forth in Regulation 210.160(b)(1) for requests to add respondents before a substantial evidence finding but more than 180 days after the alleged violation. CO

Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) Notes that Regulation 210.160(b)(1)’s reference to lack of “prejudice” to the individual or entity sought to be added may not be a separate prong, but a result of meeting the notice prongs. CO

Standards – Amending Claims/Bases

Byrd v. Hyman & Rodriguez, CCHR No. 97-H-2 (Jan. 25, 2001) To add a new claim after a finding of substantial evidence but before the Hearing, Reg. 210.150(c)(1)(i) requires the complainant to show either that the claim did not arise before the initial complaint, or if it did, that the complainant did not know about it. HO


Robinson v. Winfield Moody Health Center et al., CCHR No. 07-P-48 (Sept. 2, 2009) CHR denied motion to amend complaint to add an incident which occurred after the substantial evidence finding but before any hearing, because it had not been considered in the investigation as required by Reg. 210.150(c)(1). CO

Substitution of Party

Reed v. Strange, CCHR No. 92-H-139 (Apr. 4, 2000) It is true that legal successors can be substituted for deceased parties; however, the complainant must amend his complaint to do so and so must have information adequate to name the successor and allow for service on the successor. CO

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Oct. 6, 2004) After Complainant died, CHR issued Order Amending Complaint upon motion to substitute Complainant’s daughter, successor in interest, as Complainant; pursuant to Reg. 210.160(e), Order sufficient to substitute, not necessary to file separate Amended Complaint. CO

Technical Defects or Omissions

Maat v. RTG, Ltd., CCHR No. 05-P-23 (Oct. 3, 2005) Under Reg. 210.145, a respondent may not amend a complaint. Respondent that informed CHR of address error in Complaint did not thereby amend the Complaint and create CHR obligation to serve “amended complaint”; nor was Complainant required to amend Complaint although she could do so to cure such technical defect at any time. CO
Timing

*Diabor v. Kenny-Kievit- Shea Joint Venture et al.,* CCHR No. 01-E-118 (Dec. 18, 2002) Amended Complaint against new respondent found untimely and not relating back to date of original Complaint where filed over one year after last incident of harassment, where equitable tolling found inapplicable, and where no evidence that new respondent was aware of original Complaint and that its allegations were directed toward him. That new respondent allegedly played “pivotal role” in events at issue does not render Complaint timely; no matter how central prospective respondent’s role in alleged discrimination may have been, any complaint against him must still be filed on time.

*Munda v. Cook County Comm’n on Human Rights et al.,* CCHR No. 04-P-41 (Feb. 14, 2006) Amended complaints stating no new, timely claims within CHR jurisdiction were dismissed.

*Calamus v. Chicago Park District & Konow,* CCHR No. 01-E-115 (Mar. 4, 2008) Complainant may not amend complaint after substantial evidence finding to add constructive discharge claim, as it would raise new legal and factual issues not considered in CHR investigation.

*Ross v. Royal Michigan Motel et al.,* CCHR No. 01-H-3 (Apr. 1, 2009) Timely filing period for attempted eviction claim began on receipt of notice that landlord started tenancy termination proceeding against Complainant.

*Peterson v. Rosenthal Collins Group, LLC et al.,* CCHR No. 06-E-57 (May 7, 2010) Minor changes to clarify and amplify allegations of original complaint relate back to original filing date. Amended complaint adding Respondent held to relate back to original filing date where it alleged the new Respondent’s president was former manager for initial Respondent and thus had notice of original complaint and fact that it might be involved. Evidence disputing the allegation could be presented in the investigation.

*Johnson v. Dominick’s Store #2133 et al.,* CCHR No. 09-P-52 (Aug. 19, 2010) Motion to dismiss amended complaint adding Respondents during investigation stage as untimely was denied where there was evidence the new Respondents knew of the Complaint, and when they learned of it was a question of fact which could not be decided on a motion to dismiss.

ANCESTRY DISCRIMINATION

Liability Found – No new decisions in this volume.

No Liability Found

*Arellano & Alvarez v. Plastic Recovery Technologies Corp.,* CCHR No. 03-E-37/44 (July 21, 2004) No prima facie case of discrimination due to Mexican ancestry based on one incident where manager told her if she did not like things she should return to Mexico, as this alone was insufficiently severe or pervasive to create a hostile working environment.

*Mendez v. El Rey del Taco & Burrito,* CCHR No. 09-E-16 (Oct. 20, 2010) Complainant alleging she was not given job application because of Puerto Rican ancestry failed to prove discrimination where restaurant did not use written applications and Complainant did not show any non-Puerto-Rican applicant was treated differently under similar circumstances.

*Rivera v. Pera et al.,* CCHR No. 08-H-13 (June 15, 2011) Complainant proved prima facie case of race and ancestry discrimination where his name identified him as Hispanic, he was interested in renting and landlord knew of his interest, and he was rejected while the unit remained available. But no liability found because Respondents proved a non-discriminatory reason for refusal to rent, namely Complainant’s combative conduct in resisting a lease provision for a $25 late fee found to be standard and not the $250 amount Complainant contended.

ANSWER

Not Required

*Belcastro v. 860 N. Lake Shore Dr. Trust,* CCHR No. 95-H-160 (June 13, 2000) Respondent’s failure to file a verified response not deemed to mean it waived claim that Complainant is not really disabled where Regulations in effect at time complaint was filed did not require a formal answer.

Testimony at Hearing Related to – No new decisions in this volume.

ARBITRATION

Compulsory Arbitration

*Spaine v. Katten Muchin Zavis et al.,* CCHR No. 00-E-36 Sep. 12, 2000) CHR found Complainant bound to abide by a compulsory arbitration agreement which she signed and so dismissed her case.

*Spaine v. Katten Muchin Zavis et al.,* CCHR No. 00-E-36 (Sep. 12, 2000) Fact that Complainant claimed that she signed the arbitration agreement without reading it does not make it invalid.
Spaine v. Katten Muchin Zavis et al., CCHR No. 00-E-36 (Sep. 12, 2000) Fact that Complainant had to sign the arbitration agreement in order to be hired does not make it a contract of adhesion which can be voided; Respondent was also bound by the agreement. CO

Spaine v. Katten Muchin Zavis et al., CCHR No. 00-E-36 (Sep. 12, 2000) Fact that Respondent did not itself sign the arbitration agreement does not render it unenforceable because Complainant had signed it, given it to Respondent and Respondent accepted it. CO

Spaine v. Katten Muchin Zavis et al., CCHR No. 00-E-36 (Sep. 12, 2000) Fact that Respondent offered to settle with Complainant by allowing her to file her arbitration claim after the time period to do so had run is not an indication that Respondent waived the application of the arbitration agreement. CO

ATTORNEY APPEARANCE

Authority to Settle – No new decisions in this volume.

Disqualification

Gregory v. CNA Financial Corp., CCHR No. 98-E-1 (June 12, 2000) Where Respondent asked CHR to disqualify Complainant’s attorney because it had hired that attorney to represent another employee in another action and because, as part of a joint defense agreement, the attorney had access to confidential communications of Respondent, CHR set up in camera proceedings to collect the information necessary to determine whether disqualification was appropriate. CO

Gregory v. CNA Financial Corp., CCHR No. 98-E-1 (June 12, 2000) CHR held that, in determining whether to disqualify Complainant’s attorney, the test was not simply whether he had represented Respondent itself, but whether he owes it a fiduciary duty, such as due to an exchange of confidential information under a joint defense agreement, that would conflict with representing Complainant in this case. CO

Gregory v. CNA Financial Corp., CCHR No. 98-E-1 (June 12, 2000) CHR held it needed to collect further information, in camera, to determine whether the instant case is “substantially related” to the ones in which Complainant’s attorney had received confidential information about Respondent. CO

Gregory v. CNA Financial Corp., CCHR No. 98-E-1 (Dec. 13, 2000) After conclusion of in camera proceedings, hearing officer disqualified Complainant’s attorney, finding that the attorney had received confidential information pursuant to a joint defense agreement where his fiduciary duty not to disclose it could be breached by the representation of Complainant in this matter; specifically, the attorney received interview notes from a human resources representative who worked both on the instant case as well as one in which the attorney had a fiduciary relationship with Respondent. HO

Extension of Time and Continuance

Maat v. Syed Video, CCHR No. 05-P-45 (June 26, 2007) Respondent whose attorney withdrew appearance after issuance of notice of potential default granted extension of time to respond with caution that inability to obtain counsel or new counsel’s need for time to prepare will not be considered extraordinary circumstances justifying further extension, as parties must comply with orders and procedural requirements whether or not represented by counsel. CO

Form of Appearance

Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) An unambiguous statement, such as this attorney’s letter stating that “the undersigned represents [the respondent] with respect to the above-captioned case” is a sufficient appearance; CHR does not require its form be used. CO

Leadership Council for Metro. Open Comms. v. Carstea & Berzava, CCHR No. 98-H-76 (Apr. 26, 2002) Attorneys are to file appearances in writing, and they are to withdraw in writing as well. CO

Maat v. Villareal Agencia de Viajes, CCHR No. 05-P-28 (Feb. 2, 2006) Where attorney’s letter requested extensions of time to respond to complaint but did not “clearly state” that the attorney was representing the respondent in the case, it did not constitute an attorney appearance meeting standard of Reg. 215.220. Thus, notice of potential default served on the attorney was not proper service on the respondent, and resulting order of default was vacated. HO

Maat v. El Norillo Steak House, CCHR No. 05-P-31 (Feb. 2, 2006) (same) HO
Maat v. Kyzza’s Beauty Shop, CCHR No. 05-P-34 (Feb. 2, 2006) (same) HO
Hawkins v. Jack’s Lounge, CCHR No. 05-P-61 (Apr. 7, 2006) Letter from attorney not a valid attorney appearance where there is no evidence it was properly served as required by Regs. 270.310 and 270.210. CO

McGhee v. Mado Management LP, CCHR No. 11-H-10 (Aug. 18, 2011) Where two attorneys from different firms appeared of record for Complainant, CHR ordered Complainant to notify CHR and Respondent in writing which of the two was designated recipient of service from Respondent and communications from CHR. CO
Imputing Attorney Conduct to Client

Howery v. Labor Ready, et al., CCHR No. 99-E-131 (Mar. 10, 2000) CHR refused to vacate default, holding that attorney neglect is not “good cause,” especially when the attorney is in-house; where there was no explanation for not responding to a second notice of default; and where Respondent’s own lack of oversight and organization caused the failure to respond in this case. CO

Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) CHR refused to vacate default, finding that attorney negligence is not “good cause;” attorney had received all notices in the case and did not present good cause for failing to meet deadlines. CO

Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) Where attorney filed an unambiguous letter stating he represents Respondent and where he accepted all CHR mail on her behalf, CHR found that he acted as her attorney and could not, through an untimely request to vacate a default, claim he never represented her. CO


Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) Where attorney filed an unambiguous letter stating he represents Respondent and where he accepted all CHR mail on her behalf, CHR found that he acted as her attorney and could not, through an untimely request to vacate a default, claim he never represented her. CO

Leadership Council for Metro. Open Comms. v. Carstea & Berzava, CCHR No. 98-H-76 (Apr. 26, 2002) CHR refused to vacate default, finding that attorney negligence is not “good cause;” attorney had received all notices in the case and did not present good cause for failing to meet deadlines. CO

Leahy v. Bonn, CCHR No. 96-H-12 (July 1, 2002) Whether Complainant’s attorney had acted in a timely manner in notifying Respondent of CHR’s position was not an issue CHR can consider, as CHR follows Illinois law imputing conduct of attorney to the client. CO

McGraw v. Chicago Dept. of Aviation, CCHR No. 99-E-27 (June 27, 2002) Fact that Complainant’s attorney may not have properly represented him, causing the dismissal for failing to cooperate with hearing procedures, may give Complainant a cause of action against her elsewhere but it does not provide good cause to reopen his case; cites CHR and Illinois cases holding clients responsible for inaction of attorneys. CO

Barren-Johnson v. Mahmood, CCHR No. 03-P-9 (May 18, 2006) Any attorney neglect in failing to notify client of Conciliation Conference must be imputed to client; order of default entered where attorney attended without authority to settle and later claimed inability to locate client, although attorney did not withdraw or seek a continuance despite six weeks’ notice of conference. CO

Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Feb. 8, 2007) Whether Complainant’s court-appointed attorney represented her properly in settling federal court case with release of CHR claims not an issue CHR can consider, as CHR follows Illinois law imputing conduct of attorney to the client. CO

Maat v. Villareal Agencia de Viajes, CCHR No. 05-P-28 (May 17, 2007) Business owner’s argument that her attorney failed to represent her did not justify noncompliance with final orders for relief: any failure of attorney is imputable to client; final order was sent to Respondent directly; she was aware of responsibility to comply. CO

Leave to Withdraw

Reed v. Strange, CCHR No. 92-H-139 (Apr. 4, 2000) Where Respondent had died after the final ruling in this case, where his CHR attorney was not involved in his estate, where it was not clear that the attorney knew that Respondent may not have paid the outstanding attorney’s fees decision, and where Complainant did not seek enforcement of the fees ruling for over 18 months, CHR granted Respondent’s attorney’s request to withdraw from the case; also notes that, in these circumstances, there was no obligation for this attorney to have notified Complainant of Respondent’s death. CO

Leadership Council for Metro. Open Comms. v. Carstea & Berzava, CCHR No. 98-H-76 (Apr. 26, 2002) CHR held that attorney had not already withdrawn appearance where, contrary to regulation, he had not done so in writing; CHR denied current written request until attorney provided current address for client or demonstrated good faith efforts to find one. CO

Hodges v. Hua & Chao, CCHR No. 06-H-11 (Oct. 31, 2007) Motion to withdraw by Respondents’ attorney granted where irreconcilable differences with clients as to defense strategy emerged; however, extension of time for a reply brief denied to avoid giving tactical advantage due to the withdrawal. HO

Privileges – See separate Privileges section, below.

Pro Se Complainant

Thompson et al. v. GES Exposition Sves., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) Motion filed by pro se complainant could concern only his case, not that of other complainants, as he represented only himself. CO

Right to Attorney during Investigation – No new decisions in this volume.

ATTORNEY’S FEES

Burden of Proof

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Oct. 18, 2000) Complainant must produce evidence supporting the reasonableness of a requested hourly rate, even of prior attorney; bill from first attorney to Complainant not sufficient when there was no evidence it was paid. R
Complainant has burden of presenting evidence of reasonableness of fees by providing detailed records of activities performed. R

**Sellers v. Outland, CCHR No. 02-H-37 (Mar. 17, 2004)** CHR follows 7th Circuit reasoning as to fee applicant’s burden and evidentiary requirements to prove appropriate hourly rate. Once evidence of proper rate is provided, respondent has burden to present evidence why lower rate is essential; failure amounts to concession that applicant’s rate is reasonable and should be awarded. (Appeal court review pending) R

**Blakemore v. Bitritto Enterprises, Inc., et al., CCHR No. 06-P-12/24 (Sep. 12, 2007)** Statement seeking attorney fees dismissed for failure to properly file and serve it pursuant to Regs. 240.630 and 270.210. Order notes other deficiencies including charges which would not have been found compensable and lack of documentation to support claimed hourly rate. HO

**Gilbert and Gray v. 7355 South Shore Condominium Assn. et al., CCHR No. 01-H-18/27 (June 20, 2012)** Even if there is no objection, CHR will independently review fee petition for reasonableness. R

**Burden to Respondent – No new decisions in this volume.**

**Costs – See separate Costs section, below.**

**Deferral of Ruling**

**Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Oct. 28, 2004)** Where Complainant prevailed on appeal to Illinois Appellate Court but Respondents were seeking review by Illinois Supreme Court, time to file supplemental attorney fee petition extended and further proceedings held in abeyance pending Illinois Supreme Court review. CO

**Disbarred Attorney – No new decisions in this volume.**

**Discovery Related to Fees – No new decisions in this volume.**

**Extension of Time**

**Godard v. McConnell, CCHR No. 97-H-64 (Feb. 26, 2001)** Hearing officer denied request to file attorney’s fees petition when request was filed weeks after the deadline and where “extraordinary cause” not shown by stating that attorneys who had handled the case had left; request did not explain, for example, when those attorneys left or why their files were not covered or deadlines monitored. HO

**Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Oct. 28, 2004)** Where Complainant prevailed on appeal to Illinois Appellate Court but Respondents were seeking review by Illinois Supreme Court, time to file supplemental attorney fee petition extended and further proceedings held in abeyance pending Illinois Supreme Court review. CO

**Interest**

**Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Sep. 21, 2005)** Interest on supplemental fee award for defending CHR ruling in state court proceedings was calculated from date of entry of Final Order of CHR. R

**LAF Fees**

**Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Oct. 18, 2000)** Regulations governing the Legal Assistance Foundation limits fees LAF may collect to include those earned as a result of sanctions; the request Complainant had made for sanctions was denied and so LAF was not entitled to its fees in seeking them. R

**Paralegals & Law Students**

**Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (May 16, 2001)** Reasonable law student work routinely compensated; here award was $50 per hour for 47.25 hours of work. R

**Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Oct. 17, 2001)** Awarded law students rate of $60 per hour, not the $70 requested, finding students did much of the essential work but that Complainant did not demonstrate that a $20 per hour increase from May 2001 [decision above] was warranted. R

**Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Sep. 21, 2005)** Although reasonable time spent by law student is compensable, respondents not expected to pay for limitless student hours amounting to subsidizing their legal education, even if students were well-intentioned and hard-working, and client might not otherwise be represented. R

**Gray v. Scott, CCHR No. 06-H-10 (Nov. 16, 2011)** Hourly rate of $75 for Rule 711 law students found
reasonable based on Commission case law. R

**Prevailing Complainant**

*Byrd v. Hyman*, CCHR No. 97-H-2 (Dec. 12, 2001) (same) [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]R

**Pro Bono Attorneys**

*Pierce & Parker v. New Jerusalem Christian Development Corp.*, CCHR No. 07-H-12/13 (May 16, 2012) Counsel who work on a pro bono basis are entitled to reasonable fees, if they prevail, based on market rates. R

**Pro Hac Vice – No new decisions in this volume.**

**Pro Se Complainant**

*Sercye v. Reppen and Wilson*, CCHR No. 08-H-42 (Oct. 21, 2009) Non-attorney Complainant not entitled to award of attorney fees for time spent pursuing successful case on pro se basis. R

**Procedure**

*Cotten v. CCI Industries, Inc.*, CCHR No. 07-P-109 (Feb. 19, 2010) Complainant’s reply to Respondent’s response to attorney fee petition stricken by hearing officer, as regulations do not allow a reply without leave of hearing officer, which was never sought. HO

**Proof**

*Griffiths v. DePaul University*, CCHR No. 95-E-224 (Oct. 18, 2000) Complainant must produce evidence supporting the reasonableness of a requested hourly rate, even of prior attorney; bill from first attorney to Complainant not sufficient when there was no evidence it was paid. R  
*Leadership Council for Metro. Open Comms. v. Souchet*, CCHR No. 98-H-107 (May 16, 2001) Requested fees reduced where some entries were found not sufficiently specific to allow CHR to determine if fees sought were reasonable; other reduction for some work done in federal, not CHR, case. R  
*Nuspl v. Marchetti*, CCHR No. 98-E-207 (Mar. 19, 2003) Fee petition supported requested hourly rate where attorney stated his regular hourly rate and promptly responded to request for additional information, as documentation of attorney’s experience and rates charged by other practitioners is required only for public law offices that do not charge market-based fees. Also, work held sufficiently itemized, despite absence of daily timesheets, where descriptions were sufficiently specific to allow evaluation of reasonableness. R  
*Lockwood v. Professional Neurological Services, Ltd.*, CCHR No. 06-E-89 (Jan. 20, 2010) Affidavits stating customary rates plus evidence the attorneys were allowed same or comparable rates in cases litigated in courts held sufficient to support finding that the claimed rates were customarily charged by counsel, rejecting Respondent’s assertions without evidence that the rates were too high and the evidentiary support inadequate. Proof of contract, actual billing to Complainant, or payment by Complainant not required for award of attorney’s fees. R  
*Warren et al. v. Lofton & Lofton Management d/b/a McDonald’s et al.*, CCHR No. 07-P-62/63/92 (May 19, 2010) Fee petition with itemized billing statement in hourly rather ten-minute increments allowed where Respondent did not object and amount of time spent on each task was reasonable. R  
*Rankin v. 6934 N. Sheridan, Inc., DLG Management, and Feig*, CCHR No. 08-H-49 (May 18, 2011) Vagueness challenges to fee entries rejected, noting that entries were sufficient in detail to allow determination of reasonableness while not divulging privileged information or work product. However, writing of a post-decision letter not compensated because insufficiently documented. R  
*Gray v. Scott*, CCHR No. 06-H-10 (Nov. 16, 2011) Certain attorney and law student charges disallowed for vague entries not documenting the work performed. R
Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Apr. 18, 2012) Fee petition must contain statement of hourly rate customarily charged by attorney, but does not require that quoted rate be explicitly identified as customary, as it can be fairly inferred that it is intended to represent customary rate. If party seeking fees provides evidence of rate customarily charged, party objecting to reasonableness bears burden to show different rate is appropriate. CHR may look to recent prior decisions or knowledge of market rates to determine reasonableness of claimed hourly rates. R

Public Law Office

Gray v. Scott, CCHR No. 06-H-10 (Nov. 16, 2011) Billing rates for attorneys from a public law office are determined by the rates prevalent for attorneys in the same locale with comparable experience and expertise. R

Reasonable Fees

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Dec. 6, 2000) CHR found reasonable $17,567.25 of fees for work in state circuit and appeal courts against Respondents’ appeal of CHR initial ruling in favor of Complainants; the attorneys were compensated for 115.42 hours of work for about four years of work in state court, including three separate proceedings there and upon remand at CHR. R


Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Oct. 17, 2001) Complainant awarded $16,284 in fees for about 50 hours of attorney time and about 150 hours of law student time. CO

Byrd v. Hyman, CCHR No. 97-H-2 (July 17, 2002) No fee reduction for claimed misconduct of Complainant’s attorney where no sanctions imposed, actions showed zealous advocacy but not misconduct, no legal authority presented to support such reductions, and hearing officer’s review did not uncover hours appearing duplicative, unnecessary, or otherwise inappropriate in light of complex nature of proceedings. R

Nuspl v. Marchetti, CCHR No. 98-E-207 (Mar. 19, 2003) Three hours’ time for preparation of memorandum on damages held reasonable and modest even though little evidence presented on damages, as memorandum discussed relevant case law; also, 16 hours for total case preparation held reasonable if not low. R

Sellers v. Outland, CCHR No. 02-H-37 (Mar. 17, 2004) In sexual harassment housing case, fees of $32,597.50 found reasonable after following disallowances: (1) work on related landlord-tenant disputes between parties including eviction proceeding, as not incurred in pursuing Complaint before CHR; (2) preparing for presentation of uncontested fee petition reduced from 4.3 hours to 3 hours based on simplicity of work although such time held generally compensable; (3) collection advice not related to pursuing pending Complaint although such time may be recoverable in future proceedings; (4) fees for review and response to fee objections as not supported by affidavit. Respondent arguments that other time was duplicative or unnecessary rejected for not identifying specific entries disputed. R

Salwierak v. MRI of Chicago, Inc., et al., CCHR No. 99-E-107 (Apr. 21, 2004) $32,200 award for 161 hours of representation held not excessive even though no wage or out-of-pocket losses occurred, where sexual harassment case involved a number of witnesses and was skillfully and efficiently pursued over several years. R

Brooks v. Hyde Park Realty Co., Inc., CCHR No. 02-E-116 (June 16, 2004) $6,625 request approved as appropriately documented and reasonable based on 26.5 of work involving default administrative hearing. R

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Sep. 21, 2005) Supplemental fee request of law school clinic covering representation in Circuit Court, Appellate Court, and Supreme Court review granted in reduced amount of $57,447.75 due to inadequate documentation and specificity and a determination that billed time of multiple law students and supervising attorneys was excessive and duplicative, including prohibited overhead and clerical costs as well as time expended primarily for educational purposes. As precise reductions could not be determined from time records submitted, percentage reductions were utilized. R

Edwards v. Larkin, CCHR No. 01-H-35 (Nov. 16, 2005) Fee award reduced where time expended on reviewing investigation file and preparing for a default administrative hearing was found excessive and where time spent on state law claims such as failure to return security deposit was non-compensable as it did not involve claims before CHR. R

Lapa v. Polish Army Veterans Association et al., CCHR No. 02-PA-27 (Feb. 20, 2008) $2,874 awarded for 14.37 hours after deducting time on unsuccessful claims and arguments, time due to attorney’s last-minute entry into case, time inadequately documented, and time due to Complainant’s noncompliance with CHR orders. Fees apportioned among Respondents based on level of culpability measured by apportioned compensatory and punitive damages. R

Williams v. First American Bank, CCHR No. 05-P-130 (Feb. 19, 2008) Fee request of Respondent for enforcement of discovery rights granted in reduced amount due to lack of evidentiary support for rates claimed and inclusion of time spent on work arising from Respondent counsel’s own mistake. HO
Manning v. AQ Pizza LLC, d/b/a Pizza Time & Alhakim, CCHR No. 06-E-17 (Mar. 19, 2008) $4,303.75
fees for 15.65 hours representing Complainant in default case found reasonable. R
Sellers v. Outland, CCHR No. 02-H-037 (Apr. 15, 2009) Where Respondent objected to Complainant’s bill for two attorneys, hearing officer allowed and disallowed different parts of billing. R
Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (Sep. 16, 2009) $2,135 awarded for 17.08 hours in wheelchair-accessibility case against restaurant, finding the hours incurred modest and reasonable. R
Cotten v. 162 N. Franklin, LLC, d/b/a Eppy’s Deli and Café, CCHR No. 08-P-35 (Dec. 16, 2009) Fees awarded for 20.17 hours of attorney time in default case against wheelchair-inaccessible restaurant.
Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (Jan. 20, 2010) $87,655.61 in attorney fees and costs approved as reasonable for two firms in parental status employment discrimination case. No requirement that fees be proportional to Complainant’s recovery. R
Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (May 19, 2010) Time reduced to .25 hours to hand-write a simple continuance motion and to a reasonable amount of reading time for review of documents that Complainant did not respond to. R
Hutchison v. Iftekaruddin, CCHR No. 08-H-21 (June 16, 2010) Billing for 82.5 hours found excessive for straightforward direct-evidence housing discrimination case based on single incident with no unusual legal or factual issues, and where attorney entered case after filing of pre-hearing memorandum a month before hearing. Allowed hours reduced 25% and fees of $8,144.06 awarded at $125 and $140 per hour for new attorney. R
Cotten v. La Luce Restaurant, CCHR No. 08-P-34 (Oct. 20, 2010) Fees of $2,915 allowed for 22.33 approved hours at $125 and $140 per hour in disability discrimination case involving wheelchair access to restaurant. R
Flores v. A Taste of Heaven & McCauley, CCHR No. 06-E-32 (Jan. 19, 2011) $67,511 for 206.05 hours worked by five attorneys in a four-year case found reasonable, where no specific objection was made. R
Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Feb. 16, 2011) Charges for travel time to scheduled proceedings found reasonable but allowed time reduced by half to correspond to travel time claimed and approved for the attorney in another recent case. 10.25 total hours found reasonable for disability discrimination case involving a restaurant’s wheelchair accessibility, including charge of 15 minutes for change of address notice plus 45 minutes to draft fee petition exclusive of time to maintain billing records. R
Rankin v. 6954 N. Sheridan, Inc., DLG Management, and Feig, CCHR No. 08-H-49 (May 18, 2011) $53,100 awarded to two attorneys for 164 hours of attorney time and 13 hours of paralegal time where case involved three Respondents, extensive discovery process, and two-day hearing. Line-item reductions for excessive time cut 37.4 hours, or 16%, from total request, but hearing officer’s recommendation of an additional 20% across-the-board cut for excessive time was not approved by Board of Commissioners, finding the line-item cuts sufficient for this case. R
Cotten v. Top Notch Beefburger Inc., CCHR No. 09-P-31 (June 15, 2011) Line-item reductions totaling 20% of requested hours taken where hearing officer found claimed times unsupported by quantity or quality of work hearing officer observed in conducting the hearing process, resulting in approval for 16 hours in disability discrimination case involving wheelchair accessibility of restaurant after reductions for drafting request to produce, preparing for hearing, reviewing recommended ruling, reviewing final order, and preparing fee petition. R
Gray v. Scott, CCHR No. 06-H-10 (Nov. 16, 2011) Hours reduced for attorney preparation and hand-delivery of a subpoena which could have been done by a paralegal or other less expensive means. R
Montelongo v. Azarpira, CCHR No. 09-H-23 (Feb. 15, 2012) Fees for 31.8 hours at $225 per hour approved as reasonable in housing discrimination case involving refusal to rent due to disability of Complainant’s son. R
Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Apr. 18, 2012) Fees of $27,191.68 awarded in pregnancy discrimination case after certain line item deductions and 10% reduction for unsuccessful but closely-related claim. R
Pierce & Parker v. New Jerusalem Christian Development Corp., CCHR No. 07-H-12/13 (May 16, 2012) Billed hours reduced by two-thirds for work at hearing stage due to excessive and duplicative hours claimed by three attorneys in relation to level of difficulty of work needed and time reasonably required to provide high quality representation. Decision relies primarily on comparison of CHR fee awards since 2009, discusses factors considered, and notes that resulting award of $56,484.50 was still among highest entered by CHR to date. R
Gilbert and Gray v. 7355 South Shore Condominium Assn. et al., CCHR No. 01-H-18/27 (June 20, 2012) Fees of $61,535.66 held reasonable although Complainants recovered only $100 and $2,000 in damages,
respectively. Attorneys’ voluntary reductions for unsuccessful claims and multiple-attorney representation also held reasonable. R

**Roe v. Chicago Transit Authority et al.,** CCHR No. 05-E-115 (Aug. 9, 2012) CHR approved $3,713.50 in fees for bringing motion to enforce injunctive order which resulted in findings of noncompliance. CO

### Reasonable Rate

**Nash/Demby v. Sallas Realty & Sallas**, CCHR No. 92-H-128 (Dec. 6, 2000) CHR found reasonable the rate of $175 per hour for partner with over 20 years of experience who usually charges $200 per hour and the rate of $125 per hour for attorney with about two years of experience. R


**Sullivan-Lackey v. Godinez**, CCHR No. 99-H-89 (Oct. 17, 2001) Awarded law students rate of $60 per hour, not the $70 requested, finding students did much of the essential work but that Complainant did not demonstrate that a $20 per hour increase from May 2001 [decision above] was warranted. R

**Sullivan-Lackey v. Godinez**, CCHR No. 99-H-89 (Oct. 17, 2001) Attorney several years out of law school awarded $150 per hour, an increase over the $140 per hour he was awarded in 1999. CO

**Byrd v. Hyman**, CCHR No. 97-H-2 (July 17, 2002) Hourly rates of $250 and $300 approved for attorneys with long careers, extensive experience in fair housing; $50 per hour approved for law student under supervision. R

**Claudio v. Chicago Baking Co.,** CCHR No. 99-E-76 (Nov. 20, 2002) Based on lodestar method, hourly rates approved at (1) $275 for attorney with over 20 years’ experience in complex state and federal litigation primarily in employment-related claims plus significant judicial clerkships; (2) $180 for attorney with seven years’ experience in employment matters including discrimination cases; (3) $80 for paralegal’s work based on prevailing practice in Chicago area to charge for such work and showing of rate charged by his firm. R

**Nuspl v. Marchetti**, CCHR No. 98-E-207 (Mar. 19, 2003) $125 hourly rate held reasonable for novice lawyer in 2002, noting attorney had practiced law two and one-half years and had 150 hours of hearing or trial experience. R

**Hoskins v. Campbell**, CCHR No. 01-H-101 (Oct. 15, 2003) Requested hourly rate of $75 approved for services of fair housing investigator despite lack of evidence in fee petition supporting the rate, noting that no objection was made and rate is comparable to approved rates for paralegals and, although higher than recently-approved rate for law students, the investigator’s specialized training and experience make it reasonable by 2003 standards. R

**Sellers v. Outland**, CCHR No. 02-H-37 (Mar. 17, 2004) $350 per hour approved for attorney with 25 years’ experience including litigation of numerous civil rights cases based on receipt of that amount for work 2 years earlier and affidavits of co-counsel in other cases that rate is within range charged by comparably skilled and experienced Chicago-area attorneys. Rate of $275 per hour approved for co-counsel with 12 years’ experience including litigation of civil rights cases with evidence of receipt of $200 per hour for comparable work 5 years earlier. Respondent failed to meet burden to present evidence supporting objection to rates once evidence of reasonableness proffered. R

**Salwierak v. MRI of Chicago, Inc., et al.,** CCHR No. 99-E-107 (Apr. 21, 2004) Requested $200 hourly rate approved for attorney with over 15 years’ experience including numerous employment law matters and demonstrated skill and efficiency in pursuit of instant case. R

**Brooks v. Hyde Park Realty Co., Inc.,** CCHR No. 02-E-116 (June 16, 2004) $250 per hour held reasonable in employment case for attorneys licensed over 20 years with experience litigating employment discrimination and other employment matters. R

**Lapa v. Polish Army Veterans Association et al.,** CCHR No. 02-PA-27 (Feb. 20, 2008) Hourly rate of $200 reasonable where attorney had 15 years of American legal experience and Respondent did not object. R

**Williams v. First American Bank**, CCHR No. 05-P-130 (Feb. 19, 2008) Claimed attorney and paralegal billing rates of $230-$460 per hour rejected due to lack of any evidentiary support for their reasonableness. Instead, fees awarded at attorney rate of $200 per hour. HO

**Manning v. AQ Pizza LLC db/a Pizza Time & Alhakim**, CCHR No. 06-E-17 (Mar. 19, 2008) $275 hourly rate approved where attorney could have been more specific about his regular rate but had 33 years’ experience. R

**Johnson v. Fair Muffler Shop**, CCHR No. 07-E-23 (Oct. 15, 2008) $225 per hour held reasonable in employment case for an attorney with an extensive experience in litigating employment cases and other employment matters. R

affidavit as to his reasonable and customary rates, CHR ‘ s knowledge of rates charged by experience employment lawyers in Chicago area, and lack of evidence from Respondents to support contention the rates were not reasonable and customary. R

**Sellers v. Outland**, CCHR No. 02-H-037 (Apr. 15, 2009) Where Respondent challenged reasonableness of attorney fees, the Commission found that applying reasonable market rates was appropriate. R

**Cotten v. Eat-A-Pita**, CCHR No. 07-P-108 (Sept. 16, 2009) Hourly rate reduced to $125 from requested $150 for straightforward case by first-year attorney who did not otherwise detail his legal experience. R

**Cotten v. 162 N. Franklin, LLC, d/b/a Eppy’s Deli and Café**, CCHR No. 08-P-35 (Dec. 16, 2009) Hourly rate of $125 approved where same rate was approved for same attorney in recent CHR case and was reasonable for the attorney’s skill and experience. R

**Lockwood v. Professional Neurological Services, Ltd.**, CCHR No. 06-E-89 (Jan. 20, 2010) Hourly rates of $475 for 1978 law school graduate and $375 for 1990 graduate, both with extensive employment law experience, found reasonable. Affidavits stating customary rates plus evidence the attorneys were allowed same or comparable rates in cases litigated in courts sufficient to support finding the claimed rates were customarily charged by counsel. R

**Cotten v. Addiction Sports Bar and Lounge**, CCHR No. 08-P-68 (Feb. 17, 2010) Attorney’s requested $150 per hour rate reduced to $125 where the attorney recently attested his hourly rate was $125 for the same client in a different case and did not indicate in his current affidavit any basis for an increase. R

**Warren et al. v. Lofton & Lofton Management d/b/a McDonald’s et al.**, CCHR No. 07-P-62/63/92 (May 19, 2010) Hourly rate of $150 approved for attorneys with 3-4 years’ experience in light of comparable rates in Chicago area. R

**Cotten v. CCI Industries, Inc.**, CCHR No. 07-P-109 (May 19, 2010) Hourly rate limited to $125 despite requested increase to $140 where errors in work showed lack of maturation in the attorney’s development that would justify increase over rate allowed in recent prior case. R

**Hutchison v. Iftekharuddin**, CCHR No. 08-H-21 (June 16, 2010) Hourly rates of $125 during new attorney’s first year and $140 during second year were approved based on hearing officer’s knowledge of market rates for new lawyers in similar matters in Chicago. Although another hearing officer in recent CHR case recommended no increase due to same attorney’s poor performance, instant hearing officer allowed it but reduced the hours payable as excessive. R

**Cotten v. La Luce Restaurant**, CCHR No. 08-P-34 (Oct. 20, 2010) Hourly rates $125 and $140 approved for new lawyer where Respondent did not oppose the amounts and CHR had recently approved rates for same attorney. R

**Flores v. A Taste of Heaven & McCauley**, CCHR No. 06-E-32 (Jan. 19, 2011) Hourly rate of $340 approved for three senior attorneys with at least nine years experience, and rate of $300 approved for two junior attorneys with at least four years’ experience. R

**Cotten v. Arnold’s Restaurant**, CCHR No. 08-P-24 (Feb. 16, 2011) $140 hourly rate approved for relatively new attorney where Respondent did not object and CHR had recently approved same rate for the attorney. R

**Rankin v. 6954 N. Sheridan, Inc., DLG Management, and Feig**, CCHR No. 08-H-49 (May 18, 2011) Attorneys in private practice not required to prove credentials of counsel or hourly rates of comparable attorneys but only to establish the hourly rates they customarily charge. Further, CHR does not hold that employment discrimination cases are inherently more complex than housing discrimination cases. Hourly rates of $300 and $340 approved for experienced attorneys, $120 for law clerks, and $100 for paralegals. R

**Cotten v. Top Notch Beefburger, Inc.**, CCHR No. 09-P-31 (June 15, 2011) Attorney with three years’ experience awarded fees at $150 hourly rate, noting it is a modest increase over $140 allowed for work on another case in the prior year, was based on attorney’s affidavit as to his hourly rate for such services, and was unopposed. R

**Gray v. Scott**, CCHR No. 06-H-10 (Nov. 16, 2011) Hourly rate of $250 for law school clinical director with 25 years’ experience and $150 for clinical professor with two years’ experience found within range of prevailing rates for Chicago area attorneys with comparable experience and expertise. Hourly rate of $75 for Rule 711 law students found reasonable based on Commission case law. R

**Montelongo v. Azarpire**, CCHR No. 09-H-23 (Feb. 15, 2012) Fees for 31.8 hours at $225 per hour approved as reasonable in housing discrimination case involving refusal to rent due to disability of Complainant’s son. R

**Tarpein v. Polk Street Company d/b/a Polk Street Pub et al.**, CCHR No. 09-E-23 (Apr. 18, 2012) Hourly rates of $250 for attorneys with 10-12 years of legal experience, $125 for relatively new attorney, $85 for paralegal, and $50 for law clerk found not excessive in Chicago market, falling in low to middle range of rates approved in recent cases. R

**Pierce & Parker v. New Jerusalem Christian Development Corp.**, CCHR No. 07-H-12/13 (May 16, 2012) CHR approved hourly rate of $300 for attorney with eight years of civil rights litigation experience, and alternative
hourly rates of $325 and $200 for attorneys with intellectual property law and litigation experience but no prior civil rights experience. R

Gilbert and Gray v. 7355 South Shore Condominium Assn. et al., CCHR No. 01-H-18/27 (June 20, 2012) Hourly rates of $260.30 and $275.44 for attorneys in private practice found a reasonable amalgamation of their normal billing rates. Hourly rates of $300, $330, and $425 for public interest attorneys found reasonable estimates of market rates for attorneys with equivalent experience. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Aug. 9, 2012) In absence of objection, proposed hourly rates of $400 and $300 found reasonable for attorneys with 22 and 8 years of experience. CO

**Recoverable Work**

_Leadership Council for Metro. Open Comms. v. Souchet_, CCHR No. 98-H-107 (May 16, 2001) Requested fees reduced where some entries were found not sufficiently specific to allow CHR to determine if fees sought were reasonable; other reduction for some work done in federal, not CHR, case. R

_Nuspl v. Marchetti_, CCHR No. 98-E-207 (Mar. 19, 2003) Fees and costs for appearance of two witnesses denied where attorney should have known they could provide no relevant testimony. R

_Hoskins v. Campbell_, CCHR No. 01-H-101 (Oct. 15, 2003) No fee award for time reviewing Respondent’s bankruptcy petitions after filing of CHR complaint, because collection activity not compensable at this point in proceedings. R

_Hoskins v. Campbell_, CCHR No. 01-H-101 (Aug. 26, 2004) In Order Finding Violation of Final Order, Complainant awarded additional $294.15 in attorney’s fees and costs incurred in bringing Motion to Enforce. CO

_Salwierak v. MRI of Chicago, Inc., et al._, CCHR No. 99-E-107 (May 18, 2005) Additional attorney fees of $10,200 and costs of $143.09 awarded for representing Complainant in bankruptcy proceeding filed by one Respondent, which resulted in judgment excepting Complainant’s CHR claim and award of relief from discharge. As issue of first impression before CHR, relevant CHR and federal cases discussed. Award deemed necessary to prosecution of Complainant’s claim before CHR, protection of CHR’s award of relief, and making Complainant whole after discriminatory treatment. Board also allowed fees for participation in mediation proceeding found to be part of pursuit of the bankruptcy court claim. R

_Sullivan-Lacey v. Godinez_, CCHR No. 99-H-89 (Sep. 21, 2005) Supplemental fee request of law school clinic covering representation in Circuit Court, Appellate Court, and Supreme Court review granted in reduced amount of $57,447.75 based on inadequate documentation and specificity and a determination that the billed time of multiple law students and supervising attorneys was excessive and duplicative, including prohibited overhead and clerical costs as well as time expended primarily for educational purposes. As precise reductions could not be determined from time records submitted, percentage reductions were utilized. R

_Lapa v. Polish Army Veterans Association et al._, CCHR No. 02-PA-27 (Feb. 20, 2008) Deductions taken for (1) time on motion to reset hearing date due to Complainant’s last-minute retention of counsel; (2) time on response to discovery requests filed late where Respondents were denied attorney fees on motion to compel; (3) time on inadequately documented telephone conversation; (4) time on untimely post-hearing memorandum and response to motion to strike it; (5) half of time on fee petition where half the itemized charges were denied; (6) time on objection to recommended decision which only addressed failed claim; (6) percentage of hearing time allocated to case-in-chief and rebuttal for unsuccessful claim; and (7) half of time outside hearing to account for unsuccessful claim. R

_Williams v. First American Bank_, CCHR No. 05-P-130 (Feb. 19, 2008) Fees denied for time spent on supplemental investigation and pleadings where need for both arose from the moving party’s own mistake. HO

_Cotten v. 162 N. Franklin, LLC d/b/a Eppy's Deli and Café_, CCHR No. 08-P-35 (Dec. 16, 2009) Compensation denied for travel where no indication of its relation to case, for unsuccessful and unwarranted motion, and for administrative task of notarization. R

_Lockwood v. Professional Neurological Services, Ltd._, CCHR No. 06-E-89 (Jan. 20, 2010) Fees allowed for unsuccessful attempts to amend Complaint where Complainant ultimately prevailed on the issue involved, the efforts to amend were reasonable and prudent, and the unsuccessful argument was interrelated with development of the successful one. Fees allowed for work prior to Complaint filing, as appropriate and related to the successful claim. Compensation denied for time to “Review bill to eliminate or reduce billing,” as an administrative billing task. R

_Warren et al. v. Lofton & Lofton Management d/b/a McDonald’s et al._, CCHR No. 07-P-62/63/92 (May 19, 2010) Attorneys entitled to compensation for time spent on unsuccessful motion and underlying research where motion was reasonable as an alternative theory in complex case. R

_Cotten v. CCI Industries, Inc._, CCHR No. 07-P-109 (May 19, 2010) Fees for response to Respondent’s objections to fee petition denied where response struck due to lack of leave to file. Fees denied for vague entry “Draft Theory of the case” not supported by any result, and for unsuccessful motion to add a respondent. Fees
allowed for preliminary work before entry of appearance. R

Hutchison v. Iftekaruddin, CCHR No. 08-H-21 (June 16, 2010) Billing for 82.5 hours found excessive for straightforward direct-evidence housing discrimination claim based on single incident with no unusual legal or factual issues, and where attorney entered case after filing of pre-hearing memorandum a month before hearing. After listing examples of excessive time, total hours reduced by 25%. R

Cotten v. La Luce Restaurant, CCHR No. 08-P-34 (Oct. 20, 2010) Allowed time reduced from 2 hours to 30 minutes for drafting fee petition. Although CHR does not follow firm rule about billing travel time, 30 minutes requested was allowed as not excessive and reasonably and necessarily incurred to successfully prosecute case. R

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Feb. 16, 2011) Charges for travel time to scheduled proceedings, change of address notice, and drafting fee petition exclusive of time to maintain billing records found reasonable and necessary to prosecute case. R

Rankin v. 6954 N. Sheridan, Inc., DLG Management, and Feig, CCHR No. 08-H-49 (May 18, 2011) Compensation denied for administrative and clerical work such as faxing documents, docketing deadlines, filing documents, and notifying co-counsel that documents were filed. Such work is not ordinarily billed to paying clients but absorbed as overhead, but opening time sheet and drafting retainer agreement are compensable. Also, no additional fees allowed for time to prepare and review objections to hearing officer’s fee recommendation; this should be absorbed as overhead so fee determination in process can be concluded, especially where work is not extensive and no new issues involved. R

Gray v. Scott, CCHR No. 06-H-10 (Nov. 16, 2011) Fee award disallowed for time of attorney who prepared affidavits supporting claimed hourly rates for public law office attorneys but who had not filed appearance or worked on case. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Mar. 8, 2012) Attorney fees and costs awarded for bringing successful motion to enforce injunctive order, subject to fee petition process. CO

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Apr. 18, 2012) Paralegal charges for scanning and saving, copying or printing, and preparing and mailing of documents disallowed as clerical functions not normally billed to paying clients, which should be absorbed into overhead when setting attorney rates. Charge for law clerk to drive witness back from hearing disallowed where necessity not explained. R

Pierce & Parker v. New Jerusalem Christian Development Corp., CCHR No. 07-H-12/13 (Mar 16, 2012) No fee award for docketing dates or making copies, which are administrative tasks to be absorbed into overhead. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Aug. 9, 2012) In determining attorney fees for bringing motion to enforce injunctive relief, CHR disallowed time for work after filing of motion, on aspects of the injunctive relief where no noncompliance was found. Time for preparing the fee petition approved with 15% reduction to account for time on unsuccessful aspect of fee claim. CO

Relation to Damage Award

Gilbert and Gray v. 7355 South Shore Condominium Assn. et al., CCHR No. 01-H-18/27 (June 20, 2012) Rejecting application of Farrar v. Hobby, attorney fees of $61,535.66 awarded even though Complainants recovered only $100 and $2,000 in damages, respectively. Fee awards need not be proportional to damage awards; even if damages considered nominal, Complainant achieved benefits from the litigation and important public purpose was served. R

Respondent’s Fees

Cotten v. Insignia Mgt. Co., CCHR No. 95-H-137 (Dec. 8, 2000) Where Complainant attended Conciliation Conference but would not proceed because he did not have an attorney, CHR found that its Regulations did not allow it to order Complainant to pay Respondent’s attorney’s fees and costs incurred when it attended the Conference at which Complainant did not proceed; Complainant was fined, see Conciliation Conference/Failure to Attend/Sanction Entered, below. CO

Maat v. Conway Mgmt. et al., CCHR No. 02-PA-74 (Aug. 21, 2003) Respondents’ request for attorney’s fees in connection with motion to dismiss denied; under CHRO, respondent not entitled to fees unless complainant fails to appear for hearing without good cause. CO

Williams v. First American Bank, CCHR No. 05-P-130 (Feb. 19, 2008) Complainant ordered to pay Respondent’s attorney fees to enforce discovery rights as sanction for failure to comply with order compelling discovery and for misrepresentations made at pre-hearing conference about receipt of documents. HO

Sanctions

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Oct. 18, 2000) Regulations governing the Legal Assistance Foundation limits fees LAF may collect to include those earned as a result of sanctions; the request Complainant had made for sanctions was denied and so LAF was not entitled to its fees in seeking them. R
Williams v. First American Bank, CCHR No. 05-P-130 (Feb. 19, 2008) Complainant ordered to pay Respondent’s attorney fees to enforce discovery rights as sanction for failure to comply with order compelling discovery and for misrepresentations made at pre-hearing conference about receipt of documents. HO

State Court Proceedings
Sellers v. Outland, CCHR No. 02-H-37 (Apr. 20, 2005) Fees awarded for seven additional hours of attorney time on successful defense of favorable ruling in state court certiorari petition, at hourly rates of $350 and $275. R
Sellers v. Outland, CCHR No. 02-H-037 (Apr. 15, 2009) Supplemental attorney fees of $67,915.27 and costs of $75 awarded even though Complainant did not prevail on appeal on punitive damages, because Complainant is entitled to all reasonable attorney fees and costs associated with the state court review. R

Unsuccessful Claims/Theories
Byrd v. Hyman, CCHR No. 97-H-2 (July 17, 2002) Fee award reduced 15% where Complainant prevailed on respondeat superior theory but not on direct discrimination theory: review of findings of fact showed less than 20% involved matters related only to the unsuccessful claim, but the loss precluded punitive damages and injunctive relief, reduced fine, and may have heightened impact of failure to mitigate, thereby limiting Complainant’s success and justifying fee reduction. [Liability finding reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R
Alexander v. 1212 Restaurant Group et al., CCHR No. 00-E-110 (Apr. 15, 2009), aff’d Cir. Ct. Cook Co. No. 09-CH 16337 (Feb. 19, 2010), aff’d Ill. App. Ct. No. 1-20-0797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No. 113274 (Jan. 25, 2012) Attorney fee award reduced 15 per cent from amount sought to adjust for unsuccessful discharge claim accompanying successful workplace harassment claim, citing Barnes v. Page and noting that much of the testimony would have been presented for the harassment claim and that rough approximations are inevitable in this situation. R
Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Apr. 18, 2012) Standard for reduction of fees to account for unsuccessful claims is based on reasonableness of time expended, not proportionality of damages awarded to damages requested. Most time on unsuccessful termination claim found related and necessary to development of successful claim of forced maternity leave; thus 10% reduction for unsuccessful claim held sufficient. R
Gilbert and Gray v. 7355 South Shore Condominium Assn. et al., CCHR No. 01-H-18/27 (June 20, 2012) Fee petition properly omitted charges directly devoted to unsuccessful claims which did not share a core of common fact with successful claims. To extent interrelated work could not be isolated, additional percentage reduction was appropriate and CHR accepted attorneys’ proposed reductions of lodestar amount by 50% and 80%. R
Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Aug. 9, 2012) In determining attorney fees for bringing motion to enforce injunctive relief, CHR approved time for preparing the fee petition with 15% reduction to account for time on unsuccessful aspect of fee claim. CO

Who Is Entitled
Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Apr. 18, 2012) Business structure under which attorneys operated during representation – initially as “Caputo Law Firm,” later forming and seeking fees as “Caputo Law Firm, P.C.” – is irrelevant to their entitlement to attorney fees or validity of fee petition. R

BANKRUPTCY
Attorney’s Fees – See Attorney’s Fees/Recoverable Work section, above.

Automatic Stay
Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) Although CHR may proceed with an investigation into a bankrupt respondent as an action “by” a governmental agency, the automatic stay prevents it from proceeding with an administrative hearing as that is an action only by the complainant. CO
Bykov v. Three Sisters/Petrie Retail Corp., CCHR No. 95-E-198 (May 17, 2001) Although CHR may proceed with an investigation into a bankrupt respondent as an action “by” a governmental agency, the automatic
stay prevents it from proceeding with a conciliation conference as that is an action only by the complainant. CO

Salwierak v. MRI of Chicago & Baranski, CCHR No. 99-E-107 (Feb. 14, 2002) Where default order was entered against one of two Respondents and where second Respondent had bankruptcy action pending, CHR deferred hearing until bankruptcy proceeding ends pursuant to above cases. CO

Salwierak v. MRI of Chicago & Baranski, CCHR No. 99-E-107 (May 13, 2002) Where federal bankruptcy court issued order modifying stay to allow CHR case to proceed, CHR ends its deferral & sets case for hearing. CO

Jurisdiction over Bankrupt Respondents

Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) CHR may proceed with an investigation into a bankrupt respondent as an action “by” a governmental agency, but the automatic stay prevents it from proceeding with an administrative hearing as that is an action only by the complainant. CO

Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) CHR previously held that it cannot proceed with a hearing against a bankrupt respondent and so where Complainant had not filed a timely proof of claim against bankrupt business and so was barred from recovering against it and where that business no longer existed, CHR dismissed that respondent as no hearing, no damages and no injunction was possible. CO

Bykov v. Three Sisters/Petrie Retail Corp., CCHR No. 95-E-198 (May 17, 2001) Although CHR may proceed with an investigation into a bankrupt respondent as an action “by” a governmental agency, the automatic stay prevents it from proceeding with a conciliation conference as that is an action only by the complainant. CO

Cross v. K.B. Toys, Inc., CCHR No. 04-E-106 (May 8, 2008) Where bankruptcy court discharge appeared to cover Complainant’s claims against Respondent at CHR, case could proceed to hearing only if Complainant showed she filed Proof of Claim covering the case and received bankruptcy court’s authorization to proceed. CHR records showed Complainant knew of deadline for Proof of Claim but no Proof of Claim or authorization covering the CHR case. CO

Cross v. KB Toys, Inc., CCHR No. 04-E-106 (June 12, 2008) Complaint dismissed after determination it was covered by bankruptcy discharge, pursuant to Reg. 235.310 authorizing dismissal for no action possible against Respondent. CO

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) No dismissal of bankrupt Respondent where Complainant and CHR were never notified of the bankruptcy filing, depriving Complainant of opportunity to file a claim in bankruptcy court. Federal decision allowing discharge of claims inadvertently omitted from bankruptcy petition held inapplicable because Respondent did not prove the lack of notice was inadvertent. R

BONA FIDE OCCUPATIONAL QUALIFICATION

BFOQ Not Found

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) CHR holds that it cannot find, as a matter of law, that a mandatory retirement ordinance for certain police and fire personnel to be based on a BFOQ about people over 63 years old. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In order denying request for review of dismissal order, CHR found the BFOQ exception to prohibition on employment discrimination is not a limitation on City Council’s legislative authority; overrules any suggestion in August order [above] to the contrary. CO

Burden of Proof

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) Notes that party asserting BFOQ bears burden of establishing that it is appropriate in a particular circumstance. CO

Effect on Legislative Action

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In denying request for review of dismissal order, CHR found that the BFOQ exception to prohibition on employment discrimination is not a limitation on City Council’s legislative authority and so does not prevent City Council from passing a mandatory retirement ordinance requiring certain police and fire personnel to retire at age 63. CO

Expression Contrary to Employer – No new decisions in this volume.

Role Models – No new decisions in this volume.
Standard

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) CHR regulation and case law state that the BFOQ exception is narrow and cannot be based on a characterization attributed to members of a protected class. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In order denying request for review of dismissal order, CHR found the BFOQ exception to prohibition on employment discrimination is not a limitation on City Council’s legislative authority; overrules any suggestion in August order [above] to the contrary. CO

BURDEN OF PROOF – See Disparate Treatment section, below.

CAUSATION

Damages – See Damages/Causation section, below.

CITY OF CHICAGO AUTHORITY

Conflicting Municipal Ordinances

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) (CHR held that a mandatory retirement ordinance [MRO] for certain police and fire personnel should be read as an implied exception to CHRO; finds MRO to be the more specific and the later passed and also finds that reading the MRO as an exception follows the intent of City Council. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) In construing two conflicting municipal ordinances – CHRO and a mandatory retirement provision – CHR applied statutory construction rules including: giving intent to legislature by presuming it has acted rationally; reading the two ordinances so that both can stand, where possible; determining which ordinance was the later passed; deciding which was more specific; and considering fact that no exception in CHRO permits mandatory retirement. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) Finds that to give precedence to CHRO over a mandatory retirement ordinance [MRO] would not be consistent with presuming that City Council acted rationally in passing both ordinances in that individuals forced to retire under the MRO would then be entitled to reinstatement and damages under CHRO. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) Provision in CHRO which states that nothing in CHRO is to limit rights granted under state or federal law is a not a limitation on City Council’s power to limit or alter rights it provided itself. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) Provision in CHRO which states that CHR is to advise and consult about legislation related to its mission is a not a limitation on City Council’s power and does not require CHR to participate in action before City Council. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) CHR denies request for review of August order [above], again finding that the mandatory retirement order [MRO] for certain police and fire personnel is to be read as an implied exception to the CHRO; among other things, finds MRO to be more specific than CHRO and finds that City Council intended the MRO to be effective. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In order denying request for review of dismissal order, CHR held that provision in CHRO which states that nothing in CHRO is to limit rights granted under state or federal law does not mean that the CHRO must be read as coterminous with federal or state law; fact that CHRO might provide less protection in some instances does not prevent individuals from pursuing federal or state claims. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In order denying request for review of dismissal order, CHR held that finding the Mandatory Retirement Ordinance to be an implied exception to the CHRO does not imperil the entire CHRO; state court case concerning severability inapposite. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In order denying request for review of dismissal order, CHR upheld its decision that the mandatory retirement ordinance was more specific and later passed than the CHRO and so properly found to be an implied exception to CHRO. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In order denying request for review of dismissal order, CHR found that the BFOQ exception to prohibition on employment discrimination is not a limitation on City Council’s legislative authority and so does not prevent City Council from passing a mandatory retirement ordinance requiring certain police and fire personnel to retire at age 63; overrules any suggestion in August order [above] to the contrary. CO
In order denying request for review of dismissal order, CHR found that its August order did not create an “irrebutable presumption” that City Council was rational in passing the mandatory retirement ordinance; instead, CHR simply reflected the judicial presumption that a legislature intended to enact an effective law which was not a “vain” act. CO

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Older facilities are not “grandfathered” or otherwise exempt from accessibility requirements of CHRO and Reg. 520.105, which are in addition to any Building Code or other City ordinance requirements. R

**Home Rule Authority**

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Even if construing the CFHO to find that source of income discrimination prohibited discrimination against people using Section 8 vouchers, as done via April 1999 order, were inconsistent with Illinois and Chicago laws, the City’s home rule authority allows it to do so. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) The City of Chicago, as a home rule entity, has broad authority to legislate concerning the public health, safety, morals and welfare of its residents and so ordinances passed pursuant to home rule authority can be more stringent than state laws. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) The state legislature did not limit the City’s power in any pertinent respect, thus allowing the City to pass the CFHO even if it conflicts with common law. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Regulation of housing discrimination is a proper exercise of City’s home rule police powers. CO

Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) Illinois appellate court already found that the CHRO is a proper exercise of the City of Chicago’s home rule authority. CO

Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) The fact that the CTA was created by the State does not mean that the City is preempted from regulating it. CO

Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) The fact that the CTA may be subject to state or federal laws about civil rights does not cause the City of Chicago to be deprived of jurisdiction over it. CO

Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) Home rule entities may regulate only those subjects which pertain to its government and affairs. CO

Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) CHR rejects CTA’s claim finds that a local, home rule government may never regulate a regional entity, discussing several Illinois court cases allowing such regulation. CO

Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) In addressing when a local government may regulate a regional one, consideration is given to the nature and extent of the problem, which government has the more vital interest in it, and the role traditionally played by the governments in addressing it. CO

Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) Considering the factors cited in the prior entry, CHR finds that applying the CHRO to the CTA is proper. CO

Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) One key factor is whether the local regulation will undermine the regional agency’s ability to perform its mission; CHR finds that applying the CHRO to the CTA will not hinder it from providing public transportation. CO

Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (5-29-02) Fact that CTA may be regulated by other municipal governments does not deprive the City of Chicago of its home rule authority to regulate the CTA. CO See also Jurisdiction/Concurrent Jurisdiction section, below.

Towers v. MIFAB, Inc., CCHR 06-E-93 (Apr. 9, 2009) Illinois Human Rights Act does not preempt City’s home rule authority to enact its own discrimination ordinances; rather, IHRA recognizes City’s right to regulate more broadly. CO

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) CHR procedural regulations, including those limiting discovery, are enacted under City’s home rule authority; CHR not subject to procedures and rules of discovery of Illinois state courts. R

**Police Power** – No new decisions in this volume.

**Preemption** – See separate Preemption section, below.
COLLATERAL ESTOPPEL
Defensive Use – No new decisions in this volume.

Definition
Gott v. Novak, CCHR No. 02-H-1/2 (Aug. 21, 2002) Collateral estoppel, unlike res judicata, applies “only as to the point or question actually litigated and determined and not to other matters which might have been litigated and determined.” Discusses collateral estoppel standards in context of action for possession of property. CO

Denied
Gott v. Novak, CCHR No. 02-H-1/2 (Aug. 21, 2002) Collateral estoppel not applicable because no evidence that discrimination issues were raised or actually litigated and determined in state forcible entry and detainer action, as Complainants voluntarily agreed to relinquish possession of rented apartment. CO
Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Oct. 27, 2003) Collateral estoppel not applied to decision on unemployment compensation claim, so motion to dismiss CHR sexual harassment claim denied; decision notes that under Unemployment Insurance Act (UIA), no finding, determination, decision, ruling or order pursuant to UIA shall have res judicata or collateral estoppel effect, or shall be admissible, in other proceedings. CO
Anguiano v. Abdi, CCHR No. 07-P-30 (Sep. 16, 2009) Collateral estoppel not applied where Dept. of Consumer Services issued order regarding same incident but made no factual findings about the alleged race- and age-based comments at issue before CHR. R
Zulu v. Latrop Elderly Apartments & Mellado, CCHR No. 08-H-17 (Oct. 13, 2009) Collateral estoppel denied where discrimination claims were not litigated and determined in earlier eviction action. CO

Forcible Entry and Detainer Action
Gott v. Novak, CCHR No. 02-H-1/2 (Aug. 21, 2002) Although discrimination claim can be asserted as defense or counterclaim in state forcible entry and detainer action, no evidence that had occurred, as Complainants voluntarily agreed to relinquish possession of rented apartment; thus collateral estoppel not applicable because discrimination issues not actually litigated and determined. CO

Granted
Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Dec. 21, 2006) Collateral estoppel applied to federal court’s determination of validity of oral settlement agreement releasing CHR claims. CO
Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Feb. 8, 2007) Decision upheld on request for review. CO
Blakemore v. Dublin Bar & Grill, Inc. d/b/a Dublin’s Pub, et al., CCHR No. 05-P-102 (Nov. 13, 2007) CHR stayed proceedings in race discrimination case where Complainant had filed housing status discrimination complaint alleging the same incident with Cook County Commission on Human Relations (CCCHR) that was in pre-hearing process, because CCCHR adjudication process likely to conclude before CHR’s and CCCHR findings were likely to bar a different decision by CHR under preclusion doctrine of collateral estoppel. CO
Blakemore v. Dublin Bar and Grill, CCHR No. 05-P-102 (Oct. 23, 2009) Even if res judicata were inapplicable, findings in case fully adjudicated at Cook County Commission on Human Rights also had preclusive effect under collateral estoppel doctrine and thus mandate dismissal of CHR complaint involving same parties and arising from same group of operative facts. HO

Res Judicata – See separate Res Judicata section, below.

COLOR DISCRIMINATION
Liability Not Found
Hernandez v. Colonial Medical Center et al., CCHR No. 05-E-14 (Nov. 28, 2006) No harassment based on color found where Complainant, who is black and Panamanian, claimed that a co-worker had treated her rudely and called her derogatory names referencing her dark skin color. Based on hearing officer’s assessment of witness credibility, Complainant failed to prove that the derogatory slurs occurred or that when she complained about the co-worker to management, she had complained of harassment based on skin color. R

COMMISSION AUTHORITY
Arguments/Claims Other than Discrimination
White v. B.W. Phillips Realty Partners, et al., CCHR No. 00-H-118 (June 28, 2001) CHR cannot consider a defamation claim, only possible violations of CFHO or CHRO. CO
Cady v. Bell, Boyd & Lloyd, et al., CCHR No. 01-E-144 (Oct. 25, 2001) CHR cannot consider alleged violation of first amendment of U.S. Constitution, but can consider whether Complainant was fired due to his religion in violation of CHRO. CO

Williams v. City of Chicago “Government & Administrations, Boards, Commissions and Committees; Departments and Agencies,” CCHR No. 01-PA-103 (Nov. 1, 2001) CHR cannot consider alleged injuries such as perjury, deceptive business practices and disorderly conduct, only possible violations of CFHO or CHRO. CO

Leflore v. Pace Bus Co., CCHR No. 02-E-47 (Oct. 15, 2002) CHR has no jurisdiction to enforce Family and Medical Leave Act (“FMLA”) or to adjudicate rights under it. However, where no indication that FMLA preempts CHRO and where Complainant alleged that Respondent approved a co-worker’s FMLA leave for longer period than for him, CHR has jurisdiction to determine whether Respondent administered FMLA in discriminatory manner. CO

Williams v. Comm’n on Human Relations et al., CCHR No. 02-PA-99 (Nov. 5, 2002) CHR does not have general jurisdiction or jurisdiction over discrimination or civil rights violations not specified in CHRO or CFHO; CHR’s jurisdiction limited to complaints asserting violations of CHRO and CFHO only. CO

Williams v. Comm’n on Human Relations et al., CCHR No. 03-P-20 (Aug. 6, 2003) CHR enforces two specific City Ordinances and is not a “court of general jurisdiction;” thus, it cannot rule on claims of constitutional violations or violations of “common law.” CO

McCabe v. Chipotle et al., CCHR No. 03-P-119 (Aug. 8, 2003) CHR does not have authority to enforce Ordinances regulating use of sidewalks by adjacent restaurants; CHR may only act on complaints which state claim upon which relief can be granted under CFHO or CHFO. CO

Miller v. Deborah’s Place et al., CCHR No. 03-H-14 (Aug. 21, 2003) Claim of aiding and abetting not covered under CFHO. CO

Montejano v. Blakemore, CCHR No. 01-P-4 (Oct. 15, 2003) Adjudication of discrimination complaint against Respondent not proper forum to review CHR’s restrictions on Respondent’s access to its offices. CO

Brown v. Chicago Transit Authority et al., CCHR No. 97-E-10 (Apr. 29, 2004) CHR has no jurisdiction to rule on fraud claims or other claimed illegality; CHR not court of general jurisdiction and can only consider claims of violations of CHRO and CFHO. CO

Meekins v. Kimel, CCHR No. 02-H-84 (June 10, 2004) CHR not court of general jurisdiction and has no authority to enforce state laws or handle alleged violations of Illinois Rules of Professional Conduct for attorneys. Thus CHR not authorized to issue “orders of protection” against individuals, to investigate or adjudicate alleged “harassment by telephone,” or to determine whether there was attorney misconduct. CO

Thalassinos v. Navy Pier, CCHR No. 04-P-3 (Mar. 21, 2005) CHR has no jurisdiction to rule on whether Complainant’s First Amendment rights of religious expression were violated by Respondent. In the context of a public accommodation discrimination claim, CHR considers whether Complainant was using or attempting to utilize a public accommodation within the meaning of the CHRO and if so, then CHR has jurisdiction to consider whether the CHRO was violated. CO

Slawson v. Minnick, CCHR No. 05-E-105 (Jan. 4, 2006) CHR not proper forum to review process by which City department conducted internal investigation of sexual harassment against Complainant or merits of complaint being investigated; CHR does not monitor how City departments conduct such investigations but considers only possible violations of the CHRO or CFHO. CO

MacEntee & Arvanites v. 539 Stratford Condo. Assn. et al., CCHR No. 05-H-46/50/48/51 (May 18, 2006) Whether conduct complained of raises issues under other laws, which can be litigated in other forums, is immaterial to whether CHR has jurisdiction to determine whether CFHO violation occurred. CO

Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Feb. 8, 2007) CHR not a court of general jurisdiction and can adjudicate only claims under CHRO or CFHO, not related claims and issues such as pension rights, disability benefits, worker’s compensation, and adequacy of attorney representation. CO

Lee v. Miller and Voci, CCHR No. 09-H-32 (Aug. 28, 2009) CHR adjudication process will determine whether claims in a complaint are well-founded and sanction any frivolous pleadings or representations. Later Complaint filed by Respondent against Complainant and her attorney, alleging they were trying to enrich themselves by manufacturing the claim against him, was dismissed as not alleging conduct prohibited by the Fair Housing or Human Rights Ordinance, noting CHR does not have jurisdiction over claimed violations of other laws. CO

Availability of Damages

Diaz v. El Tropico, Inc., et al., CCHR 08-P-62 (Feb. 23, 2009) Motion to limit remedies to maximum $500 fine denied as ignoring the specific remedial language of Sec. 2-120-480(l), Chicago Municipal Code, establishing additional remedies which are cumulative and in addition to fines for violation of Chapter 2-160 or Chapter 5-8. HO
Breadth of Ordinances – See also Employment, Housing, Jurisdiction & Public Accommodation sections, below.

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) The power to enforce the CFHO necessarily includes the power to construe it. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Construing the CFHO to find that source of income discrimination prohibited discrimination against people using Section 8 vouchers, as done via April 1999 order, is consistent with Illinois and Chicago laws. CO

Hoskins v. Owner of 4631 W. Schubert, CCHR No. 02-H-88 (Mar. 18, 2003) CFHO does not contain exemption for smaller rental properties, as may be found in other legislation; any rental of housing in City of Chicago is covered. CO

Smith v. Park Edgewater Condo. Assn. et al., CCHR No. 02-H-9 (May 6, 2003) CHR has jurisdiction over claims of discriminatory evictions under CFHO. CO

Blakemore v. Chicago City Council et al., CCHR No. 04-P-6 (Feb. 10, 2004) Section 2-120-510(k) of Enabling Ordinance excludes City Council and its employees from coverage under CHRO and CFHO; they cannot be named as respondents. CO

Calhoun v. Chicago Police Dept., CCHR No. 06-P-59 (Oct. 13, 2006) Employment status and homelessness not covered under CHRO as protected classifications. CO

Weinert v. Gowlovech, CCHR No. 07-H-36 (Sep. 18, 2007) No jurisdiction over interference or retaliation claims for asserting rights under the Fair Housing Ordinance or the federal Americans with Disabilities Act (ADA). Fair Housing Ordinance does not prohibit retaliation or interference, and CHR does not enforce the ADA. CO

Blakemore v. Commission on Human Relations et al., CCHR No. 01-PA-48/50 (June 5, 2001) Because the Executive Compliance Staff, the individuals charged with reviewing requests for review, does not have the authority to overturn the Board resolution which was the basis for the dismissal of CHR. CO

Williams v. “City of Chicago Government and Administrative Boards, Commissions and Committees,” CCHR No. 01-PA-10 (Feb. 20, 2001) Pursuant to resolution of the Board of Commissioners concerning conflict of interest, CHR dismissed case filed against CHR at CHR. CO

Blakemore v. Commission on Human Relations, et al., CCHR No. 02-PA-95 (Aug. 17, 2002) (same) CO

Blakemore v. Commission on Human Relations, et al., CCHR No. 02-PA-99 (Nov. 5, 2002) (same) CO

Williams v. Comm’n on Human Relations et al., CCHR No. 03-P-20 (Aug. 6, 2003) (same) CO

Cases Against CHR

Williams v. Chicago Comm. on Human Relations, et al., CCHR No. 00-PA-38 (May 11, 2000) Pursuant to resolution of the Board of Commissioners concerning conflict of interest, CHR dismissed case filed against CHR at CHR. CO

Williams v. Chicago Comm. on Human Relations & Chic. Law Dept., CCHR No. 00-PA-38 (Aug. 10, 2000) Same; denying request for review of order described above. CO

Williams v. Chicago Comm. on Human Relations & Chic. Law Dept., CCHR No. 00-PA-38 (Aug. 10, 2000) In denying request for review of decision to dismiss CHR from case, it notes that the Executive Compliance Staff, the individuals charged with reviewing requests for review, does not have the authority to overturn the Board resolution which was the basis for the dismissal of CHR. CO

Williams v. “City of Chicago Government and Administrative Boards, Commissions and Committees,” CCHR No. 01-PA-10 (Feb. 20, 2001) Pursuant to resolution of the Board of Commissioners concerning conflict of interest, CHR dismissed case filed against CHR at CHR. CO

Blakemore v. Commission on Human Relations, et al., CCHR No. 01-PA-48/50 (June 5, 2001) (same) CO

Blakemore v. Commission on Human Relations, et al., CCHR No. 01-PA-48/50 (June 5, 2001) Because the Executive Compliance Staff, the individuals charged with reviewing requests for review, does not have the authority to overturn the Board resolution which was the basis for the dismissal of CHR, CHR directed Complainant not to file a request for review but to appeal directly to court. CO

Williams v. City of Chicago “Government & Administrations, Boards, Commissions and Committees; Departments and Agencies,” CCHR No. 01-PA-103 (Nov. 1, 2001) Pursuant to resolution of CHR’s Board of Commissioners concerning conflict of interest, CHR dismissed case filed against CHR at CHR. CO

Williams v. City of Chicago “Government & Administrations, Boards, Commissions and Committees; Departments and Agencies,” CCHR No. 02-PA-33 (Apr. 30, 2002) (same) CO

Williams v. Comm’n on Human Relations et al., CCHR No. 02-PA-99 (Nov. 5, 2002) (same) CO

Cases Against City Council

Blakemore v. City of Chicago Comm. on Human Rights et al., CCHR No. 06-P-73 (Dec. 28, 2006) Complaint against City Council committee and individual aldermen dismissed; Section 2-120-510(k) of Enabling Ordinance bars CHR from proceeding on complaints involving actions of City Council in any form or aspect; CHR cannot compel any City Council member or employee to respond. CO
City of Chicago Authority – See separate City of Chicago Authority section, above.


Commission Expertise – No new decisions in this volume.

Constitutional Limits – No new decisions in this volume.

Federal Stay
Thompson et al. v. GES Exposition Svcs., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) Where cases had been stayed by federal district court, where court ruled in favor of respondents, complainants appealed and district court lifted stay, CHR found lifting of federal stay did not require it to proceed, just permitted it to; and, because the appeal would resolve most if not all issues in CHR cases, CHR continued to hold cases in abeyance while appeal is completed. CO

Investigation
Morris v. Chicago Bd. of Education, et al., CCHR No. 97-E-41 (Sep. 5, 2001) CHR may collect comparative information about claims as part of its obligation and charge to investigate cases, despite objection by respondent. CO
Nichilo v. Wirtz Realty Corp. et al., CCHR No. 00-H-110 (Nov. 7, 2001) CHR is empowered to investigate claims to determine if there is a violation of CFHO and so it denied unsupported claim that information about comparable applicants was private, although it allowed redacting of names. CO
Walter v. Oberth, CCHR No. 03-H-12 (Apr. 7, 2003) Under Section 2-120-510 of Chicago Municipal Code, if Complaint meets minimum pleading requirements, CHR may not refuse to accept it for investigation by using “screening techniques” related to underlying truth or merit of allegations therein. However, by accepting Complaint, CHR has made no judgment as to underlying truth or merit of its allegations. CO

Limited by Ordinances
Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-13/20 & 99-PA-4/53/84 (Feb. 10, 2000) As an administrative agency, CHR’s power is limited by the ordinances which govern its work. CO
Martinez v. Fojitk et al., CCHR No. 99-H-33 (May 1, 2000) (same) CO
Gaddy v. Chicago Dept. of Streets & Sanitation, CCHR No. 00-PA-52 (Nov. 28, 2000) (same) CO
Blakemore v. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) (same) CO
Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) (same) CO
Scarse v. Chicago Dept. of Streets & San., CCHR No. 01-PA-2 (Aug. 9, 2001) (same) CO
Kenny v. Loyola Univ., et al., CCHR No. 01-PA-44 (Sep. 24, 2001) (same) CO
Saadah v. Chicago Depts. of Consumer Services & Aviation, CCHR No. 01-PA-84/93/95 (Jan. 30, 2002) (same) CO
Mukemu v. Sun Taxi Assoc., et al., CCHR No. 02-PA-11 (Feb. 5, 2002) (same) CO
Blakemore v. Chicago Dept. of Consumer Services et al, CCHR No. 01-PA-25 (Feb. 26, 2002) (same) CO
Palacios v. City Colleges of Chicago, CCHR No. 02-PA-21 (Mar. 19, 2002) (same) CO
Sims-Higgenbotham v. Fox and Grove et al., CCHR No. 99-PA-132 (Apr. 11, 2002) (same) CO
Maat v. Chicago Board of Education, CCHR No. 01-PA-115 (May 17, 2002) (same) CO
Luna v. SLA Uno, Inc., et al., CCHR No. 02-PA-70 (Mar. 29, 2005) Despite references to Americans with Disabilities Act in Complaint, CHR shall proceed only based on CHRO with regard to allegations that public accommodation was not accessible to person using wheelchair. CO
Ingram v. Got Pizza, CCHR No. 05-E-94 (Oct. 18, 2006) No general authority in Enabling Ordinance to fine for procedural violations or non-compliance with CHR orders; fines authorized in CHRO and CFHO are limited to violations of those ordinances. R
Blakemore v. City of Chicago Comm. on Human Rights et al., CCHR No. 06-P-73 (Dec. 28, 2006) Complaint against City Council committee and individual aldermen dismissed; Section 2-120-510(k) of Enabling Ordinance bars CHR from proceeding on complaints involving actions of City Council in any form or aspect; CHR cannot compel any City Council member or employee to respond. CO
Lee v. Miller and Voci, CCHR No. 09-H-32 (Aug. 28, 2009) CHR adjudication process will determine whether claims in a complaint are well-founded and sanction any frivolous pleadings or representations. Later Complaint filed by Respondent against Complainant and her attorney, alleging they were trying to enrich themselves
by manufacturing the claim against him, was dismissed as not alleging conduct prohibited by the Fair Housing or Human Rights Ordinance, noting CHR does not have jurisdiction over claimed violations of other laws. CO

McAvoy v. All Day Montessori et al., CCHR No. 10-E-05 (Aug. 31, 2010) Individual Respondent’s “counter-complaint” dismissed because counterclaims cannot be filed at any time and most allegations claim violations of other laws CHR does not enforce as it is not a court of general jurisdiction. CO

Public Policy – No new decisions in this volume.

Regulation Breadth

Ingram v. Got Pizza, CCHR No. 05-E-94 (Oct. 18, 2006) Absent specific authority in regulations, Board declined to fine defaulted Respondent for failure to file Verified Response; Ruling contrasts authority to impose fines for failure to attend Hearing or Pre-Hearing Conference and failure to file Pre-Hearing Memorandum. R

Withdrawal of Commission Order

Blakemore v. AMC-GCT, Inc., CCHR No. 03-P-146 (Feb. 28, 2005) Where CHR had erroneously issued an order finding no substantial evidence although Executive Compliance Staff had actually found substantial evidence of discrimination on one of two claims, CHR not only had authority to issue corrected order but was required to do so to rectify its error. This was not reversal of a CHR decision but rather the effectuating of the actual decision. CO

Blakemore v. AMC-GCT, Inc., CCHR No. 03-P-146 (May 19, 2005) Final order modified to change closure basis to voluntary withdrawal pursuant to private settlement where initially entered due to failure to cooperate at Conciliation Conference and CHR was unaware of later settlement. Modification warranted in light of CHR policy encouraging voluntary settlements, but order finding failure to cooperate not withdrawn and fine not vacated. CO

COMMISSION DEADLINES/ERRORS

No Dismissal of Complaint

Blakemore v. Commission on Human Relations, et al., CCHR No. 01-PA-48/50 (June 5, 2001) CHR notes that CHR errors in processing a case cannot generally deprive a complainant with the right to proceed with his or her case, citing U.S. Supreme Court precedent. CO

Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al., (Jan. 17, 2002) Even had CHR erred in not completing cases more quickly, CHR errors cannot deprive a complainant of the right to proceed with his or her case; also notes that the CTA has refused to participate in cases other than to assert jurisdictional claims and so if CHR had proceeded, it would have defaulted the CTA. CO

Simon v. LaSalle Banks, CCHR No. 00-E-15 (Dec. 16, 2002) No dismissal where CHR failed to complete investigation within specified 180 days after filing: CHR deadlines are directory not mandatory and do not provide grounds for dismissal. CO

Smith v. Mart Anthony Rest., Inc. et al., CCHR No. 02-PA-115 (Dec. 30, 2002) No dismissal where CHR failed to serve Complaint on Respondents within ten days of filing: complainants have property interest in their complaints and CHR errors cannot generally deprive them of right to proceed; CHR lacks authority to dismiss complaint because it has not met deadline set forth in Ordinances and Regulations. CO

Lampkin v. Northwestern Memorial Hosp., CCHR No. 01-E-50 (June 24, 2003) Fact that CHR failed to complete investigation within specified 180 days after filing not cause for dismissal: CHR deadlines are directory not mandatory and do not provide grounds for dismissal; Complainants have property interest in their complaints with due process right to proceed. CO

Maat v. Brian’s Juice Bar & Deli, Inc., CCHR No. 05-P-25 (Apr. 21, 2005) Complaint not dismissed where CHR failed to serve it on Respondent within specified ten days after filing: deadlines for CHR action are directory not mandatory and do not provide grounds for dismissal; Complainant has property interest in case with due process right to proceed. CO

Tyler v. Law Offices of Donald T. Bertucci, CCHR No. 02-E-121 (June 9, 2005) No dismissal where CHR failed to complete investigation within specified 180 days after filing: CHR deadlines are directory not mandatory and do not provide grounds for dismissal; Complainant has property interest in case with due process right to proceed; Respondent not prejudiced in locating witnesses where advised in Respondent Notification of obligation to maintain records and relevant evidence until case is closed. CO

Maat v. RTG, Ltd., CCHR No. 05-P-23 (Oct. 3, 2005) (same as Maat v. Brian’s Juice Bar & Deli, Inc.) CO
COMPLAINTS

Adequacy of

Williams v. Chicago Comm. on Human Relations & Chic. Law Dept., CCHR No. 00-PA-38 (July 10, 2000) CHR dismissed complaint which rested on the Law Department’s use of the term “with prejudice” in a prior pleading, finding that the phrase is a legal term of art which does not reflect bias. CO

Williams v. Chicago Comm. on Human Relations & Chic. Law Dept., CCHR No. 00-PA-38 (Aug. 10, 2000) CHR denied Complainant’s request for review, upholding decision described above. CO

Woods v. Law Offices of Michael Rovell et al., CCHR No. 00-E-49 (Aug. 23, 2000) CHR found that Complainant stated a claim that she was discriminated against because she was all of female, over 40 and African-American; her complaint included more than vague and conclusory allegations, including descriptions of specific instances in which she was treated worse than individuals who did not share all of those characteristics. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Complainants found to have made adequate source of income complaints where one Complainant claimed that Respondent explicitly stated it would not rent to people using Section 8 vouchers and where the other two Complainants showed that Respondent ceased its dealings with them upon learning that they used Section 8 vouchers. CO

Morris v. Chicago Board of Educ., CCHR No. 97-E-41 (Feb. 9, 2002) CHR found adequate complaint claiming that African-American teacher was assigned students who were disproportionately below grade level while giving white teacher better students. CO

Morris v. Chicago Board of Educ., CCHR No. 97-E-41 (Feb. 9, 2001) Fact that alleged discrimination may not have harmed Complainant’s compensation does not mean her complaint cannot stand as discrimination in terms and conditions of employment is prohibited. CO

Williams v. “City of Chicago Government and Administrative Boards, Commissions and Committees,” CCHR No. 01-PA-10 (Feb. 20, 2001) Where CHR found text of complaint to be “incomprehensible,” it dismissed case for failing to apprise Respondent of claim as required. CO

Long v. Chicago Public Library, et al., CCHR No. 00-PA-13 (Feb. 21, 2001) Where amended complaint added an individual respondent who had been discussed by name in several paragraphs of the initial complaint, CHR found it sufficient to substantially apprise that respondent that the amended complaint referred back to the initial allegations but did not re-state them. CO

Mestas v. Rock Island Securities, et al., CCHR No. 00-E-121 (Mar. 9, 2001) CHR dismissed complaint for failing to state a claim in that it alleged that the individual respondent had once called co-workers of the Hispanic Complainant a name; that one statement did not refer to Complainant’s ancestry or necessarily even the co-workers’ ancestries, was not directed at Complainant and was not sufficient to cause his work environment to be intimidating, hostile or offensive. CO

McPhee v. Novovic, CCHR No. 00-H-69 (May 23, 2001) CHR denied motion to dismiss which argued that Complainant had not specifically pled that she had paid the rent, finding that the clear implication of the complaint is that the race, national origin and ancestry of people with whom she associated caused Respondent to evict her. CO

Carroll v. Moravec, CCHR No. 00-E-12 (May 24, 2001) In denying Request for Review, CHR held that it could not find Complainant’s allegations about harassment to substantially apprise Respondent that she was also claiming that her discharge, which occurred after she filed her complaint, was discriminatory; CHR held she and her attorney should have amended her complaint to address that subsequent, distinct event. CO

Gill v. Chicago Board of Education, CCHR No. 00-PA-54 (Aug. 9, 2001) In denying Request for Review, CHR held that it had not erred when it did not consider a claim which Complainant’s complaint did not raise because complaints must ‘substantially notify’ a respondent of the claims against it. CO


Williams v. City of Chicago “Government & Administrations, Boards, Commissions and Committees; Departments and Agencies,” CCHR No. 01-PA-103 (Nov. 1, 2001) Where CHR found text of complaint to be “incomprehensible,” it dismissed case for failing to apprise Respondent of claim as required. CO

Howard, Warren & Watts v. 7-Eleven, et al., CCHR No. 01-PA-69/90/91 (Dec. 4, 2001) Where one complaint did not contain any claims at all about one individual respondent, she was dismissed. CO

Howard, Warren & Watts v. 7-Eleven, et al., CCHR No. 01-PA-69/90/91 (Dec. 4, 2001) Where complaints stated that two individuals simply provided information [about names of the people involved and about videotaping] after the allegedly discriminatory actions were taken by others, those individuals were dismissed from the case. CO

Blakemore v. Kinko’s, CCHR No. 01-PA-77 (Dec. 6, 2001) Fact that complaint did not claim that any of Respondent’s employees used expressly discriminatory language is no reason to grant motion to dismiss as Complainant may still be able to show that his use of public service was limited because of his race or sex. CO
Kopnick v. Chicago Bd. of Educ., et al., CCHR No. 01-E-135 (Jan. 10, 2002) Although there is no question that individuals may be named as respondents where he or she was alleged to have violated the CHRO, where complaint did not make any allegations at all against one individual, that individual respondent was dismissed. CO

Blakemore v. Water Reclam. Dist. of Chicago, CCHR No. 01-PA-105 (Mar. 18, 2002) Complaint alleging that a commissioner of Respondent purposely made a racial comment so Complainant would hear it found sufficient, stating that single instances of discrimination in a public accommodation, if proved, could violate the CHRO. CO

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) Complaint which contended that Respondent’s representative blocked Complainant from entering public office due to her sex and race found sufficient to state claim as single instances of discrimination in a public accommodation, if proved, could violate CHRO. CO

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) Fact that complaint did not claim that Respondent’s employee used expressly discriminatory language is no reason to grant motion to dismiss as Complainant may still be able to show that her use of the public facility was limited because of her race or sex. CO

Williams v. City of Chicago “Government & Administrations, Boards, Commissions and Committees; Departments and Agencies,” CCHR No. 02-PA-33 (Apr. 30, 2002) Where CHR found text of complaint to be “incomprehensible,” it dismissed case for failing to “substantially apprise” Respondent of claim, as required. CO

Gilbert v. Thornsdale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) CHR notes, in dicta, that had Respondents’ briefs not addressed the lengthy exhibits which Complainants attached to their complaints, CHR would not have done so in its order; the actual allegations of the complaint are to provide sufficient information to substantially apprise the respondent of the alleged violation and the exhibits are not considered allegations. CO

White v. B.W. Phillips Realty Partners, et al., CCHR No. 02-H-5 (June 27, 2002) CHR dismissed certain Respondents, pursuant to Regs. 210.120(c) & 210.125, about whom Complainant could not provide adequate information to allow service. CO

Massey v. Hunter Properties & Pavlock, CCHR No. 02-H-33 (July 22, 2002) Motion to dismiss arguing Complainant could not prove prima facie case denied where Complainant’s allegations, taken as true, clearly “substantially apprised” Respondents of alleged violation; Respondents’ arguments and evidence are reviewed during investigation, not on motion to dismiss. CO

Pappas v. Metro. Pier & Exposition Authority et al., CCHR No. 02-E-28 (July 29, 2002) Where Greek-American Complainant alleged he and other non-Irish employees were laid off while Irish employees in predominantly Irish workforce were not, motion to dismiss denied because Complainant sufficiently stated claim of national origin or ancestry discrimination; Complaint need not allege or establish all elements of prima facie case such as whether retained employees were similarly situated. CO

Gott v. Novak, CCHR No. 02-H-1/2 (Aug. 21, 2002) Motion to dismiss asserting insufficient allegations of fact denied where it could be reasonably inferred that Respondent’s alleged antipathy toward African-American visitors had bearing on his decision to terminate tenancy of partly African-American Complainants. CO

Leflore v. Pace Bus Co. et al., CCHR No. 02-E-47 (Sep. 9, 2002) Complaint dismissed as to individual Respondent listed in caption because there were no allegations against him in the Complaint. CO

Williams v. Comm’n on Human Relations et al., CCHR No. 02-PA-99 (Nov. 5, 2002) Complaint dismissed as inadequate where it failed to provide any particulars of discriminatory conduct, contained considerable extraneous material, and was nearly impossible to understand. CO

Davis v. Edens Green Housing Cooperative et al., CCHR No. 02-H-66 (Dec. 2, 2002) Complaint dismissed as to individual and business Respondents where there were no allegations describing their role or specific actions with respect to discrimination alleged. CO

Denison v. Condo Board, 212 W. Washington, CCHR No. 02-H-85 (Dec. 2, 2002) Complaint dismissed where Complainant did not allege that she was member of parental status protected class and so lacked standing to file complaint as party aggrieved by alleged discriminatory conduct. CO

Diabor v. Kenny-Kiewit-Shea Joint Venture et al., CCHR No. 01-E-118 (Dec. 18, 2002) Where Complaint did not allege that one respondent himself engaged in any harassment, or that he was Complainant’s supervisor, or that it was within his power directly to discipline alleged harasser, Complaint found insufficient against him; that Complainant is unhappy with employer’s response to her harassment allegations does not ipso facto render one member of employer’s management an appropriate respondent. CO

Kirith v. Schneidermeier & Oberth, CCHR No. 03-H-11 (Apr. 7, 2003) Complaint held sufficient to state claim of sexual harassment where alleged that Complainant was sexually harassed by one Respondent, reported it to another Respondent, and was penalized for objecting to harassment. CO

Walter v. Oberth, CCHR No. 03-H-12 (Apr. 7, 2003) Although not factually detailed, Complaint’s allegations of disparate treatment based on age and possible continuing violation give Respondent adequate notice of claims. CO
Smith v. Owner of Baby Gap et al., CCHR No. 02-PA-125 (Apr. 11, 2003) Complaint held sufficient which alleged that wheelchair-using Complainant was unable to enter premises because it was accessible only by step in excess of one inch and had no wheelchair accessibility. CO

Smith v. Owner of 4 Play Bar et al., CCHR No. 02-PA-102 (Apr. 15, 2003) (same) CO

Olagbegi v. Cagan Mgmt. Group, Inc. et al., CCHR No. 02-H-32 (May 6, 2003) Motion to dismiss asserting insufficient facts in Complaint denied where Complainant alleged Respondents evicted him because of his race and national origin (and continued to deny possession after eviction order quashed by court), and set forth timing and location of violations. CO

Ceballos & Mejia, Jr. v. Art Institute of Chicago, CCHR No. 03-E-54/55 (June 3, 2003) Complaints held sufficient to state claim of race discrimination where Latino Complainants alleged they were discharged for “misrepresentation of time off” while Caucasian and African-American co-workers were not, when all called in sick on same day after having lunch together. CO

Coleman v. Cradon Place Bd. of Directors, CCHR No. 03-H-45 (June 23, 2003) Where Complainant checked both housing and public accommodation discrimination on Complaint form, CHR sua sponte examined the allegations and dismissed public accommodation claim because allegations stated only housing claim. CO

McCabe v. Chipotle et al., CCHR No. 03-P-119 (Aug. 8, 2003) Where Complainants did not explain how they were personally aggrieved by restaurants’ outdoor eating facilities allegedly blocking sidewalk access, Complaint held insufficient due to no allegations showing Complainants’ standing. CO

Caproni v. The Ark, Singer Residence et al., CCHR No. 02-H-78 (Aug. 21, 2003) Motion to dismiss asserting insufficient facts to support sex discrimination claim denied where Complaint alleged at least one request for sex by Respondent while providing Complainant with needed household items and also alleged Respondent stopped knocking on Complainant’s door when her husband was present. CO

Small v. Univ. Village et al., CCHR No. 03-H-4 (Aug. 21, 2003) Complaint adequately stated source of income discrimination claim where it alleged Respondent discouraged Complainant from purchasing housing unit because one source of income to support purchase would be the “New Homes for Chicago/Affordable Housing Program.” CO

Miller v. Deborah’s Place et al., CCHR No. 03-H-14 (Aug. 21, 2003) Where Complaint appeared to allege aiding and abetting claim against government entity, dismissal granted as there were no facts that would entitle Complainant to any relief under CFHO and Complainant’s response to motion to dismiss requested to dismiss that particular Respondent. CO

Anthony v. O.A.I., Inc., CCHR No. 02-PA-71 (Aug. 25, 2003) Complaint alleging that Complainant is Muslim who wears hijab in public pursuant to religious beliefs and Respondent’s representatives told her she “should” not wear hijab to school application interview held sufficient to state religious discrimination claim. Complaint read as stating public accommodation discrimination claim, not employment discrimination, because Complainant alleged that she applied “for school” in certified nursing “program,” even though she checked “employment” box on face sheet of Complaint. CO

Cline v. Chicago Patrolman’s Fed. Credit Union et al., CCHR No. 02-E-73 (Aug. 26, 2003) Com plaints held sufficient to state claims of sex, disability, and age discrimination as well as retaliation given CHR’s liberal pleading standards and function of complaint only as initiator of investigation and adjudication process, in that: (1) full details and all elements of prima facie case need not be pleaded as long as Complaint substantially apprises of conduct alleged to be discriminatory; (2) allegation suggesting age may not have been only reason for alleged discriminatory decision (employment termination) does not defeat claim because age need not be only reason as long as it was a determining factor; (3) failure to explicitly mention retaliation and check “Retaliation” box on face of Amended Complaint form does not defeat retaliation claim where it can be inferred from timing of alleged act that Complainant was attempting to allege retaliation. CO

Frazier v. Midlakes Mgmt. LLC et al., CCHR No. 03-H-41 (Sep. 15, 2003) Complaint alleging that Complainant was refused opportunity to rent larger unit in building after refusing building manager’s sexual advances held sufficient to state claim under CFHO of sex discrimination in form of sexual harassment. CO

Garnett v. Chicago Transit Authority, CCHR No. 93-E-243 (Sep. 30, 2003) Where disabled Complainant alleged he received more frequent “write-ups” from employer than non-disabled employees for same infractions and was placed on probation in manner contrary to policy, Complainant held sufficient to state claim of disability discrimination in employment. CO

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Respondent not deprived of due process because complaint does not state precise amounts or particular types of relief being sought. Also, claim that complaint lacks verification fails, as it was signed under oath or affirmation pursuant to CHR Enabling Ordinance and Regulations; cited state court rules not directly applicable. [Out-of-pocket damages award reversed as too speculative by Circuit Court, No. 04 L 06429 (Sept. 14, 2004); punitive damages award reversed due to inadequate notice by Appellate Court, No. 1-04-3599, Sept. 15, 2008]R
Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Oct. 27, 2003) Complaint sufficient to state sex discrimination claim by alleging that after Complainant rejected further dating relationship with business owner, Respondents terminated her employment, denied her compensation, and otherwise treated her adversely in connection with her employment; fact that all employees were female not determinative of outcome of sexual harassment claim. CO

Cooper v. Park Mgmt. and Investment, Ltd. et al., CHR No. 03-H-48 (Nov. 17, 2003) Where Complainant alleged that Respondents would not accept Section 8 voucher when she inquired about apartment rental, Complaint held sufficient to apprise Respondents of allegations against them. CO

Smith v. Owner of Sullivan’s et al., CCHR No. 03-P-107 (Dec. 1, 2003) Complaint held sufficient which properly identified respondents; established timing, location, and basis of claimed discrimination; and alleged that Complainant “went to the entrance” of restaurant in question but was unable to enter it “because it is accessible only by a step in excess of one inch and has no wheelchair accessibility.” CO

Blakemore v. Cook County Forest Preserve Dist. et al., CCHR No. 04-P-7 (Feb. 10, 2004) Complaint dismissed as to two individual Respondents noting that no allegation indicated that they had any control over the public accommodation in question. CO

Robinson v. Northern Trust Bank et al., CCHR No. 03-C-1 (July 12, 2004) Complaint dismissed as to individual Respondent where sole allegation against her failed to point to any personal involvement in alleged discriminatory conduct; her action after alleged disparate treatment occurred did not “standing alone” provide basis to find that she violated CHRO. CO

Williams v. City of Chicago Comm’n on Animal Care & Control et al., CCHR No. 04-E-76 (Jan. 14, 2005) Where Complaint made a single reference to one Respondent which did not allege any discriminatory action by that Respondent, it was insufficient to state a claim and dismissal was granted. However, where Complainant alleged that she was arrested after a named Respondent had a conversation with police, CHR refused to dismiss that Respondent because an inference could be made that the Respondent’s action contributed to the arrest. CO

Porter v. City of Chicago Dep’t of Revenue et al., CCHR No. 04-E-89 (Jan. 24, 2005) Complaint dismissed as to two named Respondents listed in the caption but not mentioned at all in the body of the Complaint, because it could not be determined how they participated in the alleged discriminatory acts. CO

Thomas v. Lincoln Park Plaza Condo. Assn. et al., CCHR No. 03-H-13 (Mar. 10, 2005) Where Complainant made four timely allegations of discrimination based on race, CHR found they were sufficient to state a claim on which relief could be granted under the CFHO because they gave notice of the scope and timing of Complainant’s discrimination claim as required by Reg. 210.120(c) and Commission precedent. CO

Thalassinos v. Navy Pier, CCHR No. 04-P-3 (Mar. 21, 2005) Even though Complaint did not identify who told Complainant to leave the premises and did not state where Complainant was located at the time, Complaint was sufficient to state a claim because it described the incident at issue, thus giving notice of the scope and timing of the claim as required by Reg. 210.120(c). Whether individuals and location were under Respondent’s control was a factual issue which did not require specific allegations or proof in the Complaint. CHR liberally construed Complaint as supporting a reasonable inference that individuals and location were within Respondent’s control. CO

Luna v. SLA Uno, Inc., et al., CCHR No. 02-PA-70 (Mar. 29, 2005) (1) Complaint dismissed as to business Respondent where no allegations as to its ownership or control over restaurants in question or how it contributed to the alleged discrimination. (2) Motion to strike conclusory allegations denied where Complaint contained detailed lists of conditions rendering restaurants in question inaccessible to persons in wheelchairs; allegations more than adequately put Respondents on notice of alleged violation. CO

Blakemore v. Gogola et al., CCHR No. 04-P-84 (Apr. 12, 2005) Complaint dismissed as to individual Respondents where it failed to allege that they individually committed any discriminatory acts. CO

Murray v. Ivy Apartments et al., CCHR No. 05-E-6 (June 16, 2005) (1) Complaint dismissed as to two individual Respondents listed in caption but not mentioned at all in body of Complaint, because it could not be determined how they participated in the alleged discriminatory acts. (2) No dismissal as to one individual Respondent alleged to have discharged Complainant; even if acting within job duties, naming her not tantamount to naming company. (3) Complaint held sufficient to state claim against company where it failed to allege that they individually committed any discriminatory acts. CO

Dugan v. Berganos, CCHR No. 05-H-17 (July 8, 2005) Motion to dismiss asserting insufficient allegations of timing and facts denied where Complaint alleged that landlords continually disparaged Complainant’s source of income and threatened eviction over stated three-month period; stated claim of harassment. CO

Shedd v. 1550 N. Condo. Assn. et al., CCHR No. 01-E-69 (July 22, 2005) Complaint alleging that Respondent’s representative tried to have Complainant fired over two-year period held sufficient statement of timing and facts for retaliatory harassment claim. CO

Molden v. United Winthrop Tower Coop. et al., CCHR No. 04-P-29 (July 27, 2005) Although Complainant
checked “housing” box on face of Complaint, allegations sufficiently described public accommodation discrimination and cited CHRO, not CFHO; Complaint read as stating public accommodation, not housing discrimination claim. CO

_Easter v. EyeCare Physicians & Surgeons et al.,_ CCHR No. 05-E-13 (Aug. 3, 2005) Complaint dismissed as to one business Respondent listed in caption but mentioned in body of Complaint only by statement that owner of other business Respondent was married to owner of this Respondent, as it could not be determined how it participated in the alleged discriminatory acts, that it employed Complainant, or how it could be liable based on agency principles. CO

_Holland v. Chicago Self Storage III et al.,_ CCHR No. 05-E-57 (Aug. 23, 2005) Complaint dismissed where alleged incidents were insufficient to constitute sexual orientation harassment in that the alleged single reference to Complainant as a “faggot” and three references to other gay people as “faggots” were made to others and not to Complainant directly, the Complaint described reasonable corrective action already taken by Respondent, and overall the alleged conduct was not sufficiently severe or pervasive to alter Complainant’s work environment. CO

_Brandon v. Kentucky Fried Chicken,_ CCHR No. 04-P-62 (Sep. 8, 2005) Identification of Respondent business by widely-known formerly-used trade name held adequate as clearly intended to name restaurant located at address in Complaint; exact name of owner corporation not required. Also: (1) incorrect spelling of first name of individual respondent held adequate as text of allegations identified her as restaurant’s manager: such misnomers not grounds for dismissal, do not justifi failur to respond; and may be corrected at any time. (2) no dismissal as to second individual respondent despite no allegations against her personally, due to factual issues as to her ownership of business. CO

_Williams v. Iggy’s Restaurant, _CCHR No. 05-P-79 (Sep. 8, 2005) Complainant sufficiently identified respondent restaurant by its trade name and address where it operated restaurant. No requirement to provide exact name of business owner or address of registered agent, as restaurant name and address were sufficient to enable service. CO

_Calbert v. Metra, _CCHR No. 05-P-99 (Sep. 8, 2005) Complaint dismissed as inherently incredible where Complainant alleged that her former employer caused the Metra public transportation provider to broadcast certain statements about her over its public address system, because of her race, color, and sex. CO

_Bowen v. Salvation Army Adult Rehab. Ctr., _CCHR No. 04-E-187 (Sep. 15, 2005) Where Complainant checked “retaliation” box on face of Complaint but allegations referenced his disability, Complaint read as stating disability discrimination claim, not retaliation. CO

_McCray v. Salvation Army of Metro. Chicago et al., _CCHR No. 05-E-46 (Oct. 25, 2005) Complaint dismissed as to two individual Respondents listed in caption but not mentioned at all in body of Complaint, because it could not be determined how they participated in the alleged discriminatory acts or how they could be liable based on agency principles. CO

_Garrett-King v. Salvation Army of Metro. Chicago et al., CCHR No. 05-E-48 (Oct. 25, 2005) (same) CO

_Roberts v. Salvation Army of Metro. Chicago et al., CCHR No. 05-E-47 (Oct. 25, 2005) Same as McCray and Garrett-King, above, except no dismissal as to Complainant’s immediate supervisor because it could be reasonably inferred from Complainant’s allegations that she was subjected to discipline and that the supervisor may have taken the disciplinary action. CO

_Watkins v. Legum & Norman, Inc., _CCHR No. 05-E-79 (Nov. 10, 2005) Chicago Housing Authority found not a Respondent because, although its contact information appeared on face of Complaint, it was not named in caption and allegations about it pointed to no adverse action it took but merely served as background information; its information was found to be provided solely as additional contact information for its contractor named as Respondent. CO

_Klarich v. City of Chicago Dept. of Buildings et al., _CCHR No. 06-E-4 (Jan. 23, 2006) Complaint dismissed as to individual Respondent listed in caption but not mentioned at all in body of Complaint, because it could not be determined how he participated in alleged discriminatory acts. CO

_Chatman v. Woodlawn Cmty. Dev. Corp. et al.,_ CCHR No. 05-H-22 (Jan. 27, 2006) Complaint giving date, location, and description of alleged discriminatory conduct (initiation of lease termination proceedings) and claimed discrimination bases held sufficient to state claim. Additional factual support not required at filing stage. CO

_McCann v. City of Chicago Fire Dept. et al., _CCHR No. 06-E-15 (Feb. 22, 2006) Complaint dismissed as to four individual Respondents listed in caption but not mentioned at all in body of Complaint, because it could not be determined how they participated in alleged discriminatory acts. CO

_MacEntee & Arvanites v. 539 Stratford Condo. Assn. et al., _CCHR No. 05-H-46/50/48/51 (May 18, 2006) Where Complainants alleged that Respondents treated them differently because of their sexual orientation by failing to follow association rules and to impose them on other condominium owners with regard to noise complaint, Complaint not dismissed as it stated a claim about “terms, conditions and privileges” of occupany. CO

_Gray v. Lawrence, _CCHR No. 06-H-10 (June 5, 2006) Gender identity discrimination claim dismissed
where amended complaint failed to state complainant’s actual or perceived gender identity or to describe conduct supporting the claim; appeared that checking “gender identity” box on complaint form arose from misunderstanding of definition of term. Amended complaint read as adding new incidents of previously-claimed discrimination on other bases. CO

*De los Rios v. Draper & Kramer, Inc. et al.,* CCHR No. 05-H-32 (Aug. 23, 2006) Complaint held adequate where (1) dates and descriptions of incidents (failure to receive mail on time and inaction to correct problem) substantially apprised Respondents and CHR of conduct alleged to violate CFHO; (2) although Complainant failed to check “retaliation” box on face of Amended Complaint, allegations clearly stated a retaliation claim and CHR considers text of complaint to prevail in defining complainant’s claims where there is ambiguity as to types of discrimination checked on its complaint form. CO

*Maat v. Chicago Housing Authority et al.,* CCHR No. 07-H-35 (Dec. 4, 2007) Complaint dismissed as to Respondents against whom Complainant made no allegations and where the allegations did not connect a Respondent to the alleged discriminatory conduct. No dismissal of a Respondent whose statements to Complainant could support an inference that she had decision-making power as to the action in question. CO

*Cotten v. Japonais (Geisha LLC) & City of Chicago Dept. of Transportation,* CCHR No. 06-P-30 (Apr. 30, 2008) Ordinance citation not required for adequate complaint; motion to dismiss based on imprecise ordinance citations denied. Allegations clearly state claim of public accommodation discrimination, not housing discrimination, and CHR will proceed as such. CO

*Blakemore v. Chicago Transit Authority and Regional Transit Authority,* CCHR No. 06-P-34 (May 12, 2008) Complaint insufficient and dismissed as to RTA where all allegations involved adverse actions by CTA’s employee and no allegations against RTA. Complaint sufficient as to CTA, in that Complainant provided date, location, and description of alleged discriminatory conduct consistent with CHR’s notice pleading standard of Reg. 210.120(c). Allegation of *prima facie* case not required and motion to dismiss not proper context to resolve questions of fact. CO

*Cotten v. The Denim Lounge,* CCHR No. 08-P-6 (June 17, 2008) CHR denied motion to dismiss complaint which identified business respondent by trade name and not the name of the corporate owner. Respondent was adequately identified, was served with notice of complaint, and acknowledged receipt of notice. No requirement to name precise legal entity which owns and operates the business; use of trade name implies that business respondent is “owner of” and any inaccuracy is treated as mere misnomer which can be corrected at any time. CO

*Ennajari v. 4626 N. Kenmore Condo. Assn. et al.,* CCHR No. 07-H-33 (Nov. 4, 2008) Complaint claiming harassment of condominium unit owner could not be dismissed as factually insufficient where it stated the date, location, and description of alleged harassing incidents and the claimed discrimination bases. CO

*Jones v. Chicago Transit Authority,* CCHR 07-E-90 (Jan. 12, 2009) Motion to dismiss denied because Complainant only had to provide enough detail of the timing, location, and facts about each alleged ordinance violation, not a *prima facie* case, in her complaint. CO

*Roe v. Chicago Transit Authority et al.,* CCHR No. 05-E-115 (Sep. 8, 2009) Complaint did not state constructive discharge claim where resignation not alleged and nothing else substantially apprised of the claim. Resignation is the core of such claim and allegation that Complainant went on disability leave due to alleged harassment did not overcome the problem on theory of “constructive resignation.” HO

*McAvoy v. All Day Montessori et al.,* CCHR No. 10-E-05 (Aug. 31, 2010) Individual Respondent’s “counter-complaint” dismissed because counterclaims cannot be filed at any time and most allegations claim violations of other laws CHR does not enforce as it is not a court of general jurisdiction. As to allegations that the Respondent was subjected to discrimination, the document does not provide sufficient detail of the timing of incidents to enable determination whether timely filed, although the Respondent may be able to file an acceptable complaint. CO

*Monticello v. Tran et al,* CCHR No. 10-P-99 et al., (Nov. 4, 2010) Request for accommodation to file complaints and other documents by e-mail denied where Complainant failed to establish that disability or other good cause required e-mail filing such that no permitted filing method—in-person, mail, or fax—was workable. Complainant can use e-mail only to communicate questions about complaint process to and from CHR. CO

*Robinson v. Mercy Hospital et al.,* CCHR No. 12-P-03 (Jan. 30, 2012) CHR dismissed complaint, finding Complainant had made identical allegations against same parties in two cases already under investigation. Complainant cautioned about Reg. 210.410 prohibiting numerous repetitive filings for any improper purpose. CO

**Amendment of** – See separate Amendment of Complaint section, above.

**Consolidation** – See separate Consolidation section, below.
Differing Allegations

*Chapman v. City of Chicago, Chicago Public Library et al.,* CCHR No. 00-E-65 (Aug. 13, 2003) Where Respondent asserted that Third Amended Complaint contained allegations contradictory to those in original Complaint with respect to dates of adverse employment actions, CHR did not dismiss Third Amended Complaint, considering inconsistency as factual dispute to be resolved through investigation. CO

*Cline v. Chicago Patrolman’s Fed. Credit Union et al.,* CCHR No. 02-E-73 (Aug. 26, 2003) CHR has not dismissed complaints merely because they contain conflicting allegations; rather, conflicting allegations considered to raise factual issue to be investigated. CO

Events Outside of

*Wong v. City of Chicago Dept. of Fire,* CCHR No. 99-E-73 (Dec. 5, 2002), *aff’d,* No. 03 CH 00793 (Cir. Ct. Cook Co., Dec. 11, 2003) Despite liberal pleading standards, CHR adjudicatory role not to conduct wide-ranging audit of all potentially discriminatory practices and not broadly prosecutorial; claims investigated must be drawn from timely events and incidents alleged in complaint. Thus, where Complainant alleged failure to promote and three incidents of discipline, scope of investigation was to assess whether there was substantial evidence of discriminatory or retaliatory motive for those actions. CO

*Floyd v. City of Chicago Dept. of Health,* CCHR No. 00-E-120 (Nov. 4, 2004) Where Complainant’s response to Respondent’s motion to dismiss contained new allegations not included in the Complaint or Amended Complaint, CHR cannot consider them as part of Complainant’s claim. CO

*Feinstein v. Premiere Connections, LLC et al.,* CCHR No. 02-E-215 (Jan. 17, 2007) Discrete incident not alleged in Complaint could not be basis for finding of separate violation, fine, or other relief even though evidence of it was admitted at hearing. R

*Rodgers v. City of Chicago Dept. of Water Management et al.,* CCHR No. 05-E-27 (Nov. 29, 2007) Additional alleged incidents not considered on request for review where Complainant was previously aware of them but did not amend Complaint to allege them or add retaliation claim. CO

In-Person Filing – No new decisions in this volume.

Minors – No new decisions in this volume.

Misnomer

*Southwest Community Congress v. Chicago Public Library, et al.,* CCHR No. 00-PA-44 (May 30, 2001) Where complaint names Chicago Public Library and not the Chicago Library Board and where Respondents presented no explanation to the relationship between them, CHR considered naming the Chicago Public Library to be a mere misnomer, correctable at any time. CO

*Gallegos v. Baird & Warner et al.,* CCHR No. 01-H-21 (Jan. 18, 2002) Where complaint listed “Baird & Warner” as respondent and did not distinguish between its holding company and its management group, CHR treated that as a simple misnomer as text of complaint showed Complainant was addressing management group. CO

*Pappas v. Metro. Pier & Exposition Authority et al.,* CCHR No. 02-E-28 (July 29, 2002) Department of Business dismissed as Respondent where business already named, as parties agreed it was not a separate entity. CO

*Brandon v. Kentucky Fried Chicken,* CCHR No. 04-P-62 (Sep. 8, 2005) Identification of respondent business by widely-known formerly-used trade name held adequate as clearly intended to identify the restaurant located at address stated in complaint; precise name of owner corporation not required. Also, incorrect spelling of first name of individual respondent held adequate where text of allegations further identified her as manager of restaurant: such misnomers not grounds for dismissal and do not justify failure to respond; they may be corrected at any time. CO

*Williams v. Iggy’s Restaurant,* CCHR No. 05-P-79 (Sep. 8, 2005) Identification of respondent restaurant by its trade name and address, rather than precise name of business owner, held to be at most a misnomer correctable at any time. CO

*Jara v. Shoreline Towers Condo. Assn. et al.,* CCHR No. 05-H-18 (Nov. 10, 2005) Complaint read to name condominium association as respondent based on clear accusation against it in text although name listing in respondent section of form was ambiguous. CO

*Cotten v. The Denim Lounge,* CCHR No. 08-P-6 (June 17, 2008) CHR denied motion to dismiss complaint which identified business respondent by trade name and not the name of the corporate owner. Respondent was adequately identified, was served with notice of complaint, and acknowledged receipt of notice. No requirement to name precise legal entity which owns and operates the business; use of trade name implies that business respondent is “owner of” and any adequacy is treated as mere misnomer which can be corrected at any time. CO
Multiple-Complaint Filer

*Blakemore v. Kinko’s*, CCHR No. 01-PA-77 (Dec. 6, 2001) Fact that Complainant has filed other cases at CHR has no bearing on whether instant complaint is or is not sufficient to state a claim. CO

*Cotten v. The Denim Lounge*, CCHR No. 08-P-6 (June 17, 2008) CHR may not regard a complainant’s allegations or testimony as inherently incredible merely because that complainant may have filed multiple complaints, nor is a complaint subject to dismissal for that reason. CO

*Cotten v. Congress Plaza Hotel & Convention Center*, CCHR No. 06-P-69 (Feb. 25, 2009) Motion to compel production of documents about Complainant’s prior discrimination claims denied as not reasonably related to claims and defenses in current case, rejecting argument that the information would show whether Complainant was exaggerating his harm and damages because Complainant still has to prove his current allegations and damages. HO

*Cotten v. Arnold’s Restaurant*, CCHR No. 08-P-24 (Aug. 18, 2010) That Complainant had filed numerous complaints alleging inaccessibility of public accommodations was not relevant to outcome of case alleging a restaurant’s restroom was not wheelchair accessible; CHR may not and does not regard a complainant’s allegations or testimony as inherently incredible merely because the individual has filed other complaints. R

*Robinson v. American Security Services*, CCHR No. 08-P-69 (Jan. 19, 2011) Filing of multiple claims with CHR and held not to bear on Complainant’s credibility in this case, although CHR recognizes that there may be instances when an individual’s litigiousness or potential financial gain may be taken into account. R

Notarization – No new decisions in this volume.

Prayer for Relief

*Brown v. Hirsch Mgt., et al.*, CCHR No. 01-H-39 (Sep. 24, 2001) While it is true that CHR is not empowered to enter temporary restraining order, Complainant asked for other relief as well and so CHR denied motion to dismiss in which Respondents argued that no relief could ever be awarded. CO

*Brown v. Hirsch Mgt., et al.*, CCHR No. 01-H-39 (Sep. 24, 2001) CHR Reg. 210.120(f) states that even had Complainant sought only a temporary restraining order, that would not be deemed a waiver of other type of relief or damages. CO

*Frazier v. Midlakes Mgmt. LLC et al.*, CCHR No. 03-H-41 (Sep. 15, 2003) Under Reg. 210.120(f), complainants not required to request certain types of relief or amount of damages in complaint, but if such requests are made, they are not deemed waivers of any other types of relief or amount of damages. CO

*Sellers v. Outland*, CCHR No. 02-H-37 (Oct. 15, 2003) Respondent not deprived of due process because complaint does not state precise amounts or particular types of relief being sought. [Out-of-pocket damages award reversed as too speculative by Circuit Court, No. 04 L 06429 (Sept. 14, 2004); punitive damages award reversed due to inadequate notice by Appellate Court, No. 1-04-3599, Sept. 15, 2008] R

*Smith v. Owner of Sullivan’s et al.*, CCHR No. 03-P-107 (Dec. 1, 2003) Under Reg. 210.120(f), whether or not particular amount or type of relief is requested in complaint does not limit CHR as to relief it can award if it determines that discrimination occurred. CO

*Raffety v. Great Expectations*, CCHR No. 04-P-35 (May 7, 2008) Respondent did not establish that Complainant sought only non-monetary relief and even if he did, CHR has authority to order monetary relief even if not requested if a complainant prevails and the relief is appropriate to carry out purposes of ordinance. CO

Service of

*White v. B.W. Phillips Realty Partners, et al.*, CCHR No. 02-H-5 (June 27, 2002) CHR dismissed certain Respondents, pursuant to Regs. 210.120(c) & 210.125, about whom Complainant could not provide adequate information to allow service. CO

*Leadership Council for Metro. Open Comms. v. Chicago Tribune*, CCHR No. 02-H-19 (June 6, 2002) Where Complainant admitted its complaint did not identify the housing provider sufficient to allow service – it did not make any reference to this respondent in the Respondent section and only noted it in the text as -Housing Provider/s Last Name Unknown – CHR dismissed that Respondent, pursuant to Regs. 210.120(c) & 210.125, finding the error not merely “technical.” CO

*Leadership Council for Metro. Open Comms. v. Chicago Tribune*, CCHR No. 02-H-19 (June 6, 2002) Complainant must identify each respondent sufficient to allow service of complaint; CHR has no authority to issue subpoena outside the investigation of properly filed complaint to identify a respondent on behalf of complainant. CO

*Sellers v. Outland*, CCHR No. 02-H-37 (Oct. 15, 2003) Service by regular or certified mail meets due process requirements where legislative scheme authorizes it; personal or substitute service not required. Mere denial of proper service not enough to demonstrate, without further specification, that a party did not receive notice. R

*Blakemore v. Walgreens*, CCHR No. 03-P-156 (Nov. 4, 2004) No error in directing mail service of
Complaint against well-known large corporate respondent to company-operated branch store in Chicago where alleged discrimination occurred, as it should have alerted agent of corporation, namely store manager; service on corporate headquarters outside City not required. However, where no response was received and CHR could not confirm that mailing reached proper representative, held not improper to re-notify corporation utilizing corporate address provided by respondent in previous cases against it. Complainant not entitled to order of default under these circumstances, where respondent had record of compliance with CHR procedures and promptly responded to notice sent to second address. CO

Maat v. Brian's Juice Bar & Deli, Inc., CCHR No. 05-P-25 (Apr. 21, 2005) Complaint not dismissed where CHR failed to serve it on Respondent within specified ten days after filing; deadlines for CHR action are directory not mandatory and do not provide grounds for dismissal; Complainant has property interest in case with due process right to proceed. CO

Brandon v. Kentucky Fried Chicken, CCHR No. 04-P-62 (Sep. 8, 2005) Service on respondent fast food restaurant held adequate where mailed to address of restaurant where alleged discrimination occurred; no requirement to serve registered agent of owner corporation. CO

Williams v. Iggy's Restaurant, CCHR No. 05-P-79 (Sep. 8, 2005) Service on respondent restaurant held adequate where mailed to restaurant address, as CHR has always accepted as sufficient for service address where business operates, particularly when mail is deliverable there. No requirement to serve registered agent of owner corporation. CO

Maat v. RTG, Ltd., CCHR No. 05-P-23 (Oct. 3, 2005) Complaint not dismissed where CHR failed to serve it on Respondent within specified ten days after filing; deadlines for CHR action are directory not mandatory and do not provide grounds for dismissal; Complainant has property interest in case with due process right to proceed. CO

Blakemore v. Foley, et al., CCHR No. 10-P-07 (Apr. 2, 2010) Complaint dismissed as to Respondents for whom Complainant provided no mailing address sufficient to effect service by mail. CO

Signature

Kaluzhnaya v. REST Women’s Shelter, CCHR No. 07-P-27 (May 25, 2007) Complaint dismissed where signed by Complainant’s caseworker, as Reg. 210.120 requires that complaint be signed under oath by the complainant. Requirement cannot be waived absent documentation of legal guardianship, power of attorney, or legal successor of a deceased person. CO

Standard to Determine Adequacy

Woods v. Law Offices of Michael Rovell et al., CCHR No. 00-E-49 (Aug. 23, 2000) A complaint must “substantially apprise” the respondent of the alleged violation and it need not set out detailed facts or supporting evidence; CHR liberally construes complaints to ensure that the CHRO is not frustrated. CO

Morris v. Chicago Board of Educ., CCHR No. 97-E-41 (Feb. 9, 2001) (same) CO

Long v. Chicago Public Library, et al., CCHR No. 00-PA-13 (Feb. 21, 2001) (same) CO

Long v. Chicago Public Library, et al., CCHR No. 00-PA-13 (Feb. 21, 2001) Complaints need not state facts “with particularity,” as Respondent argued. CO

McPhee v. Novovic, CCHR No. 00-H-69 (May 23, 2001) A complaint must “substantially apprise” the respondent of the alleged violation and need not set out detailed facts or supporting evidence; CHR liberally construes complaints to ensure the CHRO is not frustrated, especially when the complainant is not represented. CO

Carroll v. Moravec, CCHR No. 00-E-12 (Mar. 24, 2001) A complaint must “substantially apprise” the respondent of the alleged violation. CO

Gill v. Chicago Board of Education, CCHR No. 00-PA-54 (Aug. 9, 2001) (same) CO


Brown v. Hirsch Mgt., et al., CCHR No. 01-H-39 (Sep. 24, 2001) A complaint must “substantially apprise” the respondent of the alleged violation and need not set out detailed facts or supporting evidence; CHR liberally construes complaints to ensure the CHRO is not frustrated, especially when the complainant is not represented. CO

Blakemore v. Kinco’s, CCHR No. 01-PA-77 (Dec. 6, 2001) A complaint must “substantially apprise” the respondent of the alleged violation; it need not set out detailed facts or supporting evidence. CO

Blakemore v. Water Reclam. Dist. of Chicago, CCHR No. 01-PA-105 (Mar. 18, 2002) A complaint must “substantially apprise” the respondent of the alleged violation and it need not set out detailed facts or supporting evidence; CHR liberally construes complaints to ensure that the CHRO is not frustrated, especially when the complainant is not represented. CO

Hutt v. Horizons Community Svcs., CCHR No. 01-E-121 (Apr. 10, 2002) (same) CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) A complaint must “substantially apprise” the respondent of the alleged violation; it need not set out detailed facts or supporting evidence. CO
Massey v. Hunter Properties & Pavlock, CCHR No. 02-H-33 (July 22, 2002) Complaint need only “substantially apprise” respondents of alleged violation; because CHR must accept complainant’s factual descriptions as true, it regularly denies motions to dismiss which simply seek to refute allegations of complaint. CO
Pappas v. Metro. Pier & Exposition Authority et al., CCHR No. 02-E-28 (July 29, 2002) Complainant need only “substantially apprise” respondent of claims; no requirement to set forth detailed facts, supporting evidence, or all elements of prima facie case. CO
Leflore v. Pace Bus Co. et al., CCHR No. 02-E-47 (Sep. 9, 2002) Where there are no allegations against individual respondent in complaint, CHR must dismiss complaint against that respondent. CO
Kirk v. Schneidermeier & Oberth, CCHR No. 03-H-11 (Apr. 7, 2003) Complaints need not recite every relevant factual detail or element of claim; investigation process designed to bring out relevant factual details. CO
Walter v. Oberth, CCHR No. 03-H-12 (Apr. 7, 2003) Under ‘2-120-510 of Chicago Municipal Code, if Complaint meets minimum pleading requirements, CHR may not refuse to accept it for investigation by using “screening techniques” related to underlying truth or merit of allegations therein. However, by accepting Complaint, CHR has made no judgment as to underlying truth or merit of its allegations. CO
Smith v. Owner of Baby Gap et al., CCHR No. 02-PA-125 (Apr. 11, 2003) Complainant not required to present supporting evidence and argument in complaint, or even to plead each element of particular claim. Under Reg. 210.120, complaint need only be in such detail as to substantially apprise respondents and CHR of timing, location/s and facts with respect to alleged Ordinance violation, including description of conduct, policy or practice at issue. CO
Smith v. Owner of 4 Play Bar et al., CCHR No. 02-PA-102 (Apr. 15, 2003) (same) CO
Ceballos & Mejia, Jr. v. Art Institute of Chicago, CCHR No. 03-E-54/55 (June 3, 2003) Differing allegations not fatal to sufficiency of complaint. CO
Anthony v. O.A.I., Inc., CCHR No. 02-PA-71 (Aug. 25, 2003) Complaint need not set out detailed facts or supporting evidence or plead elements of prima facie case; investigation and administrative hearing processes designed to elicit additional evidence and determine whether complainant has established prima facie case. CO
Cline v. Chicago Patrolman’s Fed. Credit Union et al., CCHR No. 02-E-73 (Aug. 26, 2003) In assessing complaint adequacy: (1) full details and all elements of prima facie case need not be pleaded so long as Complaint substantially apprises of allegedly discriminatory conduct; (2) failure to explicitly mention retaliation and check “Retaliation” box on face of complaint form does not defeat retaliation claim where it can be inferred from time of alleged act that complainant was attempting to allege retaliation; (3) individuals merely mentioned in text of allegations not considered respondents, as those intended to be named as respondents must be listed on face of complaint. CO
Garnett v. Chicago Transit Authority, CCHR No. 93-E-243 (Sep. 30, 2003) Under Reg. 210.120(c)(4), complaint must set forth description of conduct, policy or practice alleged to constitute ordinance violation, sufficient to substantially apprise respondent and CHR of violation, including timing and location thereof and basis of discrimination; complaint need not set forth all supporting evidence or legal argument. CO
Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Complaint verification and other procedural requirements are based on CHR Enabling Ordinance and Regulations; Illinois Code of Civil Procedure and Illinois Supreme Court Rules not directly applicable to CHR proceedings. R
Cooper v. Park Mgmt. & Investment, Ltd. et al., CCHR No. 03-H-48 (Nov. 17, 2003) While CHR has stated that requirement to “substantially apprise” respondent of alleged violation applies “especially when the complainant is not represented,” its intention is not to preclude complainant represented by counsel from benefits of notice pleading. CO
Smith v. Owner of Sullivan’s et al., CCHR No. 03-P-107 (Dec. 1, 2003) Complaint held adequate in that: (1) Reg. 210.120(c)(2) allows respondent property owner to be identified by designation such as “Owner of 1234 Main St.”; (2) allegation that complainant uses wheelchair for mobility is generally sufficient to apprise respondent of claimed disability where discrimination claim is lack of wheelchair accessibility – complainants need not allege additional details or make legal arguments about their disabilities in complaint (affirming Nichols v. Northwestern Mem’l Hosp. et al.); (3) citation not strictly required in order to state claim in CHR complaint and technical error in citation does not cause complaint to be insufficient. CO
Luna v. SLA Uno, Inc., et al., CCHR No. 02-PA-70 (Mar. 29, 2005) Complainant not required to present specific facts, supporting evidence, argument, or even plead each element of particular claim in complaint, but may plead in greater detail if so chooses. CO
Murray v. Ivy Apartments et al., CCHR No. 05-E-6 (June 16, 2005) Complainant need not prove case in complaint, state all supporting evidence, or allege facts supporting each element of alleged claims; giving notice of scope and timing of claim satisfies pleading burden. CO
Dugan v. Berganos, CCHR No. 05-H-17 (July 8, 2005) Complaint alleging that landlords continually disparaged Complainant’s source of income and threatened eviction, specifying months during which conduct
occurred, held sufficient statement of timing and facts for harassment claim. CO

Shedd v. 1550 N. Condo. Assn. et al., CCHR No. 01-E-69 (July 22, 2005) Complaint need not prove case, allege prima facie case, state all supporting evidence, or allege facts supporting each element of claims alleged. CO

Brandon v. Kentucky Fried Chicken, CCHR No. 04-P-62 (Sept. 8, 2005) CHR has always accepted use of trade name or other name by which business identifies itself rather than insisting on precise name of individual or legal entity which owns respondent business, as use of such identifier along with its address sufficiently identifies the business and implies that the respondent is the “owner of” the business described. CO

Williams v. Iggy’s Restaurant, CCHR No. 05-P-79 (Sept. 8, 2005) CHR has always accepted as sufficient respondent identification a trade name by which business identifies itself; precise name of individual or legal entity that owns business not required, as implication is that business owner is named. CO

Calbert v. Metra, CCHR No. 05-P-99 (Sept. 8, 2005) In dismissing a complaint as inherently incredible, CHR considered whether a reasonable person would find the allegations credible. CO

McCray v. Salvation Army of Metro. Chicago et al., CCHR No. 05-E-46 (Oct. 25, 2005) Complaint need not allege prima facie case, state all supporting evidence, or allege facts supporting each element of alleged claims; complaint must only “substantially apprise” respondent of alleged violation. CO

Garrett-King v. Salvation Army of Metro. Chicago et al., CCHR No. 05-E-48 (Oct. 25, 2005) (same) CO

Roberts v. Salvation Army of Metro. Chicago et al., CCHR No. 05-E-47 (Oct. 25, 2005) (same) CO

De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Aug. 23, 2006) Complainants not required to prove their case (or even allege prima facie case), to state all supporting evidence (such as comparative examples or data), or to allege facts supporting each element of claims alleged in complaint. CO

Technical Defects or Omissions

Maat v. RTG, Ltd., CCHR No. 05-P-23 (Oct. 3, 2005) Minor technical defects in complaints not grounds for dismissal. No prejudice to Respondent where it was re-served with Complaint after it was initially sent to address erroneously stated in Complaint and was given same opportunity to respond as if error had not occurred. CO

Vaughn v. Montessori Academy of Chicago et al., CCHR No. 07-E-35 (July 5, 2007) CHR denied motion to dismiss complaint based on typographical error in ordinance citation; it is read as a whole and with respondent notification sufficiently notified Respondent that it was an employment discrimination claim under CHRO; error amounts to a minor technical defect which may be amended at any time. CO

Time for Filing – See Jurisdiction/Time for Filing Complaint section, below.

“Trivial” Allegations – See also Adverse Action section, above.

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-37/39 (Jan. 25, 2000) In determining whether allegations are too trivial, CHR will consider the totality of the facts including the severity, duration and pervasive nature of the underlying incidents as well as how obviously discriminatory or retaliatory they appear; a one-time occurrence can be sufficient. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-37/39 (Jan. 25, 2000) CHR found that Complainant’s allegations: that he was not able to speak to the Departmental representative of his choosing but to a different person who was able to respond to his questions; and that he had to speak to this person in a hallway not an office are too trivial to state a claim for a violation of the CHRO. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-37/39 (Jan. 25, 2000) CHR declined to dismiss allegations that Respondents threatened to or actually called the police about Complainant as trivial as such actions completely ended Complainant’s interaction with the Department at that time. CO

Blakemore v. Commission on Human Relations, et al., CCHR No. 01-PA-48/50 (June 5, 2001) Relying on case cited in entry above, CHR holds that Complainant’s allegation that he was not able to speak to the CHR representative of his choice but to another person who was able to handle his concerns is too trivial to constitute a violation of the CHRO. CO

Blakemore v. Chicago Dept. of Consumer Services et al, CCHR No. 01-PA-25 (Feb. 26, 2002) Where Complainant provoked argument with City employee who informed him that she was not “on the clock,” CHR found her response too trivial to constitute a violation of the CHRO; similarly, being told to complain in writing instead of orally is not a cognizable injury either. CO

Blakemore v. Chicago Dept. of Consumer Services et al, CCHR No. 01-PA-25 (Feb. 26, 2002) Order notes that in reviewing the “totality of the circumstances” to determine whether a claim is “too trivial” to state a claim, CHR will consider the impetus of the disputed conduct, such as whether Complainant admits to have provoked the incident, as here. CO

Blakemore v. Water Reclam. Dist. of Chicago, CCHR No. 01-PA-105 (Mar. 18, 2002) CHR denied request to dismiss as trivial a complaint which alleged that a commissioner of Respondent purposely made a racial comment
so Complainant would hear it, stating that single instances of discrimination in a public accommodation, if proved, could violate the CHRO. CO

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) Complainant’s claim that one representative of Respondent was silent in response to Complainant’s complaint about a security guard employed by the other Respondent does not violate CHRO; the first representative did not inhibit Complainant from doing business or from making an internal complaint about the guard. CO

Hutt v. Horizons Community Svcs., CCHR No. 01-E-121 (Apr. 10, 2002) In denying motion to dismiss, CHR found that complaint alleged more than “trivial” injuries, even if not quantifiable ones, where Complainant claimed, among other things, that, due to her race, she was evaluated by peers, forbidden from speaking to outside agencies, and instructed to rescind a police report. CO

Cotten v. Japonais (Geisha LLC) & City of Chicago Dept. of Transportation, CCHR No. 06-P-30 (Apr. 30, 2008) Motion to dismiss denied where Respondent argued that wheelchair user was merely inconvenienced by inability to access restaurant at valet-assisted entry point but could use another entrance. Right to full use of public accommodation includes equal access to amenities such as valet parking. Impact not trivial in light of known traffic conditions at location in question. CO

Withdrawal of

Thomas v. Lincoln Park Plaza Condo. Assn. et al., CCHR No. 03-H-13 (Mar. 10, 2005) Where Complainant specifically articulated, in a signed writing, her desire to “completely withdraw” her complaint against one Respondent, CHR held that it was sufficient to constitute a request to voluntarily withdraw claims against the Respondent pursuant to Reg. 235.210, even though it was in her response to a motion to dismiss rather than a separate document. CO

Hawkins v. Jack’s Lounge, CCHR No. 05-P-61 (Apr. 7, 2006) Under Reg. 235.210, CHR’s approval of a Request for Voluntary Withdrawal of Complaint Pursuant to Private Settlement Agreement is based only on whether it is knowingly and voluntarily made by the Complainant; there is no basis for a respondent to object after the fact to a complainant’s voluntary withdrawal and insist that a hearing be held. CO

Cotten v. Denim Lounge, CCHR No. 08-P-6 (Mar. 31, 2009) Although voluntary withdrawal does not preclude sanctions for frivolous or false pleading, withdrawal or timing of withdrawal held not sufficient proof and other evidence in this case found inconsistent with a finding that Complainant deliberately misrepresented facts. CO

CONCILIATION CONFERENCE – See Settlement Conference, below, for decisions under 2008 Regs.

Bankrupt Respondent – See Bankruptcy section, above.

Conference Proceedings

Blakemore v. AMC-GCT, Inc., CCHR No. 03-P-146 (Apr. 21, 2005) Conciliators have broad latitude as to how they approach conciliation process and conduct particular conciliations; their authority under Reg. 230.100 to conduct Conciliation Conference includes expectation that parties follow reasonable instructions. Complaint dismissed where Complainant refused to sit where directed, argued with and insulted Conciliator, and caused disruption in CHR office; such behavior was tantamount to refusal to participate in Conciliation Conference. CO

Maat v. Syed Video, CCHR No. 05-P-45 (July 11, 2007) Interrogatories and other discovery not permitted in context of mandatory conciliation process because administrative hearing not yet commenced. After order setting hearing and naming hearing officer issued, a party may request leave of hearing officer to issue interrogatories. CO

Electronic Participation

Walker v. Chicago Chop House Restaurant et al., CCHR No. 03-P-91 (Mar. 20, 2007) Motion to hold conciliation conference by telephone or video link denied where Complainant asserted extensive travel time and cost but CHR found no evidentiary justification to waive personal attendance requirement of Reg. 230.110. CO

Extension of Time/Continuance

Ivy v. Papanikos, CCHR No. 04-H-62 (Aug. 29, 2007) Despite Complainant’s objection, continuance of conciliation conference granted where Respondents left country for extended overseas visit prior to issuance of scheduling order and could not foresee that conference would be scheduled before their return, where counsel contacted CHR and filed written motion upon discovery of clients’ unavailability, and where Respondents and counsel had been cooperative with CHR procedures. In view of length of continuance, no more continuances of such duration would be granted absent extraordinary circumstances, and parties urged to continue exploring settlement own their own and notify CHR if they determine no agreement is possible. CO

Ivy v. Papanikos, CCHR No. 04-H-62 (Nov. 20, 2007) Respondents’ second request to continue
conciliation conference denied where first lengthy continuance was granted over Complainant’s objections and with
warning that case had to move expeditiously, where Respondents failed to establish that state court trial in which
they were parties had in fact been scheduled for same date, and where conciliation conference was also a scheduled
legal proceeding, enabling Respondents to argue to state court that their proceeding could not be scheduled for that
date. CO

Failure to Attend Conciliation Conference
Sanction Denied

Godard v. McConnell, CCHR No. 97-H-64 (Feb. 10, 2000) CHR declined to dismiss Complainant’s case
where she explained that she did not appear at the Conciliation Conference, with an affidavit from her attorney,
because her attorney never received the notice setting the Conference, finding that demonstrated good cause. CO

Doxy v. Chicago Public Library, CCHR No. 99-PA-31 (Mar. 23, 2000) CHR did not dismiss Complainant’s case where Complainant had called in the morning of the Conciliation Conference to state that he
could not attend, where he called to check on the status of his case thereafter, and where he responded to the notice
of potential dismissal as soon as he received it. CO

Karlin v. Chicago Bd. of Education, et al., CCHR No. 95-E-62 (Dec. 8, 2000) CHR declined to dismiss Complainant’s case or to default individual Respondent where both failed to attend the scheduled Conciliation
Conference; Complainant repeatedly stated he had not gotten notice of the Conference and counsel for individual
Respondent explained that the move of his office caused lack of communication with his client. CO

Karlin v. Chicago Bd. of Education, et al., CCHR No. 95-E-62 (Dec. 8, 2000) In declining to dismiss Complainant’s case or to default individual Respondent, CHR cites prior decisions which hold that dismissal and
default are “severe sanction[s] which should not be entered in a punitive manner, especially where the underlying
omission was due to error, not disregard for Commission procedures.” CO

Conference but would not proceed because he did not have an attorney, CHR found that its Regulations did not
allow it to order Complainant to pay Respondent’s attorney’s fees and costs incurred when it attended the Conference at which he did not proceed; Complainant was fined, see Sanction Entered, below. CO

Myricks v. Tavern on the Pier, CCHR No. 98-E-111 (Mar. 15, 2001) Where CHR’s own error addressing
the order to Complainant caused Complainant not to receive notice of the Conciliation Conference, CHR did not
dismiss Complainant for failing to attend it. CO

Henderson v. Robert Morris Coll., CCHR No. 97-E-150 (July 12, 2001) Where Complainant called CHR the
same day as the Conciliation Conference which she missed and then submitted a written explanation that she did
not attend the Conference due to the illness of one of her young children, CHR declined to dismiss her case, noting
that dismissal is severe and should not be used when the problem was not due to disregard for CHR procedures. CO

Nuspl v. Marchetti, CCHR No. 98-E-207 (Aug. 9, 2001) CHR declined to default Respondent who did not
attend Conciliation Conference where his attorney stated that they had not received notice of it; CHR noted that the
notice was correctly addressed to attorney and was not returned to CHR but that there is no “hard” evidence that it
was delivered; also stated that default is a severe sanction which is not to be entered in a punitive manner. CO

Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 10, 2001) Although
Complainant did not call in advance of the Conciliation Conference to report that he had been hospitalized a week
prior, CHR found that hospitalization to be good cause for missing the Conference and notes that Complainant had
called several times after the fact to explain; states that dismissal is a severe sanction and should not be used when
the problem was not due to disregard for CHR procedures. CO

Scott v. Covington, CCHR No. 99-E-10 (Oct. 31, 2001) CHR did not enter default order against Respondent who missed Conciliation Conference where Respondent’s counsel admitted that he had misplaced the
order setting the Conference but had not willfully ignored the case or CHR procedures; notes that default is a severe
sanction not to be entered punitively. CO

Scott v. Covington, CCHR No. 99-E-10 (Dec. 19, 2001) CHR did not dismiss Complainant who missed
Conciliation Conference where she showed that she received an eviction notice the morning of the Conference
which required immediate attention; notes that default is a severe sanction not to be entered punitively. CO

Williams v. NDC, et al., CCHR No. 00-PA-107 (June 7, 2002) CHR did not dismiss Complainant for
missing Conciliation Conference where he had called CHR the morning of the Conciliation Conference stating he
was running late and where his written explanation stated that he had an asthma attack for which he had to see his
doctor that morning. CO

McPhee v. Novovic, CCHR No. 00-H-69 (Mar. 13, 2003) Order of default vacated where, on
reconsideration, CHR found Respondents had established extraordinary circumstances for failure to attend
Conciliation Conference based on unforeseen situation where father of child of one Respondent refused to let child
return to U.S. with Respondents, noting that Respondents were presented with difficult choice and had made some
effort to comply with CHR’s order to attend. Further notes that CHR accepts attendance of personal representative of individual party if representative has authority to settle. CO

Murdza v. E & T Towing, CCHR No. 00-PA-20 (Mar. 18, 2003) Where Complainant failed to attend Conciliation Conference and claimed she did not receive any CHR notices, CHR did not dismiss case based on prior record of cooperation and diligence and timely response to Notice of Potential Dismissal, recognizing dismissal as severe sanction not lightly imposed. CO

Williams v. Owner of East of the Ryan, Inc., CCHR No. 03-P-3 (Sep. 19, 2003) Where Respondent failed to attend conciliation conference due to car accident of manager with whom she planned to travel to conciliation, CHR found good cause and no disregard for its procedures, and did not default Respondent despite fact that written explanation was filed two days late and showed no proof of service on Complainant, recognizing dismissal as severe sanction not imposed punitively. CO

Kelley v. Walker, CCHR No. 01-H-22 (Aug. 2, 2004) Where Respondent who failed to attend Conciliation Conference claimed she did not receive notice of it, CHR did not default despite failure to provide CHR with current mailing address, based on her efforts to have mail forwarded to new address and affirmation of desire to participate in case; although Respondent made error, she did not willfully ignore CHR procedures. CO

Bilal v. Daniel Murphy Scholarship Found., CCHR No. 02-E-4 (June 8, 2005) Where Complainant failed to attend Conciliation Conference and claimed he did not receive rescheduling order, CHR did not dismiss despite error of assuming continuance request was granted, based on prior record of cooperation and diligence and proper response to Notice of Potential Dismissal, recognizing dismissal as severe sanction not imposed punitively. CO

Blakemore v. Dominick’s Finer Foods, CCHR No. 01-PA-51 (July 11, 2005) CHR vacated order of default, giving Respondent benefit of doubt where it continued to insist it had not received notice of scheduled Conciliation Conference, and Respondent had cooperated with all prior and subsequent CHR directives. CO

Syed v. Solaka, CCHR No. 01-H-51 (Aug. 4, 2005) Where Respondent failed to attend Conciliation Conference and attorney’s subsequent letter about it was unclear as to his continued representation of Respondent, CHR withheld initiation of default proceedings, ordering Respondent to clarify representation and giving both parties opportunity to present positions. CO

Flores & Morales v. Borcoman et al., CCHR No. 03-H-26/27 (Dec. 29, 2006) CHR typically gives parties benefit of doubt when they claim non-receipt of a CHR notice, if they comply with any notice of potential default or dismissal regarding non-compliance and have no prior record of failure to cooperate. CO

Williams v. Cingular Wireless et al., CCHR No. 04-P-22 (Feb. 22, 2007) No default of Respondent who failed to attend Conciliation Conference due to misunderstanding of status of case and his responsibilities despite numerous CHR notices explaining his obligations, based on his response to notice affirming willingness to participate in further proceedings and fact that default is a severe sanction not to be entered punitively. CO

Blakemore v. Dublin Bar & Grill, Inc., et al., CCHR No. 05-P-102 (June 8, 2007) No default against Respondents who failed to attend conciliation conference but claimed their counsel was experiencing problems with new computerized docketing system and thus was unaware of it, responded to notice of potential default, and had a record of compliance with previous CHR orders and procedures. CO

Macklin v. Lucky Strike Lanes, CCHR No. 06-E-55 (Aug. 24, 2007) No default for failure to attend conciliation conference, despite urgings of Complainant, where Respondent’s representative learned on day scheduled that he needed to stay home with 13-month-old daughter due to miscommunication with estranged wife and he promptly telephoned CHR, filed a timely response to notice, and had otherwise cooperated with CHR process. Although Respondent might have exercised better planning or judgment, default and dismissal are severe sanctions and good cause has been found in similar circumstances. CO

Blakemore v. Dublin Bar & Grill, Inc. d/b/a Dublin’s Pub, et al. CCHR No. 05-P-102 (Nov. 13, 2007) Despite untimely and minimal filing, CHR gave Complainant benefit of doubt and found good cause for failure to attend Conciliation Conference based on claimed non-receipt of notice, where Complainant had otherwise pursued case according to CHR procedures and no proof Complainant did receive the notice. CO

Martinez v. TS Management et al., CCHR No. 04-H-64 (Nov. 16, 2007) CHR denied motion to reconsider good cause finding where Respondent did not provide evidence that Complainant had actual notice of Conciliation Conference to counter Complainant’s explanation that notice was not received. Respondent not prejudiced by Complainant’s failure to serve explanation where CHR allowed Respondent to seek reconsideration. Dismissal and default are severe sanctions not to be entered punitively, and Respondent also benefited from CHR not imposing harsh sanctions for non-prejudicial technical errors. CO

Maat v. RTG Ltd. d/b/a Zorba’s House Restaurant, CCHR No. 05-P-23 (Nov. 16, 2007) Good cause finding reaffirmed over Respondent’s objections; minor procedural errors CHR and Complainant did not justify severe sanction of dismissal; Complainant’s explanation for missing conciliation conference—that she did not receive the notice—was sufficient and credible. CO

Draft v. Macellaio, CCHR No. 05-H-23 (Dec. 31, 2007) CHR declined to dismiss for failure to attend
conciliation conference after determining error was not willful. Complainant acknowledged that she overlooked conference, apologized, indicated willingness to participate in rescheduled conference, and had cooperated in other respects with CHR procedures and instructions. CO

_Cotten v. Pizza Capri_, CCHR No. 07-P-58 (Feb. 7, 2008) Complainant established good cause for failure to attend Conciliation Conference and failure to notify Commission in advance where Complainant lost track of days due to medication and lack of sleep from hospital stay. CO

_Van Dyck v. Old Time Tap_, CCHR No. 04-E-103 (Apr. 21, 2008) CHR gave benefit of doubt to Complainant who alleged that a flat tire and stress from the recent death of her mother caused her to miss Conciliation Conference. CHR does not require parties to engage in “herculean efforts” or perfect reasoning under pressure. Conference not rescheduled where parties were in adversarial stance and unlikely to reach settlement. CO

**Sanction Entered**

_Godard v. McConnell_, CCHR No. 97-H-64 (Apr. 6, 2000) Default ordered entered for Respondent’s failure to attend the scheduled Conciliation Conference without good cause. CO

_Godard v. McConnell_, CCHR No. 97-H-64 (May 26, 2000) Where Respondent’s request to vacate simply stated that she did not understand that she had to attend the Conference -- the event which led to the order of default -- CHR denied the request, citing an unusually long series of orders and notices it sent to Respondent which stated that attendance was mandatory. R

_Palermo v. Clayton & Daniels_, CCHR No. 96-E-216 (Dec. 8, 2000) Default order entered for Respondents’ failure to attend the scheduled Conciliation Conference without good cause. CO

_Cotten v. Insignia Mgt. Co._, CCHR No. 95-H-137 (Dec. 8, 2000) Where Complainant attended Conciliation Conference but would not proceed because he did not have an attorney, CHR declined to dismiss his case as Respondent requested, but fined him for not proceeding; Complainant not ordered to pay Respondent’s fees and costs, see Sanction Denied, above. CO

_Thomas v. Prudential Biros Real Estate, et al._, CCHR No. 97-H-59/60 (Aug. 29, 2001) CHR fined Complainants $100 because they postponed the Conciliation Conference themselves the evening beforehand; they did not follow procedure to seek a continuance and did not have the authority to postpone it. CO

_Henderson v. Robert Morris College_, CCHR No. 97-E-150 (Sep. 20, 2001) CHR dismissed case when Complainant did not attend Conciliation Conference, finding that her statement that she was just five minutes away at the time the Conference was to begin but not explaining why she did not come did not present good cause. CO

_Leadership Council for Metro. Open Comms. v. Carstea & Berzava_, CCHR No. 98-H-76 (Apr. 26, 2002) Default order entered against each of two Respondents for their failure to attend the scheduled Conciliation Conference without good cause; counsel for each Respondent failed to properly provide updated contact information and CHR properly relied on information it had and none of its mailings was returned. CO

_Fox v. Hinojosa_, CCHR No. 99-H-116 (Oct. 24, 2002) Default order entered against Respondent after her written explanation failed to provide good cause for failure to attend Conciliation Conference: Respondent failed to seek continuance when she knew she would be on vacation on the scheduled date and had notice of requirement to attend Conciliation Conference for at least three weeks prior to her vacation. CO

_Edwards v. Larkin_, CCHR No. 01-H-35 (May 27, 2004) Default order entered for failure to establish good cause for not attending Conciliation Conference and to provide adequate response to Order Requiring Written Response and Notice of Potential Default. Based on Complainant’s motion and evidence, CHR reversed initial finding of good cause and found Respondent misrepresented his inability to attend Conciliation Conference; moreover, response to directions in Order and Notice was tantamount to no response, amounting only to diatribe against Complainant and discussion of Respondent’s position. CO

_Molden v. BGK Sec. Serv., Inc._, CCHR No. 04-E-141 (May 5, 2005) Default order entered after Respondent’s written explanation failed to provide good cause for failure to attend Conciliation Conference: Respondent failed to notify CHR of address change, as is its obligation, so CHR entitled to rely on latest contact information in file; evidence showed that mailings to the address were received and no mailings were returned to CHR undelivered. CO

_Blakemore v. Dominick’s Finer Foods_, CCHR No. 01-PA-51 (May 5, 2005) Default order entered after Respondent’s written explanation for missing Conciliation Conference failed to establish that it did not receive notice of it: record shows mailings were sent to latest address provided to CHR, no evidence to confirm speculation that notice was incorrectly addressed, and evidence showed that other mailings to address were received. CO

_Lapa v. Polish Army Veterans Assn., et al._, CCHR No. 01-PA-27 (Sep. 8, 2005) Default order entered against one individual Respondent after his written explanation failed to provide good cause for failure to attend Conciliation Conference: Respondent failed to seek continuance or other relief in advance without evidence of inability to do so; no evidence supported claimed inability to attend due to age, illness, and residence out of state; party may not unilaterally overrule CHR’s decision to hold a Conciliation Conference by not attending. CO
Barren-Johnson v. Mahmood, CCHR No. 03-P-9 (May 18, 2006) Default order entered after Respondent’s written explanation failed to provide good cause for failure to attend Conciliation Conference: argument that Respondent was not personally served notice by CHR rejected, notice to his attorney of record was sufficient; argument that Conference was unnecessary as Respondent would have refused Complainant’s settlement demand rejected as speculative; party may not unilaterally overrule CHR’s decision to hold a Conciliation Conference by not attending. CO

Garcia v. Varela, CCHR No. 03-H-32 (June 29, 2006) Explanation that Respondent missed Conciliation Conference because of long-scheduled out-of-town travel not good cause where Respondent’s attorney had several weeks’ notice of date but failed to inform client in time to seek continuance. CO

Mahon v. Movie Gallery, CCHR No. 04-E-8 (Apr. 5, 2007) Default and fine of $70 for failure to attend conciliation conference. Explanation that Respondent’s in-house counsel began maternity leave the week before not good cause where notice was mailed several weeks prior to commencement of leave, providing ample time to seek continuance or make alternative arrangements. Also, passage of time between initial filing and substantial evidence finding not good cause. CO

Richards v. Casa Aztlán, CCHR No. 06-P-68 (May 17, 2007) Default and fine of $70 for failure to attend conciliation conference. Explanation that executive staff was “dealing with serious and sensitive immigration matters” not good cause where Respondent was not the only organization addressing immigration issues and failed to seek continuance or arrange for an authorized representative to attend without evidence of inability to do so. CO

Harris v. Sutherland Apartments et al., CCHR No. 05-H-57 (Feb. 25, 2008) Complainant failed to establish good cause for failure to attend Conciliation Conference and case dismissed where Complainant was attending class at local college but knew class schedule in advance and failed to seek continuance before scheduled date. CO

Cotten v. Pepe’s Taco, CCHR No. 07-P-20 (Apr. 3, 2008) Case dismissed and Complainant fined $70 where he failed to attend Conciliation Conference and did not file explanation providing good cause as required by Notice of Potential Dismissal. Fine amount set to cover Conciliator’s fees for attendance at conference. CO

No Bargaining Authority
Sanction Entered

Cotten v. Insignia Mgt. Co., CCHR No. 95-H-137 (Dec. 8, 2000) Where Complainant attended Conciliation Conference but would not proceed because he did not have an attorney, CHR analogized case to one in which party attended but did not have bargaining authority and so declined to dismiss his case as Respondent requested, but fined him for not proceeding; Complainant not ordered to pay Respondent’s fees and costs, see Failure to Attend/Sanction Denied, above. CO

Standard

McPhee v. Novovic, CCHR No. 00-H-69 (Dec. 2, 2002) Motion for second continuance of conciliation conference denied where moving parties who were out of country and uncertain about date of return had ample notice of conference date and could have arranged to be represented by person with authority to settle. CO

Green v. English, CCHR No. 02-H-60 (Sep. 29, 2006) Individual party who lives out of state and cannot afford trip to Chicago for Conciliation Conference offered option of attendance by personal representative with written evidence of bargaining authority, as detailed in order. CO

Hernandez v. Colonial Med. Ctr. et al., CCHR No. 05-E-14 (Dec. 29, 2006) Conciliation Conference not equivalent to informal settlement conference in Reg. 230.100; personal attendance requirement not met by proposed telephone participation; that party now resides out of state not good cause for waiver of personal attendance. CO

CONFLICT OF INTEREST
Cases Against CHR

Williams v. Chicago Comm. on Human Relations, et al., CCHR No. 00-PA-38 (May 11, 2000) Pursuant to resolution of the Board of Commissioners concerning conflict of interest, CHR dismissed case filed against CHR at CHR. CO

Williams v. Chicago Comm. on Human Relations & Chic. Law Dept., CCHR No. 00-PA-38 (Aug. 10, 2000) Same; denying request for review of order described above. CO

Williams v. Chicago Comm. on Human Relations & Chic. Law Dept., CCHR No. 00-PA-38 (Aug. 10, 2000) In denying request for review of decision to dismiss CHR from case, it notes that the Executive Compliance Staff, the individuals charged with reviewing requests for review, does not have the authority to overturn the Board resolution which was the basis for the dismissal of CHR. CO

Williams v. “City of Chicago Government and Administrative Boards, Commissions and Committees,” CCHR No. 01-PA-10 (Feb. 20, 2001) Pursuant to resolution of the Board of Commissioners concerning conflict of interest, CHR dismissed case filed against CHR at CHR. CO
Blakemore v. Comm. on Human Relations, et al., CCHR No. 01-PA-48/50 (June 5, 2001) Pursuant to resolution of the Board of Commissioners concerning conflict of interest, CHR dismissed case filed against CHR at CHR. CO

Blakemore v. Comm. on Human Relations, et al., CCHR No. 01-PA-48/50 (June 5, 2001) Because the Executive Compliance Staff, the individuals charged with reviewing requests for review, does not have the authority to overturn the Board resolution which was the basis for the dismissal of CHR, CHR directed Complainant not to file a request for review but to appeal directly to court. CO

Williams v. City of Chicago “Government & Administrations, Boards, Commissions and Committees; Departments and Agencies,” CCHR No. 01-PA-103 (Nov. 1, 2001) Pursuant to resolution of CHR’s Board of Commissioners concerning conflict of interest, CHR dismissed case filed against CHR at CHR. CO

Williams v. City of Chicago “Government & Administrations, Boards, Commissions and Committees; Departments and Agencies,” CCHR No. 02-PA-33 (Apr. 30, 2002) Pursuant to resolution of CHR’s Board of Commissioners concerning conflict of interest, CHR dismissed case filed against CHR at CHR. CO

Williams v. Comm’n on Human Relations et al., CCHR No. 03-P-20 (Aug. 6, 2003) (same) CO

CHR Employee as Complainant

Robinson v. Northern Trust Bank et al., CCHR No. 03-C-1 (July 12, 2004) No conflict of interest where CHR investigator was Complainant and CHR took action to maintain neutrality: no reason to believe that anyone aside from Complainant would have personal knowledge of disputed facts of case; CHR has no actual or apparent interest in outcome; investigation assigned to independent hearing officer as opposed to fellow staff investigator; fact that Complainant could have filed in other forum not sufficient to warrant case dismissal; CHR employee as complainant not analogous to CHR itself or CHR employee as respondent. CO

Commissioner as Complainant – No new decisions in this volume.

Disqualification of Attorney – See Attorney Appearance/Disqualification section, above.

Disqualification of Hearing Officer – See separate Disqualification section, below.

CONSOLIDATION

Effect of Consolidation – No new decisions in this volume.

Post-Substantial Evidence Finding – No new decisions in this volume.

Prejudice

Maat v. City of Chicago Department of Transportation et al., CCHR No. 06-P-61, 07-P-84/85/86/88/98/111 (Nov. 13, 2008) City’s argument of “inconvenience” because each complaint has different facts, it may assert different defenses, and complaints had been assigned to different attorneys in Department of Law did not establish prejudice; consolidation affirmed over City’s objection. CO

Severing Denied

Gilbert & Gray v. 7355 S. Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (Apr. 28, 2006) Consolidation affirmed after Respondents’ objections where: (1) both Complainants claimed sexual orientation discrimination; (2) cases involved same Respondents and condominium; (3) discriminatory acts alleged by one Complainant arose directly out of other Complainant’s interactions with Respondents; (4) cases had common issue of Respondents’ discriminatory intent; (5) both Complainants had same potential witnesses and were potential witnesses for each other; and (6) Respondents failed to show how they would be prejudiced by consolidation. CO

Maat v. City of Chicago Dept. of Transportation and Owner of Property at 301 West Superior, CCHR No. 07-P-83/84/85/86/88/98/111 (Apr. 14, 2008) Motion to Sever denied where some cases involved another Respondent and different cases were handled by different attorneys but prejudice to Respondent did not outweigh gain in efficiency of adjudicating seven cases together, as all involved same practices of Respondent and same provisions of CHRO. CO

Maat v. City of Chicago Department of Transportation et al., CCHR No. 06-P-61, 07-P-84/85/86/88/98/111 (Nov. 13, 2008) Consolidation reaffirmed over City’s objections where all complaints involve allegations that portions of the public way are not wheelchair accessible, although each concerns a different location. Argument of “inconvenience” because each complaint has different facts, City may assert different defenses, and complaints had been assigned to different attorneys in Department of Law did not establish prejudice; plus City acknowledges common legal issues and by its own arguments at least some defenses are similar. No requirement
that all issues be common or that incidents occur simultaneously if enough commonality that prejudice to a party
does not outweigh gain in efficiency. Here, incidents are more similar than different, occurred within months of each
other, and involve similar legal principles and City policies. CO

**Standards**

*Maat v. City of Chicago Dept. of Transportation and Owner of Property at 301 West Superior*, CCHR No.
07-P-83/84/85/86/88/98/111 (Apr. 14, 2008) That two of seven cases involve additional Respondent and some cases
are handled by different attorneys does not prejudice City enough to outweigh efficiency gain of consolidation
where same Respondent practices and CHRO provisions are involved. CO

**CONSTITUTIONAL ISSUES**

**Compelling Governmental Interest – No new decisions in this volume.**

**Due Process**

**No Violation Found**

process violation to enter a default order due to a party’s negligence. CO

*Aljazi v. Owner*, CCHR No. 99-H-75 (Apr. 27, 2000) Finding one argument that not vacating the default
order would violate due process to be so unsupported as to be tantamount to waiver; in alternative, adopted
discussion from prior CHR case finding that entering a default order due to a party’s negligence not to be a due
process violation. CO

constitutional principles require evidentiary hearing before dismissal for no substantial evidence as no credibility
determinations are made against complainant at that point (citing Cooper v. Salazar). CO

process not a due process violation; *Atkins v. City of Chicago Comm’n on Human Relations*, 281 Ill.App.3d 1066
(1st Dist. 1996) specifically held there is no right to jury trial in CHR proceedings. HO

*Lockwood v. Professional Neurological Services, Ltd.*, CCHR No. 06-E-89 (Apr. 8, 2010) No denial of due
process because CHR ordinances and regulations make no provision for stay of enforcement pending outcome of
state court appeal. Respondent does not lack access to stay because Circuit Court can grant one. CO

*Cotten v. La Luce Restaurant, Inc.*, CCHR No. 08-P-034 (Apr. 21, 2010) No due process right to a
deposition; CHR regulations limiting discovery do not deny due process. Due process rights are satisfied through
opportunity to cross-examine opposing witnesses and introduce evidence. R

**Standard – No new decisions in this volume.**

**Equal Protection – No new decisions in this volume.**

**Fifth Amendment Taking**

*Jones v. Shaheed*, CCHR No. 00-H-82 (Mar. 17, 2004) CFHO prohibition of housing discrimination, even
as to non-public housing, not an impermissible taking in violation of the Fifth Amendment. R

*Cotten v. Lou Mitchell’s*, CCHR No. 06-P-9 (Dec. 16, 2009) Enforcement of Human Rights Ordinance to
require a wheelchair accessible restroom that reduces seating capacity not an unconstitutional taking (although
undue hardship may be shown). R

**Fifth Amendment/Establishment Clause – No new decisions in this volume.**

**First Amendment/Free Association**

*Jones v. Shaheed*, CCHR No. 00-H-82 (Mar. 17, 2004) Landlord’s discriminatory refusal to rent not
protected by First Amendment rights of expressive association in that (1) she asserted no personal interest or
membership in a group with an expressive interest in not living in a multi-family building with persons occupying
other units whose source of income is not from employment or who are disabled and receiving Social Security
Disability income and (2) such private discrimination has never been afforded constitutional protections. R

**First Amendment/Free Speech – No new decisions in this volume.**

*Commercial Speech*

*Decision Not to Hire as Speech*

**Standards**
First Amendment/Religion Clauses

_Cady v. Bell, Boyd & Lloyd, et al._, CCHR No. 01-E-144 (Oct. 25, 2001) CHR cannot consider alleged violation of first amendment of U.S. Constitution, but can consider whether Complainant was fired due to his religion in violation of CHRO. CO

_Thalassinos v. Navy Pier_, CCHR No. 04-P-3 (Mar. 21, 2005) CHR has no jurisdiction to rule on whether Complainant’s First Amendment rights to religious expression were violated by Respondent. Also, Respondent’s assertion that it has been judicially determined not to be a public forum for purposes of First Amendment expressive activity may be only tangential to the issues presented in a discrimination complaint; the issue for CHR is whether access to a public accommodation was denied or restricted based on Complainant’s religion. CO

_Kelly v. North Park Univ._, CCHR No. 03-E-173 (Nov. 30, 2005) Complaint alleging sexual orientation and religious discrimination in refusal of church-owned and operated university to hire openly-homosexual candidate for permanent faculty position dismissed based on First Amendment right of expressive association as well as entitlement to CHRO religious exemption in light of documented linkage of faculty hiring policies to church opposition to homosexual practices. Although Complainant argued she was rejected based on her interpretation of Christianity and that Respondent’s stated reasons were pretextual, CHR found that further inquiry would excessively entangle it in doctrinal issues. CO

State Actor

_Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co._, CCHR No. 95-H-159 & 98-H-44/63 (Mar. 22, 2001) Fact that CFHO’s prohibition of “source of income” discrimination encompasses Section 8 rent subsidies and so requires that landlords rent qualifying property to otherwise qualified Section-8-holding tenants does not thereby cause landlord to become a “state actor” subject to liability under federal constitutional and statutory provisions. CO

_Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co._, CCHR No. 95-H-159 & 98-H-44/63 (Mar. 22, 2001) The government “coercion” test focuses on whether the government should be held responsible for an unconstitutional action it coerced a private entity to take, not on whether a private entity is transformed into a state actor which itself can be held liable. CO

CONSTRUCTIVE DISCHARGE

_Liability Found – No new decisions in this volume._

No Liability Found

_Bellamy v. Neopolitan Lighthouse_, CCHR No. 03-E-190 (Apr. 18, 2007) Constructive discharge claim based on hostile environment not proved where supervisor’s conduct did not rise to level of hostile environment. Constructive discharge claim based on restricting expression of sexual orientation not proved where evidence showed Complainant left for another reason—an insult regarding her record-keeping and accusation that she was “stupid.” R

Standard – No new decisions in this volume.

CONSTRUCTIVE EVICTION – No new decisions in this volume.

Claim Stated

Liability Found


COSTS

Proof of

_Rankin v. 6954 N. Sheridan, Inc., DLG Management, and Feig_, CCHR No. 08-H-49 (May 18, 2011) Attorney affidavit held sufficient to support copying costs where amounts appear reasonable and no basis offered to doubt the testimony. R

Reasonable Costs

_Griffiths v. DePaul Univ._, CCHR No. 95-E-224 (Oct. 18, 2000) Complainant awarded $902.97 for reasonable costs for items such as photocopying, witness fees and transcript fees to which Respondent did not
object. R

_Nash/Demby v. Sallas Realty & Sallas_, CCHR No. 92-H-128 (Dec. 6, 2000) Complainants awarded $112.14 for costs such as printing and computer research incurred in state circuit and appeal courts against Respondents’ appeal of CHR’s initial ruling in favor of Complainants. R

_Nuspl v. Marchetti_, CCHR No. 98-E-207 (Mar. 19, 2003) Subpoena costs and associated attorney fees denied for appearance of two witnesses where attorney should have known they could provide no relevant testimony. R


_Salwierak v. MRI of Chicago, Inc., et al.,_ CCHR No. 99-E-107 (Apr. 21, 2004) $863.43 in costs awarded in sexual harassment case pursued over several-year period. R

_Brooks v. Hyde Park Realty Co., Inc.,_ CCHR No. 02-E-116 (June 16, 2004) $629.24 awarded as costs for default administrative hearing including transcript, research expenses, postage and fax, and photocopies. R

_Sullivan-Lackey v. Godinez_, CCHR No. 99-H-89 (Sep. 21, 2005) $765.33 awarded to law school clinic for costs incurred in state court proceedings including printing, filing fees, subpoena fees, and local transportation. Restaurant bill reimbursement not awarded, as not an item for which law firms routinely charge their clients. R

_Edwards v. Larkin_, CCHR No. 01-H-35 (Nov. 16, 2005) Costs for photocopying and parking held reasonably incurred but local postage charges held not reasonable because ordinarily absorbed by attorneys as part of overhead and not billed to clients. R

_Williams v. First American Bank_, CCHR No. 05-P-130 (Feb. 19, 2008) Although costs were allowed for Respondent’s enforcement of discovery rights, cost statement rejected in full due to unreasonable photocopying of documents already in record and inability to distinguish what were reasonable costs. HO


_Cotten v. CCI Industries, Inc.,_ CCHR No. 07-P-109 (May 19, 2010) Mileage costs reduced as excessive in light of actual distance between attorney’s office and CHR’s office. R

_Hutchison v. Iftekaruddin_, CCHR No. 08-H-21 (June 16, 2010) Although CHR compensates travel time and costs where sufficiently documented, travel costs denied because no explanation of number of miles between destinations and the amount seemed excessive. Parking costs of $30 found reasonable for legal research at Daley Center. R

_Flores v. A Taste of Heaven & McCauley_, CCHR No. 06-E-32 (Jan. 19, 2011) $2,262.27 awarded in costs for legal research, copying, and transcript where Complainant submitted statement setting forth amount spent on each area and no specific objection was made. R

_Rankin v. 6954 N. Sheridan, Inc., DLG Management, and Feig_, CCHR No. 08-H-49 (May 18, 2011) Compensation for ring binders and divider tabs for exhibits denied where not required by CHR; cost of such supplies should be absorbed into overhead. R

_Cotten v. Top Notch Beefburger, Inc.,_ CCHR No. 09-P-31 (June 15, 2011) CHR found reasonable two round trip mileage charges for attorney’s travel to and from CHR. R

_Montelongo v. Azarpira_, CCHR No. 09-H-23 (Feb. 15, 2012) Cost of $131.25 for Spanish interpreter hired for hearing by Complainant approved as reasonable in light of modest amount and absence of any other request for costs, even though CHR is authorized to provide interpreters for hearings at its own expense. R

_Gilbert and Gray v. 7355 South Shore Condominium Assn. et al.,_ CCHR No. 01-H-18/27 (June 20, 2012) Complainant awarded $6,653.39 for deposition transcript fees, filing fees, witness fees, and photocopying. R

**CREDIBILITY**

Hearing Stage – See Evidence/Credibility of Witness section, below.

Complaint/Investigation Stage – See Complaints/Adequacy of and Complaints/Standard to Determine Adequacy sections, above, as well as Substantial Evidence/Standard section, below.

**CREDIT DISCRIMINATION**

Actions Covered

_Henderson v. Simms et al.,_ CCHR No. 04-C-2 (Aug. 18, 2004) Use of credit rating to assess rental application does not make housing rental transaction a credit transaction. CHR shall not interpret rental of a housing unit as an extension of credit. CO

_Giles v. Subramanian et al.,_ CCHR No. 10-C-01, (May 5, 2010) Complaint alleging doctor and hospital sought to collect disputed medical bills (from person with disabilities) did not involve a credit transaction, as no loan or line of credit was sought or otherwise involved. CO
CUSTOMER PREFERENCE – No new decisions in this volume.

Employment

Housing

Public Accommodation

DAMAGES

Attorney’s Fees – See separate Attorney’s Fees section, above.

Authorization – No new decisions in this volume.

Causation

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) Failure to have bathroom stall accessible to wheelchair-using Complainant is itself a basis to award emotional distress damages to her. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) Fact that it was patrons of Fern Room, not Park District employees, who gawked and laughed at Complainant after she fell in Park District’s inaccessible bathroom does not mean that Park District is not responsible for her emotional distress; Complainant’s public humiliation was a natural consequence of failure to provide a wheelchair-accessible stall. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) There is no requirement that emotional distress damages be awarded only when a respondent has face-to-face contact with a complainant or itself makes discriminatory statements; limiting emotional distress damages to such situations would eliminate those damages to many cases. R

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) CHR found that, because Respondents knew of Complainant’s weak financial condition, her eviction from her previous apartment for failure to pay rent was “reasonably foreseeable” and so attributable to Respondents when Respondents locked her out and refused to refund her security deposit. R

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) Although fact that Complainant would be evicted was reasonably foreseeable [see entry above], Respondents held not responsible for damages they did not cause and which were not reasonably foreseeable such as the loss and distress Complainant suffered when her prior landlord put her belongings in the street where they were stolen. R

Godard v. McConnell, CCHR No. 97-H-64 (Jan. 17, 2001) A respondent can be held responsible only for injuries she caused; damages should be apportioned when possible. R

Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) Although respondents must take complainants “as they find them,” the complainant must first show that his or her injury was caused by the discriminatory conduct. R

Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) CHR found distress to which Complainant testified not all attributable to Respondent in that it was not credible that the range of distress described could have been caused by the relatively minor incident with Respondent and in that he attributed some of his distress to underlying racism in society. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR held that it could consider the aggravation of one Complainant’s allergies in awarding emotional distress damages in that Respondents forced Complainants to break their sales contract just a few weeks before the Complainant’s lease was ending; therefore, even if exposure to cats was not specifically foreseeable, being forced into problematic short-term housing was. R

Bellamy v. Neopolitan Lighthouse, CCHR No. 03-E-190 (Apr. 18, 2007) Respondent not responsible for emotional distress resulting from conduct unrelated to Complainant’s protected class, such as supervisor’s thoughtless behavior and criticism of record-keeping abilities. R

Emotional Distress

Employment

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Where Respondent revoked employment offer upon learning Complainant was pregnant, Complainant awarded $8000 in emotional distress damages. R

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) CHR awarded $8000, not the $3500 recommended by Hearing Officer, finding more weight should have been afforded the fact that she was pregnant and so unusually vulnerable and finding that her testimony was sufficiently detailed to demonstrate distress worth more than $5000. R

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Very fact that Complainant was so distraught as to unreasonably reject Respondent’s re-offer of the job she wanted and needed points to the level of
distress she suffered; compares cases where less than $5000 was awarded and where more than $10,000 was awarded. R

Claudio v. Chicago Baking Co., CCHR No. 99-E-76 (July 17, 2002) $1,000 awarded for race discriminatory discharge where only minimal evidence of emotional distress presented, no racial epithets used, and discrimination not prolonged. R

Nuspl v. Marchetti, CCHR No. 98-E-207 (Sept. 18, 2002) Although little evidence on damages was offered, $3,500 awarded for emotional distress due to three incidents of sexual orientation harassment of kitchen manager by restaurant co-owner, noting that the last incident was egregious and caused Complainant to quit. R

Salwierak v. MRI of Chicago, Inc. & Baranski, CCHR No. 99-E-107 (July 16, 2003) $30,000 awarded for emotional distress where sexual harassment was egregious, continued through four-year duration of employment despite Complainant’s pleas that it cease, and caused significant mental distress as well as physical manifestations including weight loss and insomnia, although Complainant did not seek medical or psychiatric treatment. As subordinate employee, Complainant occupied vulnerable position as evidenced by inability to get the harassment to end. R

Brooks v. Hyde Park Realty Co., Inc., CCHR No. 02-E-116 (Dec. 17, 2003) Although evidence of emotional distress was conclusory in nature, $2,000 based on Complainant’s testimony that age discriminatory discharge resulted in low self-esteem and required her to go on many unsuccessful job interviews. R

Martin v. Glen Scott Multi-Media, CCHR Case No. 03-E-034 (Apr. 21, 2004) Complainant discharged due to pregnancy awarded $6,000 rather than requested $3,000 for emotional distress where she felt fearful and distressed over being out of work nearly 10 months, worried she would not find work while pregnant, upset at inability to provide for family, cried and lost sleep many nights, and felt depressed; CHR recognizes that being pregnant puts a woman in a vulnerable position when discriminated against. R

Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) Two Complainants harassed and constructively or actually discharged due to perceived sexual orientation awarded emotional distress damages based on own testimony: (1) $15,000 to Complainant who experienced harassment over extended period including outrageous actions such as telling stranger she is gay and accusing her of having AIDS when calling in sick; who testified physical symptoms of stress and anxiety which the harasser told her were because something was wrong with her; and who felt compelled to resign. (2) $10,000 to Complainant subjected to harassment for shorter period and not accused of having AIDS but who felt intimidated, humiliated, and fearful of losing her job, then felt shocked when actually fired. R

Carroll v. Riley, CCHR No. 03-E-172 (Nov. 17, 2004) Board made small award of $2,000 where Hearing Officer recommended no award; although based on single act of sexual harassment (discharge after end of personal relationship) and no evidence Complainant sought medical assistance, Complainant credibly testified he was upset over inability to pay bills and to provide for and serve as a model to his children. R

Mullins v. AP Enterprises, LLC et al., CCHR No. 03-E-164 (Jan. 19, 2005) Complainant discharged due to disability (depression) awarded emotional distress damages of $20,000 from defaulted Respondent based solely on her testimony that she was devastated by job loss, was re-hospitalized for depression shortly after discharge, was falsely accused of misconduct by Respondent when she applied for unemployment compensation, and lacked money to pay living costs resulting in gas service shutoff and family sometimes being hungry. Complainant was found to be particularly vulnerable due to pre-existing depression. R

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) $2,500 awarded for emotional distress in quid pro quo sexual harassment case where evidence was minimal based on Complainant’s own testimony, discriminatory acts were discrete and took place over relatively short period but were accompanied by threats, and Complainant not particularly vulnerable. R

Bellamy v. Neopolitan Lighthouse, CCHR No. 03-E-190 (Apr. 18, 2007) $25,000 awarded for emotional distress where executive director of human service organization required openly lesbian employee not to express her sexual orientation in the workplace over her 14-month employment, causing employee to seek psychological counseling and take anti-depressants for the first time. Although difficult to separate emotional distress resulting from discrimination and emotional distress resulting from thoughtless but non-discriminatory conduct by same supervisor, emotional injury cannot be precisely measured and need not be proven with precision. R

Manning v. AQ Pizza LLC d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sep. 19, 2007) $15,000 awarded for emotional distress where restaurant manager subjected Complainant to repeated, severe, and dehumanizing racial and sexual harassment, leaving her unable to afford rent, having nightmares that someone was going to kill her, and having flashbacks to the abuse. R

Johnson v. Fair Muffler Shop a/k/a Fair Undercare Car a/k/a Fair Muffler & Brake Shops, CCHR No. 07-E-23 (Mar. 19, 2008) $20,000 emotional distress damages where racially discriminatory discharge caused eating and sleeping trouble, anger management therapy, and separation from wife for two months while finding work in Alabama. R
CHR held that it could consider the aggravation of one Complainant’s allergies in awarding emotional distress damages to her. Respondents’ discrimination forced them to live in temporary housing which had cats that aggravated her condition. The egregiousness of underlying conduct; wife awarded more because she was only one of dozens of landlords who may have discriminated against her, causing her emotional distress, $400 comparable to that suffered by other complainants who had been awarded $15,000. $10,000 recommended by Hearing Officer, finding he had “undervalued” her distress and finding her distress was one reason she could not work for six weeks. The distress resulted in seeking treatment for her anxiety and depression. Complainant testified to repeated slurs about her age, sex, and national origin over course of a year and once in front of her son and husband, causing her to become depressed, gain weight, have trouble sleeping, and seek professional help. Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) $75,000 emotional distress damages to employee who suffered ongoing sleeplessness, anxiety, and depression, saw a therapist, and was prescribed three medications after supervisor repeatedly harassed and “outed” employee about his sexual orientation and employer ignored complaints and violated internal anti-discrimination policies. CHR rejected Respondents' arguments that (1) Complainant should not be compensated for the stress of litigation where investigation was delayed due to CHR backlog, (2) that award should not exceed previous CHR emotional distress awards, and (3) that Complainant’s high susceptibility to emotional distress should reduce damages award. Williams v. RCJ Inc. et al., CCHR No. 10-E-91 (Oct. 19, 2011) $2,000 in emotional distress damages to cashier sexually harassed by convenience store owner where conduct took place over short period of three weeks, evidence of emotional distress was minimal, and not all of it arose from respondents’ conduct. Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) No emotional distress damages where Complainant did not give notice that she was seeking such damages in her pre-hearing memorandum and did not provide good cause for failure to do so. Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Employee awarded $2,500 for emotional distress after discharge due to pregnancy and related leave. Distress found not extensive, with no evidence of physical manifestations, medical treatment, or significant duration. Hawkins v. Ward & Hall, CCHR No. 03-E-114 (May 21, 2008) Emotional distress damages for sexual harassment increased to $2,000 from hearing officer’s recommended $500 where Complainant testified about taking anti-stress medication and having car repossessed after discriminatory discharge. Amount apportioned $1,600 against supervisor who made sexual advances and $400 against supervisor who knew of it but failed to take remedial action. Alexander v. 1212 Restaurant Group et al., CCHR No. 00-E-110 (Oct. 16, 2008), aff”d Cir. Ct. Cook Co. No. 09-CH 16337 (Feb. 19, 2010), aff’d Ill. App. Ct. No. 1-20-0797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No. 113274 (Jan. 25, 2012). Emotional distress damages of $35,000 imposed jointly and severally against corporate and individual Respondents for workplace harassment based on perceived sexual orientation in light of prior CHR decisions, corroborated evidence of almost daily incidents over one-year period, and physical effects supported by testimony and records of Complainant’s treating physician. Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (June 17, 2009) Emotional distress damages of $35,000 where Complainant was fired on the day of her son’s high school graduation, which resulted in seeking treatment for her anxiety and depression. Shores v. Nelson d/b/a Blackhawk Plumbing, CCHR No. 07-E-87 (Feb. 17, 2010) $2,000 awarded for emotional distress to Complainant who failed to provide specific evidence of her emotional distress but emotional distress can be inferred from the sexual harassment described and amount awarded mirrors cases of similar sexual harassment. Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) $20,000 for emotional distress where Complainant testified that Respondent had made sexual advances that were not publicized and “outed” employee about his sexual orientation and employer ignored complaints and violated internal anti-discrimination policies. CHR rejected Respondents' arguments that (1) Complainant should not be compensated for the stress of litigation where investigation was delayed due to CHR backlog, (2) that award should not exceed previous CHR emotional distress awards, and (3) that Complainant’s high susceptibility to emotional distress should reduce damages award. Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) $75,000 emotional distress damages to employee who suffered ongoing sleeplessness, anxiety, and depression, saw a therapist, and was prescribed three medications after supervisor repeatedly harassed and “outed” employee about his sexual orientation and employer ignored complaints and violated internal anti-discrimination policies. CHR rejected Respondents' arguments that (1) Complainant should not be compensated for the stress of litigation where investigation was delayed due to CHR backlog, (2) that award should not exceed previous CHR emotional distress awards, and (3) that Complainant’s high susceptibility to emotional distress should reduce damages award.
damages in that Respondents forced Complainants to break their sales contract just a few weeks before the Complainant’s lease was ending; therefore, even if exposure to cats was not specifically foreseeable, being forced into problematic short-term housing was. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR awarded Complainant/sellers $1,500 each, finding that they suffered some distress by having Respondents cause them not to sell their unit to Complainant/buyers due to parental status of the buyers; however, CHR found they over-stated their distress and that they were not the direct victims of the discrimination. R

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (July 18, 2001), affirmed Godinez v. Sullivan-Lackey et al., 815 N.E.2d 822 (Ill. App. 2004) Respondents who refused to rent to Complainant because she would have paid her rent with a Section 8 voucher ordered to pay her $2,500 in emotional distress damages where the discrimination was a one-time occurrence that did not involve malice or epithets and where she testified that she felt degraded and angry but did not show that the rejection exacerbated pre-existing medical conditions. R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent/owner ordered to pay to Complainant $3500 in emotional distress damages in cases in which she was harassed by agent/building manager due to race of boyfriend and children. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Where Respondent/owner neither knew of nor took any part in racial harassment, Complainant’s request for $5000 in emotional distress damages reduced to $3500 where she never reported the problem to owner and so allowed it to be prolonged. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Complainants harassed by Respondents explicitly because they are Polish awarded $1,500 each where the evidence as to their distress was limited. R

Brennan v. Zeeman, CCHR No. 00-H-5 (Feb. 19, 2003) $5,000 awarded for emotional distress due to sexual orientation discrimination against tenant who testified he is a private person and was upset by incidents of face-to-face harassment, some of which revealed his sexual orientation to neighbors. He was further embarrassed by having to reveal situation to his employer to obtain time off work to pursue his case. Further, discrimination occurred at his home, which should be a place of comfort. R

Hoskins v. Campbell, CCHR No. 01-H-101 (Apr. 16, 2003) $750 awarded for emotional distress from landlord’s refusal to rent to prospective tenant who would have used Section 8 voucher to support rent, where Complainant’s testimony about emotional effects was minimal but demonstrated frustration and stress due to the discrimination, the evidence including Complainant’s demeanor did not support claim of heightened vulnerability due to previous rejections for same reason, the interaction with Respondent was brief and not egregious, and no medical consequences linked to this violation were shown. R

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Emotional distress damages of $40,000 for egregious sexual harassment of vulnerable tenant by landlord including physical violence and eviction threats, which caused fear of homelessness of her and minor children, fear of another sexual assault, inability to leave house due to such fears, sleep loss, nightmares and flashbacks, and migraine headaches, all based on testimony of Complainant and aunt, and mitigated somewhat by failure to seek medical treatment. R

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) $3,000 for emotional distress after refusal to rent due to source of income and disability based on Complainant’s testimony that she felt humiliated, helpless, and stressed and had problems eating and sleeping followed by some recurring distress due to Respondent’s refusal to admit her discriminatory conduct, and where Respondent’s telling Complainant she had to be working aggravated distress of vulnerable Complainant with HIV virus which left her unable to work. R

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) Emotional distress damages of $10,000 for landlord’s harassment and tenancy termination due to sexual orientation, based on tenant’s testimony, where distress included physical symptoms and impairment of relationship with tenant’s family after landlord told them he is gay when he had not informed them because he believed them hostile to gays. R

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) $12,500 held sufficient to compensate for emotional distress where landlord’s use of offensive disability-related epithets was accompanied by violent acts and threats of physical harm against especially vulnerable severely-disabled tenant, and brought back unpleasant childhood memories of being teased by other children because of her disabilities due to polio. Evidence also showed Complainant suffered physical symptoms due to the harassment, although her distress was not long-lasting and she moved at end of lease to housing of her choice. Ruling discusses arguments of parties for higher and lower amounts, reviews factors for determining emotional distress damages, and compares awards in prior cases. R

Torres v. Gonzales, CCHR No. 01-H-46 (Jan. 18, 2006) Emotional distress damages reduced to $5,000 where evidentiary record was minimal, discrimination took place over brief period (about three months) and consisted of single refusal to rent, and Complainant did not seek medical or psychological help. Complainant was somewhat vulnerable as single parent of limited means with three children who needed stable housing and school
environment after being required to vacate previous rental housing. R

Draft v. Jerich, CCHR No. 05-H-20 (July 16, 2008) $5,000 in emotional distress damages for refusal to rent to Section 8 voucher holder based on source of income. Although no evidence about medical treatment, CHR increased hearing officer’s recommended $3,000 based on Complainant testimony of emotional impact when she could not move her family to better neighborhood, still lived in apartment with fewer bedrooms for her children, had to enroll her son in a school outside the neighborhood, and spent time and energy searching for new apartment and pursuing this litigation. R

Sercye v. Reppen and Wilson, CCHR No. 08-H-42 (Oct. 21, 2009) $15,000 awarded for emotional distress where real estate agent told Complainant that building owner did not participate in Section 8 voucher program, based on Complainant’s detailed and convincing testimony to emotional impact lasting over course of a year, including effects of denying daughter opportunity of a better living environment and taking into account the lack of corroborative evidence. R

Diaz v. Wykurz et al., CCHR No. 07-H-28 (Dec. 16, 2009) $2,500 in emotional distress damages where discriminatory refusal to rent to Section 8 voucher holder was not egregious or malicious. CHR balanced impact of loss of improved housing opportunity on a vulnerable low-income parent with evidence that not all of her anger, depression, anxiety, and sleeplessness could be attributed to Respondent’s conduct. R

Hutchison v. Iftekaruddin, CCHR No. 08-H-21 (Feb. 17, 2010) $2,500 emotional distress damages for single incident where landlord refused to rent to Section 8 voucher holder. Larger award not supported by uncorroborated statements that preexisting medical conditions worsened or by unrelated looming eviction that caused stress. R

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Emotional distress damages for refusal to rent to Section 8 tenant that led to strained relationship with daughter and loss of elevator access and parking reduced to $1,500 from Hearing Officer’s recommended $2,500 where testimony was general and conclusory and the refusal to rent was a discrete incident. R

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) $20,000 to each Complainant for emotional distress caused by source of income discrimination where refusal to sell caused one Complainant to lose opportunity to purchase any home and the other Complainant to purchase an inferior home that required repairs, could not house her disabled sister, and was in a less safe area. CHR noted the particular vulnerability of Complainants as low income single parents trying to house their families and the people the public subsidies were designed to help. R

Gray v. Scott, CCHR No. 06-H-10 (Apr. 20, 2011) $5,000 for emotional distress where sexually harassed tenant was vulnerable due to low income, disability, and being a single woman living alone, and where landlord’s offensive sexual gestures and comments caused her to feel afraid, have difficulty sleeping, and lose hair. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) $2,000 for emotional distress arising from hostile environment created by condo association president regarding unit owner’s sexual orientation, where unit owner did not prove significant or long-lasting effects flowing from the conduct. Respondents proved “same result” defense under mixed motive analysis warranting no emotional distress damages for unit owner’s eviction. Also, $100 for emotional distress where association president blocked sale of unit to second Complainant due in part to anti-gay animus but would have rejected her even if not gay, increasing hearing officer’s recommend nominal $1.00 damages to reflect some emotional distress arising from the discriminatory motive. R

Montelongo v. Azarpira, CCHR No. 09-H-23 (Feb. 15, 2012) $2,500 for emotional distress in refusal to rent case where general nature of testimony did not support requested $15,000 but some distress could be inferred from the testimony and the discriminatory act, due to which Complainant was required to find another affordable apartment in a neighborhood she considered less desirable for the needs of her autistic son. R

Public Accommodations

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Complainant who was called racial names and refused service due to her race awarded $1,000, the amount she sought, for her emotional distress, including ongoing stress from the incident. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) Wheelchair-using Complainant awarded $50,000 in emotional distress damages for incident in which Respondent’s failure to have an accessible bathroom stall caused her to be publicly humiliated and where Complainant proved that her distress was severe and lasted over two years. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) Ruling discusses each psychological condition which Complainant showed was caused or worsened by Respondent’s failure to accommodate her, determining how long each condition lasted and when intervening events caused Respondent not to be responsible for Complainant’s ongoing distress. R
Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) In determining the amount of emotional distress damages to award, $50,000, CHR considered the high level of humiliation involved in the underlying incident as well as the severity of Complainant’s response to it, including panic attacks, agoraphobia and depression, some of which lasted over two years. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) CHR awarded Complainant $50,000, not the $32,500 recommended by the Hearing Officer, finding that the underlying incident was extremely humiliating and distressing and finding that the Hearing Officer had undervalued the level of distress which Complainant suffered over the subsequent years. R

Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) CHR awarded Complainant $1000, finding distress to which Complainant testified not all attributable to Respondent in that it was not credible that the range of distress described could have been caused by the relatively minor incident with Respondent and in that he attributed some of his distress to underlying racism in society. R

Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) Complainant of African descent who was ignored and rudely served by Respondent awarded $1000 in emotional distress damages. R

Jordan v. Nat’l Railroad Passenger Corp. (AMTRAK), CCHR No. 99-P-34 (Feb. 19, 2003) $10,000 awarded for emotional distress to African-American man physically ejected from railroad station waiting room based on security policies implemented in racially discriminatory manner. However, testimony concerning lingering physical effects of physical injury incurred held not sufficiently credible to support a damage award on that basis. R

Maat v. Villareal Agencia de Viajes, CCHR No. 05-P-28 (Aug. 16, 2006) $1,000 awarded for emotional distress to wheelchair user who could not enter storefront travel agency due to step after traveling to business by paratransit service not due to return for two hours on hot day, which aggravated her respiratory condition. R

Maat v. El Novillo Steak House, CCHR No. 05-P-31 (Aug. 16, 2006) $1,000 awarded for emotional distress to wheelchair user who could not enter storefront restaurant; despite sparse evidence, such injury is reasonably expected to cause more than minor inconvenience and CHR has typically awarded $1,000 in like situations. R

Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) $1,000 awarded to each of three African-American Complainants subjected to differential treatment based on race by store manager in single incident where not given coupons white patrons were receiving and then asked to leave under threat to call police when they objected. Complainants testified to humiliation and perception of difficulties being African-American in contemporary society. Additional $1,000 damages awarded to one Complainant who at a later date was told to leave store in retaliation for filing CHR Complaint. Damages for initial discrimination assessed at 50% each against manager and business. All damages for retaliation assessed against manager. R

Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) $2,400 total emotional distress damages in total against Respondents where Complainant was subjected to repeated homophobic epithets but did not demonstrate severe or prolonged distress. Damages apportioned among five Respondents based on their level of culpability. R

Morrow v. Tumala, CCHR No. 03-P-2 (Apr. 18, 2007) $5,000 awarded for emotional distress to female, African-American taxicab passenger asked to pay higher fare than white, male passenger for similar ride. She testified to embarrassment at depending on the white, male passenger for help in pursuing her case, continued feelings that people think less of her as African-American woman, and that the incident cause her to cry later that day at parent teacher organization meeting discussing racial gap between white and black students. R

Maat v. String-a-Strand, CCHR No. 05-P-5 (Feb. 20, 2008) $1,500 emotional distress damages where business did not have wheelchair accessible ramp, owner behaved rudely toward Complainant after she sought accommodation, and Complainant had to wait in sub-zero temperatures for paratransit ride to return. R

Williams v. Funky Buddha Lounge, CCHR No. 04-P-82 (July 16, 2008) $500 award for emotional distress to Complainant denied entry to nightclub based on sex and sexual orientation where it was an isolated incident lasting a few minutes, having minimal effect on Complainant and no significant lasting effect. R

Cotten v. Taylor Street Food and Liquor, CCHR No. 07-P-12 (July 16, 2008) $1,000 awarded for emotional distress where wheelchair user felt “silly and stupid” waiting five to ten minutes in vain outside a wheelchair-inaccessible store to see if an employee would help him gain access. Amount relatively low due to lack of malice by business and Complainant’s sparse testimony that did not establish particular vulnerability, long-term symptoms, or physical manifestations of emotional distress. R

Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (May 20, 2009) Commission awarded $500 in emotional distress damages instead of the requested amount of $1,000 because of lack of any personal contact with Respondent’s personnel, the very brief duration of the incident, and Complainant’s very minimal testimony which merely states feelings that any wheelchair user who observes an entry barrier is likely to have. R
Where Complainants requested no specific damage amount, CHR awarded emotional distress damages based on length of time they experienced emotional distress, severity of mental distress and physical manifestations, complainant vulnerability, duration and egregiousness of underlying discrimination, and damages awarded in past CHR cases. R

Cotten v. 162 N. Franklin, LLC d/b/a Eppy’s Deli and Café, CCHR No. 08-P-35 (Sept. 16, 2009) $500 emotional distress damages where restaurant’s front step prevented wheelchair access for Complainant, where it was a discrete incident, there was no evidence of slurs or people noticing Complainant, and Complainant provided minimal testimony about emotional effects. R

Cotten v. Addiction Sports Bar & Lounge, CCHR No. 08-P-68 (Oct. 21, 2009) Only $1.00 in emotional distress damages where Respondent restaurant was not wheelchair-accessible but staff acted to mitigate Complainant’s inconvenience. Complainant’s testimony did not establish the experience was unpleasant, present any visual signs of distress, or otherwise prove emotional injury. Complainants entitled to emotional distress damages only where actually damaged, not as reward for winning a case. R

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) $1.00 awarded to wheelchair user unable to access a store where the incident was brief and Complainant testified in conclusory fashion, did not seek the goods elsewhere, and did not prove any actual emotional distress. Amounts awarded in other cases do not automatically entitle Complainant to similar awards in every case. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Emotional distress damages of $800 to wheelchair user who could not enter restaurant with a friend who suggested they eat there, was offered only the option of being carried in by staff, then had to go with friend to another restaurant. Board noted hearing officer’s findings that the business failed to inform itself adequately of its responsibilities and Complainant’s testimony including demeanor while testifying showed significant emotional reaction to inconveniencing his companion and established that such experiences have inhibited his social interactions. R

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) $500 in emotional distress damages where wheelchair user could not access a restaurant’s restrooms but was not subjected to rude or egregious behavior, and his testimony was minimal and not indicative of any continuing distress. R

Scott and Lyke v. Owner of Club 720, CCHR No. 09-P-2/9 (Feb. 16, 2011) $1,500 awarded for emotional distress to African-American man excluded from nightclub based on policy barring hair braids. $1,000 awarded for emotional distress to Muslim man asked to leave or comply with nightclub’s policy barring hats by removing his kufi. Higher emotional distress damages warranted in first incident because impact on Complainant was greater, causing him to change his hairstyle. R

Cotten v. Top Notch Beefburger, Inc., CCHR No. 09-P-31 (Feb. 16, 2011) $500 for emotional distress where restaurant lacked wheelchair-accessible restroom. Modest award based on recent cases of same Complainant with similar vague testimony, but more than nominal $1.00 award of some cases based on testimony of fear of soiling himself. R

Burford v. Complete Roofing and Tuck Pointing et al., CCHR No. 09-P-109 (Oct. 19, 2011) $1,000 each for emotional distress of two complainants subjected to race discrimination including derogatory slurs in single incident of discriminatory service by a business, where evidence of emotional distress was minimal. R

Manzanares v. Lalo’s Restaurant, CCHR No. 10-P-18 (May 16, 2012) $3,500 for emotional distress due to exclusion from restaurant-club based on gender identity, finding Complainant felt humiliated and devalued and continued to feel effects of discrimination but did not seek physical or mental treatment. R

Purpose

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) Emotional distress damages are to fully compensate a complainant for her emotional distress, humiliation, shame, embarrassment and mental anguish resulting from a respondent’s discriminatory conduct. R

Standard

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) While complainants may not need to provide precise calculation of damages, speculative or remote damages are not awarded. R


Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) CHR can award damages only due to injury resulting from unlawful discrimination, not for that arising from other factors for which the respondent bears no responsibility. R

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) In determining amount of
emotional distress damages, CHR considered that Complainant presented detailed testimony about the mental and physical effects of the discrimination; that the discrimination was face-to-face and included an epithet; and that Complainant was particularly vulnerable. R

_Barnett v. T.E.M.R. Realty & Jackson_, CCHR No. 97-H-31 (Dec. 6, 2000) Respondents not responsible for damages they did not cause and which were not reasonably foreseeable. R

_Godard v. McConnell_, CCHR No. 97-H-64 (Jan. 17, 2001) In determining amount of emotional distress, CHR considers egregiousness of discrimination, its duration, its effects, the severity of the distress and a complainant’s vulnerability. R

_Sullivan-Lackey v. Godinez_, CCHR No. 99-H-89 (July 18, 2001), affirmed _Godinez v. Sullivan-Lackey et al._, 815 N.E.2d 822 (Ill. App. 2004)’ Standards used to determine whether to award emotional distress damages in discrimination cases are not the same as those used to determine whether a defendant has committed the tort of intentional infliction of emotional distress; thus the fact that Respondents deliberately refused to rent to Complainant because she would have paid her rent with a Section 8 voucher is sufficient to violate CFHO and so to allow Complainant to recover the emotional distress damages she proves. R

_Byrd v. Hyman_, CCHR No. 97-H-2 (Dec. 12, 2001) Fact that harassment occurred in Complainant’s home is “particularly distressing” as it undermines ability to feel secure in home. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

_Rogers/Slomba v. Díaz_, CCHR No. 01-H-33/34 (Apr. 17, 2002) In determining amount of emotional distress, CHR considers the length and severity of the distress, the complainant’s vulnerability, and the egregiousness and duration of the underlying discrimination. R


_Sercye v. Reppen and Wilson_, CCHR No. 08-H-42 (Oct. 21, 2009) The inquiry as to emotional distress is a personal one and the appropriate award of damages depends on the individual facts and circumstances of a given case. R

**Fines – See separate Fines section, below.**

_Front Pay_

_Griffiths v. DePaul University_, CCHR No. 95-E-224 (Apr. 19, 2000) Front pay is discounted present value or difference between earnings an employee would have received and earnings she could be expected to receive in future. R

_Griffiths v. DePaul University_, CCHR No. 95-E-224 (Apr. 19, 2000) Front pay not awarded; CHR found them speculative and found that Complainant did not show such extreme hostility as to foreclose an employment relationship with Respondent employer. R

_Claudio v. Chicago Baking Co._, CCHR No. 99-E-76 (July 17, 2002) Claims for reinstatement and front pay denied where no evidence presented as to feasibility of reinstatement. R

_Frustration of Mission_


_Immunity_

_Winter v. Chicago Park Dist._, CCHR No. 97-PA-55 (Oct. 18, 2000) CHR found Respondent not immune from emotional distress damages due to the Tort Immunity Act as that act applies only to tort-like injuries, not civil rights violation as involved in this case; cites federal and state cases. R

_Winter v. Chicago Park Dist._, CCHR No. 97-PA-55 (Oct. 18, 2000) CHR found that common law immunity, but not the Tort Immunity Act, makes Respondent immune from paying punitive damages. R

_Injunctive Relief_

_Leadership Council for Metro. Open Comms. v. Souchet_, CCHR No. 98-H-107 (Jan. 17, 2001) Respondent who would not rent to African-Americans ordered to refrain from such discrimination; to pay for future tests of her practices; to attend fair housing training; to develop uniform leasing practices; and to keep written records of vacancies and rentals; Complainant to monitor these activities. R

_Leadership Council for Metro. Open Comms. v. Souchet_, CCHR No. 98-H-107 (Jan. 17, 2001) Money which Respondent was ordered to pay for future tests required to be held in escrow by Complainant; it is to be returned to Respondent if Complainant does not perform the tests in the time allotted. R
CHR ordered Respondents to attend fair housing training where CHR found they intentionally did not allow a sale to people with a child but claimed they did not know that it was illegal to discriminate due to parental status. R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Where CHR found that Respondent/owner neither knew nor should have known that his agent/building manager was discriminating against Complainant and where he took immediate corrective action upon learning of it [when complaint was filed], CHR found his actions did not warrant imposing injunctive relief. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Frazier v. Midlakes Mgmt. LLC et al., CCHR No. 03-H-41 (Sep. 15, 2003) CHR authorized to grant injunctive relief. CO

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Landlord found liable for egregious sexual harassment of vulnerable tenant permanently enjoined from sex discrimination in connection with rental of dwellings in Chicago and ordered to attend training in responsibilities under fair housing laws, to place notice of equal housing opportunity in all advertising and forms concerning rental housing units in Chicago, to maintain and submit to Complainant’s counsel all compliance records including rental applications and leases for housing units in Chicago, and to deliver copy of CHR ruling to Chicago’s Section 8 voucher program administrator. R

Maat v. Villareal Agencia de Viajes, CCHR No. 05-P-28 (Aug. 16, 2006) Storefront business without wheelchair access due to step at entrance ordered to remove all physical barriers or if undue hardship exists, to provide reasonable accommodations and conspicuous notice of how to access same services offered to persons without a disability. R


Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Business Respondent ordered to notify CHR and prevailing Complainants of last known contact information for defaulted former store manager. R

Maat v. String-a-Strand, CCHR No. 05-P-5 (Feb. 20, 2008) Respondent with wheelchair inaccessible retail store ordered to eliminate all physical barriers in accordance with Illinois Accessibility Code and American National Standard Institute standards within 14 days of final order. Owner who treated Complainant rudely ordered to donate ten hours of personal volunteer service to organization which assists people with disabilities. Respondent ordered to notify Commission and Complainant of completion of modifications and service hours. R

Cotten v. Taylor Street Food and Liquor, CCHR No. 07-P-12 (July 16, 2008) Respondent ordered to eliminate all physical barriers to access to its retail premises or, if unable due to undue hardship, to provide alternative reasonable accommodations and conspicuous notice informing wheelchair users approaching its entrance how to access services. R

Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (May 20, 2009) Restaurant without wheelchair-accessible entrance ordered (1) to provide permanent access or objective documentation of undue hardship and reasonable accommodation such as portable ramp, doorbell, exterior notice, and staff training; (2) to report steps taken to Complainant and CHR. R

Cotten v. 162 N. Franklin, LLC d/b/a Eppy’s Deli and Café, CCHR No. 08-P-35 (Sept. 16, 2009) Restaurant without wheelchair-accessible entrance ordered (1) to provide permanent access or objective documentation of undue hardship and reasonable accommodations such as portable ramp, doorbell, exterior notice, and staff training; (2) to report steps taken to Complainant and CHR. R

Cotten v. Addiction Sports Bar & Lounge, CCHR No. 08-P-68 (Oct. 21, 2009) No injunctive relief for violation based on lack of wheelchair access where restaurant was out of business at time of final order. R

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Business without wheelchair-accessible entrance to second-floor showroom ordered (1) to provide permanent access or objective documentation of undue hardship and reasonable accommodations such as doorbell at street level, exterior notice, alternative service, and staff training; (2) to report steps taken to Complainant and CHR. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Where restaurant entrance found not wheelchair accessible and undue hardship not shown, Respondent ordered to take steps by stated deadlines to make the entrance accessible to extent possible without undue hardship and to document any undue hardship claimed. R.

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (June 4, 2010) CHR declined to certify undue hardship on request of Respondent after final order directing Respondent to make its showroom wheelchair accessible as able without undue hardship. Respondent’s submissions documenting compliance would be considered if Complainant moved to enforce the injunctive relief, but because it appeared Respondent had made substantial effort to comply with the final order, CHR did not contemplate seeking judicial enforcement sua sponte at that time. CO

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) Respondent restaurant with no wheelchair-accessible restrooms ordered to make at least one restroom wheelchair accessible or to document any
undue hardship and provide reasonable alternative restroom accommodations as feasible without undue hardship. R

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Respondents who refused to rent to Section 8 voucher holder required to place “EHOP” (Equal Housing Opportunity Provider) and “Section 8 recipients are welcome” statements on website and in all rental housing advertisements for five years. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) CTA ordered to provide mandatory training to employees on laws and internal policies prohibiting discrimination with a focus on workplace harassment where supervisor harassed employee about his sexual orientation and other managers ignored his complaints. Respondent must report steps taken to CHR and Complainant. R

Cotten v. Top Notch Beefburger, Inc., CCHR No. 09-P-31 (Feb. 16, 2011) Restaurant without wheelchair-accessible restroom ordered (1) to provide at least one wheelchair accessible restroom or (2) to provide objective documentary evidence of any undue hardship and then make reasonable accommodations, provide notice of the accommodations, and ensure staff is trained to provide the accommodations. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Apr. 19, 2012) CHR granted extension of time to comply with injunctive order to provide sexual orientation harassment training, discussed applicable compliance standards. CO

Manzanares v. Lalo’s Restaurant, CCHR No. 10-P-18 (May 16, 2012) Restaurant-club which excluded transgender Complainant ordered to promulgate anti-discrimination policy and train staff, to prevent further gender identity discrimination and similar violations. Hearing officer recommendations involving CHR in execution not adopted; compliance responsibility rests with Respondent and should not be made dependent on CHR action. R

"Lost Housing Opportunity"
Griffiths v. DePaul University, CCHR No. 95-E-224 (Apr. 19, 2000) Where Resident Hall Minister job for which Respondent rejected Complainant did not pay wages but provided room and board, CHR reviewed possible value of lost housing; however, it did not award these damages, finding that Complainant unreasonably rejected Respondent’s re-offer of employment into the same job. R

Mitigation

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Where Respondent quickly re-offered to Complainant the exact job it had discriminatorily withdrawn, Complainant’s unreasonable failure to accept re-offer found to cut off economic damages and reinstatement. R


Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (July 18, 2001), affirmed Godinez v. Sullivan-Lackey et al., 815 N.E.2d 822 (Ill. App. 2004) Respondents did not support their failure-to-mitigate defense that Complainant could have found a substitute apartment before her voucher expired or could have found a less expensive apartment; they provided no basis to find that Complainant’s efforts were not diligent. R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Where Respondent/owner neither knew of nor took any part in racial harassment, Complainant’s request for $5000 in emotional distress damages reduced to $3500 where she never reported the problem to owner and so allowed it to be prolonged. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Carroll v. Riley, CCHR No. 03-E-172 (Nov. 17, 2004) Back pay and front pay not awarded for periods when Complainant admitted he did not seek employment. R

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) No back pay for period after Complainant discontinued job search and directed energies to developing own competing business, even though business did not produce earnings in first year. R

Mixed Motive
Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Respondents proved “same result” defense under mixed motive analysis warranting no emotional distress damages for unit owner’s eviction. Also, $100 for emotional distress where association president blocked sale of unit to second Complainant due in part to anti-gay animus but would have rejected her even if not gay, increasing hearing officer’s recommend nominal $1.00 damages to reflect some emotional distress arising from the discriminatory motive. R
Out-of-Pocket Damages

Employment

**Claudio v. Chicago Baking Co.,** CCHR No. 99-E-76 (July 17, 2002) Back pay runs from date of discrimination until complainant fully mitigates damages, is offered reinstatement, or final ruling is issued. R

**Nuspl v. Marchetti,** CCHR No. 98-E-207 (Sep. 18, 2002) No out-of-pocket damages to restaurant kitchen manager who quit after sexual orientation harassment where he did not offer evidence of lost income or efforts to find comparable work elsewhere, so no basis to calculate economic loss. R

**Salwierak v. MRI of Chicago, Inc. & Baranski,** CCHR No. 99-E-107 (July 16, 2003) No back pay awarded to sexual harassment victim where reason for her discharge not established by preponderance of evidence, she admitted falling behind in work on several occasions, and she made no effort to seek other employment. R

**Brooks v. Hyde Park Realty Co., Inc.,** CCHR No. 02-E-116 (Dec. 17, 2003) Back pay and unreimbursed vacation pay awarded for age discriminatory discharge where Complainant had not obtained employment as of date of hearing, based on Complainant testimony as to amount; written documentation of out-of-pocket damages not required as long as party can testify to them with certainty. R

**Martin v. Glen Scott Multi-Media,** CCHR Case No. 03-E-034 (Apr. 21, 2004) Complainant discharged due to pregnancy awarded (1) $5,236 of back pay covering 37 weeks and two days of unemployment; (2) $65 of expenses to attend pre-hearing conference Respondent failed to attend, including one day of lost wages plus babysitting and transportation costs. R

**Arellano & Alvarez v. Plastic Recovery Technologies Corp.,** CCHR No. 03-E-37/44 (July 21, 2004) Complainants discharged or constructively discharged due to perceived sexual orientation awarded back pay of (1) $653.85 for being out of work one week before starting higher-paying job and (2) $9,807.64 covering 22 weeks of unemployment offset by the unemployment compensation received and 40 weeks working in a lower-paying job through the date of hearing. R

**Mullins v. AP Enterprises, LLC et al.,** CCHR No. 03-E-164 (Jan. 19, 2005) Complainant discharged due to disability (depression) awarded back pay of $14,734.61 calculated from date of discharge until expected start date in higher-paying job, based on her testimony and some pay stubs corroborating pay while employed. Written documentation of out-of-pocket damages not required if party can testify to them with certainty. R

**Feinstein v. Premiere Connections, LLC et al.,** CCHR No. 02-E-215 (Jan. 17, 2007) Back pay award to sales representative was determined by base pay and commission received in six month period prior to discharge; however, no back pay for period after Complainant discontinued job search and directed energies to developing own competing business, even though business did not produce earnings in first year. R

**Manning v. AQ Pizza LLC d/b/a Pizza Time, et al.,** CCHR No. 06-E-17 (Sep. 19, 2007) Complainant awarded $500 lost wages where fired after refusing manager’s sexual advances and was unemployed for a month. R

**Calamus v. Chicago Park District & Konow,** CCHR No. 01-E-115 (Mar. 4, 2008) Complainant may not be awarded damages for lost compensation beyond effective date of her resignation where she did not allege constructive discharge in initial or amended complaint prior to substantial evidence finding, so the claim could be investigated. HO

**Johnson v. Fair Muffer Shop a/k/a Fair Undercare Car a/k/a Fair Muffler & Brake Shops,** CCHR No. 07-E-23 (Mar. 19, 2008) $18,245 in back pay based on Complainant’s testimony of time unemployed and lower wages at eventual new job. $10,465 in front pay based on Complainant’s testimony of lower expected future earnings for two year period discounted to present value, where continuous racial slurs made reinstatement impracticable. R

**Hawkins v. Ward & Hall,** CCHR No. 03-E-114 (May 21, 2008) $6,000 in back pay to employee discharged due to sexual harassment who was out of work two months and had $36,000 annual salary. Amount apportioned $4,000 against supervisor who made sexual advances and $2,000 against supervisor who knew of it but took no remedial action. No damages for lower wages in new job or for medical expenses where Complainant did not testify with certainty to the length of time at new job or the medical costs. R

**Lockwood v. Professional Neurological Services, Ltd.,** CCHR No. 06-E-89 (June 17, 2009) Complainant discharged due to parental status awarded one year of back pay and commission based on earnings in the year prior to discharge. R

**Roe v. Chicago Transit Authority et al.,** CCHR No. 05-E-115 (Sep. 8, 2009) Motion in limine to exclude evidence regarding back pay denied without prejudice where hearing not held and Complainant may be able to show lost wages from alleged harassment even though not allowed to proceed on constructive discharge claim. HO

**Shores v. Nelson d/b/a Blackhawk Plumbing,** CCHR No. 07-E-87 (Feb. 17, 2010) Based on Complainant’s testimony without response from defaulted Respondent, $80,000 awarded in back pay where Complainant’s termination was part of sexual harassment. No compensation for lost bonuses, as Complainant did not provide sufficient evidence of their frequency and amount and whether they were tied to performance. R

**Flores v. A Taste of Heaven et al.,** CCHR No. 06-E-32 (Aug. 18, 2010) Back pay awarded to Complainant discriminatorily discharged for the 15 weeks during which she looked for work. Respondents’ argument that
Complainant was offered reinstatement did not cut off back pay where the reinstatement offer letter was not unconditional. Complainant’s unemployment benefits not deducted from back pay award, citing federal case law. R

_Roe v. Chicago Transit Authority et al._, CCHR No. 05-E-115 (Oct. 20, 2010) Complainant harassed based on sexual orientation not entitled to back pay because lost compensation was not attributable to the harassment where Complainant made personal decision to decline two viable offers of alternative positions. No damages for cost of living, relocation, and travel expenses where harassment did not cause Complainant to move to another city and the move was not reasonably foreseeable. $10,360 for medical expenses where sexual orientation harassment caused need for therapy and medication and such expenses were reasonably foreseeable result. Written documentation or precise calculation of medical expenses not required if party can testify to them with certainty and makes reasonable estimates. R

_Tarpein v. Polk Street Company d/b/a Polk Street Pub et al._, CCHR No. 09-E-23 (Oct. 19, 2011) Pregnant employee forced to take maternity leave before ready to do so awarded back pay from date forced leave began to birth of child. No back pay for later period of unemployment after birth of child because Complainant did not prove she was discharged. Hearing officer’s calculation approved where evidence at hearing was insufficient to support an added amount for tips or a finding that Complainant worked more hours per week, and documentary evidence of earnings was not admitted because not tendered in Complainant’s pre-hearing memorandum. R

_Sleper v. Maduff & Maduff LLC_, CCHR No. 06-E-90 (May 16, 2012) Law firm associate attorney awarded back pay of $9,466.45 after discharge due to pregnancy and related leave, measured as difference between actual earnings for year and what she would have earned, plus bonuses she would have received. No evidence failure to mitigate losses. R

**Housing**

_Nash/Demby v. Sallas Realty & Sallas_, CCHR No. 92-H-128 (Apr. 19, 2000) Upon remand from state court, CHR awarded one Complainant $615 as rent differential for length of time remaining in lease for subletting apartment had Respondents not refused to allow him to sublet due to his race; total out-of-pocket damages awarded total $15,615, including other amounts remaining after remand. R

_Barnett v. T.E.M.R. Realty & Jackson_, CCHR No. 97-H-31 (Dec. 6, 2000) Complainant who was locked out of her apartment after Respondents learned of her disability awarded $1000 as return of her security deposit, $500 of moving expenses, and $100 of travel costs. R

_Godard v. McConnell_, CCHR No. 97-H-64 (Jan. 17, 2001) Where Complainant presented no evidence about the difference between the apartment she did rent and the one for which Respondent did not allow her to apply, she was not awarded value of any difference between them. R

_Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al._, CCHR No. 99-H-39/53 (Apr. 18, 2001) Complainant/buyers were not awarded difference between cost of condominium they did buy and cost of the one which Respondents’ discrimination prevented them from purchasing because they did not prove that the difference was not due to the higher value of the purchased unit; distinguished rental differential cases. R

_Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al._, CCHR No. 99-H-39/53 (Apr. 18, 2001) Complainant/buyers were not awarded difference between assessments paid at condominium they did buy and those they would have paid at the one which Respondents’ discrimination prevented them from purchasing because they did not prove that the two assessments did covered the same thing. R

_Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al._, CCHR No. 99-H-39/53 (Apr. 18, 2001) Complainant/buyers were not awarded rent paid during the time they were unable to move into their new condominium as they failed to prove that they would have paid less had Respondents’ discrimination not prevented them from purchasing that unit. R

_Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al._, CCHR No. 99-H-39/53 (Apr. 18, 2001) Complainant/buyers were not awarded moving costs as they failed to prove that they would have incurred the same costs if Respondents’ discrimination not prevented them from purchasing that unit. R

_Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al._, CCHR No. 99-H-39/53 (Apr. 18, 2001) Complainant/buyers awarded costs for items purchased for unit for which they were ultimately denied; and costs for lost wages and baby-sitting expenses incurred both for finding another condominium and for proceeding with this case; order discusses decisions awarding costs associated with prosecuting a case. R

_Sullivan-Lackey v. Godinez_, CCHR No. 99-H-89 (July 18, 2001), affirmed _Godinez v. Sullivan-Lackey et al._, 815 N.E.2d 822 (Ill. App. 2004) Respondents who refused to rent to Complainant because she would have paid her rent with a Section 8 voucher ordered to pay her the $25 application fee she paid them and $2,235 for rent paid for another apartment in excess of what she would have paid Respondents. R

_Sullivan-Lackey v. Godinez_, CCHR No. 99-H-89 (July 18, 2001), affirmed _Godinez v. Sullivan-Lackey et al._, 815 N.E.2d 822 (Ill. App. 2004) Respondents did not support their failure-to-mitigate defense that Complainant could have found a substitute apartment before her voucher expired or could have found a less expensive apartment;
they provided no basis to find that Complainant’s efforts were not diligent. R

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (July 18, 2001), affirmed Godinez v. Sullivan-Lackey et al., 815 N.E.2d 822 (Ill. App. 2004) Respondents who refused to rent to Complainant because she would have paid her rent with a Section 8 voucher ordered to pay her $850 she incurred in storing her possessions after they refused to rent to her. R

Brennan v. Zeeman, CCHR No. 00-H-5 (Feb. 19, 2003) Tenant forced to move due to sexual orientation discrimination awarded moving expenses, unreturned security deposit plus interest and cost of security deposit on new apartment based on his testimony as to costs actually incurred. Held not compensable were cost of security deposit on new apartment, because it will be returned at end of lease, and financing cost due to unreturned deposit, because amount is uncertain and de minimis. R

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Tenant forced to move due to landlord’s sexual harassment entitled to recover economic costs proximately related to move including moving expenses, new security deposit, and additional heating expenses in new housing (These awards reversed by Circuit Court as too speculative). No evidence that Respondent’s failure to return security deposit was related to the discriminatory conduct, so not compensated. R

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) For harassment and tenancy termination due to sexual orientation, $720 awarded for moving expenses, plus rent differential of $35 per month for 12 months of new lease, although 6 months remained on lease with Respondent; unreimbursed security deposit not awarded because not proved due to the discrimination. Documents to support out-of-pocket damages held not needed because Complainant’s credible testimony was sufficient. R

Torres v. Gonzales, CCHR No. 01-H-46 (Jan. 18, 2006) In Section 8 refusal to rent case, Board awarded $567.60 for storage of furniture, $128 for rental of post office box, and $200 for travel expenses while Complainant and three children lived with her father in town 112 miles away and searched for housing. Awarded $310 for moving expenses due to need to move twice, and $50 for higher security deposit for housing found. Rent expense request reduced to the $404 currently paid as Section 8 tenant share, because rent would have been paid absent discrimination and no evidence of tenant share during that period. Compensation for property damage during move denied due to lack of evidence linking to the discrimination; compensation for work days missed for hearings denied for lack of evidence to support amount requested. R

Marshall v. Borouch, CCHR No. 05-H-39 (Aug. 16, 2006) Landlord who refused to return security deposit based on race ordered to pay the $1,100 deposit amount plus interest. R

Sercye v. Reppen and Wilson, CCHR No. 08-H-42 (Oct. 21, 2009) Out-of-pocket losses to pursue case not proved where no evidence of expenditures presented and losses were calculated in manner similar to attorney fees. R

Hutchison v. Iftekaruddin, CCHR No. 08-H-21 (Feb. 17, 2010) Compensation denied for attorney fees to defend against lease termination by prior landlord, as connection to Respondent’s discriminatory refusal to rent to Section 8 voucher holder was too attenuated and not reasonably foreseeable. CHR takes notice that CHA inspection and leasing process can take a few weeks to complete; thus CHR cannot find it reasonably foreseeable that Complainant could have rented the available apartment and averted losses related to termination of her existing tenancy. R

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) In Section 8 refusal to rent case, $850 awarded for utility differential between apartments. Moving and gasoline expenses denied for lack of specific evidence to support amount requested. Damages for security deposit at new apartment denied where there was no evidence that it would not be returned and no evidence of the present value of money. Compensation for water damage at current apartment denied for lack of causal relationship or foreseeability. Damages for credit application fee denied where Complainant would have had to pay a similar fee in absence of the discrimination. R

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) Damages for transportation and child care denied as speculative where vague and tentative testimony provided only proposed amounts, general statements of types of costs, and general time frames. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Applying mixed motive analysis, no damages for out-of-pocket losses resulting from eviction that would have occurred regardless of Respondent’s discriminatory animus. R

Montelongo v. Azarpira, CCHR No. 09-H-23 (Feb. 15, 2012) Damages awarded for loss of two weeks’ pay while taking off work to search for another apartment after discriminatory refusal to rent, based on Complainant’s clear testimony supporting amount of award. Damages for higher childcare costs, moving expenses, and loss of unusable furniture denied due to inadequate testimony or other evidence documenting the actual costs incurred. R
Public Accommodation

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Complainant awarded $9 in damages for difference between what she paid for services and what she would have had to pay. Respondents had they not discriminated against her due to her race and awarded $404 for time lost from work as well as money spent for miscellaneous expenses related to pursuing her case. R


Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) No out-of-pocket damages for eviction where Complainant’s failure to pay rent, not sexual orientation harassment, caused eviction. R

Morrow v. Tumala, CCHR No. 03-P-2 (Apr. 18, 2007) $50 awarded as taxicab fare to and from CHR’s office to pursue Complainant’s case. R

Cotten v. Taylor Street Food and Liquor, CCHR No. 07-P-12 (July 16, 2008) No damage award for lost wages due to lack of evidentiary support where Complainant did not provide specific amount lost or details on his employment, pay rate, and hours missed. R

Scott and Lyke v. Owner of Club 720, CCHR No. 09-P-2/9 (Feb. 16, 2011) $15 awarded for valet parking to Complainant discriminatorily denied access to a nightclub; $2 bus fare denied to Complainant who was discriminatorily excluded after spending two hours in the nightclub because cost was not sufficiently connected to the discrimination. R

Manzanares v. Lalo’s Restaurant, CCHR No. 10-P-18 (May 16, 2012) No damages for lost wages or employment where Complainant did not prove amount or show job loss was direct consequence of discrimination. R

Pre- & Post-Judgment Interest


Griffiths v. DePaul University, CCHR No. 95-E-224 (Apr. 19, 2000) (same) R

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) (same) R


Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) (same) R


Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) (same) [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]R

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) (same) R

Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) (same) R

Salwierak v. MRI of Chicago, Inc. & Baranski, CCHR No. 99-E-107 (July 16, 2003) Due to lack of specific evidence of when sexually harassing incidents occurred, interest awarded from last day of month which was the only date identified, as record is clear the harassment was pervasive by that date. R

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) Pre- and post-judgment interest awarded on emotional distress damages, calculated from first date of harassment; post-judgment interest awarded on punitive damages. R


Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) CHR routinely awards both pre- and post-judgment interest. R

Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) Mid-point of harassment set as date of injury for pre-judgment interest to begin where an exact date could not be pinpointed for the cumulation of a series of incidents into a hostile environment. R

Bellamy v. Neapolitan Lighthouse, CCHR No. 03-E-190 (Apr. 18, 2007) Pre-judgment interest calculated from most recent instance of discrimination where hearing officer did not make a finding as to violation date and the most recent incident was the culmination, one of the most significant instances of discrimination, and the incident which most clearly communicated to Complainant that her rights under CHRO were being violated. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Pre-judgment interest for employment harassment started on day of first definitive incident where the record was unclear as to specific start date. CHR would not adjust the date for delays in investigation. R

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) Interest on damages dated from November 30 in failure to sell case where one Complainant received earnest money back on an unspecified date in November and other Complainant received half of earnest money back in November and half in December. R

Gray v. Scott, CCHR No. 06-H-10 (Apr. 20, 2011) Interest on damages for sexual harassment commenced from first definitive incident date where Respondent’s conduct had become pervasive and continuing. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Where record did not pinpoint exact date hostile environment violation began, interest award dated from first day after month in which Respondent made clear derogatory remark to Complainant based on her sexual orientation. R

Proof of

Employment

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) While complainants may not need to provide precise calculation of damages, speculative or remote damages are not awarded. R

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) No emotional distress damages where Complainant did not give notice that she was seeking such damages in her pre-hearing memorandum and did not provide good cause for failure to do so. R

Housing

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) Complainant who was locked out of her apartment after Respondents learned of her disability awarded $15,000 for her emotional distress where she and a witness credibly testified that she was particularly vulnerable, that she was “devastated,” that she had to increase visits to a therapist and a doctor and increase her medication due to the distress Respondents caused, and that the distress was one reason she could not work for six weeks. R

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (July 18, 2001), affirmed Goldinez v. Sullivan-Lackey et al., 815 N.E.2d 822 (Ill. App. 2004) Respondents who refused to rent to Complainant because she would have paid her rent with a Section 8 voucher ordered to pay her $2,500 in emotional distress damages where she testified that she felt degraded and angry but did not show that the rejection exacerbated pre-existing medical conditions. R

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (July 18, 2001), affirmed Godinez v. Sullivan-Lackey et al., 815 N.E.2d 822 (Ill. App. 2004) Standards used to determine whether to award emotional distress damages in discrimination cases are not the same as those used to determine whether a defendant has committed the tort of intentional infliction of emotional distress; thus the fact that Respondents deliberately refused to rent to Complainant because she would have paid her rent with a Section 8 voucher is sufficient to violate CFHO and so to allow Complainant to recover the emotional distress damages she proves. R

Montelongo v. Azarpira, CCHR No. 09-H-23 (Feb. 15, 2012) Damages for emotional distress and out-of-pocket losses after discriminatory refusal to rent were awarded in amounts lower than requested due to general nature of supporting testimony and lack of other concrete evidence. R

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Public Accommodation

*Winter v. Chicago Park Dist.*, CCHR No. 97-PA-55 (Oct. 18, 2000) CHR can award damages only due to injury resulting from unlawful discrimination, not for that arising from other factors for which the respondent bears no responsibility. R

*Winter v. Chicago Park Dist.*, CCHR No. 97-PA-55 (Oct. 18, 2000) Respondents must take complainants as they find them, be they particularly resilient or particularly vulnerable; where Complainant had some pre-existing vulnerability, Respondent was liable only for increased level of distress caused by its failure to accommodate her. R

*Winter v. Chicago Park Dist.*, CCHR No. 97-PA-55 (Oct. 18, 2000) expert medical and psychiatric testimony is not necessary to establish emotional distress injury; medical documents plus testimony of Complainant and witness were sufficient to establish her distress. R

*Winter v. Chicago Park Dist.*, CCHR No. 97-PA-55 (Oct. 18, 2000) Ruling discusses each psychological condition which Complainant showed was caused or worsened by Respondent’s failure to accommodate her, determining how long each condition lasted and when intervening events caused Respondent not to be responsible for Complainant’s ongoing distress. R

Punitive Damages – See separate Punitive Damages section, below.

Tax Consequences


Unemployment Compensation

*Arellano & Alvarez v. Plastic Recovery Technologies Corp.*, CCHR No. 03-E-37/44 (July 21, 2004) Back pay award offset by unemployment compensation received; following guidance of Illinois Human Rights Commission decisions, Complainant ordered to notify and provide document to Respondent if required to pay back any such compensation; Respondent ordered to pay documented amount no later than 30 days from notification. R

*Flores v. A Taste of Heaven et al.*, CCHR No. 06-E-32 (Aug. 18, 2010) Unemployment benefits not deducted from back pay award due to lack of CHR authority to enforce any reporting or reimbursement provisions in unemployment compensation law, citing federal case law for general view that unemployment benefits should not be deducted from back pay. R

DEATH OF PARTY/WITNESS – See Survival of Claims, Evidence/Dead Man’s Act, and Evidence/Unavailable Evidence sections, below.

DEFAULT JUDGMENT

Attorney Neglect

*Howery v. Labor Ready, et al.*, CCHR No. 99-E-131 (Mar. 10, 2000) CHR refused to vacate default, holding that attorney neglect is not “good cause,” especially when the attorney is in-house; where there was no explanation for not responding to a second notice of default; and where Respondent’s own lack of oversight and organization caused the failure to respond in this case. CO

*Aljazi v. Owner*, CCHR No. 99-H-75 (Apr. 27, 2000) Where attorney filed an unambiguous letter stating he represents Respondent and where he accepted all CHR mail on her behalf, CHR found that he acted as her attorney and could not, through an untimely request to vacate a default, claim he never represented her. CO See also Request to Vacate/Denied sub-section, below.

*Barren-Johnson v. Mahmood*, CCHR No. 03-P-9 (May 18, 2006) Any attorney neglect in failing to notify client of Conciliation Conference must be imputed to client; order of default entered where attorney attended without authority to settle and later claimed inability to locate client, although attorney did not withdraw or seek a continuance despite six weeks’ notice of Conference. CO

*Garcia v. Varela*, CCHR No. 03-H-32 (June 29, 2006) Explanation that Respondent missed Conciliation Conference because of long-scheduled out-of-town travel not good cause where Respondent’s attorney had several weeks’ notice of date but failed to inform client in time to seek continuance; reaffirms that Commission holds clients responsible for inaction or negligence of their attorneys. CO

*Cotten v. CCI Industries, Inc.*, CCHR No. 07-P-109 (June 24, 2009) Default vacated and sanction changed to fine of $350 for failure to attend pre-hearing conference due to negligence of former attorney, where Respondent retained new counsel and Complainant displayed indifference to Respondent’s failure to appear by not objecting to motion to vacate or seeking costs as allowed. HO

Commission Authority – No new decisions in this volume.
Complainant’s Allegations

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Where respondent is defaulted, CHR takes factual allegations of complaint as true; states that complainant must nevertheless establish a prima facie case in order for CHR to be able to award damages. R


Godard v. Mcconnell, CCHR No. 97-H-64 (Jan. 17, 2001) Where the legal conclusions reasonably drawn from the facts alleged in the complaint are sufficient to show a prima facie case, no further proof of liability is necessary. R

Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) Where respondent is defaulted, CHR takes factual allegations of complaint as true and awards damages when complainant establishes a prima facie case of discrimination. R

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) (same) R

Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) (same) R

Montelongo v. Azarpira, CCHR No. 09-H-23 (Mar. 16, 2011) Where Respondent is defaulted, Commission takes factual allegations of Complaint as true, although Complainant must prove prima facie case. Inferences from the evidence presented by Complainant may be resolved against Respondent. R

Denied/Declined

Aljazi v. Owners of 4831 N. Drake, et al., CCHR No. 99-H-77 (Apr. 27, 2000) CHR denied Complainant’s request to enter order of default where Respondents had not received initial notices of potential default and where they showed that they ultimately filed their responsive documents one day late due to a Post Office problem. CO

Aljazi v. Owners of 4831 N. Drake, et al., CCHR No. 99-H-77 (Apr. 27, 2000) Failing to respond to Respondent Notification is not cause for an order of default; it allows CHR to issue Notice of Potential Default, as it did here. CO

Blakemore v. General Parking Corp., CCHR No. 99-PA-24 (Sep. 29, 2000) CHR regulations do not allow CHR to enter a default order when CHR had not warned the respondent with a Notice of Potential Default, even when the respondent did not send its verified response for several months. CO

Karlin v. Chicago Bd. of Education, et al., CCHR No. 95-E-62 (Dec. 8, 2000) CHR declined to default individual Respondent where he failed to attend the scheduled Conciliation Conference; counsel for that Respondent explained that his office move caused a lack of communication with his client. CO

Karlin v. Chicago Bd. of Education, et al., CCHR No. 95-E-62 (Dec. 8, 2000) In declining to default respondent, CHR cites prior decisions holding that default is “severe sanction which should not be entered in a punitive manner, especially where the underlying omission was due to error, not disregard for Commission procedures.” CO

Nuspl v. Marchetti, CCHR No. 98-E-207 (Aug. 9, 2001) CHR declined to default Respondent who did not attend Conciliation Conference where his attorney stated that they had not received notice of it; CHR noted that the notice was correctly addressed to attorney and was not returned to CHR but that there is no “hard” evidence that it was delivered; also stated that default is a severe sanction which is not to be entered in a punitive manner. CO

Scott v. Covington, CCHR No. 99-E-10 (Oct. 31, 2001) CHR did not enter default order against Respondent who missed Conciliation Conference where Respondent’s counsel admitted that he had misplaced the order setting the Conference but had not willfully ignored the case or CHR procedures; notes that default is a severe sanction not to be entered punitively. CO

Scott v. Covington, CCHR No. 99-E-10 (Dec. 19, 2001) CHR did not dismiss Complainant who missed Conciliation Conference where she showed that she received an eviction notice the morning of the Conference which required immediate attention; notes that dismissal is a severe sanction not to be entered punitively. CO

Vitek v. Blockbuster, CCHR No. 02-PA-135 (July 17, 2003) CHR declined to default Respondent even though service of Verified Response on Complainant was in error, because it had not at that point prejudiced or delayed CHR’s investigation; defaults are severe sanctions not imposed lightly, particularly on parties that appear to be making reasonable effort to follow CHR procedures, so long as other parties are not prejudiced. CO

Williams v. Owner of East of the Ryan, Inc., CCHR No. 03-P-3 (Sep. 19, 2003) Where Respondent failed to attend conciliation conference due to car accident of manager with whom she planned to travel to conciliation, CHR found good cause and no disregard for its procedures, and did not default Respondent despite fact that written explanation was filed two days late and showed no proof of service on Complainant, recognizing default as severe sanction not imposed punitively. CO

Kelley v. Walker, CCHR No. 01-H-22 (Aug. 2, 2004) Where Respondent who failed to attend Conciliation Conference claimed she did not receive notice of it, CHR did not default despite failure to provide CHR with current
mailing address, based on her efforts to have mail forwarded to new address and affirmation of desire to participate in case; although Respondent made error, she did not willfully ignore CHR procedures. CO

Blakemore v. Walgreens, CCHR No. 03-P-156 (Nov. 4, 2004) No error in directing service of Complaint against well-known large corporate respondent to company-operated branch store in Chicago where alleged discrimination occurred, as it should have alerted agent of corporation, namely store manager; service on corporate headquarters outside City not required. However, where no response was received and CHR could not confirm that mailing reached proper representative, held not improper to re-notify corporation utilizing corporate address provided by respondent in previous cases against it. Complainant not entitled to order of default under these circumstances, where respondent had record of compliance with CHR procedures and promptly responded to notice sent to second address. CO

Syed v. Solaka, CCHR No. 01-H-51 (Aug. 4, 2005) Where Respondent failed to attend Conciliation Conference and attorney’s subsequent letter about it was unclear as to his continued representation of Respondent, CHR withheld initiation of default proceedings, ordering Respondent to clarify representation and giving both parties opportunity to present positions. CO

Williams v. Cingular Wireless et al., CCHR No. 04-P-22 (Feb. 22, 2007) No default of Respondent who failed to attend Conciliation Conference due to misunderstanding of status of case and his responsibilities despite numerous CHR notices explaining his obligations, based on his response to notice affirming willingness to participate in further proceedings and fact that default is a severe sanction not to be entered punitively. CO

Blakemore v. Dublin Bar & Grill, Inc., et al., CCHR No. 05-P-102 (June 8, 2007) No default against Respondents who failed to attend conciliation conference but claimed their counsel was experiencing problems with new computerized docketing system and thus was unaware of it, responded to notice of potential default, and had a record of compliance with previous CHR orders and procedures. CO

Macklin v. Lucky Strike Lanes, CCHR No. 06-E-55 (Aug. 24, 2007) No default for failure to attend conciliation conference, despite urgings of Complainant, where Respondent’s representative learned on day scheduled that he needed to stay home with 13-month-old daughter due to miscommunication with estranged wife and he promptly telephoned CHR, filed a timely response to notice, and had otherwise cooperated with CHR process. Although Respondent might have exercised better planning or judgment, default and dismissal are severe sanctions and good cause has been found in similar circumstances. CO

Mualem v. McGrath Lexus of Chicago, CCHR No. 07-E-92 (Nov. 14, 2008) Motion to dismiss denied and no sanction imposed where Complainant attended but refused to participate in conciliation conference after his attorney discontinued representing him shortly before. Despite Respondent’s vigorous arguments for sanctions claiming Complainant’s explanations were untruthful, Complainant’s timely response to notice and assertions that he had telephoned CHR staff who incorrectly told him to come to the conference and ask for a continuance do not point to willful disregard of CHR procedures. Decision discusses updated sanctions provisions under amended regulations effective July 1, 2008, and notes this is a close call in which Complainant is being given benefit of doubt but must diligently learn and comply with CHR procedures going forward, with or without counsel. To avoid further cost to Respondent, conciliation conference not rescheduled and case would be set for hearing. CO

Cotten v. Coffee Pot & Mail Drop, CCHR No. 08-P-39 (Mar. 12, 2009) No default but Respondent fined $100 for failure to attend conciliation conference, where this was first procedural violation. CO

Cotten v. Fat Sam’s Fresh Meat & Produce (SBM Foods, Inc.), CCHR No. 08-P-76 (Aug. 27, 2009) $150 fine to cover CHR costs where Respondent failed to attend conciliation conference or respond to notice of possible sanctions. No order of default where Respondent had previously responded to CHR and cooperated with investigation. CO

Due Process Standards

Howery v. Labor Ready, et al., CCHR No. 99-E-131 (Mar. 10, 2000) Decision notes that it is not a due process violation to enter a default order due to a party’s negligence. CO

Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) Finding one allegation that not vacating the default order would violate due process to be so unsupported as to be tantamount to waiver; in alternative, adopted discussion from prior CHR case finding that entering a default order due to a party’s negligence not to be a due process violation. CO

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Entry of default for failure to comply with reasonable administrative procedural rules does not violate due process; respondent had adequate notices of proceedings and opportunity to contest. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) Entry of default for failure to comply with CHR’s reasonable procedural rules does not violate due process where issued after Respondents twice failed to attend scheduled proceedings, having both prior notice of the possibility of sanctions and opportunity to move to vacate the order of default. Procedural rulings characterized as unfair were predictable effects of order of
default, including no cross-examination of Complainant for purpose of adducing evidence to defend against allegations of Complainant and Complainant’s prima facie case, although cross-examination was properly allowed on issues of relief. R

Effect of Default
Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Objection to testimony at hearing of defaulted Respondent’s owners lacked merit because their testimony was limited to issue of remedies, on which they could be heard, and they did not challenge the default or recommended finding of a prima facie case. R

Entered
Barnett v. T.E.M.R. Jackson Rental et al., CCHR No. 97-H-31 (Mar. 23, 2000) Default order entered against Respondents pursuant to Reg. 220.100 for failing to file their verified responses and their responses to CHR’s request for documents and information. CO
Godard v. McConnell, CCHR No. 97-H-64 (Apr. 6, 2000) Default order entered for Respondent’s failure to attend the scheduled Conciliation Conference without good cause. CO

Blakemore v. General Parking Corp., CCHR No. 99-PA-120 (May 26, 2000) (same) CO
Palermo v. Clayton & Daniels, CCHR No. 96-E-216 (Dec. 8, 2000) Default order entered for Respondents’ failure to attend the scheduled Conciliation Conference without good cause. CO
Sorto/Espinosa v. DiStefano, Permex Mgt., et al., CCHR No. 00-H-63/66/67 (Jan. 11, 2001) Default order entered against two of three respondents pursuant to Reg. 220.100 for failing to file its verified responses and its responses to CHR’s request for documents and information. CO
Sorto/Espinosa v. DiStefano, Permex Mgt., et al., CCHR No. 00-H-63/66/67 (Jan. 11, 2001) Where individual respondent signed a verified response only on his own behalf but never referred to the company/respondent or suggested that he was filing on its behalf, company defaulted. CO

Fox v. Satterfield, CCHR No. 00-H-104 (Mar. 29, 2001) Default order entered against Respondent pursuant to Reg. 220.100 for failing to file its verified responses and its responses to CHR’s request for documents and information. CO
Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (July 26, 2001) (same) CO
Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (Sep. 6, 2001) (same) CO
Blakemore v. McDonalds, CCHR No. 01-PA-12 (Sep. 6, 2001) (same) CO
Blakemore v. Walgreens, CCHR No. 01-PA-66 (Sep. 20, 2001) (same) CO
Brennan v. Zeman, CCHR No. 00-H-5 (Feb. 14, 2002) (same) CO
Salwierak v. MRI of Chicago & Baranski, CCHR No. 99-E-107 (Feb. 14, 2002) Default order entered against one of two Respondents for its failure to attend the scheduled Conciliation Conference without good cause; order notes that defaulted respondent failed to update CHR with contact information and that Regulation 210.270 allows CHR to rely on information it last provided. CO
Leadership Council for Metro. Open Comms. v. Carstea & Berzava, CCHR No. 98-H-76 (Apr. 26, 2002) Default order entered against each of two Respondents for their failure to attend the scheduled Conciliation Conference without good cause; counsel for each Respondent failed to properly provide updated contact information and CHR properly relied on information it had and none of its mailings was returned. CO
Fox v. Hinojosa, CCHR No. 99-H-116 (Oct. 24, 2002) Default order entered against Respondent after her written explanation failed to provide good cause for failure to attend Conciliation Conference: Respondent failed to seek continuance when she knew she would be on vacation on the scheduled date and had notice of requirement to attend Conciliation Conference for at least three weeks prior to her vacation. CO
Davidson v. First Federal Auto Auction, CCHR No. 03-P-23 (June 5, 2003) Default order entered where Respondent’s one-page letter was untimely and did not meet filing, service, verification, and contents requirements for a verified response and did not include answers to CHR’s Request for Documents and Information. Further, Respondent specifically articulated intention not to respond to Complaint because he was “repulsed” by Complainant’s accusation; personal feelings of respondent about complaint’s merit are not justification for failing to respond properly to it. CO
Edwards v. Larkin, CCHR No. 01-H-35 (May 27, 2004) Default order entered for failure to establish good cause for not attending Conciliation Conference and to provide adequate response to Order Requiring Written
Response and Notice of Potential Default. Based on Complainant’s motion and evidence, CHR reversed initial finding of good cause and found Respondent misrepresented his inability to attend Conciliation Conference; moreover, response to directions in Order and Notice was tantamount to no response, amounting only to diatribe against Complainant and discussion of Respondent’s position. CO

*Molden v. BGK Sec. Serv., Inc.*, CCHR No. 04-E-141 (May 5, 2005) Default order entered after Respondent’s written explanation failed to provide good cause for failure to attend Conciliation Conference: Respondent failed to notify CHR of address change, as is its obligation, so CHR entitled to rely on latest contact information in file; evidence showed that mailings to the address were received and no mailings were returned to CHR undelivered. CO

*Blakemore v. Dominick’s Finer Foods*, CCHR No. 01-PA-51 (May 5, 2005) Default order entered after Respondent’s written explanation for missing Conciliation Conference failed to establish that it did not receive notice of it: record shows mailings were sent to latest address provided to CHR; no evidence to confirm speculation that notice was incorrectly addressed; and evidence showed that other mailings to address were received. CO

*Lapa v. Polish Army Veterans Assn., et al.*, CCHR No. 01-PA-27 (Sep. 8, 2005) Default order entered against one individual Respondent after his written explanation failed to provide good cause for failure to attend Conciliation Conference: Respondent failed to seek continuance or other relief in advance without evidence of inability to do so; no evidence supported claimed inability to attend due to age, illness, and residence out of state; party may not unilaterally overrule CHR’s decision to hold a Conciliation Conference by not attending. CO

*Barren-Johnson v. Mahmood*, CCHR No. 03-P-9 (May 18, 2006) Default order entered after Respondent’s written explanation failed to provide good cause for failure to attend Conciliation Conference: argument that Respondent was not personally served notice by CHR rejected; notice to his attorney of record was sufficient. Argument that Conference was unnecessary as Respondent would have refused Complainant’s settlement demand rejected as speculative; moreover, a party may not unilaterally overrule CHR’s decision to hold a Conciliation Conference by not attending. CO

*Garcia v. Varela*, CCHR No. 03-H-32 (June 29, 2006) Explanation that Respondent missed Conciliation Conference because of long-scheduled out-of-town travel not good cause where Respondent’s attorney had several weeks’ notice of date but failed to inform client in time to seek continuance. CO

*Mahon v. Movie Gallery*, CCHR No. 04-E-8 (Apr. 5, 2007) Default and fine of $70 for failure to attend conciliation conference. Explanation that Respondent’s in-house counsel began maternity leave the week before not good cause where notice was mailed several weeks prior to commencement of leave, providing ample time to seek continuance or make alternative arrangements. Also, passage of time between initial filing and substantial evidence finding not good cause. CO

*Richards v. Casa Aztlán*, CCHR No. 06-P-68 (May 17, 2007) Default and fine of $70 for failure to attend conciliation conference. Explanation that executive staff was “dealing with serious and sensitive immigration matters” not good cause where Respondent was not the only organization addressing immigration issues and failed to seek continuance or arrange for an authorized representative to attend without evidence of inability to do so. CO


**Extension of Time**

*Maat v. Syed Video*, CCHR No. 05-P-45 (June 26, 2007) Respondent whose attorney withdrew appearance after issuance of notice of potential default granted extension of time to respond with caution that inability to obtain counsel or new counsel’s need for time to prepare will not be considered extraordinary circumstances justifying further extension, as parties must comply with orders and procedural requirements whether or not represented by counsel. CO

**Hearing Held in Abeyance**

*Sorto/Espinosa v. DiStefano, Permex Mgt., et al.*, CCHR No. 00-H-63/66/67 (Jan. 11, 2001) Where order of default was entered against two of three respondents, hearing held in abeyance until completion of investigation into third respondent. CO

*Salwierak v. MRI of Chicago & Baranski*, CCHR No. 99-E-107 (Feb. 14, 2002) Where default order was entered against one of two Respondents and where second Respondent had bankruptcy action pending, CHR deferred hearing until bankruptcy proceeding ends. CO See Bankruptcy section, above.
Request to Vacate Denied

Duvergel v. Petrovic/Letica, CCHR No. 99-H-18 (Feb. 24, 2000) Where Respondents requests were untimely; where they did not supply the outstanding material; and where they did not demonstrate the required good cause, CHR denied their request to vacate the order of default. CO

Duvergel v. Petrovic/Letica, CCHR No. 99-H-18 (Feb. 24, 2000) CHR found, among other things, that poor communication among Respondent-owners was not good cause to vacate the default order. CO

Duvergel v. Petrovic/Letica, CCHR No. 99-H-18 (Feb. 24, 2000) CHR found, among other things, that fact that one owner-Respondent does not read English is not good cause which excuses her from getting the documents to the owner-Respondent who handles matters for the building or to someone else who could read English; as property owner, she has legal responsibilities including non-delegable duty not to discriminate. CO

Howery v. Labor Ready, et al., CCHR No. 99-E-131 (Mar. 10, 2000) CHR refused to vacate default, holding that attorney neglect is not “good cause,” especially when the attorney is in-house; where there was no explanation for not responding to a second notice of default; and where Respondent’s own lack of oversight and organization caused the failure to respond in this case. CO

Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) CHR denied request to vacate because it was untimely and did not show good cause because CHR did not excuse Respondent’s attorney’s failure to respond to series of notices merely because he had appeared via letter not a form and because CHR’s erroneous listing of respondents additional to the “owner” of the subject property did not improperly contribute to the default. CO

Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) Although CHR may not refuse to vacate defaults in a “punitive” manner, the fact that default is a severe sanction does not allow it to ignore the facts that: Respondent did not file a timely request to vacate; did not respond to proper deadlines about which she received timely notice; and did not provide good cause for that failure. CO

Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) With respect to claim to vacate based on CHR’s erroneous listing of respondents additional to the “owner” of the subject property, CHR held that its error will lead to vacating a default order only where it “improperly contribute[s]” to the default and that was not the case here where CHR’s documents all listed the proper respondent, albeit in addition to incorrect ones, and where the respondent’s attorney received all the notices; compares other CHR cases in which it found its error sufficient to vacate a default order. CO

Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) Where attorney filed an unambiguous letter stating he represents Respondent and where he accepted all CHR mail on her behalf, CHR found that he acted as her attorney and could not, through an untimely request to vacate a default, claim he never represented her. CO

Godard v. McConnell, CCHR No. 97-H-64 (May 26, 2000) Where Respondent’s request to vacate simply stated that she did not understand that she had to attend the conference -- the event which led to the order of default - - CHR denied the request, citing an unusually long series of orders and notices it sent to Respondent which stated that attendance was mandatory. R

Sorto/Espinosa v. DiStefano, Permex Mgt., et al., CCHR No. 00-H-63/66/67 (Apr. 12, 2001) CHR denied DiStefano’s request to vacate the default finding that he did not show the required good cause by a) raising a defense to the merits of the case; b) by claiming that he thought that another Respondent had responded on his behalf when CHR had explicitly notified him otherwise before entering the order of default; and c) by hiring an attorney after the order of default was issued. CO

Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) Board upheld Hearing Officer’s denial of request to vacate default as the request was months too late and not in writing, among other things. R

Taylor v. Walton Davis, Jr., & Assoc., PC, CCHR No. 02-E-188 (Dec. 5, 2002) CHR denied request to vacate which merely stated Respondent had filed Verified Response on receipt of information needed to fully respond to Complaint, where Respondent had declined CHR’s offer to consider extension of time to respond to Notice of Potential Default stating it would meet deadline. CO

Sellers v. Outland, CCHR No. 02-H-37 (Mar. 13, 2003) Request to vacate denied as untimely. Also, despite Respondent’s claim that he did not receive Complaint, evidence showed he was aware of it and received multiple notices about his obligation to respond, potential sanctions for failure to respond, and opportunity to establish good cause for failure to respond. CO

Thompson v. Chicago Transit Authority & Havnoonian, CCHR No. 02-E-237 (June 5, 2003) Request to vacate default denied where individual Respondent failed to respond to Complaint although he admitted receiving it as well as Notice of Potential Default and although business Respondent communicated with CHR staff three times about representing him: CHR requires that its procedures be taken seriously by parties despite their personal feelings about complaint or protestations of ignorance of details of which they have been clearly notified. CO

Sanders v. Zoom Kitchen, CCHR No. 03-E-29 (Aug. 14, 2003) Request to vacate denied as untimely and incomplete. Respondent’s assertion that it did not receive any of CHR’s documents until its Order scheduling
administrative hearing and that signature on certified mail delivery receipt for Order of Default did not “resemble” that of any of its employees not sufficient to overcome presumption that U.S. Postal Service delivered mailing to Respondent at its then-operating location and delivery receipt was signed by Respondent’s agent at that address. CO

Davidson v. First Federal Auto Auction, CCHR No. 03-P-23 (Sep. 26, 2003) Request to Vacate Default denied as not showing good cause for failure to file Verified Response and not including the missing material. Responsibility to comply with CHR requirements not tolled by eleventh-hour decision to involve counsel and vague assertions about logistics of preparing documents, particularly where two deadlines given, extensions of time not requested, and investigator amply notified Respondent of means to respond properly; Respondent’s agent’s inaction or improper action also not good cause. CO

Anderson v. Joffe, CCHR No. 03-H-28 (Oct. 9, 2003) Request to vacate denied where Respondent asserted that she failed to respond to Complaint because of health problems but did not provide independent documentation to establish dates of those health problems. Further, even if Respondent mistook exploration of settlement as eliminating requirement to file Verified Response, her subsequent conversation with investigator and Notice of Potential Default clarified that Verified Response was still required. CO

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Denial of motion to vacate reaffirmed by hearing officer noting motion was not timely filed; also, Respondent was properly served with complaint package, notice of potential default, and other notices of proceedings and opportunity to contest, but did not comply or provide good cause for noncompliance. R

Meekins v. Kimel, CCHR No. 02-H-84 (Jan. 29, 2004) Request to vacate denied as untimely. Assertion that Respondent failed to respond to Complaint because of severe depression did not provide good cause where no supporting evidence was submitted and Respondent had several opportunities to respond over many months. CO

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) Board reaffirmed Order of Default where Request for Review filed with objections to First Recommended Decision added nothing new as to deficiencies causing default or failure to seek to vacate default in timely manner. R

Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) Arguments as to propriety of Order of Default raised in Objections to First Recommended Decision of hearing officer rejected as Respondent failed to file a timely request to vacate; moreover, CHR’s record is clear that Respondent had numerous opportunities to cure the deficiency and the default was properly entered. R

Edwards v. Larkin, CCHR No. 01-H-35 (Nov. 4, 2004) Request to vacate denied as untimely; timeliness not merely one factor but essential threshold requirement for request to vacate to be considered. Claim that Respondent could not comprehend CHR Regulations and could not afford counsel did not show good cause, especially where CHR sent several notices to Respondent explaining its process in detail including Respondent’s risk of being defaulted and where Respondent, an owner and operator of rental housing, failed to show he was incompetent to handle his business affairs. CO

Moore v. Comtel Technologies et al., CCHR No. 02-E-214 (April 1, 2005) Request to vacate default denied where Respondent claimed it believed a settlement had been agreed to, but there was no evidence the parties actually reached a settlement and Respondent had failed to comply with three separate Notices of Potential Default. CO

Bratton v. Monica’s Pizza, CCHR No. 04-P-80 (Apr. 20, 2005) Request to vacate default denied where Respondent failed to respond to companion complaint though specifically told of need to do so by CHR staff member: respondent’s lack of oversight and organization not good cause; lack of communication with counsel, or not having counsel, not good cause; respondent required to take CHR notices and orders seriously and respond as directed. CO

Brandon v. Kentucky Fried Chicken, CCHR No. 04-P-62 (Sep. 8, 2005) Request to vacate default denied where not timely filed, did not include all material the absence of which was basis of default, and did not show good cause to vacate. Service of notices of potential default held adequate; no due process rights violated. That notices may not have been adequately routed or understood by respondent not sufficient to establish good cause. CO

Williams v. Iggy’s Rest., CCHR No. 05-P-79 (Sep. 8, 2005) Request to vacate arguing inadequate service denied; CHR service provisions satisfy due process and evidence showed Respondent had notice of obligation to respond to Complaint. That Respondent’s legal counsel resigned not good cause for failure to respond. CO

Blakemore v. Whole Foods Mkt. et al., CCHR No. 05-P-90 (Apr. 10, 2006) Request to vacate denied as untimely. That registered agent failed to forward CHR notices to Respondent’s correct address was not good cause, especially where notices were also sent to Respondent’s president and not returned as undeliverable; cites cases holding that attorney neglect and respondent lack of oversight and organization are not good cause for failure to respond. CO

Sullivan v. Owner of J. Patrick’s Bar & Grill et al., CCHR No. 07-P-5 (June 14, 2007) Request to vacate default denied, rejecting argument Respondents thought case would settle so no response was required, where no reasonable basis for such beliefs was shown and no extension of time was sought. Also, statement that manager was engaged in other business and often read mail “days if not weeks after receipt” did not establish good cause but
reinforced that lack of oversight and organization caused the failure to respond. CO

_Hawkins v. Ward & Hall_, CCHR No. 03-E-114 (Aug. 23, 2007) Requests to vacate default denied where
filed over a month late with no basis for equitable tolling. No good cause where CHR mailed Notice of Potential
Default and Order of Default to addresses provided: one Respondent did not explain why she failed to update
address and other Respondent’s assertion of non-receipt of multiple notices sent to confirmed address was not found
credible. CO

_Stephney v. Jama_, CCHR No. 07-P-33 (Nov. 29, 2007) Order of Default affirmed on motion to vacate filed
more than two months late with no basis for equitable tolling, not properly filed and served on parties, and no good
cause shown where Respondent received Complaint and Notice of Potential Default but failed to file written
responses. That Respondent spoke with investigator not sufficient where written response is required. CO

_Flores v. A Taste of Heaven et al._, CCHR No. 06-E-32 (July 1, 2009) Motion to vacate default denied; only
reason for failing to appear at pre-hearing conference was counsel’s failure to docket and record the date in his
calendar, which does not constitute good cause. Also, the motion to vacate was not served on the hearing officer nor
was proof of service on complainant provided. HO

_Flores v. A Taste of Heaven et al._, CCHR No. 06-E-32 (Aug. 18, 2010) Request to review interlocutory
orders of default and denial of motion to vacate were denied. Under 2008 regulations, CHR not required to issue
Notice of Potential Sanctions, as Respondents had notice of possibility of default in orders commencing hearing
process yet twice failed to attend proceedings due to attorney negligence. Motion to vacate did not establish proper
service or good cause for failure to attend pre-hearing conference, stating only that counsel failed to record the date
in his calendar after a previous incident of counsel’s negligence and misrepresentations to CHR. Arguments that
Respondents had meritorious defenses were unavailing as this has never been CHR’s standard to avoid default. R

_Granted_ 

timely filed the material which CHR believed was outstanding and so the cause of the default order, CHR vacated
the order of default, finding that default is drastic and so it could not maintain the default order where there was an
unbreakable “tie” between CHR and the respondents about whether they had filed the material on time. CO

_Wilkie v. Venanté Jose Mgt._, CCHR No. 99-H-34 (Mar. 23, 2000) CHR vacated the order of default where:
CHR’s records were not clear about when or if it sent the respondent notification material to the right address; where
Respondent took some steps to respond to the notice of potential default, which it claimed was the first it heard
about the case; and where CHR’s statement about an extension of time to respond were not unambiguous. CO

_Dunlap v. Ford Motor Co. Chicago Assembly Plant_, CCHR No. 02-E-178 (Jan. 9, 2003) Default order
vacated where Respondent claimed it failed to respond to Complaint because it did not receive Respondent
Notification and then, after receiving Notice of Potential Default, misunderstood that it was in default at Illinois
Dept. of Human Rights and not CHR. Series of Respondent errors held not due to intent to disregard CHR process
or any other bad faith; since discovery of errors, Respondent complied with CHR process; CHR cannot disprove
Respondent’s assertion that it did not receive initial mailing; and orders of default are “drastic measures.” CO

_McPhee v. Novovic_, CCHR No. 00-H-69 (Mar. 13, 2003) Order of default vacated where, on
reconsideration, CHR found Respondents had established extraordinary circumstances for failure to attend
Conciliation Conference based on unforeseen situation where father of child of one Respondent refused to let child
return to U.S. with Respondents, noting that Respondents were presented with difficult choice and had made some
effort to comply with CHR’s order to attend. CO

_Vitek v. Blockbuster_, CCHR No. 02-PA-135 (July 17, 2003) Default order vacated where, on review of
record and parties’ submissions, CHR found Respondent failed to file timely response because, although
Respondent Notification packets and subsequent notices were received, they did not get into right hands at large
company, noting that Respondent did respond when CHR’s mailing was directed to its registered agent and
recognizing default as drastic measure not imposed lightly. CO

_Blakemore v. Dominick’s Finer Foods_, CCHR No. 01-PA-51 (July 11, 2005) CHR vacated order of default,
giving Respondent benefit of doubt where it continued to insist it had not received notice of scheduled Conciliation
Conference, and Respondent had cooperated with all prior and subsequent CHR directives. CO

_Cotten v. CCI Industries, Inc._, CCHR No. 07-P-109 (June 24, 2009) Default vacated and sanction changed
to fine of $350 for failure to attend pre-hearing conference due to negligence of former attorney, where Respondent
retained new counsel and Complainant displayed indifference to Respondent’s failure to appear by not objecting to
motion to vacate or seeking costs as allowed. HO

_Standard to Vacate_ 

requesting to have default vacated to: file a timely request; show good cause for initial failure; as well as either
provides the material which formed the basis of the default or provide good cause for not providing that material. C


Aljazi v. Owner, CCHR No. 99-H-75 (Apr. 27, 2000) Same; noting that the presence or absence of a “meritorious defense” is not part of CHR’s test. CO

Godard v. McConnell, CCHR No. 97-H-64 (May 26, 2000) (same as Duvergel above) CO

Sorto/Espinosa v. DiStefano, Permex Mgt., et al., CCHR No. 00-H-63/66/67 (Apr. 12, 2001) Same; noting that the presence or absence of a “meritorious defense” is not part of CHR’s test. CO

Sullivan v. Owner of J. Patrick’s Bar & Grill et al., CCHR No. 07-P-5 (June 14, 2007) Same; notes that although default is severe sanction not be entered punitively, that does not mean respondents can ignore CHR procedures; the principle applies when a respondent may have made error but was attempting in good faith to comply. CO

Timeliness

Sorto/Espinosa v. DiStefano, Permex Mgt., et al., CCHR No. 00-H-63/66/67 (Apr. 12, 2001) CHR found request to vacate timely when it was filed on the first working day after the 30th day from the mailing of the order of default; citing Regs. 215.250(a) & 270.110. CO


Arguments as to propriety of Order of Default raised in Objections to First Recommended Decision of hearing officer rejected as Respondent failed to file a timely request to vacate. R

Who Decides

Blakemore v. General Parking Corp. et al., CCHR No. 99-PA-120 (Sep. 1, 2000) Hearing Officer denied Respondent’s motion for a continuance, holding that it was factually unsupported. HO

Montejano v. Blakemore, CCHR No. 01-P-4 (Oct. 15, 2003) Request to vacate order of default issued by hearing officer for failure to attend administrative hearing remanded to hearing officer after issuance of First Recommended Decision for evidentiary hearing to assess Respondent’s claims that he failed to attend hearing because he was “under emotional distress and sick” and because he disagreed with CHR’s restrictions on his access to its offices; such issues can only be resolved in evidentiary hearing where credibility can be assessed. CO

Respondent Prevails

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 00-PA-46 (Nov 28, 2000) Although CHR had initiated default procedures against one respondent who had not filed a motion to dismiss or a verified response, CHR dismissed it in granting the other respondent’s motion to dismiss, finding that the case did not involve a public accommodation and so CHR could not proceed. CO

Service of Notice on Respondent

Blakemore v. General Parking Corp., CCHR No. 99-PA-24 (Sep. 29, 2000) CHR regulations do not allow CHR to enter a default order when CHR had not warned the respondent with a Notice of Potential Default, even when the respondent did not send its verified response for several months. CO

Byrd v. Hyman/Rodriguez, CCHR No. 97-H-2 (Nov. 8, 2000) Where neither CHR nor Complainant nor other Respondent had information about how to find one Respondent, CHR dismissed that Respondent as it could not serve him with a Notice of Potential Default or otherwise proceed against him. CO

Salwierak v. MRI of Chicago & Baranski, CCHR No. 99-E-107 (Feb. 14, 2002) Default order entered against one of two Respondents [see Default Entered, above]; order notes that defaulted respondent failed to update CHR with contact information and that Regulation 210.270 allows CHR to rely on information it last provided. CO


Default order entered against each of two Respondents for their failure to attend the scheduled Conciliation Conference without good cause; counsel for each Respondent failed to properly provide updated contact information and CHR properly relied on information it had and none of its mailings was returned. CO

DEFERRAL OF CASES

Note: CHR has entered a “sharing agreement” with the EEOC and one with the IDHR (which covers only the Board of Education). When one of these is applicable, CHR shall defer and sometimes dismiss the “parallel” case filed at CHR. CHR summarizes below only those decisions which involve questions of law or fact which might be useful as precedent in other cases. The following does not list the cases which involve a straightforward application of an agreement to the facts of a case.
Bankruptcy Stay – See separate Bankruptcy section, above.

Cases Covered by Cook Co. CHR Agreement

*Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (July 13, 2004)* Pursuant to intergovernmental agreement between CHR and Cook County Commission on Human Rights (CCCHR) under which CHR will accept discrimination complaints against CCCHR which cannot be filed at other civil rights agencies, CHR will proceed on claim of sexual orientation discrimination but not on claims of discrimination based on religion and disability, as they can be filed at Illinois Department of Human Rights. CO

Cases Covered by EEOC Agreement

*Martin v. Kane Security Svcs. & Cosmopolitan Prep. School, CCHR No. 99-E-141 (June 8, 2000)* Where CHR had deferred its work on this case because Complainant had filed a parallel case against only Respondent Kane at EEOC and where the EEOC then found reasonable cause but the case was not filed in federal court, CHR decided to proceed with its investigation into Respondent Cosmopolitan, which the EEOC had not addressed, while holding its decision about Kane in abeyance pending the conclusion of its investigation into Cosmopolitan. CO

*Johnson v. Norfolk Southern Corp., CCHR No. 00-E-61 (Apr. 12, 2001)* CHR finds substantial evidence of disability discrimination, relying upon EEOC’s investigation and reasonable cause determination, finding, in short, that Respondent had required Complainant to submit to a medical examination and put him on no-pay status because he limped although Complainant performed the essential functions of his job without incident upon return from a leave of absence. CO

*Taylor v. Chicago Hilton & Towers, CCHR No. 00-E-161 (Apr. 26, 2001)* CHR found no evidence of disability discrimination, relying upon EEOC’s investigation and no reasonable cause determination, finding, in short, that Complainant’s request for “accommodation” may not have related to her disability; that Respondent’s response, in any case, was effective even if not her desired one; and there was no evidence to suggest that discipline imposed on her for insubordination and improper use of company computer was at all pretextual. CO

*Carnithan & Lencioni v. Chicago Park Dist., et al., CCHR No. 00-E-147/148 (May 24, 2001)* CHR finds substantial evidence of sex and sexual orientation discrimination, relying upon EEOC’s investigation and reasonable cause determination, finding, in short, that their claims of harassment by a supervisor were supported and turned on credibility. CO

*Sadowski v. Rush-Presbyterian-St. Lukes Hosp., et al., CCHR No. 01-E-13 (Sep. 20, 2001)* CHR finds no substantial evidence of age, national origin and disability where complainant was laid off when respondent lost a contract, was offered an equal job which he turned down, and where only other person in unit, who was outside complainant’s protected classes, was treated less well. CO

*Zhou v. eForce, CCHR No. 01-E-14 (Sep. 20, 2001)* CHR finds no substantial evidence of race, sex and national origin discrimination where respondent revoked offer of employment to all individuals whom it had planned to hire and where questions about complainant’s race, sex and national origin were asked only as part of immigration process which would have allowed her to be hired. CO

*Smallwood v. Allied Waste Inds., CCHR No. 01-E-15 (Oct. 4, 2001)* CHR decided to conduct investigation beyond EEOC’s where complainant had identified particular individuals who he claimed were outside his protected class (not African-American and not over 40) and who, like him, had been involved in work-related driving accidents but, unlike him, had not been fired. CO

*Gee v. Chicago Bd. of Education, CCHR No. 01-E-112 (Oct. 4, 2001)* Where demotion case in federal court involved disability and race while CHR one involved those bases as well as sexual orientation, CHR did not dismiss case, but deferred its work pending resolution of federal action. CO

*Kelker v. Archer Mgt. Svcs., et al., CCHR No. 01-E-105 (Oct. 31. 2001)* Where Complainant alleged that she was disciplined and then fired while comparable employee who was not female and African-American was not treated similarly despite similar attendance problems, CHR requested supplemental information about attendance as records provided by EEOC were not complete. CO

*Wheeler-Robinson v. Univ. of Chicago Hosp., CCHR No. 01-E-103 (Nov. 14, 2001)* When disabled Complainant dropped out of “inter-active process” and was insubordinate, she thwarted Respondent’s attempts to reasonable accommodate her and so CHR adopted EEOC’s finding to dismiss case. CO

*Smallwood v. Allied Waste Inds., et al., CCHR No. 01-E-15 (Jan. 30, 2002)* After reviewing supplemental information to EEOC file about identified comparables, CHR found that Respondent applied its disciplinary policy without regard to race or age. CO

*Dillard v. Bloomingdale’s, CCHR No. 02-E-27 (Apr. 11, 2002)* Relying upon EEOC’s investigation, CHR found no evidence of race discrimination where Respondent showed it did not hire Complainant due to her poor interview and where it hired a qualified internal candidate. CO
Shackleford v. Roadway Express, Inc., CCHR No. 01-E-40 (Apr. 11, 2002) Upon review of EEOC file, CHR found that African-American Complainant was fired for misconduct towards a customer and that Respondent had fired at least one white driver for similar behavior. CO

Casey v. Xerox Corp., CCHR No. 01-E-151 (Apr. 26, 2002) CHR found no evidence of age discrimination in Complainant’s termination where Respondent showed that she was given numerous opportunities to improve but never met her quota and where sales representatives over 40 were not disciplined or discharged disproportionately to their overall percentage in the sales force. CO

Vitca v. Chicago Police Dept., CCHR No. 01-E-152 (Apr. 26, 2002) CHR adopted EEOC’s finding that it was not discriminatory for Police to require that Complainant take a fitness-for-duty examination; but where Complainant also contended that he was harassed due to his Romanian origin, CHR requested additional information from Respondent about, among other things, its investigation into his internal complaint as EEOC file did not include that information. CO

Shackleford v. Roadway Express, Inc., CCHR No. 01-E-40 (July 11, 2002) Under CHR’s agreement with EEOC, CHR need only review EEOC’s investigation in making its determination when claims are essentially the same in both venues; not required to meet with Complainant or do fuller investigation where evidence supported CHR’s no substantial evidence finding. CO

Diabor v. Kenny-Kiewit-Shea Joint Venture et al., CCHR No. 01-E-118 (July 31, 2002) Although intergovernmental agreement with EEOC allows CHR to dismiss case when “parallel” case filed in federal court, CHR did not dismiss because claims not identical in that CHR case included sexual orientation discrimination claim not available under federal law, but CHR deferred most further work pending resolution of federal action. CO

Ziomber v. Globetrotters Engineering Corp., CCHR No. 02-E-58 (Aug. 14, 2002) EEOC finding of no substantial evidence not adopted and investigation continued where there was evidence that Respondent’s supervisor and co-workers had made certain derogatory statements about Complainant’s religion, age, and national origin and where there was no concrete information about ensuing layoff which complainant alleged was discriminatory. CO

Cases Covered by IDHR Agreement

Woods v. Chicago Bd. of Education, et al., CCHR No. 97-E-209 (July 13, 2000) CHR found that its agreement with IDHR about cases against the Board of Education also covers claims made against employees and agents of the Board even where IDHR made different decisions about the Board and the individual respondent. CO

Woods v. Chicago Bd. of Education, et al., CCHR No. 97-E-209 (July 13, 2000) CHR adopted IDHR’s NSE finding against Board and dismissed case against individual respondent against whom IDHR had found substantial evidence and so against whom Complainant was able to proceed at IHRC. CO

Koszola v. Chicago Bd. of Education, CCHR No. 97-E-206 (Sep. 29, 2000) CHR’s agreement with IDHR does not expressly allow CHR to adopt IDHR’s decision about jurisdiction, here lack of timeliness; moreover, in this case, neither IDHR nor Complainant’s complaint demonstrated when Complainant had been rejected for employment, just when she had applied. CO

Kopnick v. Chicago Bd. of Educ., et al., CCHR No. 01-E-135 (Jan. 10, 2002) After Complainant amended her IDHR case against the Board of Education to cover the same incidents as she raised at CHR, CHR deferred its work to IDHR. CO

Cases Not Covered by a Deferral Agreement – See also Jurisdiction/Concurrent Jurisdiction section, below.

Martinez v. Fojtik et al., CCHR No. 99-H-33 (May 1, 2000) In denying motion to dismiss brought because Complainant had filed a similar case at HUD, CHR states that its governing ordinances do not allow it to defer or dismiss cases in such circumstances and notes that the CFHO, like the CHRO, contemplates concurrent jurisdiction for housing discrimination cases; refers to prior CHR decisions where similar case was filed at IDHR or EEOC. CO

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (June 5, 2000) Hearing Officer denied motion to stay hearing which was based on the fact that Respondent is defending herself in federal court in a case filed by a different plaintiff but which involved the same core of operative facts; this was found not to provide “good cause” in that the CHR has issued a series of decisions finding that it does not have authority to defer a case because a similar one is pending elsewhere, even when it involves the same parties; decision also notes that a CHR ruling is not likely to have preclusive effect on a federal case. HO
Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) CHR cannot generally defer cases when a similar case proceeds at another agency or court; absent deferral agreement, CHR has deferred cases only when other tribunal has progressed to point where it was soon to issue a decision likely to have res judicata effect on CHR case. CO

Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) Where cases had been stayed by federal district court, where court ruled in favor of respondents, complainants appealed and district court lifted stay, CHR found lifting of federal stay did not require it to proceed, just permitted it to; and, because the appeal would resolve most if not all issues in CHR cases, CHR continued to hold cases in abeyance while appeal is completed. CO

Plowden v. Swiss Hotel, CCHR No. 01-E-141 (Dec. 20, 2001) Denies motion to dismiss brought because Complainant had filed a similar case at IDHR; states that there is no deferral agreement with IDHR which covers this case and again holds that its governing ordinances do not allow it to defer or dismiss cases in such circumstances; notes that the CHRO contemplates concurrent jurisdiction. CO

Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) The fact that the CTA may be subject to state or federal laws about civil rights does not cause the City of Chicago to be deprived of jurisdiction over it. CO

Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) Fact that CTA may be regulated by other municipal governments does not deprive the City of Chicago of its home rule authority to regulate the CTA. CO See also Jurisdiction/Concurrent Jurisdiction section, below.

De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Sept. 20, 2007) CFHO and CHRO contemplate that complainants may bring similar or even identical claims in more than one forum. Thus CHR does not adopt no substantial evidence finding of Illinois Department of Human Rights in absence of an intergovernmental agreement to accept such determinations. Res judicata not applied to substantial evidence decisions. CO

Taylor v. Somuah et al., CCHR No. 07-H-22 (Nov. 5, 2007) CHR denied motion to dismiss or stay investigation of disability discrimination complaint where Complainant filed parallel counterclaim under Americans with Disabilities Act in state court eviction case. CFHO contemplates concurrent jurisdiction and Illinois Code of Civil Procedure Sec. 2-619(a)(3) does not apply to CHR proceedings but to parallel actions brought in different state courts. Decision notes that res judicata or collateral estoppel may apply if common issues are adjudicated in state court, but investigation will proceed because it is only a preliminary examination of whether the case can go forward, not a full hearing. CO

DISABILITY DISCRIMINATION

Access to Facility

Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 14, 2000) Where disabled Complainant could not use entrance between Ford City’s underground pedway and Sears store, CHR found substantial evidence of failure to accommodate, finding that the CHRO requires “full” access, unless undue hardship, and that it could not find that Respondents had shown an undue hardship at this stage of the case. CO

Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 14, 2000) (CHRO and CHR regulations require respondents to provide “full use” of their facilities unless they show undue hardship; therefore, CHR found substantial evidence when Complainant could not use entrance between Ford City’s underground pedway and Sears store despite existence of other doors which were accessible. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Mar. 20, 2001) CFHO and Regulations require respondents to make housing accommodations fully accessible to a person with a disability and if respondents demonstrate that doing so would create an undue hardship, then it must reasonably accommodate the individual or show that doing that would create an undue hardship. HO

Maat v. Villareal Agencia de Viajes, CCHR No. 05-P-28 (Aug. 16, 2006) Prima facie case of disability discrimination established where wheelchair user sought to enter storefront travel agency to utilize its services but could not do so due to step at entrance. R

Maat v. El Novillo Steak House, CCHR No. 05-P-31 (Aug. 16, 2006) Prima facie case of disability discrimination established where wheelchair user sought to enter storefront restaurant to eat but could not do so due to steps at entrance. R

Maat v. String-a-Strand, CCHR No. 05-P-5 (Feb. 20, 2008) After order of default, Complainant established prima facie case of disability discrimination where business did not have wheelchair accessible ramp for two-inch barrier. R

Cotten v. Taylor Street Food and Liquor, CCHR No. 07-P-12 (July 16, 2008) After order of default, prima facie case of disability discrimination established where wheelchair user sought to enter storefront liquor store to make a purchase but could not do so due to the presence of two stairs. R
Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (May 20, 2009) Prima facie case of disability discrimination established where wheelchair user sought to enter a restaurant to eat but could not do so due to steps at entrance. R
Cotten v. Addiction Sports Bar & Lounge, CCHR No. 08-P-68 (Oct. 21, 2009) Disability discrimination found where stairs prevented wheelchair user from entering restaurant to eat lunch and Respondent failed to prove it was undue hardship to be fully accessible. R
Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Prima facie case of disability discrimination where wheelchair user sought to enter showroom to discuss a possible purchase but could not do so due to a flight of stairs, and no alternative means of service was offered. R
Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Liability found where wheelchair user could not enter restaurant to eat because of step and Respondent failed to prove undue hardship to be fully accessible. Offer to carry or lift wheelchair user over barrier not a full or reasonable accommodation, nor is wheelchair user expected to bring own portable ramp. Older facilities are not “grandfathered” or otherwise exempt from accessibility requirements of CHRO and Reg. 520.105, which are in addition to any Building Code or other City ordinance requirements. R
Cotten v. Top Notch Beefburger, Inc., CCHR No. 09-P-31 (Feb. 16, 2011) After order of default, prima facie case of disability discrimination established where wheelchair user asked to use a restroom while patronizing restaurant but was unable to enter and close restroom door. R

Adequacy of Complaint – No new decisions in this volume.

Burden of Proof
Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 14, 2000) CHRO and other disability law put the burden of proof on respondents to show that a proposed accommodation would create an undue hardship. CO
Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 14, 2000) Ultimate burden of proof, to show that s/he was discriminated against, remains with complainants. CO
Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) Complainant has burden of proving discrimination by a preponderance of the evidence using either direct or indirect proof, including in failure to accommodation claims. R
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) In this disparate treatment case, Complainant has burden to prove, by a preponderance of the evidence, that Respondent did not hire her due to her disability. R
Belcastro v. 860 N. Lake Shore Dr. Trust, CCHR No. 95-H-160 (Feb. 20, 2002) Complainant must prove prima facie case of disability discrimination; here, that he was denied full use and enjoyment of housing at issue. R

Burden Shifting
Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) Sets forth burden shifting requirements in case involving a disability disparate treatment claim, a failure to accommodate disability claim and a sexual orientation harassment claim. R
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) Sets forth burden shifting requirements for disparate treatment claim that Complainant was not hired due to her disability. R

Definition of Disability
Nichols v. Northwestern Memorial Hosp., et al., CCHR No. 01-PA-15 (June 27, 2001) At motion to dismiss stage, CHR did not dismiss complaint because Complainant stated she used a wheelchair without identifying her underlying condition, finding it had to take reasonable inferences as true; complaint dismissed for other reasons – see Reasonable Accommodation subsection, below. CO
Garnett v. Chicago Transit Authority, CCHR No. 93-E-243 (Sep. 30, 2003) Unlike under ADA, CHRO definition of disability does not require that impairment substantially limit a major life activity. Whether chronic back disorder constitutes a disability under CHRO turns on facts not before CHR, so motion to dismiss denied. CO
Beaty v. Int’l Word Outreach Ministries et al., CCHR No. 05-E-98 (Feb. 28, 2006) Epilepsy is a disability under CHRO. CO
Van Dyck v. Old Time Tap, CCHR No. 04-E-103 (Apr. 15, 2009) Complainant failed to establish that she was a person with a disability or that she was perceived as such, where the Regulation required a “determinable physical or mental characteristic.” R
Klimczak v. Williams, CCHR No. 11-H-45 (Sept. 1, 2011) Complaint predicated on “temporary disability” (broken collarbone) dismissed because definition of disability excludes “insubstantial and transitory” conditions. CO
**Disparate Treatment**

*Luckett v. Chicago Dept. of Aviation*, CCHR No. 97-E-115 (Oct. 18, 2000) Sets forth burden shifting requirements in case involving a disability disparate treatment claim, a failure to accommodate disability claim and a sexual orientation harassment claim. R

*Luckett v. Chicago Dept. of Aviation*, CCHR No. 97-E-115 (Oct. 18, 2000) Absent evidence of disparate treatment, it is no violation of the CHRO to discipline an employee with a disability. R

*Matthews v. Hinckley & Schmitt*, CCHR No. 98-E-206 (Jan. 17, 2001) Sets forth burden shifting requirements for disparate treatment claim that Complainant was not hired due to her disability. R

**Employment Discrimination**

*Luckett v. Chicago Dept. of Aviation*, CCHR No. 97-E-115 (Oct. 18, 2000) CHR found Respondent not liable in that it fully accommodated Complainant’s back problem by assigning him the only chair with a working back rest; where some job actions were not adverse or were shown caused by Complainant’s conduct not his disability; and where there was no evidence that his supervisor spread rumors that he was HIV positive. R

*Luckett v. Chicago Dept. of Aviation*, CCHR No. 97-E-115 (Oct. 18, 2000) Absent evidence of disparate treatment, it is no violation of the CHRO to discipline an employee with a disability. R

*Matthews v. Hinckley & Schmitt*, CCHR No. 98-E-206 (Jan. 17, 2001) Complainant found not to have carried her burden to show that she was not given a starting date, after being given a job offer, due to her disability, especially where Respondent was found to have been willing to make the limited modifications needed to accommodate her R

*Johnson v. Norfolk Southern Corp.*, CCHR No. 00-E-61 (Apr. 12, 2001) CHR finds substantial evidence of disability discrimination, relying upon EEOC’s investigation and reasonable cause determination, finding, in short, that Respondent had required Complainant to submit to a medical examination and put him on no-pay status because he limped although Complainant performed the essential functions of his job without incident upon return from a leave of absence. CO

*Garnett v. Chicago Transit Authority*, CCHR No. 93-E-243 (Sep. 30, 2003) Where disabled Complainant alleged he received more frequent “write-ups” from employer than non-disabled employees for same infractions and was placed on probation in manner contrary to policy, Complaint held sufficient to state claim of disability discrimination in employment. CO

*Mullins v. AP Enterprises, LLC et al.*, CCHR No. 03-E-164 (Jan. 19, 2005) After entry of order of default, Complainant established prima facie case of disability discrimination where employer had complimented her work in laundromat but discharged her after learning she had been hospitalized and was being treated for depression. R

*Jenzake v. Rapid Displays*, CCHR No. 06-E-87 (May 15, 2008) No substantial evidence finding affirmed in disability discrimination case finding employer reasonably rejected Complainant’s physician’s opinion and relied on its own physician’s pre-employment exam finding Complainant could not lift over 10 pounds where an essential function of the job was lifting items up to 30 pounds or more. CO

**Estoppel**

*Matthews v. Hinckley & Schmitt*, CCHR No. 98-E-206 (Jan. 17, 2001) Fact that Complainant with a disability received Social Security Disability benefits, thus indicating that she was “unable to work,” does not estop Complainant from showing that she was qualified and able to do the job in question; cites CHR and Supreme Court precedent. R

**Failure to Accommodate – See also Reasonable Accommodation subsection, below.**

*Massingale v. Ford City Mall & Sears Roebuck & Co.*, CCHR No. 99-PA-11 (Sep. 14, 2000) Where disabled Complainant could not use entrance between Ford City’s underground pedway and Sears store, CCHR found substantial evidence of failure to accommodate, finding that the CHRO requires “full” access, unless undue hardship, and that it could not find that Respondents had shown an undue hardship at this stage of the case. CO

*Massingale v. Ford City Mall & Sears Roebuck & Co.*, CCHR No. 99-PA-11 (Sep. 14, 2000) CHRO and CHR regulations require respondents to provide “full use” of their facilities unless they show undue hardship; therefore, CHR found substantial evidence when Complainant could not use entrance between Ford City’s underground pedway and Sears store despite existence of other doors which were accessible. CO


*Luckett v. Chicago Dept. of Aviation*, CCHR No. 97-E-115 (Oct. 18, 2000) CHR finds that Respondent did accommodate Complainant’s back problem by assigning him the only chair with a working back rest. R

*Luckett v. Chicago Dept. of Aviation*, CCHR No. 97-E-115 (Oct. 18, 2000) Finds that Complainant did not show that he ever alerted Respondent that he needed a particular posting or transportation to accommodate his
medical condition. R

Powell v. Management & Owner of 549 W. Randolph St., CCHR No. 00-PA-72 (Dec. 1, 2000) CHR denied motion to dismiss in which disabled Complainant alleged that the building was not accessible to her where Respondents argued the facts of the case, such as whether they had attempted to accommodate Complainant and whether any accommodation would create an undue hardship. CO

Nichols v. Northwestern Memorial Hosp., et al., CCHR No. 01-PA-15 (June 27, 2001) Fact that hospital did not accommodate disabled patient in the manner she desired – using a special lift to move her from her bed to a wheelchair – found not to be a failure to accommodate when it reasonably accommodated her by moving her to different locations while keeping her in her bed. CO

Wheeler-Robinson v. Univ. of Chicago Hosp., CCHR No. 01-E-103 (Nov. 14, 2001) A person with a disability seeking an accommodation must participate in an “inter-active” process with respondent to obtain an effective one. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) Respondent found not to have failed to accommodate Complainant’s disability where Complainant could not use front entrance but where other entrance was not stigmatizing, where Complainant had full use of all areas of building but front door, and where Complainant’s claims about problems with other door found not to be credible. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) While front entrance is not accessible, second entrance is not limited to people with disabilities and is used by other residents; it opens onto a plaza; it is safe-guarded by same security guard as front entrance. R

Spanjer v. White Hen Pantry & Chicago Police, CCHR No. 00-PA-33 et al. (Mar. 5, 2002) Where one Complainant with a hearing disability did not ask for a sign-language interpreter and where need for one was not obvious, she did not state a claim for failure to accommodate. CO

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) CHR found Respondent was not liable for making Complainant give up his crutches to sit in regular seats because Complainant knew he could keep his crutches with him if he sat in disabled seating but he chose not to do so. R

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) Fact that Respondent temporarily misplaced Complainant’s crutches which they had made him turn over found not to be discrimination or a failure to accommodate but an error. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Offer to carry or lift wheelchair user over barrier not a full or reasonable accommodation, nor is wheelchair user expected to bring own portable ramp. R

Failure to Hire

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) Complainant found not to have carried her burden to show that she was not given a starting date, after being given a job offer, due to her disability, especially where Respondent was found to have been willing to make the limited modifications needed to accommodate her. R

Full Use

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Mar. 20, 2001) CFHO and Regulations require respondents to make housing accommodations fully accessible to a person with a disability and if respondents demonstrate that doing so would create an undue hardship, then it must reasonably accommodate the individual or show that doing that would create an undue hardship. HO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) CFHO requires equal access; it does not mandate identical access. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) Respondent found not to have failed to accommodate Complainant’s disability where Complainant could not use front entrance but where other entrance was not stigmatizing, where Complainant had full use of all areas of building but front door, and where Complainant’s claims about problems with other door found not to be credible. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) While front entrance is not accessible, second entrance is not limited to people with disabilities and is used by other residents; it opens onto a plaza; it is safe-guarded by same security guard as front entrance. R

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) “Full use” of a public accommodation is not meant literally or else no arena or theater could use tiered seating as not every seat would be accessible to everyone; instead, it is enough that an arena have accessible seating, dispersed throughout, from which disabled individuals
can observe the event; such seating constitutes a reasonable accommodation. R

Cotten v. Japonais (Geisha LLC) & City of Chicago Dept. of Transportation, CCHR No. 06-P-30 (Apr. 30, 2008) Motion to dismiss denied where Respondent argued that wheelchair user was merely inconvenienced by inability to access restaurant at valet-assisted entry point but could use another entrance. Right to full use of public accommodation includes equal access to amenities such as valet parking. CO

Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (May 20, 2009) Where a wheelchair accessible ramp or a door bell is not available, offering curbside and delivery service to accommodate a person with a disability does not provide full use and is not a reasonable accommodation. R

**Housing Discrimination**

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) Defaulted Respondents found liable when evidence showed that they agreed to rent to Complainant but then locked her out and refused to refund her security deposit after learning she had a disability, bipolar disorder. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Mar. 20, 2001) CFHO and Regulations require respondents to make housing accommodations fully accessible to a person with a disability and if respondents demonstrate that doing so would create an undue hardship, then it must reasonably accommodate the individual or show that doing that would create an undue hardship. HO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) Respondent found not to have failed to accommodate Complainant’s disability where Complainant could not use front entrance but where other entrance was not stigmatizing, where Complainant had full use of all areas of building but front door, and where Complainant’s claims about problems with other door found not to be credible. R

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) Motion to dismiss failure-to-accommodate claim brought against condominium association denied due to fact-specific nature of the claim; CHR could not rule, as a matter of law, that the specific requests for accommodation were unreasonable. CO

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Complainant proved through indirect evidence that landlord refused to show her an advertised apartment due in part to disability where Complainant credibly testified that landlord inquired about the nature of her disability after she revealed that she received Social Security Disability income and was not employed, and landlord responded only with a non-credible denial of the conversation. R

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) Prima facie case of harassment based on disability where defaulted landlord used disability-related slurs on multiple occasions in communicating with disabled tenant about landlord-tenant issues, calling her a “crippled bitch” and engaging in other harassing actions. R

Montelongo v. Azarpira, CCHR No. 09-H-23 (Mar. 16, 2011) After order of default, mother of 15-year-old autistic child established prima facie case of disability discrimination where property owner refused to rent apartment to her after the child acted out at the showing. Child’s highly unusual behavior along with Respondent’s representative’s reaction to it supported inference the representative perceived the child to have a disability, even without evidence the representative knew precise nature of disability. R

**Indirect Discrimination – See Indirect Discrimination section, below.**

**Insuststantial & Transitory**

Klimczak v. Williams, CCHR No. 11-H-45 (Sept. 1, 2011) Complaint predicated on “temporary disability” (broken collarbone) dismissed because definition of disability excludes “insubstantial and transitory” conditions. CO

**Liability Found**

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) Respondent found liable for failing to have an accessible washroom at its Fern Room facility which caused Complainant, who uses a wheelchair, to fall in a stall and be publicly humiliated, causing her over two years of severe distress; Respondent ordered to pay Complainant $50,000 in emotional distress damages. R

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) Defaulted Respondents found liable when evidence showed that they agreed to rent to Complainant but then locked her out and refused to refund her security deposit after learning she had a disability, bipolar disorder. R

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Complainant proved through indirect evidence that landlord refused to show her an advertised apartment due in part to disability where Complainant credibly testified that landlord inquired about the nature of her disability after she revealed that she received Social Security Disability income and was not employed, and landlord responded only with a non-credible denial of the conversation. R

Mullins v. AP Enterprises, LLC et al., CCHR No. 03-E-164 (Jan. 19, 2005) After entry of order of default, Complainant established prima facie case of disability discrimination where employer had complimented her work
in laundromat but discharged her after learning she had been hospitalized and was being treated for depression. R

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) Prima facie case of harassment based on disability where defaulted landlord used disability-related slurs on multiple occasions in communicating with disabled tenant about landlord-tenant issues, calling her a “crippled bitch” and engaging in other harassing actions. R

Maat v. Villareal Agencia de Viajes, CCHR No. 05-P-28 (Aug. 16, 2006) Prima facie case of disability discrimination established where wheelchair user sought to enter storefront travel agency to utilize its services but could not do so due to step at entrance. R

Maat v. El Novillo Steak House, CCHR No. 05-P-31 (Aug. 16, 2006) Prima facie case of disability discrimination established where wheelchair user sought to enter storefront restaurant to eat but could not do so due to steps at entrance. R

Cotten v. Taylor Street Food and Liquor, CCHR No. 07-P-12 (July 16, 2008) After order of default, prima facie case of disability discrimination established where wheelchair user sought to enter storefront liquor store to make a purchase but could not do so due to the presence of two stairs. R

Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (May 20, 2009) Prima facie case of disability discrimination established where wheelchair user sought to enter a restaurant to eat but could not do so due to steps at entrance. R

Cotten v. 162 N. Franklin, LLC, d/b/a Eppy’s Deli and Café, CCHR No. 08-P-35 (Sept. 16, 2009) Same as Cotten v. Eat-A-Pita, above.

Cotten v. Addiction Sports Bar & Lounge, CCHR No. 08-P-68 (Oct. 21, 2009) Disability discrimination found where stairs prevented wheelchair user from entering restaurant to eat lunch and Respondent failed to prove it was undue hardship to be fully accessible. R

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Disability discrimination where wheelchair user sought to enter showroom to discuss a possible purchase but could not do so due to a flight of stairs, and no alternative means of service was offered. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Liability found where wheelchair user could not enter restaurant to eat because of step and Respondent failed to prove undue hardship to be fully accessible. Offer to carry or lift wheelchair user over barrier not a full or reasonable accommodation, nor is wheelchair user expected to bring own portable ramp. Older facilities are not “grandfathered” or otherwise exempt from accessibility requirements of CHRO and Reg. 520.105, which are in addition to any Building Code requirements. R

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) Disability discrimination found where a restaurant’s restrooms were not accessible to a wheelchair user due to narrow entrance doors. Undue hardship not proved where evidence of alteration cost was presented but no objective evidence the cost was prohibitively expensive for the business. No legal basis for proffered defense that the building was “grandfathered” and thus exempt from compliance with CHRO’s accessibility requirements; although age and structure of a building may be relevant to proof of undue hardship, age alone is not dispositive. Nor is mere fact that Complainant had filed multiple complaints alleging inaccessibility of public accommodations relevant to outcome of the case or Complainant’s credibility. R

Cotten v. Top Notch Beefburger, Inc., CCHR No. 09-P-31 (Feb. 16, 2011) After order of default, prima facie case of disability discrimination established where wheelchair user asked to use a restroom while patronizing restaurant but was unable to enter and close restroom door. R

Montelongo v. Azarpira, CCHR No. 09-H-23 (Mar. 16, 2011) After order of default, mother of 15-year-old autistic child established prima facie case of disability discrimination where property owner refused to rent apartment to her after the child acted out at the showing. Child’s highly unusual behavior along with Respondent’s representative’s reaction to it supported inference the representative perceived the child to have a disability, even without evidence the representative knew precise nature of disability. R

Liability Not Found

Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) CHR found Respondent not liable in that it fully accommodated Complainant’s back problem by assigning him the only chair with a working back rest; where some job actions were not adverse or were shown caused by Complainant’s conduct not his disability; and where there was no evidence that his supervisor spread rumors that he was HIV positive. R

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) Complainant found not to have carried her burden to show that she was not given a starting date, after being given a job offer, due to her disability, especially where Respondent was found to have been willing to make the limited modifications needed to accommodate her. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) Respondent found not to have failed to accommodate Complainant’s disability where Complainant could not use front entrance but where other entrance was not stigmatizing, where Complainant had full use of all areas of building but front door, and
where Complainant’s claims about problems with other door found not to be credible. R

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) CHR found Respondent was not liable for making Complainant give up his crutches to sit in regular seats because Complainant knew he could keep his crutches with him if he sat in disabled seating but he chose not to do so. R

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) Fact that Respondent temporarily misplaced Complainant’s crutches which they had made him turn over found not to be discrimination or a failure to accommodate but an error. R

Van Dyck v. Old Time Tap, CCHR No. 04-E-103 (Apr. 15, 2009) No disability discrimination where a fill-in bartender failed to establish that she was fired because of disability or perceived disability. Complainant did not establish that she had actual disability or that the bar owner perceived her to have disability, and did not establish differential treatment. R

Sian v. Rod’s Auto & Transmission Center, CCHR No. 07-E-46 (June 16, 2010) No disability discrimination found in that employee failed to prove (1) that the business owner knew or believed the employee had a determinable, nontransitory medical condition, (2) that employee performed job to employer’s legitimate expectations where he failed to return to work or call in for two weeks, and (3) that other employees were not discharged under these circumstances. R

Medical Examination

Johnson v. Norfolk Southern Corp., CCHR No. 00-E-61 (Apr. 12, 2001) CHR finds substantial evidence of disability discrimination, relying upon EEOC’s investigation and reasonable cause determination, finding, in short, that Respondent had required Complainant to submit to a medical examination and put him on no-pay status because he limped although Complainant performed the essential functions of his job without incident upon return from a leave of absence. CO

No Substantial Evidence Found

Taylor v. Chicago Hilton & Towers, CCHR No. 00-E-161 (Apr. 26, 2001) CHR found no evidence of disability discrimination, relying upon EEOC’s investigation and no reasonable cause determination, finding, in short, that Complainant’s request for “accommodation” may not have related to her disability; that Respondent’s response, in any case, was effective even if not her desired one; and there was no evidence to suggest that discipline imposed on her for insubordination and improper use of company computer was at all pretextual. CO

Wheeler-Robinson v. Univ. of Chicago Hosp., CCHR No. 01-E-103 (Nov. 14, 2001) When disabled Complainant dropped out of “inter-active process” and was insubordinate, she thwarted Respondent’s attempts to reasonable accommodate her and so CHR adopted EEOC’s finding to dismiss case. CO

Obesity

Byler v. McCormick Place Convention Ctr., CCHR No. 00-E-112 (Apr. 11, 2001) Where Complainant did not allege that her obesity resulted from any disease, injury, congenital condition or functional disorder as required by CHRO and did not allege that employer perceived her to have a disability, CHR found she did not state disability discrimination claim; CHR notes that it is not holding that obesity may never constitute a disability under the CHRO. CO

Personal Services – No new decisions in this volume.

Pregnancy Discrimination

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) Disabilities related to pregnancy are considered temporary disabilities and not analyzed under legal principles applicable to disability discrimination claims. Thus Reg. 365.120 allowing rejection of a person with a disability if employment would be hazardous to health and safety not applied to whether a pregnant employee could be forced to take maternity leave. R

Public Accommodation

McCabe v. Chipotle et al., CCHR No. 03-P-119 (Aug. 8, 2003) Where Complainants alleged that wheelchair users were deprived full use of public sidewalks because of Respondent restaurants’ sidewalk eating facilities, Complaint dismissed because public accommodation in question was not under ownership or control of adjacent restaurants; such sidewalks are public accommodation provided by City of Chicago. CO

Maat v. Conway Mgmt. et al., CCHR No. 02-PA-74 (Aug. 21, 2003) Whether residential condominium and its management company are proper respondents as responsible to provide access for wheelchair users to business in same building through entrance under their control is factual issue that cannot be decided on motion to dismiss. CO
Luna v. SLA Uno, Inc., et al., CCHR No. 02-PA-70 (March 29, 2005) Despite references to Americans with Disabilities Act in Complaint, CHR shall proceed only based on CHRO; although not an accessibility code and provisions may not be co-extensive with ADA or other laws, CHRO does require that public accommodations be available to persons with disabilities under same terms and conditions as for all others. CO

Brekke v. Officer Delia et al., CCHR No. 01-PA-110/117 (July 22, 2005) Where Complainant alleged that police officers referred to his presumed mental illness in refusing to take police report but lacked sufficient information to determine whether their comments, in providing limited public accommodation of listening to his request for police action, were sufficiently “separating or belittling” to have created hostile environment in use of public accommodation, motion to dismiss harassment claim denied due to outstanding factual issues. CO

Biondi v. Cook-DuPage Transp. Co., Inc. et al., CCHR No. 94-PA-42 (Sep. 14, 2005) Although available only to qualified persons with disabilities, alleged inadequacy of paratransit services of Chicago Transit Authority concerns a public accommodation under CHRO because related to CTA’s duty not to discriminate against persons with disabilities concerning full use of its public transportation services. However, subcontractor providing only paratransit services to qualified persons and no services to general public not a public accommodation and so dismissed from case. CO

Maat v. Chicago Police Dep’t., CCHR No. 04-P-54 (Dec. 30, 2005) Where, in declining to take action, police officers called Complainant “crazy,” no denial of full use of limited public accommodation of listening to Complainant’s request for police action because comments were not sufficiently “separating or belittling” to create hostile environment: term “crazy” not inherently derogatory; that officers were disapproving, argumentative, or discourteous does not create hostile environment; merely making inquiry or stating belief about person as having mental disability not discriminatory in this context. CO

DeVries v. Raw Bar & Grill, CCHR No. 06-P-66 (Apr. 19, 2007) No adverse action where Complainant was removed from restaurant due to belief he was intoxicated because of uneven gait, but staff apologized and comped drinks as soon as they learned of his disability, cerebral palsy. Prompt corrective action cured the potentially discriminatory conduct, which occurred before Respondent knew of Complainant’s disability. CO

Maat v. String-a-Strand, CCHR No. 05-P-5 (Feb. 20, 2008) After order of default, Complainant established prima facie case of disability discrimination where business did not have wheelchair accessible entrance and owner behaved rudely toward Complainant after she sought accommodation. R

Cotten v. Taylor Street Food and Liquor, CCHR No. 07-P-12 (July 16, 2008) After order of default, prima facie case of disability discrimination established where wheelchair user sought to enter storefront liquor store to make a purchase but could not do so due to the presence of two stairs. R

Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (May 20, 2009) Prima facie case of disability discrimination established where wheelchair user sought to enter a restaurant to eat but could not do so due to steps at entrance. R

Cotten v. 162 N. Franklin, LLC, d/b/a Eppy’s Deli and Café, CCHR No. 08-P-35 (Sept. 16, 2009) Same as Cotten v. Eat-A-Pita, above.

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Disability discrimination where wheelchair user sought to enter showroom to discuss a possible purchase but could not do so due to a flight of stairs, and no alternative means of service was offered. R

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) Disability discrimination found where a restaurant’s restrooms were not accessible to a wheelchair user due to narrow entrance doors. Undue hardship not proved where evidence of alteration cost was presented but no objective evidence the cost was prohibitively expensive for the business. No legal basis for proffered defense that the building was “grandfathered” and thus exempt from compliance with CHRO’s accessibility requirements; although age and structure of a building may be relevant to proof of undue hardship, age alone is not dispositive. Nor is mere fact that Complainant had filed multiple complaints alleging inaccessibility of public accommodations relevant to outcome of the case or Complainant’s credibility. R

Cotten v. Top Notch Beefburger, Inc., CCHR No. 09-P-31 (Feb. 16, 2011) After order of default, prima facie case of disability discrimination established where wheelchair user asked to use a restroom while patronizing restaurant but was unable to enter and close restroom door. R

Qualified Individual – No new decisions in this volume.

Reasonable Accommodation

Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) CHR found Respondent not liable where it fully accommodated Complainant’s back problem by assigning him only chair with a working back rest. R

Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) Complainant does not have the right to an accommodation of his choice just to one which will reasonably allow him to fulfill the essential functions
of his job. R

_Luckett v. Chicago Dept. of Aviation_, CCHR No. 97-E-115 (Oct. 18, 2000) If an accommodation is not working, Complainant must inform his employer and engage in an interactive process to correct the problem. R

_Matthews v. Hinckley & Schmitt_, CCHR No. 98-E-206 (Jan. 17, 2001) “An employer is not obligated to provide an employee with the accommodation [s]he requests or prefers, [rather] the employer need only provide some reasonable accommodation”. R

_Taylor v. Chicago Hilton & Towers_, CCHR No. 00-E-161 (Apr. 26, 2001) (same) CO

_Taylor v. Chicago Hilton & Towers_, CCHR No. 00-E-161 (Apr. 26, 2001) CHR found no evidence of disability discrimination, relying upon EEOC’s investigation and no reasonable cause determination, finding, in short, that Complainant’s request for “accommodation” may not have related to her disability; that Respondent’s response, in any case, was effective even if not her desired one; and there was no evidence to suggest that discipline imposed on her for insubordination and improper use of company computer was at all pretextual. CO

_Belcastro v. 860 N. Lake Shore Drive Trust_, CCHR No. 95-H-160 (Mar. 20, 2001) CFHO and Regulations require respondents to make housing accommodations fully accessible to a person with a disability and if respondents demonstrate that doing so would create an undue hardship, then it must reasonably accommodate the individual or show that doing that would create an undue hardship. HO

_Nichols v. Northwestern Memorial Hosp., et al.,_ CCHR No. 01-PA-15 (June 27, 2001) Fact that hospital did not accommodate disabled patient in the manner she desired – using a special lift to move her from her bed to a wheelchair – found not to be a failure to accommodate when it reasonably accommodated her by moving her to different locations while keeping her in her bed. CO

_Nichols v. Northwestern Memorial Hosp., et al.,_ CCHR No. 01-PA-15 (June 27, 2001) Complainants are not entitled to the “best” accommodation so long as they receive one that works. CO

_Nichols v. Northwestern Memorial Hosp., et al.,_ CCHR No. 01-PA-15 (June 27, 2001) Complainants and respondents are to engage in an interactive process to identify a reasonable accommodation and the fact that disabled patient had to argue to receive a reasonable accommodation is not itself a violation of the CHRO, especially when the complainant is not harmed in the process. CO

_Wheeler-Robinson v. Univ. of Chicago Hosp.,_ CCHR No. 01-E-103 (Nov. 14, 2001) When disabled Complainant dropped out of “interactive process” and was insubordinate, she thwarted Respondent’s attempts to reasonable accommodate her and so CHR adopted EEOC’s finding to dismiss case. CO

_Wheeler-Robinson v. Univ. of Chicago Hosp.,_ CCHR No. 01-E-103 (Nov. 14, 2001) A person with a disability seeking an accommodation must participate in an “interactive” process with respondent to obtain an effective one. CO

_Wheeler-Robinson v. Univ. of Chicago Hosp.,_ CCHR No. 01-E-103 (Nov. 14, 2001) Fact that employee has a disability does not mean that employer must allow insubordinate conduct. CO

_Belcastro v. 860 N. Lake Shore Drive Trust_, CCHR No. 95-H-160 (Feb. 20, 2002) Respondent found not to have failed to accommodate Complainant’s disability where Complainant could not use front entrance but where other entrance was not stigmatizing, where Complainant had full use of all areas of building but front door, and where Complainant’s claims about problems with other door found not to be credible. R

_Belcastro v. 860 N. Lake Shore Drive Trust_, CCHR No. 95-H-160 (Feb. 20, 2002) While front entrance is not accessible, second entrance is not limited to people with disabilities and is used by other residents; it opens onto a plaza; it is safe-guarded by same security guard as front entrance. R

_Spanjer v. White Hen Pantry & Chicago Police_, CCHR No. 00-PA-33 et al. (Mar. 5, 2002) Where one Complainant with a hearing disability did not ask for a sign-language interpreter and where need for one was not obvious, she did not state a claim for failure to accommodate. CO

_Schell v. United Center_, CCHR No. 98-PA-30 (Mar. 20, 2002) “Full use” of a public accommodation is not meant literally or else no arena or theater could use tiered seating as not every seat would be accessible to everyone; instead, it is enough that an arena have accessible seating, dispersed throughout, from which disabled individuals can observe the event; such seating constitutes a reasonable accommodation. R

_Schell v. United Center_, CCHR No. 98-PA-30 (Mar. 20, 2002) CHR held that Respondent was not liable for refusing Complainant his preferred accommodation because they offered him a reasonable one; Complainant knew that he could sit in accessible seating and keep his crutches but demanded to keep them in regular seating, where they would be an obstruction. R

_Williams v. Greyhound Lines, Inc.,_ CCHR No. 06-E-11 (Mar. 8, 2007) No basis to overturn CHR’s finding that Respondent initiated interactive process after accommodation request but Complainant refused to allow examination by neutral physician to resolve conflicting information on his condition and feasible accommodations. Examination request was reasonable and duty to participate in interactive process is imposed on complainants as well as respondents. CO
Zografopoulos v. Wendella Sightseeing Co., Inc., CCHR No. 05-P-95 (Mar. 10, 2008) Carrying wheelchair user over staircase held unacceptable as a reasonable accommodation due to significant risk to staff and wheelchair user. CO

Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (May 20, 2009) Where a wheelchair accessible ramp or a door bell is not available, offering curbside and delivery service to accommodate a person with a disability does not provide full use and is not a reasonable accommodation. R

Cotten v. Lou Mitchell’s, CCHR No. 06-P-9 (Dec. 16, 2009) Stairway lift and offer to carry wheelchair user down stairs to restroom are not reasonable accommodations where they require wheelchair user to rely on others to put user on lift and carry wheelchair down stairs, because they impose injury risks and could result in humiliation. Reasonable accommodation found where restaurant employees advised Complainant of inaccessible restroom upon his arrival, informed him of accessible restrooms in other buildings, and offered to accompany him to an accessible restroom. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Offer to carry or lift wheelchair user over barrier not a full or reasonable accommodation, nor is wheelchair user expected to bring own portable ramp. R

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) CHR expresses doubt that restaurant’s purchase of a narrow wheelchair to enable wheelchair users to negotiate a narrow restroom entrance could be deemed a reasonable accommodation, as it would require wheelchair users to transfer in public space in view of others and presents issues similar to offers to carry a wheelchair over a barrier. R

Monticello v. Tran et al, CCHR No. 10-P-99 et al., (Nov. 4, 2010) Request for accommodation to file complaints and other documents by e-mail denied where Complainant failed to establish that disability or other good cause required e-mail filing such that no permitted filing method—in-person, mail, or fax—was workable. Complainant can use e-mail only to communicate questions about complaint process to and from CHR. CO

Request for Accommodation

Spanjer v. White Hen Pantry & Chicago Police, CCHR No. 00-PA-33 et al. (Mar. 5, 2002) Where one Complainant with a hearing disability did not ask for a sign-language interpreter and where need for one was not obvious, she did not state a claim for failure to accommodate. CO

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) It is the duty of the person with the disability to request a reasonable accommodation, unless the need for one is apparent. R

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) Even if Respondent had duty to ask this Complainant about an accommodation because it was apparent that he needed his crutches to move, because Complainant already knew about Respondent’s accessible seating and had used it in the past, the fact that Respondent’s representative did not specifically inform him of it does not violate the CHRO in this case. R

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (Mar. 30, 2002) Motion to dismiss failure-to-accommodate claim brought against condominium association denied due to fact-specific nature of the claim; CHR could not rule, as a matter of law, that the specific requests for accommodation were unreasonable. CO

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Complainant proved he requested accommodation where he sent companions upstairs to a second-floor showroom to inquire about wheelchair-accessible entrance and obtain business card. R

Substance Abuse – No new decisions in this volume.

Substantial Evidence Found

Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 14, 2000) Where disabled Complainant could not use entrance between Ford City’s underground pedway and Sears store, CCHR found substantial evidence of failure to accommodate, finding that the CHRO requires “full” access, unless undue hardship, and that it could not find that Respondents had shown an undue hardship at this stage of the case. CO

Johnson v. Norfolk Southern Corp., CCHR No. 00-E-61 (Apr. 12, 2001) CHR finds substantial evidence of disability discrimination, relying upon EEOC’s investigation and reasonable cause determination, finding, in short, that Respondent had required Complainant to submit to a medical examination and put him on no-pay status because he limped although Complainant performed the essential functions of his job without incident upon return from a leave of absence. CO

Russell v. Alliance Hose & Rubber, CCHR No. 97-E-230 (Oct. 17, 2001) Where there was a credibility-based dispute about whether the over-40-year-old Complainant was terminated just before cancer surgery after rejecting an offer of early retirement, CHR found substantial violation of age and disability discrimination. CO
Transsexualism – See Volume 1 and Gender Identity Discrimination section, below.

Undue Hardship

Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 14, 2000) CHRO and other disability law put the burden of proof on respondents to show that a proposed accommodation would create an undue hardship. CO

Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 14, 2000) CHR found that, for purposes of determining substantial evidence, Respondents had not proved that an undue hardship would be created due to expense of proposed alteration, its interference with store operations, or difficulty in sorting out which Respondent would be responsible. CO

Powell v. Management & Owner of 549 W. Randolph St., CCHR No. 00-PA-72 (Dec. 1, 2000) CHR denied motion to dismiss in which disabled Complainant alleged that the building was not accessible to her where Respondents argued the facts of the case, such as whether they had attempted to accommodate Complainant and whether any accommodation would create an undue hardship. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) CHR found Respondent did not fail to accommodate Complainant and so did not violate CFHO; however, in dicta, CHR set forth its analysis why Respondent did not prove an undue hardship had Complainant proved his prima facie case of failure-to-accommodate. R

Smith v. Owner of Baby Gap et al., CCHR No. 02-PA-125 (Apr. 11, 2003) Respondent’s argument that Complaint failed to meet “initial burden of production” establishing that removal of architectural barrier is readily achievable held without merit; CHR cases have consistently held that burden is on respondent, not complainant, to prove by preponderance of evidence that requested accommodation cannot be made without undue hardship. CO

Smith v. Owner of Halligan et al., CCHR No. 03-P-103 (Sep. 19, 2003) Motion to dismiss contending that making restaurant wheelchair-accessible is undue hardship denied due to outstanding factual issues which cannot be resolved on motion to dismiss. CO

Zografopoulos v. Wendella Sightseeing Co., Inc., CCHR No. 05-P-95 (Mar. 10, 2008) Uncontested evidence on motion to dismiss established undue hardship for sightseeing boat company to provide full use of its boat launch facility to wheelchair users where company lacked ownership or sufficient control of dock areas to make accessibility alterations and relocating would deprive company of desirable and long-standing location. No effective reasonable accommodation found possible without undue hardship where only available option of carrying wheelchair user over a staircase would impose significant risk of injury to staff and wheelchair user. Requiring company to provide accessible gangplank onto boat also held to be undue hardship as long as there is no accessible way to reach the gangplank. CO

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Respondent failed to show undue hardship to create wheelchair-accessible entrance to second-floor showroom where it asserted but did not prove landlord’s unwillingness to make structural alterations, and where it did not document costs and inability to pay. R

Cotten v. Lou Mitchell’s, CCHR No. 06-P-9 (Dec. 16, 2009) Undue hardship of substantial financial losses found where building a first-floor wheelchair-accessible restroom would cost restaurant $95,000-$110,000 and eliminate 13.5% of seats. Undue hardship of physical infeasibility found where stairway to basement restroom does not meet required dimensions for wheelchair lift. R

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (June 4, 2010) CHR declined to certify undue hardship on request of Respondent after final order directing Respondent to make its showroom wheelchair accessible as able without undue hardship. Respondent’s submissions documenting compliance would be considered if Complainant moved to enforce the injunctive relief, but because it appeared Respondent had made substantial effort to comply with the final order, CHR did not contemplate seeking judicial enforcement sua sponte at that time. CO

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) Respondent restaurant failed to prove by objective evidence an undue hardship to provide a wheelchair accessible restroom where evidence of alteration cost was presented but no evidence to show the cost was prohibitively expensive for the business. R

DISCOVERY

Attorney’s Fees – No new decisions in this volume.

CCHR Investigative Materials & Investigator – See also Evidence/CCHR Investigative Summary section, below.

Thomas v. Chicago Dept. of Health, et al., CCHR No. 97-E-221 (Apr. 26, 2000) Hearing Officer allowed Complainant to request appearance of CHR investigator so that, if he is needed at hearing for impeachment, he will be available; he postponed deciding whether investigator would be called, per Reg. 240.370, pending evaluating testimony at hearing. HO
Thomas v. Chicago Dept. of Health, et al., CCHR No. 97-E-221 (Apr. 26, 2000) Subpoena not needed to ensure presence of CHR investigator at hearing; request for appearance is sufficient. HO

Thomas v. Chicago Dept. of Health, et al., CCHR No. 97-E-221 (Nov. 9, 2000) Hearing Officer allowed Complainant to use CHR investigator’s statements at Hearing, finding that the testimony was for impeachment purposes, was relevant, was admissible and could not be obtained through other means. HO

Byrd v. Hyman & Rodriguez, CCHR No. 97-H-2 (Feb. 12, 2001) Hearing Officer denied, without prejudice for renewal, Complainant’s motion to have CCHR investigator testify at upcoming hearing, finding that there is no basis to presume that Respondent’s testimony will be inconsistent with what he told investigator. HO

Hawkins v. Tebyanian & Thorpe, CCHR No. 96-E-90 (May 16, 2001) Hearing Officer denied, without prejudice, Complainant’s motion to have CCHR’s investigator available to testify because Complainant did not argue that Respondents’ defense would be different from that made in the investigation and so impeachment not implicated and because investigators are not needed to obtain documents which are available from Respondents. HO

Consolidation Effect – No new decisions in this volume.

Depositions

Thomas v. Chicago Dept. of Health, et al., CCHR No. 97-E-221 (Mar. 13, 2000) Hearing officer denied Complainant’s request for interrogatories and depositions where Complainant’s general desire to thoroughly prepare and/or fact that witnesses may make unspecified contradictory statements do not meet CHR’s regulations requirement of “good cause” for this discovery. HO

Cunningham v. Bui & Phan, CCHR No. 01-H-36 (Aug. 1, 2006) Motion for video deposition of seriously ill witness granted by hearing officer and procedures outlined. HO

Mendez v. El Rey del Taco & Burrito, CCHR No. 09-E-016 (Apr. 5, 2010) Hearing officer denied Respondent’s request to allow interrogatories and depositions where no apparent ambiguities in Complaint and mere assertion of inability to prepare a defense does not establish “good cause” for additional discovery. HO

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Hearing officer’s denial of request to depose Complainant affirmed. CHR regulations contemplate limited discovery and require showing of good cause to depose. They are enacted under City’s home rule authority and not subject to procedures and rules of discovery of Illinois state courts. Nor is deposition a due process right. Unless parties agree, depositions are not allowed merely for preparation and the speculative potential to elicit contradictory statements to undermine credibility. R

Document Requests

Case Law – No new decisions in this volume.

Compiled List – No new decisions in this volume.

Criminal Record

Martinez v. Midtown Kitchen and Bar et al., CCHR No. 09-P-29 (June 30, 2010) Respondent permitted to request evidence of prior convictions to impeach Complainant’s credibility, but not evidence of prior arrests. HO

Possession and Control

Thomas v. Prudential Biros Real Estate, et al., CCHR No. 97-H-59/60 (Jan. 3, 2002) Where Complainants stated that they had no “list” of damages sought other than those protected by attorney-client privilege, Hearing Officer sustained Complainants’ objections to producing such a list, finding that they need not create such a list only to respond to discovery request. HO

Reasonable Relation

Byrd v. Hyman & Rodriguez, CCHR No. 97-H-2 (Jan. 25, 2001) Hearing Officer required Respondent to respond to several of Complainant’s document requests, including those seeking personal financial information finding those are reasonably related to claim for punitive damages. HO

Thomas v. Prudential Biros Real Estate, et al., CCHR No. 97-H-59/60 (Jan. 3, 2002) CHR is authorized to award punitive damages and the financial condition of the respondent is one factor used to determine the amount of them; thus, objection to discovery about financial condition denied. HO

Thomas v. Prudential Biros Real Estate, et al., CCHR No. 97-H-59/60 (Jan. 3, 2002) Hearing Officer granted Respondent’s objection to document request which sought information about alleged steering and tipping because case involves disparate treatment in one transaction and Complainant cannot broaden to require CHR to determine whether steering or tipping occurred in the past. HO

Long v. Chicago Public Library, CCHR No. 00-PA-13 (Jan. 21, 2004) Complainant and individual
Respondents who are sworn peace officers or firefighters ordered to produce certain personal information and to submit proposed protective order barring use outside CHR proceedings and requiring return of documents at conclusion of case. Complainant ordered to produce documents related to claims of lost income or discrimination similar to those of instant case. HO

Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (Sep. 5, 2002) Evidence as to net worth and financial capacity of Respondent is relevant to issue of punitive damages and so is discoverable. HO

Gilbert & Gray v. 7355 S. Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (Jan. 3, 2007) Although Respondent failed to raise a timely objection, hearing officer denied request for discovery of insurance documents because Complainant did not demonstrate that the information was material or relevant to issue of damages and such evidence has potential prejudicial impact. HO

Thomas v. Northwestern Memorial Hospital, CCHR No. 03-E-121 (Mar. 2, 2007) Noting that threshold for discoverability under reasonable relation standard is quite low, in promotional discrimination case, hearing officer compelled production of personnel records of individual promoted and a decision maker, documents regarding the promotion decision with limitation to incidents during selection process, and pay rates for position at issue, all as relevant and not overbroad or burdensome. Parties also ordered to revise previous responses to document requests to indicate which documents respond to each request as more efficient way to respond even though not required by regulation. HO.

Williams v. Cingular Wireless et al., CCHR No. 04-P-22 (May 9, 2007) In public accommodation discrimination case, hearing officer sua sponte quashed Respondent’s requests to Complainant for (1) documents related to prior complaints or lawsuits without limitation as to type, year, or place; (2) whether Complainant has ever filed for bankruptcy; and (4) documentation of income for past five years. Requests found outside the bounds of relevant litigation inquiry and intended to intimidate and deter Complainant from pursuing her case. Respondent was offered opportunity to justify any denied request including its breadth. Requests relating to the event at issue, Complainant’s damages, and a contract between the parties were held proper. HO

Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (July 3, 2008) Respondent’s motion to compel granted for responsive documents Complainant withheld on grounds other than attorney-client privilege or work product, and for records sufficient to disclose self-employment income earned after discharge, but denied for full task returns, which may contain highly personal information not reasonably related to claims and defenses in case. Complainant’s motion to compel granted as to documents regarding Respondent’s employees where privacy concerns could be addressed by protective orders and redacting sensitive information. Complainant need not show “particularized need” for reasonably related documents. Complainant also entitled to documents reflecting complaints of sex or pregnancy discrimination against Respondent as reasonably related to her parental status discrimination complaint because bias on those grounds might help establish bias as to parental status. HO

Cotten v. True Religion Apparel, Inc., CCHR No. 07-P-115 (Dec. 10, 2008) Motion to compel response to document requests directed to Complainant alleging a public accommodation was not wheelchair accessible was denied in part by hearing officer as not reasonably related to claims or defenses in case: (1) Overly broad requests for medical information were limited to those showing existence and nature of Complainant’s disability and any examination, advice, or treatment related to alleged emotional distress arising from events alleged in complaint. (2) Requests regarding charges, arrests, indictments or convictions of Complainant were held unrelated to the incidents at issue, with any potential relevance to Complainant’s credibility far outweighed by potential prejudice to Complainant. (3) Requests related to previously-filed discrimination complaints were overly broad as to substance and time frame and were limited by hearing officer to complaints filed at CHR since 2005 and documents not subject to attorney-client or work-product privileges. HO

Cotten v. Congress Plaza Hotel & Convention Center, CCHR No. 06-P-69 (Feb. 25, 2009) Motion to compel response to document requests about Complainant’s prior discrimination claims denied as not reasonably related to claims and defenses in current case, rejecting argument that the information would show whether Complainant was exaggerating his harm and damages because Complainant still has burden to prove his current allegations and damages. HO

Martinez v. Midtown Kitchen and Bar et al., CCHR No. 09-P-29 (June 30, 2010) Document request to Complainant regarding lost wages limited to documentation of employer, pay scale, and work schedule. Complainant not required to produce documentation of comprehensive employment history, job evaluations, or tax returns where Complainant alleged public accommodation discrimination based on one discrete incident. Complainant required to produce identification showing eligibility to enter Respondent’s bar, but not to produce evidence of citizenship. HO

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Timing

*Hunt v. Paralegal Personnel, Inc.*, CCHR No. 01-E-26 (July 2, 2001) CHR Regulations do not permit parties to engage in discovery before the case enters the administrative hearing phase. CO

*Ivy v. Papanikos*, CCHR No. 04-H-62 (Aug. 22, 2007) Where case is merely set for conciliation conference after a substantial evidence finding, Respondents’ Request for Documents and Information stricken as premature, may be resubmitted if case does not settle and advances to hearing process. CO

*Johnson v. Anthony Gowder Designs, Inc.*, CCHR No. 05-E-17 (July 1, 2008) Complainant need not respond to interrogatories where Respondent did not move for additional discovery and the parties had not agreed to it. HO

Unreasonable Burden – No new decisions in this volume.

Vagueness – No new decisions in this volume.

During Investigation

*Hunt v. Paralegal Personnel, Inc.*, CCHR No. 01-E-26 (July 2, 2001) CHR Regulations do not permit parties to engage in discovery before the case enters the administrative hearing phase. CO

*Morris v. Chicago Bd. of Education, et al.*, CCHR No. 97-E-41 (Sep. 5, 2001) CHR may collect comparative information about claims as part of its obligation and charge to investigate cases, despite objection by respondent. CO

*Nichilo v. Wirtz Realty Corp. et al.*, CCHR No. 00-H-110 (Nov. 7, 2001) CHR is empowered to investigate claims to determine if there is a violation of CFHO and so it denied unsupported claim that information about comparable applicants was private, although it allowed redacting of names. CO

Expert Witnesses – No new decisions in this volume.

Good Cause

*Thomas v. Chicago Dept. of Health, et al.*, CCHR No. 97-E-221 (Mar. 13, 2000) Hearing officer denied Complainant’s request for interrogatories and depositions where Complainant’s general desire to thoroughly prepare and/or fact that witnesses may make unspecified contradictory statements do not meet CHR’s regulations requirement of “good cause” for this discovery. HO

IDHR Investigative Materials & Investigator – No new decisions in this volume.

Interrogatories

*Thomas v. Chicago Dept. of Health, et al.*, CCHR No. 97-E-221 (Mar. 13, 2000) Hearing officer denied Complainant’s request for interrogatories and depositions where Complainant’s general desire to thoroughly prepare and/or fact that witnesses may make unspecified contradictory statements do not meet CHR’s regulations requirement of “good cause” for this discovery. HO

*Bahena v. Adjustable Clamp Company*, CCHR No. 99-E-111 (Aug. 8, 2002) Leave granted to Respondent to serve interrogatory upon Complainant to ascertain factual basis of his sexual orientation harassment claim where it went “to the heart” of case, information sought could not be gathered through document production, it would allow Respondent to adequately prepare for hearing, and it was reasonably drafted and not overly broad. HO

*Williams v. Cingular Wireless et al.*, CCHR No. 04-P-22 (June 4, 2007) Hearing Officer *sua sponte* ordered that Respondents need not respond to Complainant’s interrogatories where no record that any Respondent agreed to interrogatories or that Complainant filed a motion seeking them pursuant to Reg. 240.435. HO

*Maat v. Syed Video*, CCHR No. 05-P-45 (July 11, 2007) Interrogatories and other discovery not permitted in context of mandatory conciliation process because administrative hearing not yet commenced. After order setting hearing and naming hearing officer is issued, a party may request leave to issue interrogatories. CO

*Johnson v. Anthony Gowder Designs, Inc.*, CCHR No. 05-E-17 (July 1, 2008) Complainant need not respond to interrogatories where Respondent did not move for additional discovery and the parties had not agreed to it. HO

*Cotten v. Atlas Stationers, Inc.*, CCHR No. 08-P-72 (Apr. 16, 2009) Complainant’s interrogatories to Respondent quashed *sua sponte* by hearing officer due to failure to obtain leave to file them. HO

*Cotten v. La Luce Restaurant*, CCHR No. 08-P-34 (July 3, 2009) Complainant’s motion to compel responses to document requests denied as to requests that amounted to interrogatories without having obtained leave to conduct other forms of discovery. HO

Respondent’s request to allow interrogatories and depositions where no apparent ambiguities in Complaint and mere assertion of inability to prepare a defense does not establish “good cause” for additional discovery. HO

**Motions in Limine – See Evidence/Motions in Limine section, below.**

**Motions to Compel**

*Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (May 31, 2000)* Respondent’s motion to compel denied as it was based on Complainant’s failure to seek subpoenas or other notices to have witnesses testify, not on his failure to respond to Respondent’s discovery; because deadlines for such actions had passed, Complainant’s sanction is that he will not be able to compel the attendance of any witnesses at the hearing. HO

*Belcastro v. 860 N. Lake Shore Dr. Trust, CCHR No. 95-H-160 (June 13, 2000)* Because CHR regulations provide for motions to compel and certain sanctions for discovery violations, parties are not to resort to “self-help” - - withholding discovery responses in retaliation for the other party’s failure to respond to discovery -- and the absence of a motion to compel makes continuing the hearing unlikely. HO

*Pudelek/Weinmann v. Bridgeview Garden Condo Assoc., CCHR No. 99-H-39/53 (Aug. 2, 2000)* Motion to compel granted where Respondents did not respond to discovery request and motion to compel. HO

*Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (Sep. 5, 2002)* Motion to compel granted for discovery of Respondent’s net worth and financial capacity as relevant to issue of punitive damages, but attorney fee request denied in light of parties’ good faith efforts to resolve dispute and Respondent’s production of some documents prior to filing of motion. HO

*Fernandez v. Rosing et al., CCHR No. 03-E-17 (Apr. 26, 2004)* Motion to Compel denied where filed during investigation stage because CHR Regulations do not provide for discovery by parties prior to hearing process; during investigation, only CHR may serve Request for Documents and Information on either party. CO

*Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007)* Oral motion at Pre-Hearing Conference to compel responses to interrogatories and document requests was properly denied where Reg. 240.456 requires filing of motion to compel within 7 days after any failure to comply and Respondents did not do so, nor did Respondents file a motion seeking permission to serve interrogatories as required by Reg. 240.435. R

*Williams v. First American Bank, CCHR No. 05-P-130 (Feb. 19, 2008)* Motion for sanctions treated a motion to compel and granted. Complainant ordered to produce copies of all documents related to other cases he filed claiming discrimination where he had submitted only some of the known documents. HO

*Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (July 3, 2008)* Respondent’s motion to compel granted for responsive documents Complainant withheld on grounds other than attorney-client privilege or work product, and for records sufficient to disclose self-employment income earned after discharge, but denied for full task returns, which may contain highly personal information not reasonably related to claims and defenses in case. Complainant’s motion to compel granted as to documents regarding Respondent’s employees where privacy concerns could be addressed by protective orders and redacting sensitive information. Complainant need not show “particularized need” for reasonably related documents. Complainant also entitled to documents reflecting complaints of sex or pregnancy discrimination against Respondent as reasonably related to her parental status discrimination complaint because bias on those grounds might help establish bias as to parental status. HO

*Cotten v. Congress Plaza Hotel & Convention Center, CCHR No. 06-P-69 (Feb. 25, 2009)* Motion to compel production of documents about Complainant’s prior discrimination claims denied as not reasonably related to claims and defenses in current case, rejecting argument that the information would show whether Complainant was exaggerating his harm and damages because Complainant still has burden to prove his current allegations and damages. HO

*Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (July 1, 2009)* Complainant’s motion to compel missing responses to document requests denied as untimely where not filed within 7 days after the noncompliance, measured from date responses were due. HO

*Cotten v. La Luce Restaurant, CCHR No. 08-P-34 (July 3, 2009)* Complainant’s motion to compel granted in part with deadline to comply and warning about possible sanctions for further noncompliance, where Respondent failed to answer document requests and did not respond to Complainant’s motion, but denied to extent that Complainant’s requests amounted to interrogatories without having obtained leave to conduct other forms of discovery. HO

*Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Aug. 11, 2009)* Motion to compel denied as untimely where filed eight weeks after alleged failure to comply and moving party did not attempt to meet and confer with opposing party about it until seven weeks after receipt of disputed response. HO

**Prejudicial Evidence – See Evidence/Prejudicial Evidence section, below.**

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Privileges – No new decisions in this volume.

Protective Orders – See also separate Protective Orders section, below.

Byrd v. Hyman & Rodriguez, CCHR No. 97-H-2 (Feb. 12, 2001) Hearing Officer granted request for protective order over Respondent’s personal financial records which were found discoverable only for possible punitive damage purposes. HO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (May 8, 2002) Protective order entered to cover names, addresses and social security numbers of applicants for relevant positions in discovery documents but such information may be disclosed at public hearing. HO

Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (Sep. 5, 2002) Request for protective order granted where Respondent asserted that as a private corporation, its financial documents are extremely confidential. HO

Long v. Chicago Public Library, CCHR No. 00-PA-13 (Jan. 21, 2004) Protective order allowed for certain personal information of Complainant and individual Respondents who are sworn peace officers or firefighters, barring use outside CHR proceedings and requiring return of documents at conclusion of case. HO

Thomas v. Northwestern Memorial Hospital, CCHR No. 03-E-121 (Mar. 2, 2007) As to Respondent motion for protective order covering personnel records and records of promotional decision, Respondent allowed to redact confidential material and if confidentiality concerns remain, parties ordered to agree to terms of a protective order submit briefs on issue by stated deadline. HO

Punitive Damages

Byrd v. Hyman & Rodriguez, CCHR No. 97-H-2 (Jan. 25, 2001) Hearing Officer required Respondent to respond to several of Complainant’s document requests, including those seeking personal financial information finding those are reasonably related to claim for punitive damages. HO

Thomas v. Prudential Biros Real Estate, et al., CCHR No. 97-H-59/60 (Jan. 3, 2002) CHR is authorized to award punitive damages and the financial condition of the respondent is one factor used to determine the amount of them; thus, objection to discovery about financial condition denied. HO

Yoon/Lee v. Chicago Korean Chamber of Comm., et al., CCHR No. 99-E-125/126 (Mar. 26, 2002) (same) HO

Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (Sep. 5, 2002) Punitive damages claim may be pursued, and discovery allowed, even if not itemized in pre-hearing memorandum; no waiver intended as penalty, especially where Complainant’s intention to pursue punitive damages was known to Respondent for some time. HO

Rankin v. 6954 N. Sheridan, et al., CCHR No. 08-H-49 (Feb. 23, 2010) Where Respondents provided no information about net worth, may not seek to limit punitive damages based on income or net worth, but may oppose punitive damages on other grounds. HO

Sanctions

Lopez v. Arias, CCHR No. 99-H-12 (Feb. 8, 2000) Hearing Officer granted Complainant’s request for sanctions for Respondent’s conceded refusal to provide information concerning his net worth by forbidding Respondent from offering such evidence at the Hearing. HO

Belastro v. 860 N. Lake Shore Dr. Trut, CCHR No. 95-H-160 (July 17, 2000) Where Complainant filed discovery responses late and had not contacted other party, asked for permission, or provided any justification for the delay, but where Respondent did not show it was prejudiced by the delay, Hearing Officer did not agree to bar Complainant from using the material as evidence but did fine him for cost of Hearing Officer’s time in addressing the failure to comply. HO

Griffiths v. DePaul University, CCHR No. 95-E-224 (Oct. 18, 2000) Where Complainant did not seek a review of Hearing Officer’s denial of sanctions and where there is no reason to overturn that denial, Complainant’s counsel, the Legal Assistance Foundation, was not allowed to collect fees for its time seeking such sanctions, as limited by federal regulation. R See Attorney’s Fees/LAF Fees, above.

McGrav v. Chicago Dept. of Aviation, CCHR No. 99-E-27 (Mar. 28, 2002) Case dismissed where Complainant failed to participate in pre-hearing process, including not responding to motion to compel and to dismiss or to order requiring compliance, not attending pre-hearing conference and not making any effort to explain the lack of participation. HO

Gilbert and Gray v. 7335 South Shore Condo Assoc. et al., CCHR No. 01-H-18/27 (Mar. 13, 2007) Where delay in document production prejudiced Complainants’ ability to present case-in-chief in manner planned, Complainant permitted to re-open case-in-chief during rebuttal to present evidence relevant to documents produced and to recall witnesses. Negative inference rescinded because motion for negative inference not preceded by motion to compel, discussing applicable regulations. HO

Smith v. Enterprise Car Rental et al., CCHR No. 04-P-83 (June 20, 2007) Hearing officer dismissed case
after Complainant failed to attend pre-hearing conference, file preliminary witness list and pre-hearing memorandum, or respond to discovery requests. HO

Williams v. First American Bank, CCHR No. 05-P-130 (Feb. 19, 2008) Complainant sanctioned for failure to comply with order to produce discovery documents after motion to compel and for misrepresentations at Pre-Hearing Conference as to his receipt of documents. Hearing officer awarded attorney fees to Respondent for enforcement of discovery rights and indicated appropriate negative inferences may be taken against Complainant if at hearing the documents not produced were found relevant. HO

Rankin v. 6954 N. Sheridan, et al., CCHR No. 08-H-49 (Feb. 23, 2010) If documents not previously disclosed are introduced at hearing, non-disclosing party must show they were not previously available or known to that party, and good faith basis for prior non-disclosure. HO

Martinez v. Midtown Kitchen and Bar et al., CCHR No. 09-P-29 (Oct. 11, 2010) Case dismissed during pre-hearing process where Complainant failed to comply with hearing officer orders including discovery instructions, respond to Motion for Sanctions, explain his non-compliance, or take any action to prosecute case. HO

Subpoenas – See separate Subpoena section, below.

Witness Lists

Lopez v. Arias, CCHR No. 99-H-12 (Feb. 4, 2000) Hearing Officer denied Complainant’s request to bar testimony of a witness whom Respondent had not disclosed in his witness list as she did not make the showing, required by Reg. 240.130(c), that she was surprised and placed at a disadvantage by the failure to disclose because Respondent had previously stated he might call a neighbor and Complainant knew about the defense such a witness would be called to support. HO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Apr. 10, 2001) Hearing Officer denied Complainant’s request to have an unidentified representative of Respondent available at hearing where Complainant had already listed and was planning to call two representatives and did not show why any additional one would be necessary. HO

Ivy v. Papanikos, CCHR No. 04-H-62 (Aug. 22, 2007) Where case is merely set for conciliation conference after a substantial evidence finding, Respondents’ Request for Documents and Information stricken as premature, may be resubmitted if case does not settle and advances to hearing process. CO

DISPARATE IMPACT

Burden of Proof

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) If complainant shows that the challenged practice had a disparate impact on a protected class, then the question is whether there is a business justification for the practice. R

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) When complainant bases disparate impact claim on statistical disparity, that disparity must be significant or substantial to establish that the challenged practice has a disparate impact. R

Business Necessity

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) Complainant did not overcome City’s showing of business necessity—that federal regulation required it to do mandatory drug tests. R

Less Restrictive Alternative – No new decisions in this volume.

Pregnancy – No new decisions in this volume.

Proof

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) Complainant did not show whether the numbers he presented about the rate at which members of different races failed the City’s mandatory drug tests were statistically significant and he did not overcome City’s showing of business necessity—that federal regulation required it to do mandatory drug tests. R
DISPARATE TREATMENT

Burden of Proof

Employment

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) The burden of proving that the employer intentionally discriminated remains with the complainant. R

Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) Complainants have burden of proving discrimination by a preponderance of the evidence using either direct or indirect proof. R

Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) (same) R

Williams v. Norm’s Auto. Ctr., CCHR No. 99-E-151 (Dec. 6, 2000) Complainant must show, by a preponderance of the evidence, that the respondent treated him or her differently on account of the protected class, here, race. R

Williams v. Norm’s Auto. Ctr., CCHR No. 99-E-151 (Dec. 6, 2000) States that the ultimate burden remains with the complainant to show that a discriminatory reason more likely motivated the employer’s action or that the employer’s reason for its action is not worthy of credence; cites U.S. Supreme Court decision finding that this burden can be satisfied with same proof which established the prima facie case. R

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) Complainant has burden of proof to demonstrate, by a preponderance of the evidence, that the respondent subjected him or her to disparate treatment because of his or her protected class, here, race. R

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) In this disparate treatment case, Complainant has burden to prove, by a preponderance of the evidence, that Respondent did not hire her due to her disability. R

Moriarty v. Chicago Fire Dept. et al., CCHR No. 00-E-130 (June 13, 2001) CHR granted motion to dismiss case which challenged promotion examination, finding that examination was given and scored in the same manner for all applicants and the fact that weights for different components may have been changed to increase promotions of minorities does not constitute impermissible race discrimination; follows federal decisions. CO

Thomas v. Chicago Dept. of Public Health, et al., CCHR No. 97-E-221 (July 18, 2001) In this disparate treatment case, Complainant has burden to prove, by a preponderance of the evidence, that Respondent did not promote him due to his race. R


Calamus v. Chicago Park Dist. et al., CCHR No. 01-E-115 (Sep. 22, 2005) Complainant’s burden in indirect evidence case goes beyond merely interposing contrary testimony as to whether the reasons for selection of another candidate for promotion are “true” or good business judgment; complainant has further burden to show the real reasons point to discriminatory intent. [Decision reversed and remanded by Circuit Court on age discrimination claim, and substantial evidence finding subsequently entered.] CO

Jackson v. MYS Dev., Inc. et al., CCHR No. 01-E-41 (Jan. 18, 2006) Complainant has burden of proof and must demonstrate by the preponderance of evidence that he was subjected to discriminatory treatment because of his race and that the actions taken against him were intentional and purposeful. R

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) In a disparate treatment discharge case alleging pregnancy-related sex discrimination, to prevail Complainant must show by a preponderance of the evidence that her termination was intentional discrimination based on her employer’s belief that she was pregnant. R

Van Dyck v. Old Time Tap, CCHR No. 04-E-103 (Apr. 15, 2009) Because witnesses from both sides were credible, Complainant failed to establish that she suffered an adverse employment action by the preponderance of evidence. R

Housing

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) To establish a violation of the CFHO for indirect discrimination, Caucasian Complainant must show either that Respondent refused his request to have African-American roommates or unlawfully interfered with his attempt to do so. R

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) To make a claim for sexual orientation harassment, Complainant must show that Respondent’s conduct had the purpose or effect of creating an intimidating, hostile or offensive housing environment; had the purpose or effect of unreasonably interfering with Complainant’s housing; or otherwise adversely affected Complainant’s housing opportunity. R


Belcastro v. 860 N. Lake Shore Dr. Trust, CCHR No. 95-H-160 (Feb. 20, 2002) Complainant must prove
prima facie case of disability discrimination; here, that he was denied full use and enjoyment of housing at issue. R

Public Accommodations
Blakemore v. Kinko’s, CCHR No. 01-PA-77 (Dec. 6, 2001) CHR found complaint sufficient to state a claim, but noted that the facts that Complainant was male and African-American while the employee was white and a customer complaining about him was white and female were not alone sufficient to demonstrate that he was asked to end his use of a public service due to his race or sex. CO
Blakemore v. Antojitos Guatemaltecos Rest., CCHR No. 01-PA-5 (Apr. 20, 2005) Complainant need not prove that respondent expressed to others or even to themselves an intent to discriminate. It is enough to prove by preponderance of evidence that the adverse actions were intentional. However, absent direct evidence of discriminatory intent, once respondent articulates a legitimate, non-discriminatory reason for its action, burden shifts to complainant to prove that the reason was a pretext for discrimination. R

Blakemore v. Dominick’s Finer Foods, CCHR No. 01-P-51 (Oct. 18, 2006) Evidence held to establish
prima facie case of race discrimination even if not based precisely on the McDonnell Douglas formula. R

Respondent’s Defense
Individual Respondent’s claim that he did not know it was illegal to discriminate on the basis of parental status was not a defense and did not relieve him of liability; because his belief was credible, however, CHR did not award punitive damages against Respondents. R

Burden Shifting
Employment
Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) Sets forth burden shifting requirements, including prima facie case, in age and sex employment case; discusses both direct and indirect proof. R
Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) Sets forth burden shifting requirements in case involving a disability disparate treatment claim, a failure to accommodate disability claim and a sexual orientation harassment claim. R See also Disability Discrimination section, above.
Williams v. Norm’s Automotive Ctr., CCHR No. 99-E-151 (Dec. 6, 2000) States that the ultimate burden remains with the complainant to show that a discriminatory reason more likely motivated the employer’s action or that the employer’s reason for its action is not worthy of credence; cites U.S. Supreme Court decision finding that this burden can be satisfied with same proof which established the prima facie case. R
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) Sets forth burden shifting requirements for disparate treatment claim that Complainant was not hired due to her disability. R
Hutt v. Horizons Community Svcs., CCHR No. 01-E-121 (Apr. 10, 2002) Sets forth prima facie case in race/ harassment case. CO
Guy v. First Chicago Futures, Inc., CCHR No. 97-E-32 (Feb. 18, 2004) States burdens of proof and analyzes evidence in race harassment and discharge case, finding no prima facie case of disparate treatment where not shown that Complainant was meeting employer’s legitimate expectations or stated reasons for discharge were pretextual. R
Jackson v. MYS Dev., Inc. et al., CCHR No. 01-E-41 (Jan. 18, 2006) Sets forth framework for analyzing disparate treatment employment cases when direct evidence not present, based on McDonnell Douglas principles. R
Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) Affirms and applies McDonnell Douglas method where Complainant alleged her discharge was pregnancy-related sex discrimination, noting similarity of CHRO
pregnancy discrimination claims to claims under Title VII as amended by Pregnancy Discrimination Act of 1978. R


Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Discusses proof of pregnancy-related sex discrimination under McDonnell Douglas indirect evidence method as well as the Greenwell method of a “convincing mosaic” of circumstantial evidence, and finds employee proved discriminatory discharge under either method. Notes that proof employee was meeting legitimate expectations of employer is not high threshold for purposes of prima facie case under indirect evidence method; need not be an ideal employee to satisfy this prong. Key issue was whether employee’s asserted deficiencies were the real reason for discharge. R

Housing


Public Accommodations


Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) (same) R

Blakemore v. Antojitos Guatemaltecos Rest., CCHR No. 01-PA-5 (Apr. 20, 2005) Complainant need not prove that respondent expressed to others or even to themselves an intent to discriminate. It is enough to prove by preponderance of evidence that the adverse actions were intentional. However, absent direct evidence of discriminatory intent, once respondent articulates a legitimate, non-discriminatory reason for its action, burden shifts to complainant to provide that the reason was a pretext for discrimination. R

Long v. Chicago Pub. Library et al., CCHR No. 00-PA-13 (Jan. 18, 2006) Sets forth prima facie case elements in religious discrimination case involving a public accommodation. Finds prima facie case not established where no credible evidence respondents were aware of complainant’s religion. R

Blakemore v. Dominick’s Finer Foods, CCHR No. 01-P-51 (Oct. 18, 2006) Evidence held to establish a prima facie case of race discrimination even if not based precisely on McDonnell Douglas formula. R

Holman v. Funky Buddha, Inc. d/b/a Funky Buddha Lounge, CCHR No. 06-P-62 (May 21, 2008) After Complainant proved prima facie case of sexual orientation discrimination, Respondent articulated legitimate non-discriminatory reason for ejecting him from nightclub—that he was intoxicated and acting aggressively. Complainant did not prove the real motive was discriminatory where guard who removed him did not know he is gay. Guard’s use of excessive force in violation of club policy did not provide circumstantial evidence of discriminatory animus. R

Harris v. Dunkin Donuts, Baskin Robbins et al., CCHR No. 05-P-97 (July 16, 2008) Following burden-shifting analysis, CHR ruled African-American male established prima facie case of race and sex discrimination where denied use of restroom while Caucasian woman was allowed to enter. Burden shifted to Respondent, which met it by proving the restroom was out of order at the time, not usable by any member of public, and the woman was allowed in to search for lost keys. Burden then shifted back to Complainant, who did prove Respondent’s explanation was false or pretextual. R

Defenses

Customer Preference – No new decisions in this volume.

Occupancy Standard – No new decisions in this volume.

Section 8

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (July 18, 2001), affirmed Godinez v. Sullivan-Lackey et al., 815 N.E.2d 822 (Ill. App. 2004) Although landlords must consider accepting a Section 8 voucher to pay rent, a landlord may be able to demonstrate that his or her own individualized circumstances make doing so unduly burdensome; general or speculative assertions, such as Respondents’ unsupported claim that their building might not have passed inspection, are not sufficient. R See also Source of Income section, below.

Direct Evidence

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) To show discrimination by direct evidence in a disparate treatment case, a complainant may rely upon statements by a manager which show that the adverse
employment action was taken due to complainant’s protected class status.


Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) To show discrimination by direct evidence in a disparate treatment case, a complainant may rely upon statements by a manager which show that the adverse employment action was taken due to complainant’s protected class status.

Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) Holds that, to be evidence of a discriminatory discharge, the allegedly discriminatory remarks must have a causal connection to the discharge decision; in this case, they were not made by the decision-maker.

Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) Sets forth standards to make direct evidence case; Complainant did not present any credible, supported direct evidence.

Doxy v. Chicago Public Library, CCHR No. 99-PA-31 (Apr. 18, 2001) Where there is direct evidence of discrimination, there is no reason to use shifting burdens and inferences; Complainant’s evidence found not credible in this case.

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) Where there is direct evidence of discrimination, there is no reason to use shifting burdens and inferences; instead, Complainant must show that the direct evidence is credible and actionable.

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) Complainants successfully relied on direct evidence about the “adults-only” policy which were contained in Respondents’ bylaws, their answer to the complaint and the individual Respondent’s testimony.

Blakemore v. Kinko’s, CCHR No. 01-PA-77 (Dec. 6, 2001) Fact that complaint did not claim that any of Respondent’s employees used expressly discriminatory language is no reason to grant motion to dismiss as Complainant may still be able to show that his use of public service was limited because of his race or sex.

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Where building manager used term “nigger,” among others, that is per se race discrimination so fact that he may have used disparaging terms about different characteristics of other people did not mean he did not discriminate based on race. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) Fact that complaint did not claim that Respondent’s employee used expressly discriminatory language is no reason to grant motion to dismiss as Complainant may still be able to show that her use of the public facility was limited because of her race or sex.

Rogers/Slomba v. Díaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Where there is direct evidence of discrimination, there is no reason to use shifting burdens and inferences; instead, Complainants must show that the direct evidence is credible and actionable.

Rogers/Slomba v. Díaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Complainants prevailed in default case by showing that Respondents explicitly denigrated Complainants because they were Polish and told them and others, among other things, that they wanted to evict them because of it.

Hutchison v. Iftekuruddin, CCHR No. 08-H-21 (Feb. 17, 2010) Source of income discrimination proved by direct evidence where landlord refused to rent to voucher holder stating he “had bad experiences with Section 8.”

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) After order of default, Mexican-American kitchen employee established prima facie case that restaurant owner harassed and discharged her based on age, sex, and national origin when he engaged in repeated derogatory slurs and insults then discharged her stating “I don’t need her work because she’s already old. And I don’t like Mexicans in my business.” Discriminatory discharge was thus proved by both direct and circumstantial evidence of discriminatory animus.

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Respondent evidence of renting to Section 8 voucher holders in other buildings under same ownership held insufficient to overcome the credible direct evidence that owner would not accept Section 8 in the building in question, as the situations are distinguishable.

Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Statements showing stereotypical thinking about women and pregnancy did not rise to level of direct admission of discriminatory intent as to discharge of employee who became pregnant and took a leave.

Pretext – See also separate Pretext section, below.

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) The question of whether or not a stated reason of respondent’s is pretextual is one of fact.

Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) In disparate treatment case, once Complainants proved a prima facie case and Respondents articulated a defense, Complainants have burden to prove that defense is a pretext.

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) (same)
Claudio v. Chicago Baking Co., CCHR No. 99-E-76 (July 17, 2002) Complainant met burden of proof based on unexplained differential disciplinary treatment which supported a finding that articulated reasons for his discharge were pretextual and an inference of race discrimination. R

Chan v. Advocate Health Care et al., CCHR No. 99-E-58 (June 19, 2003) In determining whether there is substantial evidence of discrimination, CHR looks to evidence on all elements of claim, not just prima facie case, including whether Respondents have articulated legitimate non-discriminatory reason for adverse action taken and, if so, whether there is substantial evidence of pretext. CO

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) Even where some stated reasons for a respondent’s action appear pretextual, CHR must be persuaded that a discriminatory motive played a role. R

Powell v. Chicago Transit Authority et al., CCHR No. 02-E-244 (July 13, 2006) To support substantial evidence finding, substantial evidence is needed as to each element under the indirect evidence, burden shifting analysis, including disparity and pretext. CO

Proof
Thomas v. Chicago Dept. of Public Health, et al., CCHR No. 97-E-221 (July 18, 2001) In disparate treatment case, Complainant was not allowed to litigate the bottom-line scores of all applicants for position into which he was not promoted, but only such scores of those chosen over him; Complainant was allowed to raise scores of unsuccessful applicants on individual criteria for which he received a lower rating. R

Blakemore v. Kinko’s, CCHR No. 01-PA-77 (Dec. 6, 2001) CHR found complaint sufficient to state a claim, but noted that the facts that Complainant was male and African-American while the employee was white and a customer complaining about him was white and female were not alone sufficient to demonstrate that he was asked to end his use of a public service due to his race or sex. CO

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Where building manager used term “nigger,” among others, that is per se race discrimination so fact that he may have used disparaging terms about different characteristics of other people did not mean he did not discriminate based on race. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Claudio v. Chicago Baking Co., CCHR No. 99-E-76 (July 17, 2002) Showing of irrational or unexplained differential disciplinary treatment may, on appropriate record, support a finding of pretext and an inference of discrimination. Whether the differential treatment supports such inference is a question of fact. R

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Complainant proved through indirect evidence that landlord refused to show her an advertised apartment due in part to disability where Complainant credibly testified that landlord inquired about the nature of her disability after she revealed that she received Social Security Disability income and was not employed, and landlord responded only with a non-credible denial of the conversation. R

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) Poor management including failure to set clear policies or enforce them, or failure to provide meaningful reviews and feedback to enable employee to improve performance, does not always equate with discriminatory practices. R

Powell v. Chicago Transit Authority et al., CCHR No. 02-E-244 (July 13, 2006) In conducting investigation, burden remains with complainant to provide substantial evidence or information likely to lead to it; not CHR’s responsibility to search out evidence to prove claim. Substantial evidence is needed as to each element under the indirect evidence, burden shifting analysis, including disparity and pretext. Respondents not required to provide supporting evidence of legitimate non-discriminatory reasons but only to articulate them. CO

Blakemore v. Dominick’s Finer Foods, CCHR No. 01-P-51 (Oct. 18, 2006) McDonnell Douglas formula not the only method to show prima facie case where other evidence may support an inference of discriminatory motive. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) CHR affirmed over defaulted Respondents’ objections that Complainant established prima facie case even though her testimony was uncorroborated, as no legal authority supports a corroboration requirement. R

Scott and Lyke v. Owner of Club 720, CCHR No. 09-P-2/9 (Feb. 16, 2011) Complainant established prima facie case of race discrimination against defaulted Respondent where nightclub enforced policy barring dreadlocks. Such a policy is not race-neutral and intentionally subjects African-Americans to more stringent terms of admittance. R

Circumstantial Evidence
Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Discusses proof of pregnancy-related sex discrimination under McDonnell Douglas indirect evidence method as well as Greenwell method of “convincing mosaic” of circumstantial evidence, and finds Complainant proved discriminatory discharge under either method. R
Explicit Statements
Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Stereotypical comments may provide evidence of discriminatory animus supporting a finding of discrimination based on circumstantial evidence, but they are not direct evidence of discriminatory intent and must be related to the alleged discriminatory action. R

Request for Review
Moore v. Chicago Transit Authority, CCHR No. 05-P-108 (Apr. 5, 2007) Denies request for review as providing no new information to justify change in findings of no substantial evidence of age or disability discrimination where driver was rude and ordered Complainant off a bus but engaged in the same conduct toward all the passengers. CO

Violation of CHR Regulation
Johnson v. Norfolk Southern Corp., CCHR No. 00-E-61 (Apr. 12, 2001) CHR finds substantial evidence of disability discrimination, relying upon EEOC’s investigation and reasonable cause determination, finding, in short, that Respondent had required Complainant to submit to a medical examination and put him on no-pay status because he limped although Complainant performed the essential functions of his job without incident upon return from a leave of absence. CO

DISQUALIFICATION
Of Attorney – See Attorney Appearance/Disqualification section, above.

Burden of Proof
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 26, 2000) This burden includes showing “some factual basis” for disqualification, not “unsupported, irrational or highly tenuous speculation”. HO
Ivy v. Papanikos, CCHR No. 04-H-62 (Feb. 14, 2008) Respondent met burden of proof that hearing officer’s impartiality might reasonably be questioned where hearing officer was currently on board of organization representing Complainant and his law firm had served as co-counsel with the organization on other cases within the prior three years. HO

Commissioner – No new decisions in this volume.

Due Process
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 26, 2000) Hearing Officer rejects motion seeking his disqualification based on alleged breach of due process which did not argue that Hearing Officer was biased or partial but argued that CHR should not use attorneys who practice employment discrimination as hearing officers. HO

Hearing Officer Disqualified/Stepped Down
Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Oct. 5, 2006) Where Respondents moved for approval of oral settlement agreement allegedly reached at pre-hearing status conference with hearing officer’s involvement, hearing officer recused himself and referred matter to CHR to appoint another hearing officer for evidentiary hearing to resolve factual issues concerning which he may be a witness. HO
Maat v. Top Fashion, CCHR No. 04-P-44 (Aug. 10, 2007) Where Complainant in case alleging a public accommodation not wheelchair accessible went to hearing officer’s office to serve a document and found the building entrance inaccessible, hearing officer sua sponte recused himself due to concern that Complainant would not believe he would be fair and impartial. HO
Ivy v. Papanikos, CCHR No. 04-H-62 (Feb. 14, 2008) Hearing officer granted Motion to Disqualify where hearing officer was currently on board of organization representing Complainant and his law firm had served as co-counsel with the organization on other cases within the prior three years. HO

Hearing Officer Not Disqualified
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 26, 2000) Hearing Officer rejects motion seeking his disqualification based on alleged breach of due process which did not argue that Hearing Officer was biased or partial but argued that CHR should not use attorneys who practice employment discrimination as hearing
officers. HO

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 26, 2000) In denying motion described above, Hearing Officer found: that representing civil rights plaintiffs does not, without more, create a reasonable doubt about bias; that Respondent did not allege that the Hearing Officer expressed opinions which would raise bias questions; and that having experienced, knowledgeable adjudicators was a benefit, not an indicator of partiality. HO

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Mar. 15, 2000) Board denies request for review of Hearing Officer’s order not to step down, rejecting motion seeking disqualification based on alleged breach of due process which did not argue that the Hearing Officer was biased or partial but argued that CHR should not use attorneys who practice employment discrimination as hearing officers. R

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Mar. 15, 2000) Board rejects argument that hearing officer must be disqualified because he practices in employment discrimination area, finding that: Respondent’s argument does not meet standards for disqualification; at least one state court decision suggests that being a practitioner in same area as person arbitrates is not cause for disqualification; Respondent’s argument about the source of the alleged bias is completely speculative; Respondent does not cite supporting case law; the orders the Hearing Officer cited support the decision not to step down; CHR’s “procedural safeguards” are sufficient to guard against arbitrary, unsupported recommendations; and fact that some arbitration organizations preclude practitioners from being arbitrators does not demonstrate that doing otherwise violated the constitution. R

Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) CHR rejects proposition, asserted in objections to first recommended decision, that Hearing Officer was biased, noting that the assertion was based simply on disagreements with her credibility findings; states that “unfavorable judicial rulings” alone are not evidence of bias. R

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Objection to unfavorable recommended decision asserting hearing officer bias rejected where based on actions in hearing which were not improper and did not exhibit bias. R

Lewis-Thornton v. Southside Tattoos & Body Piercing, CCHR No. 06-P-55 (June 21, 2007) Hearing officer not disqualified where his acquaintance with Complainant’s former counsel began while clerking for different judges in Detroit and later consisted solely of friendly conversation during commute to work in Chicago. Also, hearing officer’s donations to nonprofit organization which formal counsel directs and through which new counsel may be representing Complainant pro bono do not require disqualification; donor is not equivalent to shareholder or creditor, and organization was not party to case but merely represented Complainant. HO

Maat v. String-a-Strand, CCHR No. 05-P-5 (Feb. 20, 2008) Assertion that hearing officer was biased rejected where Respondent did not point to conduct suggesting bias or unprofessional conduct. Fact that hearing officer is paid by City of Chicago is immaterial. R

Flores v. A Taste of Heaven and McCauley, CCHR No. 06-E-032, (Oct. 21, 2009) Board affirmed hearing officer’s denial of Respondents’ motion to disqualify, noting that it was based entirely on disagreement with decisions on pre-hearing issues, was unsupported by legal authority, and presented no evidence of actual bias or partiality. Review of hearing officer decisions may be sought in conjunction with objections to the recommended ruling after administrative hearing. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Board upheld hearing officer’s decision not to disqualify herself because of recently-entered of counsel relationship with law firm which represented Complainant earlier in case, to which he still owed money. No prejudice found where hearing officer had no ownership interest in firm or involvement in fee collection, and no evidence suggested hearing officer would favor Complainant based on firm’s early involvement. If Complainant later seeks compensation for fees while he was client of the firm, circumstances would be different. R

No Continuance – No new decisions in this volume.

Policy
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 26, 2000) CHR balances its interest in having impartial adjudicators to promote public confidence in CHR with not allowing parties to have a “veto power” over hearing officers, noting that a hearing officer “is as much obligated not to recuse himself when it is not called for as he is obligated to when he is”. HO

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Mar. 15, 2000) CHR must weigh policy interests in ensuring confidence in impartiality while guarding against allowing unhappy party avoid a certain hearing officer. R

Standard
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 26, 2000) CHR looks to Illinois Supreme Court Rule 63(c) for guidance. HO
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 26, 2000) CHR determines whether a hearing officer’s impartiality “might reasonably be questioned” where “an objective, disinterested observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt that justice would be served in the case”. R


Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Mar. 15, 2000) CHR quoted Illinois decision stating, “Only a strong, direct interest in the outcome of a case is sufficient to overcome [the] presumption of [hearing officer] evenhandedness,” such as when there is a financial interest or personal animosity. R

Edwards v. Larkin, CCHR No. 01-H-35 (Oct. 29, 2004) Illinois Supreme Court Rule 63(c) triggered where Hearing Officer’s law firm represented Respondent’s counsel in earlier case and where Hearing Officer and his firm were serving as co-counsel with Respondent’s counsel on two pending cases. Parties offered opportunity to waive disqualification. HO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Oct. 5, 2006) Hearing officer applied Illinois Supreme Court Rule 63(c), stating that one basis for judge’s disqualification is having “personal knowledge of disputed evidentiary facts concerning the proceeding,” where hearing officer had assisted parties in negotiating oral settlement agreement later disavowed by Complainant. HO

Lewis-Thornton v. Southside Tattoos & Body Piercing, CCHR No. 06-P-55 (June 21, 2007) Motion to disqualify hearing officer denied noting: (1) Illinois Supreme Court Rule 63(c)(1) and 28 U.S.C. ‘455(a) require consideration whether “an astute observer in [legal or lay] culture would conclude that the relationship between judge and lawyer (a) is very much out of the ordinary course, and (b) presents a potential for actual impropriety if the worst implications are realized. The inquiry is entirely objective and is divorced from questions about actual impropriety”; (2) Judges not disqualified from presiding over cases in which organizations to which they donate (or from which they graduated) are parties; donor not equivalent to shareholder or creditor. HO

Timeliness of Motion – No new decisions in this volume.

Who Rules – No new decisions in this volume.

EMPLOYMENT DISCRIMINATION

Actions Outside Employment Relationship

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) Actions taken against a complainant after employment ceases are actionable when part of a course of continuing discrimination or retaliation and when they can harm complainant’s employment prospects. In quid pro quo sexual harassment case, frivolously seeking order of protection held not actionable but creating derogatory internet domain names accessible by others could constitute a violation. R

Adverse Action – See separate Adverse Action section, above.

After-Acquired Evidence – No new decisions in this volume.

Age Discrimination

Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) CHR found that neither male, over-age-40 Complainant overcame Respondents’ non-discriminatory, performance-related reasons to discharge them; Respondents presented evidence of malfeasance and poor performance and any comments about their age and sex were made by personnel who did not make the discharge decisions. R

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) CHR held that a mandatory retirement ordinance [MRO] for certain police and fire personnel should be read as an implied exception to CHRO; finds MRO to be the more specific and the later passed and also finds that reading the MRO as an exception follows the intent of City Council. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) CHR denies request for review of August order [above], again finding that the mandatory retirement order [MRO] for certain police and fire personnel is to be read as an implied exception to the CHRO; among other things, finds MRO to be more specific than CHRO and finds that City Council intended the MRO to be effective. CO

Chan v. Advocate Health Care et al., CCHR No. 99-E-58 (June 19, 2003) That Complainant doctor was discharged and not rehired even though he apparently provided good quality patient care did not establish substantial evidence of pretext where Respondent was required to reduce staff by one physician and chose Complainant due to his argumentative behavior; no indication Respondent’s choice was so unreasonable as to suggest pretext for age discrimination. CO
Brooks v. Hyde Park Realty Co., Inc., CCHR No. 02-E-116 (Dec. 17, 2003) *Prima facie* case of age discrimination established where office manager in 50’s was discharged after a year of employment including raise and added responsibility: although told business was slow after loss of major account, she had been asked to hire more staff; moreover, younger employees with similar duties, including one hired after her, were not discharged. R

Ingram v. Got Pizza, CCHR No. 05-E-94 (Oct. 18, 2006) *No prima facie* case of age discrimination where 45-year-old pizza delivery driver was not returned to delivery schedule after his car broke down while attempting deliveries; no evidence showed that younger drivers were treated more favorably in similar circumstances. R

Glowacz v. Angelastri, CCHR No. 06-E-070 (Dec. 16, 2009) *No age discrimination* where 56-year-old store clerk was laid off in that a younger employee was also laid off, Respondent showed cost reductions were needed due to declining business, and other employees but not Complainant were willing to work less than full time. Respondent’s business decisions found not so unreasonable that they imply age discrimination. R

Johnson v. Anthony Gowder Designs, Inc., CCHR No. 05-E-17 (June 16, 2010) Complainant failed to prove age was a factor in decision to reduce his status from full time to freelance after hip replacement surgery. Owners’ explanations that decision was reluctantly made due to need to cut costs were found credible and not pretextual, as were their decisions to retain full-time staff who had managerial skills Complainant lacked. Age-related comments by owners found unconnected to the adverse employment action and insufficient to establish age-based animus or intent. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) After order of default, Mexican-American kitchen employee established *prima facie* case that restaurant owner harassed and discharged her based on age, sex, and national origin when he engaged in repeated derogatory slurs and insults, then discharged her stating “I don’t need her work because she’s already old. And I don’t like Mexicans in my business.” R

**Ancestry Discrimination**

Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) *No prima facie* case of discrimination due to Mexican ancestry based on one incident where manager told her if she did not like things she should return to Mexico, as this alone was insufficiently severe or pervasive to create a hostile working environment. R

Mendez v. El Rey del Taco & Burrito, CCHR No. 09-E-16 (Oct. 20, 2010) Complainant alleging she was not given job application because of Puerto Rican ancestry failed to prove discrimination where restaurant did not use written applications and Complainant did not show any non-Puerto-Rican applicant was treated differently under similar circumstances. R

**Bona Fide Occupational Qualification** – See separate *Bona Fide* Occupational Qualification section, above.

**Burden of Proof** – See Disparate Treatment section, above.

**Burden Shifting** – See Disparate Treatment section, above.

**Color Discrimination**

Hernandez v. Colonial Medical Center et al., CCHR No. 05-E-14 (Nov. 28, 2006) No harassment based on color found where Complainant, who is black and Panamanian, claimed that a co-worker had treated her rudely and called her derogatory names referencing her dark skin color. Based on hearing officer’s assessment of witness credibility, Complainant failed to prove that the derogatory slurs occurred or that when she complained about the co-worker to management, she had complained of harassment based on skin color. R

**Constructive Discharge**

Hackett v. Robert Morris Coll. et al., CCHR No. 99-E-188 (Dec. 13, 2000) Where Complainant quit his job more than 180 days before he filed an amended complaint about that “constructive discharge” but received final paycheck within the 180 days, CHR found that complaint untimely as date upon which he had notice of his injury was day he felt compelled to resign. CO

Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) Complainant found constructively discharged where harassed due to perceived sexual orientation by Respondent’s president who made repeated derogatory comments in angry and malicious manner questioning her sexual orientation, including before others, resulting in physical manifestations of stress and anxiety which compelled her to resign. R

Bellamy v. Neopolitan Lighthouse, CCHR No. 03-E-190 (Apr. 18, 2007) Constructive discharge claim based on hostile environment not proved where supervisor’s conduct did not rise to level of hostile environment.
Constructive discharge claim based on restricting expression of sexual orientation not proved where evidence showed Complainant left for another reason—an insult regarding her record-keeping and accusation that she was “stupid.”

*Calamus v. Chicago Park District & Konow*, CCHR No. 01-E-115 (Mar. 4, 2008) Complainant may not be awarded damages for lost compensation beyond effective date of her resignation where she did not allege constructive discharge in initial or amended complaint prior to substantial evidence finding, so the claim could be investigated. HO

*Roe v. Chicago Transit Authority et al.*, CCHR No. 05-E-115 (Sept. 8, 2009) Allegation of resignation is the core of a constructive discharge claim. Complaint stating Complainant went on disability leave due to alleged harassment but not that he resigned does not state a claim of constructive discharge, nor did CHR’s investigation or substantial evidence determination cover constructive discharge. Thus motion *in limine* to exclude presentation of such claim at administrative hearing was granted, rejecting Complainant’s theory that going on disability leave was a “constructive resignation.” HO

### Customer Preference – No new decisions in this volume.

### Determination of Employer/Supervisor – See also Employment Relationship subsection, below.

*Lucado v. City Service Taxi Assoc., et al.*, CCHR No. 00-PA-67 (July 31, 2001) Order reviews standards to determine nature of relationship between cab company and driver, stating that control is key to finding an employment relationship. CO

*Russell v. Wolley Cab Co. et al.*, CCHR No. 01-PA-63 (Nov. 19, 2001) (same) CO

*Peterson v. Rosenthal Collins Group, LLC et al.*, CCHR No. 06-E-57 (May 7, 2010) CHR denied motion to dismiss a respondent claiming it was not complainant’s employer, due to outstanding factual issues as to whether an employment relationship existed between complainant and the respondent. CHR reviewed criteria for finding an employment relationship, reaffirming that control over worker is most important factor. CO

### Direct Evidence – See also Disparate Treatment/Direct Evidence section, above.

*Griffiths v. DePaul Univ.*, CCHR No. 95-E-224 (Apr. 19, 2000) To show discrimination by direct evidence in a disparate treatment case, a complainant may rely upon statements by a manager which show that the adverse employment action was taken due to complainant’s protected class status. R

### Disability Discrimination

*Luckett v. Chicago Dept. of Aviation*, CCHR No. 97-E-115 (Oct. 18, 2000) CHR found Respondent not liable in that it fully accommodated Complainant’s back problem by assigning him the only chair with a working back rest; where some job actions were not adverse or were shown caused by Complainant’s conduct not his disability; and where there was no evidence that his supervisor spread rumors that he was HIV positive. R

*Mathews v. Hinckley & Schmitt*, CCHR No. 98-E-206 (Jan. 17, 2001) Complainant found not to have carried her burden to show that she was not given a starting date, after being given a job offer, due to her disability, especially where Respondent was found to have been willing to make the limited modifications needed to accommodate her. R

*Garnett v. Chicago Transit Authority*, CCHR No. 93-E-243 (Sep. 30, 2003) Where disabled Complainant alleged he received more frequent “write-ups” from employer than non-disabled employees for same infractions and was placed on probation in manner contrary to policy, Complaint held sufficient to state claim of disability discrimination in employment. CO

*Mullins v. AP Enterprises, LLC et al.*, CCHR No. 03-E-164 (Jan. 19, 2005) After order of default, Complainant established *prima facie* case of disability discrimination where employer had complimented her work in laundromat but then fired her after learning she had been hospitalized and was being treated for depression. R

*Williams v. Greyhound Lines, Inc.*, CCHR No. 06-E-11 (Mar. 8, 2007) No basis to overturn CHR’s finding that Respondent initiated interactive process after accommodation request but Complainant refused to allow examination by neutral physician to resolve conflicting information on his condition and feasible accommodations. Examination request was reasonable and duty to participate in interactive process is imposed on complainants as well as respondents. CO

*Jenzake v. Rapid Displays*, CCHR No. 06-E-87 (May 15, 2008) No substantial evidence finding affirmed in disability discrimination case finding employer reasonably rejected Complainant’s physician’s opinion and relied on its own physician’s pre-employment exam finding Complainant could not lift over 10 pounds where an essential function of the job was lifting items up to 30 pounds or more. CO

*Van Dyck v. Old Time Tap*, CCHR No. 04-E-103 (Apr. 15, 2009) No disability discrimination where a fill-in bartender failed to establish that she was fired because of disability or perceived disability. Complainant did not
establish that she had actual disability or that the bar owner perceived her to have disability, and did not establish differential treatment. R

_Sian v. Rod's Auto & Transmission Center_, CCHR No. 07-E-46 (June 16, 2010) No disability discrimination found in that employee failed to prove (1) that the business owner knew or believed the employee had a determinable, nontransitory medical condition, (2) that employee performed job to employer’s legitimate expectations where he failed to return to work or call in for two weeks, and (3) that other employees were not discharged under these circumstances. R

**Disparate Impact** – See also separate Disparate Impact section, above.

_Walton v. Chicago Dept. of Streets & Sanitation_, CCHR No. 95-E-271 (May 17, 2000) Complainant did not show whether the numbers he presented about the rate at which members of different races failed the City’s mandatory drug tests were statistically significant and he did not overcome City’s showing of business necessity for the tests due to federal regulation. R

**Doctors & Hospitals** – No new decisions in this volume.

**Employee Benefits**

_Cordero v. World Travel BTI_, CCHR No. 03-E-49 (Sep. 7, 2006) ERISA preempts CHRO as to ERISA-covered employee benefits including medical benefits plan that did not offer coverage for domestic partners of employees; Complaint dismissed for lack of jurisdiction, noting that CHRO can still be applied to employee benefits which are not ERISA-covered. CO

**Employee Qualifications** – No new decisions in this volume.

**Employment Relationship** – See also Determination of Employer/Supervisor subsection, above, and Independent Contractor and Persons Potentially Liable subsections, below.

_Lucado v. City Service Taxi Assoc., et al._, CCHR No. 00-PA-67 (July 31, 2001) Order reviews standards to determine nature of relationship between cab company and driver, stating that control is key to finding an employment relationship. CO

_Kenny v. Loyola Univ., et al._, CCHR No. 01-E-87 (Oct. 4, 2001) CHR dismissed Complainant’s claims – such as being expelled and not allowed to use a certain shuttle – which concerned her status as a student not employee [CHR had previously found these claims did not concern a covered public accommodation; see CCHR 01-PA-44 (9-24-01) in Public Accommodation section, below]. CO

_Russell v. Wolley Cab Co. et al._, CCHR No. 01-PA-63 (Nov. 19, 2001) (same as _Lucado_, above) CO

_Blakemore v. Chicago Dept. of Consumer Services_, CCHR No. 01-E-131 (Jan. 18, 2002) Where Complainant was no more than a vendor licensed by the City, CHR found he did not have an employment relationship with the City and so dismissed his employment case; order summarizes standards used to determine whether complainant and respondent are in a covered employment relationship. CO

_Blakemore v. Chicago Dept. of Consumer Services_, CCHR No. 02-E-26 (Feb. 21, 2002) (same) CO

_Brown v. Glen Ellyn Storage_, CCHR No. 02-E-65 (Sep. 5, 2002) Case dismissed against Respondent storage company where review of its contract with another company (KAK), which Respondent retained as independent contractor to provide cartage services at some of its facilities, showed it did not have employment relationship with Complainant employed as driver for KAK due to lack of control over Complainant’s work. CO

_Shein v. Garland Brothers & Home Line Furniture Industries, Inc._, CCHR No. 02-E-16 (May 6, 2003) Mere assertion that commission sales representative was independent contractor and not employee does not rule out protection of CHRO if employment relationship existed with a furniture wholesaler and a furniture manufacturer’s representative; discusses factors considered. CO

_Brown v. Leona’s Pizzeria, Inc._, CCHR No. 04-E-33 (Jan. 14, 2005) CHRO’s employment discrimination prohibition is not limited to “employers” and “employees” but broadly extends to “persons” and “individuals”; all that is needed for the CHRO to apply is some sort of employment relationship. Where Respondent presented some evidence concerning its “independent contractor” relationship with Complainant but all the evidence needed to determine whether the parties had an employment relationship was not before CCHR, motion to dismiss was denied due to outstanding factual issues. CO

_Rollins & Steele v. Yellow Cab Co. et al._, CCHR No. 02-P-82/83 (Feb. 16, 2005) (same as _Lucado_ and _Russell_ entries, above) CO

_Bowen v. Salvation Army Adult Rehab. Ctr._, CCHR No. 04-E-187 (Sep. 15, 2005) That a Complainant sorting clothes in a warehouse as part of participation in substance abuse rehabilitation program was not an “employee” of Salvation Army held not determinative of existence of an employment relationship; motion to
dismiss denied due to lack of sufficient evidence to apply “economic realities” criteria including the “consideration” factor, i.e. whether Complainant was working for the valuable consideration of receiving rehabilitation services or solely as a therapeutic or educational activity. CO

Herring v. AMI Inc., et al., CCHR No. 05-E-91 (Feb. 2, 2006) CHRO’s employment discrimination prohibition not limited to “employers” and “employees” but broadly extends to “persons” and “individuals”; all that is needed for CHRO to apply is some sort of employment relationship. Where Respondent presented some evidence concerning its relationship with Complainant but all evidence needed to determine whether parties had employment relationship was not before CCHR, motion to dismiss denied due to outstanding factual issues. CO

Beaty v. Int’l Word Outreach Ministries et al., CCHR No. 05-E-98 (Feb. 28, 2006) CHRO’s employment discrimination prohibition not limited to “employers” and “employees” but broadly extends to “persons” and “individuals”; all that is needed for CHRO to apply is some sort of employment relationship. Where Complainant and Respondent made conflicting assertions regarding existence of employment relationship, motion to dismiss denied due to outstanding factual issues. CO

Molina v. Hallmark Dental Care, LLC et al., CCHR No. 06-E-12 (July 11, 2006) CHRO’s employment discrimination prohibition not limited to “employers” and “employees” but broadly extends to “persons” and “individuals”; all that is needed for CHRO to apply is some sort of employment relationship. Where Respondent presented some evidence concerning its relationship with Complainant but it contradicted Complainant’s evidence and all evidence needed to determine whether parties had employment relationship was not before CCHR, motion to dismiss denied due to outstanding factual issues. CO

Alexander v. 1212 Restaurant Group et al., CCHR No. 00-E-110 (Oct. 16, 2008), aff’d Cir. Ct. Cook Co. No. 09-CH 16337 (Feb. 19, 2010), aff’d Ill. App. Ct. No 1-20-0797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No 113274 (Jan. 25, 2012). Individual Respondent was supervisory employee not unpaid consultant where working 20-30 hours per week for valuable consideration in form of future ownership interest in company and Complainant employee was required to perform under his direction as designee of majority owner. Majority owner of company not liable for the supervisor’s conduct as employer because company was the employer, but found liable for own actions or inactions in connection with workplace harassment. R

Miller v. Stony Sub et al., CCHR No. 05-E-150 (Jan. 21, 2009) Evidence at hearing found insufficient to prove employment relationship existed at time of alleged sexually harassing conduct. R

Peterson v. Rosenthal Collins Group, LLC et al., CCHR No. 06-E-57 (May 7, 2010) CHRO prohibits discrimination by “persons”; thus only some sort of employment relationship between complainant and respondent is needed for CHRO to apply, even if parties may not fit strict definition of “employer” and “employee.” Criteria for finding an employment relationship reviewed, reaffirming that control over worker is most important factor, and motion to dismiss denied due to outstanding factual issues such that CHR could not rule out existence of such relationship. CO

Chrzanowski v. Dziennik Zwaikowy, CCHR No. 11-E-67 (Sept. 28, 2011) Complaint dismissed against newspaper that listed allegedly discriminatory job advertisements, finding no employment relationship between Complainant and newspaper, which had no right of control over Complainant’s employment, so not proper respondent. CO

Failure to Hire

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Respondent found liable for revoking job offer as “Resident Hall Minister” to female Complainant once it learned she was pregnant. R

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Employer which withdraws offer of employment due to individual’s protected class cannot escape liability by re-offering the same position after the applicant has complained about the discrimination and suffered damages. R

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Complainant’s unreasonable failure to accept re-offer of exact job cuts off economic damages and reinstatement. R

Williams v. Norm’s Automotive Ctr., CCHR No. 99-E-151 (Dec. 6, 2000) Respondent found not liable where evidence showed that African-American Complainant was not denied an application due to his race but because he spoke to a person with incorrect information about the job opening. R

Williams v. Norm’s Automotive Ctr., CCHR No. 99-E-151 (Dec. 6, 2000) Fact that Respondent hires by word of mouth and does not advertise is not sufficient to show race discrimination especially given that Complainant learned about the job and Respondent had hired at least one other African-American in its few hires in the past. R

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) Complainant found not to have carried her burden to show that she was not given a starting date, after being given a job offer, due to her disability, especially where Respondent was found to have been willing to make the limited modifications needed to accommodate her. R

Richardson v. Chicago Area Council, Boy Scouts of America, CCHR No. 92-E-80 (Feb. 19, 2003) Tester
failed to prove he was treated differently based on his sexual orientation with regard to hiring for non-expressive positions with Boy Scouts where he did not submit the resume requested and did not refute Respondent testimony that complete resume was required in order to be considered; thus he lacked standing because he failed to complete the test as to such positions. R

**Futile Gesture – No new decisions in this volume.**

**Harassment**

*Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000)* To constitute harassment, discriminatory conduct must be subjectively offensive and humiliating to the complainant and be the type of harassment which would be offensive to an average person. R

*Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000)* Respondent not found liable where Complainant’s only allegation of sexual orientation harassment consisted of one unsupported statement in which a third party allegedly told Complainant that his supervisor made a negative comment about his sexual orientation; even if true, one such comment is not sufficient to create the required severe or pervasive negative environment to make an actionable harassment claim. R

*Mestas v. Rock Island Securities, et al., CCHR No. 00-E-121 (Mar. 9, 2001)* CHR dismissed complaint for failing to state a claim in that it alleged that the individual respondent had once called co-workers of the Hispanic Complainant a name; that one statement did not refer to Complainant’s ancestry or necessarily even the co-workers’ ancestries, was not directed at Complainant and was not sufficient to cause his work environment to be intimidating, hostile or offensive. CO

*Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002)* Complainant raised four incidents she deemed racial; however, her testimony about them was not credible, she never reported any to management, and so did not show that Respondent subjected her to discrimination or failed to correct actions of co-workers. R

*Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002)* In order to create an unlawful hostile environment, co-worker’s conduct must be sufficiently severe and pervasive to alter the conditions of the complainant’s work environment; a single, isolated event was not enough. R

*Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002)* Even if the one allegedly sexual event were enough to show a hostile environment [see entry above], management took reasonable corrective action which effectively stopped alleged harasser from taking any other action against Complainant. R See also separate Sexual Harassment section, below.

*Hutt v. Horizons Community Svcs., CCHR No. 01-E-121 (Apr. 10, 2002)* Sets forth prima facie case in race/harassment case. CO

*Hutt v. Horizons Community Svcs., CCHR No. 01-E-121 (Apr. 10, 2002)* In denying motion to dismiss, CHR found that complaint alleged more than “trivial” injuries, even if not quantifiable ones, where Complainant claimed, among other things, that, due to her race, she was evaluated by peers, forbidden from speaking to outside agencies, and instructed to rescind a police report. CO

*Nuspl v. Marchetti, CCHR No. 98-E-207 (Sept. 18, 2002)* Restaurant co-owner subjected kitchen manager to hostile work environment based on sexual orientation via tirades against gay men which increased in intensity over a short period culminating in direct attack against Complainant in front of his staff using derogatory language about him as a gay man. R

*Guy v. First Chicago Futures, Inc., CCHR No. 97-E-32 (Feb. 18, 2004)* No racial harassment in connection with criticism and scrutiny of Complainant where six incidents cited were not sufficiently severe and pervasive to create hostile environment and could not be connected to a racial character or purpose. Harassment standards discussed and applied. R

*Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004)* No prima facie case of discrimination due to Mexican ancestry based on one incident where manager told her if she did not like things she should return to Mexico, as this alone was insufficiently severe or pervasive to create a hostile working environment. R

*Shedd v. 1550 N. Condo. Assn. et al., CCHR No. 01-E-69 (July 22, 2005)* (1) Under Reg. 345.130, liability may be imposed on employer for harassing conduct of non-employees if employer knew or should have known of prohibited harassment but did not take reasonable remedial action. (2) Retaliatory harassment, even if it does not result in discharge, is an adverse employment action concerning the “terms and conditions” of employment, and actionable under CHRO. Complaint alleging that Respondent’s representative tried to have Complainant fired over two-year period held sufficient to state retaliatory harassment claim. CO

*Holland v. Chicago Self Storage III et al., CCHR No. 05-E-57 (Aug. 23, 2005)* Complaint dismissed where alleged incidents were insufficient to constitute sexual orientation harassment in that the alleged single reference to Complainant as a “faggot” and three references to other gay people as “faggots” were made to others and not to
Complainant directly, the Complaint described reasonable corrective action already taken by Respondent, and overall the alleged conduct was not sufficiently severe or pervasive to alter Complainant’s work environment. CO

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established prima facie case of race discrimination where manager of restaurant addressed Complainant in racially derogatory terms in conjunction with sexual harassment. R

Hernandez v. Colonial Medical Center et al., CCHR No. 05-E-14 (Nov. 28, 2006) No harassment based on color found where black and Panamanian employee claimed a co-worker treated her rudely and called her derogatory names referencing her dark skin color. Based on hearing officer’s assessment of witness credibility, Complainant failed to prove the derogatory slurs occurred or that when she complained about the co-worker to management, she said the conduct involved her skin color. R

Rodgers v. City of Chicago Dept. of Water Management et al., CCHR No. 05-E-27 (Nov. 29, 2007) Investigation did not reveal substantial evidence of racial harassment or differential treatment where claimed conduct of supervisor involved scrutiny and criticism of Complainant’s work performance or disagreements between Complainant and supervisor at to how work should be performed, with no substantial evidence of racial animus or examples of more favorable treatment of non-African-Americans in comparable circumstances. CO

Alexander v. 1212 Restaurant Group et al., CCHR No. 00-E-110 (Oct. 16, 2008), aff’d Cir. Ct. Cook Co. No. 09-CH 16337 (Feb. 19, 2010), aff’d Ill. App. Ct. No 1-20-0797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No 113274 (Jan. 25, 2012). Restaurant company and individual agents discriminated against employee based on perceived sexual orientation by creating hostile work environment affecting his ability to perform his job through frequent, continuing comments and derogatory epithets insinuating that he is gay. Noting that CHR has been guided by federal law principles defining harassment, CHR found it “hard to imagine a workplace more objectively offensive to an employee, more viciously permeated with anti-gay vitriol, than what has been found to have existed….” R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) After order of default, Mexican-American kitchen employee established prima facie case that restaurant owner harassed and discharged her based on age, sex, and national origin when he engaged in repeated derogatory slurs and insults including “old lady,” “too old,” “fucking bitch,” “stupid fucking lady,” “stupid Mexican,” and telling her he didn’t like Mexicans, then fired her stating “I don’t need her work because she’s already old. And I don’t like Mexicans in my business.” R

"Independent Contractor” – See also Employment Relationship subsection, above.

Lucado v. City Service Taxi Assoc., et al., CCHR No. 00-PA-67 (July 31, 2001) CHR found that the driver who allegedly discriminated against Complainant was not controlled by cab company and was an independent contractor and so CHR dismissed cab company from case; driver not dismissed. CO

Lucado v. City Service Taxi Assoc., et al., CCHR No. 00-PA-67 (July 31, 2001) Order reviews standards to determine nature of relationship between cab company and driver, stating that control is key to finding an employment relationship. CO

Russell v. Wolley Cab Co. et al., CCHR No. 01-PA-63 (Nov. 19, 2001) (same as Lucado entries, above) CO

Brown v. Glen Ellyn Storage, CCHR No. 02-E-65 (Sep. 5, 2002) Case dismissed against Respondent storage company where review of its contract with another company (KAK), which Respondent retained as independent contractor to provide cartage services at some of its facilities, showed it did not have employment relationship with Complainant employed as driver for KAK due to lack of control over Complainant’s work. CO

Shein v. Garland Brothers & Home Line Furniture Industries, Inc., CCHR No. 02-E-16 (May 6, 2003) Mere assertion that commission sales representative was independent contractor and not employee does not rule out protection of CHRO if employment relationship existed with a furniture wholesaler and a furniture manufacturer’s representative; discusses factors considered. CO

Brown v. Leona’s Pizzeria, Inc., CCHR No. 04-E-33 (Jan. 14, 2005) CHRO’s employment discrimination prohibition is not limited to “employers” and “employees” but broadly extends to “persons” and “individuals”; all that is needed for the CHRO to apply is some sort of employment relationship. Where Respondent presented some evidence concerning its “independent contractor” relationship with Complainant but all the evidence needed to determine whether the parties had an employment relationship was not before CCHR, motion to dismiss was denied due to outstanding factual issues. CO

Rollins & Steele v. Yellow Cab Co. et al., CCHR No. 02-P-82/83 (Feb. 16, 2005) (same as Lucado and Russell entries, above) CO

Indirect Discrimination

Nuspl v. Marchetti, CCHR No. 98-E-207 (Sept. 18, 2002) Restaurant co-owner not liable for indirect discrimination via disparaging comments about kitchen manager’s Mexican-American staff where the manager was
Individual Liability – See also separate Individual Liability section, below.

Stanley v. Chicago Police Dept., et al., CCHR No. 01-E-31 (Oct. 2, 2001) There is no question that persons may be sued individually at CHR; thus, there is no presumption that an official named as a respondent was named only in his or her official capacity. CO

Love v. Chicago Office of Emergency Communics., et al., CCHR No. 01-E-46 (Oct. 16, 2001) (same) CO

Nuspl v. Marchetti, CCHR No. 98-E-207 (Dec. 17, 2001) Individuals, not just employers, may be held liable under the CHRO; here, individual respondent was a co-owner of business and he was alleged to have taken the discriminatory acts. HO

Gibbs v. Subway Catering et al., CCHR No. 02-E-208 (Mar. 19, 2004) Where Complainant alleged that janitor conspired to have her discharged, motion to dismiss denied because he may be held personally liable if (a) he interfered with Complainant’s employment relationship with her employer or (b) he was employed by same employer as Complainant and took discriminatory actions against her. CO

Murray v. Ivy Apartments et al., CCHR No. 05-E-6 (June 16, 2005) Apartment Director of housing accommodation may be held personally liable under CHRO where she personally took claimed discriminatory action of discharging Complainant. CO

Shedd v. 1550 N. Condo. Assn. et al., CCHR No. 01-E-69 (July 22, 2005) Complaint dismissed against unit owner in condominium which employed Complainant who had no rights over Complainant’s employment: ownership of individual condominium unit alone too remote to imply rights or activities associated with employment relationship; individual liability is imposed on individuals functioning as agents of employer or exercising supervisory or other decision-making authority over employee or contractor, and not on end-users, clients, or customers. CO

Easter v. Eyecare Physicians & Surgeons et al., CCHR No. 05-E-13 (Aug. 3, 2005) No dismissal as to owner of dismissed business Respondent in her individual capacity acting on behalf of second business Respondent; she may be held personally liable where as its office manager she personally took allegedly discriminatory actions against Complainant. CO

Klarich v. City of Chicago Dep’t of Buildings et al., CCHR No. 06-E-4 (Jan. 23, 2006) Mere fact that named individual Respondent headed a City department does not render him individually responsible for alleged discrimination occurring there unless he personally engaged in action causing or furthering it. CO

McCann v. City of Chicago Fire Dep’t et al., CCHR No. 06-E-15 (Feb. 22, 2006) Mere fact that named individual Respondents headed a City department does not render them individually responsible for alleged discrimination occurring there unless they personally engaged in action causing or furthering it. CO

Beaty v. Int’l Word Outreach Ministries et al., CCHR No. 05-E-98 (Feb. 28, 2006) Complainant’s supervisor may be held personally liable under CHRO where she personally took allegedly discriminatory actions against Complainant. CO

Lopez v. ClearStaff, Inc. et al., CCHR No. 06-E-6 (June 2, 2006) Individuals, not just employers, may be held liable under CHRO; manager was proper respondent where Complaint alleges he personally took actions claimed to be discriminatory. CO

Joint Employer – No new decisions in this volume.

Lay-Off

Sigman v. R.R. Donnelly & Sons Co., CCHR No. 98-E-57 (Aug. 9, 2001) In denying Request for Review about position into which Complainant was placed after being laid off, CHR held that it was important that the case concerned the lay-off of Complainant, not failure to promote him; thus Respondent was not obligated to place Complainant into any position, let alone a better one, given that it did not place all others laid off into another position. CO

Sigman v. R.R. Donnelly & Sons Co., CCHR No. 98-E-57 (Aug. 9, 2001) In denying the Request for Review about the position into which Complainant was placed after being laid off, CHR considered that the other person laid off from Complainant’s two-person unit was not placed into any new position and so was treated worse than Complainant. CO

Mandatory Retirement Ordinance

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dep., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) CHR held that a mandatory retirement ordinance [MRO] for certain police and fire personnel should be read as an implied exception to CHRO; finds MRO to be the more specific and the later passed and also finds that reading the MRO as an exception follows the intent of City Council. CO
Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) In construing two conflicting municipal ordinances – CHRO and a mandatory retirement provision – CHR applied statutory construction rules including: giving intent to legislature by presuming it has acted rationally; reading the two ordinances so that both can stand, where possible; determining which ordinance was the later passed; deciding which was more specific; and considering fact that no exception in CHRO permits mandatory retirement. CO See also City of Chicago Authority section, above & Statutory Construction section, below.

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) CHR denies request for review of August order [above], again finding that the mandatory retirement order [MRO] for certain police and fire personnel is to be read as an implied exception to the CHRO; among other things, finds MRO to be more specific than CHRO and finds that City Council intended the MRO to be effective. CO

Mixed Motive – No new decisions in this volume.

National Origin Discrimination
Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) After order of default, Mexican-American kitchen employee established prima facie case that restaurant owner harassed and discharged her based on age, sex, and national origin when he engaged in repeated derogatory slurs and insults, then discharged her stating “I don’t need her work because she’s already old. And I don’t like Mexicans in my business.” R

Parental Status Discrimination
Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (June 17, 2009) Parental status discrimination found where employer discharged salesperson who was mother of two children, after single day of absence, finding the employer was lax about absences of employees who had no children. R

Persons Potentially Liable – See also Employment Relationship subsection, above.
Diabor v. Kenny-Kiewit-Shea Joint Venture et al., CCHR No. 01-E-118 (Dec. 18, 2002) Where Complaint did not allege that one respondent himself engaged in any harassment, or that he was Complainant’s supervisor, or that it was within his power directly to discipline alleged harasser, Complaint found insufficient against him; that Complainant is unhappy with employer’s response to her harassment allegations does not ipso facto render one member of employer’s management an appropriate respondent. CO

Murray v. Ivy Apartments et al., CCHR No. 05-E-6 (June 16, 2005) Business entity alleged to be employer may be held responsible for alleged discriminatory action taken by its manager against Complainant. CO

Shedd v. 1550 N. Condo. Assn. et al., CCHR No. 01-E-69 (July 22, 2005) Complaint dismissed against unit owner in condominium which employed Complainant who had no rights over Complainant’s employment: ownership of individual condominium unit alone too remote to imply rights or activities associated with employment relationship; individual liability is imposed on individuals functioning as agents of employer or exercising supervisory or other decision-making authority over employee or contractor, and not on end-users, clients, or customers. CO

Lopez v. ClearStaff, Inc. et al., CCHR No. 06-E-6 (June 2, 2006) Individuals, not just employers, may be held liable under CHRO; manager was proper respondent where Complaint alleges he personally took actions claimed to be discriminatory. CO

Peterson v. Rosenthal Collins Group, LLC et al., CCHR No. 06-E-57 (May 7, 2010) CHRO prohibits discrimination by “persons”; thus only some sort of employment relationship between complainant and respondent is needed for CHRO to apply, even if parties may not fit strict definition of “employer” and “employee.” Criteria for finding an employment relationship reviewed, reaffirming that control over worker is most important factor, and motion to dismiss denied due to outstanding factual issues such that CHR could not rule out existence of such relationship. CO

Pinkston v. City of Chicago Fire Department et al., CCHR No. 12-E-16 (Aug. 3, 2012) Fire Commissioner dismissed as individual Respondent where no allegations he personally took any action against Complainant, he cannot personally liable merely as Fire Commissioner, and he need not be named in official capacity under CHR rules. CO

Pregnancy Discrimination
Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Respondent found liable for revoking job offer as “Resident Hall Minister” to female Complainant once it learned she was pregnant. R

Martin v. Glen Scott Multi-Media, CCHR Case No. 03-E-034 (Apr. 21, 2004) After default order, Complainant established prima facie case of pregnancy-related sex discrimination where discharged for being absent two days due to illness after she told her employer she was pregnant. R
Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) No pregnancy-related sex discrimination where evidence did not establish that Respondent knew Complainant was pregnant when it decided to discharge her. Also no evidence Respondent treated Complainant differently after allegedly being informed of the pregnancy. R

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) Bar owner found liable for pregnancy-related sex discrimination when he forced bartender-manager to take maternity leave before she planned after she became ill for pregnancy-related reasons while at work, but not liable for alleged discharge where the evidence did not prove the owner actually discharged her. Defenses that Complainant could not perform her job and the action was taken for her health and safety rejected as unsupported by the evidence and reflective of stereotypes and assumptions about pregnancy. R

Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Law firm found liable for pregnancy-related sex discrimination based on circumstantial evidence that it discharged Complainant because of her pregnancy and pregnancy-related leave. R

Promotion

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) Respondents found not liable for race discrimination where African-American Complainant failed to overcome their articulated defenses that the Caucasian person promoted instead of him had performed better in the promotion interview than Complainant had and that the person promoted otherwise had comparable experience to Complainant. R

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) To establish pretext in a failure-to-promote case, the credentials of the successful candidate must be so inferior to those of the complainant that the respondent’s statement that it selected the person with better credentials is considered unworthy of credence. R

Moriarty v. Chicago Fire Dept. et al., CCHR No. 00-E-130 (June 13, 2001) CHR granted motion to dismiss case which challenged promotion examination, finding the examination was given and scored in the same manner for all applicants and the fact that weights for different components may have been changed to increase promotions of minorities does not constitute impermissible race discrimination; follows federal decisions. CO

Thomas v. Chicago Dept. of Public Health, et al., CCHR No. 97-E-221 (July 18, 2001) Respondents found not liable for promoting a Caucasian and an Hispanic over African-American Complainant where Complainant could not show that the reasons Respondent gave for choosing the others over him were pretextual. R

Thomas v. Chicago Dept. of Public Health, et al., CCHR No. 97-E-221 (July 18, 2001) In disparate treatment case, Complainant was not allowed to litigate the bottom-line scores of all applicants for position into which he was not promoted, but only such scores of those chosen over him; Complainant was allowed to raise scores of unsuccessful applicants on individual criteria for which he received a lower rating. R

Calamus v. Chicago Park District & Konow, CCHR No. 01-E-115 (Mar. 4, 2008) Evidence of prior promotion denials, even if time-barred or not pleaded, can be relevant to instant promotion denial claim depending on foundation established at hearing, may constitute evidence of prior bad acts to support claim of discriminatory animus or motive. HO

Race Discrimination

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) CHR found Respondent not liable where Complainant failed to show that it was race discrimination, not the positive results of a random drug test, which caused his discharge; alleged comparatives found not to be comparable as they were impacted by different policies or otherwise not shown to be similarly situated. R

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) Complainant did not show whether the numbers he presented about the rate at which members of different races failed the City’s mandatory drug tests were statistically significant and he did not overcome City’s showing of business necessity -- that federal regulation required it to give mandatory drug tests. R

Williams v. Norm’s Automotive Ctr., CCHR No. 99-E-151 (Dec. 6, 2000) Respondent found not liable where evidence showed that African-American Complainant was not denied an application due to his race but because he spoke to a person with incorrect information about the job opening. R

Williams v. Norm’s Automotive Ctr., CCHR No. 99-E-151 (Dec. 6, 2000) That Respondent hires by word of mouth and does not advertise not sufficient to show race discrimination especially given that Complainant learned about the job and that Respondent had hired at least one other African-American in its few hires in the past. R

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) Respondents found not liable for race discrimination where African-American Complainant failed to overcome their articulated defenses that the Caucasian person promoted instead of him had performed better in the promotion interview than Complainant had and that the person promoted otherwise had comparable experience to Complainant. R

Moriarty v. Chicago Fire Dept. et al., CCHR No. 00-E-130 (June 13, 2001) Motion to dismiss granted in case which challenged promotion examination, finding the examination was given and scored in the same manner
for all applicants and the fact that weights for different components may have been changed to increase promotions of minorities does not constitute impermissible race discrimination; follows federal decisions. CO

**Thomas v. Chicago Dept. of Public Health, et al.**, CCHR No. 97-E-221 (July 18, 2001) Respondents found not liable for promoting a Caucasian and an Hispanic over African-American Complainant where Complainant could not show that the reasons Respondent gave for choosing the others over him were pretextual. R

**Little v. Tommy Gun’s Garage, Inc.**, CCHR No. 99-E-11 (Jan. 23, 2002) CHR found Complainant did not prove that Respondent subjected Complainant to racial or sexual harassment or that it terminated her due to race or sex; ruling based on credibility of parties and witnesses. R

**Little v. Tommy Gun’s Garage, Inc.**, CCHR No. 99-E-11 (Jan. 23, 2002) Respondent showed that it had a legitimate, nondiscriminatory basis for taking Complainant off the schedule – she disrupted co-workers and customers and missed meetings with management to discuss that – and Complainant did not show that was a pretext for race or sex discrimination. R

**Claudio v. Chicago Baking Co.**, CCHR No. 99-E-76 (July 17, 2002) Race discrimination found where Hispanic supervisor was discharged for leaving work before his replacement arrived, although similarly-situated Caucasian supervisors who violated work rules that were terminable offences (leaving early and sleeping on job) were not discharged. R

**Guy v. First Chicago Futures, Inc.**, CCHR No. 97-E-32 (Feb. 18, 2004) No race discrimination where African-American futures brokerage clerk was discharged after failing to properly cover trading error and trying to hide error from supervisor, where no direct evidence of racial motive, established policies were applied, and white employee had been discharged for similar violations. Also no racial harassment in connection with supervisor’s criticism and scrutiny of Complainant’s work where incidents cited were not sufficiently severe and pervasive to create hostile environment and could not be connected to a racial character or purpose. R

**Jackson v. MYS Dev., Inc. et al.**, CCHR No. 01-E-41 (Jan. 18, 2006) No liability where African-American Complainant alleging failure to recall to a construction job did not prove *prima facie* case of discrimination including that he was not recalled from layoff, that there was an open position for which he qualified at the time he sought re-employment, that at the time of layoff his performance met employer’s legitimate expectations, or that similarly-situated non-African-American employees were rehired. R

**Ingram v. Got Pizza**, CCHR No. 05-E-94 (Oct. 18, 2006) No *prima facie* case of race discrimination merely because African-American pizza delivery driver was not returned to delivery schedule by a white manager after his car broke down while attempting deliveries; no evidence showed other drivers not of his race were treated more favorably in similar circumstances. R

**Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al.**, CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established *prima facie* case of race discrimination where manager of restaurant addressed Complainant in racially derogatory terms in conjunction with sexual harassment. R

**Rodgers v. City of Chicago Dept. of Water Management et al.**, CCHR No. 05-E-27 (Nov. 29, 2007) Investigation did not reveal substantial evidence of racial harassment or differential treatment where claimed conduct of supervisor involved scrutiny and criticism of Complainant’s work performance or disagreements between Complainant and supervisor at to how work should be performed, with no substantial evidence of racial animus or examples of more favorable treatment of non-African-Americans in comparable circumstances. CO

**Johnson v. Fair Muffler Shop a/k/a Fair Undercare Car a/k/a Fair Muffler & Brake Shops**, CCHR No. 07-E-23 (Mar. 19, 2008) *Prima facie* case of race discrimination proved where manager of defaulted auto repair ship used racially derogatory slurs, owner ignored complaints, and Complainant was fired after third complaint. R

**Reasonable Corrective Action – No new decisions in this volume.**

**Religious Discrimination**

**Martin v. Kane Security Services**, CCHR No. 99-E-141 (Oct. 17, 2000) CHR found there was substantial evidence that Respondent failed to accommodate Complainant’s religious beliefs in case parallel-filed with EEOC in which evidence collected by EEOC and CCHR showed that Respondent told Complainant to remove her hijab, a scarf it knew she wore for religious reasons, refused to allow her to wear any employer-issued head-covering thus causing Complainant to feel compelled to quit. CO

**Kelly v. North Park Univ.**, CCHR No. 03-E-173 (Nov. 30, 2005) Complaint alleging sexual orientation and religious discrimination in refusal of church-owned and operated university to hire openly-homosexual candidate for permanent faculty position dismissed based on First Amendment right of expressive association as well as entitlement to CHRO religious exemption in light of documented linkage of faculty hiring policies to church opposition to homosexual practices. Although Complainant argued she was rejected based on her interpretation of Christianity and that Respondent’s stated reasons were pretextual, CHR found that further inquiry would excessively entangle it in doctrinal issues. CO
Shores v. Nelson d/b/a Blackhawk Plumbing, CCHR No. 07-E-87 (Feb. 17, 2010) Complainant failed to prove discrimination based on religion where Complainant merely asserted without further evidence that company owner was critical of her religion and church activities. R

Re-Offer of Job
Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Employer which withdraws offer of employment due to individual’s protected class cannot escape liability by re-offering the same position after the applicant has complained about the discrimination and suffered damages; compares case to Supreme Court decision and mixed motion ones. R
Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Complainant’s unreasonable failure to accept re-offer of exact job cuts off economic damages and reinstatement. R
Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Complainant’s rejection of re-offer found unreasonable because, although Complainant believed the terms of the re-offer were more harsh than original offer, she did not take any steps available to her to determine whether that was true. R
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) Fact that Respondent later offered Complainant the job she claims she was discriminatorily denied is not evidence of pretext but is simply an acceptable means of limiting potential liability. R
Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Complainant’s rejection of re-offer found unreasonable because, although Complainant believed the terms of the re-offer were more harsh than original offer, she did not take any steps available to her to determine whether that was true. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Complainant not discharged and thus not entitled to back pay where he made personal decision to decline two viable offers of alternative positions. R

Retaliation
Shedd v. 1350 N. Condo. Assn. et al., CCHR No. 01-E-69 (July 22, 2005) Retaliatory harassment, even if it does not result in discharge, is an adverse employment action concerning the “terms and conditions” of employment, and actionable under CHRO. Complaint alleging that Respondent’s representative tried to have Complainant fired over two-year period held sufficient to state retaliatory harassment claim. CO
Hampton v. Fin. Strategy Network, LLC, CCHR No. 01-E-2 (Apr. 19, 2006) Former employer retaliated by refusing to pay severance unconditionally offered at the time Complainant’s employment was terminated, directly stating as the reason that Complainant had filed discrimination complaints about the discharge so they had to go through their insurance company and attorney. However, no retaliation was found in connection with partial payment of a bonus. R
Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established prima facie case of retaliation where, after receiving notice that she filed a sex and race discrimination claim with CHR, restaurant manager left a racially and sexually derogatory telephone message about her on her voicemail. Such offensive and intimidating language held sufficient to constitute an adverse action in retaliation for filing a Complaint. R
Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (June 17, 2009) Employer retaliated when it failed to pay commissions for sales that came in after her discharge, when it was Respondent’s practice to pay commissions on sales coming in up to a year later. R

Sex Discrimination
Griffiths v. DePaul University, CCHR No. 95-E-224 (Apr. 19, 2000) Respondent found liable for revoking job offer as “Resident Hall Minister” to female Complainant once it learned she was pregnant. R
Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) CHR found that neither male, over-age-40 Complainant overcame Respondents’ non-discriminatory, performance-related reasons to discharge them; Respondents presented evidence of malfeasance and poor performance and any comments about their age and sex were made by personnel who did not make the discharge decisions. R
Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) Respondent showed that it had a legitimate, nondiscriminatory basis for taking Complainant off the schedule – she disrupted co-workers and customers and missed meetings with management to discuss that – and Complainant did not show that was a pretext for race or sex discrimination. R
Wong v. City of Chicago Dept. of Fire, CCHR No. 99-E-73 (Dec. 5, 2002), aff’d, No. 03 CH 00793 (Cir. Ct. Cook Co., Dec. 11, 2003) No substantial evidence finding affirmed on Request for Review of female Complainant denied promotion and subsequently disciplined; statistical evidence that Complainant was only female employee in job category, that professional employees in division were predominantly male, and that there had been no female supervisors or managers not sufficient to point to pretext where Respondents articulated legitimate non-discriminatory reasons and extent of irregularities and unreasonableness of action not significant. CO
Salwierak v. MRI of Chicago, Inc. et al., CCHR No. 99-E-107 (July 16, 2003) Sexual harassment found where supervisor made offensive sexual remarks, taunted Complainant about her sex life, and touched her inappropriately, all of which Complainant made clear was unwelcome. Employer corporation found liable along with individual harasser, as undisputed evidence was that it was aware of the ongoing harassment but took no steps to stop it. R

Martin v. Glen Scott Multi-Media, CCHR Case No. 03-E-034 (Apr. 21, 2004) After default order, Complainant established prima facie case of pregnancy-related sex discrimination where discharged for being absent two days due to illness after she told her employer she was pregnant. R

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) No pregnancy-related sex discrimination where evidence did not establish that Respondent knew Complainant was pregnant when it decided to discharge her. Also no evidence Respondent treated Complainant differently after allegedly being informed of the pregnancy. R

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) Quid pro quo sexual harassment found where owner of business caused termination of Complainant’s employment after she discontinued an initially-consensual dating relationship with him, then refused to pay all compensation due. R

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established prima facie case of sexual harassment where restaurant manager subjected her to repeated sexual advances which included exposing himself and physical assault. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) After order of default, Mexican-American kitchen employee established prima facie case that restaurant owner harassed and discharged her based on age, sex, and national origin when he engaged in repeated derogatory slurs and insults, then discharged her stating “I don’t need her work because she’s already old. And I don’t like Mexicans in my business.” R

Williams v. RCJ Inc. et al., CCHR No. 10-E-91 (Oct. 19, 2011) Prima facie case of sexual harassment where convenience store owner asked cashier to wear revealing clothes to attract male customers, inquired about her sex life, asked what she would charge for a blow job, pressed his private parts against her, and told her teenage daughter to come to a back room with him to work for her food. R

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) Bar owner found liable for pregnancy-related sex discrimination when he forced bartender-manager to take maternity leave before she became ill for pregnancy-related reasons while at work, but not liable for alleged discharge where the evidence did not prove the owner intended to discharge her. Defenses that Complainant could not perform her job and the action was taken for her health and safety rejected as unsupported by the evidence and reflective of stereotypes and assumptions about pregnancy. R

Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Law firm found liable for pregnancy-related sex discrimination based on circumstantial evidence that it discharged Complainant because of her pregnancy and pregnancy-related leave. R

Sexual Harassment

Mestas v. Rock Island Securities, et al., CCHR No. 00-E-121 (Mar. 9, 2001) CHR dismissed complaint for failing to state a claim in that it alleged that the individual respondent had once called co-workers of the Hispanic Complainant a name; that one statement did not refer to Complainant’s ancestry or necessarily even the co-workers’ ancestries, was not directed at Complainant and was not sufficient to cause his work environment to be intimidating, hostile or offensive; analogizes to sexual harassment/hostile environment cases. CO

Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) CHR found Complainant did not prove that Respondent subjected Complainant to racial or sexual harassment or that it terminated her due to race or sex; ruling based on credibility of parties and witnesses. R

Salwierak v. MRI of Chicago, Inc. et al., CCHR No. 99-E-107 (July 16, 2003) Sexual harassment found where supervisor made offensive sexual remarks, taunted Complainant about her sex life, and touched her inappropriately, all of which Complainant made clear was unwelcome. Employer corporation found liable along with individual harasser, as undisputed evidence was that it was aware of the ongoing harassment but took no steps to stop it. R

Carroll v. Riley, CCHR No. 03-E-172 (Nov. 17, 2004) After default order, male employee established prima facie case of sexual harassment where female employer fired him because he entered relationship with another woman after a personal relationship with her. Fine of $500 imposed plus back pay of $10,500 and emotional distress damages of $2,000. R

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) Quid pro quo sexual harassment found where owner of business caused termination of Complainant’s employment after she discontinued an initially-consensual dating relationship with him, then refused to pay all compensation due. R

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established prima facie case of sexual harassment where restaurant manager subjected her to
repeated sexual advances which included exposing himself and physical assault. R

    Hawkins v. Ward & Hall, CCHR No. 03-E-114 (May 21, 2008) After default, prima facie case of sexual harassment established where supervisor regularly asked Complainant out, once got close to Complainant and told her she was attractive, and once asked Complainant, “What color panties have you got on?” Harasser’s supervisor also liable for sexual harassment due to failure to take remedial action when she knew of the harassment. R

    Miller v. Stony Sub et al., CCHR No. 05-E-150 (Jan. 21, 2009) No ordinance violation where female minor claimed she was sexually harassed and constructively discharged from employment at convenience store, but evidence was insufficient to prove she was in an employment relationship as defined by the Human Rights Ordinance. R

    Harper v. Cambridge Systematics, Inc. et al., CCHR No. 04-E-86 (Feb. 17, 2010) Complainant’s testimony that two male managers grabbed their genitals for one to two seconds in her presence found not credible, and actions deemed not sufficiently severe or pervasive to create hostile working environment. R

    Shores v. Nelson d/b/a Blackhawk Plumbing, CCHR No. 07-E-87 (Feb. 17, 2010) After order of default, employee proved prima facie case of hostile environment and quid pro quo sexual harassment where company owner exposed himself in her presence, propositioned her, asked her not to come to work for several days and stopped payment on a bonus check when she rebuffed his advances, and ultimately locked her out of the company. R

    Williams v. RCJ Inc. et al., CCHR No. 10-E-91 (Oct. 19, 2011) Prima facie case of sexual harassment where convenience store owner asked cashier to wear revealing clothes to attract male customers, inquired about her sex life, asked what she would charge for a blow job, pressed his private parts against her, and told her teenage daughter to come to a back room with him to work for her food. R

Sexual Orientation Discrimination

    Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) Respondent not found liable where Complainant’s only allegation of sexual orientation harassment consisted of one unsupported statement in which a third party allegedly told Complainant that his supervisor made a negative comment about his sexual orientation; even if true, one such comment is not sufficient to create the required severe or pervasive negative environment to make an actionable harassment claim. R

    Sigman v. R.R. Donnelly & Sons Co., CCHR No. 98-E-57 (Aug. 9, 2001) In denying the Request for Review about the position into which gay Complainant was placed after being laid off, CHR considered that the other person laid off from Complainant’s two-person unit, and who was not gay, was not placed into any new position and so was treated worse than Complainant. CO

    Duignan v. Little Jim’s Tavern, et al., CCHR No. 01-E-38 (Sep. 10, 2001) CHR denied motion to dismiss in which complainant alleged that he was discharged by his supervisor just after he rebuffed his supervisor’s advance and in which complainant alleged that there were several harassing events in just over two months, one of which involved touching, and where he claimed harassing comments were made starting at the inception of his employment, thus CHR found it could not find a lack of frequency and pervasiveness as a matter of law. CO

    Nupsi v. Marchetti, CCHR No. 98-E-207 (Sept. 18, 2002) Restaurant co-owner subjected kitchen manager to hostile work environment based on sexual orientation via tirades against gay men which increased in intensity over a short period culminating in direct attack against Complainant in front of his staff using derogatory language about him as a gay man. R

    Richardson v. Chicago Area Council, Boy Scouts of America, CCHR No. 92-E-80 (Feb. 19, 2003) Tester failed to prove he was treated differently based on his sexual orientation with regard to hiring for non-expressive positions with Boy Scouts where he did not submit the resume requested and did not refute Respondent testimony that complete resume was required in order to be considered; thus he lacked standing because he failed to complete the test as to such positions. R

    Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (July 16, 2003) No sexual orientation discrimination where Complainant did not prove hostile environment or that stated reason for discharge was pretextual: company decision-makers found not aware that co-worker’s anti-gay bias may have influenced physical altercation which resulted in discharge for violation of no-fighting policy; no credible evidence decision-makers were biased against Complainant based on his sexual orientation, and examples of non-gay workers not discharged after a fight found not comparable. Also, all credible incidents of claimed anti-gay harassment occurred outside the timely filing period. R

    Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) After default order, Complainants established prima facie case of discrimination based on perceived sexual orientation where president of Respondent company harassed them by accusing them of being gay, taunting them about it, then discharging one Complainant after hiring a less-qualified replacement over objections of company vice-president, and constructively discharging the other. R

    Kelly v. North Park Univ., CCHR No. 03-E-173 (Nov. 30, 2005) Complaint alleging sexual orientation and
religious discrimination in refusal of church-owned and operated university to hire openly-homosexual candidate for permanent faculty position dismissed based on First Amendment principles of expressive association and excessive entanglement as well as entitlement to CHRO religious exemption in light of documented linkage of faculty hiring policies to church opposition to homosexual practices. CO

**Powell v. Chicago Transit Authority et al.,** CCHR No. 02-E-244 (July 13, 2006) That lesbian complainant was denied a leave then disciplined and discharged for excessive absenteeism even though employer knew she was caring for seriously ill partner did not establish substantial evidence of discriminatory intent. Complainant could not point to any other employee treated more favorably in similar circumstances or to any evidence that employer’s stated reasons for its actions were pretextual or otherwise discriminatory. CO

**Bellamy v. Neopolitan Lighthouse,** CCHR No. 03-E-190 (Apr. 18, 2007) Sexual orientation discrimination found in terms and conditions of employment where executive director of human service organization required openly lesbian employee not to express her sexual orientation in the workplace, including not mentioning or sharing pictures of her partner, while heterosexual employees including the executive director were able to discuss their personal lives freely including their families, children, and marital status. R

**Sorrese v. Garrison Partners Consulting,** CCHR No. 03-E-139 (Apr. 19, 2007) No substantial evidence finding affirmed on request for review where stated reason for discharging Complainant after some staff learned he is gay and had a pre-existing medical condition—that the person he replaced had resumed full time duties and two people were not needed—could not be found illegitimate or pretextual based on timing alone and no evidence supported Complainant’s theories of anti-gay animus or a stereotypical assumption that gay people with pre-existing conditions are HIV-positive. CO

**Alexander v. 1212 Restaurant Group et al.,** CCHR No. 00-E-110 (Oct. 16, 2008), aff’d Cir. Ct. Cook Co. No. 09-CH 16337 (Feb. 19, 2010), aff’d Ill. App. Ct. No 1-20-0797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No 113274 (Jan. 25, 2012). Restaurant company and individual agents discriminated against employee based on perceived sexual orientation by creating hostile work environment through frequent, continuing comments and derogatory epithets insinuating that he is gay. No discrimination found in connection with termination of Complainant’s employment, which was due to disputes about authority and attendance. R

**Ramirez v. Mexicana Airlines (Mexicana de Aviacion S.A. de C.V.) and Pliego,** CCHR No. 04-E-159 (Mar. 17, 2010) No sexual orientation discrimination where Complainant failed to prove that supervisors involved in firing knew or perceived him to be homosexual or that similarly-situation persons not known or perceived to be homosexual were treated differently where company needed to eliminate one position and made decision based on objective performance evaluations. Also, no hostile environment shown where asserted conduct involved seven isolated comments not referencing Complainant’s sexual orientation. R

**Roe v. Chicago Transit Authority et al.,** CCHR No. 05-E-115 (Oct. 20, 2010) Sexual orientation harassment found where (1) supervisor subjected employee to a hostile work environment after determining he is gay including slurs, references to homosexuality, stereotypical gestures, and causing co-workers to join in; and (2) employer took inadequate corrective action after employee reported the harassment under established policies. R

**Source of Income Discrimination – No new decisions in this volume.**

**Standing – No new decisions in this volume.**

**Temporary Employee – No new decisions in this volume.**

**Wrong-Doer Recovery – No new decisions in this volume.**

**ENFORCEMENT OF FINAL ORDER – See Execution of Decision section, below.**

**ENFORCEMENT OF SETTLEMENT AGREEMENT**

**Determination of Violation**

**Huff v. Harper Square Co-Op,** CCHR No. 99-H-126 (Feb. 10, 2000) CHR finds that Respondent did not violate the agreement; although Complainant contended that it did not “accept” her application for consideration and did not consider her Section 8 voucher as agreed, CHR found that Respondent reviewed and considered the application, whether or not it actually physically took the document, and found that it had included the government portion of her voucher in calculating her income. CO

**Hale/French v. Chicago Park Dist.,** CCHR No. 98-PA-36 (Sep. 12, 2000) CHR applied contract principles, including when impossibility is a defense to a breach, to determine whether the Park District violated its agreement to reinstate Complainant into a certain program. CO

**Hale/French v. Chicago Park Dist.,** CCHR No. 98-PA-36 (Sep. 12, 2000) CHR determined that
Respondent violated its agreement to reinstate Complainant into its Therapeutic Recreation program at a certain park when it restricted participants of that program at that park to those under 21, younger than Complainant; it did not present any evidence to support its defenses that it had reorganized that programming district-wide or that allowing people over 21 to participate at that park was impossible or impracticable. CO

**Hale/French v. Chicago Park Dist.**, CCHR No. 98-PA-36 (Sep. 12, 2000) Based on the language of the agreement, CHR determined that reinstating Complainant to the Therapeutic Recreation program at the particular park which was named throughout the agreement was a material element of the agreement. CO

**Powell v. Planned Property Mgt. Inc.**, CCHR No. 98-H-31 (Oct. 17, 2000) CHR determined that Respondent did not violate its agreement to rent Complainant an apartment at “market rate;” both parties had initially miscalculated the amount of rent Complainant could afford, but Respondent consistently showed her apartments in her price range; it is not a violation that apartments which Complainant wanted had market rents which were “too high” for her. CO

**Causby v. Chicago Dept. of Water**, CCHR No. 99-E-99 (Mar. 1, 2001) CHR determined that time records showed that Respondent had credited Complainant with 31 hours of sick time, as agreed. CO

**Causby v. Chicago Dept. of Water**, CCHR No. 99-E-99 (Apr. 26, 2001) Fact that Respondent discussed crediting with some of Complainant’s 31 hours as vacation time not sick time held not to be a violation of the agreement as Respondent actually credited all 31 hours as sick time, as agreed. CO

**Maat v. Brett’s Kitchen**, CCHR No. 99-PA-63 (May 10, 2001) Where Respondent installed the window which allowed people using wheelchairs to order from outside because they cannot enter, but had not installed the agreed-to doorbell and awning for it, CHR found a violation of the agreement; CHR fined Respondent only $100 because it had completed the main component of the agreement. CO

**Maat v. Chicago Park Dist.**, CCHR No. 99-PA-40 (May 15, 2001) Where Respondent showed that it had installed the promised lift for people using wheelchairs and submitted a letter from Complainant stating that she was now satisfied, CHR found no violation of the settlement agreement. CO

**Maat v. Centers for New Horizon**, CCHR No. 99-PA-42 (May 15, 2001) Where Respondent submitted documentation showing it had made the agreed-to accommodations, CHR found no violation of the settlement agreement. CO

**Marshall v. North Park Tap**, CCHR No. 02-PA-72 (Aug. 14, 2003) Request for enforcement denied where Complainant failed to file additional statement, as ordered by CHR, clarifying which provisions of settlement agreement were not complied with and describing any communications she had with Respondent concerning compliance. CO

**Meekins v. Kimel**, CCHR No. 02-H-84 (June 10, 2004) Request for Enforcement denied where Complainant complained of mere deviations from ideal payment methods, which appeared not to occur in bad faith and were corrected within reasonable time, and where it appeared Respondent did make all payments as agreed by parties. CO

**Gallegos v. Baird & Warner et al.**, CCHR No. 01-H-21 (Aug. 11, 2005) Motion to rescind finding of substantial evidence of violation of settlement agreement denied where no provision for it in Regulations and motion stated no basis for rescission. Fact that parties later settled their differences does not provide cause for rescission of properly-entered order. CO

**Rourke & Luna v. Rest. Nuevo Leon**, CCHR No. 05-P-100 (May 18, 2006) Finding of substantial evidence of violation of settlement agreement and $500 fine where restaurant (a) acquired portable ramp as agreed but required wheelchair-user to wait while table of customers blocking entrance was moved, (b) failed to create agreed accessible restroom, and (c) failed to respond to CHR investigative order. CO

**Harris v. Martinez**, CCHR No. 03-H-88 (Dec. 14, 2006) Enforcement request denied where Respondent showed that payment check was issued and sent in timely manner but returned by post office for unknown reasons and then promptly re-mailed to Complainant. Delay in payment appeared unintended and inadvertent. CO

**Maat v. Chicago Park District**, CCHR No. 05-P-57 (Feb. 25, 2008) Fine of $100 for late payment of amount of specified in approved settlement agreement reaffirmed on motion to vacate. Although only a few days late, timely compliance is important to complainants and CHR. CO

**Walker v. Chicago Chop House Restaurant et al.**, CCHR No. 03-P-091 (Mar. 11, 2010) CHR applied contract principles to settlement agreement requiring construction of elevator, subject to condition precedent of obtaining electrical connection behind building. Respondent was excused from obligation to provide elevator as agreed because necessary electrical connection could not be obtained and there was no evidence of bad faith. CHR cautioned Respondent that this was not a finding of undue hardship and it had ongoing obligations to meet wheelchair access requirements under CHRO. CO

**Maat v. City of Chicago Dept. of Transportation**, CCHR No. 06-P-61, 07-P-85/86 (Sept. 10, 2009) Motion to enforce settlement agreement denied where Respondent complied with $50 payment obligation only after the

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motion was filed. Despite four-month delay, CHR found no public interest in expending further resources to impose and enforce fine for untimeliness and exercised discretion under Reg. 230.140 to find substantial compliance. CO

Oral Agreement

Miller v. Marshall Field & Co., CCHR No. 96-E-127 (Nov. 8, 2000) As it has held in prior cases, CHR found that oral agreements are enforceable so long as moving party carries its burden to show offer, acceptance and consideration of material terms of the agreement. CO

Miller v. Marshall Field & Co., CCHR No. 96-E-127 (Nov. 8, 2000) Where Complainant’s attorney sent an unconditional letter accepting Respondent’s offer to settle the case for $5,000 and release of Complainant’s claims and later merely stated that Complainant “changed his mind,” CHR found that the parties had agreed to those terms and found them enforceable. CO

Miller v. Marshall Field & Co., CCHR No. 96-E-127 (Nov. 8, 2000) Where Respondent did not seek enforcement of drafted terms other than those to which Complainant had unconditionally agreed – $5,000 and release of Complainant’s claims – CHR did not enforce those other terms. CO

Miller v. Marshall Field & Co., CCHR No. 96-E-127 (Nov. 8, 2000) A party to an agreement cannot avoid the agreement merely by changing his mind about its sufficiency. CO

Chalas v. Aerzone, CCHR No. 00-E-163 (Oct. 17, 2001) Where Respondent claimed that Complainant’s former attorney had informed them that Complainant agreed to settle for certain, material terms but where Complainant claims that she instructed her former counsel to reject the offer, CHR assigned the case for an evidentiary hearing about the matter over Complainant’s request that Respondent’s motion to enforce be denied outright. CO

Chalas v. Aerzone, CCHR No. 00-E-163 (Oct. 17, 2001) Discusses cases which describe when an evidentiary hearing is needed and sets forth principles CHR has used to decide whether parties have entered oral agreements as well as principles about attorney authority in such disputes. CO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Oct. 5, 2006) Where Respondents moved for approval of oral settlement agreement allegedly reached at pre-hearing status conference with hearing officer’s involvement, hearing officer recused himself and referred matter to CHR to appoint another hearing officer for evidentiary hearing to resolve factual issues concerning which he may be a witness. HO

Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Dec. 21, 2006) Pending CHR complaint covered by release in oral settlement agreement reached during federal court litigation between same parties where terms stated by parties’ counsel on court record covered all claims Complainant had or could have brought against Respondent, and court found oral agreement enforceable despite Complainant’s later refusal to sign written agreement. CO

Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Feb. 8, 2007) Decision upheld on request for review. CO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Aug. 7, 2008) Motion to enforce oral agreement denied where record did not provide uncontested facts that agreement had been reached, Respondent testified he had not accepted offer, and there was no testimony that a definitive agreement was reached regarding one of the terms. Standards and precedents as to approval of oral settlement agreement discussed. CO

Private Settlement

Moore v. Comtel Technologies et al., CCHR No. 02-E-214 (Sep. 21, 2006) Letter signed by Complainant’s attorney clearly requesting that case be dropped against one Respondent as settled required CHR to dismiss the Respondent based on private settlement; later oral assertion that Respondent had misrepresented its bankruptcy status did not nullify the withdrawal request, as disputes concerning validity and enforcement of private settlement agreement must be pursued in state court. CO

Release of CHR Claims – See separate Release of CHR Claims section, below.

Vacating of Agreement

Fleming v. Charles E. Smith Residential et al., CCHR No. 04-H-14 (Jan. 7, 2008) Case dismissed based on written settlement agreement held valid and enforceable over objections of Complainant. That payment was two days late and not by cashier’s checks was not substantial noncompliance and did not void the agreement where agreement did not specify time was of the essence and Complainant suffered no material harm. Signature of business Respondent’s general counsel on behalf of individual Respondent was sufficient where the written terms included certification of such authority and Complainant knew of the procedure when she signed. Complainant’s claim of additional oral conditions rejected due to integration clause limiting the agreement to its written terms. HO

Walker v. Chicago Chop House Restaurant et al., CCHR No. 03-P-91 (July 24, 2008) Motion to vacate settlement agreement denied where Respondent asserted that settlement term to provide wheelchair access would
impose undue hardship. After dismissal pursuant to settlement agreement, CHR retained jurisdiction only to
determine substantial evidence of violation of agreement but not to determine undue hardship or otherwise
adjudicate merits of complaint. CO

**Written Agreement**

*Huff v. Harper Square Co-Op*, CCHR No. 99-H-126 (Feb. 10, 2000) CHR finds that Respondent did not violate the agreement; although Complainant contended that it did not “accept” her application for consideration and did not consider her Section 8 voucher as agreed, CHR found that Respondent reviewed and considered the application, whether or not it actually physically took the document, and found that it had included the government portion of her voucher in calculating her income. CO

*Hale/French v. Chicago Park Dist.*, CCHR No. 98-PA-36 (Sep. 12, 2000) CHR determined that Respondent violated its agreement to reinstate Complainant into its Therapeutic Recreation program at a certain park when it restricted participants of that program at that park to those under 21, younger than Complainant; it did not present any evidence to support its defenses that it had reorganized that programming district-wide or that allowing people over 21 to participate at that park was impossible or impracticable. CO

*Hale/French v. Chicago Park Dist.*, CCHR No. 98-PA-36 (Sep. 12, 2000) Based on the language of the agreement, CHR determined that reinstating Complainant to the Therapeutic Recreation program at the particular park which was named throughout the agreement was a material element of the agreement. CO

*Powell v. Planned Property Mgt. Inc.*, CCHR No. 98-H-31 (Oct. 17, 2000) CHR determined that Respondent did not violate its agreement to rent Complainant an apartment at “market rate;” both parties had initially mis-calculated the amount of rent Complainant could afford, but Respondent consistently showed her apartments in her price range; it is not a violation that apartments which Complainant wanted had market rents which were too high” for her. CO

*Causby v. Chicago Dept. of Water*, CCHR No. 99-E-99 (Mar. 1, 2001) CHR determined that time records showed that Respondent had credited Complainant with 31 hours of sick time, as agreed. CO

*Causby v. Chicago Dept. of Water*, CCHR No. 99-E-99 (Apr. 26, 2001) Fact that Respondent discussed crediting with some of Complainant’s 31 hours as vacation time not sick time held not to be a violation of the agreement as Respondent actually credited all 31 hours as sick time, as agreed.

*Rourke & Luna v. Rest. Nuevo Leon*, CCHR No. 05-P-100 (May 18, 2006) Finding of substantial evidence of violation of settlement agreement and $500 fine where restaurant (a) acquired portable ramp as agreed but required wheelchair-user to wait while table of customers blocking entrance was moved, (b) failed to create agreed accessible restroom, and (c) failed to respond to CHR investigative order. CO

*Fleming v. Charles E. Smith Residential et al.*, CCHR No. 04-H-14 (Jan. 7, 2008) Case dismissed based on written settlement agreement held valid and enforceable over objections of Complainant. That payment was two days late and not by cashier’s checks was not substantial noncompliance and did not void the agreement where agreement did not specify time was of the essence and Complainant suffered no material harm. Signature of business Respondent’s general counsel on behalf of individual Respondent was sufficient where the written terms included certification of such authority and Complainant knew of the procedure when she signed. Complainant’s claim of additional oral conditions rejected due to integration clause limiting the agreement to its written terms. HO

**ESTOPPEL**

Commission Estopped – No new decisions in this volume.

**Disability Benefits**

*Matthews v. Hinckley & Schmitt*, CCHR No. 98-E-206 (Jan. 17, 2001) Fact that Complainant with a disability received Social Security Disability benefits, thus indicating that she was “unable to work,” does not estop Complainant from showing that she was qualified and able to do the job in question; cites CHR and Supreme Court precedent. R

Equitable Estoppel Not Applied – No new decisions in this volume.

Equitable Estoppel Requirements – No new decisions in this volume.
Judicial Estoppel  
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) Fact that Complainant with a disability received Social Security Disability benefits, thus indicating that she was “unable to work,” does not estop Complainant from showing that she was qualified and able to do the job in question; cites CHR and Supreme Court precedent. R

Quasi-Estoppel – No new decisions in this volume.

Requirements – No new decisions in this volume.

ETHICS – No new decisions in this volume.
Commission Employee as Complainant
Commissioner as Complainant

EVIDENCE
Administrative Notice  
Scott and Lyke v. Owner of Club 720, CCHR No. 09-P-2/9 (Feb. 16, 2011) Even though other individuals and religious or ethnic groups may wear hairstyles such as braided cornrows and dreadlocks, in Chicago these hairstyles are overwhelmingly associated with and worn by African-Americans, a fact of which the Commission may take administrative notice. R

Admissions  
Gott v. Novak, CCHR No. 02-H-1/2 (Aug. 21, 2002) Agreed order for possession of rented property in state forcible entry and detainer action not “judicial admission” that landlord’s tenancy termination was proper due to Complainants’ excessive noise and disruption, in absence of Complainants’ “deliberate, clear, unequivocal” statement of such admission. Decision defines and discusses standards for judicial admissions. CO

After-Acquired Evidence  
Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Case in which Respondent refused to consider Complainant’s Section 8 voucher before he knew that accepting it would require her to extend her lease held not to be an “after-acquired evidence” case in that, even had Respondent immediately agreed to accept the voucher, he would not have rented to her because he had already promised to rent to his daughter after Complainant’s lease expired; Complainant remained in the exact position she would have been in had there been no discrimination. R

Alternatives to Witness Appearance  
Gilbert/Gray v. 7335 S. Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (Dec. 20, 2006) Out-of-town witnesses unable to appear at hearing allowed to testify by video conference at expense of parties seeking testimony and at offices of their attorney with videoconferencing equipment. With provision that hearing would be held in room isolated from firm’s attorneys’ offices and no interaction would occur between hearing participants and other firm attorneys, hearing would be transferred to the firm’s offices for that day. As alternative, parties seeking the testimony could pay transportation and lodging expenses for the witnesses. HO

Attorney as Witness  
Gilbert/Gray v. 7335 S. Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (Dec. 20, 2006) Attorney appearing for Respondents may not testify as expert witness concerning Circuit Court practice for moving to vacate a judgment of eviction and order of possession, especially whether a stay operates automatically. Each side allowed to amend witness lists to identify another expert and allowed extension of time to seek subpoenas. HO

CCHR Investigative Summary – See also Discovery/CCHR Investigative Material & Investigator section, above.  
Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) CCHR’s Investigative Summary is not admissible evidence in that it includes unsworn statements and characterizations and summarizations by CCHR staff. R

Circumstantial  
Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Telephone conversations in which a complainant does not specifically identify his or her race may still form the proof necessary to establish respondent’s awareness of his or her race through the speaker’s speech patterns or other
Credibility of Witness

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) In ruling that Complainant did not show that Respondent interfered with his ability to co-rent the apartment to African-American individuals, CHR found his testimony about Respondent’s alleged anti-African-American bias not credible because Complainant’s story changed from time he filed complaint to the Hearing and because Respondent’s limited English use means he could not express himself in the manner alleged. R

Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) Decision details reasons CHR found certain witnesses, including person who decided to discharge Complainants, to be credible while finding other witnesses not to be. R

Doxy v. Chicago Public Library, CCHR No. 99-PA-31 (Apr. 18, 2001) Ruling describes reasons why CHR found Complainant not credible, including his own inconsistencies and fact that he was undermined by documents Respondent created at the time of the event, before he had filed his complaint. R

Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) Whether complainant uses direct or indirect evidence to try to prove case, hearing officer and then Board of Commissioners must weigh credibility of witnesses and may disregard testimony of any witness if they determine he or she did not tell the truth. R

Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) Ruling describes reasons CHR found Complainant not credible, including his own inconsistencies and fact that he was undermined by documents Respondent created at the time of the event, before he had filed his complaint. R

Marshall v. Gleason, CCHR No. 00-H-1 (Apr. 21, 2004) Complainant’s direct-evidence testimony that landlord told her he would not rent an apartment to a Section 8 tenant found not credible where Complainant also testified landlord offered to rent her other units and record established landlord knew her Section 8 status when he agreed to show the unit, had not put the unit on the market, later occupied it himself, and rented to other Section 8 recipients in Chicago during the relevant time period. R

Chambers v. Unicorn Club, Ltd./Steamworks et al., CCHR No. 03-E-16 (Nov. 9, 2004) The pleading stage of a case is not the appropriate point to evaluate credibility of witnesses. Thus CHR denied motion to dismiss arguing that Complainant’s verification was baseless because he had falsely testified under oath in a criminal proceeding. CO

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) Defaulted Respondent’s attack on credibility of Complainant’s testimony rejected where first raised in objections to first recommended decision after administrative hearing and Respondent failed to appear at hearing and exercise opportunity to cross-examine Complainant and argue his position. Further, Complainant’s testimony was corroborated in part by testimony of another witness who was also found credible by the hearing officer. R

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) In weighing evidence after a hearing, CHR must determine the credibility of witnesses and is free to disregard, in whole or in part, testimony of any witness found not credible. In assessing credibility, hearing officer may consider, among other things, the bias and demeanor of a witness. Hearing officer did not believe a witness who testified she told Respondent that Complainant was pregnant, resulting in failure to prove the knowledge element of Complainant’s pregnancy discrimination case. R

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) Citing Belcastro and noting Board will not re-weigh Hearing Officer’s credibility determinations or proposed findings of fact unless against manifest weight of evidence, ruling describes reasons Respondent in quid pro quo sexual harassment case found not credible including contradictory statements, argumentative demeanor when testifying, and indication he would say whatever he thought advantageous at the moment. Use of sworn testimony in a prior court proceeding held admissible both as admission and for impeachment. R

Hernandez v. Colonial Medical Center, CCHR No. 05-E-14 (Nov. 28, 2006) Hearing officer discredited witness’s testimony where not corroborated or inconsistent with other testimony and where witness had interest in outcome and embellished testimony to cast self in best light. CHR did not re-weigh witness credibility where hearing officer’s recommendation was not against manifest weight of evidence. However, CHR attributed no significance to slight difference between derogatory terms stated in Complaint and those in testimony where terms were in Spanish and intake interview was conducted through interpreter. R

Cunningham v. Bui & Phan, CCHR No. 01-H-36 (Mar. 19, 2008) Hearing officer did not credit testimony where it contradicted Complaint filed by deceased person and witness could not identify which Respondent showed the apartment or provide the location of the apartment. R

Hodges v. Hua & Chao, CCHR No. 06-H-11 (May 21, 2008) Credibility dispute resolved in Respondents’ favor where Complainant’s testimony was internally inconsistent and contradicted by telephone records. Hearing
CHR recognizes that there may be instances when an individual's litigiousness or potential financial gain may be credible. Filing of multiple claims with CHR and held not to bear on Complainant's credibility in this case, although the testimony was inconsistent and implausible, parts of it were selective and evasive, Complainant did not retain alleged gender identity harassment in a supermarket discretion where testimony was read directly from Complaint, relevant receipts to corroborate the incidents, and Respondent's witnesses contradicting the testimony were found to be of Mexican descent.

CHR may not regard a complainant's allegations or testimony as inherently incredible merely because that complainant may have filed multiple complaints, nor is a complaint subject to dismissal for that reason. CO Williams v. Bally Total Fitness and Lounge, CCHR No. 06-P-48 (Jan. 21, 2009) Complainant’s testimony found not credible where he was unable to testify from his own memory about alleged racial slurs, he failed to make eye contact with hearing officer during testimony, and his testimony contradicted his sworn complaint. R Blakemore v. Dublin Bar & Grill, Inc., CCHR No. 07-P-15 (May 20, 2009) Respondent’s witness found more credible where Complainant’s testimony provided only selective and inconsistent details about the incident. R

Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 15, 2009) Hearing officer may find a witness credible on some issues and not others. Testimony including expressions of distaste and revulsion at anti-gay comments found credible based on observation of the testimony coupled with fact that witness has two sisters and cousin who are lesbian or bisexual. R Anguiano v. Abdi, CCHR No. 07-P-30 (Sept. 16, 2009) Complainant testimony about race-based statements found not credible where it was vague and differed from Complaint, and there was no evidence Respondent knew or perceived Complainant to be of Mexican descent. R

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Corroboration of Complainant’s testimony is not required to find it credible. The fact that Respondent does not acknowledge contact with Complainant does not undermine Complainant’s testimony. R

Sturgies v. Target Corporation, CCHR No. 08-P-57 (Dec. 16, 2009) Store manager’s testimony not found biased or incredible solely due to employment with Respondent store. Claimed inconsistencies in testimony held mere speculations on what witness probably meant or how facts could be interpreted and do not call into question the credibility of the witness. R

Harper v. Cambridge Systematics, Inc. et al., CCHR No. 04-E-86 (Feb. 17, 2010) Respondents and their witnesses found more credible than Complainant, where they testified with clarity and specificity and testimony corroborated by other evidence whereas Complainant relied on notes, could not recall dates and details without notes, and admitted it is hard to remember details. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Hearing officer’s credibility determinations held not contrary to the evidence: (1) Mere fact that Complainant filed multiple complaints alleging inaccessibility of public accommodations not relevant to his credibility or outcome of this case. (2) Complainant’s lack of precise testimony on certain facts not sufficient to reject hearing officer’s finding that his testimony was credible on factual issues material to outcome of case. R

Cotten v. A & T Restaurant, CCHR No. 08-P-015 (June 3, 2010) Request for review denied where case dismissed after Complainant submitted a false document to CHR—a statement purportedly signed by a witness who, when interviewed, disavowed it insisting she did not sign or authorize it. No administrative hearing required because the credibility determination was not made on any allegations of the Complaint but on procedural issue of whether the document was genuine. Moreover, CHR attempted to contact Complainant and his attorney at least four times about the purported statement but neither one responded. CO

Johnson v. Anthony Gowder Designs, Inc., CCHR No. 05-E-17 (June 16, 2010) Testimony discredited where witnesses were biased against Respondent and could not recall specific details or instances to support general assertions about age-related comments by owners. R

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Hearing officer resolved credibility issues in favor of Complainant where Respondents’ testimony was internally and logically inconsistent, contradicted Response to Complaint, and overstated minor points. Corroboration of Complainant’s testimony may be desirable, but it is not required. R

Gilbert & Gray v. 7355 South Shore Drive Condo. Assn. et al., 01-H-18/27 (Sept. 14, 2010) CHR discharged hearing officer who failed to issue a recommended ruling for three years after hearing was held, and appointed new hearing officer over objection of respondents. New hearing officer authorized to re-hear all or part of the testimony and determine whether he may consult with former hearing officer about witness demeanor pertinent to credibility. CO

Robinson v. American Security Services, CCHR No. 08-P-69 (Jan. 19, 2011) Complainant’s testimony as to alleged gender identity harassment in a supermarket discredited where testimony was read directly from Complaint, the testimony was inconsistent and implausible, parts of it were selective and evasive, Complainant did not retain relevant receipts to corroborate the incidents, and Respondent’s witnesses contradicting the testimony were found credible. Filing of multiple claims with CHR and held not to bear on Complainant’s credibility in this case, although CHR recognizes that there may be instances when an individual’s litigiousness or potential financial gain may be taken into account. Also, testimony as to whether Complainant paid taxes on settlement proceeds in other cases found not probative as to credibility or fraudulent intent, as people may not understand applicable tax laws. R
Gray v. Scott, CCHR No. 06-H-10 (Apr. 20, 2011) Complainant’s testimony regarding an incident found credible despite Respondent’s objection that it was not included in the Complaint or reported to police, where Complainant’s hostile environment claim was not based solely on this incident. R

Rivera v. Pera et al., CCHR No. 08-H-13 (June 15, 2011) Hearing officer credited testimony of Respondents over Complainant in refusal to rent case where Complainant’s testimony was self-contradictory and Respondents’ testimony was corroborated by similar leases and evidence of rental to people of varied races and ancestry. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Hearing officer appointed to replace first hearing officer who conducted administrative hearing assessed credibility based on plausibility of each testimony of each witness, logical likelihood of accuracy, consistency with testimony of other witnesses, and interests of witnesses in outcome. R

Dead Man’s Act

Hawkins v. Jack’s Lounge, CCHR No. 05-P-61 (Mar. 14, 2006) Where application of Dead Man’s Act was fact-specific as to each potential witness, hearing officer declined to make pre-hearing ruling but would resolve issues during course of witness testimony at hearing. HO

Direct Evidence – See Disparate Treatment/Direct Evidence section, above.

Expert Witnesses

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 9, 2001) Where expert witness visited building without authorization between days of hearing, hearing officer struck his testimony but did not otherwise sanction complainant’s attorney who had no knowledge of the visit. HO

Foundation

Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) Where Complainant provided no foundation that an invoice for therapy services was a business record or involved services related to Respondent’s conduct, invoice deemed inadmissible hearsay. R

Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 15, 2009) Commission credited Complainant testimony of need for increased dosage of medication without expert opinion. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) (1) Photographs inadmissible due to insufficient foundation as to who made them and when they were taken. (3) Copy of letter from physician is inadmissible hearsay due to inadequate foundation as a business record. R

Hearsay

Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) In administrative hearing based on Order of Default, Respondent company’s objection to Complainant testimony of statements by its vice president overruled as statements were not hearsay but attributable to Respondent and properly admitted as admissions. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) (1) Investigation Summary is hearsay and not generally admissible; no basis to admit for impeachment where no impeachment issue arose. (2) Copy of letter from physician held inadmissible hearsay due to inadequate foundation as a business record. R

Missing Witness Rule

Blakemore v. Dominick’s Finer Foods, CCHR No. 01-P-51 (Oct. 18, 2006) Missing witness rule applied to Respondent supermarket which presented no evidence at hearing explaining conduct of security guard who closely followed African-American shopper, giving rise to presumption against Respondent based on failure to produce evidence favorable to it. R

Sturgies v. Target Corporation), CCHR No. 08-P-57 (Dec. 16, 2009) Missing witness rule not applied and thus no presumption store security guard’s testimony would have been unfavorable to Respondent. Store manager’s testimony about security policies provided sufficient credible evidence to support Respondent’s position. R

Motions in Limine – See also Discovery/Motions in Limine section, Volume 1.

Hawkins v. Jack’s Lounge, CCHR No. 05-P-61 (Mar. 14, 2006) Where application of Dead Man’s Act and hearsay rules was fact-specific as to each potential witness, Hearing Officer declined to make pre-hearing ruling but would resolve issues during course of witness testimony at hearing. HO

Williams v. Cingular Wireless et al., CCHR No. 04-P-22 (July 11, 2007) Admissibility of testimony that a
witness experienced treatment similar to Complainant’s at Respondents’ business at another time was a fact-specific issue, hearing officer denied motion in *limine* as properly resolved during the hearing. CHR disfavors motions in *limine* and shall not grant them unless clear the evidence at issue is not admissible for any purpose. HO

*Roe v. Chicago Transit Authority et al.*, CCHR No. 05-E-115 (Sept. 8, 2009) Motion in *limine* granted in part to exclude presentation of constructive discharge claim at administrative hearing where resignation not alleged in complaint and nothing else in complaint substantially apprised of such claim; also no investigation or substantial evidence determination regarding constructive discharge. Request to bar evidence regarding back pay denied without prejudice, as Complainant may be able to show lost wages due to alleged harassment, a claim which had proceeded to hearing. HO

**Not Admissible**

*Feinstein v. Premiere Connections, LLC et al.*, CCHR No. 02-E-215 (Oct. 27, 2003) Under Unemployment Insurance Act (UIA), no finding, determination, decision, ruling or order issued pursuant to UIA, nor “information obtained from any individual or employment unit” is admissible in evidence in any other action or proceeding. CO

*Cotten v. La Luce Restaurant, Inc.*, CCHR No. 08-P-034 (Apr. 21, 2010) Certain evidence held inadmissible: (1) Investigation Summary is hearsay and not generally admissible; no basis to admit for impeachment where no impeachment issue arose. (2) Photographs inadmissible due to insufficient foundation as to who made them and when they were taken. (3) Copy of letter from physician is inadmissible hearsay due to inadequate foundation as a business record. (4) Testimony of witness who left hearing after direct examination held inadmissible due to inability of opposing party to cross-examine. R

*Mendez v. El Rey del Taco and Burrito*, CCHR No. 09-E-16 (June 14, 2010) Motion to call investigator as witness to impeach Complainant denied: no showing the testimony would be admissible because no evidence of inconsistent statements; Complainant’s speculations about Respondent’s motives were immaterial to outcome. HO

*Cotten v. Arnold’s Restaurant*, CCHR No. 08-P-24 (Aug. 18, 2010) Documentary evidence offered in support of undue hardship defense held inadmissible because not filed and served in advance of hearing, to give notice of it as contemplated by requirement of pre-hearing memorandum. R

*Tarpein v. Polk Street Company d/b/a Polk Street Pub et al.*, CCHR No. 09-E-23 (Oct. 19, 2011) Documentary evidence of earnings to support back pay calculation not admitted where not tendered in Complainant’s pre-hearing memorandum. Also, no proof of emotional distress damages allowed at hearing where Complainant did not give notice she was seeking such damages in her pre-hearing memorandum and did not provide good cause for failure to do so. R

**Pleadings – No new decisions in this volume.**

**Post-Hearing Briefs – No new decisions in this volume.**

**Prejudicial Evidence**

*Long v. Chicago Pub. Library et al.*, CCHR No. 00-PA-13 (Jan. 18, 2006) Reaffirms prior decision of hearing officer that evidence of complainant’s criminal convictions not concerning the incidents at issue in the case was inadmissible. R

*Gilbert & Gray v. 7355 S. Shore Condo. Assn. et al.*, CCHR No. 01-H-18/27 (Jan. 3, 2007) Although Respondent failed to raise a timely objection, hearing officer denied request for discovery of insurance documents because Complainant did not demonstrate that the information was material or relevant to issue of damages and such evidence has potential prejudicial impact. HO

*Robinson v. American Security Services*, CCHR No. 08-P-69 (Jan. 19, 2011) Testimony about not paying taxes on financial settlements received in other cases held not probative as to Complainant’s credibility or fraudulent intent, as people may not understand applicable tax laws. R

**Preservation of**

*Cunningham v. Bui & Phan*, CCHR No. 01-H-36 (Aug. 1, 2006) Motion for video deposition of seriously ill witness granted by hearing officer and procedures outlined. HO

**Prior Bad Acts**

*Feinstein v. Premiere Connections, LLC et al.*, CCHR No. 02-E-215 (Jan. 17, 2007) Evidence of federal fraud conviction, as crime of moral turpitude, held admissible to attack credibility but not given much weight due to length of time between conviction and the testimony. R

*Calamus v. Chicago Park District & Konow*, CCHR No. 01-E-115 (Mar. 4, 2008) Evidence of prior promotion denials, even if time-barred or not pleaded, can be relevant to instant promotion denial claim depending
on foundation established at hearing, may constitute evidence of prior bad acts to support claim of discriminatory animus or motive. HO

**Promotion-Related**

*Thomas v. Chicago Dept. of Public Health, et al.,* CCHR No. 97-E-221 (July 18, 2001) In disparate treatment case, Complainant was not allowed to litigate the bottom-line scores of all applicants for position into which he was not promoted, but only such scores of those chosen over him; Complainant was allowed to raise scores of unsuccessful applicants on individual criteria for which he received a lower rating. R

*Calamus v. Chicago Park District & Konow,* CCHR No. 01-E-115 (Mar. 4, 2008) Evidence of prior promotion denials, even if time-barred or not pleaded, can be relevant to instant promotion denial claim depending on foundation established at hearing, may constitute evidence of prior bad acts to support claim of discriminatory animus or motive. HO

**Rebuttal Testimony – No new decisions in this volume.**

**Relevance**

*Bahena v. Adjustable Clamp Co.,* CCHR No. 99-E-111 (Sep. 5, 2002) Evidence of net worth and financial capacity of respondent is relevant to issue of punitive damages and so is discoverable, even if punitive damages not itemized in pre-hearing memorandum. HO

*Williams v. Cingular Wireless et al.,* CCHR No. 04-P-22 (July 11, 2007) Testimony that witness experienced treatment similar to Complainant’s at Respondents’ business at another time could be more or less relevant depending on fact-specific factors such as credibility, timing, and actions reported. Hearing officer denied motion *in limine,* as fact-specific issues are properly resolved during the hearing. HO

*Cotten v. Congress Plaza Hotel & Convention Center,* CCHR No. 06-P-69 (Feb. 25, 2009) Motion to compel production of documents about Complainant’s prior discrimination claims denied as not reasonably related to claims and defenses in current case, rejecting argument that the information would show whether Complainant was exaggerating his harm and damages because Complainant still has burden to prove his current allegations and damages. HO

*Cotten v. La Luce Restaurant, Inc.,* CCHR No. 08-P-034 (Apr. 21, 2010) Mere fact that Complainant filed multiple complaints alleging inaccessibility of public accommodations held not relevant to his credibility or outcome of case. R

*Robinson v. American Security Services,* CCHR No. 08-P-69 (Jan. 19, 2011) Store’s security video not relied upon by hearing officer in public accommodation harassment case where neither Complainant nor the hearing officer could view it when produced as pre-hearing discovery and, when a portion was viewed at the hearing, it did not resolve any material factual issues because Complainant could not be seen. R

**Settlement Offers**

*Ross v. Royal Michigan Motel et al.,* CCHR No. 01-H-3 (Apr. 9, 2009) Respondents’ motion to strike and sanction denied where Complainant’s counsel filed a pre-hearing memorandum containing details about content of settlement discussion between parties despite CHR order sealing parts of hearing record and Reg. 230.120 prohibiting use of settlement discussion as evidence on merits of claim. Under 2008 regulations, sanctions are within CHR discretion and no motion for sanctions is created. Issue was moot because complaint was dismissed for lack of jurisdiction and CHR issued a second order adding the pre-hearing memorandum to the documents under seal. Complainant’s error was not blatant or willful and Respondent was not prejudiced by hearing officer’s access to the information. CO

**Statements Made During Discharge – No new decisions in this volume.**

**Stipulations**

*Matthews v. Hinckley & Schmitt,* CCHR No. 98-E-206 (Jan. 17, 2001) Stipulations will be enforced unless found to be “unreasonable, violative of public policy, or the result of fraud.” R

**Testing**

*Leadership Council for Metro. Open Comms. v. Souchet,* CCHR No. 98-H-107 (Jan. 17, 2001) Fact that Complainant’s case rested on testimony of testers who did not actually wish to rent the apartment does not itself cause Complainant to lose as the Supreme Court, other courts and CHR have found that testers can have standing to sue, more than they were doing here. R

*Cunningham v. Bui & Phan,* CCHR No. 01-H-36 (Mar. 19, 2008) Hearing officer did not credit testimony
where it contradicted Complaint filed by deceased person and witness could not identify which Respondent showed the apartment or provide the location of the apartment. R

**Unavailable Evidence**
*Shedd v. 1550 N. Condo. Assn. et al.,* CCHR No. 01-E-69 (July 22, 2005) Death of potential witness for respondent not cause for dismissal of complaint; otherwise, complainant’s due process right to have claim considered on merits would be violated. CO

**Witness Competence**
*Ross v. Royal Michigan Motel et al.,* CCHR No. 01-H-3 (Aug. 7, 2008) CHR does not infer merely from presence of conditions such as schizophrenia or depression that an individual is not competent to conduct his or her own affairs at a given point in time. CO

**EXECUTION OF DECISION**

**Denied/Stayed**
*Reed v. Strange,* CCHR No. 92-H-139 (Apr. 4, 2000) Where Complainant’s request for enforcement of attorneys’ fees ruling was filed over 18 months after the alleged non-payment, where Respondent had died in the interim and where Complainant did not provide any information needed to allow for service on any successor of Respondent, CHR denied the request until Complainant provided the necessary information. CO

*Winter v. Chicago Park Dist.,* CCHR No. 97-PA-55 (Dec. 19, 2000) CHR stayed Complainant’s request for enforcement of unpaid judgment because Respondent had filed an appeal of the decision in state court. CO


*Byrd v. Hyman,* CCHR No. 97-H-2 (Mar. 28, 2003) Request to stay enforcement proceeding pending outcome of petition for writ of certiorari denied where CHR Ordinances and Regulations do not articulate procedures for such stay or impose related bond requirement and Illinois law has established mechanism to obtain stay. Decision overrules past precedents suggesting CHR has authority or obligation to grant stay of enforcement pending court review. CO

*Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430 et al.,* CCHR. No. 06-P-12/15 (Mar. 11, 2008) Complainant’s one-sentence signed statement asking CHR to enforce of final order held insufficient to initiate enforcement process where Complainant did not provide second copy of request, proof of service, or information on his grounds for enforcement. CO

*Maat v. String-a-Strand,* CCHR No. 05-P-5 (Apr. 7, 2008) Commission declined to act on attempted motion for enforcement where Complainant did not comply with regulations to provide an original and at least one copy or to file certificate of service. Complainant, who has filed other complaints at Commission and knows the requirements, may still file proper motion for enforcement. CO

*Lockwood v. Professional Neurological Services, Ltd.,* CCHR No. 06-E-89 (Apr. 8, 2010) Motion to stay enforcement of final order pending outcome of state court appeal denied; as ordinances and regulations make no provision for stay pending appeal. Respondent does not lack access to stay because Circuit Court can grant one. CO

*Cotten v. CCI Industries, Inc.,* CCHR No. 07-P-109 (June 4, 2010) CHR declined to certify undue hardship on request of Respondent after final order to make its showroom wheelchair accessible as able without undue hardship. Respondent’s documentation of compliance would be considered if Complainant moved to enforce the injunctive relief, but because it appeared Respondent had made substantial effort to comply with the final order, CHR did not contemplate seeking judicial enforcement *sua sponte* at that time. CO

**Granted**
*Barnes v. Page,* CCHR No. 92-E-1 (Aug. 14, 2000) CHR granted Complainant’s request for judicial enforcement of CHR’s final attorney’s fees order issued after state court action where Respondent had not complied with the order and more than 30 days had passed since its entry. CO

*Nash/Demby v. Sallas Realty & Sallas,* CCHR No. 92-H-128 (Mar. 21, 2001) CHR granted Complainants’ request for judicial enforcement of three outstanding decisions – initial attorneys’ fees ruling; ruling awarding damages upon remand from state court; and attorneys’ fees ruling covering work done in state court – all of which remain unpaid more than 30 days after the third. CO

*Barnett v. T.E.M.R. Jackson Realty et al.,* CCHR No. 97-H-31 (Apr. 5, 2001) CHR granted Complainant’s request for judicial enforcement of CHR’s final liability ruling awarding her damages where Respondent had not complied with the order and more than 30 days had passed since its entry. CO

*Blakemore v. Inter-Parking, Inc.,* CCHR No. 99-PA-120 (Apr. 30, 2001) CHR granted Complainant’s
request for judicial enforcement of CHR’s final liability ruling awarding him damages where Respondent had not complied with the order and more than 30 days had passed since its entry. CO

Leadership Council for Metro. Open Communities v. Souchet, CCHR No. 98-H-107 (July 19, 2002) Stay of enforcement lifted after writ of certiorari dismissed and Respondent filed appeal, because CHR’s stay does not offer protection to party opposing appeal as court-imposed stays do; Respondent given opportunity to show good cause for failing to pay as ordered or to show documentation of stay from appellate court. CO

Byrd v. Hyman, CCHR No. 97-H-2 (Mar. 28, 2003) Request to stay enforcement proceeding pending outcome of petition for writ of certiorari denied where CHR Ordinances and Regulations do not articulate procedures for such stay or impose related bond requirement and Illinois law has established mechanism to obtain stay. Decision overrules past precedents suggesting CHR has authority or obligation to grant stay of enforcement pending outcome of court review. CO

Hoskins v. Campbell, CCHR No. 01-H-101 (Aug. 26, 2004) In Order Finding Violation of Final Order, Complainant awarded additional $294.15 in attorney’s fees and costs incurred in bringing Motion to Enforce. CO

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Apr. 7, 2005) Motion to vacate granting of enforcement request denied; any failure to receive CHR’s briefing order on enforcement request does not invalidate order granting request where evidence showed Respondents had notice the request was filed. Reg. 250.220 establishes automatic briefing schedule and permits CHR to issue briefing order altering the schedule, but does not require briefing order. CO

Marshall v. Borouch, CCHR No. 05-H-39 (Dec. 14, 2006) Fine of $500 and referral to seek court judgment for failure to pay fine and damages ordered after default and liability finding; Respondent landlord’s arguments that she did not understand order due to difficulty reading and writing English and unavailability of son to assist found not credible and not justification for non-compliance. Additional fines of $100 per day for any continued non-compliance after a date specified. CO

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Apr. 19, 2007) CHR does not postpone or withhold enforcement proceedings on assertion that a respondent is unable to pay, nor does it adjudicate ability to pay. Also, CHR does not stay proceedings pending outcome of court review; such a stay must be sought from the court. CO

Maat v. Villareal Agencia de Viajes, CCHR No. 05-P-28 (May 17, 2007) Fine of $200 and referral for court judgment for partial noncompliance with final orders for relief, plus fines of $100 per day for any continued noncompliance after date specified. Business owner’s argument that her attorney failed to represent her did not justify noncompliance; any failure of attorney is imputable to client, final order was sent to Respondent directly, and she was aware of responsibility to comply. Also, belated argument that premises were always wheelchair accessible not relevant; Respondent had multiple opportunities to present defenses during adjudication of the case. CO

Harris v. Rivera, CCHR No. 07-H-10 (Apr. 3, 2008) Respondents fined $50 where they made settlement payment 39 days late and after Complainant filed request for enforcement. Arguments that Respondents were struggling financially or felt forced into settlement found unpersuasive where Respondents did not explain financial situation or file request for review of final order approving settlement. CO

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Mar. 8, 2012) Motion for enforcement granted, finding Respondents had not complied with reporting and documentation requirements of injunctive order. CHR imposed additional fines for noncompliance, sua sponte found Respondents failed to pay fines imposed for the ordinance violation, set further compliance deadlines, and awarded Complainant attorney fees for bringing enforcement motion. CO

Standard

Byrd v. Hyman, CCHR No. 97-H-2 (Mar. 28, 2003) Request to stay enforcement proceeding pending outcome of petition for writ of certiorari denied where CHR Ordinances and Regulations do not articulate procedures for such stay or impose related bond requirement and Illinois law has established mechanism to obtain stay. Decision overrules past precedents suggesting CHR has authority or obligation to grant stay of enforcement pending outcome of court review. CO

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Apr. 7, 2005) (1) No provision in Ordinances or Regulations for stay of enforcement proceedings on filing of court action seeking review of Final Order. Although CHR had previously granted such stays, it no longer does so and rejects prior precedents to that effect. (2) Any failure to receive CHR’s briefing order on enforcement request does not invalidate order granting request where evidence shows Respondents have notice the request was filed; Reg. 250.220 establishes automatic briefing schedule and permits CHR to issue briefing order altering the schedule, but does not require briefing order. CO

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Apr. 19, 2007) CHR does not postpone or withhold enforcement proceedings on assertion that a respondent is unable to pay, nor does it adjudicate ability to pay. Also, CHR does not stay proceedings pending outcome of court review; such a stay must be sought
from the court. CO

EXHAUSTION OF REMEDIES – No new decisions in this volume.

Other Agencies

EXPEDITED

Confidentiality – No new decisions in this volume.

Denied

Fox v. Hinojosa, CCHR No. 99-H-116 (Apr. 4, 2000) Where Complainant’s request to expedite included only a brief and summary note from his doctor, CHR denied request but allowed Complainant to make a new request with the necessary information. CO

Ziegler v. Continental Airlines, et al., CCHR No. 01-E-7 (Aug. 24, 2001) (same) CO

FACTORS

Fox v. Hinojosa, CCHR No. 99-H-116 (Apr. 4, 2000) Because the Ordinance provision which allows expediting states it is to occur when a complainant is “likely to die,” a complainant’s “good cause” must be quite compelling. CO

Ziegler v. Continental Airlines, et al., CCHR No. 01-E-7 (Aug. 24, 2001) (same) CO

 Granted – No new decisions in this volume.

Proof – No new decisions in this volume.

EXPERT TESTIMONY – See Evidence/Expert Witnesses section, above.


EXTRAORDINARY CIRCUMSTANCES – See Good Cause and Extraordinary Circumstances, below.

FAILURE TO COOPERATE

Attorney Neglect

McGrath v. Chicago Dept. of Aviation, CCHR No. 99-E-27 (June 27, 2002) Fact that Complainant’s attorney may not have properly represented him, causing the dismissal for failing to cooperate with hearing procedures, may give Complainant a cause of action against her elsewhere but it does not provide good cause to re-open his case; cites CHR and Illinois cases holding clients responsible for inaction of attorneys. CO

Case Dismissed

Note: The following list does not include all cases CHR dismisses because a complaint does not provide CHR with a new address or otherwise fails to provide information allowing CHR to contact him/her.

Blakemore v. Chicago Dept. of Consumer Services, CCHR No. 99-PA-78 (Feb. 24, 2000) CHR dismissed case pursuant to Reg. 235.110 where Complainant did not provide CHR with information necessary to proceed with his case, specifically information sought in an order pertaining to his retaliation claim; Complainant also failed to provide CHR with a proper address to receive mail. CO

Rutherford v. Maggie’s Foods, et al., CCHR No. 98-PA-65 (Apr. 14, 2000) Where Complainant failed to attend Administrative Hearing and where she did not properly complete a request to withdraw her complaint, her case was dismissed for failure to cooperate. HO

Rogers v. Metropolitan Water Reclam. Dist., CCHR No. 95-E-211 (Apr. 23, 2001) Pursuant to Reg. 240.398, Complaint dismissed when Complainant did not attend hearing of which she had notice. HO

Fox v. Satterfield, CCHR No. 00-H-104 (Sep. 10, 2001) Pursuant to Reg. 240.398, Complaint dismissed when Complainant did not attend hearing of which she had notice. HO

Henderson v. Robert Morris College, CCHR No. 97-E-150 (Sep. 20, 2001) CHR dismissed case when Complainant did not attend Conciliation Conference, finding that her statement that she was just five minutes away at the time the Conference was to begin but not explaining why she did not come did not present good cause. CO

Complainant failed to participate in pre-hearing process, including not responding to motion to compel and to dismiss or to order requiring compliance, not attending pre-hearing conference and not making any effort to explain the lack of participation. HO

*White v. B.W. Phillips Realty Partners, et al.*, CCHR No. 02-H-5 (June 27, 2002) CHR dismissed certain Respondents, pursuant to Regs. 210.120(c) & 210.125, about whom Complainant could not provide adequate information to allow service. CO

* Sanders v. Zoom Kitchen*, CCHR No. 03-E-29 (Feb. 5, 2004) Complaint dismissed by Hearing Officer after Complainant refused to sit where directed at Conciliation Conference, argued with and insulted Conciliator, and caused disruption in CHR office. Requirement to cooperate not limited to written orders but includes other requests to participate; not prerogative of party to dictate precisely how CHR shall exercise discretionary authority in particular situations. CO

*Blakemore v. AMC-GCT, Inc.*, CCHR No. 03-P-146 (Apr. 21, 2005) Case dismissed where Complainant refused to appear for Administrative Hearing after 35 minutes from scheduled time, made no effort to show why she could not attend, and previously failed to attend Pre-Hearing Conference. HO

*Godard v. McConnell*, CCHR No. 03-P-9 (Dec. 30, 2006) Case dismissed after Complainant failed to attend pre-hearing conference and to file pre-hearing memorandum and preliminary witness list: explanations concerning series of misfortunes befalling her family during that period, not understanding her obligations, and merits of her case did not provide good cause in that she had ample written notice of her obligations, she did not seek continuance or extension of time, Respondent had been defaulted for failing to attend Conciliation Conference, and Respondent had filed the required pre-hearing documents. HO

*Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al.*, CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) One Complainant’s case dismissed where he arrived at hearing two hours late, did not provide good cause or try to notify CHR of delay, and showed disrespect to hearing officer and CHR after previous incidents of disrespect for CHR procedures and rules. R

*Smith v. Enterprise Car Rental et al.*, CCHR No. 04-P-83 (June 20, 2007) Hearing officer dismissed case after Complainant failed to attend pre-hearing conference, file preliminary witness list and pre-hearing memorandum, or respond to discovery requests. HO

*Harris v. Sutherland Apartments et al.*, CCHR No. 05-H-57 (Feb. 25, 2008) Complainant failed to establish good cause for failure to attend Conciliation Conference and case dismissed where Complainant was attending class at local college but knew class schedule in advance and failed to seek continuance before scheduled date. CO

*Cotten v. Pepe’s Taco*, CCHR No. 07-P-20 (Apr. 3, 2008) Case dismissed where Complainant failed to attend Conciliation Conference and did not file explanation providing good cause as required by Notice of Potential Dismissal. CO

*Cotten v. Hollywood Grill*, CCHR No. 09-P-74 (June 30, 2010) Case dismissed without approval of proposed settlement agreement where complainant failed to respond to order to submit either certification of his attorney’s authority to sign it or a withdrawal request. CO

*Martinez v. Midtown Kitchen and Bar et al.*, CCHR No. 09-P-29 (Oct. 11, 2010) Case dismissed during pre-hearing process where Complainant failed to comply with hearing officer orders including discovery instructions, respond to sanctions motion, explain his non-compliance, or take any action to prosecute his case. HO

### Dismissal Denied

*Godard v. McConnell*, CCHR No. 97-H-64 (Feb. 10, 2000) CHR declined to dismiss Complainant’s case where she explained that she did not appear at the Conciliation Conference, with an affidavit from her attorney, because her attorney never received the notice setting the Conference, finding that demonstrated good cause. CO

*Doxy v. Chicago Public Library*, CCHR No. 99-PA-31 (Mar. 23, 2000) CHR did not dismiss Complainant’s case where Complainant had called in the morning of the Conciliation Conference to state that he could not attend, where he called to check on the status of his case thereafter, and where he responded to the notice of potential dismissal as soon as he received it. CO

*Karlin v. Chicago Bd. of Education, et al.*, CCHR No. 95-E-62 (Dec. 8, 2000) CHR declined to dismiss Complainant’s case where he failed to attend the scheduled Conciliation Conference when he repeatedly stated he had not gotten notice of the Conference. CO

*Karlin v. Chicago Bd. of Education, et al.*, CCHR No. 95-E-62 (Dec. 8, 2000) In declining to dismiss case, CHR cites prior decisions which hold that dismissal is a “severe sanction which should not be entered in a punitive manner, especially where the underlying omission was due to error, not disregard for Commission procedures”. CO

*Cotten v. Insignia Mgt. Co.*, CCHR No. 95-H-137 (Dec. 8, 2000) Where Complainant attended Conciliation Conference but would not proceed because he did not have an attorney, CHR declined to dismiss his case as
Respondent requested, but fined him for not proceeding; Complainant not ordered to pay Respondent’s fees and costs, see Conciliation Conference/Failure to Attend, above. CO

Higgenbotham v. Marina Tower Condominium Assn. et al., CCHR No. 02-E-72 (Nov. 7, 2002) Where CHR’s own error addressing the order to Complainant caused Complainant not to receive notice of the Conciliation Conference, CHR did not dismiss Complainant for failing to attend it. CO

Henderson v. Robert Morris Coll., CCHR No. 97-E-150 (July 12, 2001) where Complainant called CHR the same day as the Conciliation Conference which she missed and then submitted a written explanation that she did not attend the Conference due to the illness of one of her young children, CHR declined to dismiss her case, noting that dismissal is severe and should not be used when the problem was not due to disregard for CHR procedures. CO

Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 10, 2001) Although Complainant did not call in advance of the Conciliation Conference to report that he had been hospitalized a week prior, CHR found that hospitalization to be good cause for missing the Conference and notes that Complainant had called several times after the fact to explain; states that dismissal is a severe sanction and should not be used when the problem was not due to disregard for CHR procedures. CO

Williams v. NDC, et al., CCHR No. 00-PA-107 (June 7, 2002) CHR did not dismiss Complainant for missing Conciliation Conference where he had called CHR the morning of the Conciliation Conference stating he was running late and where his written explanation stated that he had an asthma attack for which he had to see his doctor that morning. CO

Murdza v. E & T Towing, CCHR No. 00-PA-20 (Mar. 18, 2003) Where Complainant failed to attend Conciliation Conference and claimed she did not receive any CHR notices, CHR did not dismiss case based on prior record of cooperation and diligence and timely response to Notice of Potential Dismissal, recognizing dismissal as severe sanction not lightly imposed. CO

Anderson v. Joffe, CCHR No. 03-H-28 (Oct. 27, 2003) CHR declined to dismiss case merely for Complainant’s failure to provide updated address to CHR; without more, Complainant’s failure to update address does not provide basis for dismissing case. Further, dismissal denied for Complainant’s failure to attend Pre-Hearing Conference where CHR mailed notice of conference to wrong address for Complainant; “good cause” exists for party’s failure to attend CHR proceeding where record does not confirm that party received notice of scheduled date of proceeding. HO

Bilal v. Daniel Murphy Scholarship Found., CCHR No. 02-E-4 (June 8, 2005) Where Complainant failed to attend Conciliation Conference and claimed he did not receive rescheduling order, CHR did not dismiss despite error of assuming continuance request was granted, based on prior record of cooperation and diligence and proper response to Notice of Potential Dismissal, recognizing dismissal as severe sanction not imposed punitively. CO

Maat v. RTG Ltd. d/b/a Zorba’s House Restaurant, CCHR No. 05-P-23 (Nov. 16, 2007) Good cause finding reaffirmed over Respondent’s objections; minor procedural errors CHR and Complainant did not justify severe sanction of dismissal; Complainant’s explanation for missing conciliation conference—that she did not receive the notice—was sufficient and credible. CO

Cotten v. Pizza Capri, CCHR No. 07-P-58 (Feb. 7, 2008) Complainant established good cause for failure to attend Conciliation Conference and failure to notify Commission in advance where Complainant lost track of days due to medication and lack of sleep from hospital stay. CO

Request to Reopen Denied

McGraw v. Chicago Dept. of Aviation, CCHR No. 99-E-27 (June 27, 2002) Fact that Complainant’s attorney may not have properly represented him, causing the dismissal for failing to cooperate with hearing procedures, may give Complainant a cause of action against her elsewhere but it does not provide good cause to reopen his case; cites CHR and Illinois cases holding clients responsible for inaction of attorneys. CO

Higgenbotham v. Marina Tower Condominium Assn. et al., CCHR No. 02-E-72 (Nov. 7, 2002) and Higgenbotham v. Savage & Marina Tower Condominium Assn., CCHR No. 02-H-23 (Nov. 21, 2002) Request for Review denied as untimely. That Complainant became homeless and may have had disability impairing ability to act quickly did not justify failure to contact CHR over several months, explain her situation, and provide alternate mailing address; even homeless complainants required to provide mailing address to pursue case at CHR. CO

Massey v. Hunter Properties et al., CCHR No. 02-H-33 (Apr. 24, 2003) Request for review denied where Complainant failed to show good cause for not providing information requested by investigator when given ample notice and opportunity to do so and for not submitting the information with request for review. CO

Blakemore v. AMC-GCT, Inc., CCHR No. 03-P-146 (May 19, 2005) Final order modified to change closure basis to voluntary withdrawal pursuant to private settlement where initially entered due to failure to cooperate at Conciliation Conference and CHR was unaware of later settlement. Modification warranted in light of CHR policy encouraging voluntary settlements, but order finding failure to cooperate not withdrawn and fine not vacated. CO

Minnis v. United Airlines, CCHR No. 05-E-128 (Feb. 8, 2007) Request for review denied where
Complainant failed to show good cause for not providing address and for not responding to repeated attempts to contact her by mail and telephone. CO

**Request to Reopen Granted**

*Powell v. Planned Property Mgt., Inc.*, CCHR No. 98-H-31 (Jan. 13, 2000) CHR granted Complainant’s request for review of dismissal for failure to cooperate, finding that she showed good cause for missing a scheduled Conciliation Conference when she showed that she had repeatedly tried to reach her attorneys to determine the date of the Conference, had cooperated throughout the process, and had contacted CHR as soon as she learned she missed the Conference; CHR notes that dismissal is a severe sanction which is not to be done punitively. CO

*Thompson v. Chicago Bd. of Education*, CCHR No. 98-E-168 (Apr. 6, 2000) Where Complainant provided his most recent address only a few months after moving and where CHR had sent its notices to Complainant’s second-to-last address thus mistakenly preventing the mail from being forwarded to him, CHR vacated its order dismissing the case. CO

*Gregory v. CNA Financial Corp., et al.*, CCHR No. 98-E-1 (Oct. 4, 2001) CHR granted Complainant’s request for review of failure-to-cooperate dismissal where she reasonably believed the telephone number she had given CHR was correct, where she had cooperated and provided documents to CHR and where Complainant contacted CHR on her own initiative, Commission found her only lapse was not properly informing it of her new address and so found that she had not failed to cooperate. CO

* Gregory v. CNA Financial Corp., et al., CCHR No. 98-E-1 (Oct. 4, 2001) CHR notes that failure-to-cooperate dismissals are severe sanctions which are not be entered punitively, especially where omission was due to error, not disregard for case or CHR’s procedures. CO

*Reid v. Wilson Mens Club*, CCHR No. 00-H-108 (Mar. 28, 2002) CHR revoked failure-to-cooperate dismissal where Complainant did not receive the notice warning him of dismissal until after case was dismissed, noting such dismissals are severe sanctions and Complainant’s omission was more due to error than neglect. CO

*Olagbegi v. Owners of 1135 W. Lunt*, CCHR No. 02-H-32 (June 30, 2004) Request for Review granted where Complainant’s counsel failed to respond to Notice of Potential Dismissal but Complainant had notified CHR investigator prior to dismissal that he had disagreement with his counsel and wanted to proceed with case, accepting Complainant’s effort to explain despite lack of clarity that attorney no longer represented him. CO

**Vacated/Re-Opened – No new decisions in this volume.**

**FEE WAIVER – No new decisions in this volume.**

Denied

Granted

**FINES**

After Administrative Hearing

*Employment*

*Griffiths v. DePaul Univ.*, CCHR No. 95-E-224 (Apr. 19, 2000) Respondent ordered to pay $500 fine for revoking job offer as “Resident Hall Minister” to female Complainant once it learned she was pregnant. R

*Claudio v. Chicago Baking Co.*, CCHR No. 99-E-76 (July 17, 2002) Maximum fine of $500 for race discriminatory discharge where Respondent also repeatedly refused to cooperate with CHR process. R

*Nuspl v. Marchetti*, CCHR No. 98-E-207 (Sept. 18, 2002) Recommended fine of $1,000 reduced to $500 because three incidents in combination supported the finding of sexual orientation harassment as a single offence, not multiple offences. R

*Salwierak v. MRI of Chicago, Inc. & Baranski*, CCHR No. 99-E-107 (July 16, 2003) Sexually harassing supervisor and company which knew of the harassment but took no action each fined $500 maximum due to egregious nature of the conduct. R


*Martin v. Glen Scott Multi-Media*, CCHR Case No. 03-E-034 (Apr. 21, 2004) $500 fine for firing female employee due to her pregnancy and repeatedly failing to respond to CHR orders, plus $85 fine for failing to attend pre-hearing conference without seeking continuance or establishing good cause. R

*Arellano & Alvarez v. Plastic Recovery Technologies Corp.*, CCHR No. 03-E-37/44 (July 21, 2004) $500 fine for each of two violations where two Complainants established prima facie case of discrimination based on perceived sexual orientation including accusing Complainants of being homosexual, taunting them about it, then discharging one and constructively discharging the other. R

*Carroll v. Riley*, CCHR No. 03-E-172 (Nov. 17, 2004) Fine of $500 in default sexual harassment case
where female employer fired male employee because he entered relationship with another woman after a personal relationship with her, and failed to comply with CHR orders. R

Mullins v. AP Enterprises, LLC et al., CCHR No. 03-E-164 (Jan. 19, 2005) Fine of $500 imposed on each of two defaulted Respondents for discharging Complainant after learning of her disability (depression). R

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) In quid pro quo sexual harassment case, fines of $500 each imposed jointly and severally against two Respondents for two separate offenses of causing Complainant’s termination and failing to pay total compensation due; however, no fine for additional action of creating derogatory internet domain names because not pleaded in Complaint. Maximum fines held proper in light of wilful nature of the conduct and precedents supporting maximum fine in discharge cases. R

Bellamy v. Neopolitan Lighthouse, CCHR No. 03-E-190 (Apr. 18, 2007) $100 fine levied against organization whose executive director required an openly lesbian employee not to express her sexual orientation in the workplace. Although low, CHR accepted it as part of hearing officer’s careful assessment of relief appropriate to case. R

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) Fines of $500 each against restaurant manager and corporate owner – one set for racial and sexual harassment and another for retaliation – for total of $2,000 in fines. R

Johnson v. Fair Muffler Shop a/k/a Fair Undercare Car a/k/a Fair Muffler & Brake Shops, CCHR No. 07-E-23 (Mar. 19, 2008) Respondent fined $250 for race-based harassment and $250 for discharge where manager used racially derogatory slurs, owner ignored complaints, and Complainant was fired after third complaint. R

Hawkins v. Ward & Hall, CCHR No. 03-E-114 (May 21, 2008) Where Complainant was subjected to hostile environment and discharge due to sexual harassment, $400 fine against supervisor who made sexual advances and $200 fine against supervisor who knew of it but failed to take remedial action. R


Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (June 17, 2009) Fines of $500 for each of three discriminatory actions on three different dates). R


Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) Fine of $250 each against business and its sole owner who subjected employee to hostile environment and then discharged her. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Supervisor and employer both fined $500 where supervisor harassed employee about his sexual orientation and “outed” him and employer ignored complaints. R

Williams v. RCJ Inc. et al., CCHR No. 10-E-91 (Oct. 19, 2011) $500 fine imposed jointly and several on sole owner of convenience store owner and corporate ownership entity for sexual harassment of a cashier. R

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) Rejecting hearing officer’s recommendation of $100 due to personal bankruptcy of Respondent business owner and sale of the business, CHR imposed maximum fine of $500 for sex discrimination by forcing employee to take maternity leave before ready to do so, noting Respondents’ reckless disregard of Complainant’s protected rights and that $500 is still a modest fine. R

Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Maximum fine of $500 for law firm’s discharge of associate attorney due to pregnancy and related leave, in light of nature of Respondent’s business and longstanding prohibition against such discrimination. R

Housing

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) Respondents ordered to pay fine of $500 for locking out Complainant and refusing to refund her security deposit after learning she had a disability, bipolar disorder. R

Godard v. McConnell, CCHR No. 97-H-64 (Jan. 17, 2001) Respondent fined $25 in default case for intimating that Complainant could not apply for an apartment due to her parental status. R

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Respondent fined $500 where she was found to have discriminated against African-Americans in rental. R


her rent with a Section 8 voucher ordered to pay a fine of $250.

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent/owner who was held liable for race discrimination of agent/building manager was fined $250. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Respondents found liable for harassing Complainants explicitly because they are Polish fined $500 for each case, $1000 total.

Hoskins v. Campbell, CCHR No. 01-H-101 (Apr. 16, 2003) Fine of $500 for defaulted Respondent’s explicit refusal to rent to Complainant based on source of income (Section 8 voucher), followed by failure to submit proper response despite personal contacts from CHR staff explaining the process.


Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Respondents found liable for harassing Complainants explicitly because they are Polish fined $500 for each case, $1000 total.

Hoskins v. Campbell, CCHR No. 01-H-101 (Apr. 16, 2003) Fine of $500 for defaulted Respondent’s explicit refusal to rent to Complainant based on source of income (Section 8 voucher), followed by failure to submit proper response despite personal contacts from CHR staff explaining the process.

Hutchison v. Iftekaruddin, CCHR No. 08-H-21 (Feb. 17, 2010) Fine of $500 for source of income discrimination by refusing to rent to Section 8 voucher holder.

Rankin v. 6934 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Three Respondents fined $500 each for a direct refusal to rent to Section 8 voucher holder.

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) Two $500 fines against Respondent who refused to sell to two Complainants based on source of income.

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Two $500 fines against condo association and two $100 fines against association president who created hostile environment and discriminated against gay condo owner and gay prospective owner based on their sexual orientation. Higher fines to association because president was “face” of association, board members appeared to know of her conduct, yet there was no evidence the association tried to prevent or oppose her conduct.

Montelongo v. Azarpia, CCHR No. 09-H-23 (Feb. 15, 2012) Hearing officer’s recommended fine of $200 for discriminatory refusal to rent raised to $500 by Board in light of finding that Respondent acted in willful disregard of Complainant’s rights, which included lying to Complainant when stating the apartment was already rented.

Public Accommodation


Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) Defaulted Respondent fined $500 for discriminating against Complainant due to his race in provision of its services.

Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) (same)

imposed for race discriminatory ejection of African-American man from railroad station waiting room. R

Maat v. Villareal Agencia de Viajes, CCHR No. 05-P-28 (Aug. 16, 2006) $500 fine imposed against defaulted storefront business for failure to provide wheelchair access and failure to respond to Commission orders. R


Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Three $100 fines against business for instances of race discrimination by store manager against three customers. Two fines of $200 against store manager for two incidents, one of race discrimination and one of retaliation. Low fines based on assessment of no pressing need to deter similar future actions. R

Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) Fines ranging from $100-$500 against five Respondents where Complainant occupying office space in Respondent organization’s building was repeatedly subjected to slurs about his sexual orientation. Fines increased from hearing officer’s recommendations based on level of culpability. R

Morrow v. Tumala, CCHR No. 03-P-2 (Apr. 18, 2007) $500 fine against taxicab driver who willfully and egregiously subjected African-American woman to higher price for cab ride than clearly similarly-situated white man. R

Maat v. String-a-Strand, CCHR No. 05-P-5 (Feb. 20, 2008) $500 fine where retail store was inaccessible to wheelchair users and owner was reluctant to provide accessible facility unless ordered to do so. R

Williams v. Funky Buddha Lounge, CCHR No. 04-P-82 (July 16, 2008) $500 fine where nightclub denied entry to male Complainant because he was not a gay woman then defaulted for failure to comply with CHR Regulations. R

Cotten v. Taylor Street Food and Liquor, CCHR No. 07-P-12 (July 16, 2008) $500 fine imposed where wheelchair user sought to enter storefront liquor store but could not do so due to presence of two stairs and Respondent ignored Commission procedures. R


Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 15, 2009) Where restaurant security guard audibly discussed and ridiculed transgender female customer and stated “that’s a man,” and referenced two other customers as “fags” and made other anti-gay comments, Commission levied $500 fine against Respondent for ordinance violation and repeated failing to respond to Commission orders and $100 against business Respondent for ordinance violation only. R

Cotten v. 162 N. Franklin, LLC, d/b/a Eppy’s Deli and Café, CCHR No. 08-P-35 (Sept. 16, 2009) $500 fine imposed on restaurant that failed to provide wheelchair access and ignored Commission proceedings. R

Cotten v. Addiction Sports Bar & Lounge, CCHR No. 08-P-68 (Oct. 21, 2009) $500 fine against Respondent restaurant which provided no wheelchair access and no proof of undue hardship. R

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) $100 fine against inaccessible second-floor business where most customers are not members of general public. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Fine of $500 for failure to make restaurant wheelchair accessible where Respondent documented no undue hardship and displayed indifference to its accessibility obligations. R

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) $250 fine to Respondent restaurant with no wheelchair-accessible restrooms which made sincere yet misguided and insufficient efforts to improve accessibility. R

Scott and Lyke v. Owner of Club 720, CCHR No. 09-P-2/9 (Feb. 16, 2011) Two $500 fines imposed against nightclub owner for a policy barring hair braids (race discrimination) and for excluding Muslim man wearing a kufi based on a policy barring hats (religious discrimination). R

Cotten v. Top Notch Beefburger, Inc., CCHR No. 09-P-31 (Feb. 16, 2011) $500 fine where respondent restaurant did not provide wheelchair-accessible restroom, then failed to participate in administrative hearing process and present any evidence of mitigating circumstances or efforts to comply with CHRO. R

Burford v. Complete Roofing and Tuck Pointing et al., CCHR No. 09-P-109 (Oct. 19, 2011) $500 fine for single incident of race discrimination in delivery of service by a business where derogatory slurs were used. R

Failure to Attend CHR-Ordered Conference/Hearing

Cotten v. Insignia Mgt. Co., CCHR No. 95-H-137 (12-8-00) Where Complainant attended Conciliation Conference but would not proceed because he did not have an attorney, CHR declined to dismiss his case as Respondent requested, but fined him for not proceeding; CHR also did not order Complainant to pay Respondent’s fees and costs, see Conciliation Conference/Failure to Attend/ Sanction Denied, above. CO

Thomas v. Prudential Biros Real Estate, et al., CCHR No. 97-H-59/60 (Aug. 29, 2001) CHR fined Complainants $100 because they postponed the Conciliation Conference themselves the evening beforehand; they
did not follow procedure to seek a continuance and did not have the authority to postpone it. CO

**Rogers/Slomba v. Díaz**, CCHR No. 01-H-33/34 (Apr. 17, 2002) Respondents who failed to attend the Pre-Hearing Conference fined the cost of the hearing officer’s fee, $85. R

**Martin v. Glen Scott Multi-Media**, CCHR Case No. 03-E-034 (Apr. 21, 2004) $85 fine for failing to attend pre-hearing conference without seeking continuance or establishing good cause. R

**Syed v. Solaga**, CCHR No. 01-H-51 (June 30, 2006) Where Complainant failed to appear for Administrative Hearing, although his counsel eventually appeared, Complaint dismissed and Complainant fined $306.50 for Hearing Officer’s and court reporter’s time pursuant to Reg. 240.398. HO

**Mahon v. Movie Gallery**, CCHR No. 04-E-8 (Apr. 5, 2007) Default and fine of $70 for failure to attend conciliation conference. CO

**Richards v. Casa Aztlán**, CCHR No. 06-P-68 (May 17, 2007) Default and fine of $70 for failure to attend conciliation conference. CO

**Cotten v. Pepe’s Taco**, CCHR No. 07-P-20 (Apr. 3, 2008) Case dismissed and Complainant fined $70 where he failed to attend Conciliation Conference and did not file explanation providing good cause as required by Notice of Potential Dismissal. Fine amount set to cover Conciliator’s fees for attendance at conference. CO

**Cotten v. Coffee Pot & Mail Drop**, CCHR No. 08-P-39 (Mar. 12, 2009) No default but Respondent fined $100 for failure to attend settlement conference, where this was first procedural violation. CO

**Cotten v. CCI Industries, Inc.**, CCHR No. 07-P-109 (June 24, 2009) Default vacated and sanction changed to fine of $350 for failure to attend pre-hearing conference due to negligence of former attorney, where Respondent retained new counsel and Complainant displayed indifference to Respondent’s failure to appear by not objecting to motion to vacate or seeking costs as allowed. HO

**Cotten v. Fat Sam’s Fresh Meat & Produce (SBM Foods, Inc.)**, CCHR No. 08-P-76 (Aug. 27, 2009) $150 fine to cover CHR costs where Respondent failed to attend settlement conference or respond to notice of possible sanctions. No order of default where Respondent had previously responded to CHR and cooperated with investigation. CO

**Cotten v. Congress Plaza Hotel**, CCHR No. 06-P-69 (Oct. 6, 2009) Hearing officer affirmed fine of $200 imposed on Complainant’s attorney for inadequate and frivolous response to notice of potential sanctions after failure to attend administrative hearing. HO

**Cotten v. CCI Industries, Inc.**, CCHR No. 07-P-109 (Dec. 16, 2009) Fine against Respondent upheld where hearing officer vacated default order and $250 fine for failure to attend pre-hearing conference and instead imposed $350 fine for increased administrative expense to the Commission. Higher fine is acceptable because Respondent benefited from vacated default order. R

**Failure to Comply with Commission Order or Regulation**

**Belastro v. 860 N. Lake Shore Dr. Trust**, CCHR No. 95-H-160 (July 17, 2000) Where Complainant filed discovery responses late and had not contacted other party, asked for permission, or provided any justification for the delay, but where Respondent did not show it was prejudiced by the delay, Hearing Officer did not agree to bar Complainant from using the material as evidence but did fine him for cost of Hearing Officer’s time in addressing the failure to comply. HO

**Barnes v. Page**, CCHR No. 92-E-1 (8-14-00) (CHR fined Respondent $500 for failing to pay fees and costs pursuant to CHR’s final attorney’s fees order when more than 30 days had passed since its entry) CO

**Maat v. Brett’s Kitchen**, CCHR No. 99-PA-63 (May 10, 2001) CHR found a violation of the settlement agreement where Respondent installed the agreed-to window which allowed people using wheelchairs to order from outside because they cannot enter, but had not installed the promised doorbell and awning for it; CHR fined Respondent only $100 because it had completed the main component of the agreement. CO

**Belcastro v. 860 N. Lake Shore Drive Trust**, CCHR No. 95-H-160 (Nov. 9, 2001) Where site appeared to have been altered on day of first site visit but where testimony did not demonstrate whether Respondent had caused or prompted the alteration, Hearing Officer ordered Respondent to pay a $75 fine but did not order it to pay Complainant’s for his costs for the second site visit. HO

**McGrav v. Chicago Dept. of Aviation**, CCHR No. 99-E-27 (Mar. 28, 2002) Case dismissed where Complainant failed to participate in pre-hearing process, including not responding to motion to compel and to dismiss or to order requiring compliance, not attending pre-hearing conference and not making any effort to explain the lack of participation. HO

**Blakemore v. AMC-GCT, Inc.**, CCHR No. 03-P-146 (Apr. 21, 2005) Fine of $70 imposed for failure to comply with reasonable oral instructions of Conciliator at Conciliation Conference, arguing with and insulting Conciliator, and causing disruption in CHR office; such behavior tantamount to refusing to participate in Conciliation Conference. CO

**Rourke & Luna v. Rest. Nuevo Leon**, CCHR No. 05-P-100 (May 18, 2006) $500 fine where restaurant that
entered a CCHR-approved settlement: (a) acquired portable ramp as agreed but required wheelchair-user to wait while table of customers blocking entrance was moved, (b) failed to create agreed accessible restroom, and (c) failed to respond to CHR investigative order.

*Ingram v. Got Pizza*, CCHR No. 05-E-94 (Oct. 18, 2006) No general authority in Enabling Ordinance to fine for procedural violations or non-compliance with CHR orders; absent specific authority in regulations concerning failure to file Verified Response, Board declined to fine defaulted Respondent for that reason alone; contrasts authority to impose fines for failure to attend Hearing or Pre-Hearing Conference and failure to file Pre-Hearing Memorandum, but rejects recommended fines due to inability to separate authorized and unauthorized bases and inability to confirm which of two entities was the correct Respondent.

*Marshall v. Borouch*, CCHR No. 05-H-39 (Dec. 14, 2006) Fine of $500 for failure to pay fine and damages ordered after default and liability finding; Respondent landlord’s arguments that she did not understand order due to difficulty reading and writing English and unavailability of son to assist found not credible and not justification for non-compliance. Additional fines of $100 per day for any continued non-compliance after date specified.

*Feinstein v. Premiere Connections, LLC et al.*, CCHR No. 02-E-215 (Apr. 19, 2007) $500 fine for non-compliance with final order granting relief, plus $100 per day for continued noncompliance after date specified.

*Maat v. Villareal Agencia de Viajes*, CCHR No. 05-P-28 (May 17, 2007) Fine of $200 for partial noncompliance with final orders for relief, plus fines of $100 per day for any continued noncompliance after date specified.

*Maat v. Chicago Park District*, CCHR No. 05-P-57 (Feb. 25, 2008) Fine of $100 for late payment of amount of specified in approved settlement agreement reaffirmed on motion to vacate. Although only a few days late, timely compliance is important to complainants and CHR.

*Harris v. Rivera*, CCHR No. 07-H-10 (Apr. 3, 2008) Respondents fined $50 where they made settlement payment 39 days late and after Complainant filed request for enforcement. Arguments that Respondents were struggling financially or felt forced into settlement found unpersuasive where Respondents did not explain financial situation or file request for review of final order approving settlement.


*Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al.*, CCHR No. 07-P-62/63/92 (July 15, 2009 $500 fine to Respondent who violated ordinance and repeatedly failed to respond to CHR orders, but $100 fine to Respondent who violated ordinance but complied with orders.


*Roe v. Chicago Transit Authority et al.*, CCHR No. 05-E-115 (Mar. 8, 2012) Agency Respondent fined $500 and Individual Respondent $250 for failure to pay fines for ordinance violation and failure to file report on compliance with injunctive order. Additional fines of $100 per day imposed on agency Respondent if it failed to file overdue report by stated deadline.

**Frivolous Pleadings/Representations** – See *Sanctions/Frivolous Pleadings-Representations*, below.

**FRIVOLOUS PLEAINGS/REPRESENTATIONS** – See *Sanctions/Frivolous Pleadings-Representations*, below.

**GENDER IDENTITY DISCRIMINATION** – See also *Disability Discrimination/Transsexualism section, above, and Sex Discrimination/Transsexualism and Sexual Orientation Discrimination/Transsexualism sections, below.*

**Bathrooms**

*Sandy v. Chicago Cultural Center et al.*, CCHR No. 03-P-10 (Jan. 25, 2005) The CHRO provides a private facility exemption to the public accommodation discrimination prohibition only when the claimed discrimination is based on sex; the exemption does not apply to discrimination claims based on gender identity. A Respondent may restrict use of a private facility such as a restroom to persons of one sex, but cannot deny a person access to the private facility designated for the sex which is reflected on his or her official identification. A reasonable lack of certainty as to a person’s sex may justify asking the person to identify his or her sex, but if the questioning or manner of questioning is not legitimate and reasonable, that may point to a discriminatory motive.

*Manzanares v. Lalo’s Restaurant*, CCHR No. 10-P-18 (May 16, 2012) Transgender Complainant who sought access to restaurant-club and was questioned about which bathroom she would use after inspection of driver’s license showed sex as male, presented herself with no indication she was other than a young woman. Under those circumstances use of women’s bathroom, undoubtedly equipped with stalls, should not have posed problem.
Definition of

*Gray v. Lawrence*, CCHR No. 06-H-10 (June 5, 2006) Claim of gender identity discrimination dismissed where amended complaint failed to identify complainant’s actual or perceived gender identity or to describe behavior which would support such claim; appeared that checking “gender identity” box on complaint form arose from misunderstanding of definition of gender identity. Amended complaint read as adding new incidents of previously-claimed discrimination on other bases. CO

Liability Found

*Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al.*, CCHR No. 07-P-62/63/92 (July 15, 2009) Liability found where restaurant security guard audibly discussed and ridiculed transgender female customer and stated “that’s a man.” Restaurant owner held vicariously liable for security guard’s actions where agency relationship found to exist and action was foreseeable. R

*Manzanares v. Lalo’s Restaurant*, CCHR No. 10-P-18 (May 16, 2012) Transgender Complainant established *prima facie* case of gender identity discrimination where she sought to enter restaurant-club with companions but was subjected to unwarranted scrutiny and harassment, then told she would be ejected at first sign of any “disturbance.” R

Liability Not Found

*Robinson v. American Security Services*, CCHR No. 08-P-69 (Jan. 19, 2011) No gender identity discrimination found against male who lives as a female, arising from alleged incidents in grocery store. Based on credibility determinations by hearing officer as to conflicting testimony, Board found that Complainant had not proved harassing treatment by security guards while shopping. R

GOOD CAUSE AND EXTRAORDINARY CIRCUMSTANCES—See also Conciliation Conference/Failure to Attend Conciliation Conference, Default Judgment section, and Failure to Cooperate section.

Extraordinary Circumstances – No new decisions in this volume.

No Extraordinary Circumstances

*Maat v. Syed Video*, CCHR No. 05-P-45 (June 26, 2007) Respondent whose attorney withdrew appearance after issuance of notice of potential default granted extension of time to respond with caution that inability to obtain counsel or new counsel’s need for time to prepare will not be considered extraordinary circumstances justifying further extension, as parties must comply with orders and procedural requirements whether or not represented by counsel. CO

GOVERNMENT IMMUNITY – See also Jurisdiction/Governmental Agencies section, below.

Arbitral Immunity

*Belcastro v. 860 N. Lake Shore Drive Trust*, CCHR No. 95-H-160 (Sep. 12, 2000) In granting a subpoena for certain documents from arbitrator and American Arbitration Association where request and case do not concern any possible liability of arbitrator, hearing officer finds that the immunity which protects arbitrators only precludes obtaining documents from an arbitrated case which might reveal the arbitrator’s thought process. HO

Common Law Immunity

*Love v. Chicago Office of Emergency Communications, et al.*, CCHR No. 01-E-46 (Oct. 16, 2001) Follows CHR and state court precedent in holding that common law immunity provides immunity only for acts done in good faith; CHR denied motion to dismiss case as a matter of law where the issue of good faith rests on intent and so disputed facts, including the one central to the case – whether Respondents intentionally discriminated against Complainant. CO

Punitive Damages

*Winter v. Chicago Park Dist.*, CCHR No. 97-PA-55 (Oct. 18, 2000) CHR found that common law immunity, but not the Tort Immunity Act, makes Respondent immune from paying punitive damages. R

*Roe v. Chicago Transit Authority et al.*, CCHR No. 05-E-115 (Oct. 20, 2010) Chicago Transit Authority, as a municipal corporation, found immune from punitive damages, but individual public employee not immune. R
Quasi-Judicial

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (July 13, 2004) Issuing of orders and conducting of administrative hearings by Cook County Commission on Human Rights (CCCHR) held not to involve public accommodation under CHRO and also to be covered by quasi-judicial immunity under Bushnell criteria. Thus Complaint (accepted under intergovernmental agreement) dismissed as to CCCHR hearing officer and executive director who issued decisions concerning Complainant’s case. CO

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (Feb. 14, 2006) Argument for absolute quasi-judicial immunity of Cook County Commission on Human Rights rejected, as not all agency services and functions necessarily immune. However, based on examination of regulatory scheme, actions in execution of adjudicatory powers from point of filing to final decision found to be taken as quasi-judicial tribunal and thus covered by immunity doctrine. CO

Tort Immunity Act

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) CHR found Respondent not immune from emotional distress damages due to the Tort Immunity Act as that act applies only to tort-like injuries, not civil rights violation as involved in this case; cites federal and state cases. R

Blakemore v. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) CHR did not accept Respondent’s contention that Police have “blanket” immunity for failing to make an arrest, citing cases finding exceptions, including for willful and wanton conduct; order states, in dicta, that CHR has “strong doubts” that the police officer had acted willfully or wantonly in this case. CO

Love v. Chicago Office of Emergency Communics., et al., CCHR No. 01-E-46 (Oct. 16, 2001) Because actions brought under the CHRO are not torts, CHR follows its own plus state and federal cases and construes Illinois Tort Immunity Act not to provide immunity for acts which are not torts. CO

HEARING PROCEDURES

Administrative Hearing Officer Authority

Sanders v. Zoom Kitchen, CCHR No. 03-E-29 (Feb. 5, 2004) Determination of appropriate sanction for failure to appear at Administrative Hearing, including dismissal, is within discretion of Hearing Officer pursuant to Reg. 240.398; recommended decision and Board of Commissioners ruling not required. HO

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Hearing Officer may question parties and witnesses, including pointed or leading questions, and may clarify or qualify questions asked by counsel, where opposing counsel has opportunity to make objections or to ask follow-up questions. No indication Hearing Officer limited Respondent’s ability to cross-examine Complainant or exhibited bias against Respondent. R

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Aug. 7, 2008) Recognizing that hearing officers may facilitate settlement without compromising their neutrality, record in case did not clearly establish the parties’ knowing consent to hearing officer’s meeting with each party separately. Decision warns that hearing officers must proceed with great caution concerning ex parte communications with parties if facilitating settlement. CO

Henderson v. Heartland Housing, Inc. et al, CCHR No. 06-H-4 (Aug. 21, 2008) Approval of settlement agreement denied where Respondent’s attorney, not Respondent, signed it without the certification of authority explicitly required by Reg. 230.130(a). Case remained pending before hearing officer, whose authority was discussed. CO

Cotten v. Congress Plaza Hotel, CCHR No. 06-P-69 (Oct. 6, 2009) Argument that hearing officer is not authorized to sanction for failure to appear at administrative hearing is clearly contradicted by the plain language of Reg. 240.398.

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Feb. 19, 2010) Complainant’s reply to Respondent’s response to attorney fee petition stricken by hearing officer, as regulations do not allow a reply without leave of hearing officer, which was never sought. HO

Gilbert & Gray v. 7355 South Shore Drive Condo. Assn. et al., 01-H-18/27 (Sept. 14, 2010) CHR discharged hearing officer who failed to issue a recommended ruling for three years after hearing was held, and appointed new hearing officer over objection of respondents. New hearing officer authorized to re-hear all or part of the testimony and determine whether he may consult with former hearing officer about witness demeanor pertinent to credibility. CO

Amendment to Conform to Evidence at Hearing – No new decisions in this volume.

Amicus Curiae Brief – No new decisions in this volume.
Bankrupt Respondent – See Bankruptcy section, above.

Board of Commissioners’ Authority – No new decisions in this volume.

CCHR Employee as Witness – See also Discovery/CCHR Investigative Materials & Investigator

Hawkins v. Teybianian & Thorpe, CCHR No. 96-E-90 (May 16, 2001) Hearing Officer denied, without prejudice, Complainant’s motion to have CCHR’s investigator available to testify because Complainant did not argue that Respondents’ defense would be different from that made in the investigation and so impeachment not implicated and because investigators are not needed to obtain documents which are available from Respondents. HO

Mendez v. El Rey del Taco and Burrito, CCHR No. 09-E-16 (June 14, 2010) Motion to call investigator as witness to impeach Complainant denied: no showing the testimony would be admissible because no evidence of inconsistent statements; Complainant’s speculations about Respondent’s motives were immaterial to outcome. HO

Commencement of a Hearing – No new decisions in this volume.

Continuance

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (June 5, 2000) Hearing Officer denied motion to stay hearing which was based on the fact that Respondent is defending herself in federal court in a case filed by a different plaintiff but which involved the same core of operative facts; this was found not to provide “good cause” in that the CHR has issued a series of decisions finding that it does not have authority to defer a case because a similar one is pending elsewhere, even when it involves the same parties; decision also notes that a CHR ruling is not likely to have preclusive effect on a federal case. HO

Blakemore v. General Parking Corp. et al., CCHR No. 99-PA-120 (Sep. 1, 2000) Hearing Officer denied Respondent’s motion for a continuance, holding that it was factually unsupported. HO

Salwierak v. MRI of Chicago, Inc. et al., CCHR No. 99-E-107 (July 16, 2003) Request for Review of interlocutory order denying continuance of hearing denied where no proper motion for continuance had been made; Respondent merely sent letter by facsimile to hearing officer one week before scheduled hearing, asserting two witnesses were out of town, after hearing had already been continued once at the Respondent’s request and Hearing Officer had specifically told the Respondent no more continuances would be granted and he had to request subpoenas for any witnesses whose presence he wished to ensure. R

Syed v. Solaka, CCHR No. 01-H-51 (Mar. 13, 2006) Complainant motion for continuance of administrative hearing to give newly-retained counsel time to conduct discovery granted subject to submission of affidavit attesting to prior efforts to obtain counsel; bare assertions of counsel insufficient to establish good cause. HO

Manning v. AQ Pizza LLC et al., CCHR No. 06-E-17 (Feb. 21, 2007) Complainant’s motion for continuance filed on day of administrative hearing found justified by extraordinary circumstances where her counsel withdrew shortly before the hearing, Complainant acted with diligence to secure new counsel, and Respondents failed to appear at pre-hearing conference and hearing. HO

Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Continuance to allow newly-retained attorney time to prepare denied where Complainant had lengthy notice of the upcoming hearing but attorney entered appearance on day of hearing without showing Complainant had exercised due diligence to find an attorney. R

Hernandez v. Colonial Med. Ctr. et al., CCHR No. 05-E-14 (June 25, 2007) Continuance of pre-hearing conference denied for lack of good cause where motion merely stated counsel was unavailable without factual support for claim of unavailability. Also, motion not served on hearing officer as required by Reg. 240.349(a) and failed to include number of previous motions for continuance and their disposition pursuant to Reg. 270.130(b). HO

Lewis-Thornton v. Southside Tattoos & Body Piercing, CCHR No. 06-P-55 (June 28, 2007) Motion for continuance of pre-hearing conference to allow newly-substituted counsel to prepare denied where substitution was previously granted due to no indication it would cause delay. Motion to continue hearing held until pre-hearing conference. HO

Discovery – See separate Discovery section, above

Expunge Records – No new decisions in this volume.

Extension of Time

Little v. Tommy Gun’s Garage Dinner Theater, CCHR No. 99-E-11 (Aug. 11, 2000) Hearing Officer denied Complainant’s request for an extension to file certain pre-hearing documents and for a continuance of the hearing; Complainant had filed the documents on time and her continuance request was found to be moot in that it
was based on her belief that, once she finds an attorney, he or she will need more time. HO

Little v. Tommy Guns Garage Dinner Theater, CCHR No. 99-E-11 (May 18, 2001) Where Complainant did not ask for more time to file her post-hearing brief until fewer than seven days before the deadline and where the transcript which Complainant did not have had not been available for over a month, Hearing Officer found Complainant had not shown the required cause for an extension, but granted a short one, finding that not allowing her to file at all was too harsh. HO

Syed v. Solaka, CCHR No. 01-H-51 (Mar. 13, 2006) Complainant motion for extension of time to file pre-hearing memorandum to give newly-retained counsel time to conduct discovery granted subject to Complainant’s submission of affidavit attesting to prior efforts to obtain counsel; bare assertions of counsel insufficient to establish good cause. HO

Hawkins v. Jack’s Lounge, CCHR No. 05-P-61 (Mar. 15, 2006) Extension of time to file preliminary witness list granted where counsel represented that he had not received relevant notice due to inconsistent mail delivery after moving his office. HO

Hodges v. Hua & Chao, CCHR No. 06-H-11 (Oct. 31, 2007) Motion to withdraw by Respondents’ attorney granted but extension of time to reply to Complainant’s post-hearing brief was denied to avoid giving tactical advantage due to the withdrawal, where filing deadline had passed and Respondents’ previous post-hearing brief provided opportunity to address the issues. HO

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (Aug. 30, 2010) Two-week extension granted to file position statement required by previous order where Respondent sought 120 days to retain new counsel and file statement but waited until just before deadline to request more time, case had been long delayed, and Complainant had life-threatening illness. CHR does not routinely grant extensions or continuances, including to obtain counsel, and does not grant lengthy extensions absent a strong showing of need. CO

Montelongo v. Azarpira, CCHR No. 09-H-23 (Jan. 31, 2012) Extension of time to object to recommended ruling denied where Respondent filed motion one day before deadline with no proof of service, did not participate in any prior part of hearing process, and offered no basis for last-minute extension except desire to obtain counsel. HO

Failure to Attend Pre-Hearing Conference/Hearing – See also Sanctions/Abuse of Process section, below.

Rutherford v. Maggie’s Foods, et al., CCHR No. 98-PA-65 (Apr. 14, 2000) Where Complainant failed to attend Administrative Hearing and where she did not properly complete a request to withdraw her complaint, her case was dismissed for failure to cooperate. HO

Rogers v. Metropolitan Water Reclam. Dist., CCHR No. 95-E-211 (Apr. 23, 2001) Pursuant to Reg. 240.398, Complaint dismissed when Complainant did not attend hearing of which she had notice. HO

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Respondents who failed to attend the Pre-Hearing Conference fined the cost of the hearing officer’s fee, $85. R

Anderson v. Joffe, CCHR No. 03-H-28 (Oct. 27, 2003) Although Reg. 240.120(b) allows certain sanctions on party failing to attend Pre-Hearing Conference, it does not require imposition of any sanction nor does it explicitly provide for dismissal of case in that situation; if CHF finds “good cause” for failure to attend, it will not enter dismissal. Thus, Complainant’s failure to attend Pre-Hearing Conference did not warrant dismissal. CHR mailed notice of conference to wrong address for Complainant. HO

Sanders v. Zoom Kitchen, CCHR No. 03-E-29 (Feb. 5, 2004) Complaint dismissed by Hearing Officer after Complainant failed to appear for Administrative Hearing after 35 minutes from scheduled time, made no effort to show why she could not attend, and previously failed to attend Pre-Hearing Conference. HO

Syed v. Solaka, CCHR No. 01-H-51 (June 30, 2006) Where Complainant failed to appear for Administrative Hearing, although his counsel eventually appeared, Complaint dismissed and Complainant fined $306.50 for Hearing Officer’s and court reporter’s time pursuant to Reg. 240.398. HO

Mastandrea v. Bar Celona Bar & Grill, CCHR No. 03-P-7 (June 30, 2006) Although no sanctions imposed when parties did not attend administrative hearing because they settled the evening before, Order notes that if parties do not notify CHR and hearing Officer of settlement during regular business hours of day before Hearing, they will be expected to appear; after-business-hours phone messages or faxes do not constitute timely notification. HO

Smith v. Enterprise Car Rental et al., CCHR No. 04-P-83 (June 20, 2007) Hearing officer dismissed case after Complainant failed to attend pre-hearing conference, file preliminary witness list and pre-hearing memorandum, or respond to discovery requests. HO

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (June 24, 2009) Default vacated and sanction changed to fine of $350 for failure to attend pre-hearing conference due to negligence of former attorney, where Respondent retained new counsel and Complainant displayed indifference to Respondent’s failure to appear by not objecting to motion to vacate or seeking costs as allowed. HO

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (July 1, 2009) Motion to vacate default denied; only
reason for failing to appear at pre-hearing conference was counsel’s failure to docket and record the date in his calendar, which does not constitute good cause. Also, the motion to vacate was not served on the hearing officer nor was proof of service on complainant provided. HO

Cotten v. Congress Plaza Hotel, CCHR No. 06-P-69 (Oct. 6, 2009) Hearing officer denied motion to vacate fine of $200 against Complainant’s attorney for inadequate response to notice of potential sanctions after failure to appear for administrative hearing. Argument that hearing officer is not authorized to sanction is clearly contradicted by the plain language of Reg. 240.398. Basis for sanction was that response stated Complainant was hospitalized, which was not true, and the attached doctor’s note was incomplete and dated the day before the hearing. Argument that counsel was reluctant to disclose confidential and sensitive medical information about Complainant rejected, as the information was essential to establish good cause for the absence, which requires serious illness or hospitalization and not mere discomfort. Counsel’s submission found reckless at best, in violation of Reg. 210.400 prohibiting frivolous pleadings. No sanction imposed on Complainant because he eventually provided sufficient evidence of good cause for the absence. HO

Cotten v. Addiction Sports Bar & Lounge, CCHR No. 08-P-68 (Oct. 21, 2009) Board upheld hearing officer’s exercise of discretion to deny motion to vacate hearing where Respondent’s attorney asserted he failed to mark the hearing date on his calendar and forgot to attend. R

Mendez v. El Rey del Taco & Burrito, CCHR No. 09-E-016 (Apr. 5, 2010) No default or other sanction where Respondent failed to attend pre-hearing conference but timely responded to notice to show good cause by affidavit averring attorney’s scheduling mistake. Although questionable whether the explanation demonstrated “good cause,” problem occurred early in proceeding and was the first such incident. HO

Failure to Comply with Commission Order
Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 9, 2001) Where site appeared to have been altered on day of first site visit but where testimony did not demonstrate whether Respondent had caused or prompted the alteration, Hearing Officer ordered Respondent to pay a $75 fine but did not order it to pay Complainant’s for his costs for the second site visit. HO

Williams v. First American Bank, CCHR No. 05-P-130 (Feb. 19, 2008) Complainant sanctioned for failure to comply with order to produce discovery documents after motion to compel and for misrepresentations at pre-hearing conference as to his receipt of documents. Hearing officer awarded attorney fees and costs to Respondent for enforcement of discovery rights and indicated appropriate negative inferences may be taken against Complainant if at hearing the documents not produced were found relevant. HO

Calamus v. Chicago Park District & Konow, CCHR No. 01-E-115 (Mar. 4, 2008) Hearing officer did not consider Respondent’s reply to Complainant’s brief where briefing order stated that no replies would be allowed without leave from hearing officer and leave was not sought. HO

Henderson v. Heartland Housing Inc., et al., CCHR No. 06-H-04 (June 11,2008) Parties admonished to review orders and regulations to avoid further procedural errors causing delay in responding to motions—including need to file attorney appearance, need to serve hearing officer, and need to serve opposing party. HO

Martinez v. Midtown Kitchen and Bar et al., CCHR No. 09-P-29 (Oct. 11, 2010) Case dismissed during pre-hearing process where Complainant failed to comply with hearing officer orders including discovery instructions, respond to sanctions motion, explain his non-compliance, or take any action to prosecute his case. HO

Fee Waiver – No new decisions in this volume.

Interlocutory Orders – No new decisions in this volume.

Motion for Reconsideration
Jordan v. Nat’l Railroad Passenger Corp., CCHR No. 99-PA-34 (June 10, 2003) Objections to and Petition for Reconsideration of Final Ruling denied where Ordinances and Regulations make no provision for such procedure; available review is in state court. CO

Motion to Compel – See separate Discovery section, above.

Objections to First Recommendation
Claudio v. Chicago Baking Co., CCHR No. 99-E-76 (July 17, 2002) Objections rejected which merely argued for reweighing of evidence and credibility determinations and provided no legal analysis to support reversal of any recommended findings of fact; no basis found to reverse or alter Hearing Officer’s recommendations. R

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) Respondent request for negative inference based on Complainant’s failure to call listed witnesses to support emotional distress damage request, made as objection to
First Recommended Decision, denied as not raised at hearing to allow evidence relevant to required elements. R

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) Defaulted Respondent’s attack on credibility of Complainant’s testimony rejected where first raised in objections to First Recommended Decision after Administrative Hearing and Respondent failed to appear at hearing and exercise opportunity to cross-examine Complainant and argue his position. R

Salwierak v. MRI of Chicago, Inc., et al., CCHR No. 99-E-107 (May 18, 2005) Board allowed supplemental evidence from Complainant in an objection to First Recommended Decision on supplemental attorney’s fees where it clarified ambiguous record and was promptly submitted after issuance of the First Recommended Decision, and where Respondents had opportunity to seek leave to respond or object to the supplemental evidence but did not do so. R

Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Complainant’s pro se objections to first recommended decision not properly filed with notice that he was no longer represented by counsel. R

Maat v. String-a-Strand, CCHR No. 05-P-5 (Feb. 20, 2008) Objection rejected where Respondent did not include relevant legal analysis, specific grounds for modification of findings of fact, or specific references to record. Assertion that hearing officer was biased rejected where Respondent did not point to conduct suggesting bias or unprofessional conduct. Fact that hearing officer is paid by City of Chicago is immaterial. R

Post-Hearing Briefs/Discovery

Little v. Tommy Guns Garage Dinner Theater, CCHR No. 99-E-11 (May 18, 2001) Where Complainant did not ask for more time to file her post-hearing brief until fewer than seven days before the deadline and where the transcript which Complainant did not have had been available for over a month, Hearing Officer found Complainant had not shown the required cause for an extension, but granted a short one, finding that not allowing her to file at all was too harsh. HO

Pre-Hearing Conference

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Apr. 10, 2001) Per Reg. 240.349(a), all motions concerning issues raised at the Pre-Hearing Conference must be made within seven days of the conference; order denies motion made later. HO

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Respondents who failed to attend the Pre-Hearing Conference fined the cost of the hearing officer’s fee, $85. R

Barren-Johnson v. Mahmood, CCHR No. 03-P-9 (Dec. 30, 2006) Case dismissed after Complainant failed to attend Pre-hearing Conference or to file Pre-Hearing Memorandum and Preliminary Witness List: explanations concerning series of misfortunes befalling her family during that period, not understanding her obligations, and merits of her case did not provide good cause in that she had ample written notice of her obligations, she did not seek continuance or extension of time, Respondent had been defaulted for failing to attend Conciliation Conference, and Respondent had filed the required pre-hearing documents. HO

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) Despite failure to file and serve a pre-hearing memorandum, Respondent sufficiently pleaded an affirmative defense of undue hardship where Complainant had reasonable notice of it via Respondent’s response to the complaint. However, documentary evidence offered in support of the defense held inadmissible because not filed and served in advance of hearing, to give notice of it as contemplated by requirement of pre-hearing memorandum. R

Pre-Hearing Memorandum

Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (Sep. 5, 2002) Punitive damages claim may be pursued, and discovery allowed, even if not itemized in pre-hearing memorandum; no waiver intended as penalty, especially where Complainant’s intention to pursue punitive damages was known to Respondent for some time. HO

Barren-Johnson v. Mahmood, CCHR No. 03-P-9 (Dec. 30, 2006) Case dismissed after Complainant failed to attend Pre-Hearing Conference or to file Pre-Hearing Memorandum and Preliminary Witness List: explanations concerning series of misfortunes befalling her family during that period, not understanding her obligations, and merits of her case did not provide good cause in that she had ample written notice of her obligations, she did not seek continuance or extension of time, Respondent had been defaulted for failing to attend Conciliation Conference, and Respondent had filed the required pre-hearing documents. HO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Apr. 9, 2009) Respondents’ motion to strike and sanction denied where Complainant’s counsel filed a pre-hearing memorandum containing details about content of settlement discussion between parties despite CHR order sealing parts of hearing record and Reg. 230.120 prohibiting use of settlement discussion as evidence on merits of claim. Under 2008 regulations, sanctions are within CHR discretion and no motion for sanctions is created. Issue was moot because complaint was dismissed for lack of
jurisdiction and CHR issued a second order adding the pre-hearing memorandum to the documents under seal. Complainant’s error was not blatant or willful and Respondent was not prejudiced by hearing officer’s access to the information.


_Rankin v. 6934 N. Sheridan, et al.,_ CCHR No. 08-H-49 (Feb. 23, 2010) If documents not previously disclosed are introduced at hearing, non-disclosing party must show they were not previously available or known to that party, and good faith basis for prior non-disclosure. HO

_Tarpein v. Polk Street Company d/b/a Polk Street Pub et al.,_ CCHR No. 09-E-23 (Oct. 19, 2011) Documentary evidence of earnings to support back pay calculation not admitted where not tendered in Complainant’s pre-hearing memorandum. Also, no emotional distress damages where Complainant did not give notice she was seeking such damages in her pre-hearing memorandum and did not provide good cause for failure to do so. R

Record of Hearing – See also Protective Orders section, below.

Stay of Proceedings

_Leadership Council for Metro. Open Comms. v. Souchet_, CCHR No. 98-H-107 (June 5, 2000) Hearing Officer denied motion to stay hearing which was based on the fact that Respondent is defending herself in federal court in a case filed by a different plaintiff but which involved the same core of operative facts; this was found not to provide “good cause” in that the CHR has issued a series of decisions finding that it does not have authority to defer a case because a similar one is pending elsewhere, even when it involves the same parties; decision also notes that a CHR ruling is not likely to have preclusive effect on a federal case. HO

Striking Testimony

_Belcastro v. 860 N. Lake Shore Drive Trust_, CCHR No. 95-H-160 (Nov. 9, 2001) Where expert witness visited building without authorization between days of hearing, hearing officer struck his testimony but did not sanction complainant’s attorney who had no knowledge of the visit. HO

Subpoenas – See separate Subpoenas section, below.

Supplement Record – No new decisions in this volume.

Timeliness of Motions

_Belcastro v. 860 N. Lake Shore Drive Trust_, CCHR No. 95-H-160 (Apr. 10, 2001) Per Reg. 240.349(a), all motions concerning issues raised at the Pre-Hearing Conference must be made within seven days of the conference; order denies motion made later. HO

Transcripts – No new decisions in this volume.

Waiver of Objections – No new decisions in this volume.

HOSPITAL COVERAGE – No new decisions in this volume.

Immunity

HOUSING DISCRIMINATION

Actions Covered

_McPhee v. Novovic_, CCHR No. 00-H-69 (May 23, 2001) While true that the CFHO does not “bar” eviction proceedings, as Respondents argue, it does restrict landlords from pursuing them in a discriminatory manner. CO

_Tibbs v. Citibank_, CCHR No. 01-CR-1 (Oct. 17, 2001) CFHO does not cover bank which denied mortgage application because it is not an “owner, lessee, sublessee, assignee, managing agent or other person, firm or corporation having the right to sell, rent, lease or sublease any housing accommodation;” case allowed to proceed under CHRO’s credit discrimination provision. CO

_Salem v. Park Edgewater Condo. Assn. et al.,_ CCHR No. 02-H-9 (May 6, 2003) CHR has jurisdiction over claims of discriminatory evictions under CFHO. CO

_Miller v. Deborah’s Place et al.,_ CCHR No. 03-H-14 (Aug. 21, 2003) Claim of aiding and abetting not covered under CFHO. CO

_Dugan v. Berganos_, CCHR No. 05-H-17 (July 8, 2005) CFHO does not limit claims only to those alleging
failure to rent or sell, or eviction. Harassment, even if it does not result in discriminatory eviction, violates CFHO if sufficiently severe or pervasive to alter “terms, conditions and privileges” of housing arrangement. Complaint alleging that landlords continually disparaged Complainant’s source of income and made eviction threats over stated three-month period held sufficient to state harassment claim. CO

MacEntee & Arvanites v. 539 Stratford Condo. Assn. et al., CCHR No. 05-H-46/50/48/51 (May 18, 2006) Where Complainants alleged that Respondents treated them differently because of their sexual orientation by failing to follow association rules and to impose them on other condominium owners with regard to noise complaint, Complaint not dismissed as it stated a claim about “terms, conditions and privileges” of occupancy. CO

Weinert v. Gowlowech, CCHR No. 07-H-36 (Sept. 18, 2007) No jurisdiction over claims of interference or retaliation for asserting rights under the CFHO or the federal Americans with Disabilities Act (ADA). Fair Housing Ordinance does not prohibit retaliation or interference, and CHR does not enforce the ADA. CO

Adverse Action – See separate Adverse Action section, above.

After-Acquired Evidence
Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Case in which Respondent refused to consider Complainant’s Section 8 voucher before he knew that accepting it would require her to extend her lease held not to be an “after-acquired evidence” case in that, even had Respondent immediately agreed to accept the voucher, he would not have rented to her because he had already promised to rent to his daughter after Complainant’s lease expired; Complainant remained in the exact position she would have been in had there been no discrimination. R

Age Discrimination – See separate Age Discrimination section, above.

Ancestry Discrimination
Rivera v. Pera et al., CCHR No. 08-H-13 (June 15, 2011) Complainant proved prima facie case of race and ancestry discrimination where his name identified him as Hispanic, he was interested in renting and landlord knew of his interest, and he was rejected while the unit remained available. But no liability found because Respondents proved a non-discriminatory reason for refusal to rent, namely Complainant’s combative conduct in resisting a lease provision for a $25 late fee found to be standard and not the $250 amount Complainant contended. R

Burden Shifting – See Disparate Treatment/Burden Shifting section, above.

Condominium Associations
Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR found Respondents liable for having an “adults-only” policy which they used to discourage Complainant/owners from selling unit to Complainant/buyers who had a child. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) President of condominium association’s Board of Directors was agent of the Board and was held jointly and severally liable with it. R

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) CHR dismissed claims against condominium owners who were not members of or employed by the condo board, finding that merely being an owner or tenant is not sufficient to be a respondent as such owners are merely neighbors; one has to have rights to the housing in question. CO See Housing/ Persons Potentially Liable, below.

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) Same, with respect to another resident of the condominium association. CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) CHR could not “reasonably infer” from the complaints that the Association itself made false and discriminatory accusations against Complainants although it did read the complain to claim that the Association fined and threatened to evict Complainants in response to such accusations made by others. CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) CHR dismissed president of condominium board, finding she was named only in her official capacity, where complaints did not allege that she had made any accusation against Complainants, harassing or otherwise, and did not allege that she took any action against Complainants other than to convene and preside over a meeting to address the dispute among the residents; distinguishes Pudelek/ Weinmann, above, noting that condominium presidents may be personally liable when he or she has personally taken the discriminatory action. CO

Isaac v. 7721-7723 N. Sheridan Rd. Condo. Assn. et al., CCHR No. 03-H-79 (Apr. 26, 2004) Complaint dismissed as to (a) owners of neighboring condominium units who were not members, employees, or agents of condominium board, as they had no rights over Complainant’s unit, and (b) association board members described as
“collectively, the Board,” because when acting collectively as corporate board they are not subject to individual liability. However, president of condominium association held to be named in personal capacity where Complaint alleged that he harassed and yelled at tenants of Complainant unit owner based on their source of income. CO

Pruitt v. Grubb & Grubb Property Mgmt., Inc., CCHR No. 05-H-68 (Apr. 3, 2006) Property management companies and individual property managers of condominium associations are covered by the CFHO as agents. The line of ownership and agency is what subjects a condominium association and its agents, as opposed to a neighborhood organization, to the CFHO. CO

Arvanites & MacEntee v. Woldman et al., CCHR No. 05-H-44/53/45/49/47/52 (May 18, 2006) Complaints dismissed against occupant, owner, and agent of owner of neighboring condominium unit who were not members or agents of condominium board; found to be neighbors with no rights over Complainant’s unit. CO

MacEntee & Arvanites v. 539 Stratford Condo. Assn. et al., CCHR No. 05-H-46/50/48/51 (May 18, 2006) Condominium associations and their property managers are covered by the CFHO as agents. CO

De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Aug. 23, 2006) Condominium associations, individual board members, property management companies, and individual property managers of condominiums may be properly named as respondents under CFHO as agents. CO

Constructive Eviction – No new decisions in this volume.

Customer Preference – No new decisions in this volume.

Disability Discrimination
Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) Defaulted Respondents found liable when evidence showed that they agreed to rent to Complainant but then locked her out and refused to refund her security deposit after learning she had a disability, bipolar disorder. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Mar. 20, 2001) CFHO and Regulations require respondents to make housing accommodations fully accessible to a person with a disability and if respondents demonstrate that doing so would create an undue hardship, then it must reasonably accommodate the individual or show that doing that would create an undue hardship. HO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) Respondent found not to have failed to accommodate Complainant’s disability where Complainant could not use front entrance but where other entrance was not stigmatizing, where Complainant had full use of all areas of building but front door, and where Complainant’s claims about problems with other door found not to be credible. R

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) CHR denied motion to dismiss failure-to-accommodate claim brought against condominium association due to the fact-specific nature of the claim; CHR could not rule, as a matter of law, that the specific requests for accommodation were unreasonable. CO

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Complainant proved through indirect evidence that landlord refused to show her an advertised apartment due in part to disability where Complainant credibly testified that landlord inquired about the nature of her disability after she revealed that she received Social Security Disability income and was not employed, and landlord responded only with a non-credible denial of the conversation. R

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) Prima facie case of disability discrimination where defaulted landlord used disability-related slurs on multiple occasions in communicating with disabled tenant about landlord-tenant issues, calling her a “crippled bitch” and engaging in other harassing actions. R

Montelongo v. Azarpira, CCHR No. 09-H-23 (Mar. 16, 2011) After order of default, mother of 15-year-old autistic child established prima facie case of disability discrimination where property owner refused to rent apartment to her after the child acted out at the showing. Child’s highly unusual behavior along with Respondent’s representative’s reaction to it supported inference the representative perceived the child to have a disability, even without evidence the representative knew precise nature of disability. R

Discriminatory Communication
Hoskins v. Linton, CCHR No. 01-H-85 (Sep. 9, 2004) Prohibition against discriminatory communication does not extend to a private communication between two individuals but rather to communications directed to a wider public; telling Section 8 voucher holder in a private telephone conversation that Respondent does not accept tenants using Section 8 vouchers does not constitute a discriminatory communication within the meaning of Section 5-8-030(B) of the CFHO and Reg. 420.120. CO

Dwelling Defined
Carroll v. Moravec, CCHR No. 00-E-12 (May 24, 2001) Where Complainant rented property to use both as
a residence as well as for commercial use – a day-care facility – CHR found the mixed nature of the relationship did not allow it to dismiss the case as not involving housing. CO

**McPhee v. Novovic, CCHR No. 00-H-69 (Sep. 15, 2004)** Commercial relationship between parties does not exclude applicability of CFHO if housing discrimination is implicated. Allegations that landlord sought to scuttle tenant’s plan to become a foster care provider because she would potentially house Black or Puerto Rican children on premises, then sought to evict her from housing for that reason stated a claim under CFHO. R

**Cunningham v. Bui & Phan, CCHR No. 01-H-36 (May 4, 2006)** That advertised dwelling unit was not habitable under City codes did not bar a substantial evidence finding where Respondents were attempting to rent out unit and habitability was not stated reason for rejecting prospective tenant or tester. CO

**Eviction**

**McPhee v. Novovic, CCHR No. 00-H-69 (May 23, 2001)** While true that the CFHO does not “bar” eviction proceedings, as Respondents argue, it does restrict landlords from pursuing them in a discriminatory manner. CO

**Olagbegi v. Cagan Mgmt. Group, Inc. et al., CCHR No. 02-H-32 (May 6, 2003)** Fact that Complainant also pursuing wrongful eviction action in court does not divest CHR of jurisdiction over claim under CHRO that he was evicted for discriminatory reasons. CO

**Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004)** *Prima facie* case that landlord sought to evict tenant due to his sexual orientation established where landlord commented negatively about tenant being gay, barred his guest perceived to be gay, told his family he is gay when he had not informed them, told his mother she did not want him in building because he is gay, then issued termination notice on pretext of not being current in rent. R

**McPhee v. Novovic, CCHR No. 00-H-69 (Sep. 15, 2004)** Although racial animus was established where landlord objected to housing Blacks or Puerto Ricans on premises and to rental of commercial unit to Black-owned business, no CFHO violation found because evidence did not establish that landlord prevented Complainant from qualifying to operate a foster care facility or that racial animus caused her eviction for non-payment of rent. R

**Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011)** Using mixed motive analysis, even though condo association president’s anti-gay animus played a part in unit owner’s eviction, Respondents proved “same result” defense because unit owner failed to make assessment payments for eight months. Respondents not absolved of liability but damages reduced appropriately. R

**Evidence of Discrimination**

**Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001)** Telephone conversations in which a complainant does not specifically identify his or her race may still form the proof necessary to establish respondent’s awareness of complainant’s race through the speaker’s speech patterns or other circumstances. R

**Gibson v. Dedich et al., CCHR No. 00-H-99 (Aug. 14, 2003)** CHR found substantial evidence of race and color discrimination where stories of parties differed regarding scheduling of apartment showing and where Respondent’s inability to document that she had shown or rented property to other African-American applicants suggested her stated reasons for denial of showing were pretextual. CO

**Cunningham v. Bui & Phan, CCHR No. 01-H-36 (May 4, 2006)** Finding of substantial evidence of parental status and race discrimination based on direct evidence that prospective tenant was told “no children” and indirect evidence including testing by African-American. That advertised unit was not habitable under City codes did not bar finding where Respondents were attempting to rent out unit and habitability was not stated reason for rejecting prospective tenant or tester. CO

**Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010)** Respondent evidence of renting to Section 8 voucher holders in other buildings under same ownership held insufficient to overcome the credible direct evidence that owner would not accept Section 8 in the building in question, as the situations are distinguishable. R

**Failure to Rent**

**Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000)** Defaulted Respondents found liable when evidence showed that they agreed to rent to Complainant but then locked her out and refused to refund her security deposit after learning she had a disability, bipolar disorder. R

**Godard v. McConnell, CCHR No. 97-H-64 (Jan. 17, 2001)** In default case, CHR found Respondent liable for not allowing Complainant to apply for an apartment because Complainant has children. R


al., 815 N.E.2d 822 (Ill. App. 2004) Landlords who refused to rent to Complainant because she was to pay her rent with a Section 8 voucher and who told testers that they would not accept Section 8 found liable for source of income discrimination. R

*Jones v. Shaheed*, CCHR No. 00-H-82 (Mar. 17, 2004) Complainant proved that landlord refused to show her an advertised apartment due to source of income and disability where, after revealing that she received Social Security Disability income and was not employed, landlord inquired about the nature of her disability and repeatedly stated that she had to be working in order to rent the apartment. R

*Marshall v. Gleason*, CCHR No. 00-H-1 (Apr. 21, 2004) No discrimination found where landlord knew Complainant would use Section 8 voucher when he agreed to show an apartment he was renovating, explained the unit was not habitable and not on the market, offered to rent her other units knowing she would use a voucher, never put the unit on the market but occupied it himself, and rented to other Section 8 recipients in Chicago during relevant time period. Landlord’s comments about Section 8 program did not establish pretext. R

*Hoskins v. Linton*, CCHR No. 01-H-85 (Sep. 9, 2004) Commission cannot find substantial evidence of refusal to rent where there was no substantial evidence that a housing unit was available to rent at the time of Complainant’s inquiry, even though Respondent also told Complainant, a Section 8 voucher holder, that she would not accept tenants with Section 8 vouchers. CO

*Torres v. Gonzales*, CCHR No. 01-H-46 (Jan. 18, 2006) Prima facie case of Section 8 source of income discrimination presented where landlord accepted security deposit and signed moving papers, then failed to appear for four scheduled inspection appointments, rented to other tenants, and told Complainant he did not want to deal with Section 8 “mumbo jumbo.” R

*Hodges v. Hua & Chao*, CCHR No. 06-H-11 (May 21, 2008) Based on hearing officer’s assessment of credibility, no source of income discrimination found where Complainant claimed that landlord told her he did not accept Section 8 vouchers. Respondents did not rent apartment to Complainant because she did not view it and complete application as Respondents’ policy required. R

*Draft v. Jercich*, CCHR No. 05-H-20 (July 16, 2008) After order of default, prima facie case of source of income discrimination established where apartment owners showed unit to prospective tenant but when they learned she would use a Section 8 voucher told her they would not rent to Section 8 recipients. R

*Sercye v. Reppen and Wilson*, CCHR No. 08-H-42 (Oct. 21, 2009) Source of income discrimination admitted by Respondents where real estate agent told Complainant the owner did not participate in Section 8 voucher program. R

*Rankin v. 6954 N. Sheridan Inc., DLG Management, et al.*, CCHR No. 08-H-49 (Aug. 18, 2010) Resolving credibility issues in Complainant’s favor, source of income discrimination found based on direct evidence a property manager told Complainant the owner would not accept Section 8 recipients in the building. Building owner and management company found vicariously liable. R

*McGhee v. MADO Management LP*, CCHR No. 11-H-10 (Apr. 18, 2012) No racially discriminatory refusal to rent where evidence showed advertised apartment had been rented before Complainant contacted property owner in response to the ad, and no other units were available at that location. R

**Failure to Sell**

*Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al.*, CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR found Respondents liable for having an “adults-only” policy which they used to discourage Complainant/owners from selling unit to Complainant/buyers who had a child. R

*Thomas v. Prudential Biros Real Estate et al.*, CCHR No. 97-H-59/60 (Feb. 18, 2004) No race discrimination by real estate agents where sale was negotiated based on another offer with more favorable terms; no racial animus or pretext found in recommending that sellers respond to best offer rather than multiple offers, refusal to split commission, exclusion of listing from the Multiple Listing Service, timing of showings, and actions subsequent to showing. R

*Pierce and Parker v. New Jerusalem Christian Development Corp. et al.*, CCHR No. 07-H-12/13 (Feb. 16, 2011) After order of default, source of income discrimination found where nonprofit developer receiving financial support through City of Chicago to build affordable housing refused to sign riders and allow inspections to enable two potential purchasers to finance in part with a subsidy under a different City-sponsored program. R

**Full Use**

*Belcastro v. 860 N. Lake Shore Drive Trust*, CCHR No. 95-H-160 (Mar. 20, 2001) CFHO and Regulations require respondents to make housing accommodations fully accessible to a person with a disability and if respondents demonstrate that doing so would create an undue hardship, then it must reasonably accommodate the individual or show that doing that would create an undue hardship. HO

*Belcastro v. 860 N. Lake Shore Drive Trust*, CCHR No. 95-H-160 (Feb. 20, 2002) CFHO requires equal
access; it does not mandate identical access. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) Respondent found not to
have failed to accommodate Complainant’s disability where Complainant could not use front entrance but where
other entrance was not stigmatizing, where Complainant had full use of all areas of building but front door, and
where Complainant’s claims about problems with other door found not to be credible. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) While front entrance is
not accessible, second entrance is not limited to people with disabilities and is used by other residents; it opens onto
a plaza; it is safe-guarded by same security guard as front entrance. R

Futile Gesture

CHR rejected Respondents’ defense that the Complainant/sellers and Complainant/buyers canceled their sale
prematurely; CHR found that Respondents made it clear in numerous statements and documents that they would
reject the sale because buyers had a child and that complainants are not required to make a futile gesture merely to
get an actual rejection. R

Cooper v. Park Mgmt. and Investment, Ltd. et al., CHR No. 03-H-48 (Nov. 17, 2003) Whether
Complainant was reasonable in belief that applying for apartment would be futile because Respondent told her they
would not accept Section 8 voucher is question of fact and inappropriate as basis for motion to dismiss. CO

Disability recipient that she had to be working in order to rent an advertised apartment, failure to complete
application process excused as a futile gesture in claim of refusal to rent based on source of income and disability. R

Harassment

created hostile environment due to Complainant’s sexual orientation in where he claimed just one anti-gay
statement; statement, even if made, said in context of argument over unpaid rent and is not, in any case, sufficient to
create hostile environment; Respondent also showed that he had rented to at least one other gay individual without
problems. R

proceed even if there is no eviction claim as it constitutes possible discrimination in “terms, conditions and
privileges” of occupancy. R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent found liable where his agent/building
manager harassed Complainant due to race of her boyfriend and children as owner had non-delegable duty not to
discriminate or to permit discrimination. [Reversed by Cook County Circuit Court, finding no vicarious liability, No.
03 CH 4247 (Dec. 11, 2003)] R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Where owner had notice only that services of building
manager were poor but not discriminatory, CFHO does not require owner to become further involved. R

Rogers/Sloomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Owners of housing accommodations have
a non-delegable duty not to discriminate and may be held liable for the acts of their agents; here, non-acting co-
owner held liable for discrimination of other owner who harassed Complainants because they are Polish. R

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) Notes
that, for harassment to violate the CFHO, it must be sufficiently severe or pervasive to alter the housing conditions
and not be isolated or trivial; thus, even assuming that one resident/respondent did make one complaint about
Complainants, that is not sufficient to constitute harassment. CO

Brennan v. Zeeman, CCHR No. 00-H-5 (Feb. 19, 2003) Prima facie case of sexual orientation where
landlord harassed gay tenant and roommate including calling them “faggot” and “queer,” refused to renew lease
after doubling rent, then rented unit to heterosexual tenant at lower price. R

orientation established based on landlord’s negative comments to tenant about being gay, barring his guest perceived
to be gay, telling his family he is gay when he had not informed them, and telling his mother she did not want him in
building because he is gay. R

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) Prima facie case of disability discrimination where
defaulted landlord used disability-related slurs on multiple occasions in communicating with disabled tenant about
landlord-tenant issues, calling her a “crippled bitch” and engaging in other harassing actions. R

Dugan v. Berganos, CCHR No. 05-H-17 (July 8, 2005) Harassment, even if it does not result in
discriminatory eviction, violates CFHO if sufficiently severe or pervasive to alter “terms, conditions and privileges”
of housing arrangement. Complaint alleging that landlords continually disparaged Complainant’s source of income
and made eviction threats over stated three-month period held sufficient to state harassment claim. CO
Freiman v. Crescent Heights Mgmt., CCHR No. 03-H-52 (July 12, 2007) Complainant’s allegations citing two incidents when maintenance engineer “verbally assaulted” him and another employee yelled and cursed at him found insufficient to support claim of harassment based on disability status. CO

Ennajari v. 4626 N. Kenmore Condo. Assn. et al., CCHR No. 07-H-33 (Nov. 4, 2008) Complaint claiming harassment of condominium unit owner could not be dismissed where it stated the date, location, and description of alleged harassing incidents and the claimed discrimination bases, where CHR could not determine whether the alleged incidents constituted harassment or other disparate treatment without further factual assessment, and where at least some allegations may be found severe or pervasive enough to constitute harassment. CO

Holding Over – No new decisions in this volume.

Indirect Discrimination

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) Caucasian Complainant may bring indirect discrimination claim that he was unable to co-rent his apartment due to Respondent’s bias against African-American individuals who might have rented there. R

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) Complainant did not show that Respondent even made the allegedly anti-African-American statements alleged and did not show that, even if made, they interfered with Complainant’s ability to co-rent his apartment. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR found Respondents liable for having an “adults-only” policy which they used to discourage Complainant/owners from selling unit to Complainant/buyers who had a child. R

Carroll v. Moravec, CCHR No. 00-E-12 (May 24, 2001) CHR denied motion to dismiss case in which Complainant alleged that Respondent evicted her due to the race, ancestry and national origin of the people with whom she associated, finding such action would constitute indirect discrimination. CO

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent found liable where his agent/building manager harassed Complainant due to race of her boyfriend and children as owner had non-delegable duty not to discriminate or to permit discrimination. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Complainant suffered compensable emotional distress despite fact that harassment was aimed at white Complainant’s African-American boyfriend and children. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Language Ability – No new decisions in this volume.

Lease Extension

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Despite the fact that Respondent refused to consider Complainant’s Section 8 voucher before he knew that accepting it would require him to extend her lease, he was found not liable because he had decided, before he knew that Complainant wanted to use her voucher, to rent the apartment to his daughter after the original end-date of Complainant’s lease; there was no evidence that Respondent modified leases of tenants who did not use Section 8 vouchers. R

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Among other things, Complainant did not show that Respondent had ever agreed to modify existing leases for tenants who did not pay rent with a Section 8 voucher. R

Marital Status – No new decisions in this volume.

Mixed Motives

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Case in which Respondent refused to consider Complainant’s Section 8 voucher before he knew that accepting it would require her to extend her lease held not to be a “mixed-motive” case in that Respondent had already decided to rent to his daughter after Complainant’s lease expired and so there was no apartment available for Complainant for the time she needed it at the time he rejected her; “there can be no discriminatory refusal to rent when there is nothing available to rent”. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) Respondents could not rely upon a mixed motive defense because they failed to show that they would have rejected the Complainant/buyers absent the parental status discrimination. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Mixed motive analysis applied to housing discrimination case: where respondent proves it would have taken the adverse action regardless of complainant’s protected class, respondent not absolved of liability but damages reduced appropriately. Respondents proved “same result” defense where condo association president’s anti-gay animus
played a part in a lesbian unit owner’s eviction and denial of purchase approval to unit owner’s lesbian partner, but both actions would have occurred even if Complainants were not lesbian because unit owner failed to make assessment payments for eight months and potential purchaser attempted unauthorized move-in. R

**Mortgage Denial**

*Tibbs v. Citibank*, CCHR No. 01-CR-1 (Oct. 17, 2001) CFHO does not cover bank which denied mortgage application because it is not an “owner, lessee, sublessee, assignee, managing agent or other person, firm or corporation having the right to sell, rent, lease or sublease any housing accommodation;” case allowed to proceed under CHRO’s credit discrimination provision. CO

**National Origin Discrimination**

*Rogers/Slomba v. Diaz*, CCHR No. 01-H-33/34 (Apr. 17, 2002) Respondents found liable for harassing Complainants explicitly because they are Polish. R

**Occupancy Standards**

*Harboe/Dimm v. Realty & Mortg. Co., et al.*, CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Where the apartment in question was large enough, per Chicago’s occupancy code, for Complainants’ family and where Respondents expressly did not renew Complainants’ lease due to the size of their family, CHR found substantial evidence of parental status discrimination; left issue about whether sleeping arrangements were proper – one child in a “closet” – for possible administrative hearing. CO

**Parental Status Discrimination**

*Godard v. McConnell*, CCHR No. 97-H-64 (Jan. 17, 2001) In default case, CHR found Respondent liable for not allowing Complainant to apply for an apartment because Complainant has children. R

*Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al.*, 99-H-39/53 (Apr. 18, 2001) CHR found Respondents liable for having an “adults-only” policy which they used to discourage Complainant/owners from selling unit to Complainant/buyers who had a child. R

*Grzanecki v. Nelson Court Apts., et al.*, CCHR No. 98-H-168 (Oct. 4, 2001) Request for Review of a NSE finding about her parental status claim in which she asked CHR to interview tenants who would say that her children were not disruptive denied, finding landlord’s rules about children’s conduct were not so restrictive as to be tantamount to forcing families to leave and where landlord was not unreasonable in believing her children caused problems, even if it might have been wrong on occasion, thus not evidencing discriminatory intent. CO

*Harboe/Dimm v. Realty & Mortg. Co., et al.*, CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Parental status discrimination includes discrimination based on the number of children in a family, not merely on whether there were any children. CO

*Harboe/Dimm v. Realty & Mortg. Co., et al.*, CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Where the apartment in question was large enough, per Chicago’s occupancy code, for Complainants’ family and where Respondents expressly did not renew Complainants’ lease due to the size of their family, CHR found substantial evidence of parental status discrimination; left issue about whether sleeping arrangements were proper – one child in a “closet” – for possible administrative hearing. CO

*Cunningham v. Bui & Phan*, CCHR No. 01-H-36 (Mar. 19, 2008) No parental status discrimination due to insufficient evidence that having children was reason Complainant was told he could not rent the apartment, noting that language difficulties were a factor in the communication which occurred. R

**Persons Potentially Liable**

*Aljazi v. Owners of 4831 N. Drake, et al.*, CCHR No. 99-H-77 (Apr. 27, 2000) CHR notes that the CFHO states that respondents can include agents of an owner or individuals with authority to rent a housing accommodation, even if the individual is not herself an owner. CO

*Sorto/Espinosa v. DiStefano, Permex Mgt., et al.*, CCHR No. 00-H-63/66/67 (Apr. 12, 2001) In dicta, CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CO

*Day v. Breakthrough Urban Ministries, et al.*, CCHR No. 01-H-12 (Sep. 26, 2001) CFHO does not cover agency which withdrew social services from complainant because agency is not an “owner, lessee, sublessee, assignee, managing agent or other person” even though receiving those social services is what made complainant eligible for a certain housing program run by a separate agency. CO

*Tibbs v. Citibank*, CCHR No. 01-CR-1 (Oct. 17, 2001) CFHO does not cover bank which denied mortgage application because it is not an “owner, lessee, sublessee, assignee, managing agent or other person, firm or corporation having the right to sell, rent, lease or sublease any housing accommodation;” case allowed to proceed
under CHRO’s credit discrimination provision. CO

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent found liable where his agent/building manager harassed Complainant due to race of her boyfriend and children as owner had non-delegable duty not to discriminate or to permit discrimination. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Gallegos v. Baird & Warner et al., CCHR No. 01-H-21 (Jan. 18, 2002) While director of corporation can rarely be held liable for action or inaction of corporation, this individual was named as a respondent for his own alleged failings; CHR denied motion to dismiss individual in order to determine whether he may be an agent of corporation as required by CFHO; discusses agency standards. CO

Gallegos v. Baird & Warner et al., CCHR No. 01-H-21 (Jan. 18, 2002) CHR denies motion to dismiss, rejecting argument that agents cannot be liable for acts of disclosed principal; finds that whether the acts were done at direction of the known principal was a question of fact and holds that the case law cited states that agents of known principals can be liable to the third party, here Complainant, if agent owes a separate duty to that third party as the CFHO creates. CO

Leadership Council for Metropolitan Open Communities v. Chicago Tribune, CCHR No. 02-H-19 (Apr. 11, 2002) CHR dismissed newspaper which printed housing ad refusing rental based on source of income finding it is not an owner, lessee or other entity, including agent, listed by CFHO and so not proper respondent under it. CO

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (April 17, 2002) Owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents; here, non-acting co-owner held liable for discrimination of other owner who harassed Complainants because they are Polish. R

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (April 25, 2002) CHR dismissed claims against condominium owners who were not members of or employed by the condo board, finding that merely being an owner or tenant is not sufficient to be a respondent as such owners are merely neighbors; one has to have rights to the housing in question. CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (Apr. 25, 2002) For a person to be a proper respondent, he or she must have rights to the property in question. CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (Apr. 25, 2002) Language of Fair Housing Ordinance is not meant to prohibit everyone from doing certain acts, only those who fit into one or more of the categories City Council listed. CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) Relying on order listed above, CHR dismissed claim against another condominium resident, finding that merely being an owner or tenant is not sufficient to be a respondent as such owners are merely neighbors; one has to have rights to the housing in question to be a respondent under the CFHO. CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) CHR dismissed president of condominium board, finding she was named only in her official capacity, where complaints did not allege that she had made any accusation against Complainants, harassing or otherwise, and did not allege that she took any action against Complainants other than to convene and preside over a meeting to address the dispute among the residents. CO

Leadership Council for Metropolitan Open Communities v. Chicago Tribune, CCHR No. 02-H-19 (June 6, 2002) CHR upholds prior decision [above] that the Tribune is not an “agent” of a housing provider merely by publishing a housing advertisement and so is not a proper respondent under the CFHO. CO

Hoskins v. Campbell, CCHR No. 01-H-101 (July 11, 2002) Complaint dismissed as to prior owner; respondents restricted to those who own, manage or otherwise have rights to housing at issue at relevant time. CO

Miller v. Deborah’s Place et al., CCHR No. 03-H-14 (Aug. 21, 2003) Government entity held not covered under CFHO where Complainant failed to allege that it was an “owner, lessee, sublessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent or lease any housing accommodation...or any agent of these” with respect to Complainant’s housing. CO

Isaac v. 7721-7723 N. Sheridan Rd. Condo. Assn. et al., CCHR No. 03-H-79 (Apr. 26, 2004) Complaint dismissed as to owners of neighboring condominium units who were not members, employees, or agents of condominium board, as they had no rights over Complainant’s unit. CO

Dube v. Muhr, CCHR No. 05-H-9 (Feb. 23, 2005) Complaint dismissed where Respondent was merely a neighboring tenant who had no ownership interest or other rights as to Complainant’s housing unit. CO

Jara v. Shoreline Towers Condo. Assn. et al., CCHR No. 05-H-18 (Nov. 10, 2005) Building manager for condominium association is inferred by title and alleged conduct to be subject to CFHO as agent of expressly covered entities; motion to dismiss as respondent denied but any factual issue as to actual authority can be addressed in investigation. However, Complaint dismissed as to president of condominium association where it was not alleged that he personally participated in alleged discriminatory conduct, as he cannot be held personally liable for acts of association merely because he is president. CO
Garrett v. Residents of Apartments 102 & 105 et al., CCHR No. 06-H-1 (Jan. 11, 2006) Complainant dismissed where Respondents were merely neighboring tenants who had no ownership interest or other rights as to Complainant’s housing unit or building. CO

Pruitt v. Grubb & Grubb Property Mgmt., Inc., CCHR No. 05-H-68 (Apr. 3, 2006) Property management companies and individual property managers of condominium associations are covered by the CFHO as agents. CO

Arvanites & MacEntee v. Woldman et al., CCHR No. 05-H-44/53/45/49/47/52 (May 18, 2006) Complaints dismissed against occupant, owner, and agent of owner of neighboring condominium unit who were not members or agents of condominium board; found to be neighbors with no rights over Complainant’s unit. CO

MacEntee & Arvanites v. 539 Stratford Condo. Assn. et al., CCHR No. 05-H-46/50/48/51 (May 18, 2006) Condominium associations and their property managers are covered by the CFHO as agents. CO

De Los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Aug. 23, 2006) Condominium associations, individual board members, property management companies, and individual property managers of condominiums may be properly named as respondents under CFHO as agents. CO

Ennajari v. 4626 N. Kenmore Condo. Assn. et al., CCHR No. 07-H-33 (Nov. 4, 2008) Housing discrimination complaint dismissed as to Respondents who were owners or renters of other condominium units but not acting as agents of the condominium association. They are merely neighbors; the CFHO does not apply to such persons but only to those with ownership interest in the dwelling unit in question and their agents. No dismissal as to current condominium association president because CHR must at least investigate whether she was acting as agent of the association when she engaged in the conduct alleged. CO

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) Principal official of housing development corporation dismissed as Respondent where allegations and evidence only concerned his official capacity with no proof that he personally took any discriminatory action. R

Race Discrimination

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) Complainant did not show that Respondent even made the allegedly anti-African-American statements alleged and did not show that, even if made, they interfered with Complainant’s ability to co-rent his apartment. R


Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent found liable where his agent/building manager harassed Complainant due to race of her boyfriend and children as owner had non-delegable duty not to discriminate or to permit discrimination. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]R

Thomas v. Prudential Biros Real Estate et al., CCHR No. 97-H-59/60 (Feb. 18, 2004) No race discrimination by real estate agents where sale was negotiated based on another offer with more favorable terms; no racial animus or pretext found in recommending that sellers respond to best offer rather than multiple offers, refusal to split commission, exclusion of listing from the Multiple Listing Service, timing of showings of property in question, and actions subsequent to showing. R

McPhee v. Novovic, CCHR No. 00-H-69 (Sep. 15, 2004) Although racial animus was established where landlord objected to housing Blacks or Puerto Ricans on premises and to rental of commercial unit to Black-owned business, no CFHO violation found because evidence did not establish that landlord prevented Complainant from qualifying to operate a foster care facility or that racial animus caused her eviction for non-payment of rent. R


Cunningham v. Bui & Phan, CCHR No. 01-H-36 (Mar. 19, 2008) No prima facie case of race discrimination where Complainant did not establish that apartment remained available to rent after Complainant was rejected and there was no other credible evidence on which to base a race discrimination finding. R

Gray v. Scott, CCHR No. 06-H-10 (Apr. 20, 2011) No race discrimination found where African-American landlord allegedly made one race-based statement to African-American tenant during an argument and there was no evidence landlord would have treated a non-African-American differently. R

Rivera v. Pera et al., CCHR No. 08-H-13 (June 15, 2011) Complainant proved prima facie case of race and ancestry discrimination where his name identified him as Hispanic, he was interested in renting and landlord knew of his interest, and he was rejected while the unit remained available. But no liability found because Respondents proved a non-discriminatory reason for refusal to rent, namely Complainant’s combative conduct in resisting a lease provision for a $25 late fee found to be standard and not the $250 amount Complainant contended. R
Complainant did not prove race discrimination where based on multiple-level hearsay and the alleged racial comment, while expressing bias, did not affirm intent to block sale of condo unit to Complainant based on race. R

McGhee v. MADO Management LP, CCHR No. 11-H-10 (Apr. 18, 2012) No racially discriminatory refusal to rent where evidence showed advertised apartment had been rented before Complainant contacted property owner in response to the ad, and no other units were available at that location. R

**Real Estate Broker/Salesperson**

**Sercye v. Reppen and Wilson**, CCHR No. 08-H-42 (Oct. 21, 2009) Pursuant to MCC Sec. 5-8-130, CHR is mandated to notify Illinois Dept. of Financial and Professional Regulation of finding of violation of Fair Housing Ordinance by licensed real estate broker or salesperson. R

**Religious Discrimination – No new decisions in this volume.**

**Retaliation**

**Denison v. Condo Board, 212 W. Washington**, CCHR No. 02-H-85 (Dec. 2, 2002) CFHO does not prohibit retaliation, intimidation, or coercion against person opposing discriminatory practices; thus, Complainant’s claim that she was retaliated against for complaining about discriminatory practice regarding children residing in building not within CHR’s jurisdiction. CO

**Coleman v. Cradon Place Bd. of Directors**, CCHR No. 03-H-45 (June 23, 2003) CFHO does not contain provision prohibiting retaliation; that claim available only under CHRO. CO

**De los Rios v. Draper & Kramer, Inc. et al.**, CCHR No. 05-H-32 (Aug. 23, 2006) CFHO does not have provision prohibiting retaliation; only CHRO prohibits retaliation for filing complaint at CHR. R

**Weinert v. Gowlovech**, CCHR No. 07-H-36 (Sept. 18, 2007) No jurisdiction over claims of interference or retaliation for asserting rights under the CFHO or the federal Americans with Disabilities Act (ADA). Fair Housing Ordinance does not prohibit retaliation or interference, and CHR does not enforce the ADA. CO

**Sex Discrimination – See also Housing Discrimination/Sexual Harassment, below.**

**Frazier v. Midlakes Mgmt. LLC et al.,** CCHR No. 03-H-41 (Sep. 15, 2003) Reg. 420.170 makes clear that CFHO’s prohibition of discrimination against any person because of his or her sex in any of the terms and conditions of housing includes sexual harassment. Complaint alleging Complainant was refused opportunity to rent larger unit in building after refusing building manager’s sexual advances held sufficient to state claim. CO

**Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Prima facie case of sexual harassment established where landlord repeatedly demanded sexual favors from tenant, offered to reduce security deposit in return for sex, sexually assaulted her, then attempted to evict her for resisting his advances using unfounded termination notices. R

**Sexual Harassment – See also Sexual Harassment section, below.**

**Caproni v. The Ark, Singer Residence et al.,** CCHR No. 02-H-78 (Aug. 21, 2003) Motion to dismiss asserting insufficient facts to support sex discrimination claim denied where Complaint alleged at least one request for sex by Respondent while providing Complainant with needed household items and also alleged Respondent stopped knocking on Complainant’s door when her husband was present. CO

**Frazier v. Midlakes Mgmt. LLC et al.,** CCHR No. 03-H-41 (Sep. 15, 2003) Reg. 420.170 makes clear that CFHO’s prohibition of discrimination against any person because of his or her sex in any of the terms and conditions of housing includes sexual harassment. Complaint alleging Complainant was refused opportunity to rent larger unit in building after refusing building manager’s sexual advances held sufficient to state claim. CO

**Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Prima facie case of sexual harassment established where landlord repeatedly demanded sexual favors from tenant, offered to reduce security deposit in return for sex, sexually assaulted her, then attempted to evict her for resisting his advances using unfounded termination notices. R

**Gray v. Scott**, CCHR No. 06-H-10 (Apr. 20, 2011) Based on hearing officer’s assessment of credibility, sexual harassment found where landlord frequently made sexual gestures and comments such as “you’re not nice to me” which were offensive, unwelcome, and pervasive. R

**Sexual Orientation Discrimination**

**Anderson v. Stavropoulos**, CCHR No. 98-H-14 (Feb. 16, 2000) Complainant did not prove that Respondent created hostile environment due to sexual orientation in that he claimed just one anti-gay statement; that statement, even if made, was said in context of argument over unpaid rent and is not, in any case, sufficient to create a hostile environment; Respondent also showed that he had rented to at least one other gay individual without problems. R

landlord harassed gay tenant and roommate including calling them “faggot” and “queer,” refused to renew lease after doubling rent, then rented unit to heterosexual tenant at lower price. R

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) Prima facie case of harassment and attempted eviction due to sexual orientation established where landlord commented negatively about tenant being gay, barred his guest perceived to be gay, told his family he is gay when he had not informed them, told his mother she did not want him in building because he is gay, then issued termination notice on pretext of not being current in rent. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Negative and derogatory remarks by condo association president about lesbian unit owner’s sexual orientation created hostile housing environment for unit owner. Using mixed motive analysis, CHR found the association president’s anti-gay animus played a part in unit owner’s eviction and in blocking a unit purchase by unit owner’s lesbian partner, but Respondents proved “same result” defense that the eviction and purchase denial would have occurred even if Complainants were not lesbian. Although Respondents not absolved of liability by mixed motives, damages would be reduced appropriately. R

Shelters – No new decisions in this volume.

Source of Income Discrimination

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Despite the fact that Respondent refused to consider Complainant’s Section 8 voucher before he knew that accepting it would require him to extend her lease, he was found not liable because he had decided, before he knew that Complainant wanted to use her voucher, to rent the apartment to his daughter after the original end-date of Complainant’s lease; there was no evidence that Respondent modified leases of tenants who did not use Section 8 vouchers. R

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Although there is no question, under CHR precedent, that a Section 8 voucher is a source of income under the CFHO, rejecting a voucher is not per se illegal source of income discrimination; CHR shall evaluate the facts of each such case, including determining how burdensome it may be to a landlord to participate in the Section 8 program. R

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Landlord’s objection to terms of lease required by Section 8 program found not enough to defeat source of income complaints as a matter of law. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Complainants found to have made adequate source of income complaints where one Complainant claimed that Respondent explicitly stated it would not rent to people using Section 8 vouchers and where the other two Complainants showed that Respondent ceased its dealings with them upon learning that they used Section 8 vouchers. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 12, 2000) Where complaints alleged discrimination on source of income, not sufficiency of income, they were sufficient to withstand motion to dismiss. HO

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (July 18, 2001), affirmed Godinez v. Sullivan-Lackey et al., 815 N.E.2d 822 (Ill. App. 2004) Landlords who refused to rent to Complainant because she was to pay her rent with a Section 8 voucher and who told testers that they would not accept Section 8 vouchers that they would not accept Section 8 found liable for source of income discrimination. R

Hoskins v. Campbell, CCHR No. 01-H-101 (Apr. 16, 2003) Prima facie case of source of income discrimination where Section 8 voucher holder inquiring about apartment advertised for rent was asked how she would pay then told that landlord did not take Section 8 vouchers, only “working people.” R

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Complainant proved through direct evidence that landlord discriminated against her due to source of income by refusing to show her an apartment advertised for rent because she was not employed but instead received Social Security Disability income. R

Marshall v. Gleason, CCHR No. 00-H-1 (Apr. 21, 2004) No discrimination found where landlord knew Complainant would use Section 8 voucher when he agreed to show an apartment he was renovating, explained the unit was not habitable and not on the market, offered to rent her other units knowing she would use a voucher, never put the unit on the market but occupied it himself, and rented to other Section 8 recipients in Chicago during relevant time period. Landlord’s comments about Section 8 program did not establish pretext. R

Torres v. Gonzales, CCHR No. 01-H-46 (Jan. 18, 2006) Prima facie case of Section 8 source of income discrimination presented where landlord accepted security deposit and signed moving papers, then failed to appear for four scheduled inspection appointments, rented to other tenants, and told Complainant he did not want to deal with Section 8 “mumbo jumbo.” R

Hodges v. Hua & Chao, CCHR No. 06-H-11 (May 21, 2008) Based on hearing officer’s assessment of credibility, no source of income discrimination where prospective tenant claimed landlord told her he did not accept
Section 8 vouchers. Respondents did not rent apartment to Complainant because she did not view it and complete application as Respondents’ policy required. R

Draft v. Jerich, CCHR No. 05-H-20 (July 16, 2008) After order of default, prima facie case of source of income discrimination established where apartment owners showed unit to prospective tenant but when they learned she would use a Section 8 voucher told her they would not rent to Section 8 recipients. R

Sercey v. Reppen and Wilson, CCHR No. 08-H-42 (Oct. 21, 2009) Source of income discrimination admitted by Respondents where real estate agent told Complainant the owner did not participate in Section 8 voucher program. R

Diaz v. Wykurz et al., CCHR No. 07-H-28 (Dec. 16, 2009) Source of income discrimination found where co-owner of building made the decision and told Complainant she would not accept a Section 8 voucher. Asserted lack of knowledge about Section 8 program found not credible and not a defense to liability. R

Hutchison v. Iftekaruddin, CCHR No. 08-H-21 (Feb. 17, 2010) Source of income discrimination proved through direct evidence where landlord refused to rent to voucher holder stating he “had bad experiences with Section 8.” Frustration with administration of the voucher program does not justify refusal to rent to voucher holders where landlord has not shown a substantial burden imposed on him in the particular case. Violation also proved through indirect evidence in that Complainant complied with all application steps requested and Respondent never asked for application fee despite claiming failure to pay the fee was his reason for rejecting her. R

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Resolving credibility issues in Complainant’s favor, source of income discrimination found based on direct evidence a property manager told Complainant the owner would not accept Section 8 recipients in the building. Building owner and management company found vicariously liable. R

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) After order of default, source of income discrimination found where nonprofit developer receiving financial support through City of Chicago to build affordable housing refused to sign riders and allow inspections to enable two potential purchasers to finance in part with a subsidy under a different City-sponsored program. R

Standing

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Organization developed to advocate for equal housing rights for members of protected classes may sue and may recover damages if it shows its purposes were frustrated. Also, fact that Complainant’s case rested on testimony of testers who did not actually wish to rent the apartment does not itself cause Complainant to lose as the Supreme Court, other courts and CHR have found that testers can have standing to sue, more than they were doing here. R

Isaac v. 7721-7723 N. Sheridan Rd. Condo. Assn. et al., CCHR No. 03-H-79 (Apr. 26, 2004) Where condominium unit owner alleged that Respondents harassed his tenants renting his unit, he had standing to bring claim of indirect discrimination under CFHO. CO

Testers

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Fact that Complainant’s case rested on testimony of testers who did not actually wish to rent the apartment does not itself cause Complainant to lose as the Supreme Court, other courts and CHR have found that testers can have standing to sue, more than they were doing here. R

INDIRECT DISCRIMINATION

Burden of Proof

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) To establish a violation of the CFHO for indirect discrimination, Complainant must show either that Respondent refused his request to have African-American roommates or unlawfully interfered with his attempt to do so. R

Burden Shifting – No new decisions in this volume.

Claim Allowed

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) Caucasian Complainant may bring indirect discrimination claim that he was unable to co-rent his apartment due to Respondent’s bias against African-American individuals who might have rented there. R

Carroll v. Moravec, CCHR No. 00-E-12 (May 24, 2001) CHR denied motion to dismiss case in which Complainant alleged that Respondent evicted her due to the race, ancestry and national origin of the people with whom she associated, finding such action would constitute indirect discrimination. CO

Gott v. Novak, CCHR No. 02-H-1/2 (Aug. 21, 2002) Respondent’s contention that CFHO provides no relief
for indirect discrimination is frivolous because CHR has repeatedly recognized that such claims are cognizable. CO Isaac v. 7721-7723 N. Sheridan Rd. Condo. Assn. et al., CCHR No. 03-H-79 (Apr. 26, 2004) Where condominium unit owner alleged that Respondents harassed his tenants renting his unit, he had standing to bring claim of indirect discrimination under CFHO. CO

Claim Not Allowed – No new decisions in this volume.

Damages
Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Complainant suffered compensable emotional distress despite fact that harassment was aimed at white Complainant’s African-American boyfriend and children. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]

Indirect Discrimination Found
Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR found Respondents liable for having an “adults-only” policy which they used to discourage Complainant/owners from selling unit to Complainant/buyers who had a child. R Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent found liable where his agent/building manager harassed Complainant due to race of her boyfriend and children as owner had non-delegable duty not to discriminate or to permit discrimination. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]

Montelongo v. Azarpire, CCHR No. 09-H-23 (Mar. 16, 2011) Mother of 15-year-old autistic child established prima facie case of indirect discrimination based on disability where property owner refused to rent apartment to her after the child acted out at the showing in circumstances supporting inference the child was perceived to have a disability. R

Indirect Discrimination Not Found
Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) Complainant did not show that Respondent even made the allegedly anti-African-American statements alleged and did not show that, even if made, they interfered with Complainant’s ability to co-rent his apartment. R

McPhee v. Novovic, CCHR No. 00-H-69 (Sep. 15, 2004) Although racial animus was established where landlord objected to housing Blacks or Puerto Ricans on premises and to rental of commercial unit to Black-owned business, no CFHO violation found because evidence did not establish that landlord prevented Complainant from qualifying to operate a foster care facility or that racial animus caused her eviction for non-payment of rent. R

INDIVIDUAL LIABILITY

Damages – No new decisions in this volume.

Indemnification Agreement – No new decisions in this volume.

Nature of Claim
Stanley v. Chicago Police Dept., et al., CCHR No. 01-E-31 (Oct. 2, 2001) There is no question that persons may be sued individually at CHR; thus, there is no presumption that an official named as a respondent was named only in his or her official capacity. CO

Stanley v. Chicago Police Dept., et al., CCHR No. 01-E-31 (Oct. 2, 2001) CHR cites U.S. Supreme Court case stating that “official-capacity” suits “represent only another way of pleading an action against an entity of which an officer is an agent”. CO

Stanley v. Chicago Police Dept., et al., CCHR No. 01-E-31 (Oct. 2, 2001) To determine whether an individual is named in his or her official or personal capacity, CHR decides whether there are claims that the named person took allegedly discriminatory or adverse action against the complainant, thus suggesting he or she was not named merely as another way to sue the entity. CO

Love v. Chicago Office of Emergency Communics., et al., CCHR No. 01-E-46 (Oct. 16, 2001) (same as all three entries above) CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (5-30-02) To determine whether a person is named in her official or personal capacity, CHR looks to the manner in which the parties have treated the suit. CO

Official Capacity
Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001)
Where only allegation about Library Commissioner is that she presented a certain plan and did not allege that she took part in any discrimination, she was found to be named as a respondent in her official capacity and so dismissed from the case. CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) CHR dismissed president of condominium board, finding she was named only in her official capacity, where complaints did not allege that she had made any accusation against Complainants, harassing or otherwise, and did not allege that she took any action against Complainants other than to convene and preside over a meeting to address the dispute among the residents. CO

Isaac v. 7721-7723 N. Sheridan Rd. Condo. Assn. et al., CCHR No. 03-H-79 (Apr. 26, 2004) Complaint dismissed as to condominium association board members described as “collectively, the Board,” because when acting collectively as corporate board they are not subject to individual liability. CO

Jara v. Shoreline Towers Condo. Assn. et al., CCHR No. 05-H-18 (Nov. 10, 2005) Complaint dismissed as to president of condominium association where not alleged that he personally participated in alleged discriminatory conduct, as he cannot be held personally liable for acts of association merely because he is president. CO

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) Principal official of housing development corporation dismissed as Respondent where allegations and evidence only concerned his official capacity with no proof that he personally took any discriminatory action. R

Pinkston v. City of Chicago Fire Department et al., CCHR No. 12-E-16 (Aug. 3, 2012) Fire Commissioner dismissed as individual Respondent where no allegations he personally took any action against Complainant, he cannot be held personally liable merely as Fire Commissioner, and he need not be named in official capacity under CHR rules. CO

**Personal Capacity**

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) Where one allegation about a Library committee chair was that she made a possibly discriminatory statement, CHR found the allegation concerned her personally and not just in her official capacity and so declined to dismiss her as a matter of law. CO

Stanley v. Chicago Police Dept., et al., CCHR No. 01-E-31 (Oct. 2, 2001) Where Complainant alleged that the individual respondent was the person who placed him on two leaves of absences due to his sex and those were two of the main incidents in the complaint, CHR found she had been named in her personal capacity. CO

Love v. Chicago Office of Emergency Communications et al., CCHR No. 01-E-46 (Oct. 16, 2001) Where Complainant alleged that the individual respondent, the executive director of named agency, was the person who discharged her due to her race and sex, where he signed the discharge letter and stated that he reviewed the matter, CHR found that he was named in his personal capacity. CO

Howard, Warren & Watts v. 7-Eleven, et al., CCHR No. 01-PA-69/90/91 (Dec. 4, 2001) where one complaint did not contain any claims at all about one individual respondent, she was dismissed. CO

Howard, Warren & Watts v. 7-Eleven, et al., CCHR No. 01-PA-69/90/91 (Dec. 4, 2001) Where complaints simply stated that two individuals simply provided information [about names of the people involved and about video-taping] after the allegedly discriminatory actions were taken by others, those individuals were dismissed from the case. CO

Nuspl v. Marchetti, CCHR No. 98-E-207 (Dec. 17, 2001) Individuals, not just employers, may be held liable under the CHRO; here, individual respondent was a co-owner of business and he was alleged to have taken the discriminatory acts. HO

Kopnick v. Chicago Bd. of Educ., et al., CCHR No. 01-E-135 (Jan. 10, 2002) Although there is no question that individuals may be named as respondents where he or she was alleged to have violated the CHRO, where complaint did not make any allegations at all against one individual, that individual respondent was dismissed. CO

Gallegos v. Baird & Warner et al., CCHR No. 01-H-21 (Jan. 18, 2002) While director of corporation can rarely be held liable for action or inaction of corporation, this individual was named as a respondent for his own alleged failings; CHR denied motion to dismiss individual in order to determine whether he may be an agent of corporation as required by CFHO; discusses agency standards. CO

Gibbs v. Subway Catering et al., CCHR No. 02-E-208 (Mar. 19, 2004) Where Complainant alleged that janitor conspired to have her discharged, motion to dismiss denied because he may be held personally liable if (a) he interfered with Complainant’s employment relationship with her employer or (b) he was employed by same employer as Complainant and took discriminatory actions against her. CO

Isaac v. 7721-7723 N. Sheridan Rd. Condo. Assn. et al., CCHR No. 03-H-79 (Apr. 26, 2004) President of condominium association held to be named in personal capacity where Complaint alleged that he harassed and yelled at tenants of Complainant unit owner based on their source of income. CO

Blakemore v. Gogola et al., CCHR No. 04-P-84 (Apr. 12, 2005) Complaint dismissed as to individual
Respondents where it failed to allege that they individually committed any discriminatory acts. CO

Murray v. Ivy Apartments et al., CCHR No. 05-E-6 (June 16, 2005) Apartment Director of housing accommodation may be held personally liable under CHRO where she personally took claimed discriminatory action of discharging Complainant. CO

Easter v. Eyecare Physicians & Surgeons et al., CCHR No. 05-E-13 (Aug. 3, 2005) No dismissal as to owner of dismissed business Respondent in her individual capacity acting on behalf of second business Respondent; she may be held personally liable where as its office manager she personally took allegedly discriminatory actions against Complainant. CO

Jara v. Shoreline Towers Condo. Assn. et al., CCHR No. 05-H-18 (Nov. 10, 2005) Property manager for condominium association held to be named in personal capacity where it was alleged that he performed an action claimed to be discriminatory; even if acting within his job duties, it does not follow that he was named only in his official capacity. CO

Klarich v. City of Chicago Dep’t of Buildings et al., CCHR No. 06-E-4 (Jan. 23, 2006) Mere fact that named individual Respondent headed a City department does not render him individually responsible for alleged discrimination occurring there unless he personally engaged in action causing or furthering it. CO

McCann v. City of Chicago Fire Dep’t et al., CCHR No. 06-E-15 (Feb. 22, 2006) Mere fact that named individual Respondents headed a City department does not render them individually responsible for alleged discrimination occurring there unless they personally engaged in action causing or furthering it. CO

Beaty v. Int’l Word Outreach Ministries et al., CCHR No. 05-E-98 (Feb. 28, 2006) Complainant’s supervisor may be held personally liable under CHRO where she personally took allegedly discriminatory actions against Complainant. CO

Pruitt v. Grubb & Grubb Property Mgmt., Inc., CCHR No. 05-H-68 (Apr. 3, 2006) Individual property manager of a condominium association may be held personally liable under the CFHO where she personally took allegedly discriminatory actions against Complainant. CO

Lopez v. ClearStaff, Inc. et al., CCHR No. 06-E-6 (June 2, 2006) Individuals, not just employers, may be held liable under CHRO; manager was properly named in personal capacity where Complainant alleges he personally took actions claimed to be discriminatory. CO

De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Aug. 23, 2006) President and individual property manager of condominium association held to be named in personal capacity where Complainant read to allege actions taken specifically by them as agents of association. CO

INJUNCTIVE RELIEF

After Hearing – See Damages/Injunctive Relief section, above.

Temporary Restraining Orders

Brown v. Hirsch Mgt., et al., CCHR No. 01-H-39 (Sep. 24, 2001) While it is true that CHR is not empowered to enter temporary restraining order, Complainant asked for other relief as well and so CHR denied motion to dismiss in which Respondents argued that no relief could ever be awarded. CO

INSURANCE

Gilbert & Gray v. 7355 S. Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (Jan. 3, 2007) Although Respondent failed to raise a timely objection, hearing officer denied request for discovery of insurance documents because Complainant did not demonstrate that the information was material or relevant to issue of damages and such evidence has potential prejudicial impact. HO

Jurisdiction – No new decisions in this volume.

INTERGOVERNMENTAL AGREEMENTS – See Deferral of Cases section, above.

JURISDICTION

Arguments Other than Discrimination

White v. B.W. Phillips Realty Partners, et al., CCHR No. 00-H-118 (June 28, 2001) CHR cannot consider a defamation claim; only possible violations of CFHO or CHRO. CO

Cady v. Bell, Boyd & Lloyd, et al., CCHR No. 01-E-144 (Oct. 25, 2001) CHR cannot consider alleged violation of first amendment of U.S. Constitution, but can consider whether Complainant was fired due to his religion in violation of CHRO. CO

Williams v. City of Chicago “Government & Administrations, Boards, Commissions and Committees; Departments and Agencies”, CCHR No. 01-PA-103 (Nov. 1, 2001) CHR cannot consider alleged injuries such as perjury, deceptive business practices and disorderly conduct, only possible violations of CFHO or CHRO. CO
Williams v. Comm’n on Human Relations et al., CCHR No. 03-P-20 (Aug. 6, 2003) CHR enforces two specific City Ordinances and is not a “court of general jurisdiction;” thus, it cannot rule on claims of constitutional violations or violations of “common law.” CO

Lee v. Miller and Voci, CCHR No. 09-H-32 (Aug. 28, 2009) CHR adjudication process will determine whether claims in a complaint are well-founded and sanction any frivolous pleadings or representations. Later Complaint filed by Respondent against Complainant and her attorney, alleging they were trying to enrich themselves by manufacturing the claim against him, dismissed as not alleging conduct prohibited by the Fair Housing or Human Rights Ordinance, noting CHR does not have jurisdiction over claimed violations of other laws. CO

Crown v. City of Chicago Office of the Inspector General, CCHR No. 08-E-34 (Jan. 11, 2010) CHR does not have jurisdiction over political discrimination claims such as Shakman claims. CO

McAvoy v. All Day Montessori et al., CCHR No. 10-E-05 (Aug. 31, 2010) Individual Respondent’s “counter-complaint” dismissed because counterclaims cannot be filed at any time and most allegations claim violations of other laws CHR does not enforce as it is not a court of general jurisdiction. CO

City Council
Blakemore v. City Council Committee on License & Consumer Protection et al., CCHR No. 11-P-48 (May 13, 2011) Complaint against City Council Committee and an alderman dismissed because § 2-120-510(k) of Enabling Ordinance excludes City Council and its employees from coverage under CHRO and CFHO. CO

Completion of CHR Proceedings
Walker v. Chicago Chop House Restaurant et al., CCHR No. 03-P-91 (July 24, 2008) After disability discrimination case was dismissed pursuant to settlement agreement, Commission retained jurisdiction only to determine substantial evidence of violation of agreement but not to determine undue hardship or otherwise reopen case and adjudicate merits of complaint. CO

Concurrent Jurisdiction – See also Deferral of Cases section, above.
Martinez v. Fojtik et al., CCHR No. 99-H-33 (May 1, 2000) In denying motion to dismiss brought because Complainant had filed a similar case at HUD, CHR states that its governing ordinances do not allow it to defer or dismiss cases in such circumstances and notes that the CFHO, like the CHRO, contemplates concurrent jurisdiction for housing discrimination cases; refers to prior CHR decisions where similar case was filed at IDHR or EEOC. CO
Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (June 5, 2000) Hearing Officer denied motion to stay hearing which was based on the fact that Respondent is defending herself in federal court in a case filed by a different plaintiff but which involved the same core of operative facts; this was found not to provide “good cause” in that the CHR has issued a series of decisions finding that it does not have authority to defer a case because a similar one is pending elsewhere, even when it involves the same parties; decision also notes that a CHR ruling is not likely to have preclusive effect on a federal case. HO
Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) Where cases had been stayed by federal district court, where court ruled in favor of respondents, complainants appealed and district court lifted stay, CHR found lifting of federal stay did not require it to proceed, just permitted it to; and, because the appeal would resolve most if not all issues in CHR cases, CHR continued to hold cases in abeyance while appeal is completed. CO
Plowden v. Swiss Hotel, CCHR No. 01-E-141 (Dec. 20, 2001) Denies motion to dismiss brought because Complainant had filed a similar case at IDHR; states that there is no deferral agreement with IDHR which covers this case and again holds that its governing ordinances do not allow it to defer or dismiss cases in such circumstances; notes that the CHRO contemplates concurrent jurisdiction. CO
Plowden v. Swiss Hotel, CCHR No. 01-E-141 (Dec. 20, 2001) Fact that IDHR has set its case for mediation in five months does not affect the analysis described above. CO
Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) The fact that the CTA may be subject to state or federal laws about civil rights does not cause the City of Chicago to be deprived of jurisdiction over it. CO
Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) No provision of the Illinois Human Rights Act states that it is the sole avenue of redress for individuals with discrimination claims and so it does not grant the state exclusive jurisdiction to regulate civil rights and it does not limit the authority of home rule units, like the City of Chicago, from regulating civil rights. CO
Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) The Illinois Human Rights Act includes a provision expressly recognizing the authority of local polities to regulate civil rights, and to do so even more broadly than the IHRA. CO
Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) No law
enforced by the EEOC, including Title VII, preempts the CHRO; these laws have provisions showing that they are to work in concert with state and local regulation of civil rights. CO

Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) Fact that the CTA may be subject to regulation by other municipal governments is unlikely to cause conflict in any particular case as each locality regulates only its own domain. CO

Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) Fact that CTA may be regulated by other municipal governments does not deprive the City of Chicago of its home rule authority to regulate the CTA. CO See also separate City of Chicago Authority section, above.

Salem v. Park Edgewater Condo. Assn. et al., CCHR No. 02-H-9 (May 6, 2003) Fact that Complainant has raised discrimination as defense in eviction proceeding in another forum does not deprive CHR of jurisdiction over his discriminatory eviction claim. CO

Olagbegi v. Cagan Mgmt. Group, Inc. et al., CCHR No. 02-H-32 (May 6, 2003) Fact that Complainant also pursuing wrongful eviction action in court does not divest CHR of jurisdiction over claim under CHRO that he was evicted for discriminatory reasons. CO

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (Feb. 14, 2006) Although CHR not proper forum to appeal denial of Freedom of Information Act request, allegation of such denial can proceed as concurrent claim that access to public accommodation was withheld in discriminatory manner; no preemption by FOIA nor requirement to exhaust review options under other laws to pursue claim under CHRO. CO

De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Sept. 20, 2007) CFHO and CHRO contemplate that complainants may bring similar or even identical claims in more than one forum. Thus CHR does not adopt no substantial evidence finding of Illinois Department of Human Rights in absence of an intergovernmental agreement to accept such determinations. Res judicata not applied to substantial evidence decisions. CO

Taylor v. Somuah et al., CCHR No. 07-H-22 (Nov. 5, 2007) CHR denied motion to dismiss or stay investigation of disability discrimination complaint where Complainant filed parallel counterclaim under Americans with Disabilities Act in state court eviction case. CFHO contemplates concurrent jurisdiction and Illinois Code of Civil Procedure Sec. 2-619(a)(3) does not apply to CHR proceedings but to parallel actions brought in different state courts. Decision notes that res judicata or collateral estoppel may apply if common issues are adjudicated in state court, but investigation will proceed because it is only a preliminary examination of whether the case can go forward, not a full hearing. CO

Blakemore v. Dublin Bar & Grill, Inc. d/b/a Dublin’s Pub, et al., CCHR No. 05-P-102 (Nov. 13, 2007) CHR stayed proceedings in race discrimination case where Complainant had filed housing status discrimination complaint alleging the same incident with Cook County Commission on Human Relations (CCCHR) that was in pre-hearing process, because CCCHR adjudication process likely to conclude before CHR’s and CCCHR findings were likely to bar a different decision by CHR under preclusion doctrines. CO

Blakemore v. Chicago Transit Authority and Regional Transit Authority, CCHR No. 06-P-34 (May 12, 2008) CHR denied motion to dismiss complaint because Complainant filed similar one at Cook County Commission on Human Rights. Absent an intergovernmental agreement, nothing allows or requires CHR to dismiss its case because a related or identical one is filed elsewhere. Concurrent jurisdiction is contemplated. CO

Towers v. MIFAB, Inc., CCHR 06-E-93 (Apr. 9, 2009) Where CHR has concurrent jurisdiction and no deferral agreement with another tribunal, it may stay proceedings under certain circumstances, as when a similar case in another tribunal has progressed to a point where a decision will soon be issued which is likely to have res judicata effect. CO

Date of Injury – See Time for Filing subsection, below.

Exceptions
Bankruptcy – See separate Bankruptcy section, above.
Insurance – No new decisions in this volume.

Religious Organizations – No new decisions in this volume.

Governmental Agencies
Board of Education
Morris v. Chicago Board of Educ., CCHR No. 97-E-41 (Feb. 9, 2001) Fact that the Board of Education has discretion to make certain decisions does not make those decisions exempt from review to determine whether they were discriminatory. CO
Chicago Transit Authority

_Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002)_ The City of Chicago may apply the CHRO to the CTA. **See also separate City of Chicago Authority section, above.**

_Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002)_ State legislature did not exempt CTA from regulation by the City of Chicago and its enabling statute does not preempt the CHRO, an exercise of City’s home rule authority, from applying to it. CO **See also separate Preemption section, below.**

_Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002)_ The fact that the CTA may be subject to state or federal laws about civil rights does not cause the City of Chicago to be deprived of jurisdiction over it. CO **See also Jurisdiction/Concurrent Jurisdiction subpart, above.**

_Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002)_ In addressing when a local government may regulate a regional one, consideration is given to the nature and extent of the problem, which government has the more vital interest in it, and the role traditionally played by the governments in addressing it CO. **See also separate City of Chicago Authority section, above.**

_Blakemore v. Chicago Transit Authority and Regional Transit Authority, CCHR No. 06-P-34 (May 12, 2008)_ Motion to dismiss CTA as Respondent denied where CHR has thoroughly examined its jurisdictional authority over CTA, has long held that it has jurisdiction, and CTA presented no new arguments. CO

_Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002)_ Considering the factors cited in the prior entry, CHR finds that applying the CHRO to the CTA is proper. CO
Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) One key factor is whether the local regulation will undermine the regional agency’s ability to perform its mission; CHR finds that applying the CHRO to the CTA will not hinder it from providing public transportation. CO

Jones v. Chicago Transit Authority, CCHR 07-E-90 (Jan. 12, 2009) Motion to dismiss for lack of jurisdiction denied because CCHR has long held that it has jurisdiction over CTA and no new arguments were presented. CO

City Council

Blakemore v. Chicago City Council et al., CCHR No. 04-P-6 (Feb. 10, 2004) Complaint against Chicago City Council and its Sergeant at Arms dismissed because '2-120-510(k) of Enabling Ordinance excludes City Council and its employees from coverage under CHRO and CFHO. CO

Cook County Government

Anderson v. Cook County Hospital et al., CCHR No. 00-PA-68 (Oct. 2, 2000) Pursuant to CHR’s 1993 policy, it does not accept jurisdiction over Cook County government, including the Cook County Hospital; the Cook County Commission on Human Rights proceeds in such cases. CO

Manger v. Cook County Dept. of Corrections, CCHR No. 01-E-145 (Oct. 25, 2001) Pursuant to CHR’s 1993 policy, it does not accept jurisdiction over Cook County government; the Cook County Commission on Human Rights proceeds in such cases. CO

Blakemore v. Cook County Bd. of Comms., Cook County Hosp., et al., CCHR No. 01-PA-108 (Dec. 13, 2001) (same; non-County respondent not dismissed) CO

Ross-Jackson v. Allstate Insur. Co., CCHR No. 02-PA-17 (Mar. 6, 2002) Where claim about dismissal of court action was only timely event, CHR dismissed case finding that circuit court was either a county or a state entity and CHR does not have jurisdiction over either. CO

Blakemore v. Cook County Forest Preserve Dist. et al., CCHR No. 04-P-7 (Feb. 10, 2004) Complaint against Cook County Forest Preserve District, Cook County Sheriff’s Department, and their employees dismissed as outside CHR jurisdiction; pursuant to CHR’s 1993 policy, CHR does not accept jurisdiction over Cook County government – Cook County Commission on Human Rights proceeds in such cases. CO

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (July 13, 2004) Issuing of orders and conducting of administrative hearings by Cook County Commission on Human Rights (CCCHR) held not to involve public accommodation under CHRO and also to be covered by quasi-judicial immunity under Bushnell criteria. Thus Complaint (accepted under intergovernmental agreement) dismissed as to CCCHR hearing officer and executive director who issued decisions concerning Complainant’s case. CO

Rubert v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (Feb. 14, 2006) Argument for absolute quasi-judicial immunity of Cook County Commission on Human Rights rejected, as not all agency services and functions are necessarily immune. However, based on examination of regulatory scheme, actions in execution of adjudicatory powers from point of filing to final decision found to be taken as quasi-judicial tribunal and thus covered by immunity doctrine. CO

Frieson v. John H. Stroger Jr. Hospital of Cook County, et al, CCHR No. 07-E-03 (Feb. 7, 2007) Pursuant to CHR’s 1993 policy, it does not accept jurisdiction over Cook County government including the Cook County Hospital; the Cook County Commission on Human Rights proceeds in such cases. CO

Blakemore v. Foley, et al., CCHR No. 10-P-07 (Apr. 2, 2010) Pursuant to CHR’s 1993 policy, it does not accept jurisdiction over Cook County government including Cook County Hospital.

Federal Agencies

Rankin v. Federal Reserve Bank of Chicago, CCHR No. 01-E-99 (Aug. 9, 2001) Federal Reserve Bank held to be a federal “executive agency” so that Complainant’s exclusive remedy for a discrimination claim is through the federal system and CHR has no jurisdiction. CO

Generally – No new decisions in this volume.

Immunity – See also Governmental Immunity section, above.

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) CHR found Respondent not immune from emotional distress damages due to the Tort Immunity Act as that act applies only to tort-like injuries, not civil rights violation as involved in this case; cites federal and state cases. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) CHR found that common law immunity, but not the Tort Immunity Act, makes Respondent immune from paying punitive damages. R

Blakemore v. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) CHR did not accept
Respondent’s contention that Police have “blanket” immunity for failing to make an arrest, citing cases finding exceptions, including for willful and wanton conduct; order states, in dicta, that CHR has “strong doubts” that the police officer had acted willfully or wantonly in this case. CO

Love v. Chicago Office of Emergency Communics., et al., CCHR No. 01-E-46 (Oct. 16, 2001) Because actions brought under the CHRO are not torts, CHR follows its own plus state and federal cases and construes Illinois Tort Immunity Act not to provide immunity for acts which are not torts. CO

METRA – No new decisions in this volume.

Metropolitan Water Reclamation District – No new decisions in this volume.

State of Illinois Departments/Agencies/Universities

Saunders et al. v. University of Illinois & Northeastern Ill. Univ., et al., CCHR No. 93-E-211 et al. (Dec. 21, 2001) Decisions by state appeals court causes City of Chicago not to be able to regulate state universities and so cases against them dismissed. CO

Ross-Jackson v. Allstate Insur. Co., CCHR No. 02-PA-17 (Mar. 6, 2002) Where claim about dismissal of court action was only timely event, CHR dismissed case finding that circuit court was either a county or a state entity and CHR does not have jurisdiction over either. CO

Harm Required

Blakemore v. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) Where Complaint alleged that police refused to arrest an individual Complainant identified, CHR dismissed case finding that a) Complainant was not injured by that refusal and b) that Complainant received “full use” of the Police’s protection service both because the Police effectively stopped the altercation between Complainant and the other person and Complainant cited no harm. CO

Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) Where a second Respondent was simply the sponsor of an event at which discrimination by others allegedly occurred, where it had no control over the allegedly discriminating actors, and where only action attributed to this Respondent was that it assisted Complainant, it was dismissed from case. CO

Hutt v. Horizons Community Svcs., CCHR No. 01-E-121 (Apr. 10, 2002) CHR found Complainant had not stated a claim upon which relief could be granted with respect to allegations not connected to adverse action against Complainant, including that the employer simply did not “seem to like” that she had made an internal complaint but had responded to it. CO

Maynard v. Ernst & Young, CCHR No. 02-E-80 (Apr. 29, 2002) Where contacts with former employer’s human resources department did not appear to be requests about a new job and where, even if they were, Complainant was not rejected, Complainant has not identified harm or any due to discrimination. CO

McCabe v. Chipotle et al., CCHR No. 03-P-119 (Aug. 8, 2003) Where Complainants did not explain how they were personally aggrieved by restaurants’ outdoor eating facilities allegedly blocking sidewalk access, Complaint held insufficient due to no allegations showing Complainants’ standing: to pursue complaint under CHRO or CFHO, individual must have suffered injury; merely reporting potentially discriminatory situation not sufficient. CO

Housing Discrimination

Salem v. Park Edgewater Condo. Assn. et al., CCHR No. 02-H-9 (May 6, 2003) CHR has jurisdiction over claims of discriminatory evictions under CFHO. CO

Weinert v. Gowlovech, CCHR No. 07-H-36 (Sept. 18, 2007) No jurisdiction over claims of interference or retaliation for asserting rights under the CFHO or the federal Americans with Disabilities Act (ADA). Fair Housing Ordinance does not prohibit retaliation or interference, and CHR does not enforce the ADA. CO

Location of Injury

Determination of Place of Injury

Banks v. Midwest Physician Grp., CCHR No. 96-E-77 (Oct. 17, 2001) CHR looks to where “injury” occurred; in employment case, that may be said to occur where the decision was made as well as where it was felt – the place where complainant worked; thus, when Complainant worked exclusively in the City of Chicago, CHR has jurisdiction even if people who made the discharge decision worked elsewhere. CO

Banks v. Midwest Physician Grp., CCHR No. 96-E-77 (Oct. 17, 2001) CHRO is intended to protect rights of those who live and work within this City” and so CHR has jurisdiction when an allegedly discriminatory decision was made in Chicago or when the complainant worked in Chicago. CO
Brown v. Hirsch Mgt., et al., CCHR No. 01-H-39 (Sep. 24, 2001) CFHO case, the key issue is whether the “real estate used for residential purposes” or the “housing accommodation” is located in the City of Chicago, not whether management company or owners are located there. CO

Brown v. Hirsch Mgt., et al., CCHR No. 01-H-39 (Sep. 24, 2001) CHR denied motion to dismiss as outside Chicago where complaint is clear that Complainant’s housing accommodation was in Chicago; further, alleged discriminatory comment was made by alleged agent of management company who lived in same building and, the complaint inferred, made the comment there. CO

Brown v. TCF Bank, CCHR No. 02-E-146 (Dec. 13, 2002) CHR has jurisdiction over complaint of employment discrimination only if alleged violation occurred within Chicago or if complainant was employee engaged by respondent to work in Chicago. CO

Milton v. Commercial Light Co., CCHR No. 01-E-154 (Mar. 15, 2002) In determining whether injury took place in Chicago, CHR determines whether the allegedly discriminatory decision was made in Chicago or whether the complainant worked in Chicago. CO

Sharkan v. YMCA of Metro. Chicago et al., CCHR No. 02-H-12 (July 23, 2002) Under CFHO, in determining whether it has jurisdiction, CHR must consider location of housing unit in question, not of its owner, manager, or related decision-maker; distinguishes employment cases under CHRO where CHR has found jurisdiction either when complainant employed in Chicago or when disputed decision made in Chicago. CO

Milton v. Commercial Light Co., CCHR No. 01-E-154 (Mar. 15, 2002) Same; while lay-off decision was made outside Chicago, motion to dismiss denied because Complainant was working in Chicago when laid off. CO

Leflore v. Pace Bus Co. et al., CCHR No. 02-E-47 (Sep. 9, 2002) Where Complainant bus driver on city-suburban route spent nearly one-third of work week for nearly one year and five months within Chicago city limits, contact with City not transitory or insubstantial and facts were sufficient to base jurisdiction; however, jurisdiction would attach only to those incidents which took place in Chicago. CO

Brown v. TCF Bank, CCHR No. 02-E-146 (Dec. 13, 2002) CHR has jurisdiction where Complainant alleged she worked in Chicago at times of involuntary transfer and termination, even though termination implemented after transfer to location outside Chicago, because she alleged plan to terminate her was conceived while she was still a Chicago employee; allegations sufficient to warrant investigation. CO

Injury Inside Chicago

Banks v. Midwest Physician Grp., CCHR No. 96-E-77 (Oct. 17 2001) When Complainant worked exclusively in the City of Chicago, CHR has jurisdiction even if people who made the discharge decision worked elsewhere. CO

Milton v. Commercial Light Co., CCHR No. 01-E-154 (Mar. 15, 2002) Same; while lay-off decision was made outside Chicago, motion to dismiss denied because Complainant was working in Chicago when laid off. CO

Leflore v. Pace Bus Co. et al., CCHR No. 02-E-47 (Sep. 9, 2002) Where Complainant bus driver on city-suburban route spent nearly one-third of work week for nearly one year and five months within Chicago city limits, contact with City not transitory or insubstantial and facts were sufficient to base jurisdiction; however, jurisdiction would attach only to those incidents which took place in Chicago. CO

Brown v. TCF Bank, CCHR No. 02-E-146 (Dec. 13, 2002) CHR has jurisdiction where Complainant alleged she worked in Chicago at times of involuntary transfer and termination, even though termination implemented after transfer to location outside Chicago, because she alleged plan to terminate her was conceived while she was still a Chicago employee; allegations sufficient to warrant investigation. CO

Injury Outside Chicago

Davis v. L.M.R. Nursing Svcs., Inc., CCHR No. 02-PA-23 (Mar. 19, 2002) CHR dismissed claim where Respondent was located outside Chicago and there was no indication that Complainant had worked in Chicago. CO

Sharkan v. YMCA of Metro. Chicago et al., CCHR No. 02-H-12 (July 23, 2002) Housing discrimination Complaint dismissed as outside CHR jurisdiction where housing unit in question located outside Chicago. CO

Newspapers – See also Newspaper Liability section, below

Chrzanowski v. Dziennik Zwaikowy, CCHR No. 11-E-67 (Sept. 28, 2011) Complaint dismissed against newspaper that listed allegedly discriminatory job advertisements, finding no employment relationship between Complainant and newspaper, which had no right of control over Complainant’s employment and so was not proper respondent. CO

Parental Status Discrimination – No new decisions in this volume.

Definition of Child

Public Accommodations – See separate Public Accommodations Discrimination section, below.

Sovereign Immunity – See Jurisdiction/Governmental Agencies/Immunity subsection, above, and Governmental Immunity section, above.

Time for Filing Complaint

180th Day – No new decisions in this volume.

Amended Complaint

more than 180 days before he filed an amended complaint about that “constructive discharge” but received final paycheck within the 180 days, CHR found that complaint untimely as date upon which he had notice of his injury was day he felt compelled to resign. CO

Diabòr v. Kenny-Kiewit-Shea Joint Venture et al., CCHR No. 01-E-118 (Dec. 18, 2002) Amended Complaint against new respondent found untimely and not relating back to date of original Complaint where filed over one year after last incident of harassment, where equitable tolling found inapplicable, and where no evidence that new respondent was aware of original Complaint and that its allegations were directed toward him. That new respondent allegedly played “pivotal role” in events at issue does not render Complaint timely; no matter how central prospective respondent’s role in alleged discrimination may have been, any complaint against him must still be filed on time. CO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Apr. 1, 2009) CHR has consistently held timely filing of amended complaint alleging new claim is jurisdictional requirement, not cure of technical defect. CO

Continuing Violation

Minter v. CSX Transportation & United Transportation Union, CCHR No. 00-E-9 (June 12, 2000) Where CHR was preempted from proceeding with the only timely event, Complainant could not claim a continuing violation as there was not at least one viable, timely discriminatory act. CO

Carroll v. Moravec, CCHR No. 00-E-12 (May 24, 2001) CHR holds that continuing violation theory allows a complainant to have considered otherwise untimely, prior events but does not excuse a complainant from failing to amend her complaint to address an incident which occurred subsequent to filing; CHR holds she and her attorney should have amended her complaint to address that subsequent, distinct event. CO

Sigman v. R.R. Donnelly & Sons Co., CCHR No. 98-E-57 (Aug. 9, 2001) In denying Request for Review about position into which Complainant was placed after lay-off, CHR held that Complainant could not consider alleged past denials of promotions to be part of a continuing violation in that each promotion denial would be a discrete event which should have put Complainant on notice that his rights may have been violated. CO

Sigman v. R.R. Donnelly & Sons Co., CCHR No. 98-E-57 (Aug. 9, 2001) Order discusses factors to determine whether the “continuing violation” doctrine might apply – subject matter, frequency and permanence – and focuses on Complainant’s failure to meet permanence component. CO

Insalata v. Realty Resources Grp., et al., CCHR No. 01-H-70 (Dec. 3, 2001) Fact that the effects of past discrimination may continue into the present does not make the injury “continuing” and cannot form the basis of a complaint filed later than 180 days. CO

Scarse v. Chicago Dept. of Streets & Sanitation, CCHR No. 01-PA-2 (Jan. 11, 2002) Where Complainant made only two visits to office in question which were about seven months apart, CHR found the visits were separate and distinct events which did not meet the frequency or the permanency prongs of continuing violation test. CO

Walter v. Oberth, CCHR No. 03-H-12 (Apr. 7, 2003) Where it appeared that Complainant alleged at least one timely action (service of termination notice) CHR declined to find Complaint untimely on motion to dismiss; CHR may consider any alleged untimely incidents as background and as to whether they are part of continuing violation. CO

Thomas v. Lincoln Park Plaza Condo. Assn. et al., CCHR No. 03-H-13 (Mar. 10, 2005) CHR declined to dismiss or strike alleged “untimely” allegations because it could not determine based on the Complaint alone whether the allegations stated a continuing violation based on the three-pronged continuing violation test. CO

Cotten v. A-1 Style Apparel/A&G Inc., CCHR No. 04-P-85 (Sep. 16, 2005) Complaint dismissed as untimely where filed more than 180 days after the only alleged incident of discrimination--falling from wheelchair due to steep incline when attempting to use parking space designated for persons with disabilities. Inability to return to the business due to fear of falling again not sufficient to establish continuing violation. Actual occurrence of more than one related incident, not mere fear of recurrence, within the timely period is contemplated under continuing violation theory. CO

Borns v. M. Meyers Prop., Inc., et al., CCHR No. 00-H-11 (Aug. 25, 2006) No continuing violation as to denials of or conditions imposed on apartment transfers over 180 days before complaint filing; such actions were sufficiently permanent to put Complainant on notice of possible ordinance violation, especially given her long history of seeking such transfer as a disability accommodation including prior discrimination complaints. CHR will proceed only as to transfer denials within 180 days of filing. CO

Davis v. Aljack Investments Inc. et al., CCHR No. 09-H-12 (Aug. 4, 2010) Complainant cannot use results of later testing to establish continuing violation because it was not an additional discriminatory act against the particular Complainant. However, motion to dismiss complaint as untimely denied due to other, unresolved factual issues about whether a continuing violation exists. CO

Equitable Estoppel – No new decisions in this volume.
Implication of Late, but Timely, Filing – No new decisions in this volume.

Notice of Action

Minter v. CSX Transportation & United Transportation Union, CCHR No. 00-E-9 (June 12, 2000) Whether Respondent/employer’s action is characterized as accepting Complainant’s resignation or not accommodating his disability, Complainant had notice of its action in February 1998 and so his January 2000 complaint is not timely with respect to that event. CO

Koszola v. Chicago Bd. of Education, CCHR No. 97-E-206 (Sep. 29, 2000) Filing period begins when alleged discriminatory decision is communicated to Complainant; CHR could not dismiss case as untimely, as it did not have information about when Complainant had been rejected for employment, just when she had applied. CO

Jones v. Proven Performers, CCHR No. 00-E-126 (Nov. 27, 2000) The filing period begins to run when the allegedly discriminatory decision is unambiguously communicated to complainant; here, that occurred when temporary agency/Respondent informed Complainant that it would no longer attempt to place him after it allowed him to contact it for months after he last worked at an assignment. CO

Hackett v. Robert Morris Coll. et al., CCHR No. 99-E-188 (Dec. 13, 2000) The filing period begins to run when the allegedly discriminatory decision is communicated to complainant; Complainant here complained about being “constructively discharged” and so the date he quit was found to be the relevant date, not the subsequent date on which he received his final paycheck. CO

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) Filing period begins when alleged discriminatory action is unambiguously communicated to complainant, not when it becomes effective. CO

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) Respondents’ statement that they were “in the planning stages of authorizing” a branch library of a certain size and other comments about the “proposed” branch found not sufficient to unambiguously notify Complainant that a decision to choose a particular size had been made and so inadequate to declare complaint untimely, especially when the complaint identified a timely date when the decision was finalized. CO

Blakemore v. Commission on Human Relations, et al., CCHR No. 01-PA-48/50 (June 5, 2001) CHR finds case untimely where Complainant had knowledge about the topic of his complaint, and had orally complained about it, for over a year before he filed. CO

Morarity v. Chicago Fire Dept. et al., CCHR No. 00-E-130 (June 13, 2001) The filing period begins to run when the allegedly discriminatory decision is unambiguously communicated to complainant; here, CHR declined to find case untimely where a) Complainant alleged that the weights for examination components were changed after they were first announced and that he filed within 180 days of that change and b) where he filed within 180 days of learning that his particular score would not allow him to be promoted. CO

Gill v. Chicago Board of Education, CCHR No. 00-PA-54 (Aug. 9, 2001) Where Request for Review stated that an action occurred “years” before, CHR held that it appeared to have happened more than 180 days before complaint was filed and so found it untimely. CO

Insalata v. Realty Resources Grp., et al., CCHR No. 01-H-70 (Dec. 3, 2001) Date that Respondent notified Complainant that it would not renew his lease, not the first day that he was denied access to his apartment, is the date that Complainant was notified of the allegedly discriminatory decision. CO

Ross-Jackson v. Allstate Insur. Co., CCHR No. 02-PA-17 (Mar. 6, 2002) Complaint found untimely where Complainant was first informed that her insurance claim was denied in 1995 and where the only occurrence in the prior 180 days was that a trial about the issue was dismissed. CO

Maynard v. Ernst & Young, CCHR No. 02-E-80 (Apr. 29, 2002) CHR dismissed complaint as untimely as it was filed more than 180 days after she was informed of her termination. CO

Harboe/Dimm v. Realty & Mortg. Co., et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) The 180-day filing period begins to run when the alleged violation is unambiguously communicated to the complainant, not when it become effective; includes discussion of U.S. Supreme Court case Delaware State College v. Ricks. CO

Harboe/Dimm v. Realty & Mortg. Co., et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) After Respondents notified Complainants that they would not renew their lease, the parties continued to negotiate; because it is contested whether those negotiations were only about the date by which Complainants had to move or about whether Complainants would have to move at all, CHR reversed its decision that the case was untimely in that the initial notice of non-renewal may not have been unambiguous notice to Complainants. CO

of limitations period in instances where victim neither knew nor reasonably should have known of discriminatory basis of action taken; discrimination victim cannot be expected to suspect that discrimination underlies adverse action. Thus, discovery rule found applicable and Complaint found timely where Complainant claimed she filed her Complaint within 180 days of learning that she was discriminatorily prohibited from opening restaurant or grocery store and that she was discriminatorily charged excessive rent and where Respondents failed to produce information to contrary. CO

_Diabor v. Kenny-Kiewit-Shea Joint Venture et al.,_ CCHR No. 01-E-118 (Dec. 18, 2002) Where Complainant argued she was unaware of one respondent’s discriminatory disregard of her harassment allegations until over one year after last incident of harassment but evidence showed he met with Complainant twice regarding her harassment allegations, doctrine of equitable tolling found inapplicable. CO

_Cotten v. A-1 Style Apparel/A&G Inc.,_ CCHR No. 04-P-85 (Sep. 16, 2005) Complainant’s alleged fall from wheelchair due to incline around Respondent’s parking space constituted clear and unambiguous notice of condition alleged to be CHRO violation and so started the filing period. CO

_Swanson v. Chicago Int’l Charter Sch. et al.,_ CCHR No. 06-E-91 (Dec. 19, 2006) Filing period began when Complainant was notified he would be discharged, not on his last day of employment, as that was when the alleged discriminatory decision was unambiguously communicated to him. CO

_Muhammad v. Woodland Park Assoc. et al.,_ CCHR No. 07-H-2 (Jan. 11, 2007) Citing Harboe/Dimm and _Insalata_, housing discrimination Complaint dismissed as untimely because filing period began when Complainant was informed lease would not be renewed, not when lease actually ended or when landlord took further steps to regain possession. CO

_Crown v. City of Chicago Office of the Inspector General_, CCHR No. 08-E-34 (Jan. 11, 2010) Filing period begins when Complainant first receives notice of the alleged discriminatory action; not tolled by filing of separate _Shakman_ claim, and approval of _Shakman_ claim does not constitute first notice of potential CHRO claim. CO

**Request for Reconsideration**

_Minter v. CSX Transportation & United Transportation Union_, CCHR No. 00-E-9 (June 12, 2000) One or more request for reconsideration does not toll or re-start a filing period. CO

_Minter v. CSX Transportation & United Transportation Union_, CCHR No. 00-E-9 (June 12, 2000) Failing to undo an allegedly discriminatory action does not perpetually keep the filing period running. CO

_Maynard v. Ernst & Young_, CCHR No. 02-E-80 (Apr. 29, 2002) Contacts which Complainant had with her supervisor after her termination were essentially requests for reconsideration of the decision and such requests do not start or re-start the complaint filing period. CO

**Sexual Harassment Claim – No new decisions in this volume.**

**Statute of Limitations – No new decisions in this volume.**

**Subsequent Events**

_Carroll v. Moravec_, CCHR No. 00-E-12 (May 24, 2001) CHR held that it could not find Complainant’s allegations about harassment to “substantially apprise” Respondent that she was also claiming that her discharge, which occurred after she filed her complaint, was discriminatory; CHR held she and her attorney should have amended her complaint to address that subsequent, distinct event. CO

_Carroll v. Moravec_, CCHR No. 00-E-12 (May 24, 2001) CHR holds that continuing violation theory allows a complainant to have otherwise untimely, prior events considered but does not excuse a complainant from failing to amend her complaint to address a distinct incident which occurred subsequent to filing. CO

_Harboe/Dimm v. Realty & Mortg. Co., et al.,_ CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Subsequent action may make an earlier notice ambiguous and so allow the complainant to file the complaint within 180 days of the subsequent action instead of within 180 days of the initial notice. CO

_Harboe/Dimm v. Realty & Mortg. Co., et al.,_ CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) After Respondents notified Complainants that they would not renew their lease, the parties continued to negotiate; because it is contested whether those negotiations were only about the date by which Complainants had to move or about whether Complainants would have to move at all, CHR reversed its decision that the case was untimely in that the initial notice of non-renewal may not have been unambiguous notice to Complainants. CO

**Termination Notice – No new decisions in this volume.**
Timely Filing

Jones v. Proven Performers, CCHR No. 00-E-126 (Nov. 27, 2000) Temporary agency/Respondent first informed Complainant that it would no longer attempt to place him within 180 days of complaint filing; last day Complainant worked at a placement was not to start filing period as Respondent allowed Complainant to seek placements for months after that date and because there were outstanding facts concerning when Respondent usually considers individuals “terminated” from its rolls. CO

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) Respondents’ statement that they were “in the planning stages of authorizing” a branch library of a certain size and other comments about the “proposed” branch found not sufficient to unambiguously notify Complainant that a decision to choose a particular size had been made and so inadequate to declare complaint untimely, especially when the complaint identified a timely date when the decision was finalized. CO

Moriarty v. Chicago Fire Dept. et al., CCHR No. 00-E-130 (June 13, 2001) CHR declined to find case untimely where a) Complainant alleged that the weights for examination components were changed after they were first announced and that he filed within 180 days of that change and b) where he filed within 180 days of learning that his particular score would not allow him to be promoted. CO

Harboe/Dimm v. Realty & Mortg. Co., et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) After Respondents notified Complainants that they would not renew their lease, the parties continued to negotiate; because it is contested whether those negotiations were only about the date by which Complainants had to move or about whether Complainants would have to move at all, CHR reversed its decision that the case was untimely in that the initial notice of non-renewal may not have been unambiguous notice to Complainants. CO

Marshall v. Knezovic & Oak Mgmt., CCHR No. 01-PA-102 (Dec. 16, 2002) Discovery rule permits tolling of limitations period in instances where victim neither knew nor reasonably should have known of discriminatory basis of action taken; discrimination victim cannot be expected to suspect that discrimination underlies adverse action. Thus, discovery rule found applicable and Complaint found timely where Complainant claimed she filed her Complaint within 180 days of learning that she was discriminatorily prohibited from opening restaurant or grocery store and that she was discriminatorily charged excessive rent and where Respondents failed to produce information to contrary. CO

Walter v. Oberth, CCHR No. 03-H-12 (Apr. 7, 2003) Where it appeared that Complainant alleged at least one timely action (service of termination notice) CHR declined to find Complaint untimely on motion to dismiss; CHR may consider any alleged untimely incidents as background and as to whether they are part of continuing violation. CO

Tolling – Agency Error

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) Equitable tolling is available when an agency misleads an individual or makes errors which frustrates his or her attempt to file a complaint. CO

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) CHR recites standards which must be met to toll filing period due to agency error, including that CHR have refused to take a case or lulled the person into believing they had already filed. CO

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) the fact that CHR’s intake person may not have told the individual the time within which she had to file was not misleading, a refusal to take a complaint, or an error which frustrated an attempt to file, especially where the conversation took place no less than three months before the filing period was to end. CO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Apr. 1, 2009) Motion to dismiss amended complaint as untimely was granted, noting absence of document or oral communication received from Complainant during timely period which might suggest equitable tolling. CO

Tolling – Disability of Complainant – No new decisions in this volume.

Tolling – Discovery of Injury

Marshall v. Knezovic & Oak Mgmt., CCHR No. 01-PA-102 (Dec. 16, 2002) Discovery rule permits tolling of limitations period in instances where victim neither knew nor reasonably should have known of discriminatory basis of action taken; discrimination victim cannot be expected to suspect that discrimination underlies adverse action. Thus, discovery rule found applicable and Complaint found timely where Complainant claimed she filed her Complaint within 180 days of learning that she was discriminatorily prohibited from opening restaurant or grocery store and that she was discriminatorily charged excessive rent and where Respondents failed to produce information to contrary. CO

Diabor v. Kenny-Kiewit-Shea Joint Venture et al., CCHR No. 01-E-118 (Dec. 18, 2002) Where Complainant argued she was unaware of one Respondent’s discriminatory disregard of her harassment allegations
until over one year after last incident of harassment but evidence showed he met with Complainant twice regarding her harassment allegations, doctrine of equitable tolling found inapplicable. CO

_Crown v. City of Chicago Office of the Inspector General_, CCHR No. 08-E-34 (Jan. 11, 2010) Filing period begins when Complainant first receives notice of the alleged discriminatory action; not tolled by filing of separate _Shakman_ claim, and approval of _Shakman_ claim does not constitute first notice of potential CHRO claim. CO

**Tolling – Estoppel – No new decisions in this volume.**

**Untimely Filing**

_Minter v. CSX Transportation & United Transportation Union_, CCHR No. 00-E-9 (June 12, 2000) Where Complainant had notice that respondent employer accepted his resignation in February 1998 and where subsequent actions were merely requests for reconsideration of that decision or were preempted from CHR review, CHR dismissed his January 2000 complaint. CO

_Hackett v. Robert Morris Coll. et al._, CCHR No. 99-E-188 (Dec. 13, 2000) Where Complainant quit his job more than 180 days before he filed an amended complaint about that “constructive discharge” but received final paycheck within the 180 days, CHR found that complaint untimely as date upon which he had notice of his injury was day he felt compelled to resign. CO

_Brandt v. Chicago Area Interpreter Referral Svc._, CCHR No. 01-E-57 (May 21, 2001) Incidents which occurred more than 180 days before complaint was filed cannot be basis for recovery but can be considered as background information. CO

_McPhee v. Novovic_, CCHR No. 00-H-69 (May 23, 2001) (same) CO

_Kenny v. Loyola Univ., et al._, CCHR No. 01-E-87 (Oct. 4, 2001) Where Complainant was terminated more than 180 days before she filed her complaint, CHR dismissed discharge claim and all claims that pre-dated it. CO

_Insalata v. Realty Resources Grp., et al._, CCHR No. 01-H-70 (Dec. 13, 2001) CHR dismissed case where date of notice of non-renewal of lease as well as denial of access to apartment were more than 180 days before complainant filed complaint. CO

_Insalata v. Realty Resources Grp., et al._, CCHR No. 01-H-70 (Dec. 3, 2001) Fact that the effects of past discrimination may continue into the present cannot form the basis of a complaint filed later than 180 days. CO

_Scarse v. Chicago Dept. of Streets & Sanitation_, CCHR No. 01-PA-2 (Jan. 11, 2002) Where Complainant first visit to office was over 180 days before filing, that event could not be basis for recovery, but could be used as background information for timely event. CO

_Ross-Jackson v. Allstate Insur. Co._, CCHR No. 02-PA-17 (Mar. 6, 2002) Complaint found untimely where Complainant was first informed that her insurance claim was denied in 1995 and where the only occurrence in the prior 180 days was that a trial about the issue was dismissed. CO

_Howard v. Micro Center Sales Corp. et al._, CCHR No. 02-E-48 (Mar. 29, 2002) Complaint dismissed as untimely because Complainant was notified of her termination more than 180 days before she filed. CO

_Diabor v. Kenny-Kiewit-Shea Joint Venture et al._, CCHR No. 01-E-118 (Dec. 18, 2002) Amended Complaint against new respondent found untimely and not relating back to date of original Complaint where filed over one year after last incident of harassment, where equitable tolling found inapplicable, and where no evidence that new respondent was aware of original Complaint and that its allegations were directed toward him. That new respondent allegedly played “pivotal role” in events at issue does not render Complaint timely; no matter how central prospective respondent’s role in alleged discrimination may have been, any complaint against him must still be filed on time. CO

_Cline v. Chicago Patrolman’s Fed. Credit Union et al._, CCHR No. 02-E-73 (Aug. 26, 2003) Alleged action which occurred more than 180 days prior to filing of Amended Complaint may not be considered as an additional claimed act of disability discrimination but may be considered for any evidentiary value, such as establishing knowledge of Complainant’s claimed disability. CO

_Cotten v. A-I Style Apparel/A&G Inc._, CCHR No. 04-P-85 (Sep. 16, 2005) Complaint dismissed as untimely where filed more than 180 days after the only alleged incident of discrimination@falling from wheelchair due to steep incline when attempting to use parking space designated for persons with disabilities. Inability to return to the business due to fear of falling again not sufficient to establish continuing violation. CO

_Muhammad v. Woodland Park Assoc. et al._, CCHR No. 07-H-2 (Jan. 11, 2007) Citing _Harboe/Dimm_ and _Insalata_, housing discrimination Complaint dismissed as untimely because filing period began when Complainant was informed lease would not be renewed, not when lease actually ended or when landlord took further steps to regain possession. CO

_Weinert v. Gowlovech_, CCHR No. 07-H-36 (Sept. 18, 2007) No jurisdiction where complaint was filed more than 180 days after landlord’s alleged refusal to accommodate disability by allowing parking in driveway. CO

discrimination case alleging multiple incidents of harassment by multiple respondents over a period of time, allegations against former president of condominium association dismissed as untimely because all involved conduct occurring more than 180 days before complaint was filed. CO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Apr. 1, 2009) Motion to dismiss granted on attempted eviction claim for which no amended complaint filed within 180 days of receipt of notice of tenancy termination proceeding, noting absence of document or oral communication from Complainant during timely period which might suggest equitable tolling. CO

JURISDICTIONAL HEARING
Issues Covered
Garza v. Hoey, Farina & Downes, CCHR No. 00-E-124 (Mar. 14, 2001) CHR found that it had to hold a jurisdictional hearing about Complainant’s claims of duress and unconscionability where she alleged that Respondent had threatened to withhold her last paycheck if she did not sign the release thus undermining her ability to refuse; order discusses standards for duress and unconscionability. CO

Chalas v. Aerzone, CCHR No. 00-E-163 (Oct. 17, 2001) Where Respondent claimed that Complainant’s former attorney had informed them that Complainant agreed to settle for certain, material terms but where Complainant claims that she instructed her former counsel to reject the offer, CHR assigned the case for a jurisdictional hearing about the matter over Complainant’s request that Respondent’s motion to enforce be denied outright. CO

Chalas v. Aerzone, CCHR No. 00-E-163 (Oct. 17, 2001) Discusses cases which describe when an evidentiary hearing is needed in disputes about oral agreements. CO

Montejano v. Blakemore, CCHR No. 01-P-4 (Oct. 15, 2003) Request to vacate order of default issued by hearing officer for failure to attend administrative hearing remanded to hearing officer after issuance of First Recommended Decision, for evidentiary hearing to assess Respondent’s claims that he failed to attend hearing because he was “under emotional distress and sick” and because he disagreed with CHR’s restrictions on his access to its offices; such issues can only be resolved in evidentiary hearing where credibility can be assessed. CO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Oct. 5, 2006) Where Respondents moved for approval of oral settlement agreement allegedly reached at pre-hearing status conference with hearing officer’s involvement, hearing officer recused himself and referred matter to CHR to appoint another hearing officer for evidentiary hearing to resolve factual issues concerning which he may be a witness. HO

Blakemore v. Metro. Water Reclamation Dist. et al., CCHR No. 06-P-18 (Nov. 8, 2006) Under Reg. 225.140, CHR has authority to hold jurisdictional hearing where discrete, dispositive issue must be resolved in order to determine whether CHR has jurisdiction over claim or how CHR should proceed. However, it is not required to do so. CO

Request Denied
Anthony v. O.A.I., Inc., CCHR No. 02-PA-71 (Aug. 25, 2003) Request for jurisdictional hearing in motion to dismiss denied where investigation process adequate to address any disputed factual issues affecting jurisdiction before reaching substantial evidence determination; jurisdictional hearing an option but not required under Reg. 225.140. CO

Maat v. Brian’s Juice Bar & Deli, Inc., CCHR No. 05-P-25 (Apr. 21, 2005) Request for Jurisdictional Hearing denied where CHR failed to serve Complaint on Respondent within specified ten days after filing; no jurisdictional issue presented as deadlines for CHR action are directory not mandatory; Reg. 225.140 gives CHR discretion whether to hold Jurisdictional Hearing. CO

Standard for Decision After – No new decisions in this volume.

JURY DEMAND – No new decisions in this volume.

Denied
Federal Jury Right

LABOR ORGANIZATION
Preemption by LMRA

Minter v. CSX Transportation & United Transportation Union, CCHR No. 00-E-9 (June 12, 2000) CHR held it was preempted from reviewing Complainant’s claim that a collective bargaining agreement provision which prevented an employee who had resigned of his own accord from being reinstated with full seniority to constitute disability discrimination; proceeding would have required CHR to construe, and perhaps, invalidate, that CBA provision. CO
Spaulding et al v. Ford Motor Company, CCHR No. 08-E-52/53/56/58/60/75 (May 4, 2011) CHR was preempted from deciding claims of African-American industrial lift operators that they were denied overtime based on their race, because overtime eligibility and distribution were governed by a local collective bargaining agreement which they alleged was not followed, and Respondent’s stated defenses included compliance with the agreement. Under these circumstances, the claims were not independent of an understanding of the terms of the agreement and thus could not proceed at CHR. CO

Preemption by NLRA – No new decisions in this volume.

Respondent in Employment Case – No new decisions in this volume.

LOCATION OF INJURY – See Jurisdiction/Location of Injury subsection, above.

MARITAL STATUS DISCRIMINATION

Liability Found – No new decisions in this volume.

Liability Not Found – No new decisions in this volume.

Scope of Coverage

Cordero v. World Travel BTI, CCHR No. 03-E-49 (Sep. 7, 2006) ERISA preempts CHRO as to ERISA-covered employee benefits including medical benefits plan that did not offer coverage for domestic partners of employees although it presumably offered coverage for spouses; Complaint dismissed for lack of jurisdiction. CO

MIXED MOTIVES

Applied

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Respondents proved “same result” defense where condo association president’s anti-gay animus played a part in a lesbian unit owner’s eviction and denial of purchase approval to unit owner’s lesbian partner, but both actions would have occurred even if Complainants were not lesbian because unit owner failed to make assessment payments for eight months and potential purchaser attempted unauthorized move-in. Respondents not absolved of liability but damages reduced appropriately. R

Burden of Proof

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) To successfully assert a mixed-motive defense, respondent must show that it would have made the same decision absent the discriminatory motive, not just that it had more than one motivation. R

Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) Respondent proved Complainant would have been evicted in absence of discriminatory motive where all sides’ testimony established that Complainant was frequently behind in rent payments and Respondent did not seize upon two earlier chances to evict while the discrimination was occurring. R

Damages – See Damages/Mixed Motive, above.

Distinguished

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Case in which Respondent refused to consider Complainant’s Section 8 voucher before he knew that accepting it would require her to extend her lease held not to be a “mixed-motive” case in that Respondent had already decided to rent to his daughter after Complainant’s lease expired and so there was no apartment available for Complainant for the time she needed it at the time he rejected her; “there can be no discriminatory refusal to rent when there is nothing available to rent.” R

Rejected

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) Respondents could not rely upon a mixed motive defense because they failed to show that they would have rejected the Complainant/buyers absent parental status discrimination. R

Standards

Cline v. Chicago Patrolman’s Fed. Credit Union et al., CCHR No. 02-E-73 (Aug. 26, 2003) Allegation suggesting age may not have been only reason for alleged discriminatory decision (employment determination) does
not defeat claim because age need not be only reason as long as it was a determining factor. CO

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Mixed motive analysis applied to housing discrimination case: where respondent proves it would have taken the adverse action regardless of complainant’s protected class, respondent not absolved of liability but damages reduced appropriately. R

MOOTNESS

Claim Found Moot

Torres v. Chicago Transit Authority, CCHR No. 92-PA-40 (Dec. 18, 2002) Where Complaint dismissed due to Complainant’s failure to cooperate and Respondent filed Request for Review of interlocutory orders finding jurisdiction over Respondent, jurisdictional issue held moot due to no remaining case or controversy between parties; fact that Regulations refer to “party” seeking to review interlocutory order does not overcome mootness. CO

Walker v. Chicago Chop House Restaurant et al., CCHR No. 03-P-91 (July 24, 2008) After settlement agreement and dismissal of disability discrimination complaint, Respondent motion to vacate agreement and find undue hardship denied along with Complainant request to reopen the case for adjudication, as issues going to the merits of the complaint are now moot. CHR has only retained jurisdiction to enforce the settlement agreement. CO

Claim Not Moot

Morris v. Chicago Board of Educ., CCHR No. 97-E-41 (Feb. 9, 2001) Fact that an incident occurred only once does not make case moot where rights of the parties are still subject to resolution. CO

Raffety v. Great Expectations, CCHR No. 04-P-35 (May 7, 2008) Claims against a business not moot where Chicago office closed but company was not out of business with no known successor. Also, Respondent did not establish that Complainant sought only non-monetary relief and even if he did, CHR has authority to order monetary relief even if not requested if a complainant prevails and the relief is appropriate to carry out purposes of ordinance. CO

Standard

Morris v. Chicago Board of Educ., CCHR No. 97-E-41 (Feb. 9, 2001) A claim is moot if “an actual controversy no longer exists between the parties and the interests and rights of the parties are no longer in controversy.” CO

MOTION

Discovery – See separate Discovery section, above.


Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (June 5, 2000) Hearing Officer denied motion to stay hearing which was based on the fact that Respondent is defending herself in federal court in a case filed by a different plaintiff but which involved the same core of operative facts; this was found not to provide “good cause” in that the CHR has issued a series of decisions finding that it does not have authority to defer a case because a similar one is pending elsewhere, even when it involves the same parties; decision also notes that a CHR ruling is not likely to have preclusive effect on a federal case. HO

Little v. Tommy Gun’s Garage Dinner Theater, CCHR No. 99-E-11 (Aug. 11, 2000) Hearing Officer denied Complainant’s request for an extension to file certain pre-hearing documents and for a continuance of the hearing; Complainant had filed the documents on time and her continuance request was found to be moot in that it was based on her belief that, once she finds an attorney, he or she will need more time. HO

Blakemore v. General Parking Corp. et al., CCHR No. 99-PA-120 (Sep. 1, 2000) Hearing Officer denied Respondent’s motion for a continuance, holding that it was factually unsupported. HO

Duvergel v. Sekosan et al., CCHR No. 97-H-84 (Dec. 15, 2000) CHR granted Complainant a short extension (two weeks) to file request for review because order dismissing the case was issued near Thanksgiving; it rejected her request for a longer extension (six weeks) finding she did not show the necessary cause for such a long extension. HO

Smith, Torres & Walker v. Wilmette Real Estate & Mgmt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Jan. 11, 2001) Hearing Officer gave Respondent an extension for less than time requested to file reply brief where novelty and complexity of issue raised was already researched by Respondent before filing its underlying motion and where it cited no other obligations requiring such a long extension. HO
Gordard v. McConnell, CCHR No. 97-H-64 (Feb. 26, 2001) Hearing officer denied request to file attorney’s fees petition when request was filed weeks after the deadline and where “extraordinary cause” not shown by stating that attorneys who had handled the case had left; request did not explain, for example, when those attorneys left or why their files were not covered or deadlines monitored. HO

Little v. Tommy Guns Garage Dinner Theater, CCHR No. 99-E-11 (May 18, 2001) Where Complainant did not ask for more time to file her post-hearing brief until fewer than seven days before the deadline and where the transcript which Complainant did not have had been available for over a month, Hearing Officer found Complainant had not shown the required cause for an extension, but granted a short one, finding that not allowing her to file at all was too harsh. HO

Green v. East Point Condo et al., CCHR No. 98-H-41 (Nov. 16, 2001) CHR granted Complainant a short extension of time to file a request for review, but not the 90 days requested; Complainant did not show good cause for such a long extension. CO

Blakemore v. General Parking, CCHR No. 99-PA-24 (Feb. 13, 2002) CHR granted Complainant a short extension of time to file a request for review, but not the full time requested; found fact that attorney was too busy to complete work not good cause for 45 more days over the initial 30. CO

McGrav v. Chicago Dept. of Aviation, CCHR No. 99-E-27 (June 14, 2002) CHR granted Complainant a two-week, not a four-week, extension to file a reply concerning his Request for Review, finding he did not show good cause for the longer one. CO

Salem v. Park Edgewater Condo. Assoc. et al., CCHR No. 02-H-9 (June 2, 2002) CHR denied Complainant’s request for an extension to respond to a motion to dismiss, finding that Complainant had known of the motion for two months and did not show good cause for not acting sooner. CO

Salem v. Park Edgewater Condo Assn. et al., CCHR No. 02-H-9 (July 2, 2002) Motion for extension of time to give newly-retained counsel time to prepare response to Motion to Dismiss denied as untimely where filed after response deadline and where Complainant had several weeks to seek counsel or submit timely extension request. CO

Alexander v. 1212 Rest. Group, LLC et al., CCHR No. 00-E-110 (Oct. 2, 2002) Motion to stay investigation pending outcome of appellate court proceeding concerning insurance coverage for defense of case denied where Respondents failed to show good cause, how “judicial economy” would be achieved, or how issues regarding counsel were relevant to merits of case. CO

McPhee v. Novovic, CCHR No. 00-H-69 (Dec. 2, 2002) Motion for second continuance of conciliation conference denied where filed three days before rescheduled date and extraordinary circumstances not shown; original continuance gave ample notice and moving parties who were out of country and uncertain of date of return could have arranged to be represented by person with authority to settle. CO

Byrd v. Hyman, CCHR No. 97-H-2 (Mar. 28, 2003) Request to stay enforcement proceeding pending outcome of certiorari petition denied, as CHR Ordinances and Regulations do not articulate procedures for such stay or impose related bond requirement and Illinois law has established mechanism to obtain stay. Decision overrules past precedents suggesting CHR has authority or obligation to grant stay of enforcement pending outcome of court review. CO

Stark v. Chicago Transit Authority, CCHR No. 03-P-6 (May 15, 2003) CHR denied Respondent motion to extend time to respond to Complaint pending hearing on court challenge to CHR jurisdiction over it where 28-day extension already granted, extraordinary circumstances not shown, and issue not likely to be resolved in reasonable time; Respondent may preserve any objections to jurisdiction even if it files response. CO

Long v. Chicago Public Library et al., CCHR No. 00-PA-13 (Oct. 21, 2003) Motion for continuance denied where filed three days before conciliation conference and extraordinary circumstances not shown: fact that individual Respondent is retired and lives outside Chicago area does not reduce his responsibilities in case; Respondent had ample time to file motion for continuance based on his convenience; motion provided no information as to why other individual Respondent could not attend. CO

Aposte v. Wojtkowska, CCHR No. 01-H-57 (Oct. 29, 2003) Although motion seeking continuance was filed less than seven days before conciliation conference and did not show extraordinary circumstances, CHR on own motion continued conciliation under Reg. 230.100 based on parties’ representations that settlement could be reached without continuance if continuance was granted. CO

Lampkin v. Northwestern Mem’l Hosp., CCHR No. 01-E-50 (Mar. 4, 2004) CHR does not routinely grant extensions of time or continuances, including to obtain counsel, nor does it consider the last-minute involvement of counsel to constitute extraordinary circumstances supporting an extension or continuance. CO

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Apr. 7, 2005) Motion to vacate granting of enforcement request denied; any failure to receive CHR’s briefing order on enforcement request does not invalidate order granting request where evidence showed Respondents had notice the request was filed. Reg. 250.220 establishes automatic briefing schedule and permits CHR to issue briefing order altering the schedule, but does not require
failed to include number of previous motions for continuance and their disposition pursuant to Reg. 270.130(b). HO

continuance filed on day of administrative hearing found justified by extraordinary circumstances where her counsel previously granted due to no indication it would cause delay. Motion to continue hearing held until pre-hearing continuance of pre-hearing conference to allow newly-substituted counsel to prepare denied where substitution was support for claim of unavailability. Also, motion not served on hearing officer as required by Reg. 240.349(a) and conference denied for lack of good cause where motion merely stated counsel was unavailable without factual basis. HO

counsel failed to appear at pre-hearing conference and hearing. HO

withdrawn shortly before the hearing, Complainant acted with diligence to secure new counsel, and Respondents failed to appear at pre-hearing conference and hearing. HO

conference denied for lack of good cause for continuance of Conciliation Conference or waiver of personal attendance. CO

envelope containing dismissal order mailed to Complainant was 5 days later than mailing date on the order. CO

advantage due to the withdrawal, where filing deadline had passed and Respondents' previous post-hearing brief was granted but extension of time to reply to Complainant's post-hearing brief was denied to avoid giving tactical advantage due to the withdrawal, where filing deadline had passed and Respondents' previous post-hearing brief provided opportunity to address the issues. HO

reported that first lengthy continuance was granted over Complainant’s objections and with warning that case had to move expeditiously, where Respondents failed to establish that state court trial in which they were parties had in fact been scheduled for same date, and where conciliation conference was also a scheduled legal proceeding, enabling Respondents to argue to state court that their proceeding could not be scheduled for that date. CO

Continuance of conciliation conference denied where motion filed 7 days prior to scheduled date of which business Respondent had nearly 2 months’ notice, and stated only that new substitute counsel needed more time to review file and confer with clients. CO

Continuance of pre-hearing conference denied for lack of good cause where motion merely stated counsel was unavailable without factual support for claim of unavailability. Also, motion not served on hearing officer as required by Reg. 240.349(a) and failed to include number of previous motions for continuance and their disposition pursuant to Reg. 270.130(b). HO

Continuance granted where Respondents left country for extended overseas visit prior to issuance of briefing order. CO

Complainant motion for extension of time to file pre-hearing memorandum and for continuance of administrative hearing to give newly-retained counsel time to conduct discovery granted subject to Complainant’s submission of affidavit attesting to prior efforts to obtain counsel; bare assertions of counsel are insufficient to establish good cause. HO

Extension of time to file preliminary witness list granted where counsel represented he had not received relevant notice due to inconsistent mail delivery after moving his office. HO

Continuance of conciliation conference denied where motion was filed 7 days prior to date of which business Respondents had nearly 2 months’ notice, and stated only that new substitute counsel needed more time to review file and confer with clients. CO

That party now resides out of state not good cause for continuance of Conciliation Conference or waiver of personal attendance. CO

Motion for continuance of pre-hearing conference to allow newly-substituted counsel to prepare denied where substitution was previously granted due to no indication it would cause delay. Motion to continue hearing held until pre-hearing conference. HO

Despite Complainant’s objection, continuance of conciliation conference granted where Respondents left country for extended overseas visit prior to issuance of scheduling order and could not foresee that conference would be scheduled before their return, where counsel contacted CHR and filed written motion upon discovery of clients’ unavailability, and where Respondents and counsel had been cooperative with CHR procedures. In view of length of continuance, no more continuances of such duration would be granted absent extraordinary circumstances, and parties urged to continue exploring settlement on their own and notify CHR if they determine no agreement is possible. CO

Motion to withdraw by Respondents’ attorney granted but extension of time to reply to Complainant’s post-hearing brief was denied to avoid giving tactical advantage due to the withdrawal, where filing deadline had passed and Respondents’ previous post-hearing brief provided opportunity to address the issues. HO

Respondents’ second request to continue conciliation conference denied where first lengthy continuance was granted over Complainant’s objections and with warning that case had to move expeditiously, where Respondents failed to establish that state court trial in which they were parties had in fact been scheduled for same date, and where conciliation conference was also a scheduled legal proceeding, enabling Respondents to argue to state court that their proceeding could not be scheduled for that date. CO

Continuance of conciliation conference denied where motion filed 7 days prior to scheduled date of which business Respondent had over a month’s notice, motion stated only that its president would be “attending a trade show in Las Vegas Nevada” with no explanation of why it should take priority or why motion was not filed earlier, and accompanying documentation showed his flight scheduled much later in the day than the conference. CO

Extension of time to file Request for Review denied; needing time to hire an attorney not sufficient grounds absent extraordinary circumstances. CO

Request for review denied where Complainant argued he should have received more time to submit documents during investigation, finding the four extensions granted were ample. CO

Assertion that Respondent had an unexpected work conflict is too vague and conclusory to support finding of good cause for last-minute continuance of settlement conference. CO
Sellers v. Outland, CCHR No. 02-H-037 (Apr. 15, 2009) Complainant’s motion for extension of time granted where Complainant failed to file within the filing period allowed under 2008 amendment, because parties had no actual notice of the amendment.

Ogunnaike v. Crowne Plaza Hotel, CCHR No. 08-P-83 (Apr. 29, 2009) Continuance of settlement conference denied with leave and deadline to re-file, due to insufficient explanation why Respondent’s attorney needed to be out of town or why she had not sought a continuance sooner. Continuances or extensions are not routinely granted but require showing of good cause and compliance with requirements for such motion.

Lathan v. Eleven City Diner, CCHR No. 08-P-21 (Aug. 20, 2009) (1) Commission does not confer with parties personally about preferred scheduling of proceedings; rescheduling is by motion for continuance, and (2) CHR not required to reschedule proceedings repeatedly to accommodate other matters which may arise on an attorney’s schedule.

Montelongo v. Azarpira, CCHR No. 09-H-23 (June 1, 2010) Continuance denied where request submitted two days before scheduled settlement conference with no evidence of service on respondent. That Complainant had an appointment with a law office which may represent her did not provide good cause.

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (Aug. 30, 2010) Two-week extension granted to file position statement required by previous order where Respondent sought 120 days to retain new counsel and file statement, where Respondent waited until just before deadline to request more time, case had been long delayed, and Complainant had life-threatening illness. CHR does not routinely grant extensions or continuances, including to obtain counsel, and does not grant lengthy extensions absent strong showing of need.

Montelongo v. Azarpira, CCHR No. 09-H-23 (Jan. 31, 2012) Extension of time to object to recommended ruling denied where Respondent filed motion one day before deadline without proof of service, did not participate in any prior part of hearing process, and offered no basis for last-minute extension except desire to obtain counsel.

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Apr. 19, 2012) CHR granted extension of time to comply with injunctive order to provide sexual orientation harassment training, discussed applicable compliance standards.

Filing Requirements

Stephney v. Jama, CCHR No. 07-P-33 (Nov. 29, 2007) Order of Default affirmed on motion to vacate filed more than two months late with no basis for equitable tolling, plus not properly filed and served on parties.

Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430 et al., CCHR. No. 06-P-12/15 (Mar. 11, 2008) Complainant’s one-sentence signed statement asking CHR to enforce final order held insufficient to initiate enforcement process where Complainant did not provide second copy of request, proof of service, or information on his grounds for enforcement.

Blakemore v. Dublin Bar & Grill, Inc., d/b/a Dublin’s Pub, & Patino, CCHR No. 05-P-102 (Apr. 7, 2008) Motion to lift stay of proceedings denied where Complainant failed to comply with Commission’s regulations to submit original and at least one copy of motion and provide proof of service, and where Complainant provided no basis for Commission to alter its order to stay proceedings.

Raffety v. Great Expectations, CCHR No. 04-P-35 (Apr. 25, 2008) Letter asserting case should be dismissed because Respondent company’s Chicago location closed not sufficient as motion to dismiss where no second copy filed and no certificate or other evidence of service.

Davis v. Aljack Investments Inc. et al., CCHR No. 09-H-12 (Aug. 4, 2010) Motion to strike Respondent’s reply to Complainant’s response to motion to dismiss denied. Regulations did not explicitly allow a reply but did not prohibit it, and Complainant was not prejudiced by CHR considering the reply, as he prevailed on the motion to dismiss.

Motions in Limine – See Evidence/Motions in Limine section, above.

Motions to Compel – See Discovery/Motions to Compel section, above.

Motions to Dismiss – See separate Motions to Dismiss section, below.

Service

Raffety v. Great Expectations, CCHR No. 04-P-35 (Apr. 25, 2008) Letter asserting case should be dismissed because Respondent company’s Chicago location closed not sufficient as motion to dismiss where no second copy filed and no certificate or other evidence of service.

Henderson v. Heartland Housing Inc., et al., CCHR No. 06-H-04 (June 11, 2008) Parties admonished to review orders and regulations to avoid further procedural errors causing delay in responding to motions—including need to file attorney appearance, need to serve hearing officer, and need to serve opposing party.

Johnson v. Anthony Gowder Designs, Inc., CCHR No. 05-E-17 (Jan. 4, 2012) Letter of party treated as
motion, but motion denied because not served on other party as required by CHR regulations. CO

**Summary Judgment Motions**

*Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co.*, CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Although the Commission may consider uncontested facts contained in pleadings and documentation submitted as part of motion to dismiss briefing, it shall not consider facts which go to the merits of the underlying claim as opposed to the Commission's jurisdiction; the Commission does not accept summary judgment motions at any stage. CO

*Otero v. Dearborn Dental Grp., et al.*, CCHR No. 01-E-142 (Nov. 14, 2001) Motion which sets forth why underlying facts of case show that respondents should prevail was dismissed as an improper summary judgment motion, not a motion to dismiss. CO
Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 20, 2002) Motion which attaches exhibits from prior proceedings and which argues that there are no disputed facts, not that CHR has no jurisdiction, denied as improper summary judgment motion; also denied as appeals court ordered CHR to review and even reopen record, which it had not yet done. CO

Smith v. Owner of Baby Gap et al., CCHR No. 02-PA-125 (Apr. 11, 2003) CHR does not accept motions for summary judgment at any stage of its proceedings; instead, investigation and administrative hearing processes utilized to adjudicate factual issues. CO

Smith v. Owner of 4 Play Bar et al., CCHR No. 02-PA-102 (Apr. 15, 2003) (same) CO

Ledwon v. Dugan’s Bar et al., CCHR No. 02-E-179 (Aug. 21, 2003) (same as Smith, Torres & Walker, above) CO

MOTIONS TO DISMISS

Adequacy of Complaint – See Complaints/Adequacy of, above

Allegations Not Stricken

Pappas v. Metro. Pier & Exposition Authority et al., CCHR No. 02-E-28 (July 29, 2002) CHR denied motion to strike paragraph in Complaint alleging that Complainant was informed of his layoff, as it was integral to claim that layoff was discriminatory. However, paragraph describing conversation with union representative about layoff was stricken as adding no information relevant to claim. CO

Luna v. SLA Uno, Inc., et al., CCHR No. 02-PA-70 (March 29, 2005) Motion to strike conclusory and “inflammatory” allegations denied where Complaint gave detailed lists of conditions rendering restaurants in question inaccessible: allegations more than adequately put Respondents on notice of alleged violation; that Complainant made allegations of disability discrimination and pled facts supporting them does not alone make them inflammatory. CO

Brief in Support

Chambers v. Unicorn Club, Ltd./Steamworks et al., CCHR No. 03-E-16 (Nov. 9, 2004) Pursuant to Reg. 210.330(a), a motion to dismiss must be accompanied by a brief in support of the motion. CO

Effect of Amended Complaint – No new decisions in this volume.

Effect of Substantial Evidence Finding

Spaulding et al v. Ford Motor Company, CCHR No. 08-E-52/53/56/58/60/75 (May 4, 2011) Under Regs. 210.330 and 270.307(a), a motion to dismiss for lack of subject matter jurisdiction may be filed at any time, including during the pre-hearing process after a substantial evidence finding. It is decided by the Commission, not the hearing officer. CO

Factual Dispute

Goldzweig v. Johnson & Stamison, CCHR No. 00-H-2 (Feb. 15, 2000) CHR denied motion to dismiss as turning on outstanding factual issues where the motion concerned whether one Respondent owned the subject property and/or took part in management decisions related to it; CHR held it would consider the factual issues in its investigation into the case. CO

Aljazi v. Owners of 4831 N. Drake, et al., CCHR No. 99-H-77 (Apr. 27, 2000) CHR denied motion to dismiss as it turned on outstanding facts and merely disagreed with the complaint’s version of facts. CO

West v. Kaplan, CCHR No. 00-E-1 (July 31, 2000) (same) CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Same; arguments directed to factual merits of complaints do not establish that Complainants have failed to state a claim upon which relief can be granted as a matter of law. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) It is possible that specific Section 8 requirements would be so onerous for a particular landlord that not wanting to accept them would be a legitimate, non-discriminatory defense to the refusal to rent to a Section 8 recipient; however, that is a question of fact not subject to disposition on a motion to dismiss and which would have to be supported by credible evidence, not generalizations. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 12, 2000) Motion to dismiss denied as it turned on outstanding facts and merely disagreed with the complaint’s version of facts. HO

Powell v. Management & Owner of 549 W. Randolph St., CCHR No. 00-PA-72 (Dec. 1, 2000) CHR denied motion to dismiss which argued the facts of the case, such as whether Respondents had attempted to accommodate
Complainant and whether any accommodation would create an undue hardship. CO

_Duignan v. Little Jim’s Tavern, et al._, CCHR No. 01-E-38 (Sep. 10, 2001) On motion to dismiss, CHR declined to ascribe one motivation to respondent, that complainant was not a good employee, where his complaint suggests that he was discharged after rebuffing his supervisor’s advances. CO

_Love v. Chicago Office of Emergency Communics., et al._, CCHR No. 01-E-46 (Oct. 16, 2001) Follows CHR and state court precedent in holding that common law immunity provides immunity only for acts done in good faith; CHR denied motion to dismiss as a matter of law where the issue of good faith rests on intent and so disputed facts, including the one central to the case – whether Respondents intentionally discriminated against Complainant. CO

_Otero v. Dearborn Dental Group et al._, CCHR No. 01-E-142 (Nov. 14, 2001) Motion which sets forth why underlying facts of case show that respondents should prevail was dismissed as an improper summary judgment motion, not a motion to dismiss. CO


_Beltre v. Zoom Kitchen_, CCHR No. 01-E-163 (July 22, 2002) Where Respondent merely presented contradictory evidence concerning Complainant’s age and disability, motion to dismiss denied due to outstanding factual issues. CO

_Lapa v. Polish Army Veterans Assn. et al._, CCHR No. 02-PA-27 (Dec. 31, 2002) Where Respondent organization presented some evidence of specific limitations on and qualifications for membership but all evidence needed to determine whether it falls under “private club” exemption to CHRO was not before CHR and Complainant offered documents casting doubt on individual Respondent’s membership eligibility, motion to dismiss denied due to outstanding factual issues. Although single example of inaccurate application of membership criteria may be insufficient to prove that organization’s membership requirements are illusory or that organization is not sufficiently selective to be deemed “private” club or establishment, Complainant’s submission must be answered or explained. CO

_Kirth v. Schneidermeier & Oberth_, CCHR No. 03-H-11 (Apr. 7, 2003) Where Respondent’s motion to dismiss made assertions that Complainant’s allegations were not true, motion denied due to outstanding factual issues. CO

_Walter v. Oberth_, CCHR No. 03-H-12 (Apr. 7, 2003) If determination of jurisdiction rests on any disputed issue of fact, CHR may not grant motion to dismiss but will investigate factual issue and may adjudicate it in administrative hearing. Factual issues in case included whether Complainant knew younger tenants were treated more favorably more than 180 days prior to filing, whether Respondent actually performed certain repairs in Complainant’s apartment, and whether reason for termination notice was non-payment of rent. CO

_Smith v. Owner of Baby Gap et al._, CCHR No. 02-PA-125 (Apr. 11, 2003) In ruling on motion to dismiss, CHR may consider only uncontested facts; if determination of jurisdiction rests on any disputed issue of fact, CHR may not grant motion to dismiss but will investigate factual issue and may adjudicate it in administrative hearing. Factual issues in case included whether restaurant is wheelchair accessible and whether undue hardship exists. CO

_Smith v. Owner of 4 Play Bar et al._, CCHR No. 02-PA-102 (Apr. 15, 2003) In ruling motion to dismiss, CHR may consider only uncontested facts; if determination of jurisdiction rests on any disputed factual issue, CHR may not dismiss but will investigate factual issue and may adjudicate it in administrative hearing. Factual issues in case included whether Complainant has standing to complain about inaccessibility, whether futile gesture doctrine may apply, what specific arrangements as to wheelchair accessibility existed on date in question, extent of each Respondent’s responsibility to bring restaurant into compliance with CHRO and whether claim of undue hardship may apply. CO

_Schein v. Garland Brothers & Home Line Furniture Industries, Inc._, CCHR No. 02-E-16 (May 6, 2003) Motion to dismiss Complaint of commission sales representative denied where allegations did not rule out an employment relationship with a furniture wholesaler and a furniture manufacturer’s representative. Mere assertion that Complainant was independent contractor and not employee does not rule out protection of CHRO; evidence on nature of relationship will be developed in investigation. CO

_Ceballos & Mejia, Jr. v. Art Institute of Chicago_, CCHR No. 03-E-54/55 (June 3, 2003) Motion to dismiss arguing about credibility and meaning of facts denied; on motion to dismiss, CHR decides only whether allegations state claim, not whether they are true. CO

_Chapman v. City of Chicago, Chicago Public Library et al._, CCHR No. 00-E-65 (Aug. 13, 2003) Where Respondent asserted that Third Amended Complaint contained allegations contradictory to those in original Complaint with respect to dates of adverse employment actions, CHR did not dismiss Third Amended Complaint, considering inconsistency as factual dispute to be resolved through investigation. CO

_Ledwon v. Dugan’s Bar et al._, CCHR No. 02-E-179 (Aug. 21, 2003) (same) CO

_Maat v. Conway Mgmt. et al._, CCHR No. 02-PA-74 (Aug. 21, 2003) Whether residential condominium and its management company are proper respondents as responsible to provide access for wheelchair users to business in same building through entrance under their control is factual issue that cannot be decided on motion to dismiss. CO
Anthony v. O.A.I., Inc., CCHR No. 02-PA-71 (Aug. 25, 2003) Whether application and admission process to certified nursing program is public accommodation, whether religious-based discrimination occurred, and whether it would have been futile gesture to attend school application interview are all factual issues and inappropriate as bases for motion to dismiss. CO

Frazier v. Midlakes MGMT. LLC et al., CCHR No. 03-H-41 (Sep. 15, 2003) Whether Complainant filed Complaint for purposes of harassment or retaliation against Respondent, or with “unclean hands,” are underlying factual issues to be investigated as they relate to discrimination claim and do not provide basis for dismissal of Complaint. CO

Smith v. Owner of Halligan et al., CCHR No. 03-P-103 (Sep. 19, 2003) Motion to dismiss contending that making restaurant wheelchair-accessible is undue hardship denied due to outstanding factual issues which cannot be resolved on motion to dismiss. CO

Garnett v. Chicago Transit Authority. CCHR No. 93-E-243 (Sep. 30, 2003) Whether employer punished Complainant and other employees in disparate manner, whether chronic back disorder constitutes disability, and whether employer’s disciplinary measures were warranted and not related to claimed disability are issues requiring analysis of facts to be developed during investigation and hearing, so motion to dismiss denied. Respondent may assert any factual disputes and fact-based defenses via verified response and position statement and by providing evidence during investigation and adjudication processes. CO

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Oct. 27, 2003) Motion to dismiss characterizing Complaint’s allegations as “fictitious” denied as incorrect vehicle to challenge truth of allegations; respondents have opportunity to present their side and resolve conflicting factual issues by filing verified response and participating in neutral investigation and administrative hearing processes. CO

Cooper v. Park Mgmt. and Investment, Ltd. et al., CHR No. 03-H-48 (Nov. 17, 2003) Whether Complainant was reasonable in belief that applying for apartment would be futile because Respondent told her they would not accept Section 8 voucher is question of fact and inapplicable as basis for motion to dismiss. CO

Smith v. Owner of Sullivan’s et al., CCHR No. 03-P-107 (Dec. 1, 2003) Whether allegation is trivial held to be an issue of fact which cannot be resolved by motion to dismiss. CO

Floyd v. City of Chicago Dep’t of Health, CCHR No. 00-E-120 (Nov. 4, 2004) Where the parties differed in characterizing a document regarding further disciplinary action issued to Complainant, CHR denied motion to dismiss due to outstanding factual issues. CO

Chambers v. Unicorn Club, Ltd./Steamworks et al., CCHR No. 03-E-16 (Nov. 9, 2004) Whether Complainant was telling the truth in his Complaint is a factual issue and thus not appropriate for resolution on a motion to dismiss. Thus CHR denied motion to dismiss which argued that Complainant’s verification was baseless because he falsely testified under oath in a criminal proceeding. CO

Murad v. Legal Assistance Found. of Chicago, CCHR No. 00-P-11 (Nov. 22, 2004) Where Complaint was ambiguous as to whether Complainant was seeking to be accepted as a client or was already receiving services within an attorney-client relationship, and as to whether a grievance process was available to the general public or only to established clients, motion to dismiss was denied due to outstanding factual issues. Although Respondent offered evidence of its financial eligibility criteria, that did not fully clarify relevant facts based on uncontested evidence. CO

Brown v. Leona’s Pizzeria, Inc., CCHR No. 04-E-33 (Jan. 14, 2005) Although Respondent offered some evidence concerning its “independent contractor” relationship with Complainant, Complainant had not acknowledged the evidence as true, so it was not uncontested. Moreover, all evidence needed to determine whether parties had an employment relationship was not before CHR, so motion to dismiss denied due to outstanding factual issues. CO

Sandy v. Chicago Cultural Center et al., CCHR No. 03-P-10 (Jan. 25, 2005) Where CHR could not determine from Complaint allegations whether a security guard already knew, or should have known, that Complainant was female and whether he was reasonable in questioning Complainant about her sex when she attempted to use a women’s restroom, it refused to dismiss a gender identity discrimination claim due to outstanding factual issues. CO

Zurko v. Galter Life Center, CCHR No. 04-P-20 (Jan. 27, 2005) Motion to dismiss denied where Respondent did not present evidence sufficient to establish that it met the criteria for an exempt private club, thereby leaving outstanding factual issues. CO

Thomas v. Lincoln Park Plaza Condo. Assn. et al., CCHR No. 03-H-13 (Mar. 10, 2005) CHR could not determine whether the alleged actions constituted harassment or disparate treatment based on race without assessing the truth of the allegations, Respondents’ stated reasons for the actions, and whether there is evidence the stated reasons are pretextual. Also, CHR declined to dismiss or strike alleged “untimely” incidents because it could not determine based on Complaint alone whether a continued violation existed based on three-pronged continuing violation test. CO
Thalassinos v. Navy Pier, CCHR No. 04-P-3 (Mar. 21, 2005) Whether Complainant was handing out leaflets in a location under the control of Respondent, whether First Amendment expressive activity was invited or allowed in that location, and whether the individual/s who asked Complainant to leave the premises were acting on behalf of Respondent were factual issues that could not be resolved on a motion to dismiss, which was accordingly denied. CO

Luna v. SLA Uno, Inc., et al., CCHR No. 02-PA-70 (March 29, 2005) Motion to dismiss not proper context for resolving questions of fact; that is purpose of investigation and if substantial evidence of discrimination found, of administrative hearing. Where Respondents presented affidavit concerning relationships of corporate entities named but no documentation showing how those relationships may affect their individual liability, motion to dismiss denied due to outstanding factual issues. CO

Brekk v. Officer Delia et al., CCHR No. 01-PA-110/117 (July 22, 2005) Where Complainant alleged that police officers referred to his presumed mental illness in refusing to take police report but lacked sufficient information to determine whether their comments, in providing limited public accommodation of listening to his request for police action, were sufficiently “separating or belittling” to have created hostile environment in use of public accommodation, motion to dismiss harassment claim denied due to outstanding factual issues. CO

Molden v. United Winthrop Tower Coop. et al., CCHR No. 04-P-29 (July 27, 2005) Whether housing cooperative offered the general public admission to building to visit willing resident, subject to general ministerial requirements, was factual issue for investigation as to whether a public accommodation was involved in alleged refusal to admit Complainant to visit relative due to his sexual orientation; motion to dismiss denied. CO

Bowen v. Salvation Army Adult Rehab. Ctr., CCHR No. 04-E-187 (Sep. 15, 2005) Although Respondent offered some evidence concerning its relationship with Complainant, Complainant had not acknowledged it as true so it was not uncontested. As all evidence needed to determine whether parties had employment relationship was not before CCHR, motion to dismiss denied due to outstanding factual issues. CO

Herring v. AMI Inc., et al., CCHR No. 05-E-91 (Feb. 2, 2006) Although Respondent offered some evidence concerning its relationship with Complainant, Complainant had not acknowledged the evidence as true, so it was not uncontested. Moreover, all evidence needed to determine whether parties had employment relationship was not before CCHR, resulting in denial of motion to dismiss due to outstanding factual issues. CO

Beaty v. Int’l Word Outreach Ministries et al., CCHR No. 05-E-98 (Feb. 28, 2006) Where Complainant and Respondent made conflicting assertions regarding existence of employment relationship, motion to dismiss denied due to outstanding factual issues. CO

Molina v. Hallmark Dental Care, LLC et al., CCHR No. 06-E-12 (July 11, 2006) Although Respondent offered some evidence concerning its relationship with Complainant, Complainant offered contradictory evidence via Complaint. Moreover, all evidence needed to determine whether parties had employment relationship was not before CCHR, resulting in denial of motion to dismiss due to outstanding factual issues. CO

De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Aug. 23, 2006) Motion to dismiss not appropriate context to consider Respondents’ factual assertions that they did not discriminate against Complainant; that is purpose of CHR’s investigation and, if substantial evidence of discrimination found, an administrative hearing. CO

Blakemore v. Metro. Water Reclamation Dist. et al., CCHR No. 06-P-18 (Nov. 8, 2006) Whether speaking at government entity’s Board meetings involves public accommodation under CHRO is question of fact which cannot be determined on motion to dismiss but must be investigated by assessing current evidence concerning Respondent’s meeting policies and procedures. CO

Raffety v. Great Expectations, CCHR No. 04-P-35 (Nov. 1, 2007) Whether commercially advertised dating service limited to heterosexuals is private club is question of fact that cannot be determined on a motion to dismiss, where the service asserts it has a prescreening process but Complainant’s first contact with it was through a telemarketer. CO

Cotten v. Japonais (Geisha LLC) & City of Chicago Dept. of Transportation, CCHR No. 06-P-30 (Apr. 30, 2008) Motion to dismiss denied in case about wheelchair accessibility of restaurant where factual issues remained including restaurant’s control over curb and lane used for valet parking service, undue hardship, and capacity to provide substantially equivalent service or reasonable accommodations. CO

Cotten v. The Denim Lounge, CCHR No. 08-P-6 (June 17, 2008) CHR denied motion to dismiss which made factual assertions about status of Respondent and disputed the credibility of allegations in the complaint, as such issues cannot be resolved on a motion to dismiss. CO

Ennajari v. 4626 N. Kenmore Condo. Assn. et al., CCHR No. 07-H-33 (Nov. 4, 2008) Complaint claiming harassment of condominium unit owner could not be decided on motion to dismiss where CHR could not determine whether the alleged incidents constituted harassment or other disparate treatment without further factual assessment, and at least some allegations may be found severe or pervasive enough to constitute harassment. CO

Blakemore v. Jewel et al., CCHR No. 06-P-72 (Feb. 2, 2009) Whether there was an agency relationship
between the two Respondents, as well as whether the alleged discriminatory incident was of short duration and not “overt” race discrimination, held to involve factual issues which could not be resolved on motion to dismiss. CO

Peterson v. Rosenthal Collins Group, LLC et al., CCHR No. 06-E-57 (May 7, 2010) Motion to dismiss amended complaint denied due to outstanding factual issues bearing on whether an employment relationship existed between complainant and the moving respondent and whether added respondent knew of the initial complaint. CO

Davis v. Aljack Investments Inc. et al., CCHR No. 09-H-12 (Aug. 4, 2010) Motion to dismiss denied where availability of apartments to rent at time of Complainant’s inquiry was a question of fact which could not be determined on motion to dismiss. Whether continuing violation theory will apply to otherwise untimely allegations also depends on resolution of factual issues. CO

Johnson v. Dominick’s Store #2153 et al., CCHR No. 09-P-52 (Aug. 19, 2010) Motion to dismiss amended complaint adding Respondents during investigation stage as untimely was denied where there was evidence the new Respondents knew of the Complaint, and when they learned of it was a question of fact which could not be decided on a motion to dismiss. CO

Jurisdiction – No new decisions in this volume.

Response – No new decisions in this volume.

Standard

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-13/20 & 99-PA-4/53/84 (Feb. 10, 2000) On a motion to dismiss, CHR takes all allegations as true, together with all reasonable inferences, and it will dismiss a complaint only if it appears beyond doubt that the complainant could not prove facts that would entitle him or her to relief. CO


Woods v. Law Offices of Michael Rovell et al., CCHR No. 00-E-49 (Aug. 23, 2000) (same) CO


Jones v. Proven Performers, CCHR No. 00-E-126 (Nov. 27, 2000) (same) CO

Gaddy v. Chicago Dept. of Streets & Sanitation, CCHR No. 00-PA-52 (Nov. 28, 2000) (same) CO

Hackett v. Robert Morris Coll. et al., CCHR No. 99-E-188 (Dec. 13, 2000) Same; also states that CHR is not bound by a complainant’s legal conclusions. CO

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) On a motion to dismiss, CHR takes all allegations as true, together with all reasonable inferences, and it will dismiss a complaint only if it appears beyond doubt that the complainant could not prove facts that would entitle him or her to relief. CO

Morris v. Chicago Board of Educ., CCHR No. 97-E-41 (Feb. 9, 2001) (same) CO

Long v. Chicago Public Library, et al., CCHR No. 00-PA-13 (Feb. 21, 2001) On a motion to dismiss, CHR takes as true all allegations, together with all reasonable inferences. CO

Mestas v. Rock Island Securities, et al., CCHR No. 00-E-121 (Mar. 9, 2001) On a motion to dismiss, CHR takes all allegations as true, together with all reasonable inferences, and it will dismiss a complaint only if it appears beyond doubt that the complainant could not prove facts that would entitle him or her to relief; also states that CHR is not bound by a complainant’s legal conclusions. CO


Byler v. McCormick Place Convention Ctr., CCHR No. 00-E-112 (Apr. 11, 2001) (same) CO

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) (same) CO

McPhee v. Novovic, CCHR No. 00-H-69 (Mary 23, 2001) (same) CO

Morariy v. Chicago Fire Dept. et al., CCHR No. 00-E-130 (June 13, 2001) (same) CO

Nichols v. Northwestern Memorial Hosp., et al., CCHR No. 01-PA-15 (June 27, 2001) (same) CO

Oliva v. Simmons Corp., CCHR No. 01-PA-32 (July 17, 2001) (same) CO

Lucado v. City Service Taxi Assoc., et al., CCHR No. 00-PA-67 (July 31, 2001) (same) CO

Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) (same) CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) (same) CO

Duignan v. Little Jim’s Tavern, et al., CCHR No. 01-E-38 (Sep. 10, 2001) (same) CO

Brown v. Hirsch Mgt., et al., CCHR No. 01-H-39 (Sep. 24, 2001) (same) CO

Kenny v. Loyola Univ., et al., CCHR No. 01-PA-44 (Sep. 24, 2001) (same) CO
Day v. Breakthrough Urban Ministries, et al., CCHR No. 01-H-12 (Sep. 26, 2001) (same) CO
Stanley v. Chicago Police Dept., et al., CCHR No. 01-E-31 (Oct. 2, 2001) (same) CO
Love v. Chicago Office of Emergency Communics., et al., CCHR No. 01-E-46 (Oct. 16, 2001) (same) CO
Russell v. Wolley Cab Co. et al., CCHR No. 01-PA-63 (Nov. 19, 2001) (same) CO
Insalata v. Realty Resources Grp., et al., CCHR No. 01-H-70 (Dec. 3, 2001) (same) CO
Howard, Warren & Watts v. 7-Eleven, et al., CCHR No. 01-PA-69/90/91 (Dec. 4, 2001) (same) CO
Blakemore v. Kinko’s, CCHR No. 01-PA-77 (Dec. 6, 2001) (same) CO
Kopnick v. Chicago Bd. of Educ., et al., CCHR No. 01-E-135 (Jan. 10, 2002) (same) CO
Blakemore v. Chicago Dept. of Consumer Services, CCHR No. 01-E-131 (Jan. 18, 2002) (same) CO
Saadah v. Chicago Depts. of Consumer Services & Aviation, CCHR No. 01-PA-84/93/95 (Jan. 30, 2002) (same) CO

Blakemore v. Chicago Dept. of Consumer Services et al, CCHR No. 01-PA-25 (Feb. 26, 2002) (same) CO
Spanjer v. White Hen Pantry & Chicago Police, CCHR No. 00-PA-33 et al. (Mar. 5, 2002) (same) CO
Milton v. Commercial Light Co., CCHR No. 01-E-154 (Mar. 15, 2002) (same) CO
Blakemore v. Water Reclam. Dist. of Chicago, CCHR No. 01-PA-105 (Mar. 18, 2002) (same) CO
Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) (same) CO
Hutt v. Horizons Community Svs., CCHR No. 01-E-121 (Apr. 10, 2002) (same) CO
Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (Apr. 25, 2002) (same) CO

Maat v. Chicago Board of Education, CCHR No. 01-PA-115 (May 17, 2002) (same) CO
Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (May 30, 2002) (same) CO

Smith v. Owner of 4 Play Bar et al., CCHR No. 02-PA-102 (Apr. 15, 2003) Reg. 210.330 requires that respondent filing motion to dismiss file brief in support at time motion is filed and served. CO
Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (Feb. 14, 2006) That claim may be difficult to substantiate not basis to grant motion to dismiss; cannot dismiss on pleadings for that reason. CO

Summary Judgment Motions
Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Although the Commission may consider uncontested facts contained in pleadings and documentation submitted as part of motion to dismiss briefing, it shall not consider facts which go to the merits of the underlying claim as opposed to the Commission’s jurisdiction; the Commission does not accept summary judgment motions at any stage. CO

Otero v. Dearborn Dental Grp., et al., CCHR No. 01-E-142 (Nov. 14, 2001) (same) CO
Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 20, 2002) Motion which attaches exhibits from prior proceedings and which argues that there are no disputed facts, not that CHR has no jurisdiction, denied as improper summary judgment motion; also denied as appeals court ordered CHR to review and even reopen record, which it had not yet done. CO
Smith v. Owner of Baby Gap et al., CCHR No. 02-PA-125 (Apr. 11, 2003) CHR does not accept motions for summary judgment at any stage of its proceedings; instead, investigation and administrative hearing processes utilized to adjudicate factual issues. CO
Smith v. Owner of 4 Play Bar et al., CCHR No. 02-PA-102 (Apr. 15, 2003) (same) CO
Ledwon v. Dugan’s Bar et al., CCHR No. 02-E-179 (Aug. 21, 2003) (same as Smith, Torres & Walker, above) CO

Supporting Documentation
Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-13/20 & 99-PA-4/53/84 (Feb. 10, 2000) In reviewing a motion to dismiss, CHR may consider uncontested facts contained in pleadings or in documentation filed as part of motion to dismiss briefing. CO
Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Although the Commission may consider uncontested facts contained in pleadings and documentation submitted as part of motion to dismiss briefing, it shall not consider facts which go to the merits of the underlying claim as opposed to the Commission’s jurisdiction; the Commission does not accept summary judgment motions at any stage. CO
2001) (same) CO

Oliva v. Simmons Corp., CCHR No. 01-PA-32 (July 17, 2001) In reviewing a motion to dismiss, CHR may consider uncontested facts contained in pleadings or in documentation filed as part of motion briefing. CO

Lucado v. City Service Taxi Assoc., et al., CCHR No. 00-PA-67 (July 31, 2001) (same) CO

Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) (same) CO

Russell v. Wolley Cab Co. et al., CCHR No. 01-PA-63 (Nov. 19, 2001) (same) CO

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) (same) CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (Apr. 25, 2002) (same) CO

Maat v. Chicago Board of Education, CCHR No. 01-PA-115 (May 17, 2002) (same) CO

Ledwon v. Dugan’s Bar et al., CCHR No. 02-E-179 (Aug. 21, 2003) (same as Smith, Torres & Walker, above) CO

Small v. Univ. Village et al., CCHR No. 03-H-4 (Aug. 21, 2003) Letter attached to Respondent’s motion to dismiss considered “uncontested fact” because Complaint tracked letter’s language, but motion to dismiss denied because letter did not show Respondent’s actions were motivated by amount of Complainant’s income rather than its source. CO

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (Feb. 14, 2006) In deciding motion to dismiss, CHR reviewed Complaints, evidence uncontested by Complainant, and applicable ordinances and regulations to determine which allegations involved public accommodation and which were covered by quasi-judicial immunity. CO

Blakemore v. Metro. Water Reclamation Dist. et al., CCHR No. 06-P-18 (Nov. 8, 2006) Complaints cannot be dismissed based only on citation of evidence or factual determinations from earlier investigation without any current investigation of whether previous state of facts continues to prevail. Thus, where Respondents relied solely on Investigative Summary in prior case filed by Complainant against them and presented no current, uncontested evidence in support of dismissal, motion to dismiss denied. CO

Zografopoulos v. Wendella Sightseeing Co., Inc., CCHR No. 05-P-95 (Mar. 10, 2008) On motion to dismiss, CHR considered documents regarding licensing of dock areas to determine Respondent sightseeing boat company’s extent of control where the evidence was uncontested and went directly to CHR’s jurisdiction, not merits of case. CO

Timing

Long v. Chicago Public Library, et al., CCHR No. 00-PA-13 (Feb. 21, 2001) CHR finds timely a motion to dismiss amended complaint filed more than 14 days after amended complaint although one CHR regulation gives Respondent 14 days to respond to amended complaint, a different one allows 30 days and a third permits motions to dismiss to be filed at any time. CO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Apr. 1, 2009) Motion to dismiss for lack of subject matter jurisdiction may be considered at any time including during administrative hearing process, as CHR can proceed only under authority granted by its governing ordinances. CO

Spaulding et al v. Ford Motor Company, CCHR No. 08-E-52/53/56/58/60/75 (May 4, 2011) Under Regs. 210.330 and 270.307(a), a motion to dismiss for lack of subject matter jurisdiction may be filed at any time, including during the pre-hearing process after a substantial evidence finding. It is decided by the Commission, not the hearing officer. CO

“Trivial” Complaint Allegations – See Adverse Action and Complaints/Trivial Allegations sections, above.

Waiver

Blakemore v. Chicago Dept. of Consumer Services, CCHR No. 99-PA-78 (Jan. 19, 2000) When Respondent did not file a supplemental brief ordered by CHR to address a “significant allegation of the complaint,” CHR held that Respondent had waived its motion to dismiss and returned case to investigation. CO

Who May File

Cooper v. Park Management & Investment Ltd. et al., CCHR No. 03-H-48 (July 26, 2007) Motion by business Respondent to dismiss individual Respondent denied for lack of standing where moving Respondent no longer had contact with or control over, was not authorized to represent her, and no prejudice to filing Respondent was discerned due to possible default or negative inference of individual Respondent. CO

Brown v. South Shore Beach Apts. et al., CCHR No. 07-H-54 (Mar. 12, 2008) Respondents cannot file
motion to dismiss on behalf of another Respondent not associated with them or represented by their attorneys. CO

NATIONAL ORIGIN DISCRIMINATION
Covered Backgrounds – No new decisions in this volume.

Liability Found
Rogers/Stomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Respondents found liable for harassing Complainants explicitly because they are Polish. R
Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) After order of default, Mexican-American kitchen employee established prima facie case that restaurant owner harassed and discharged her based on age, sex, and national origin when he engaged in repeated derogatory slurs and insults, then discharged her stating, “I don’t need her work because she’s already old. And I don’t like Mexicans in my business.” R

No Liability Found – No new decisions in this volume.

NEGATIVE INFERENCE ORDER
Effect
Hawkins v. Jack’s Lounge, CCHR No. 05-P-61 (Mar. 15, 2006) Witness testimony at administrative hearing is evidence covered by negative inference order; CHR regulations make clear that negative inference not limited to documents or physical evidence. HO

Entered
Leslie & Leadership Council for Metro. Open Communities v. Carstea & Berzava, CCHR No. 98-H-70/76 (Feb. 25, 2000) Where one Respondent failed to respond to a request for documents and then to a Notice warning that continued failure would lead to a negative inference order, CHR entered order that this Respondent cannot support her position that she has any of the outstanding documents related to an alleged rental of the subject apartment. CO
May v. The Krisam Group, CCHR No. 95-E-195 (Nov. 31, 2000) Where Respondent failed to respond to a request for documents and then to a Notice warning that continued failure would lead to a negative inference order, CHR entered order that Respondent cannot rely on the outstanding documents to support its defense that Complainant was less productive relative to her salary than non-pregnant others in her position. CO
Claudio v. Chicago Baking Co., CCHR No. 99-E-76 (July 17, 2002) Objection to negative inference order overruled, rejecting arguments that documents at issue were routinely destroyed in ordinary course of business and not destroyed in bad faith; Respondent had specific notice of obligation to retain and preserve relevant documents yet continued to destroy vehicle logs and supervisor schedules, and presented no evidence that destruction was accidental or outside Respondent’s control; further, negative inference order is proper sanction for failure to comply with CHR discovery procedures. Respondent knew the logs and schedules were relevant, as it saved one log and schedule that supported its position. R
Williams v. First American Bank, CCHR No. 05-P-130 (Feb. 19, 2008) Complainant sanctioned for failure to comply with order to produce discovery documents after motion to compel. Hearing officer indicated appropriate negative inferences may be taken against Complainant if at hearing the documents not produced were found relevant. HO

Not Vacated
Hawkins v. Jack’s Lounge, CCHR No. 05-P-61 (Mar. 15, 2006) Even if mailed notices concerning negative inference were not received due to inconsistent mail delivery, record documented successful facsimile transmission giving Respondent two opportunities to avoid negative inference; therefore, no good cause for failure to act. HO

Vacated
May v. Krisam, CCHR No. 95-E-195 (Jan. 11, 2001) After Respondent explained that certain outstanding documents simply do not exist, CHR vacated part of its prior Negative Inference Order that the documents do not support Respondent’s position, but maintained the finding that those documents do not exist. CO
Gilbert and Gray v. 7335 South Shore Condo Assoc. et al., CCHR No. 01-H-18/27 (Mar. 13, 2007) Negative inference rescinded, discussing applicable regulations, because motion for negative inference not preceded by motion to compel. HO
NEWSPAPER LIABILITY
First Amendment Issues – No new decisions in this volume.

Housing Advertisement
Leadership Council for Metropolitan Open Communities v. Chicago Tribune, CCHR No. 02-H-19 (Apr. 11, 2002) CHR dismissed newspaper which printed housing ad refusing rental based on source of income finding it is not an owner, lessee or other entity, including agent, listed by CFHO and so not proper respondent under it. CO
Leadership Council for Metropolitan Open Communities v. Chicago Tribune, CCHR No. 02-H-19 (June 6, 2002) CHR upholds prior decision [above] that the Tribune is not an “agent” of a housing provider merely by publishing a housing advertisement and so is not a proper respondent under the CFHO. CO

No Jurisdiction
Chrzanski v. Dziennik Zwaikowy, CCHR No. 11-E-67 (Sept. 28, 2011) Complaint dismissed against newspaper that listed allegedly discriminatory job advertisements, finding no employment relationship between Complainant and newspaper, which had no right of control over Complainant’s employment, so not proper respondent. CO

Public Accommodation – No new decisions in this volume.

NOTARIZATION – No new decisions in this volume.

OBJECTIONS TO RECOMMENDED DECISION – See Hearing Procedures/Objections to First Recommendation section, above.

OCCUPANCY STANDARDS
Liability Found – No new decisions in this volume.

Liability Not Found – No new decisions in this volume.

Standard
Harboe/Dimm v. Realty & Mortgage Co. et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Where the apartment in question was large enough, per Chicago’s occupancy code, for Complainants’ family and where Respondents expressly did not renew Complainants’ lease due to the size of their family, CHR found substantial evidence of parental status discrimination; left issue about whether sleeping arrangements were proper – one child in a “closet” – for possible administrative hearing. CO

PARENTAL STATUS DISCRIMINATION
Additional Rent – No new decisions in this volume.

Age of Children – No new decisions in this volume.

Constructive Eviction – No new decisions in this volume.

Definition of Child – No new decisions in this volume.

Definition of Parental Status
Harboe/Dimm v. Realty & Mortgage Co. et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Parental status discrimination includes discrimination based on the number of children in a family, not merely on whether there were any children. CO
Comedie v. Carmen Marine Coop., CCHR No. 04-H-54 (Mar. 16, 2005) The protected classification of “parental status” also includes “perceived parental status,” consistent with CHR precedent regarding “perceived sex.” Allegation that Respondent refused to rent to Complainant because she might bring her children to the United States and live with them in the housing unit thus stated a claim of parental status discrimination. CO
Davis v. Thrush Dev. et al., CCHR No. 06-H-27 (Aug. 1, 2006) Where CHRO defines “parental status” as “the status of living with one or more dependent minor or disabled children,” persons without children do not fit that definition and thus are not protected by Ordinances. CO
Employment Discrimination

Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (June 17, 2009) Parental status discrimination found where employer discharged salesperson who was mother of two children, after single day of absence, finding the employer was lax about absences of employees who had no children. R

Housing Discrimination

Godard v. McConnell, CCHR No. 97-H-64 (Jan. 17, 2001) In default case, CHR found Respondent liable for not allowing Complainant to apply for an apartment because Complainant has children. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR found Respondents liable for having an “adults-only” policy which they used to discourage Complainant/owners from selling unit to Complainant/buyers who had a child. R

Harboe/Dimm v. Realty & Mortg. Co., et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Parental status discrimination includes discrimination based on the number of children in a family, not merely on whether there were any children. CO

Harboe/Dimm v. Realty & Mortg. Co., et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Where the apartment in question was large enough, per Chicago’s occupancy code, for Complainants’ family and where Respondents expressly did not renew Complainants’ lease due to the size of their family, CHR found substantial evidence of parental status discrimination; left issue about whether sleeping arrangements were proper – one child in a “closet” – for possible administrative hearing. CO

Cunningham v. Bui & Phan, CCHR No. 01-H-36 (Mar. 19, 2008) No parental status discrimination due to insufficient evidence that having children was reason Complainant was told he could not rent the apartment, noting that language difficulties were a factor in the communication which occurred. R

Indirect Discrimination – No new decisions in this volume.

Liability Found

Godard v. McConnell, CCHR No. 97-H-64 (Jan. 17, 2001) In default case, CHR found Respondent liable for not allowing Complainant to apply for an apartment because Complainant has children. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR found Respondents liable for having an “adults-only” policy which they used to discourage Complainant/owners from selling unit to Complainant/buyers who had a child. R

Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (June 17, 2009) Parental status discrimination found where employer discharged salesperson who was mother of two children, after single day of absence, finding the employer was lax about absences of employees who had no children. R

Liability Not Found

Cunningham v. Bui & Phan, CCHR No. 01-H-36 (Mar. 19, 2008) No parental status discrimination due to insufficient evidence that having children was reason Complainant was told he could not rent the apartment, noting that language difficulties were a factor in the communication which occurred. R

Stephens v. L & P Foods et al., CCHR No. 08-P-43 (Dec. 15, 2010) No parental status discrimination where minor daughter of customer was barred from a store’s showroom. Store consistently applied its posted policy prohibiting children under 18 from entering showroom unless placed in a shopping cart, and provided seating for children near the entrance under supervision of security officer. No-children policy in these circumstances does not discriminate against parents, because they can enter without their children or abide by the posted policy. No evidence supported Complainant’s argument the policy targeted parents living with dependent children; evidence supported that the policy was based on safety concerns due to operation of heavy equipment in showroom. R

Number of Children

Harboe/Dimm v. Realty & Mortgage Co. et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Parental status discrimination includes discrimination based on number of children, not only whether there were children. CO

Occupancy Standards

Harboe/Dimm v. Realty & Mortgage Co. et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Where the apartment in question was large enough, per Chicago’s occupancy code, for Complainants’ family and where Respondents expressly did not renew Complainants’ lease due to the size of their family, CHR found substantial evidence of parental status discrimination; left issue about whether sleeping arrangements were proper – one child in a “closet” – for possible administrative hearing. CO
Public Accommodation

*Stephens v. L & P Foods et al.*, CCHR No. 08-P-43 (Dec. 15, 2010) No parental status discrimination where minor daughter of customer was barred from a store’s showroom. Store consistently applied its posted policy prohibiting children under 18 from entering showroom unless placed in a shopping cart, and provided seating for children near the entrance under supervision of security officer. No-children policy in these circumstances does not discriminate against parents, because they can enter without their children or abide by the posted policy. No evidence supported Complainant’s argument the policy targeted parents living with dependent children; evidence supported that the policy was based on safety concerns due to operation of heavy equipment in showroom. R

PARTIES

*Pro Se Parties* – See separate *Pro Se Parties* section, below.

Responsibilities

*Vitek v. Blockbuster*, CCHR No. 02-PA-135 (July 17, 2003) Under Reg. 210.145, complainant is responsible to provide address sufficient to enable CHR to serve each named respondent; CHR Regulations do not specifically require CHR to mail Respondent Notifications and other notices to corporate registered agents. CO

*Anderson v. Joffe*, CCHR No. 03-H-28 (Oct. 27, 2003) Reg. 235.110 imposes duty on complainants to provide CHR with new address in event of relocation; however, failure to provide updated address does not – without anything more – provide basis for dismissing case. HO

*Edwards v. Larkin*, CCHR No. 01-H-35 (Nov. 4, 2004) Owner and operator of rental housing in Chicago responsible to follow law applicable to ownership and operation of real estate and to respond to legally-sufficient notices even if they are complex. CO

*Minnis v. United Airlines*, CCHR No. 05-E-128 (Feb. 8, 2007) Telephone numbers or e-mail address not sufficient to meet a complainant’s obligations; under Regs. 235.110 and 270.210, in order for CHR and other parties to serve documents, a mailing address is required for each party. CO

*Williams v. Cingular Wireless et al.*, CCHR No. 04-P-22 (Feb. 22, 2007) Fact that business is later sold or that individual Respondent may no longer be associated with corporate Respondent does not absolve Respondents of responsibility for any ordinance violation committed before such events. Respondent must notify CHR of any change in the status of the business including that it was sold. Fact that Respondent has not heard from CHR for some time does not mean the case is over. CO

PRECEDENT

Commission Orders

*Belcastro v. 860 N. Lake Shore Drive Trust*, CCHR No. 95-H-160 (Apr. 10, 2001) Where CHR had issued two prior orders ruling out a possible accommodation as an undue hardship, that accommodation would not be addressed at the Hearing; order denied motion to raise that accommodation as untimely. HO

*Blakemore v. Metro. Water Reclamation Dist. et al.*, CCHR No. 06-P-18 (Nov. 8, 2006) Although Regs. 240.620 and 270.510 provide that “decisions of the Commission and the Board of Commissioners shall have precedential effect,” CHR’s practice has been not to place precedential value on its Investigative Summaries. CO

Other Laws


*Oliva v. Simmons Corp.*, CCHR No. 01-PA-32 (July 17, 2001) CHR does look to decisions interpreting other laws for guidance; here, however, the issue was not one of first impression and so CHR precedent was best guidance and the ADA, cited by Respondent, has a significantly different definition of “public accommodation” and so cases construing it are not useful to CHR. CO

*Sims-Higgenbotham v. Fox and Grove et al.*, CCHR No. 99-PA-132 (Apr. 11, 2002) Because the definition of “public accommodation” in the IHRA is not the same as that in the CHRO, CHR looks to decisions interpreting the IHRA for guidance, but they are not dispositive. CO

*Gilbert v. Thornsdale Beach North Condo. Assoc. et al.*, CCHR No. 01-H-74 et al. (Apr. 25, 2002) CFHO’s language about who is prohibited from discriminating is substantially different from that of the federal Fair Housing Act and so cases construing federal act are not helpful. CO

*Smith v. Owner of Baby Gap et al.*, CCHR No. 02-PA-125 (Apr. 11, 2003) Where Respondent argued that Complainant must show that access barrier is violation of Americans with Disabilities Act (ADA), CHR clarified that case is about application of CHRO, not ADA; cases interpreting ADA do not bind CHR in applying CHRO and CFHO, which may have more stringent standards. CO
Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) CHR did not base decision on federal court cases cited by Complainant and hearing officer where there were ample precedential CHR decisions and no issues of first impression involved. R

Cotten v. Lou Mitchell’s, CCHR No. 06-P-9 (Dec. 16, 2009) CHRO provisions on disability discrimination and accessibility need not follow Americans with Disabilities Act (ADA) or Illinois Human Rights Act (IHRA). R

Unreported Decisions – No new decisions in this volume.

Withdrawal of Commission Order – No new decisions in this volume.

PREEMPTION

Admiralty/Maritime Law
Zografopoulos v. Wendella Sightseeing Co., Inc., CCHR No. 05-P-95 (Mar. 10, 2008) CHR declined to hold that federal admiralty law preempts CHRO and its implementing regulations with respect to accessibility requirements for vessels and their gangplanks where no cited cases were dispositive of the issue. CO

AMTRAK – No new decisions in this volume.

Chicago Landlord and Tenant Ordinance

Employee Retirement Income Security Act
Cordero v. World Travel BTI, CCHR No. 03-E-49 (Sep. 7, 2006) ERISA preempts CHRO as to ERISA-covered employee benefits including medical benefits plan that did not offer coverage for domestic partners of employees. CO

Mabry v. American Airlines, CCHR No. 02-E-111 (Oct. 5, 2006) Claims relating to administration by Respondent of medical benefits program covered by ERISA are pre-empted by that federal legislation, so CHR may not adjudicate them. CO

Federal Civil Rights Laws
Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) No law enforced by the EEOC, including Title VII, preempts the CHRO; these laws have provisions showing that they are to work in concert with state and local regulation of civil rights. CO

Freedom of Information Act
Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (Feb. 14, 2006) Although CHR not proper forum to appeal denial of Freedom of Information Act (FOIA) request, allegation of such denial can proceed as concurrent claim that access to public accommodation was withheld in discriminatory manner; no preemption by FOIA and nor to exhaust review options under other laws to pursue claim under CHRO. CO

Illinois Fair Housing Act – No new decisions in this volume.

Illinois Forcible Entry & Detainer Act

Illinois Human Rights Act
Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) No provision of the IHRA states that it is the sole avenue of redress for individuals with discrimination claims and so it does not grant the state exclusive jurisdiction to regulate civil rights and it does not limit the authority of home rule units, like the City of Chicago, from regulating civil rights. CO

Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) IHRA includes a provision expressly recognizing the authority of local polities to regulate civil rights, and to do so even more broadly than the IHRA. CO

Towers v. MIFAB, Inc., CCHR 06-E-93 (Apr. 9, 2009) Illinois Human Rights Act does not preempt City’s
home rule authority to enact its own discrimination ordinances; rather, IHRA recognizes City’s right to regulate more broadly. CO

_Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Apr. 18, 2012)_ IHRA does not preempt City of Chicago’s home rule authority to prohibit discrimination by small employers, award punitive damages, or award attorney fees and costs. R

**Labor Management Relations Act**

_Minter v. CSX Transportation & United Transportation Union, CCHR No. 00-E-9 (June 12, 2000)_ CHR held it was preempted from reviewing Complainant’s claim that a collective bargaining agreement provision which prevented an employee who had resigned of his own accord from being reinstated with full seniority to constitute disability discrimination; proceeding would have required CHR to construe, and perhaps, invalidate, that CBA provision. CO

_Spaulding et al v. Ford Motor Company, CCHR No. 08-E-52/53/56/58/60/75 (May 4, 2011)_ CHR was preempted from deciding claims of African-American industrial lift operators that they were denied overtime based on their race, because overtime eligibility and distribution were governed by a local collective bargaining agreement which they alleged was not followed, and Respondent’s stated defenses included compliance with the agreement. Under these circumstances, the claims were not independent of an understanding of the terms of the agreement and thus could not proceed at CHR. CO

**Metropolitan Transit Authority Act** – See also City of Chicago Authority and Jurisdiction/Governmental Agencies/Chicago Transit Authority sections, above.

_Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002)_ Mere fact that the CTA was created by the state, via “MTAA,” does not mean the City is preempted from regulating it. CO

**National Labor Relations Act**

_Diabor v. Kenny-Kiewit-Shea Joint Venture et al., CCHR No. 01-E-118 (July 22, 2002)_ Claim against union that it did not fairly represent Complainant dismissed as preempted by NLRA. CO

_Cosey v. John Buck Co. et al., CCHR No. 02-E-81 (July 24, 2002) (same)_ CO

_Diabor v. Kenny-Kiewit-Shea Joint Venture et al., CCHR No. 01-E-118 (July 31, 2002)_ Although claim against individual Respondent relating to his role as union steward had been dismissed as preempted by NLRA, claim relating to same Respondent’s role as management not preempted and so not dismissed. CO

_Leflore v. Pace Bus Co. et al., CCHR No. 02-E-47 (Sep. 9, 2002)_ Complaint dismissed as to union and union officer because claim that union did not fairly represent Complainant preempted by NLRA. CO

**Railroad Unemployment Insurance Act** – No new decisions in this volume.

**Section 8** – See also City of Chicago Authority section, above, and Source of Income/Section 8 section, below.

_Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (OCT. 6, 2000)_ Neither the Illinois Forcible Entry and Detainer Act nor the Chicago Residential Landlord and Tenant Ordinance nor common law restrict the permissible scope of the CFHO. CO

_Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000)_ Even if construing the CFHO to find that source of income discrimination prohibited discrimination against people using Section 8 vouchers, as done via April 1999 order, were inconsistent with Illinois and Chicago laws, the City’s home rule authority allows it to do so. CO

**Standards – Federal Laws**

_Leflore v. Pace Bus Co., CCHR No. 02-E-47 (Oct. 15, 2002)_ In absence of any legal authority cited by Respondent, CHR relies on presumption in favor of its ordinances and declines to rule that federal Family and Medical Leave Act (“FMLA”) preempts consideration of whether Respondent administered FMLA leave in discriminatory manner. CO

_Cordero v. World Travel BTI, CCHR No. 03-E-49 (Sep. 7, 2006)_ CHR presumption in favor of state and local laws requiring “clear and manifest purpose of Congress” to overcome it found consistent with federal preemption principles. Federal court guidance followed in finding that ERISA preempts CHRO as to ERISA-
covered employee benefits. CO

Spaulding et al v. Ford Motor Company, CCHR No. 08-E-52/53/56/58/60/75 (May 4, 2011) CHR does not lightly find its jurisdiction preempted but must follow federal and state law which bars state or local tribunals from adjudicating claims under their own laws that require interpretation of a collective bargaining agreement, in light of the strong policy intent to fashion a single national body of law through federal courts interpreting and enforcing such agreements. CO

Standards – State Laws

Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) CHR reviews methods which the state legislature is to use to preempt a home rule unit; finds neither was used in the statute creating the CTA and so that act does not preempt the City from regulating the CTA. CO

Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) CHR reviews court cases in which municipal corporations claimed that a home rule unit was preempted from regulating them; CHR finds that the CTA is not like school boards which are created by a constitutional provision but is like park districts which are created by statute and so may be regulated. CO

PREGNANCY DISCRIMINATION

Attendance – No new decisions in this volume.

Disability Discrimination

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) Disabilities related to pregnancy are considered temporary disabilities and not analyzed under legal principles applicable to disability discrimination claims. Thus Reg. 365.120 allowing rejection of a person with a disability if employment would be hazardous to health and safety not applied to whether a pregnant employee could be forced to take maternity leave.

Disparate Impact – No new decisions in this volume.

Liability Found

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Respondent found liable for revoking job offer as “Resident Hall Minister” to female Complainant once it learned she was pregnant. R

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Respondent based its decision to revoke job offer due to Complainant’s pregnancy not on job requirements or Complainant’s ability to perform job but on stereotypes and assumptions about pregnancy. R

Martin v. Glen Scott Multi-Media, CCHR Case No. 03-E-034 (Apr. 21, 2004) After default order, Complainant established prima facie case of pregnancy-related sex discrimination where discharged for being absent two days due to illness after she told her employer she was pregnant. R

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) Bar owner found liable for pregnancy-related sex discrimination when he forced bartender-manager to take maternity leave before she planned after she became ill for pregnancy-related reasons while at work, but not liable for alleged discharge where the evidence did not prove the owner intended to discharge her. Defenses that Complainant could not perform her job and the action was taken for her health and safety rejected as unsupported by the evidence and reflective of stereotypes and assumptions about pregnancy. R

Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Law firm found liable for pregnancy-related sex discrimination based on circumstantial evidence that it discharged Complainant because of her pregnancy and pregnancy-related leave. R

Liability Not Found

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) No pregnancy-related sex discrimination where evidence did not establish that Respondent knew Complainant was pregnant when it decided to discharge her. Also no evidence Respondent treated Complainant differently after allegedly being informed of the pregnancy. R

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) Bar owner found liable for pregnancy-related sex discrimination when he forced bartender-manager to take maternity leave before she planned after she became ill for pregnancy-related reasons while at work, but not liable for alleged discharge where the evidence did not prove the owner intended to discharge her. R

Sex Discrimination

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) CHR regulations specifies that excluding
PRETEXT/DEFENSE REBUTTAL

Burden of Proof

*Walton v. Chicago Dept. of Streets & Sanitation*, CCHR No. 95-E-271 (May 17, 2000) The question of whether or not a stated reason of respondent’s is pretextual is one of fact. R

*Chimpoulis/Richardson v. J & O Corp. et al.*, CCHR No. 97-E-123/127 (Sep. 20, 2000) In disparate treatment case, once Complainants proved a *prima facie* case and Respondents articulated a defense, Complainants have burden to prove that defense is a pretext. R


*Shein v. Garland Brothers et al.*, CCHR No. 02-E-16 (Apr. 7, 2005) Discusses standards for evaluating credibility and pretext in determining substantial evidence, noting that even if issue exists as to truth of the underlying facts supporting the stated reasons, complainant has further burden to show that any inaccuracy or untruth provides substantial evidence of pretext. CO

*Sleper v. Maduff & Maduff LLC*, CCHR No. 06-E-90 (May 16, 2012) Under either *Greenwell* method or *McDonnell Douglas* method, Complainant bears burden of proof to show that Respondent’s stated reason for alleged discriminatory action is pretextual. This is a question of fact. R

Defenses Rebutted/Incredible

*Leadership Council for Metropolitan Open Communities v. Souchet*, CCHR No. 98-H-107 (Jan. 17, 2001) Respondent’s defense that she had rented the apartment in question to an African-American individual found incredible because Respondent did not refer to the person’s alleged name correctly, because there were inconsistencies about the timing of her leasehold, because there were different versions of her alleged lease and because the photograph of the alleged tenant appeared very similar to another photograph of an earlier tenant. R

*Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al.*, CCHR No. 99-H-39/53 (Apr. 18, 2001) Individual Respondent’s claim that he did not know it was illegal to discriminate on the basis of parental status was not a defense and did not relieve him of liability; because his belief was credible, however, CHR did not award punitive damages against Respondents. R

Mixed Motives – See separate Mixed Motives section, above.

Pretext Not Shown

*Chimpoulis/Richardson v. J & O Corp. et al.*, CCHR No. 97-E-123/127 (Sep. 20, 2000) Neither Complainant was able to show that Respondent’s articulated performance-related reasons for their discharges were pretextual; Respondents presented, among other things, evidence of pocketing payment for drinks, leaving the cash drawer open, giving away drinks, and leaving the bar unattended. R

*Lopez v. Arias*, CCHR No. 99-H-12 (Sep. 20, 2000) In case concerning failure to extend Complainant’s lease, Complainant did not show that Respondent’s articulated defense – that he had decided to rent the apartment to his daughter once Complainant’s lease ended – was pretextual; Respondent presented his and his daughter’s testimony as well as evidence that the daughter had entered a short-term lease in order to be able to move into the apartment at the time Complainant left. R

*Lopez v. Arias*, CCHR No. 99-H-12 (Sep. 20, 2000) Among other things, Complainant did not show that Respondent had ever agreed to modify existing leases for tenants who did not pay rent with a Section 8 voucher. R

*Prewitt v. John O. Butler Co. et al.*, CCHR No. 97-E-42 (Dec. 6, 2000) Complainant failed to demonstrate that he had “clearly superior” skills over the Caucasian individual promoted instead of him. R

*Matthews v. Hinckley & Schmitt*, CCHR No. 98-E-206 (Jan. 17, 2001) Complainant did not show that Respondent’s defense was a pretext for disability discrimination with her arguments: that it did not employ “visibly” disabled people; that it did not make the simple accommodations for her before she started; that her job interview was handled differently than that of others; or that Respondent offered her the same job later. R

*Thomas v. Chicago Dept. of Public Health, et al.*, CCHR No. 97-E-221 (July 18, 2001) Ruling sets forth detailed explanation for finding that Complainant failed to show that Respondent’s reasons for promoting others over him were pretextual; reasons given included that those promoted had better experience, performance, communication skills, longer time in prior positions and better interview performance. R

*Thomas v. Chicago Dept. of Public Health, et al.*, CCHR No. 97-E-221 (July 18, 2001) While stating that an employer’s failure to follow its policies may be evidence of pretext, here some of the deviations were minor and none indicated that race discrimination was the actual motivation. R
Wong v. City of Chicago Dept. of Fire, CCHR No. 99-E-73 (Dec. 5, 2002), aff’d, No. 03 CH 00793 (Cir. Ct. Cook Co., Dec. 11, 2003) Statistical evidence alone, showing predominantly male professional employees and no women supervisors or managers in relevant division, not sufficient to provide substantial evidence of pretext regarding particular promotion denial and subsequent disciplinary actions, where Respondents articulated legitimate non-discriminatory reasons and extent of irregularities and unreasonableness of their actions not significant. CO

Chan v. Advocate Health Care et al., CCHR No. 99-E-58 (June 19, 2003) That Complainant doctor was discharged and not rehired despite apparently providing good quality patient care did not establish substantial evidence of pretext where Respondent was required to cut staff by one physician and chose Complainant due to his argumentative behavior; no indication Respondent’s choice was so unreasonable as to suggest pretext for age discrimination. CO

Thomas v. Prudential Biros Real Estate et al., CCHR No. 97-H-59/60 (Feb. 18, 2004) No race discrimination by real estate agents where sale was negotiated based on another offer with more favorable terms; no racial animus or pretext found in recommending that sellers respond to best offer rather than multiple offers, refusal to split commission, exclusion of listing from the Multiple Listing Service, timing of showings, and actions subsequent to showing. R

Calamus v. Chicago Park Dist. et al., CCHR No. 01-E-115 (Sep. 22, 2005) Despite education and experience gap between complainant and candidate selected for promotion, as well as evidence of use of criteria other than those stated for positions, articulated reasons for selection decision found not so irrational or unreasonable as to suggest they were not the real reasons other candidate was selected or that discriminatory intent was involved. [Decision reversed and remanded by Circuit Court on age discrimination claim; substantial evidence finding subsequently entered.] CO

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) Even though some stated reasons for discharge appeared pretextual, CHR not persuaded that a discriminatory motive played a role in the decision to discharge a pregnant employee, given that Respondent began the process of replacing the employee long before she became pregnant. R

Powell v. Chicago Transit Authority et al., CCHR No. 02-E-244 (July 13, 2006) That lesbian complainant was denied a leave then disciplined and discharged for excessive absenteeism even though employer knew she was caring for seriously ill partner did not establish substantial evidence of discriminatory intent. Complainant could not point to any other employee treated more favorably in similar circumstances or to any evidence that employer’s stated reasons for its actions were pretextual or otherwise discriminatory. CO

Mabry v. American Airlines, CCHR No. 02-E-111 (Oct. 5, 2006) No substantial evidence finding affirmed on request for review where employer’s actions and decisions were not so unreasonable as to support pretext finding or suggest discriminatory intent. CO

Sorrese v. Garrison Partners Consulting, CCHR No. 03-E-139 (Apr. 19, 2007) No substantial evidence finding affirmed on request for review where stated reason for discharging Complainant after some staff learned he is gay and had a pre-existing medical condition—that the person he replaced had resumed full time duties and two people were not needed—could not be found illegitimate or pretextual based on timing alone and no evidence supported Complainant’s theories of anti-gay animus or a stereotypical assumption that gay people with pre-existing conditions are HIV-positive. CO

Knight v. Walgreen Co., CCHR No. 04-E-7 (July 26, 2007) Stated reasons for discharge based on internal investigation finding Complainant threatened a subordinate employee not overcome by substantial evidence of pretext: not inherently unreasonable or incredible that Respondent held Complainant to higher standard as managerial employee, did not tolerate any threatening conduct in its workplace, and found subordinate employee’s story more credible. Investigation revealed no evidence of animus against Complainant’s sexual orientation or gender identity, and subordinate employee not similarly situated to Complainant. CO

Jenzake v. Rapid Displays, CCHR No. 06-E-87 (May 15, 2008) Mere fact that Complainant’s physician stated opinion different from Respondent’s physician does not provide substantial evidence of pretext or raise a credibility issue where employer reasonably relied on own physician’s pre-employment exam finding Complainant could not lift over 10 pounds and an essential function of the job was lifting up to 30 pounds or more. CO

Johnson v. Anthony Gowder Designs, Inc., CCHR No. 05-E-17 (June 16, 2010) CHR has not adopted federal court’s “same actor presumption” as threshold for a complainant but agrees that a “same actor” fact situation is strong evidence against finding discrimination where same person hired and fired an employee. CHR prefers to consider “same actor” arguments in conjunction with other evidence and decision standards when considering whether complainants have proved pretext and discriminatory intent. CHR found persuasive Respondent’s evidence the decision-maker knew Complainant’s general age when hired and maintained a close personal friendship with Complainant. Complainant’s evidence did not overcome the permissible “same actor” inference. R

Hudson v. G-A Restaurant LLC d/b/a Manor Chicago, CCHR No. 10-P-112 (July 18, 2012) Nightclub’s explanation that Complainant did not have properly-made reservation and club was booked to capacity found not
shift ing and inconsistent suggesting pretext for race discrimination in denying admission. Use of term “you people” by door staff found not race-based in context. R

Pretext Shown

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Respondent’s defense that she had rented the apartment in question to an African-American individual found incredible because Respondent did not refer to the person’s alleged name correctly, because there were inconsistencies about the timing of her leasehold, because there were different versions of her alleged lease and because the photograph of the alleged tenant appeared very similar to another photograph of an earlier tenant. R

Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Hearing officer’s recommended pretext finding in pregnancy-related discharge case held not contrary to evidence presented, which included statements close in time showing discriminatory animus, failure to follow established policies, and replacement of Complainant by a male. R

Standard to Determine

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) To establish pretext in a failure-to-promote case, the credentials of the successful candidate must be so inferior to those of the complainant that the respondent’s statement that it selected the person with better credentials is considered unworthy of credence. R

Thomas v. Chicago Dept. of Public Health, et al., CCHR No. 97-E-221 (July 18, 2001) (same) R

Thomas v. Chicago Dept. of Public Health, et al., CCHR No. 97-E-221 (July 18, 2001) Pretext can be shown by demonstrating that the given reasons are factually baseless, not the actual motivation, or were insufficient to motivate the action; it is not enough to show that the employer acted incorrectly or undesirably. R

Wong v. City of Chicago Dept. of Fire, CCHR No. 99-E-73 (Dec. 5, 2002), aff’d, No. 03 CH 00793 (Cir. Ct. Cook Co., Dec. 11, 2003) Statistical evidence alone, showing predominantly male professional employees and no women supervisors or managers in relevant division, not sufficient to provide substantial evidence of pretext regarding particular promotion denial and subsequent disciplinary actions. CO

Shein v. Garland Brothers et al., CCHR No. 02-E-16 (Apr. 7, 2005) Lack of any rational relationship to a respondent’s business purposes might suggest that a stated reason for an alleged discriminatory action is not the real reason, but evidence of a bad business practice or decision not sufficient alone to support finding of pretext. Discusses standards for evaluating credibility and pretext in determining substantial evidence, noting that even if issue exists as to truth of the underlying facts supporting the stated reasons, complainant has further burden to show that any inaccuracy or untruth provides substantial evidence of pretext. CO

Calamus v. Chicago Park Dist. et al., CCHR No. 01-E-115 (Sep. 22, 2005) Complainant’s burden goes beyond merely setting up “swearing contest” by interposing contrary testimony as to whether the stated reasons for alleged discriminatory action are “true” or good business judgment; complainant has further burden to show the real reasons point to discriminatory intent. [Decision reversed and remanded by Circuit Court on age discrimination claim, and substantial evidence finding subsequently entered.] CO

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) Even where some stated reasons for a respondent’s action appear pretextual, CHR must be persuaded that a discriminatory motive played a role. R

Mabry v. American Airlines, CCHR No. 02-E-111 (Oct. 5, 2006) No substantial evidence finding affirmed on request for review where employer’s actions and decisions were not so unreasonable as to support pretext finding or suggest discriminatory intent. CO

Johnson v. Anthony Gowder Designs, Inc., CCHR No. 05-E-17 (June 16, 2010) CHR has not adopted federal court’s “same actor presumption” as threshold for a complainant but agrees that a “same actor” fact situation is strong evidence against finding discrimination where same person hired and fired an employee. CHR prefers to consider “same actor” arguments in conjunction with other evidence and decision standards when considering whether complainants have proved pretext and discriminatory intent. R

Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) Issue in determining pretext is not truth or falsity of facts underlying stated reasons for discharge, but whether they were the real reasons. Test includes whether proffered reason has a basis in fact, timing of events, expressed hostility toward protected class at issue, inconsistent explanations of adverse action or conduct, and inconsistencies between articulated reason and respondent’s actions. R

PRIMA FACIE CASE – See Disparate Treatment/Shifting Burden section, above.
PRIVILEGES

Attorney-Client Privilege

Covered Communication

Sims-Higgenbotham v. Fox and Grove, et al., CCHR No. 99-PA-132 (Feb. 9, 2000) Where Complainant was a former client of Respondent whose claim involved Respondent’s representation of her, CHR found that she had waived any attorney-client privilege and so denied Respondent’s request for a protective order during the investigation; CHR allows either party to show the necessary “good cause” for CHR to reconsider the need for such an order. CO

Discovery – No new decisions in this volume.

In Camera Inspection – No new decisions in this volume.

Motion in Limine – No new decisions in this volume.

Standard – No new decisions in this volume.

Use in Investigation

Ablahat v. CNA Insur. et al., CCHR No. 99-E-18 (Mar. 14, 2002) CHR rejected Complainant’s request for review which argued that CHR improperly relied upon a letter written to him from his prior attorney, finding that CHR had not relied upon it but merely described it as a document received and noted that its no substantial evidence determination had relied upon witness statements and other evidence completely unrelated to the letter and the ideas it expressed. CO

Waiver

Sims-Higgenbotham v. Fox and Grove, et al., CCHR No. 99-PA-132 (Feb. 9, 2000) Where Complainant was a former client of Respondent whose claim involved Respondent’s representation of her, CHR found that she had waived any attorney-client privilege and so denied Respondent’s request for a protective order during the investigation; CHR allows either party to show the necessary “good cause” for CHR to reconsider the need for such an order. CO

Work Product Privilege – No new decisions in this volume.

Standard

Substantial Need

Waiver

Witness Statements

PRO SE PARTIES

Attorney’s Fees – No new decisions in this volume.

Not Representing Others

Thompson et al. v. GES Exposition Svcs., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) Motion of pro se Complainant could concern only his own case, not cases of other complainants, as he represented only himself. CO

Responsibilities


Bilal v. Daniel Murphy Scholarship Found., CCHR No. 02-E-4 (June 8, 2005) Parties not represented by counsel still expected to know and follow CHR Regulations and procedures, especially after substantial evidence finding. CO

PROTECTIVE ORDERS

Concerning Privileged Communications

Sims-Higgenbotham v. Fox and Grove, et al., CCHR No. 99-PA-132 (Feb. 9, 2000) Where Complainant was a former client of Respondent whose claim involved Respondent’s representation of her, CHR found that she had waived any attorney-client privilege and so denied Respondent’s request for a protective order during the investigation; CHR allows either party to show the necessary “good cause” for CHR to reconsider the need for such
an order. CO

*Meekins v. Kimel*, CCHR No. 02-H-84 (June 10, 2004) Protective order under CHR Regulations not same as “order of protection” authorized by state laws in situations such as family violence; Purposes of CHR protective orders are to limit use of information from investigative files and regulate discovery during hearing process. Thus protective order request denied where Complainant alleged Respondent harassed Complainant’s counsel by telephone. CO

**Denied**

*Robinson v. American Security Services*, CCHR No. 08-P-69 (Feb. 8, 2011) Request to limit public disclosure of information in hearing record denied. CHR will seal any reference to a credit card number if Complainant precisely identifies location of the number in hearing record, but will not search voluminous record for such information. Complainant’s testimony that she did not pay tax on settlement proceeds would not be sealed, as policy strongly favors public disclosure and CHR will not interfere with enforcement of other laws by sealing evidence. CO

*Johnson v. Anthony Gower Designs, Inc.*, CCHR No. 05-E-17 (Jan. 4, 2012) Request of prevailing respondent to remove final decision of Board of Commissioners from CHR website denied. Public policy strongly favors public disclosure of final decisions of public bodies and the proceedings and evidence leading to them. Motions to limit disclosure of sensitive information in a decision must be made before decision is issued. Although request did not meet criteria of Reg 240.520 for placing financial information under seal, evidence in a case record may be placed under seal by motion specifically identifying the evidence and the legal basis for restricting public access. CO

*Pierce & Parker v. New Jerusalem Christian Development Corp.*, CCHR No. 07-H-12/13 (May 16, 2012) CHR denied request for protective order covering rates customarily charged by Complainant’s counsel, finding no evidence of asserted competitive harm or other unreasonable annoyance, expense, embarrassment, disadvantage or oppression and noting that proof of such rates is usually necessary to determining an attorney fee award. R

**During Investigation**

*Sims-Higgenbotham v. Fox and Grove, et al.*, CCHR No. 99-PA-132 (Feb. 9, 2000) Where Complainant was a former client of Respondent whose claim involved Respondent’s representation of her, CHR found that she had waived any attorney-client privilege and so denied Respondent’s request for a protective order during the investigation; CHR allows either party to show the necessary “good cause” for CHR to reconsider the need for such an order. CO

*Morris v. Chicago Bd. of Education, et al.*, CCHR No. 97-E-41 (Sep. 5, 2001) Where CHR is collecting comparative information during investigation and has already agreed to allow respondents to redact names of students as confidential, respondents must provide “good cause” to justify entry of protective order, as required by Reg. 220.410(a)(2). CO

*Nichilo v. Wirtz Realty Corp. et al.*, CCHR No. 00-H-110 (Nov. 7, 2001) CHR is empowered to investigate claims to determine if there is a violation of CFHO and so denied unsupported claim that information about comparable applicants was private, although it allowed redacting of names and notified Respondent that, if it showed “good cause,” CHR could enter protective order. CO

*Hawk for Recovering the Gifted Child Fdn. v. Northern Trust Bank, et al.*, CCHR No. 99-PA-129 (Mar. 20, 2002) Respondent bank showed good cause for protective order covering specified internal policies and procedures relating to handling of accounts; CHR denied request to have the protective order cover other policies and procedures not yet identified or requested. CO

**Entered/Allowed**

*Byrd v. Hyman & Rodriguez*, CCHR No. 97-H-2 (Feb. 12, 2001) Hearing Officer granted request for protective order over Respondent’s personal financial records which were found discoverable only for possible punitive damage purposes. HO

*Hawk for Recovering the Gifted Child Fdn. v. Northern Trust Bank, et al.*, CCHR No. 99-PA-129 (Mar. 20, 2002) Respondent bank showed good cause for protective order covering specified internal policies and procedures relating to handling of accounts; CHR denied request to have the protective order cover other policies and procedures not yet identified or requested. CO

*Richardson v. Chicago Area Council of Boy Scouts of America*, CCHR No. 92-E-80 (May 8, 2002) Protective order entered to cover names, addresses and social security numbers of applicants for relevant positions in discovery documents but such information may be disclosed at public hearing. HO

*Bahena v. Adjustable Clamp Co.*, CCHR No. 99-E-111 (Sep. 5, 2002) Request for protective order granted after granting Complainant’s motion to compel discovery of Respondent’s net worth and financial capacity as
relevant to issue of punitive damages, where Respondent asserted that as a private corporation its financial documents are extremely confidential. HO

**Thomas v. Northwestern Memorial Hospital,** CCHR No. 03-E-121 (Mar. 2, 2007) As to Respondent motion for protective order covering personnel records and records of promotional decision, Respondent allowed to redact confidential material and if confidentiality concerns remain, parties ordered to agree to terms of a protective order submit briefs on issue by stated deadline. HO

**Rivas v. Lake View YMCA et al.**, CCHR No. 08-H-19 (Nov. 21, 2008) Motion to seal a portion of the case record granted where one Respondent did not want her contact information disclosed to Complainant due to his harassing conduct toward her, and Complainant ordered to communicate with the Respondent only through her attorney or by submitting any relevant service copy to CHR for forwarding. Same level of protection granted to Complainant, who did not want Respondents to know his current address. CO

**Cotten v. Lou Mitchell’s,** CCHR No. 06-P-09 (July 16, 2009) Specified documents and stipulations presented at hearing were placed under seal pursuant to CCHR Regs. 240.307(c) and 240.520 on motion of Respondent restaurant where examination showed they contained sensitive financial information that is proprietary and confidential, including financial statements and information about annual sales, gross revenues, gross profit percentages, and net income. HO

**Roe v. Chicago Transit Authority et al.,** CCHR No. 05-E-115 (Nov. 10, 2011) Good cause found to restrict public disclosure of identity of gay complainant in sexual orientation discrimination case who had not disclosed his sexual orientation to his family based on belief it would not find acceptance in his community. Decision emphasizes CHR does not contemplate withholding identity of all complainants alleging sexual orientation discrimination; good cause must be established on case-by-case basis and strong policy favors public disclosure of the identity of parties to CHR cases. CO

**PUBLIC ACCOMMODATIONS DISCRIMINATION**

**Access/Entry to Facility**

**Johnson v. Peoples Energy et al.**, CCHR No. 01-PA-96 (Apr. 5, 2002) Complaint which contended that Respondent’s representative blocked Complainant from entering public office due to her sex and race found sufficient to state claim as single instances of discrimination in a public accommodation can violate CHRO. CO

**Jordan v. Nat’l Railroad Passenger Corp. (AMTRAK),** CCHR No. 99-P-34 (Feb. 19, 2003) Railroad station security policies purportedly designed to keep homeless people from using station facilities were implemented in racially discriminatory manner as to African-American man waiting for arriving passenger and creating no disturbance, who was ordered to leave, arrested by security staff, then struck with baton – where no evidence of a legitimate non-discriminatory reason in record except for non-credible assertions of security personnel. R

**Sandy v. Columbia College Chicago,** CCHR No. 03-P-177 (June 24, 2004) Entry to particular school building and computer laboratory found not to be public accommodations under CHRO based on Respondent’s affidavits stating they are not open to general public; fact that unauthorized persons may gain entry does not establish that premises are, as matter of school policy, open to general public. CO

**Maat v. String-a-Strand,** CCHR No. 05-P-5 (Feb. 20, 2008) After order of default, Complainant established *prima facie* case of disability discrimination where business did not have wheelchair accessible ramp for two-inch barrier. R

**Zografopoulos v. Wendella Sightseeing Co., Inc.,** CCHR No. 05-P-95 (Mar. 10, 2008) Motion to dismiss granted where Respondent boat company lacked ownership or sufficient control of dock areas to make alterations to render its boats wheelchair accessible, could not relocate its boat launch facility without undue hardship, and could not provide any effective reasonable accommodations without undue hardship. CO

**Cotten v. Taylor Street Food and Liquor,** CCHR No. 07-P-12 (July 16, 2008) After order of default, *prima facie* case of disability discrimination established where wheelchair user sought to enter storefront liquor store to make a purchase but could not do so due to the presence of two stairs. R

**Cotten v. 162 N. Franklin, LLC, d/b/a Eppy’s Deli and Café,** CCHR No. 08-P-35 (Sept. 16, 2009) Same as **Cotten v. Eat-A-Pita,** above. R

**Cotten v. Addiction Sports Bar & Lounge,** CCHR No. 08-P-68 (Oct. 21, 2009) Disability discrimination found where stairs prevented wheelchair user from entering restaurant to eat lunch and Respondent failed to prove it was undue hardship to be fully accessible. R

**Cotten v. CCI Industries, Inc.,** CCHR No. 07-P-109 (Dec. 16, 2009) Disability discrimination found where wheelchair user sought to enter showroom to discuss a possible purchase but could not do so due to a flight of stairs, and no alternative means of service was offered. R

**Cotten v. La Luce Restaurant, Inc.,** CCHR No. 08-P-034 (Apr. 21, 2010) Liability found where wheelchair user could not enter restaurant to eat because of step and Respondent failed to prove undue hardship to be fully accessible. Offer to carry or lift wheelchair user over barrier not a full or reasonable accommodation, nor is
wheelchair user expected to bring own portable ramp. Older facilities are not “grandfathered” or otherwise exempt from accessibility requirements of CHRO and Reg. 520.105, which are in addition to any Building Code requirements. R

Hudson v. G-A Restaurant LLC d/b/a Manor Chicago, CCHR No. 10-P-112 (July 18, 2012) Nightclub’s denial of admission to African-American Complainant not based on race, where evidence showed Complainant did not have a properly-made reservation, the club was booked to capacity, and Complainant was invited to wait in line pursuant to policy for those without reservations. Use of term “you people” by door staff found not race-based in context. R

Adverse Action – See separate Adverse Action section, above.

Age Discrimination

Anguiano v. Abdi, CCHR No. 07-P-30 (Sept. 16, 2009) No age-based harassment where, in course of argument during cab ride, driver called Complainant “old,” “unable to get a job,” and “unable to support himself.” In context of both sides exchanging personal insults and Complainant causing the incident, statements not sufficiently separating or belittling to create hostile environment. R

Agency Decision-Making

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) Making a decision about the size of a branch library is a service offered to the general public and so a public accommodation under the CHRO. CO

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) Fact that Complainant was allowed access to decision-making process is not dispositive in deciding whether Respondents determined the size of the branch library in a non-discriminatory way, especially where Complainant alleged specific differences in standards used to choose size of branch in African-American community from Caucasian community. CO

Lynch v. City of Chicago Dept. of Administrative Hearings et al., CCHR No. 03-P-13 (Feb. 18, 2003) No public accommodation involved where Complainant alleged discrimination by hearing officer regarding towing ticket; decision-making of administrative hearing officer in law enforcement action available only to persons cited for particular ordinance violations, not to general public. CO

Maggio v. City of Chicago, Chicago Police Dept. et al., CCHR No. 03-P-22 (Apr. 2, 2003) No public accommodation involved where Complainant received invalid parking citations and obtained no response from Respondents with regard to them; decision-making of administrative agency in law enforcement process available only to persons cited for particular ordinance violations, not to general public. CO

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (July 13, 2004) In general, conduct after filing of discrimination complaint at quasi-judicial administrative agency is not public accommodation because not a service offered to general public, although some aspects of handling of case or treatment of individual may implicate right to full use of public accommodation, such as explicit discriminatory comments or giving case “short shrift” based on complainant’s protected class. Issuing of orders and conducting of administrative hearings by Cook County Commission on Human Rights (CCCHR) held not to involve public accommodation under CHRO and also to be covered by quasi-judicial immunity under Bushnell criteria. Thus Complaint dismissed as to CCCHR hearing officer and executive director who issued decisions concerning Complainant’s case. CO

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (Feb. 14, 2006) Additional allegations of discriminatory conduct in adjudicating discrimination complaint at quasi-judicial administrative agency determined not to involve a public accommodation. CO

AMTRAK – No new decisions in this volume.

Arrests & Similar Conduct

Blakemore v. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) CHR continued with its premise, set forth in Holloway, that the Police offer to the general public responses to request for protection from criminal conduct and so that service constitutes a public accommodation. CO

Blakemore v. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) Where Complainant alleged that the Police refused to arrest an individual Complainant identified, CHR dismissed case finding that a) Complainant was not injured by the refusal and b) Complainant received “full use” of the Police’s protection service both because the Police effectively stopped the altercation between Complainant and the other person and Complainant cited no harm. CO

Blakemore v. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) CHRO does not suggest that
individuals have a “right” to have another person arrested, especially in light of constitutional reasonable cause requirements, but requires that services offered to the public be provided in a non-discriminatory manner. CO

Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) Where police stopped Complainant, subjected him to a search of his bag, then required him to leave his bag with the police, CHR, relying on its 1998 Holloway order, held those actions are not services offered to the general public but actions taken against Complainant and held that Complainant cannot be said to be using or seeking “full use” of a police service. CO

Spanjer v. White Hen Pantry & Chicago Police, CCHR No. 00-PA-33 et al. (Mar. 5, 2002) CHR dismissed police from case where Complainants had merely asked police to convince store management to allow them in, where there was no criminal activity involved, and where police do not control own or operate the premises in question. CO

Broxton-King v. Chicago Dep’t of Administrative Hearings et al., CCHR No. 02-PA-8 (July 25, 2002) No public accommodation involved where Complainant alleged that she was discriminated against during parking violation; hearing available only because of citation issued against Complainant and not as service offered to general public. CO

Kugler v. City of Chicago et al., CCHR No. 02-PA-73 (Sep. 23, 2002) Where Complainant alleged discrimination when car was towed, no public accommodation involved; having one’s car towed not service offered to general public but action taken against individual. CO

Lynch v. City of Chicago Dept. of Administrative Hearings et al., CCHR No. 03-P-13 (Feb. 18, 2003) No public accommodation involved where Complainant alleged discrimination by hearing officer regarding towing ticket; decision-making of administrative hearing officer in law enforcement action available only to persons cited for particular ordinance violations, not to general public. CO

Maggio v. City of Chicago, Chicago Police Dept. et al., CCHR No. 03-P-22 (Apr. 2, 2003) No public accommodation involved where Complainant received parking citations and obtained no response from Respondents with regard to them; civil citation or civil process as part of a prosecutorial or law enforcement function not service utilized by general public but legal process imposed involuntarily; decision-making of administrative agency in law enforcement process available only to persons cited for particular ordinance violations, not to general public. CO

Koifman v. Dominick’s Food Store et al., CCHR No. 04-P-25/26 (June 25, 2004) Alleged detention and abuse of Complainants by police officer did not involve public accommodation under CHRO: arrest function not service offered to general public; person arrested or searched not seeking or using public accommodation. CO

Blakemore v. Chicago Police Dep’t et al., CCHR No. 01-PA-33/65 (July 20, 2005) Where Complainant was stopped and searched by police then sought but was not allowed to file criminal complaint while being arrested, police officer’s actions not public accommodation under CHRO: arrest function, including searches, not service offered to general public; person arrested or searched not seeking or using public accommodation; individual may not dictate to police how to respond to request for police action. CO

Love v. Chicago Police Dep’t et al., CCHR No. 01-PA-34 (July 22, 2005) Chicago Police Department dismissed as Respondent where Complainant alleged that security guard for nightclub music performance, identifying himself as police officer, “grabbed,” “pushed,” and “shoved” her and told her to leave. Assuming guard was acting under police authority, such actions not public accommodation under CHRO because arrest function, including removing person from premises, is not service offered to general public but action taken against individual. Also no public accommodation involved where Complainant alleged police mistreatment after arrest and while in detention. CO

Calhoun v. Chicago Police Dep’t, CCHR No. 06-P-59 (Oct. 13, 2006) No public accommodation involved where Complainant alleged that he was discriminated against by police when he was stopped and ticketed for drinking alcohol on public way; citation by police not service open to general public. CO

**Bathrooms**

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) CHRO specifically exempts bathrooms from the prohibition against sex discrimination in public accommodations so CHR found Complainant’s sex-based claims about not having full use of a restroom not to be actionable. CO

Sandy v. Chicago Cultural Center et al., CCHR No. 03-P-10 (Jan. 25, 2005) The CHRO provides a private facility exemption to the public accommodation discrimination prohibition only when the claimed discrimination is based on sex; the exemption does not apply to discrimination claims based on gender identity. A Respondent may restrict use of a private facility such as a restroom to persons of one sex, but cannot deny a person access to the private facility designated for the sex which is reflected on his or her official identification. A reasonable lack of certainty as to a person’s sex may justify asking the person to identify his or her sex, but if the questioning or manner of questioning is not legitimate and reasonable, that may point to a discriminatory motive. CO

Williams v. First American Bank, CCHR No. 05-P-130 (July 16, 2008) Where restroom use at bank was
available to customers and those with them, it was at minimum an aspect of the public accommodation and CHR has jurisdiction. Restricting restroom access to customers transacting business is not inherently discriminatory but treating male customers less favorably than female customers implicates the CHRO. R

Cotten v. Lou Mitchell’s, CCHR No. 06-P-9 (Dec. 16, 2009) Stairway lift and offer to carry wheelchair user down stairs to restroom are not reasonable accommodations where they require wheelchair user to rely on others to put user on lift and carry wheelchair down stairs, because they impose injury risks and could result in humiliation. Reasonable accommodation found where restaurant employees advised Complainant of inaccessible restroom upon his arrival, informed him of accessible restrooms in other buildings, and offered to accompany him to an accessible restroom. R

Cotten v. Top Notch Beefburger, Inc., CCHR No. 09-P-31 (Feb. 16, 2011) After order of default, prima facie case of disability discrimination established where wheelchair user asked to use a restroom while patronizing restaurant but was unable to enter and close restroom door. R

Manzanares v. Lalo’s Restaurant., CCHR No. 10-P-18 (May 16, 2012) Transgender Complainant, who sought to access restaurant-club and was questioned about which bathroom she would use after inspection of driver’s license showed sex as male, presented herself with no indication she was other than a young woman. Under those circumstances use of women’s bathroom, undoubtedly equipped with stalls, should not have posed problem. R

Burden of Proof – See Disparate Treatment/Burden of Proof section, above.

Burden Shifting – See Disparate Treatment/Burden Shifting section, above.

Commercial Lease

Marshall v. Knezovic & Oak Mgmt., CCHR No. 01-PA-102 (Dec. 16, 2002) Commercial space does constitute a public accommodation within meaning of CHRO. CO

"Control” of Public Accommodation

Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) Where one Respondent was simply the location at which discrimination by others allegedly occurred and where it had no control over the alleged discriminating actors, Respondent dismissed from case. CO

Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) Where a second Respondent was simply the sponsor of an event at which discrimination by others allegedly occurred, where it had no control over the alleged discriminating actors, and where only action attributed to this Respondent was that it assisted Complainant, it was dismissed from case. CO

Mukemu v. Sun Taxi Assoc., et al., CCHR No. 02-PA-11 (Feb. 5, 2002) Claim by Complainant-taxicab driver that another driver spat on him does not concern a public accommodation as it was a dispute between two individuals; further, waiting in cab line to pick up passengers is not a service available to the general public with respect to being a waiting cab; and, even if being in cab line were a public accommodation, it is not a fellow driver who owns, operates or controls it. CO

Spanjer v. White Hen Pantry & Chicago Police, CCHR No. 00-PA-33 et al. (Mar. 5, 2002) CHR dismissed police from case where Complainants had merely asked police to convince store management to allow them in, where there was no criminal activity involved and where the police do not control own or operate the premises in question and so they are not covered in list of people prohibited from discriminating with respect to facts of this case. CO

McCabe v. Chipotle et al., CCHR No. 03-P-119 (Aug. 8, 2003) Where Complainants alleged that wheelchair users and persons over 40 were deprived of full use of public sidewalks because of Respondent restaurants’ sidewalk eating facilities, Complaint dismissed because public accommodation in question was not under ownership or control of adjacent restaurants; such sidewalks are public accommodation provided by City of Chicago. CO

Maat v. Conway Mgmt. et al., CCHR No. 02-PA-74 (Aug. 21, 2003) Whether residential condominium and its management company are proper respondents as responsible to provide access for wheelchair users to business in same building through entrance under their control is factual issue that cannot be decided on motion to dismiss. CO

Blakemore v. Cook County Forest Preserve Dist. et al., CCHR No. 04-P-7 (Feb. 10, 2004) Complaint dismissed as to two individual Respondents noting that no allegation indicated that they had any control over the public accommodation in question. CO

Savano v. Biology Bar & Volume Five, CCHR No. 03-P-174 (Jan. 19, 2005) Where a disk jockey service argued that it did not control the bar in which it was providing services, CHR denied motion to dismiss because the disk jockey service itself may be considered a public accommodation based on CHRO’s definition that any “business establishment” that provides “service to the general public” is a public accommodation. The disk jockey
services would presumably be received by the general public under these circumstances. CO

*Blakemore v. Chicago Dept. of Consumer Services, et al.*, CCHR No. 02-PA-70 (March 29, 2005) Where Respondents presented affidavit concerning relationships of corporate entities named but no documentation showing what control each entity had over conditions which may render restaurants in question inaccessible to persons in wheelchairs, motion to dismiss denied due to outstanding factual issues regarding potential liability of each entity. CO

*Blakemore v. Gogola et al.*, CCHR No. 04-P-84 (Apr. 12, 2005) Complaint alleging that “one of [Respondent’s] employees” told Complainant he could not enter building dismissed due to no indication of the employee’s identity or role to suggest any control over entrance to building; to have public accommodation discrimination claim, person in control of public accommodation must have discriminated against Complainant. CO

*Love v. Chicago Police Dep’t et al.*, CCHR No. 01-PA-34 (July 22, 2005) Chicago Police Department dismissed as Respondent where Complainant alleged that security guard for nightclub music performance, identifying himself as police officer, refused to help her obtain ticket refund, as nothing in usual authority of police officer implies control over payment of refunds by private business. CO

*Zografopoulos v. Wendella Sightseeing Co., Inc.*, CCHR No. 05-P-95 (Mar. 10, 2008) Sightseeing boat company found to lack ownership of dock areas and entrances to dock areas which were City of Chicago property, and licensing agreement with City allowing use of the docks did not give company sufficient control to make alterations to provide wheelchair accessible entry to its boats. CO

*Cotten v. Japonais (Geisha LLC) & City of Chicago Dept. of Transportation*, CCHR No. 06-P-30 (Apr. 30, 2008) Motion to dismiss denied where Respondent restaurant used City sidewalk and lane with wheelchair-inaccessible curb for valet parking service and factual issues remained as to restaurant’s and City’s respective control. CO

*Blakemore v. Chicago Transit Authority and Regional Transit Authority*, CCHR No. 06-P-34 (May 12, 2008) Complaint dismissed as to RTA because it has no control over CTA’s daily operations or employees and all allegations involved adverse actions by CTA’s employee against Complainant and no allegations against RTA. CO

**Definition of**

*Blakemore v. Chicago Dept. of Consumer Services, et al.*, CCHR No. 99-PA-37/39 (Jan. 25, 2000) To determine whether a respondent is a public accommodation as defined by CHRO, CHR must decide whether facility or function at issue is offered to the general public; it does not consider the entity in a more general sense. CO

*Blakemore v. Chicago Dept. of Consumer Services, et al.*, CCHR No. 99-PA-37/39 (Jan. 25, 2000) Where it was not clear why Complainant had gone to the Respondent department and so whether the cases involved the attempted full use of a service offered to the “general public,” CHR asked Complainant to submit documentation and information about that issue. CO

*Blakemore v. Chicago Dept. of Consumer Services, et al.*, CCHR No. 98-PA-13/20 & 99-PA-4/53/84 (Feb. 10, 2000) To determine whether a respondent is a public accommodation as defined by the CHRO, CHR must decide whether the facility or function at issue is offered to the general public; CHR discusses prior cases as examples. CO

*Blakemore v. Chicago Dept. of Consumer Services, et al.*, CCHR No. 98-PA-13/20 & 99-PA-4/53/84 (Feb. 10, 2000) To determine whether a facility or function at issue is offered to the general public, CHR considers, among other things, whether individuals entitled to the service or facility must have previously been found to meet certain criteria. CO

*Blakemore v. Chicago Dept. of Consumer Services, et al.*, CCHR No. 98-PA-13/20 & 99-PA-4/53/84 (Feb. 10, 2000) Where cases all concern, directly or indirectly, incidents which arose while Complainant vendor was attempting to obtain a vendor space from one or more Respondents, CHR found the cases do not involve a service offered to the general public, as vendor spaces are available only to individuals previously licensed as vendors. CO

*Nyah v. DuSable Museum of African-American History*, CCHR No. 95-PA-33 (June 28, 2000) To determine whether a respondent is a public accommodation as defined by CHRO, CHR must decide whether facility or function at issue is offered to the general public; it does not consider the entity in a more general sense. CO

*Nyah v. DuSable Museum of African-American History*, CCHR No. 95-PA-33 (June 28, 2000) Being a member of a Museum group planning events around a certain exhibit found not to be a public accommodation as joining the group was not a service offered to the general public. CO

*Blakemore v. Chicago Dept. of Consumer Services, et al.*, CCHR No. 00-PA-46 (Nov. 28, 2000) CHR adopted the reasoning and conclusion of its February 10, 2000 order [discussed above] as this case involved almost identical allegations -- it concerned an incident which arose while Complainant was interacting with Respondents as a vendor and so the case did not involve a service offered to the “general public” in that Respondents’ services in this case were available only to individuals previously licensed as vendors. CO

*Gaddy v. Chicago Dept. of Streets & Sanitation*, CCHR No. 00-PA-52 (Nov. 28, 2000) Having one’s car towed is a punitive action taken against a person, not a service the public uses, and so it is not a public
accommodation as defined by the CHRO) CO

Gaddy v. Chicago Dept. of Streets & Sanitation, CCHR No. 00-PA-52 (Nov. 28, 2000) Respondent’s “auto pound” found not open to the “general public” as only those people whose cars have been impounded may have access to it and so it is not a public accommodation as defined by the CHRO. CO [reversed in part by Scarse, below]

Powell v. Management & Owner of 549 W. Randolph St., CCHR No. 00-PA-72 (Dec. 1, 2000) CHR denied motion to dismiss case in which disabled Complainant alleged that the building was not accessible to her where Respondents did not even assert that the building is not open to the general public but merely stated that Complainant is not a tenant of it. CO

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) CHR found school not to be a public accommodation with respect to registering and attending class as those functions are not made available to the general public, but only to students. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 01-PA-27 (May 18, 2001) Where case concerns incidents which arose while Complainant vendor was attempting to obtain a vendor space from Respondents, CHR finds the case does not involve a service offered to the “general public” in that vendor spaces are available only to individuals previously licensed as vendors; adopts reasoning of February 10, 2000 order, listed above. CO

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) Making a decision about the size of a branch library is a service offered to the general public and so a public accommodation under the CHRO. CO

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) Fact that Complainant was allowed access to decision-making process not dispositive as to whether Respondents determined the size of the branch library in a non-discriminatory way, especially where Complainant alleged specific differences in standards used to choose size of branch in African-American community compared to Caucasian community. CO

Gill v. Chicago Board of Education, CCHR No. 00-PA-54 (June 13, 2001) CHR found school not to be a public accommodation with respect to transferring existing student to new schools as transfers are not available to members of the general public. CO

Oliva v. Simmons Corp., CCHR No. 01-PA-32 (July 17, 2001) CHR does look to decisions interpreting other laws for guidance; here, however, the issue was not one of first impression and so CHR precedent was best guidance and the ADA, cited by Respondent, has a significantly different definition of “public accommodation” and so cases construing it are not useful to CHR. CO

Oliva v. Simmons Corp., CCHR No. 01-PA-32 (July 17, 2001) CHR found that although Respondent does not sell its products directly to the public, it does offer customer service to the general public and so Complainant allowed to proceed with his claim that he was called a “faggot” by a service representative and that his complaint to Respondent about that name-calling was ignored. CO

Blakemore v. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) CHR continued with its premise, set forth in Holloway, that the Police offer to the general public responses to request for protection from criminal conduct and so that service constitutes a public accommodation. CO

Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) Where police stopped Complainant, subjected him to a search of his bag, and then required him to leave his bag with the police, CHR, relying on its 1998 Holloway order, held those actions are not services offered to general public but are actions taken against Complainant and held that Complainant cannot be said to be using or seeking “full use” of a police service. CO

Scarse v. Chicago Dept. of Streets & San., CCHR No. 01-PA-2 (Aug. 9, 2001) CHR dismissed claims concerning having one’s car towed and having an impounded car kept by City, finding neither are services open to the general public nor services a person seeks to use; allows to proceed claim about access to auto pound’s office as whether it is open to general public is an open factual issue. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-60 (Sep. 20, 2001) Where case concerns incident which arose while Complainant vendor was attempting to obtain a vendor space from Respondents, CHR finds the case does not involve a service offered to the “general public” in that vendor spaces are available only to individuals previously licensed as vendors; adopts reasoning of February 10, 2000 order, listed above. CO

Kenny v. Loyola Univ., et al., CCHR No. 01-PA-44 (Sep. 24, 2001) Where none of the particular services at issue – a shuttle service, maintenance of records, and being expelled – are available to the general public, CHR found case does not involve a public accommodation. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 01-PA-78 (Nov. 30, 2001) Where case concerns incident which arose while Complainant vendor was attempting to obtain a vendor space from the Respondents, CHR finds case does not involve a service offered to “general public” in that vendor spaces are
available only to individuals previously licensed as vendors; adopts reasoning of February 10, 2000 order, listed above. CO

_Ander son v. Malcolm X College_, CCHR No. 00-PA-68 (Jan. 18, 2002) CHR found school not to be a public accommodation with respect to conduct of fellow students and administrators to Complainant-student; cites prior school-student cases which find that dealing with harassment and imposing discipline are not “services” which a school makes available to the general public. CO See School/ University section, below.

_Saadah v. Chicago Deps. of Consumer Services & Aviation_, CCHR No. 01-PA-84/93/95 (Jan. 30, 2002) Services and requirements which the City departments provide only to individuals licensed as taxicab drivers – such as vehicle inspections and ability to pick up fee-paying passengers at airports) are not provided to the general public and so are not covered public accommodations. CO

_Mukemu v. Sun Taxi Assoc., et al.,_ CCHR No. 02-PA-11 (Feb. 5, 2002) Claim by taxicab driver that another driver spat on him does not concern a public accommodation but was a dispute between two individuals; further, waiting in cab line to pick up passengers is not a service available to the general public with respect to being a waiting cab; even if being in cab line were a public accommodation, it is not a fellow driver who owns, operates or controls it. CO

_Blakemore v. Chicago Dept. of Consumer Services et al.,_ CCHR No. 01-PA-25 (Feb. 26, 2002) Where Complainant provoked argument with City employee who informed him that she was not “on the clock,” and where she was not providing him any City service but was trying to leave, CHR found their interaction did not involve a public accommodation; further, claim that managers told Complainant to put his complaint in writing instead of making it orally does not involve the withholding, denial, curtailment, limitation or discrimination in a public accommodation. CO

_Blakemore v. Water Reclam. Dist. of Chicago_, CCHR No. 01-PA-105 (Mar. 18, 2002) Where complaint did not specify Complainant’s purpose in visiting Respondent’s office, CHR ordered Complainant to provide supplementary evidence about that issue so it could determine whether his visit involved a service available to the general public. CO

_Saadah v. Chicago Dept. of Consumer Services et al.,_ CCHR No. 02-PA-20 (Mar. 19, 2002) Services and requirements which City departments provide only to licensed taxicab drivers, such as vehicle inspections, and which are not provided to the general public are not covered public accommodations; relies on Jan. 30, 2002 order, above. CO

_Palacios v. City Colleges of Chicago_, CCHR No. 02-PA-21 (Mar. 19, 2002) HR found school not to be a public accommodation with respect to conduct of a professor and administrators to Complainant-student; cites prior school-student cases which find that dealing with harassment between students and teachers does not concern a “service” available to the general public. CO See School/ University section, below.

_Sims-Higgenbotham v. Fox and Grove et al.,_ CCHR No. 99-PA-132 (Apr. 11, 2002) Because the definition of “public accommodation” in the IHRA is not the same as that in the CHRO, CHR looks to decisions interpreting the IHRA for guidance, but they are not dispositive. CO

_Sims-Higgenbotham v. Fox and Grove et al.,_ CCHR No. 99-PA-132 (Apr. 11, 2002) CHR dismissed case filed by client of law firm who claimed the firm treated her differently due to her disability, finding that a law firm is not a public accommodation with respect to services to current clients. CO

_Sims-Higgenbotham v. Fox and Grove et al.,_ CCHR No. 99-PA-132 (Apr. 11, 2002) Because a law firm does significant “prescreening” as to whom it may provide services, its representation of clients in litigation is not a service available to the general public. CO

_Maat v. Chicago Bd. of Education_, CCHR No. 01-PA-115 (May 17, 2002) CHR found school not a public accommodation with respect to daughter’s receipt of bad grade and attending parent-teacher meetings; CHR denied motion to dismiss and sought more information about whether public may observe classes and about nature of certain “public” events. CO

_Broxton-King v. Chicago Dep’t of Administrative Hearings et al.,_ CCHR No. 02-PA-8 (July 25, 2002) Hearings concerning tickets or citations issued by City of Chicago not public accommodations under CHRO, as hearing is available only to those cited with violation and not general public. CO

_Kugler v. City of Chicago et al.,_ CCHR No. 02-PA-73 (Sep. 23, 2002) Where Complainant alleged discrimination when car was towed, no public accommodation involved; having one’s car towed not service offered to general public but action taken against individual. CO

_Parker v. Board of Educ. of City of Chicago_, CCHR No. 02-PA-40 (Dec. 13, 2002) (same as Gill, above) CO

_Lynch v. Board of Educ. of City of Chicago_, CCHR No. 03-P-13 (Feb. 18, 2003) No public accommodation involved where Complainant alleged discrimination by hearing officer regarding towing ticket; decision-making of administrative hearing officer in law enforcement action available only to persons cited for particular ordinance violations, not to general public. CO
Maggio v. City of Chicago, Chicago Police Dept. et al., CCHR No. 03-P-22 (Apr. 2, 2003) No public accommodation involved where Complainant received parking citations and obtained no response from Respondents with regard to them; civil citation or civil process as part of a prosecutorial or law enforcement function not service utilized by general public but legal process imposed involuntarily; decision-making of administrative agency in law enforcement process available only to persons cited for particular ordinance violations, not to general public. CO

McFarland-Daniels v. Willis et al., CCHR No. 04-P-10/11/12/13 (Mar. 16, 2004) Where Complainant alleged that school officials and faculty deliberately made her autistic daughter’s classroom environment dangerous and unhealthful because of her disability, case dismissed because no public accommodation involved; classroom instruction and services were provided only to enrolled students, not to members of general public. CO

Sandy v. Columbia College Chicago, CCHR No. 03-P-177 (June 24, 2004) Entry to particular school building and computer laboratory found not to be public accommodations under CHRO based on Respondent’s instruction and services were provided only to enrolled students, not to members of general public. CO

Koifman v. Dominick’s Food Store et al., CCHR No. 04-P-25/26 (June 25, 2004) Police officer’s conduct during detention and arrest did not involve public accommodation under CHRO: arrest function not service offered to general public; person arrested or searched not seeking or using public accommodation. CO

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (July 13, 2004) In general, conduct after filing of discrimination complaint at quasi-judicial administrative agency is not public accommodation because not a service offered to general public, although some aspects of handling of case or treatment of individual may implicate right to full use of public accommodation, such as explicit discriminatory comments or giving case “short shrift” based on complainant’s protected class. Issuing of orders and conducting of administrative hearings by Cook County Commission on Human Rights (CCCHR) held not to involve public accommodation under CHRO and also to be covered by quasi-judicial immunity under Bushnell criteria. Thus Complaint dismissed as to CCCHR hearing officer and executive director who issued decisions concerning Complainant’s case. CO

Murad v. Legal Assistance Found. of Chicago, CCHR No. 00-P-11 (Nov. 22, 2004) Whether alleged conduct by free legal assistance organization involved a public accommodation turned on whether Complainant was seeking to be accepted as a client or already receiving services within an attorney-client relationship. If already a client, resulting legal advice or representation is not a public accommodation because not a service available to the general public. Similarly, whether grievance processes including meetings with Respondent’s Office Manager, Executive Director, and Board of Directors were public accommodations turned on whether they were available to the general public or only established clients. Because Complainant was ambiguous, motion to dismiss denied due to outstanding factual issues. CO

Savano v. Biology Bar & Volume Five, CCHR No. 03-P-174 (Jan. 19, 2005) Where a disk jockey service argued that it did not control the bar in which was providing services, CHR denied motion to dismiss because the disk jockey service itself may be considered a public accommodation based on CHRO’s definition that any “business establishment” that provides “service to the general public” is a public accommodation. The disk jockey services would presumably be received by general public under these circumstances. CO

Blakemore v. City of Chicago Dep’t of Consumer Servs. et al., CCHR No. 03-P-163 (Jan. 28, 2005) CHR dismissed Complaint alleging Respondents assigned vendor spaces at a market in a discriminatory manner, consistent with previous orders, because the action did not involve a public accommodation in that the vendor spaces are available only to individuals previously licensed as vendors and not to members of the general public. CO

Barnes v. Jackson Park Hosp. et al., CCHR No. 05-P-73 (Apr. 13, 2005) Complaint alleging that physician discriminated by providing ineffective treatment dismissed because professional decisions in context of ongoing relationship are not public accommodations under CHRO. Public accommodation ends when professional relationship is established, that is, when professional judgments begin to be exercised. CO

Blakemore v. Chicago Police Dep’t et al., CCHR No. 01-PA-33/65 (July 20, 2005) Where Complainant was stopped and searched by police then sought but was not allowed to file criminal complaint while being arrested, police officer’s actions not public accommodation under CHRO: arrest function, including searches, not service offered to general public; person arrested or searched not seeking or using public accommodation; individual may not dictate to police how to respond to request for police action. CO

Love v. Chicago Police Dep’t et al., CCHR No. 01-PA-34 (July 22, 2005) No public accommodation involved with respect to Chicago Police Department as to following Complaint allegations: (1) that security guard for nightclub music performance, identifying himself as police officer, “grabbed,” “pushed,” and “shoved” Complainant and told her to leave, if guard was acting under police authority, such actions not public accommodation under CHRO because arrest function, including removing person from premises, is not service offered to general public but action against individual; (2) that police mistreated Complainant after being arrested and while in detention; (3) that Complainant was not allowed to make police report and disputed quality of police response, as preparing “police report” and making individualized, discretionary decision about how to respond to
request for assistance are not services offered to general public by Chicago Police Department; individual may not dictate to police how to respond to request for police action. CO

Brekke v. Officer Delia et al., CCHR No. 01-PA-110/117 (July 22, 2005) Where police officers listened to Complainant’s request for police action, public accommodation of opportunity to request police service and receive some response was provided. Decision not to prepare “police report” did not involve public accommodation because not service provided to general public; individualized, discretionary decisions of police not public accommodations even if there may be evidence of discriminatory intent; however, creation of hostile environment based on protected class in course of providing public accommodation does violate CHRO. CO

Molden v. United Winthrop Tower Coop. et al., CCHR No. 04-P-29 (July 27, 2005) Fact that Complainant was neither housing applicant nor resident of housing cooperative not material if attempting to use a public accommodation when seeking admission to visit a resident; determination turned on whether coop offered the general public admission to building to visit willing resident, subject to general ministerial requirements. CO

Biondi v. Cook-DuPage Transp. Co., Inc. et al., CCHR No. 94-PA-42 (Sep. 14, 2005) Although available only to qualified persons with disabilities, alleged inadequacy of paratransit services of Chicago Transit Authority concerns a public accommodation under CHRO because related to CTA’s duty not to discriminate against persons with disabilities concerning full use of its public transportation services. However, subcontractor providing only paratransit services to qualified persons and no services to general public not a public accommodation and so dismissed from case. CO

Maat v. Chicago Police Dep’t., CCHR No. 04-P-54 (Dec. 30, 2005) Where police officers received Complainant’s request for police action and came to her residence, public accommodation of opportunity to request police service was provided and non-harassing references to perceived mental disability not sufficient to create hostile environment in this context. Decision not to take further action does not involve a public accommodation; individualized, discretionary decisions of police not reachable by CHRO, because do not involve a service provided to general public. CO

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (Feb. 14, 2006) Additional allegations of conduct in adjudicating discrimination complaint at quasi-judicial administrative agency determined not to involve a public accommodation. CO

Blakemore v. Metro. Water Reclamation Dist. et al., CCHR No. 06-P-18 (Mar. 30, 2006) Receiving an explanation from an individual Commissioner of a Board President’s action is not a public accommodation under the CHRO because Commissioners are not required to provide such a service to the general public. Whether the opportunity to speak for three minutes at a meeting was a public accommodation turned on whether it was made available to the general public. CO

Calhoun v. Chicago Police Dep’t, CCHR No. 06-P-59 (Oct. 13, 2006) No public accommodation involved where Complainant alleged that he was discriminated against by police when he was stopped and ticketed for drinking alcohol on public way; citation by police not service open to general public. CO

Blakemore v. Metro. Water Reclamation Dist. et al., CCHR No. 06-P-18 (Nov. 8, 2006) Determination of whether public accommodation involved in case turned on factual issue of whether Respondent government entity offers to general public either (a) opportunity to speak at its Board meetings or (b) a process to request to speak. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (June 29, 2007) School not a public accommodation with respect to harassment of an enrolled student or renewal of enrollment. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (Sep. 6, 2007) Reaffirms decision of June 29, 2007, on request for review. That school’s initial admission process is open to public does not make the re-enrollment of existing students a public accommodation. CO

Raffety v. Great Expectations, CCHR No. 04-P-35 (Nov. 1, 2007) Commercially advertised dating service did not establish on motion to dismiss that it is not a public accommodation based on “special status” as to gay Complainant who was told the service was only for heterosexuals. That Complainant’s first contact with Respondent was through a telemarketer supports inference that Respondent offered services to general public. CO

Robinson v. Anna Marie’s Delivery Co., CCHR No. 08-P-40 (June 24, 2008) Delivery service that brought products to grocery store but did not offer products or services to general public not a public accommodation. CO

Williams v. First American Bank, CCHR No. 05-P-130 (July 16, 2008) Where restroom use at bank was available to customers and those with them, it was at minimum an aspect of the public accommodation and CHHR has jurisdiction. R

Agee v. Northwestern University Settlement House et al., CCHR No. 07-P-101 (Jan. 28, 2009) No public accommodation involved as to client of social service program who alleged differential treatment when limits imposed on free clothing she could take, where program provided free clothing only to clients accepted after intake process, not to general public. CO

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Respondent provides public accommodation where business mostly sells to retail stores but allows individuals to purchase. R
Allen v. J.P. Morgan Chase, CCHR No. 10-P-42 (June 24, 2010) Complaint dismissed where Complainant had account with Respondent bank and alleged discrimination regarding dispute over debiting of funds from the account, as this involved a service provided only to account holders and not available to the general public. CO

Disability Discrimination
Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) Respondent found liable for failing to have an accessible washroom at its Fern Room facility which caused Complainant, who uses a wheelchair, to fall in a stall and be publicly humiliated, causing her over two years of severe distress; Respondent ordered to pay Complainant $50,000 in emotional distress damages. R

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) CHR found Respondent was not liable for making Complainant give up his crutches to sit in regular seats because Complainant knew he could keep his crutches with him if he sat in disabled seating but he chose not to do so. R

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) Fact that Respondent temporarily misplaced Complainant’s crutches which they had made him turn over found not to be discrimination or a failure to accommodate but an error. R

Biondi v. Cook-DuPage Transp. Co., Inc. et al., CCHR No. 94-PA-42 (Sep. 14, 2005) Although available only to qualified persons with disabilities, alleged inadequacy of paratransit services of Chicago Transit Authority concerns a public accommodation under CHRO because related to CTA’s duty not to discriminate against persons with disabilities concerning full use of its public transportation services. However, subcontractor providing only paratransit services to qualified persons and no services to general public not a public accommodation and so dismissed from case. CO

Maat v. Villareal Agencia de Viajes, CCHR No. 05-P-28 (Aug. 16, 2006) Prima facie case of disability discrimination established where wheelchair user sought to enter storefront travel agency to utilize its services but could not do so due to step at entrance. R

Maat v. El Novillo Steak House, CCHR No. 05-P-31 (Aug. 16, 2006) Prima facie case of disability discrimination established where wheelchair user sought to enter storefront restaurant to eat but could not do so due to steps at entrance. R

DeVries v. Raw Bar & Grill, CCHR No. 06-P-66 (Apr. 19, 2007) No adverse action where Complainant was removed from restaurant due to belief he was intoxicated because of uneven gait, but staff apologized and comped drinks as soon as they learned of his disability, cerebral palsy. Prompt corrective action cured the potentially discriminatory conduct, which occurred before Respondent knew of Complainant’s disability. CO

Maat v. String-a-Strand, CCHR No. 05-P-5 (Feb. 20, 2008) After order of default, Complainant established prima facie case of disability discrimination where business did not have wheelchair accessible entrance and owner behaved rudely toward Complainant after she sought accommodation. R

Cotten v. Japonais (Geisha LLC) & City of Chicago Dept. of Transportation, CCHR No. 06-P-30 (Apr. 30, 2008) Motion to dismiss denied where Respondent argued that wheelchair user was merely inconvenienced by inability to access restaurant at valet-assisted entry point but could use another entrance. Right to full use of public accommodation includes equal access to amenities such as valet parking. CO

Cotten v. Taylor Street Food and Liquor, CCHR No. 07-P-12 (July 16, 2008) After order of default, prima facie case of disability discrimination established where wheelchair user sought to enter storefront liquor store to make a purchase but could not do so due to the presence of two stairs. R

Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (May 20, 2009) Prima facie case of disability discrimination established where wheelchair user sought to enter a restaurant to eat but could not do so due to steps at entrance. R

Cotten v. 162 N. Franklin, LLC, d/b/a Eppy’s Deli and Café, CCHR No. 08-P-35 (Sept. 16, 2009) Same as Cotten v. Eat-A-Pita, above.

Cotten v. Addiction Sports Bar & Lounge, CCHR No. 08-P-68 (Oct. 21, 2009) Disability discrimination found where stairs prevented wheelchair user from entering restaurant to eat lunch and Respondent failed to prove it was undue hardship to be fully accessible. R

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Disability discrimination found where wheelchair user sought to enter showroom to discuss a possible purchase but could not do so due to a flight of stairs, and no alternative means of service was offered. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Liability found where wheelchair user could not enter restaurant to eat because of step and Respondent failed to prove undue hardship to be fully accessible. Offer to carry or lift wheelchair user over barrier not a full or reasonable accommodation, nor is wheelchair user expected to bring own portable ramp. Older facilities are not “grandfathered” or otherwise exempt from accessibility requirements of CHRO and Reg. 520.105, which are in addition to any Building Code requirements. R

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) Disability discrimination found where
a restaurant’s restrooms were not accessible to a wheelchair user due to narrow entrance doors. Undue hardship not proved where evidence of alteration cost was presented but no objective evidence the cost was prohibitively expensive for the business. No legal basis for proffered defense that the building was “grandfathered” and thus exempt from compliance with CHRO’s accessibility requirements; although age and structure of a building may be relevant to proof of undue hardship, age alone is not dispositive. Nor is mere fact that Complainant had filed multiple complaints alleging inaccessibility of public accommodations relevant to outcome of the case or Complainant’s credibility. R

Cotten v. Top Notch Beefburger, Inc., CCHR No. 09-P-31 (Feb. 16, 2011) After order of default, prima facie case of disability discrimination established where wheelchair user asked to use a restroom while patronizing restaurant but was unable to enter and close restroom door. R

Employer/Owner Liability

Doxy v. Chicago Public Library, CCHR No. 99-PA-31 (Apr. 18, 2001) The duty of the owner a public accommodation not to discriminate is non-delegable and so the owner may be held liable for the acts of its agents. R

Lucado v. City Service Taxi Assoc., et al., CCHR No. 00-PA-67 (July 31, 2001) CHR found that the driver who allegedly discriminated against Complainant was not controlled by cab company and was an independent contractor and so CHR dismissed cab company from case; driver not dismissed. CO

Lucado v. City Service Taxi Assoc., et al., CCHR No. 00-PA-67 (July 31, 2001) Order reviews standards to determine nature of relationship between cab company and driver, stating that control is key to finding an employment relationship. CO

Russell v. Wolley Cab Co. et al., CCHR No. 01-PA-63 (Nov. 19, 2001) (same as the two Lucado entries, above) CO

Rollins & Steele v. Yellow Cab Co. et al., CCHR No. 02-P-82/83 (Feb. 16, 2005) (same as Lucado and Russell entries, above) CO

Luna v. SLA Uno, Inc., et al., CCHR No. 02-PA-70 (March 29, 2005) Where Respondents presented affidavit concerning relationships of corporate entities named but no documentation showing what control each entity had over conditions which may render restaurants in question inaccessible to persons in wheelchairs, motion to dismiss denied due to outstanding factual issues regarding potential liability of each entity. CO

Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 15, 2009) CCHR will determine potential liability of respondent owners in accordance with traditional agency principles in public accommodation cases. Owner held vicariously liable for actions of contracted security guard where evidence showed agency relationship existed and guard acted within scope of agency. R

Full Use of

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) CHR notes that it is not just complete denials of service which may violate the CHRO; curtailing, limiting or otherwise discriminating with respect to the full use of a public accommodation may do so. CO

Blakemore v. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) Where Complainant alleged that the Police refused to arrest an individual Complainant identified, CHR dismissed case finding that a) Complainant was not injured by that refusal and b) that Complainant received “full use” of the Police’s protection service both because the Police effectively stopped the altercation between Complainant and the other person and Complainant cited no harm. CO

Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) Where the Police stopped Complainant, subjected him to a search of his bag, and then required him to leave his bag with the Police, CHR, relying on its 1998 Holloway order, held that those actions are not services offered to the general public but are actions taken against Complainant and held that Complainant cannot be said to be using or seeking the “full use” of a police service. CO

Searse v. Chicago Dept. of Streets & San., CCHR No. 01-PA-2 (Aug. 9, 2001) CHR dismissed claims concerning having one’s car towed and having an impounded car kept by City, finding neither are services open to the general public nor services a person seeks to use; allows to proceed claim about access to auto pound’s office as whether it is open to general public is an open factual issue. CO

Blakemore v. Kinko’s, CCHR No. 01-PA-77 (Dec. 6, 2001) CHR notes that it is not just complete denials of service which may violate the CHRO; curtailing, limiting or otherwise discriminating with respect to the full use of a public accommodation may do so. CO

Blakemore v. Kinko’s, CCHR No. 01-PA-77 (Dec. 6, 2001) CHR denied motion to dismiss where Complainant’s complaint alleged that his use of a public service was curtailed or limited due to his race and sex. CO

Blakemore v. Water Reclam. Dist. of Chicago, CCHR No. 01-PA-105 (Mar. 18, 2002) CHR found sufficient complaint alleging that a commissioner of Respondent purposely made a racial comment so Complainant
would hear it, stating that single instances of discrimination in a public accommodation, if proved, could violate the
CHRO.

Schell v. United Center, CCHR No. 98-PA-30 (Mar. 20, 2002) “Full use” of a public accommodation is not
meant literally or else no arena or theater could use tiered seating as not every seat would be accessible to everyone;
instead, it is enough that an arena have accessible seating, dispersed throughout, from which disabled individuals
can observe the event.

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) Complaint which contended that
Respondent’s representative blocked Complainant from entering public office due to her sex and race found
sufficient to state claim as single instances of discrimination in a public accommodation can violate CHRO.

Marshall v. Knezovic & Oak Mgmt., CCHR No. 01-PA-102 (Dec. 16, 2002) Motion to dismiss arguing that
African-American Complainant failed to state race discrimination claim because she was in fact rented a store
(albeit different one) and Respondents rented a store to another African-American denied where Complainant
alleged not that Respondents refused to rent her a store, but that they refused to rent her the store she wanted for
the purpose she wanted and that they discriminatorily charged her excessive rent.

Murdza v. E & T Towing, CCHR No. 00-PA-20 (Mar. 18, 2003) Public accommodation discrimination can
be found when agents or employees of respondent have directed slurs and abusive language toward complainant
based on complainant’s protected classification, even if complainant was ultimately “served.”

Munda v. Cook County Comm’n on Human Rights et al., CCHR No. 04-P-41 (July 13, 2004) In general,
conduct after filing of discrimination complaint at quasi-judicial administrative agency is not public accommodation
because not a service offered to general public, although some aspects of handling of case or treatment of individual
may implicate right to full use of public accommodation, such as explicit discriminatory comments or giving case
“short shrift” based on complainant’s protected class.

that she and her friends were humiliated because of their gender identity by actions and comments of disk jockeys
performing in a bar, CHR denied motion to dismiss arguing that this did not violate the CHRO. Even though
Complainant was not denied access to the bar, the disk jockey services were not provided “under the same terms and
conditions” as offered to other bar patrons, and thereby limited or otherwise discriminated with regard to “full use”
of a public accommodation.

Blakemore v. Antojitos Guatemaltecos Rest., CCHR No. 01-PA-5 (Apr. 20, 2005) No denial of full use of
public accommodation where African-American patron of Guatemalan restaurant was served but while eating was
asked more than once whether ready to pay, in polite manner without overtly discriminatory language. At most the
conduct was a nuisance, but trivial and not sufficiently substantial or material to be adverse action. That
Complainant may have been denied a “cultural exchange” because Guatemalan server did not otherwise speak to
him not material where Respondent is a restaurant and not offering conversation or cultural education to the general
public.

Blakemore v. Chicago Police Dep’t et al., CCHR No. 01-PA-33/65 (July 20, 2005) Where Complainant
sought but was not allowed to file criminal complaint while being arrested, police officer’s actions not public
accommodation under CHRO; “full use” of police service does not mean individual may dictate to police how to
respond to request for police action.

Brekke v. Officer Delia et al., CCHR No. 01-PA-110/117 (July 22, 2005) Creation of hostile environment
based on protected class in course of providing public accommodation violates CHRO. Where Complainant alleged
that police officers referred to his presumed mental illness in refusing to take police report but lacked sufficient
information to determine whether their comments, in providing limited public accommodation of listening to his
request for police action, were sufficiently “separating or belittling” to have created hostile environment, motion to
dismiss harassment claim denied due to outstanding factual issues.

only to qualified persons with disabilities, alleged inadequacy of paratransit services of Chicago Transit Authority
concerns a public accommodation under CHRO because related to CTA’s duty not to discriminate against persons
with disabilities concerning full use of its public transportation services. As a factual issue remained as to whether
alleged deficiencies of paratransit program were so severe or pervasive to rise to level of failure to accommodate
Complainant’s disability, motion to dismiss denied.

Stark v. Chicago Transit Authority, CCHR No. 04-P-17 (Dec. 19, 2005) Complaint dismissed for failure to
allege denial of full use of public accommodation where Complainant claimed CTA employee refused to use his
card to give Complainant discounted fare when Complainant feared his own would be damaged, then was verbally
abusive but did not use pejorative language or refer to Complainant’s disability.

Maat v. Chicago Police Dep’t, CCHR No. 04-P-54 (Dec. 30, 2005) Where, in declining to take action,
police officers called Complainant “crazy,” no denial of full use of limited public accommodation of listening to
Complainant’s request for police action because comments not sufficiently “separating or belittling” to create hostile
environment: term “crazy” not inherently derogatory; that officers were disapproving, argumentative, or discourteous does not create hostile environment; merely inquiring or stating belief about person as having mental disability not discriminatory in this context. CO

Blakemore v. Dominick’s Finer Foods, CCHR No. 01-P-51 (Oct. 18, 2006) Security guard’s closely and visibly following African-American customer as he shopped constituted harassment and curtailment of full use of a public accommodation, even though customer was able to browse the aisles and complete his purchase. R

Cotten v. Japonais (Geisha LLC) & City of Chicago Dept. of Transportation, CCHR No. 06-P-30 (Apr. 30, 2008) Motion to dismiss denied where Respondent argued that wheelchair user was merely inconvenienced by inability to access restaurant at valet-assisted entry point but could use another entrance. Right to full use of public accommodation includes equal access to amenities such as valet parking. CO

Blakemore v. Chicago Transit Authority, CCHR No. 06-P-34 (Sep. 17, 2008) Finding of no substantial evidence of race discrimination affirmed on review. Although Complainant, who is black, was initially not allowed to board a CTA bus while white passengers boarded, the driver promptly acknowledged error, apologized, and let Complainant board. This conduct did not constitute material adverse action against Complainant. Only after Complainant himself prolonged the incident by questioning the driver and accusing him of discrimination and abuse, did the driver call police and have Complainant removed. CO

Blakemore v. Starbucks Coffee Company, CCHR No. 07-P-13/91 (Sep. 17, 2008) No denial of full use of public accommodation where Complainant had to argue with store personnel before receiving a requested free cup of ice, where he received the ice within a very short period then was able to sit in the store and consume his beverage. Commission decisions have long limited “full use” provisions to actions which are not “trivial” in nature but rather are invidious, long-lasting, or sufficiently pervasive to state an adverse action. CO

Futile Gesture

Scarse v. Chicago Dept. of Streets & Sanitation, CCHR No. 01-PA-2 (Jan. 11, 2002) Where Complainant learned at her first visit that Respondent’s office did not appear accessible to her and where a companion reported that it was no different at her second visit, Complainant’s failure to enter office was excused as it would have been a futile gesture; order discusses “futile gesture theory”. CO

Anthony v. O.A.I., Inc., CCHR No. 02-PA-71 (Aug. 25, 2003) Where Complaint alleged Respondent’s representatives told Complainant she “should” not wear hijab to school application interview, failure to attend interview does not deprive her of standing to pursue religious discrimination claim; to have standing, complainant not required to engage in futile gesture in face of clearly-stated discouragement. CO

Gender Identity Discrimination

Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 15, 2009) Liability found where restaurant security guard audibly discussed and ridiculed transgender female customer and stated, “That’s a man.” Restaurant owner held vicariously liable for security guard’s actions where agency relationship found to exist and action was foreseeable. R

Robinson v. American Security Services, CCHR No. 08-P-69 (Jan. 19, 2011) No gender identity discrimination found against male who lives as a female, arising from alleged incidents in grocery store. Based on credibility determinations by hearing officer as to conflicting testimony, Board found that Complainant had not proved harassing treatment by security guards while shopping. R

Manzanares v. Lalo’s Restaurant., CCHR No. 10-P-18 (May 16, 2012) Transgender Complainant established prima facie case of gender identity discrimination where she sought to enter restaurant-club with companions but was subjected to unwarranted scrutiny and harassment, then told she would be ejected at first sign of any “disturbance.” R

Harassment

Brekke v. Officer Delia et al., CCHR No. 01-PA-110/117 (July 22, 2005) Where Complainant alleged that police officers referred to his presumed mental illness in refusing to take police report but lacked sufficient information to determine whether their comments, in providing limited public accommodation of listening to his request for police action, were sufficiently “separating or belittling” to have created hostile environment in use of public accommodation, motion to dismiss harassment claim denied due to outstanding factual issues. CO

Maat v. Chicago Police Dep’t, CCHR No. 04-P-54 (Dec. 30, 2005) Where, in declining to take action, police officers called Complainant “crazy,” no denial of full use of limited public accommodation of listening to Complainant’s request for police action because comments were not sufficiently “separating or belittling” to create hostile environment: term “crazy” not inherently derogatory; that officers were disapproving, argumentative, or discourteous does not create hostile environment; merely making inquiry or stating belief about person as having mental disability not discriminatory in this context. CO
**Blakemore v. Dominick’s Finer Foods,** CCHR No. 01-P-51 (Oct. 18, 2006) Security guard’s closely and visibly following African-American customer as he shopped constituted harassment and curtailment of full use of a public accommodation. R

**Blakemore v. Market Place,** CCHR No. 04-P-28 (Apr. 5, 2007) Request for review denied as not presenting evidence sufficient to overturn no substantial evidence finding. Information on race of store employees at time of incident, even if inaccurately stated by Respondent, was not material to core determination that, while Complainant may have been subjected to rude behavior when told to “get your ass out of the store,” there was no evidence this was done because of his race, and he was allowed to make a purchase and not forced from store. CHR rejects stereotypical assumptions that a person’s race or other characteristic inherently taints the conduct of persons of another race or characteristic. CO

**Moore v. Chicago Transit Authority,** CCHR No. 05-P-108 (Apr. 5, 2007) Bus driver’s conduct may have been rude but was not so severe or pervasive to constitute harassment and evidence showed driver was rude to all passengers and ordered them off the bus. CO

**Anguiano v. Abdi,** CCHR No. 07-P-30 (Sept. 16, 2009) No harassment where, in course of argument during cab ride, driver called Complainant “old,” “unable to get a job,” and “unable to support himself.” In context of both sides exchanging personal insults and Complainant causing the incident, statements not sufficiently separating or belittling to create age-based hostile environment. R

**Burford v. Complete Roofing and Tuck Pointing et al.,** CCHR No. 09-P-109 (Oct. 19, 2011) Slurs directed to African-Americans seeking roofing services including the term “nigger” and “Suck my dick, bitch” constituted discriminatory harassment. R

**Indirect Discrimination – No new decisions in this volume.**

**Location for Event** 

**Blakemore v. Metropolitan Pier & Exposition Auth., et al.,** CCHR No. 01-PA-18 (July 31, 2001) Where one Respondent was simply the location at which discrimination by others allegedly occurred but had no control over the alleged discriminating actors, Respondent dismissed from case. CO

**National Origin Discrimination – No new decisions in this volume.**

**Newspapers – No new decisions in this volume.**

**Parental Status Discrimination**

**Stephens v. L & P Foods et al.,** CCHR No. 08-P-43 (Dec. 15, 2010) No parental status discrimination where minor daughter of customer was barred from a store’s showroom. Store consistently applied its posted policy prohibiting children under 18 from entering showroom unless placed in a shopping cart, and provided seating for children near the entrance under supervision of security officer. No-children policy in these circumstances does not discriminate against parents, because they can enter without their children or abide by the posted policy. No evidence supported Complainant’s argument the policy targeted parents living with dependent children; evidence supported that the policy was based on safety concerns due to operation of heavy equipment in showroom. R

**Physicians’ Practice**

**Barnes v. Jackson Park Hosp. et al.,** CCHR No. 05-P-73 (Apr. 13, 2005) Complaint alleging that physician discriminated by providing ineffective treatment dismissed because professional decisions in context of ongoing relationship are not public accommodations under CHRO; not CHRO’s role to evaluate individualized professional judgments as they are not offered to general public. CO

**Private Club**

**Lapa v. Polish Army Veterans Assn. et al.,** CCHR No. 02-PA-27 (Dec. 31, 2002) Where Respondent organization presented some evidence of specific limitations on and qualifications for membership but all evidence needed to determine whether it falls under “private club” exemption to CHRO was not before CHR and Complainant offered documents casting doubt on individual Respondent’s membership eligibility, motion to dismiss denied due to outstanding factual issues. Although single example of inaccurate application of membership criteria may be insufficient to prove that organization’s membership requirements are illusory or that organization is not sufficiently selective to be deemed “private” club or establishment, Complainant’s submission must be answered or explained. CO

**Zurko v. Galter Life Center,** CCHR No. 04-P-20 (Jan. 27, 2005) CHR denied motion to dismiss arguing that Respondent is exempt private club where it documented that it charged fees for various levels of “membership”
but the documents otherwise appeared typical of a commercial health club open to the public on payment of a fee and stated that information could be obtained by contacting a “marketing director.” Decision noted that during investigation stage Respondent could offer evidence showing it met the Noosbond criteria for a private club such as selectivity, membership limits, member control over selection of new members, and formality of admission criteria and procedures. CO

Raffety v. Great Expectations, CCHR No. 04-P-35 (Nov. 1, 2007) CHR denied motion to dismiss asserting that commercially advertised service limited to heterosexuals was exempt private club where the service offered prescreening to general public and contacted Complainant through telemarketing. CO

Race Discrimination


Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) In default case, Respondent found liable for discriminating against Complainant due to his race in its provision of services. R

Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) In default case, Respondent found liable for ignoring and then rudely serving Complainant, the only person of African descent in the restaurant. R

Jordan v. Nat’l Railroad Passenger Corp. (AMTRAK), CCHR No. 99-PA-34 (Feb. 19, 2003) Railroad station security policies purportedly designed to keep homeless people from using station facilities were implemented in racially discriminatory manner as to African-American man waiting for arriving passenger and creating no disturbance, who was ordered to leave, arrested by security staff, then struck with baton – where no evidence of a legitimate non-discriminatory reason in record except for non-credible assertions of security personnel. R

Blakemore v. Antojitos Guatemaltecos Rest., CCHR No. 01-PA-5 (Apr. 20, 2005) No discrimination where African-American patron of Guatemalan restaurant was served but while eating was asked more than once whether ready to pay, in polite manner without overtly discriminatory language. At most the conduct was a nuisance but not sufficiently substantial or material to be adverse action or deny full use of public accommodation. Also, no evidence of discriminatory intent rather than accidental differential treatment where server spoke little English and most patrons were Spanish-speaking, well-known to restaurant staff, and accustomed to voluntarily going to front counter to pay. R

Blakemore v. Dominick’s Finer Foods, CCHR No. 01-P-51 (Oct. 18, 2006) Race discrimination found where African-American supermarket customer was closely followed by store security guard as he shopped, even though store policy required guard to use video surveillance system to monitor customer activity and prohibited following customers. Taking into account common stereotypes of African-Americans, failure of store to provide evidence explaining the guard’s conduct supported inference that Complainant’s race was a motivating factor despite minimal evidence about treatment of comparable white customers. R

Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Three African-American Complainants established prima facie cases of race discrimination by ice cream shop manager where they were treated differently from white patrons with regard to coupons being distributed and had their full use of the facility curtailed by threats to call police. R

Morrow v. Tumala, CCHR No. 03-P-2 (Apr. 18, 2007) After order of default, prima facie case of race and sex discrimination proved where driver told female African-American taxicab passenger she must pay at rate of a meter and a half to ride from downtown Chicago to Oak Park, then took white male passenger on same trip at straight meter rate. R

Williams v. Bally Total Fitness Corporation, CCHR No. 05-P-94 (May 16, 2007) No race discrimination where, based on hearing officer’s credibility assessments, Complainant failed to establish that employee of health club Complainant frequented curtailed his use of the public accommodation when enforcing club’s closing policy by standing near Complainant and telling him it was time to leave. Nor did Complainant establish that white patrons were treated better in similar circumstances. R

Harris v. Dunkin Donuts, Baskin Robbins et al., CCHR No. 05-P-97 (July 16, 2008) No race or sex discrimination where African-American male was denied access to Respondent’s restroom but Caucasian woman allowed to enter to look for her keys. Although Complainant proved a prima facie case, Respondent proved that the restroom was out of order at the time and not usable by any member of public. R

Williams v. Bally Total Fitness and Lounge, CCHR No. 06-P-48 (Jan. 21, 2009) No race discrimination found where Complainant’s testimony that personnel at health club refused to unlock the door to let him leave after closing and subjected him to racial slurs was found not credible. R

Blakemore v. Jewel et al., CCHR No. 06-P-72 (Feb. 2, 2009) Complaint alleging that African-American store customer was required to provide identification before receiving a wine sample while non-African-American customers received samples without presenting identification cannot be dismissed as trivial or not discriminatory merely because the incident was of short duration and no “overt” discrimination was alleged. Such allegations state
a claim and these arguments raise factual issues which cannot be resolved on a motion to dismiss. CO

Blakemore v. Dublin Bar & Grill, Inc., CCHR No. 07-P-15 (May 20, 2009) Based on assessment of relative credibility of both parties’ witnesses, no race discrimination was found where Respondent refused to serve alcohol to Complainant, believing that he was intoxicated. R

Anguiano v. Abdi, CCHR No. 07-P-30 (Sept. 16, 2009) No race discrimination where Complainant’s statements that the cab driver insulted him for being Mexican were found not credible. R

Sturgies v. Target Corporation), CCHR No. 08-P-57 (Dec. 16, 2009) No prima facie case of race discrimination where security guard told African-American customer she could not bring her dog into a store. Complainant did not prove she met all legitimate non-discriminatory criteria for access where store proved it enforced no-animals policy except for service animals. Ambiguous evidence that another customer had dog in store held not sufficient to show the store selectively enforced the policy against African-Americans. R

Stephens v. L & P Foods et al., CCHR No. 08-P-43 (Dec. 15, 2010) No race discrimination where minor daughter of African-American woman was barred from a store’s showroom. Store consistently applied its posted policy prohibiting children under 18 from entering the showroom unless placed in a shopping cart, and provided seating for children near the entrance under supervision of security officer. Complainant’s white friend was allowed to enter showroom with her daughter because daughter was in shopping cart; store’s customers were predominantly African-American; and Complainant was offered the cart option but refused. No evidence supported Complainant’s argument the policy was based on presumption black children steal; evidence supported finding that the policy was based on safety concerns due to operation of heavy equipment in showroom. R

Scott and Lyke v. Owner of Club 720, CCHR No. 09-P-2/9 (Feb. 16, 2011) Race discrimination found where nightclub enforced policy barring braided hair to deny entry to an African-American man, but not where club stated the policy to another African-American man but did not enforce it. R

Burford v. Complete Roofing and Tuck Pointing et al., CCHR No. 09-P-109 (Oct. 19, 2011) Prima facie case of race discrimination where roofing company representative denied full service by attempting to provide a repair estimate to African-Americans without examining the roof, then used racist epithets when they complained. R

Johnson v. Hyde Park Corp. d/b/a Hyde Park Citgo, CCHR No. 08-P-95/96 (Feb. 15, 2012) No race discrimination where Pakistani employees refused to allow African-American couple to purchase gasoline using $100 bills found suspect when tested with marking pen designed to identify counterfeit currency, finding the testing procedure was applied to all customers regardless of race. Reference to “your friends” or “your brother” held insufficient to establish direct evidence or racial animus in context of incident, including employees’ limited English proficiency. R

Hudson v. G-A Restaurant LLC d/b/a Manor Chicago, CCHR No. 10-P-112 (July 18, 2012) Nightclub’s denial of admission to African-American Complainant not based on race, where evidence showed Complainant did not have a properly-made reservation, the club was booked to capacity, and Complainant was invited to wait in line pursuant to policy for those without reservations. Use of term “you people” by door staff found not race-based in context. R

Jones v. Minah Inc. d/b/a Sunshine Shell Gas Station, CCHR No. 11-P-75 (Sept. 19, 2012) No race discrimination where Complainant’s version of incident at gas station including use of racial slur was not credible and was directly contradicted by credible testimony of a third party witness. R

Religious Discrimination

Long v. Chicago Pub. Library et al., CCHR No. 00-PA-13 (Jan. 18, 2006) No discrimination found where complainant was ejected from a public library for sleeping there contrary to posted library rules. Testimony that head librarian said, “We don’t want any Jews like you in the library” found not credible and no other evidence established that Respondents knew Complainant to be Jewish. R

Scott and Lyke v. Owner of Club 720, CCHR No. 09-P-2/9 (Feb. 16, 2011) Religious discrimination found where nightclub enforced policy barring hats and would not accommodate a Muslim man who explained his kufi was a religious head covering. R

School or University – See separate Schools/Universities section, below.

Sex Discrimination

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) CHRO specifically exempts bathrooms from the prohibition against sex discrimination in public accommodations so CHR found Complainant’s sex-based claims about not having full use of a restroom not to be actionable. CO

Morrow v. Tumala, CCHR No. 03-P-2 (Apr. 18, 2007) After order of default, prima facie case of race and sex discrimination proved where driver told female African-American taxicab passenger she must pay at rate of a meter and a half to ride from downtown Chicago to Oak Park, then took white male passenger on same trip at straight meter rate. R
Williams v. Funky Buddha Lounge, CCHR No. 04-P-82 (July 16, 2008) After order of default, prima facie case of sex and sexual orientation discrimination established where Complainant was denied entry to nightclub because he was not a gay woman. Although males were inside the establishment, sex discrimination established where two women not on guest list were allowed entry while male Complainant not on guest list was denied entry. R

Harris v. Dunkin Donuts, Baskin Robbins et al., CCHR No. 05-P-97 (July 16, 2008) No race or sex discrimination where African-American male was denied access to Respondent’s restroom but Caucasian woman allowed to enter to look for her keys. Although Complainant proved a prima facie case, Respondent proved that the restroom was out of order at the time and not usable by any member of public. R

Williams v. First American Bank, CCHR No. 05-P-130 (July 16, 2008) No sex discrimination where bank employee initially did not allow Complainant to use bank’s restroom thinking he was not a bank customer, but manager told Complainant he was welcome to use the restroom after confirming he was a customer. Complainant failed to prove he was denied use of restroom and that a woman accompanying a customer was treated more favorably. Nor was the conduct sufficiently invidious, long-lasting or pervasive to constitute an adverse action. R

Sexual Harassment – No new decisions in this volume.

Sexual Orientation Discrimination

Doxy v. Chicago Public Library, CCHR No. 99-PA-31 (Apr. 18, 2001) Respondent found not liable where Complainant’s allegations that he was called a “faggot” and referred to as a dancer were found not credible; Respondent’s defense that it asked Complainant to leave because his genitals were visible was found credible. R

Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) Sexual orientation discrimination found where officers of Respondent organization, in whose building Complainant rented office space, created hostile environment by repeatedly directing pejorative and vulgar references to him as homosexual and/or failed to take corrective action after Complainant complained about this treatment. R

Holman v. Funky Buddha, Inc. d/b/a Funky Buddha Lounge, CCHR No. 06-P-62 (May 21, 2008) After Complainant proved prima facie case of sexual orientation discrimination, Respondent articulated legitimate non-discriminatory reason for ejecting him from nightclub—that he was intoxicated and acting aggressively. Complainant did not prove the real motive was discriminatory where guard who removed him did not know he is gay. Guard’s use of excessive force in violation of club policy did not provide circumstantial evidence of discriminatory animus. R

Williams v. Funky Buddha Lounge, CCHR No. 04-P-82 (July 16, 2008) After order of default, prima facie case of sex and sexual orientation discrimination established where Complainant was denied entry to Respondent’s establishment because he was not a gay woman. R

Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 15, 2009) Liability found where restaurant security guard audibly discussed and ridiculed two customers as “fags” and made other anti-gay comments. Restaurant owner held vicariously liable for security guard’s actions where agency relationship found to exist and action was foreseeable. R

Shelter – No new decisions in this volume.

Source of Income – No new decisions in this volume.

Standard to Determine Public Accommodation

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-37/39 (Jan. 25, 2000) To determine whether a respondent is a public accommodation as defined by CHRO, CHR must decide whether facility or function at issue is offered to the general public; it does not consider the entity in a more general sense. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-13/20 & 99-PA-4/53/84 (Feb. 10, 2000) To determine whether a facility or function at issue is offered to the general public, CHR considers, among other things, whether individuals entitled to the service or facility must have previously been found to meet certain criteria. CO

Nyah v. DuSable Museum of African-American History, CCHR No. 95-PA-33 (June 28, 2000) To determine whether a respondent is a public accommodation as defined by CHRO, CHR must decide whether facility or function at issue is offered to the general public; it does not consider the entity in a more general sense. CO

Gaddy v. Chicago Dept. of Streets & Sanitation, CCHR No. 00-PA-52 (Nov. 28, 2000) (same) CO


Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 01-PA-27 (May 18, 2001) (same) CO

Southwest Community Congress v. Chicago Public Library, et al., CCHR No. 00-PA-44 (May 21, 2001) (same) CO

Gill v. Chicago Board of Educ., CCHR No. 00-PA-54 (June 13, 2001) (same) CO
functions of free legal assistance organization involved a public accommodation turned on whether Complainant’s attempt to have CHR consider public functions and facilities of Loyola which are not at issue in the case. CO

Kenny v. Loyola Univ., et al., CCHR No. 01-PA-44 (Sept. 24, 2001) Specifically rejects Complainant’s professional decisions in context of ongoing relationship, such as attorney and client or physician and patient, are not public accommodations under CHRO. Public accommodation ends when professional relationship is established, that is, when professional judgment begins to be exercised. CO

Blakemore v. Chicago Police Dep’t et al., CCHR No. 01-PA-33/65 (July 20, 2005) Police arrest function,
including searches, not public accommodation under CHRO. CO

Love v. Chicago Police Dep’t et al., CCHR No. 01-PA-34 (July 22, 2005) Police arrest function, including removing person from premises, not public accommodation under CHRO. Preparing “police report” and decision about how to respond to request for police action not public accommodations under CHRO, as these are individualized, discretionary decisions and not services offered to general public. CO

Brekke v. Officer Delia et al., CCHR No. 01-PA-110/117 (July 22, 2005) Although opportunity to request police service and receive some response is public accommodation under CHRO, preparing “police report” and granting request for police action are not because not services offered to general public. Individualized, discretionary decisions of police not public accommodations even if there may be evidence of discriminatory intent; however, creation of hostile environment based on protected class in course of providing public accommodation does violate CHRO. CO

Molden v. United Winthrop Tower Coop. et al., CCHR No. 04-P-29 (July 27, 2005) Whether housing cooperative offered the general public admission to building to visit willing resident, subject to general ministerial requirements, was factual issue for investigation as to whether a public accommodation was involved in alleged refusal to admit Complainant to visit relative due to his sexual orientation. CO

Maat v. Chicago Police Dep’t, CCHR No. 04-P-54 (Dec. 30, 2005) Opportunity to request police service and receive some response is public accommodation under CHRO. However, individualized, discretionary decisions of police not reachable by CHRO because they do not involve service provided to general public. CO

Blakemore v. Metro. Water Reclamation Dist. et al., CCHR No. 06-P-18 (Mar. 30, 2006) Whether the opportunity to speak for three minutes at a meeting was a public accommodation turned on whether it was made available to the general public. CO

Calhoun v. Chicago Police Dep’t, CCHR No. 06-P-59 (Oct. 13, 2006) Citation by police not public accommodation under CHRO, as it is not open to general public. CO

Blakemore v. Metro. Water Reclamation Dist. et al., CCHR No. 06-P-18 (Nov. 8, 2006) Determination of whether public accommodation involved in case turned on factual issue of whether Respondent government entity offers to general public either (a) opportunity to speak at its Board meetings or (b) a process to request to speak at its Board meetings. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (June 29, 2007) Whether facility or function of a school or university is a public accommodation turns on whether it is open to general public or specifically designated for students and their guests, staff, faculty, and other authorized individuals. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (Sep. 6, 2007) Reaffirms decision of July 29, 2007, on request for review. That school’s initial admission process is open to public does not make the reenrollment of existing students a public accommodation. CO

Raffety v. Great Expectations, CCHR No. 04-P-35 (Nov. 1, 2007) Whether a dating service is a public accommodation turned on whether it offered its services to the general public, including its prescreening service. CO

Robinson v. Anna Marie’s Delivery Co., CCHR No. 08-P-40 (June 24, 2008) Delivery service that brought products to grocery store but did not offer products or services to general public not a public accommodation. CO

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (Dec. 16, 2009) Determination of whether showroom is public accommodation turned on whether opportunity to purchase was restricted to retail jewelry stores or open to general public. R

**PUNITIVE DAMAGES**

**Awarded**

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Apr. 19, 2000) Upon remand from state court, requiring CHR not to consider Respondents’ purported history of not renting to African-Americans in determining amount of punitive damages, CHR awarded Complainants $31,500, 10% less than prior award, finding that the alleged history had not been a significant factor in original award. R

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Where defaulted Respondents had used racial epithets and refused to serve African-American Complainant, CHR awarded punitive damages of $3,000, even though Complainant requested just $1,000, finding the higher amount was necessary to punish and deter Respondents, especially given the low amount of actual damages. R

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) CHR awarded $5000 in punitive damages finding that Respondents’ conduct in locking out Complainant after they learned of her disability was sufficiently egregious to warrant them and finding they were necessary to punish and deter Respondents even given that the limited evidence suggested Respondents were not large. R

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) CHR awarded punitive damages despite Hearing Officer’s recommendation not to, finding that it was Respondents’ burden to present mitigating information about their financial condition and finding that the information which was adduced did not demonstrate
that the actual damages would be enough to punish and deter them. R

Leadership Council for Metropolitan Open Communities v. Soucher, CCHR No. 98-H-107 (Jan. 17, 2001) Where Respondent lied to African-American testers and may have tried to lie to the Commission and where other damages were low, $500 of punitive damages assessed; there was no evidence of a pattern of discrimination, no epithets and no contempt of CHR procedures. R

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) CHR awarded each Complainant $3,000 in punitive damages, $6,000 total, against Respondents who harassed them explicitly because they are Polish. R

Nuspl v. Marchetti, CCHR No. 98-E-207 (Sept. 18, 2002) Punitive damages of $3,000 awarded against restaurant co-owner based on three incidents of sexual orientation harassment where derogatory epithets were used, conduct was willful and wanton, and level of actual damages was low. R

Brennan v. Zeman, CCHR No. 00-H-5 (Feb. 19, 2003) Punitive damages of $6,000 awarded for malicious and willful sexual orientation discrimination by landlord who also refused to participate in CHR proceedings and who had ownership interest in multiple rental properties. Complainant request to award punitive damages in form of housing provided to a person with AIDS was denied. R

Jordan v. Nat'l Railroad Passenger Corp. (AMTRAK), CCHR No. 99-P-34 (Feb. 19, 2003) $2,000 in punitive damages awarded for maintaining a policy to eject homeless people by requiring at least some users of station facility to provide “legitimate reasons” for their presence, which appeared to be implemented in reckless disregard of rights of African-American users of the facility. However, no punitive damages awarded against railroad company as to conduct of security guard who struck African-American man waiting for arriving passenger, where guard’s actions were contrary to company policy and company took prompt corrective action. R

Hoskins v. Campbell, CCHR No. 01-H-101 (Apr. 16, 2003) Nominal punitive damages of $250 based on defaulted Respondent’s repeated and willful disregard of CHR communications, but no higher amount where evidence was barely sufficient to justify liability, egregious violation not shown, Respondent is in Chapter 13 bankruptcy, and his non-cooperation did not delay proceedings or increase Complainant’s costs. R

Salwierak v. MRI of Chicago, Inc. & Baranski, CCHR No. 99-E-107 (July 16, 2003) Supervisor ordered to pay $30,000 in punitive damages where he sexually harassed Complainant egregiously throughout her employment, ignoring her repeated pleas to stop and showing callous indifference to her protected rights, then perjured himself at hearing by denying that any harassment took place despite overwhelming testimony from Complainant and co-workers. Respondent company also ordered to pay $30,000 in punitive damages where it defaulted in the case, did not appear at hearing, and undisputedly knew of the ongoing harassment but took no action to stop it. R

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) $120,000 in punitive damages for egregious sexual harassment by landlord, based on tripling of emotional distress damages and applying factors cited in State Farm decision of U.S. Supreme Court including physical harm incurred, reckless disregard of health or safety, financial vulnerability of victim, repeated instances of the conduct, maliciousness of intent, and reprehensible nature of conduct insufficiently addressed by other sanctions. Decision especially notes that landlord maliciously exploited the poverty and previous homelessness of Complainant and her children. [Punitive damages award reversed due to inadequate notice by Appellate Court, No. 1-04-3599, Sept. 15, 2008] R

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) $1,500 in punitive damages where refusal to rent to Social Security Disability recipient, telling her she had to be working although she was unable to do so then failing to take responsibility for it, was egregious but relatively modest award met objectives to punish but not severely wound or destroy. R

Martin v. Glen Scott Multi-Media, CCHR Case No. 03-E-034 (Apr. 21, 2004) Punitive damages of $2,000 awarded where Respondent admitted by virtue of default that he fired a pregnant woman who took time off due to a pregnancy-related medical emergency, to deter such blatant discrimination in the future. R

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) Punitive damage award of $2,000 for landlord’s deliberate harassment and tenancy termination due to tenant’s sexual orientation, as conduct was repeated and in reckless disregard of tenant’s rights, where other relief was awarded and landlord did not produce evidence of financial circumstances so they need not be considered. R

Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) Two Complainants harassed and constructively or actually discharged due to perceived sexual orientation awarded punitive damages of $2,000 each; although not requested by Complainants or addressed by hearing officer, Board found small award appropriate to punish and deter where company president’s conduct demonstrated reckless and callous indifference to City policy protecting employees from sexual orientation discrimination as well as willful disrespect of Commission procedures by refusing to take the relatively simple step of properly verifying the company’s responses to the Complaints despite repeated opportunities to cure deficiency. R

Mullins v. AP Enterprises, LLC et al., CCHR No. 03-E-164 (Jan. 19, 2005) $1,000 in punitive damages awarded against defaulted Respondents for ignoring CHR orders and directives and refusing to cooperate with its processes. No award based on Respondents’ actions toward Complainant where Complainant provided no factual or
legal support and other relief was sufficient to deter similar actions by Respondents. R

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) $5,000 punitive damages award where Respondent landlord used profane disability-related epithets accompanying violent actions and threats of physical harm to severely disabled Complainant, and where Respondent refused to adequately participate in CHR proceedings but instead filed documents vilifying Complainant, failed to participate in the administrative hearing, and thus failed to meet his burden to present evidence permitting consideration of financial circumstances in determining amount of punitive damages. R

Torres v. Gonzales, CCHR No. 01-H-46 (Jan. 18, 2006) In Section 8 refusal to rent case, Board raised punitive damages to $5,000 from Hearing Officer’s recommended $1,000, based on direct evidence of discriminatory intent and Respondent refusal to cooperate with adjudication process after substantial evidence determination. R

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) Punitive damages of $7,500 awarded in quid pro quo sexual harassment case where discharge and failure to pay compensation due were done wilfully and with intent to injure, and where Respondent showed lack of appreciation of the seriousness of his conduct. R

Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) $4,000 punitive damages where Complainant occupying office space in Respondent organization’s building was repeatedly subjected to slurs about his sexual orientation. Damages apportioned among four Respondents based on their level of culpability. R

Morrow v. Tumala, CCHR No. 03-P-2 (Apr. 18, 2007) $3,000 in punitive damages against taxicab driver who subjected African-American woman to higher price for cab ride than similarly-situated white man, then failed to participate in Commission proceedings. R

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) $30,000 punitive damages against restaurant manager for repeated, severe, and dehumanizing racial and sexual harassment followed by retaliation and failure to participate in CHR proceedings. No punitive damages against corporate owner of restaurant where no evidence any member or manager knew of harassment and corporation had since been involuntarily dissolved such that the deterrence and punishment purposes of punitives could not be served. R

Johnson v. Fair Muffler Shop a/k/a Fair Undercare Car a/k/a Fair Muffler & Brake Shops, CCHR No. 07-E-23 (Mar. 19, 2008) $30,000 punitive damages awarded where manager called Complainant “nigger” on three occasions, owner ignored three complaints, Complainant was fired after third complaint, and Respondent did not respond to CHR Complaint or attend hearing. R

Hawkins v. Ward & Hall, CCHR No. 03-E-114 (May 21, 2008) $2,000 punitive damages for sexual harassment apportioned $1,600 against supervisor who made sexual advances and $400 against supervisor knew of it but failed to take remedial action. R

Alexander v. 1212 Restaurant Group et al., CCHR No. 00-E-110 (Oct. 16, 2008), aff’d Cir. Ct. Cook Co. No. 09-CH 16337 (Feb. 19, 2010), aff’d Ill. App. Ct. No 1-2007-797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No 113274 (Jan. 25, 2012). Punitive damages of $140,000 imposed jointly and severally against corporate Respondents for workplace harassment based on perceived sexual orientation, based on finding of mid-range level of reprehensibility of the conduct warranting amount four times the moderate compensatory damages. R

Lockwood v. Professional Neurological Services, Ltd., CCHR No. 06-E-89 (June 17, 2009) Punitive damages of $100,000 for parental status discrimination against employer who created false records, tried to deceive Complainant about its commission policy, provided false evidence and arguments, and tried to withhold legitimate discovery materials, never producing information it should have retained in the course of business. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) $25,000 in punitive damages where restaurant owner’s level and duration of harassment of kitchen worker found shocking and out of the ordinary. R

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Punitive damages reduced to $1,000 for each of three defendants from hearing officer’s recommended $7,500 total in Section 8 refusal to rent case as a sufficient amount to deter future discrimination by Respondents. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) $6,000 punitive damages against supervisor who repeatedly harassed employee about his sexual orientation and “outed” him. Although punitive damages may be imposed without consideration of a respondent’s financial circumstances, where no evidence about them is presented, relatively modest award was based on supervisor’s job as public employee. R

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) After refusal to sell due to source of income, $10,000 in punitive damages awarded to Complainant who lost some homeownership subsidies but purchased a less desirable home, and $60,000 in punitive damages awarded to other Complainant who lost all homeownership subsidies and could not purchase another home. R

Williams v. RCJ Inc. et al., CCHR No. 10-E-91 (Oct. 19, 2011) $4,000 in punitive damages to convenience store cashier sexually harassed by store owner who repeatedly engaged in offensive conduct, ignored Complainant’s
rejection of his advances, and disregarded the rights of complainant as well as CHR’s proceedings. R

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) CHR awarded $4,800 in punitive damages for sex discrimination by forcing employee to take maternity leave before ready to do so, increasing hearing officer’s recommended award of $200 based on Respondent business owner’s personal bankruptcy and sale of the business. Although no evil motive or intent was shown, the owner showed reckless and callous indifference to longstanding protected rights of pregnant employees which, as operator of several businesses, he should have recognized. CHR award tripled the compensatory damages in light of need to deter similar future conduct and the relatively low amount of compensatory damages, noting that CHR has broad discretion to decide whether punitive damages are appropriate and determine the amount. R

Burford v. Complete Roofing and Tuck Pointing et al., CCHR No. 09-P-109 (Oct. 19, 2011) $3,000 in punitive damages to each complainant for single incident of race discrimination in delivery of service by a business where derogatory slurs were used and respondents disregarded both the rights of complainants and CHR proceedings. R

Montelongo v. Azarpia, CCHR No. 09-H-23 (Feb. 15, 2012) $3,000 in punitive damages for refusal to rent after observing disability of Complainant’s son, then lying to Complainant when stating the apartment had been rented. Respondent’s failure to participate in hearing process also taken into account. R

Manzanares v. Lalo’s Restaurant., CCHR No. 10-P-18 (May 16, 2012) $2,500 in punitive damages where restaurant-club employees subjected transgender Complainant to public humiliation and mockery in willful and wanton disregard of her rights. Owners may not have been aware of the conduct but were responsible for harm caused. R

Discovery Related to

Byrd v. Hyman & Rodriguez, CCHR No. 97-H-2 (Jan. 25, 2001) Hearing Officer required Respondent to respond to several of Complainant’s document requests, including those seeking personal financial information finding those are reasonably related to claim for punitive damages. HO

Thomas v. Prudential Biros Real Estate, et al., CCHR No. 97-H-59/60 (Jan. 3, 2002) CHR is authorized to award punitive damages and the financial condition of the respondent is one factor used to determine the amount of them; thus, objection to discovery about financial condition denied. HO

Yoon/Lee v. Chicago Korean Chamber of Commerce et al., CCHR No. 99-E-125/126 (Mar. 26, 2002) (same) HO

Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (Sep. 5, 2002) Punitive damages claim may be pursued, and discovery allowed, even if not itemized in pre-hearing memorandum; no waiver intended as penalty, especially where Complainant’s intention to pursue punitive damages was known to Respondent for some time. HO

Government Immunity – See also Government Immunity section, above.

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) CHR found that common law immunity, but not the Tort Immunity Act, makes Respondent immune from paying punitive damages. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Chicago Transit Authority, as a municipal corporation, found immune from punitive damages, but individual public employee not immune. R

Not Awarded

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Punitive damages not awarded when Respondent promptly corrected its discriminatory action by quickly re-offering Complainant the same job and changing its practices to avoid similar discrimination in the future. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) CHR found that common law immunity, but not the Tort Immunity Act, makes Respondent immune from paying punitive damages. R

Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) Where underlying discriminatory conduct was found not to be egregious, fact that Respondent was defaulted is not enough to warrant punitive damages; that was punished by the Order of Default. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) Individual Respondent’s claim that he did not know it was illegal to discriminate on the basis of parental status was not a defense and did not relieve him of liability; however, because his belief was credible, CHR did not award punitive damages against Respondents. R


Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Where CHR found that Respondent/owner neither knew nor should have known that his agent/building manager was discriminating against Complainant and where he took immediate corrective action upon learning of it [when complaint was filed], CHR refused to award punitive
damages, finding owner did not act with requisite reckless and callous indifference to Complainant’s rights. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)]

Trujillo v. Cuauhtemoc Restaurant, CCHR No. 01-PA-52 (May 15, 2002) Although Respondent was found liable for ignoring and rudely serving Complainant, the only customer of African descent, CHR did not award punitive damages because there were no slurs used and no evidence of willful, wanton or reckless conduct. R

Jordan v. Nat’l Railroad Passenger Corp. (AMTRAK), CCHR No. 99-P-34 (Feb. 19, 2003) No punitive damages awarded against railroad company as to conduct of security guard who struck African-American man waiting for arriving passenger, where guard’s actions were contrary to company policy and company took prompt corrective action. R

Brooks v. Hyde Park Realty Co., Inc., CCHR No. 02-E-116 (Dec. 17, 2003) No punitive damages awarded where no evidence Complainant’s discriminatory discharge was willful, malicious, or reckless and other damages were sufficient to deter future discrimination or disregard of agency orders. R

Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) No punitive damages for store manager’s race discrimination where it was a single incident, there was no evidence of pattern of discrimination, and manager was discharged after store owners learned of her conduct. R

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) No punitive damages against corporate owner of restaurant whose manager harassed and retaliated against employee where no evidence any member or manager knew of the harassment and corporation had since been involuntarily dissolved such that the deterrence and punishment purposes of punitive damages could not be served. R

Cotten v. Addiction Sports Bar & Lounge, CCHR No. 08-P-68 (Oct. 21, 2009) Complainant not allowed to orally request punitive damages at hearing where not listed and itemized in pre-hearing memorandum. R

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) No punitive damages to wheelchair user who could not enter inaccessible restaurant facility where, although uninformed and relatively indifferent to its obligations, there was no evidence of ill will or malice toward wheelchair users or Complainant, and other relief was sufficient to make Complainant whole. R

Cotten v. Arnold’s Restaurant, CCHR No. 08-P-24 (Aug. 18, 2010) No punitive damages where restaurant which did not provide accessible restroom to wheelchair user had not shown malice toward the customer, participated in CHR adjudication process, and made efforts since filing of the Complaint to comply with applicable laws. R

Gray v. Scott, CCHR No. 06-H-10 (Apr. 20, 2011) No punitive damages against unsophisticated, inexperienced landlord who did not appear to know his conduct was sexual harassment and took CHR proceedings seriously. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) No punitive damages for anti-gay hostile environment created by condo association president where Respondents were sufficiently deterred and punished by other relief awarded plus costs of litigation, and where the damages would likely be paid from special assessments imposed on innocent unit owners as well as Complainant. R

Sleper v. Maduff & Maduff LLC, CCHR No. 06-E-90 (May 16, 2012) No punitive damages where law firm’s discharge of associate attorney due to pregnancy and related leave was discriminatory but not egregiously so, and firm had no prior history of discrimination. Deterrence deemed achieved and Complainant made whole through public finding of liability and compensatory relief awarded. That law firm’s primary business is discrimination claims against employers and motions to compel were required in discovery process not viewed as compelling punitive damages in the case. R

Purpose of

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Apr. 19, 2000) Punitive damages serve to punish the wrongdoer and deter that party and others from committing similar acts in the future. R

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Because purposes of punitive damages are to punish and deter not to compensate the complainant, CHR awarded punitive damages of $3,000, even though Complainant requested just $1,000, finding the higher amount was necessary to punish and deter Respondents, especially given the low amount of actual damages. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) Punitive damages serve to punish the wrongdoer and deter that party and others from committing similar acts in the future. R


Rogers/Sloomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) Punitive damages found necessary to punish and deter Respondents from discriminating against others in future, especially because other damages were low. R
Standard to Determine Amount of Award

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Apr. 19, 2000) In determining size of award, CHR looks to degree of reprehensibility of underlying conduct; relationship between punitive award and harm caused; respondent’s gain from conduct; and financial condition of respondent. R

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Same; noting that when Respondents do not appear and so do not meet their burden to produce that evidence, CHR awards punitive damages without regard to their financial condition. R


Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) CHR awarded punitive damages despite Hearing Officer’s recommendation not to, finding that it was Respondents’ burden to present mitigating information about their financial condition and finding that the information which was adduced did not demonstrate that the actual damages would be enough to punish and deter them. R

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) When a respondent does not present mitigating information about its financial condition, CHR may not ignore the information that is adduced, but it also need not presume that a complainant’s limited testimony about this topic constitutes a complete accounting. R

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) When Respondents do not meet their burden to produce evidence about their income and assets, CHR awards punitive damages without regard to their financial condition. R

Torres v. Gonzales, CCHR No. 01-H-46 (Jan. 18, 2006) In Section 8 refusal to rent case, Board raised punitive damages to $5,000 from Hearing Officer’s recommended $1,000, based on direct evidence of discriminatory intent and Respondent refusal to cooperate with adjudication process after substantial evidence determination. R

Hawkins v. Ward & Hall, CCHR No. 03-E-114 (May 21, 2008) $2,000 punitive damages for sexual harassment awarded in amount equal to emotional distress damages award, based on nature of Respondents’ conduct. R

Alexander v. 1212 Restaurant Group et al., CCHR No. 00-E-110 (Oct. 16, 2008), def’d Cir. Ct. Cook Co. No. 09-CH 16337 (Feb. 19, 2010), aff’d Ill. App. Ct. No 1-20-0797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No 113274 (Jan. 25, 2012). Punitive damages of $140,000 imposed jointly and severally against corporate and individual Respondents for workplace harassment based on perceived sexual orientation, based on finding of mid-range level of reprehensibility of the conduct warranting amount four times the moderate compensatory damages. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) Board awarded punitive damages of $25,000 where hearing officer recommended $15,000, finding restaurant owner’s level and duration of harassing conduct shocking and out of the ordinary, but award not based on failure to cooperate with Commission procedures in that Respondents were already severely penalized by order of default. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Although punitive damages may be imposed without consideration of a respondent’s financial circumstances, where no evidence about them is presented, relatively modest award was based on supervisor’s job as public employee. R

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) In source of income discrimination case, greater punitive damages found more appropriate for failure to sell than failure to rent because failure to sell has long-lasting and potentially permanent effects. R

Williams v. RCJ Inc. et al., CCHR No. 10-E-91 (Oct. 19, 2011) CHR may in a proper case increase punitive damages amount from that requested or recommended. Here, Complainant requested $1,000, hearing officer recommended $2,000, and CHR awarded $4,000 or twice the relatively low emotional distress damages, in light of Respondent store owner’s blatant sexual harassment of Complainant cashier and refusal to participate in CHR hearing process. R

Tarpein v. Polk Street Company d/b/a Polk Street Pub et al., CCHR No. 09-E-23 (Oct. 19, 2011) $4,800 in punitive damages for sex discrimination by forcing employee to take maternity leave before ready to do so, increasing hearing officer’s recommended award of $200 based on Respondent business owner’s personal bankruptcy and sale of the business. Although no evil motive or intent was shown, the owner showed reckless and callous indifference to longstanding protected rights of pregnant employees which, as operator of several businesses, he should have recognized. CHR award tripled the compensatory damages in light of need to deter similar future conduct and the relatively low amount of compensatory damages, noting that CHR has broad discretion to decide whether punitive damages are appropriate and determine the amount. R

Standard to Determine Whether to Award

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) Punitive damages should not be awarded
when the employer promptly corrected its discriminatory action by re-offering complainant the same job and changing its practices to avoid similar discrimination in the future. R

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) CHR awards punitive damages when the respondent’s actions are willful, wanton, malicious and/or taken in reckless disregard for complainant’s rights; also considers fact that Respondents disregard of administrative process and explicitly denigrated civil rights in their comments to Complainant. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) CHR awards punitive damages when the respondent’s actions are willful, wanton, malicious and/or taken in reckless disregard for complainant’s rights. R

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) CHR considers whether Respondents were motivated by evil motives or intent or a reckless or callous indifference to the Complainant’s rights and whether Respondents showed that their financial condition is such that the amount of actual damages is sufficient to deter and punish them. R

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Punitive damages are awarded when a respondent’s actions are egregious or where it exhibits callous indifference to rights of others. R

Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) CHR awards punitive damages when the respondent’s actions are willful, wanton, malicious and/or taken in reckless disregard for complainant’s rights. R


Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Punitive damages are awarded when a respondent’s actions are egregious or where it exhibits callous indifference to rights of others. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Rogers/Slomba v. Diaz, CCHR No. 01-H-33/34 (Apr. 17, 2002) CHR awards punitive damages when the respondent’s actions are willful, wanton, malicious and/or taken in reckless disregard for complainant’s rights; notes that Respondent’s failure to participate in case provides additional support for award of punitive damages. R

Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) CHR awards punitive damages when the respondent’s actions are willful, wanton, malicious and/or taken in reckless disregard for complainant’s rights. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) Board awarded punitive damages based on a level and duration of harassing conduct found shocking and out of the ordinary, but not based on failure to cooperate with Commission proceedings in that Respondents were already severely penalized by an order of default. R

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) Significant punitive damages awards found appropriate in that Respondent intentionally and specifically refused to complete home sales solely because of Complainants’ source of income, refused to respond to calls from Complainants’ attorney, failed to sell properties to low-income buyers as required by government program that subsidized Respondent, and failed to cooperate with Commission proceedings. R

Gray v. Scott, CCHR No. 06-H-10 (Apr. 20, 2011) No punitive damages against unsophisticated, inexperienced landlord who did not appear to know his conduct was sexual harassment and took CHR proceedings seriously. R

RACE DISCRIMINATION

Affirmative Action Plan

Moriarty v. Chicago Fire Dept. et al., CCHR No. 00-E-130 (June 13, 2001) CHR granted motion to dismiss case which challenged promotion examination, finding the examination was given and scored in the same manner for all applicants and the fact that weights for different components may have been changed to increase promotions of minorities does not constitute impermissible race discrimination; follows federal decisions. CO

Indirect Discrimination

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) Complainant did not show that Respondent even made the allegedly anti-African-American statements alleged and did not show that, even if made, they interfered with Complainant’s ability to co-rent his apartment. R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent found liable where his agent/building manager harassed Complainant due to race of her boyfriend and children as owner had non-delegable duty not to discriminate or to permit discrimination. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R
Liability Found


Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) In default case, Respondent found liable for discriminating against Complainant due to his race in its provision of services. R

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Respondent found liable where his agent/building manager harass Complainant due to race of her boyfriend and children as owner had non-delegable duty not to discriminate or to permit discrimination. [Reversed by Cook County Circuit Court, finding no vicarious liability, 03 CH 4247 (Dec. 11, 2003)] R

Trujillo v. Cuahtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) In default case, Respondent found liable for ignoring and then rudely serving Complainant, the only person of African descent in the restaurant. R

Claudio v. Chicago Baking Co., CCHR No. 99-E-76 (July 17, 2002) Race discrimination found where Hispanic supervisor was discharged for leaving work before replacement arrived although similarly-situated Caucasian supervisors who violated work rules that were terminable offenses were not discharged. R

Jordan v. Nat’l Railroad Passenger Corp. (AMTRAK), CCHR No. 99-P-34 (Feb. 19, 2003) Railroad station security policies purportedly designed to keep homeless people from using station facilities were implemented in racially discriminatory manner as to African-American man waiting for arriving passenger and creating no disturbance, who was ordered to leave, arrested by security staff, then struck with baton – where no evidence of a legitimate non-discriminatory reason in record except for non-credible assertions of security personnel. R


Blakemore v. Dominick’s Finer Foods, CCHR No. 01-P-51 (Oct. 18, 2006) Race discrimination found where African-American supermarket customer was closely followed by store security guard as he shopped, even though store policy required guard to use video surveillance system to monitor customer activity and prohibited following customers. Taking into account common stereotypes of African-Americans, failure of store to provide evidence explaining the guard’s conduct supported inference that Complainant’s race was a motivating factor despite lack of clear evidence about treatment of comparable white customers. R

Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Three African-American Complainants established prima facie cases of race discrimination by ice cream shop manager where they were treated differently from white patrons with regard to coupons being distributed and had their full use of the facility curtailed by threats to call police. R

Morrow v. Tumala, CCHR No. 03-P-2 (Apr. 18, 2007) After order of default, prima facie case of race and sex discrimination proved where driver told female African-American taxicab passenger she must pay at rate of a meter and a half to ride from downtown Chicago to Oak Park, then took white male passenger on same trip at straight meter rate. R

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established prima facie case of race discrimination where manager of restaurant addressed Complainant in racially derogatory terms in conjunction with sexual harassment. R

Johnson v. Fair Muffler Shop a/k/a Fair Undercare Car a/k/a Fair Muffler & Brake Shops, CCHR No. 07-E-23 (Mar. 19, 2008) Prima facie case of race discrimination proved where manager of defaulted auto repair shop used racially derogatory slurs, owner ignored complaints, and Complainant was fired after third complaint. R

Burford v. Complete Roofing and Tuck Pointing et al., CCHR No. 09-P-109 (Oct. 19, 2011) Prima facie case of race discrimination where roofing company representative denied full service by attempting to provide a repair estimate to African-Americans without examining the roof, then used racist epithets when they complained. R

Liability Not Found

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) Complainant did not show that Respondent even made the allegedly anti-African-American statements alleged and did not show that, even if made, they interfered with Complainant’s ability to co-rent his apartment. R

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) CHR found Respondent not liable where Complainant failed to show that it was race discrimination, not the positive results of a random drug test, which caused his discharge; alleged comparatives found not to be comparable as they were impacted by different policies or otherwise not shown to be similarly situated. R

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Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) Complainant did not show whether the numbers he presented about the rate at which members of different races failed the City’s mandatory drug tests were statistically significant and he did not overcome City’s showing of business necessity -- that federal regulation required it to give mandatory drug tests. R *See separate Disparate Impact section, above.*

Williams v. Norm’s Automotive Ctr., CCHR No. 99-E-151 (Dec. 6, 2000) Respondent found not liable where evidence showed that African-American Complainant was not denied an application due to his race but because he spoke to a person with incorrect information about the job opening. R

Williams v. Norm’s Automotive Ctr., CCHR No. 99-E-151 (Dec. 6, 2000) Fact that Respondent hires by word of mouth and does not advertise is not sufficient to show race discrimination especially given that Complainant learned about the job and that Respondent had hired at least one other African-American in its few hires in past. R

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) Respondents found not liable for race discrimination where African-American Complainant failed to overcome their articulated defenses that the Caucasian person promoted instead of him had performed better in the promotion interview than Complainant had and that the person promoted otherwise had comparable experience to Complainant. R

Thomas v. Chicago Dept. of Public Health, et al., CCHR No. 97-E-221 (July 18, 2001) Respondents found not liable for promoting a Caucasian and an Hispanic over African-American Complainant where Complainant could not show that the reasons Respondent gave for choosing the others over him were pretextual. R

Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) CHR found Complainant did not prove that Respondent subjected Complainant to racial or sexual harassment or that it terminated her due to race or sex; ruling based on credibility of parties and witnesses. R

Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) Complainant raised four incidents she deemed racial; however, her testimony about them was not credible, she never reported any to management, and so did not show that Respondent subjected her to discrimination or failed to correct actions of co-workers R

Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) Respondent showed that it had a legitimate, nondiscriminatory basis for taking Complainant off the schedule – she disrupted co-workers and customers and missed meetings with management to discuss that – and Complainant did not show that was a pretext for race or sex discrimination. R

Guy v. First Chicago Futures, Inc., CCHR No. 97-E-32 (Feb. 18, 2004) No race discrimination where African-American futures brokerage clerk was discharged after failing to properly cover trading error and trying to hide error from supervisor, where no direct evidence of racial motive, established policies were applied, and white employee had been discharged for similar violations. Also no racial harassment in connection with criticism and scrutiny of Complainant where six incidents cited were not sufficiently severe and pervasive to create hostile environment and could not be connected to a racial character or purpose. R

Thomas v. Prudential Biros Real Estate et al., CCHR No. 97-H-59/60 (Feb. 18, 2004) No race discrimination by real estate agents where sale was negotiated based on another offer with more favorable terms; no racial animus or pretext found in recommending that sellers respond to best offer rather than multiple offers, refusal to split commission, exclusion of listing from the Multiple Listing Service, timing of showings of property in question, and actions subsequent to showing. R

McPhee v. Novovic, CCHR No. 00-H-69 (Sep. 15, 2004) Although racial animus was established where landlord objected to housing Blacks or Puerto Ricans on premises and to rental of commercial unit to Black-owned business, no CFHO violation found because evidence did not establish that landlord prevented Complainant from qualifying to operate a foster care facility or that racial animus caused her eviction for non-payment of rent. R

Blakemore v. Antojitos Guatemaltecos Rest., CCHR No. 01-PA-5 (Apr. 20, 2005) No discrimination where African-American patron of Guatemalan restaurant was served but while eating was asked more than once whether ready to pay, in polite manner without overtly discriminatory language. At most the conduct was a nuisance but not sufficiently substantial or material to be adverse action or deny full use of public accommodation. Also, no evidence of discriminatory intent rather than accidental differential treatment where server spoke little English and most patrons were Spanish-speaking, well-known to restaurant staff, and accustomed to voluntarily going to front counter to pay. R

Jackson v. MYS Dev., Inc. et al., CCHR No. 01-E-41 (Jan. 18, 2006) African-American Complainant alleging failure to recall to a construction job did not prove a *prima facie* case of discrimination including that he was not recalled from layoff, that there was an open position for which he qualified at the time he sought re-employment, that at the time of layoff his performance met the employer’s legitimate expectations, or that similarly-situated non-African-American employees were rehired. R

Ingram v. Got Pizza, CCHR No. 05-E-94 (Oct. 18, 2006) No *prima facie* case of race discrimination merely because African-American pizza delivery driver was not returned to delivery schedule by a white manager after his car broke down while attempting deliveries; no evidence showed other drivers not of his race were treated more favorably in similar circumstances. R
African-American; and Complainant was offered the cart option but refused. No evidence supported Complainant’s argument the policy was based on presumption black children steal; evidence supported finding that the policy was based on safety concerns due to operation of heavy equipment in showroom. R

Blakemore v. Starbucks Coffee Company, CCHR No. 07-P-13/91 (Sep. 17, 2008) Finding of no substantial evidence of race discrimination affirmed on review. That Complainant, who is black, had to argue with store personnel to get a free cup of ice he requested is not sufficient to prove he was denied full use of a public accommodation where the ice was given to him within a very short period of time. Even though Complainant then became involved in disputes with two customers, to which store personnel did not respond as Complainant desired, Complainant was able to sit in the shop and consume his beverage. No racial language was used by store personnel nor was their conduct invidious, long-lasting, or pervasive. That CHR did not interview store personnel but relied on Respondent’s position statement was not error, as their statements were unlikely to support a substantial evidence finding. Nor was it necessary to investigate whether police had asked the store not give out free cups of ice, as it had no bearing on whether the initial denial of Complainant’s request was race discrimination. There was no evidence that any non-black individual was given a free cup of ice. CO

Williams v. Bally Total Fitness and Lounge, CCHR No. 06-P-48 (Jan. 21, 2009) No race discrimination found where Complainant’s testimony that personnel at health club refused to unlock the door to let him leave after closing and subjected him to racial slurs was found not credible. R

Blakemore v. Dublin Bar & Grill, Inc., CCHR No. 07-P-15 (May 20, 2009) Based on assessment of relative credibility of both parties’ witnesses, no race discrimination was found where Respondent refused to serve alcohol to Complainant, believing that he was intoxicated. R

Anguiano v. Abdi, CCHR No. 07-P-30 (Sept. 16, 2009) No race discrimination where Complainant’s statements that the cab driver insulted him for being Mexican were found not credible. R

Blakemore v. Dublin Bar and Grill, CCHR No. 05-P-102 (Oct. 23, 2009) CHR dismissed race discrimination complaint based on res judicata after administrative hearing and finding for respondent at Cook County Commission on Human Rights. Although Cook County complaint claimed only housing status discrimination, both involved same parties and arose from same group of operative facts, thus involving same cause of action. Also, Complainant could have claimed race discrimination at Cook County Commission, and even if res judicata were inapplicable, Cook County findings have preclusive effect under collateral estoppel doctrine and thus mandate dismissal of CHR complaint. HO

Sturgies v. Target Corporation), CCHR No. 08-P-57 (Dec. 16, 2009) No prima facie case of race discrimination where security guard told African-American customer she could not bring her dog into a store. Complainant did not prove she met all legitimate non-discriminatory criteria for access where store proved it enforced no-animals policy except for service animals. Ambiguous evidence that another customer had dog in store held not sufficient to show the store selectively enforced the policy against African-Americans. R

Stephens v. L & P Foods et al., CCHR No. 08-P-43 (Dec. 15, 2010) No race discrimination where minor daughter of African-American woman was barred from a store’s showroom. Store consistently applied its posted policy prohibiting children under 18 from entering the showroom unless placed in a shopping cart, and provided seating for children near the entrance under supervision of security officer. Complainant’s white friend was allowed to enter showroom with her daughter because daughter was in shopping cart; store’s customers were predominantly African-American; and Complainant was offered the cart option but refused. No evidence supported Complainant’s argument the policy was based on presumption black children steal; evidence supported finding that the policy was based on safety concerns due to operation of heavy equipment in showroom. R
Gray v. Scott, CCHR No. 06-H-10 (Apr. 20, 2011) No race discrimination found where African-American landlord allegedly made one race-based statement to African-American tenant during an argument and there was no evidence landlord would have treated a non-African-American differently. R

Rivera v. Pera et al., CCHR No. 08-H-13 (June 15, 2011) Complainant proved prima facie case of race and ancestry discrimination where his name identified him as Hispanic, he was interested in renting and landlord knew of his interest, and he was rejected while the unit remained available. But no liability found because Respondents proved a non-discriminatory reason for refusal to rent, namely Complainant’s combative conduct in resisting a lease provision for a $25 late fee found to be standard and not the $250 amount Complainant contended. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Complainant did not prove race discrimination where based on multiple-level hearsay and the alleged racial comment, while expressing bias, did not show intent to block sale of condo unit to Complainant based on her race. R

Johnson v. Hyde Park Corp. d/b/a Hyde Park Citgo, CCHR No. 08-P-95/96 (Feb. 15, 2012) No race discrimination where Pakistani employees refused to allow African-American couple to purchase gasoline using $100 bills found suspect when tested with marking pen designed to identify counterfeit currency, finding the testing procedure was applied to all customers regardless of race. Reference to “your friends” or “your brother” held insufficient to establish direct evidence or racial animus in context of incident, including employees’ limited English proficiency. R

McGhee v. MADO Management LP, CCHR No. 11-H-10 (Apr. 18, 2012) No racially discriminatory refusal to rent where evidence showed advertised apartment had been rented before Complainant contacted property owner in response to ad, and no other units were available at that location. R

Hudson v. G-A Restaurant LLC d/b/a Manor Chicago, CCHR No. 10-P-112 (July 18, 2012) Nightclub’s denial of admission to African-American Complainant not based on race, where evidence showed Complainant did not have a properly-made reservation, the club was booked to capacity, and Complainant was invited to wait in line pursuant to policy for those without reservations. Use of term “you people” by door staff found not race-based in context. R

Jones v. Minah Inc. d/b/a Sunshine Shell Gas Station, CCHR No. 11-P-75 (Sept. 19, 2012) No race discrimination where Complainant’s version of incident at gas station including use of racial slur was not credible and was directly contradicted by credible testimony of a third party witness. R

Proof

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Telephone conversations in which a complainant does not specifically identify his or her race may still form the proof necessary to establish respondent’s awareness of his or her race through the speaker’s speech patterns or other circumstances. R

Blakemore v. Kinko’s, CCHR No. 01-PA-77 (Dec. 6, 2001) CHR found complaint sufficient to state a claim, but noted that the facts that Complainant was male and African-American while the employee was white and a customer complaining about him was white and female were not alone sufficient to demonstrate that he was asked to end his use of a public service due to his race or sex. CO

Byrd v. Hyman, CCHR No. 97-H-2 (Dec. 12, 2001) Where building manager used term “nigger,” among others, that is per se race discrimination so fact that he may have used disparaging terms about different characteristics of other people did not mean he did not discriminate based on race. [Reversed by Cook County Circuit Court, finding no vicarious liability, No. 03 CH 4247 (Dec. 11, 2003)] R

Claudio v. Chicago Baking Co., CCHR No. 99-E-76 (July 17, 2002) Showing of irrational or unexplained differential disciplinary treatment may, on appropriate record, support a finding of pretext and an inference of race discrimination. Whether the differential treatment supports such inference is a question of fact. R

Jordan v. Nat’l Railroad Passenger Corp. (AMTRAK), CCHR No. 99-P-34 (Feb. 19, 2003) Fact that perpetrator is of same race as complainant does not require rejection of claim of racial discrimination or animus. R

Blakemore v. AMC-GCT, Inc., CCHR No. 03-P-146 (Apr. 21, 2005) CHR rejects stereotypical assumptions suggesting that individual’s race or gender inherently taints any decisions or conduct concerning persons of another race or gender. CO

Jackson v. MYS Dev., Inc. et al., CCHR No. 01-E-41 (Jan. 18, 2006) Complainant has burden of proof and must demonstrate by the preponderance of evidence that he was subjected to discriminatory treatment because of his race and that the actions taken against him were intentional and purposeful. R

Blakemore v. Dominick’s Finer Foods, CCHR No. 01-P-51 (Oct. 18, 2006) Evidence held sufficient to establish prima facie case of race discrimination even if not based precisely on the McDonnell Douglas formula. Taking into account common stereotypes of African-Americans, supermarket’s failure to explain why security guard closely followed African-American shopper in violation of store policy supported inference that Complainant’s race was a motivating factor despite minimal evidence about treatment of comparable white customers. R
Avery v. City of Chicago Dept. of Health, CCHR No. 03-E-40 (Feb. 8, 2007) On request for review, Complainant failed to show error in determination she was discharged for violating personnel rule by working for another employer while collecting sick leave from Respondent, not because of her race. That witnesses could describe a “racial divide or overtone” not sufficient to support substantial evidence finding. CO

Blakemore v. Market Place, CCHR No. 04-P-28 (Apr. 5, 2007) CHR rejects stereotypical assumptions that individual’s race or other characteristic inherently taints any decisions or conduct concerning persons of another race or characteristic. While Complainant may have been subjected to crude behavior when told “get your ass out of the store,” there was no evidence this was done because of his race, and he was allowed to make purchases and not forced from store. CO

Rodgers v. City of Chicago Dept. of Water Management et al., CCHR No. 05-E-27 (Nov. 29, 2007) Investigation did not reveal substantial evidence of racial harassment or differential treatment where claimed conduct of supervisor involved scrutiny and criticism of Complainant’s work performance or disagreements between Complainant and supervisor as to how work should be performed, with no substantial evidence of racial animus or examples of more favorable treatment of non-African-Americans in comparable circumstances. CO

Blakemore v. Jewel et al., CCHR No. 06-P-72 (Feb. 2, 2009) Complaint alleging that African-American store customer was required to provide identification before receiving a wine sample while non-African-American customers received samples without presenting identification cannot be dismissed as trivial or not discriminatory merely because the incident was of short duration and no “overt” discrimination was alleged. Such allegations state a claim and these arguments raise factual issues which cannot be resolved on a motion to dismiss. CO

Johnson v. Hyde Park Corp. d/b/a Hyde Park Citgo, CCHR No. 08-P-95/96 (Feb. 15, 2012) Reference to “your friends” or “your brother” was not direct evidence of race discrimination or racial animus in context of incident of refusal to accept payment in currency believed suspect by employees with limited English proficiency. R

RECUSAL – See Disqualification of Hearing Officer section, above.

REGULATIONS

Absence of Provisions

Davis v. Aljack Investments Inc. et al., CCHR No. 09-H-12 (Aug. 4, 2010) Motion to strike Respondent’s reply to Complainant’s response to motion to dismiss denied. Regulations did not explicitly allow a reply but did not prohibit it, and Complainant was not prejudiced by CHR considering the reply, as he prevailed on the motion to dismiss. CO

Commission Authority

Davis v. Aljack Investments Inc. et al., CCHR No. 09-H-12 (Aug. 4, 2010) Regulations as amended in 2008 control issues as to Complaint filed in 2009 regardless of whether they were on CHR’s website at the time. CO

Construction of Regulations- No new decisions in this volume.

Retroactivity- No new decisions in this volume.

RELEASE OF CHR CLAIMS

Ambiguity of Terms

Garza v. Hoey, Farina & Downes, CCHR No. 00-E-124 (Mar. 14, 2001) Language of disputed release – that Complainant released Respondent “from any liability arising out of any event which occurred prior to [the date of her termination]” – found to be unambiguous and to cover the claims in her CHR Complaint. CO

Saldaña v. Affordable Portables, CCHR No. 99-PA-74 (May 24, 2001) Mere fact that release language refers to waiving “all” claims rather than specific ones does not make it ambiguous. CO

Saldaña v. Affordable Portables, CCHR No. 99-PA-74 (May 24, 2001) Context of language – handwritten on front of check – may make it ambiguous even when terms themselves are relatively clear. CO

Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Dec. 21, 2006) Terms of oral settlement reached in federal court litigation not ambiguous where recited by parties’ counsel on court record and release language covered all claims Complainant had or could have brought against Respondent. CO

Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Feb. 8, 2007) Decision upheld on request for review. CO

Claims Not Waived

Saldaña v. Affordable Portables, CCHR No. 99-PA-74 (May 24, 2001) Although language at issue referred to releasing all claims, CHR followed state cases and found that it did not constitute an effective release because it
was written on a check resolving a different case, was written on the front where it might not be seen, and did not otherwise stand out. CO

_Nuspl v. Marchetti_, CCHR No. 98-E-207 (Dec. 17, 2001) Release in question specifically excluded complainant’s claim against individual respondent and so individual respondent’s motion to be dismissed as released is denied. HO

_Biondi v. Chicago Transit Authority_, CCHR No. 94-PA-42 (Dec. 21, 2005) CHR denied motion to dismiss based on federal court settlement and release covering “all accessibility related claims in connection with the CTA’s fixed route bus and rail systems,” where CHR Complaint claimed accessibility problems with CTA’s paratransit services, which were not fixed routes and so not covered by release. CO

**Claims Waived**

_Haywood v. Chicago Transit Authority_, CCHR No. 99-E-117 (Oct. 30, 2003) Where settlement agreement and release entered into in federal court with same Respondent demonstrated that Complainant settled and released her CHR claims, motion to dismiss granted and Complaint dismissed. CO

_Hoppenfeld et al. v. Chicago Transit Authority et al._, CCHR No. 93-PA-64 et al. (Dec. 8, 2003) Complaints dismissed where class action settlement agreement and release entered into in federal court covered some CHR Complainants as named plaintiffs and others as class members, covered same Respondent (and its employees), and involved same accessibility-related claims in connection with Respondent’s fixed-route bus and rail system; language of settlement and release demonstrated its application to CHR claims. CO

_Harris v. City Coll. of Chicago_, CCHR No. 03-E-122 (Dec. 21, 2006) Pending CHR complaint held covered by release in oral settlement agreement reached during federal court litigation between same parties where terms stated by parties’ counsel on court record covered all claims Complainant had or could have brought against Respondent, and court found oral agreement enforceable despite Complainant’s later refusal to sign written agreement. CO

_Harris v. City Coll. of Chicago_, CCHR No. 03-E-122 (Feb. 8, 2007) Decision upheld on request for review. CO

_Freiman v. Crescent Heights Mgmt._, CCHR No. 03-H-52 (July 12, 2007) Allegations covered by a previous settlement between the parties in earlier complaint were not subject to reconsideration in later complaint as a potential new ordinance violation. CO

**Duress/Unconscionability**

_Garza v. Hoey, Farina & Downes_, CCHR No. 00-E-124 (Mar. 14, 2001) CHR found that it had to hold a jurisdictional hearing about Complainant’s claims of duress and unconscionability where she alleged that Respondent had threatened to withhold her last paycheck if she did not sign the release thus undermining her ability to refuse; order discusses standards for duress and unconscionability. CO

_Moore v. Comtel Technologies et al._, CCHR No. 02-E-214 (Sep. 21, 2006) Letter signed by Complainant’s attorney clearly requesting that case be dropped against one Respondent as settled required CHR to dismiss the Respondent based on private settlement; later oral assertion that Respondent had misrepresented its bankruptcy status did not nullify the withdrawal request, as disputes concerning validity and enforcement of private settlement agreement must be pursued in state court. CO

**Standards**


_Garza v. Hoey, Farina & Downes_, CCHR No. 00-E-124 (Mar. 14, 2001) Settlement agreements and releases are reviewed as contracts and so contract defenses are also available. CO


_Saldaña v. Affordable Portables_, CCHR No. 99-PA-74 (May 24, 2001) To determine whether language written on the front of a check is a release at all, CHR follows state cases and considers the exact language used, where it is placed on the check, and how much it stands out. CO

**RELIGIOUS DISCRIMINATION**

**Failure to Accommodate Beliefs**

_Martin v. Kane Security Services_, CCHR No. 99-E-141 (Oct. 17, 2000) CHR found there was substantial evidence that Respondent failed to accommodate Complainant’s religious beliefs in case parallel-filed with EEOC in which evidence collected by EEOC and CCHR showed that Respondent told Complainant to remove her hijab, a scarf it knew she wore for religious reasons, refused to allow her to wear any employer-issued head-covering thus
causing Complainant to feel compelled to quit. CO

Anthony v. O.A.I., Inc., CCHR No. 02-PA-71 (Aug. 25, 2003) Complaint alleging Complainant is Muslim who wears hijab in public pursuant to religious beliefs and Respondent’s representatives told her she “should” not wear hijab to school application interview held sufficient to state religious discrimination claim with respect to a public accommodation. CO

**Liability Found**
Scott and Lyke v. Owner of Club 720, CCHR No. 09-P-2/9 (Feb. 16, 2011) Religious discrimination found where nightclub enforced policy barring hats and would not accommodate a Muslim man who explained his kufi was a religious head covering. R

**Liability Not Found**
Long v. Chicago Pub. Library et al., CCHR No. 00-PA-13 (Jan. 18, 2006) No discrimination found where Complainant was ejected from a branch public library for sleeping there contrary to posted library rules. Testimony that head librarian said, “We don’t want any Jews like you in the library” found not credible and no other evidence established that Respondents knew Complainant to be Jewish. R

Shores v. Nelson d/b/a Blackhawk Plumbing, CCHR No. 07-E-87 (Feb. 17, 2010) Complainant failed to prove discrimination based on religion where Complainant merely asserted without further evidence that company owner was critical of her religion and church activities. R

**Proof**
Long v. Chicago Pub. Library et al., CCHR No. 00-PA-13 (Jan. 18, 2006) To establish a *prima facie* case of religious discrimination, a complainant must show by a preponderance of the evidence that the respondents were aware of his religion when they engaged in the alleged conduct. R

**RELIGIOUS ORGANIZATIONS**

**Burden of Proof – No new decisions in this volume.**

**Clergy Position**
Kelly v. North Park Univ., CCHR No. 03-E-173 (Nov. 30, 2005) Permanent faculty position at church-owned and operated university found not clergy-like; however, sexual orientation and religious discrimination Complaint dismissed based on First Amendment principles and CHRO religious exemption. CO

**Constitutional Claim**
Kelly v. North Park Univ., CCHR No. 03-E-173 (Nov. 30, 2005) Complaint alleging refusal to hire due to sexual orientation and religion dismissed because First Amendment interpretation of *Dale* and *Richardson* cases requires determination that permanent faculty position in church-owned and operated university is “expressive” and because further inquiry into whether university’s articulated reasons for rejection are pretextual would excessively entangle CHR in doctrinal issues. CO

**Determination of Religious Organization**
Bowen v. Salvation Army Adult Rehab. Ctr., CCHR No. 04-E-187 (Sep. 15, 2005) Although not denominational, Salvation Army held to be religious organization due to stated purpose to advance Christianity as further evidenced by requirement that residents in its substance abuse program attend religious services. CO

Kelly v. North Park Univ., CCHR No. 03-E-173 (Nov. 30, 2005) North Park University found to be a religious organization, as it is owned and operated by the Evangelical Covenant Church, which exerts substantial control over University operations. CO

**Effect on Mission, Practice, or Belief**
Bowen v. Salvation Army Adult Rehab. Ctr., CCHR No. 04-E-187 (Sep. 15, 2005) On motion to dismiss, Salvation Army’s entitlement to religious exemption not shown where work sorting clothing in warehouse appeared to be classic “back office” work and no evidence before CHR established that the decision to remove Complainant from the work implicated the definition, promulgation, or advancement of Salvation Army’s religious mission, practices, or beliefs. CO

Kelly v. North Park Univ., CCHR No. 03-E-173 (Nov. 30, 2005) Church-owned and operated university articulated sincerely-held religious belief in opposition to homosexual practices and linked its faculty hiring policies to the definition, promulgating, or advancement of its mission, practices, and belief, resulting in dismissal of sexual orientation and religious discrimination Complaint alleging refusal to hire openly-homosexual candidate. CO
Ordinance Exemption

Bowen v. Salvation Army Adult Rehab. Ctr., CCHR No. 04-E-187 (Sep. 15, 2005) On motion to dismiss, Salvation Army’s entitlement to religious exemption not shown where work sorting clothing in warehouse appeared to be classic “back office” work and no evidence before CHR established that the decision to remove Complainant from the work implicated the definition, promulgation, or advancement of Salvation Army’s religious mission, practices, or beliefs. CO

Kelly v. North Park Univ., CCHR No. 03-E-173 (Nov. 30, 2005) Church-owned and operated university found to be a religious organization and its decision not to hire openly-homosexual candidate for permanent faculty position found entitled to CHRO religious exemption based on documented linkage of faculty hiring policies to church opposition to homosexual practices. CO

REMAND – No new decisions in this volume.

REQUESTS FOR REVIEW

Note: Orders which deny a request for review without either a factual or legal analysis which might provide useful precedent are not summarized below.

After Dismissal for Failure to Cooperate or Procedural Violation

Powell v. Planned Property Mgt., Inc., CCHR No. 98-H-31 (Jan. 13, 2000) CHR granted Complainant’s request for review of dismissal for failure to cooperate finding that she showed good cause for missing a scheduled Conciliation Conference when she showed that she had repeatedly tried to reach her attorneys to determine the date of the Conference, had cooperated throughout the process, and had contacted CHR as soon as she learned she missed the Conference; CHR notes that dismissal is a severe sanction which is not to be done punitively. CO

Thompson v. Chicago Bd. of Education, CCHR No. 98-E-168 (Apr. 6, 2000) Where Complainant provided his most recent address only a few months after moving and where CHR sent its notices to his second-to-last last address thus mistakenly preventing mail from being forwarded to him, order dismissing the case vacated. CO

Smith v. Human Resources Devel. Instit., CCHR No. 00-PA-42 (Mar. 15, 2001) CHR denied Complainant’s Request for Review where he filed it two months after the 30-day period to do so had expired and did not provide any explanation for that delay. CO

Gregory v. CNA Financial Corp., et al., CCHR No. 98-E-1 (Oct. 4, 2001) CHR granted Complainant’s request for review of failure-to-cooperate dismissal where she reasonably believed the telephone number she had given CHR was correct, where she had cooperated and provided documents to CHR and where Complainant contacted CHR on her own initiative, Commission found her only lapse was not properly informing it of her new address and so found that she had not failed to cooperate. CO

Reid v. Wilson Mens Club, CCHR No. 00-H-108 (Mar. 28, 2002) CHR revoked failure-to-cooperate dismissal where Complainant did not receive the notice warning him of dismissal until after case was dismissed, noting such dismissals are severe sanctions and Complainant’s omission was more due to error than neglect. CO

McGrav v. Chicago Dept. of Aviation, CCHR No. 99-E-27 (June 27, 2002) Fact that Complainant’s attorney may not have properly represented him, causing the dismissal for failing to cooperate with hearing procedures, may give Complainant a cause of action against her elsewhere but it does not provide good cause to re-open his case. CO

Higgenbotham v. Marina Tower Condominium Assn. et al., CCHR No. 02-E-72 (Nov. 7, 2002) and Higgenbotham v. Savage and Marina Tower Condominium Assn., CCHR No. 02-H-23 (Nov. 21, 2002). Request for Review denied as untimely. That Complainant became homeless and may have had disability impairing ability to act quickly did not justify failure to contact CHR over several months, explain her situation, and provide alternate mailing address; even homeless complainers required to provide mailing address to pursue case at CHR. CO

Fuentes v. Chicago Transit Authority et al., CCHR No. 99-E-118/171 (Dec. 30, 2002) Request for review denied as untimely. In addition, Complainant did not show good cause for failing to provide CHR with updated mailing address, which was basis of Order of Dismissal. CO

Massey v. Hunter Properties et al., CCHR No. 02-H-33 (Apr. 24, 2003) Request for review denied where Complainant failed to show good cause for not providing information requested by investigator when given ample notice and opportunity to do so and for not submitting the missing information with request for review. CO

where Complainant’s counsel failed to respond to Notice of Potential Dismissal but Complainant had notified CHR investigator prior to dismissal that he had disagreement with his counsel and wanted to proceed with case, accepting Complainant’s effort to explain despite lack of clarity that attorney no longer represented him. CO

Minnis v. United Airlines, CCHR No. 05-E-128 (Feb. 8, 2007) Request for review denied where Complainant failed to show good cause for not providing address and for not responding to repeated attempts to contact her by mail and telephone. CO

Cotten v. A & T Restaurant, CCHR No. 08-P-015 (June 3, 2010) Request for review denied where case dismissed after Complainant submitted a false document to CHR—a statement purportedly signed by a witness who, when interviewed, disavowed it as a forgery. No administrative hearing required because the credibility determination was not made on any allegations of the Complaint but on the procedural issue of whether the document was genuine. Moreover, CHR attempted to contact Complainant and his attorney at least four times about the purported statement but neither one responded. CO

After Dismissal for No Jurisdiction

Johnson v. Chicago Dept. of Health, CCHR No. 99-PA-104 (Mar. 10, 2000) Where CHR had dismissed the complaint as not timely filed, it denied Request for Review which merely explained why Complainant left CHR before filing his complaint but did not explain why he neither returned to complete it in time nor informed the intake officer of his time constraints to allow for timely completion. CO

Nyah v. DuSable Museum of African-American History, CCHR No. 95-PA-33 (June 28, 2000) CHR denied Request for Review finding that the complaint was untimely and that the dispute did not involve a public accommodation. CO

Williams v. Chicago Comm. on Human Relations & Chic. Law Dept., CCHR No. 00-PA-38 (Aug. 10, 2000) CHR denied request for review, finding a) that Complainant provided no reason to find Law Department’s use of term “with prejudice” in prior pleading indicates unlawful bias and b) that the Executive Compliance Staff, the individuals charged with reviewing requests for review, does not have the authority to overturn the Board resolution which states that CHR will not proceed with cases against CHR. CO

Banks v. Midwest Physician Grp., CCHR No. 96-E-77 (Oct. 17, 2001) CHR granted Complainant’s Request for Review of her race-discharge claim, finding it did have jurisdiction when Complainant worked exclusively in the City of Chicago even if people who made the discharge-decision worked elsewhere. CO See Jurisdiction/Location of Injury section, above.

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-214448 (Feb. 28, 2002) CHR denies request for review of dismissal order, again finding that the mandatory retirement order [MRO] for certain police and fire personnel is to be read as an implied exception to the CHRO; among other things, finds MRO to be more specific than CHRO and finds that City Council intended the MRO to be effective. CO

Leadership Council for Metropolitan Open Communities v. Chicago Tribune, CCHR No. 02-H-19 (June 6, 2002) CHR upholds prior decision that the Tribune is not an “agent” of a housing provider merely by publishing a housing advertisement and so is not a proper respondent under the CFHO. CO

Brown v. Chicago Transit Authority et al., CCHR No. 97-E-10 (Apr. 29, 2004) Request for Review denied after case was dismissed on res judicata grounds based on federal court decision, where Complainant’s arguments were addressed in CHR’s dismissal order and no new basis for reversal was presented. CO

Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Feb. 8, 2007) Prior dismissal upheld and doctrine of collateral estoppel applied where release of claims in federal court settlement covered CHR complaint and challenges to its validity were adjudicated by the federal court. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (Sep. 6, 2007) Request for review denied, affirming finding that re-enrollment of existing students in a school is not a public accommodation under the CHRO even if the initial admission process is open to the public.

After Dismissal for No Substantial Evidence

Dixon v. LaSalle National Bank ABN AMRO, et al., CCHR No. 98-E-175 (Mar. 10, 2000) CHR denied Complainant’s Request for Review: where it was not clear that the employer had seen the allegedly exculpatory affidavit at the time it discharged her; where the respondent had provided a credible reason for the discharge, even if erroneous; and where she did not show that the respondent had been motivated by discrimination. CO

Carroll v. Moravec, CCHR No. 00-E-12 (May 24, 2001) CHR denied Complainant’s Request for Review pointing to documentary evidence and Complainant’s own statements which support Respondent’s defense and so which show that CHR’s no substantial evidence decision did not improperly rest on finding Respondent more credible than Complainant. CO

Gill v. Chicago Board of Education, CCHR No. 00-PA-54 (Aug. 9, 2001) CHR denied Request for Review because it was based on action not referred to in the complaint; because that action did not appear to be timely; and because it appeared that all students, regardless of race, were treated the same way. CO See also
Complaint/Adequacy of, and Jurisdiction/Time for Filing Complaint, both above.

Sigman v. R.R. Donnelly & Sons Co., CCHR No. 98-E-57 (Aug. 9, 2001) CHR denied Request for Review finding that Complainant did not show that the position into which he was placed was worse than the one from which he was laid off; that the other person laid off from Complainant’s two-person unit did not receive a new position at all and he was not gay while Complainant was; that alleged past denials of promotions were not raised in his Complaint and were discrete events and so not part of a “continuing violation”. CO See also Complaint/Adequacy of, Jurisdiction/Continuing Violation, and Employment/Sexual Orientation sections, all above.

Grzanecki v. Nelson Court Apts., et al., CCHR No. 98-H-168 (Oct. 4, 2001) Complainant’s Request for Review denied of parental status claim in which she asked CHR to interview tenants who would say that her children were not disruptive, finding landlord’s rules about children’s conduct were not so restrictive as to be tantamount to forcing families to leave and where landlord was not unreasonable in believing her children caused problems, even if it might have been wrong on occasion, thus not evidencing discriminatory intent. CO

Rak v. Walgreens et al., CCHR No. 99-E-66 (Oct. 4, 2001) Request for Review denied of sexual orientation-hostile environment claim, stating that the facts showed that once Complainant had informed management about the co-worker’s alleged harassment, it took reasonable corrective action; also finds that there is no substantial evidence that management knew of the problem before he reported it. CO

Banks v. Midwest Physician Grp., CCHR No. 96-E-77 (Oct. 17, 2001) CHR granted Complainant’s Request for Review of her race-discharge claim, finding that it had made an improper credibility determination – simply believing Respondent that a co-worked had not been involved prior, comparable situation when Complainant testified otherwise and when documents may exist to support one side or the other – and so returned the case to investigation to consider that issue. CO

Russell v. Alliance Hose & Rubber, CCHR No. 97-E-230 (Oct. 17, 2001) CHR granted Complainant’s Request for Review of her age and disability discrimination claim, finding that it had made an improper credibility determination – simply believing Respondent that, after it had repeatedly offered Complainant early retirement, she had quit and was not discharged despite Complainant’s consistent contentions that she was explicitly terminated and did not leave her 17-year job on her own just before cancer surgery. CO

Ablahat v. CNA Insur. et al., CCHR No. 99-E-18 (Mar. 14, 2002) CHR rejected Complainant’s request for review which argued that CHR improperly relied upon a letter written to him from his prior attorney, finding that CHR had not relied upon it but merely described it as a document received and noting that its no substantial evidence determination had relied upon witness statements and other evidence completely unrelated to the letter and the ideas it expressed. CO

Blakemore v. InterParking, CCHR No. 99-PA-24 (Apr. 26, 2002) CHR denied Request for Review where evidence showed that issue between parties was a consumer dispute and did not turn on race, sex or fact that Complainant had a prior complaint against Respondent. CO

Shackleford v. Roadway Express, Inc., CCHR No. 01-E-40 (July 11, 2002) Request for Review denied; assertion that CHR did not meet with Complainant or do fuller investigation lacked merit because CHR’s agreement with EEOC calls for CHR to review EEOC’s investigation when its case is essentially the same, and review of evidence supported CHR’s no substantial evidence finding. CO

Wong v. City of Chicago Dept. of Fire, CCHR No. 99-E-73 (Dec. 5, 2002), aff’d, No. 03 CH 00793 (Cir. Ct. Cook Co., Dec. 11, 2003) No substantial evidence finding affirmed on Request for Review of female Complainant denied promotion and subsequently disciplined; statistical evidence that Complainant was only female employee in job category, that professional employees in division were predominantly male, and that there had been no female supervisors or managers not sufficient to point to pretext where Respondents articulated legitimate non-discriminatory reasons and extent of irregularities and unreasonableness of action not significant. CO

Chan v. Advocate Health Care et al., CCHR No. 99-E-58 (June 19, 2003) Request for review denied where evidence showed Complainant doctor was discharged and later not rehired due to his argumentative behavior. No indication Respondent’s decisions were so unreasonable as to suggest pretext for age discrimination where Respondent was required to reduce staff by one physician, Respondent contemporaneously documented and Complainant acknowledged that they had disputes, and Respondent explained why Complainant was not rehired when opportunity arose. Complainant’s request merely reiterated evidence and arguments already considered including his achievements and skills and his disagreement with Respondent’s characterization of his conduct; however, not CHR’s role to determine whether Respondent made good business decisions. CO

Gibson v. Dedich et al., CCHR No. 00-H-99 (Aug. 14, 2003) CHR granted request for review and found substantial evidence, holding it had erroneously found no substantial evidence where stories of parties differed regarding scheduling of apartment showing and where Respondent’s inability to document that she had shown or rented property to other African-American applicants suggested her stated reasons for denial of showing were pretextual. CO
**Hoskins v. Linton**, CCHR No. 01-H-85 (Sep. 9, 2004) Commission affirmed finding of no substantial evidence on Request for Review of a housing discrimination claim where documentary and independent evidence supported Respondent’s statements that there was no apartment available to rent at the time of Complainant’s inquiry even though there was evidence a For Rent sign was displayed; no material credibility issue was found to exist. CO

**Shein v. Garland Brothers et al.**, CCHR No. 02-E-16 (Apr. 7, 2005) Request for review denied as to age discrimination claims of commission sales representative, finding that new policies and performance criteria cited to explain his discharge were not so irrational or arbitrary to suggest pretext, no evidence they were not applied to sales representatives of all ages, no evidence of age-based animus, and no impermissible credibility determinations made. Discusses standards for evaluating credibility and pretext in determining substantial evidence. CO

**Calamus v. Chicago Park Dist. et al.**, CCHR No. 01-E-115 (Sep. 22, 2005) Request for review denied where despite education and experience gap between complainant and candidate selected for promotion, as well as evidence of use of criteria other than those stated for position, articulated reasons for selection decision found not so irrational or unreasonable as to suggest they were not the real reasons or that discriminatory intent was involved. [Decision reversed and remanded by Circuit Court on age discrimination claim; substantial evidence subsequently found.] CO

**Cunningham v. Bui & Phan**, CCHR No. 01-H-36 (May 4, 2006) CHR granted request for review and found substantial evidence, holding it had erroneously found no substantial evidence because the advertised dwelling unit was not habitable although Respondents were attempting to rent out unit, habitability was not stated reason for refusal to rent, and there was direct and indirect evidence of discriminatory intent. CO

**Jones v. 4128 N. Clarendon Bldg. Assn. et al.**, 01-H-107 (July 13, 2006) Request for Review of no substantial evidence finding denied where no evidence linked alleged conduct to Complainant’s race or sex and Request presented only vague, conclusory contentions and accusations not meeting specificity requirement of Reg. 250.130(a). CO

**Powell v. Chicago Transit Authority et al.**, CCHR No. 02-E-244 (July 13, 2006) Request for review of no substantial evidence finding denied where lesbian complainant was denied a leave then disciplined and discharged for excessive absenteeism even though employer knew she was caring for seriously ill partner. Complainant could not point to any other employee treated more favorably in similar circumstances or to any evidence that employer’s stated reasons for its actions were pretextual or otherwise discriminatory. CO

**Borns v. M. Meyers Prop., Inc., et al.**, CCHR No. 00-H-11 (Aug. 25, 2006) Request for Review granted for limited additional investigation based on (a) evidence presented by Complainant which may raise a credibility issue concerning Respondents’ explanation for denying an apartment transfer sought as a disability accommodation; and (b) need for additional details about transfers of other tenants and claimed eviction threats. CO

**Mahry v. American Airlines**, CCHR No. 02-E-111 (Oct. 5, 2006) Request for review denied where CHR could not discern any material information it was not aware of when it made its no substantial evidence determination, nor could it identify any material factual error. Respondent’s actions and decisions not so unreasonable as to support pretext finding or suggest discriminatory intent. Also claims relating to administration by Respondent employer of medical benefits program covered by ERISA pre-empted by that federal legislation. CO

**Loving v. Marshall Hotel et al.**, CCHR No. 06-H-17 (Nov. 2, 2006) CHR denied Request for Review of no substantial evidence finding where Complainant made general assertions but failed to explain with specificity which information from Respondent was false, which quotations made by Respondent were unsubstantiated, how the investigation lacked documentation, or which information Complainant presented was omitted. CO

**Rochford v. City of Chicago Police Dep’t.**, 02-E-197 (Nov. 16, 2006) Where Complainant had given investigator specific information suggesting discriminatory animus by person who took action leading to his discharge, Request for Review granted to investigate further; however, where Complainant merely asserted existence of witnesses with supporting evidence, without sufficient identifying information, CHR would not seek out such witnesses. CO

**Loving v. Marshall Hotel et al.**, CCHR No. 06-H-17 (Nov. 30, 2006) Request for Review denial reconsidered after Complainant explained and CHR confirmed he had submitted additional material; however, the claimed erroneous information was not basis for CHR’s no substantial evidence finding and did not support different outcome, so denial was reaffirmed. CO

**Williams v. Cont’l Cas. Co.**, CCHR No. 05-E-125 (Dec. 14, 2006) Request for Review stating only “falsify evidence [sic] and misleading information” as basis, with no detail about what was false or misleading, denied as lacking necessary specificity; not CHR’s responsibility to conduct general review to try to identify errors. CO

**Williams v. Greyhound Lines, Inc.**, CCHR No. 06-E-11 (Mar. 8, 2007) Request for review of alleged failure to accommodate disability denied due to lack of new evidence or material misrepresentations to overcome CHR’s finding that Respondent initiated interactive process after accommodation request but Complainant refused to allow examination by neutral physician to resolve conflicting information on his condition and feasible
accommodations. CO

_Avery v. City of Chicago Dept. of Health_, CCHR No. 03-E-40 (Feb. 8, 2007) Request for review denied where Complainant failed to show error in finding she was discharged for violating personnel rule by working for another employer while collecting sick leave from Respondent, not because of her race. Complainant did not explain how witnesses not interviewed could provide evidence to support a substantial evidence finding. That they could describe a “racial divide or overtone” not sufficient. Standards for adequate investigation discussed. CO

_Blakemore v. Market Place_, CCHR No. 04-P-28 (Apr. 5, 2007) Request for review denied as not presenting evidence sufficient to overturn no substantial evidence finding. Information on race of store employees at time of incident, even if inaccurately stated by Respondent, was not material to core determination that, while Complainant may have been subjected to crude behavior when told to “get your ass out of the store,” there was no evidence this was done because of his race, and he was allowed to make a purchases and not forced from store. CHR rejects stereotypical assumptions that a person’s race or other characteristic inherently taints the conduct of persons of another race or characteristic. CO

_Moore v. Chicago Transit Authority_, CCHR No. 05-P-108 (Apr. 5, 2007) Reaffirms no substantial evidence determination, holding request for review provided no new information to justify change in findings of no age or disability harassment where driver ordered Complainant off a bus. CO

_Sorrese v. Garrison Partners Consulting_, CCHR No. 03-E-139 (Apr. 19, 2007) Request for review denied where the stated reason for discharging Complainant after some staff learned he is gay—that the person he replaced had resumed full time duties and two people were not needed—could not be found illegitimate or pretextual based on timing alone and no evidence supported Complainant’s theories of anti-gay animus or a stereotypical assumption that gay people with pre-existing conditions are HIV-positive. CO

_DeVries v. Raw Bar & Grill_, CCHR No. 06-P-66 (Apr. 19, 2007) Request for Review denied, reaffirming no substantial evidence finding where Complainant was removed from restaurant due to belief he was intoxicated because of uneven gait, but staff apologized and gave his party a free round of drinks as soon as they learned of his disability, cerebral palsy. Prompt corrective action cured the potentially discriminatory conduct. CO

_Freiman v. Crescent Heights Mgmt.,_ CCHR No. 03-H-52 (July 12, 2007) CHR denied request for review and reaffirmed that two incidents of employees “verbally assaulting” Complainant were not sufficiently severe or pervasive to constitute harassment. Complainant provided no new evidence or legal argument but merely asserted that investigation was not thorough and repeated his allegations. In determining substantial evidence, CHR evaluates evidence in light most favorable to complainant; mere fact that position of respondent or statement of party or witness is reported in investigation summary does not mean CHR accepts it as true. CO

_Knight v. Walgreen Co.,_ CCHR No. 04-E-7 (July 26, 2007) Request for Review denied where CHR’s investigation was sufficiently thorough and did not reveal either animus against Complainant’s sexual orientation or disability, cerebral palsy. Prompt corrective action cured the potentially discriminatory conduct. CO

_Henderson v. Southwest Women Working Together et al.,_ CCHR No. 03-H-47 (Oct. 23, 2007) Request for Review denied where Complainant did not meet burden to justify reconsideration of CHR’s no substantial evidence finding but merely asserted that investigation had not been sufficiently thorough. Claim that CHR failed to interview witnesses insufficient where Complainant did not explain how their testimony would change the outcome. CO

_Rodgers v. City of Chicago Dept. of Water Management et al.,_ CCHR No. 05-E-27 (Nov. 29, 2007) Additional incidents not considered on request for review where Complainant was previously aware of them but did not amend Complaint to allege them or add a retaliation claim. No substantial evidence finding was reaffirmed. CO

_Jenzake v. Rapid Displays_, CCHR No. 06-E-87 (May 15, 2008) No substantial evidence finding affirmed in disability discrimination case finding employer reasonably rejected Complainant’s physician’s opinion and relied on its own physician’s pre-employment exam finding Complainant could not lift over 10 pounds where an essential function of the job was lifting items up to 30 pounds or more. CO

_Love v. Chicago Park District_, CCHR No. 05-E-142 (Dec. 18, 2008) Request for review denied where Complainant argued he should have received more time to submit documents during investigation, finding the four extensions granted were ample. No basis to overturn no substantial evidence finding where all points raised on review were raised and considered during investigation, and no evidence showed employer’s actions were motivated by intent to discriminate. Purpose of CHR inquiry not to arbitrate whether employer’s decisions were correct or desirable. CO

_McGill v. Bonds_, CCHR No. 08-H-38 (July 29, 2010) Request for review denied as providing no relevant or newly discovered evidence not available during the investigation and showing no material factual errors by CHR. Landlord’s demand for money beyond agreed rent and transcript of a CHA hearing were both evidence known to Complainant but never included in Complaint or mentioned to investigator. CO
Amendment of Complaint at Hearing

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Board denied request for review of hearing officer’s decision to allow amended complaint adding individual supervisor where amendment met requirements of Reg. 210.160(b)(2). No new issues raised because supervisor’s conduct is the basis for vicarious liability and requested relief not required in complaints. No prejudice to supervisor where she had nearly two months to prepare for hearing or seek additional time. R

Attorney’s Fees – No new decisions in this volume.

Board Resolution – No new decisions in this volume.

Damages – No new decisions in this volume.

Disqualification – See also separate Disqualification section, above.
Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Mar. 15, 2000) Board denies request for review of Hearing Officer’s order not to step down, rejecting motion seeking disqualification based on alleged breach of due process which did not argue that the Hearing Officer was biased or partial but argued that CHR should not use attorneys who practice employment discrimination as hearing officers. R
Flores v. A Taste of Heaven and McCauley, CCHR No. 06-E-032, (Oct. 21, 2009) Board affirmed hearing officer’s denial of Respondents’ motion to disqualify, noting it was based entirely on disagreement with decisions on pre-hearing issues, was unsupported by legal authority, and presented no evidence of actual bias or partiality. Review of hearing officer decisions may be sought in conjunction with objections to the recommended ruling after administrative hearing. R

Evidence/Argument Not Presented at Hearing – No new decisions in this volume.

Extension of Time to File

Duvergel v. Sekosan et al., CCHR No. 97-H-84 (Dec. 15, 2000) CHR granted Complainant a short extension (two weeks) to file a request for review because the order dismissing the case was issued near Thanksgiving; it rejected her request for a longer extension (six weeks) finding she did not show the necessary cause for such a long extension. CO
Green v. East Point Condo et al., CCHR No. 98-H-41 (Nov. 16, 2001) CHR granted Complainant a short extension of time to file a request for review, but not the 90 days requested; Complainant did not show good cause for such a long extension. CO
Blakemore v. General Parking, CCHR No. 99-PA-24 (Feb. 13, 2002) CHR granted Complainant a short extension of time to file a request for review, but not the full time requested; found fact that attorney was too busy to complete work not good cause for 45 more days over the initial 30. CO
McGraw v. Chicago Dept. of Aviation, CCHR No. 99-E-27 (June 14, 2002) CHR granted Complainant a two-week, not a four-week, extension to file a reply concerning his Request for Review, finding he did not show good cause for the longer one. CO
Lampkin v. Northwestern Mem’l Hosp., CCHR No. 01-E-50 (Mar. 4, 2004) Request for extension of time, filed on Request for Review deadline, denied because no extraordinary circumstances shown; last-minute involvement of counsel and counsel’s personal circumstances do not constitute extraordinary circumstances. CO
Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Jan. 9, 2007) Extension granted where postmark on envelope containing dismissal order mailed to Complainant was 5 days later than mailing date on the order. CO
Augustus v. Chicago Police Department et al., CCHR No. 06-E-85 (Sept. 22, 2008) Request for Review and Motion for Extension of Time to file it denied where untimely filed. Needing time to hire an attorney not sufficient grounds for extension absent extraordinary circumstances. CO

Interlocutory Orders

Day v. Breakthrough Urban Ministries et al., CCHR No. 01-H-12 (Nov. 16, 2001) Because a partial dismissal order is “interlocutory,” i.e., not final, request for review filed while case is still pending is pre-mature and cannot be considered. CO
Torres et al. v. Chicago Transit Authority, CCHR No. 92-PA-50 et al. (May 29, 2002) Although its denial of CTA’s motion to dismiss is interlocutory, CHR agreed to accept a motion for reconsideration due to the unique posture of these cases – due to intervening legal action, the initial motion to dismiss was filed many years before CHR could rule on it and CTA’s arguments changed in the interim. CO
Torres et al. v. Chicago Transit Authority et al., CCHR No. 92-PA-50 et al. (Sep. 6, 2002) CTA’s request
for leave to appeal CHR interlocutory order to state court denied because CHR’s Regulations do not permit review or “certification for appeal” of interlocutory orders. CO

Torres v. Chicago Transit Authority, CCHR No. 92-PA-40 (Dec. 18, 2002) Request for Review is for use by complainant whose case is involuntarily dismissed; not intended for use by respondent to obtain review of interlocutory order after respondent prevails due to such dismissal. CO

Wyatt v. Aragon Arms Hotel, CCHR No. 01-H-10 (Jan. 27, 2006) Where CHR Ordinances and Regulations do not specifically provide for reconsideration of substantial evidence finding but provide full de novo consideration of a respondent’s position via administrative hearing, request to reconsider substantial evidence finding denied. CO

Maat v. City of Chicago Department of Transportation et al., CCHR No. 06-P-61, 07-P-84/85/86/88/98/111 (Nov. 13, 2008) Respondent’s objection to substantial evidence finding denied; CHR’s governing ordinances and regulations do not provide for interlocutory review of substantial evidence findings; full de novo consideration of a respondent’s position is available via administrative hearing. CO

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Board upheld hearing officer’s denial of sanctions for failure to comply with discovery orders and ad hominem comments of attorney where Complainant was not prejudiced and warning was sufficient to promote compliance going forward. Sanctions for procedural violations are administered on a case-by-case basis and are not a mandatory penalty system. R

No New Evidence/Arguments

After Dismissal for No Jurisdiction

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In reviewing a request for review of a no jurisdiction dismissal, CHR holds that it considers the factors set forth in Reg. 250.130(a) about content of a request for review, but notes that those are not exclusive; agrees to consider challenges to the legal basis for dismissal order but not mere re-arguing of points already made and ruled upon. CO

After Hearing

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) Board reaffirmed Order of Default where Request for Review filed with objections to First Recommended Decision added nothing new as to deficiencies causing default or failure to seek to vacate default in timely manner. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) Requests for review of interlocutory orders denied where Respondents merely repeated arguments previously rejected regarding order of default and hearing officer disqualification. Procedural rulings characterized as unfair were predictable effects of order of default. R

After No Substantial Evidence Finding

Jones v. 4128 N. Clarendon Bldg. Assn. et al., 01-H-107 (July 13, 2006) CHR denied Request for Review of no substantial evidence finding which presented only vague, conclusory contentions and accusations not meeting specificity requirement of Reg. 250.130(a). CO

Powell v. Chicago Transit Authority et al., CCHR No. 02-E-244 (July 13, 2006) Complainant must come forward with evidence to support reconsideration of no substantial evidence finding; insufficient only to assert that investigation had not been sufficiently thorough. CO

Loving v. Marshall Hotel et al., CCHR No. 06-H-17 (Nov. 2, 2006) CHR denied Request for Review of no substantial evidence finding where Complainant made general assertions but failed to explain with specificity which information from Respondent was false, which quotations made by Respondent were unsubstantiated, how the investigation lacked documentation, or which information Complainant presented was omitted. CO

Williams v. Continental Casualty Co., CCHR No. 05-E-125 (Dec. 14, 2006) Request for Review stating only “falsify evidence [sic] and misleading information” as basis, with no detail about what was false or misleading, denied as lacking necessary specificity; not CHR’s responsibility to conduct general review of case to try to identify errors. CO

Moore v. Chicago Transit Authority, CCHR No. 05-P-108 (Apr. 5, 2007) Reaffirms no substantial evidence determination, holding request for review provided no new information to justify change in findings of no age or disability harassment where driver ordered Complainant off a bus. CO

Freiman v. Crescent Heights Mgmt., CCHR No. 03-H-52 (July 12, 2007) CHR denied request for review where Complainant provided no new evidence or legal argument but merely asserted that investigation was not thorough and repeated his allegations. CO

Rochford v. City of Chicago Police Department, CCHR No. 02-E-197 (Nov. 29, 2007) Second Request for Review denied where Complainant made same arguments Commission had acknowledged and considered throughout investigation and presented nothing that warranted modification of determination of no substantial evidence. CO
Blakemore v. Chicago Transit Authority, CCHR No. 06-P-34 (Sep. 17, 2008) Request for Review denied where CHR correctly found no substantial evidence of race discrimination based on Complainant’s own statements of what occurred. Although Complainant, who is black, was initially not allowed to board a CTA bus while white passengers boarded, the driver promptly acknowledged error, apologized, and let Complainant board. This conduct did not constitute material adverse action against Complainant. Only after Complainant himself prolonged the incident by questioning the driver and accusing him of discrimination and abuse, did the driver call police and have Complainant removed. CHR made no impermissible credibility determinations about the validity of the fare card Complainant presented, and Complainant himself told inconsistent stories about which of two cards he used. CO

Blakemore v. Starbucks Coffee Company, CCHR No. 07-P-13/91 (Sep. 17, 2008) Request for Review denied where Complainant provided no new evidence or legal basis to support that Respondent’s alleged conduct was based on race. That Complainant, who is black, had to argue with store personnel to get a free cup of ice he requested is not sufficient to prove he was denied full use of a public accommodation where the ice was given to him within a very short period of time. Even though Complainant then became involved in disputes with two customers, to which store personnel did not respond as Complainant desired, Complainant was able to sit in the shop and consume his beverage. No racial language was used by store personnel nor was their conduct invidious, long-lasting, or pervasive. That CHR did not interview store personnel but relied on Respondent’s position statement was not error, as their statements were unlikely to support a substantial evidence finding. Nor was it necessary to investigate whether police had asked the store not give out free cups of ice, as it had no bearing on whether the initial denial of Complainant’s request was race discrimination. There was no evidence that any non-black individual was given a free cup of ice. CO

Jackson v. WJ Management et al., CCHR No. 08-E-22 (Oct. 2, 2008) Request for Review stating that Respondent purchased the certification of conviction and that Complainant did not complete an employment application do not provide direct evidence or support an inference of discriminatory intent. CO

Hatchett v. TCS Holdings, Inc. et al., CCHR No. 07-E-65 (Dec. 4, 2008) Request for Review of no substantial evidence denied where Complainant failed to provide new evidence to support the discriminatory reasons for his discharge. CO

Blakemore v. Chicago Transit Authority, CCHR No. 06-P-34 (Sep. 17, 2008) Request for Review denied where CHR correctly found no substantial evidence of race discrimination based on Complainant’s own statements of what occurred. Although Complainant, who is black, was initially not allowed to board a CTA bus while white passengers boarded, the driver promptly acknowledged error, apologized, and let Complainant board. This conduct did not constitute material adverse action against Complainant. Only after Complainant himself prolonged the incident by questioning the driver and accusing him of discrimination and abuse, did the driver call police and have Complainant removed. CHR made no impermissible credibility determinations about the validity of the fare card Complainant presented, and Complainant himself told inconsistent stories about which of two cards he used. CO

Blakemore v. Starbucks Coffee Company, CCHR No. 07-P-13/91 (Sep. 17, 2008) Request for Review denied where Complainant provided no new evidence or legal basis to support that Respondent’s alleged conduct was based on race. That Complainant, who is black, had to argue with store personnel to get a free cup of ice he requested is not sufficient to prove he was denied full use of a public accommodation where the ice was given to him within a very short period of time. Even though Complainant then became involved in disputes with two customers, to which store personnel did not respond as Complainant desired, Complainant was able to sit in the shop and consume his beverage. No racial language was used by store personnel nor was their conduct invidious, long-lasting, or pervasive. That CHR did not interview store personnel but relied on Respondent’s position statement was not error, as their statements were unlikely to support a substantial evidence finding. Nor was it necessary to investigate whether police had asked the store not give out free cups of ice, as it had no bearing on whether the initial denial of Complainant’s request was race discrimination. There was no evidence that any non-black individual was given a free cup of ice. CO

Jackson v. WJ Management et al., CCHR No. 08-E-22 (Oct. 2, 2008) Request for Review stating that Respondent purchased the certification of conviction and that Complainant did not complete an employment application do not provide direct evidence or support an inference of discriminatory intent. CO

Hatchett v. TCS Holdings, Inc. et al., CCHR No. 07-E-65 (Dec. 4, 2008) Request for Review of no substantial evidence denied where Complainant failed to provide new evidence to support the discriminatory reasons for his discharge. CO

Not Previously Unavailable – No new decisions in this volume.

Occurrence Not in Complaint

Rodgers v. City of Chicago Dept. of Water Management et al., CCHR No. 05-E-27 (Nov. 29, 2007) Additional alleged incidents not considered on request for review where Complainant was previously aware of them but did not amend Complaint to allege them or add retaliation claim. CO

Partial Dismissal Review

Day v. Breakthrough Urban Ministries et al., CCHR No. 01-H-12 (Nov. 16, 2001) Because a partial dismissal order is “interlocutory,” i.e., not final, request for review filed while case is still pending is pre-mature and cannot be considered. CO [Note: CCHR Reg. 250.110 as amended effective July 1, 2008, does allow a request for review of a partial dismissal order and sets a filing deadline for it.]

Pleading Requirements

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In reviewing a request for review of a no jurisdiction dismissal, CHR considers factors set forth in Reg. 250.130(a) about content of a request for review, but notes that those are not exclusive; agrees to consider challenges to the legal basis for the dismissal order but not mere re-arguing of points already made and ruled upon. CO

Jones v. Lake Shore Financial Staffing et al., CCHR No. 99-E-70 (Apr. 26, 2002) Request for Review of no substantial evidence finding denied, as it gave only a conclusory statement as to Complainant’s disagreement with the finding and did not give Respondents or CHR any notice as to specific reasons for objecting to the dismissal. CO

Loving v. Marshall Hotel et al., CCHR No. 06-H-17 (Nov. 2, 2006) Under Reg. 250.130(a), “a party requesting review must state with specificity the reason(s) supporting the Request for Review.” CO

Williams v. Cont’l Cas. Co., CCHR No. 05-E-125 (Dec. 14, 2006) Under Reg. 250.130(a), “a party requesting review must state with specificity the reason/s supporting the Request for Review.” Stating only “falsify evidence [sic] and misleading information” as basis, with no detail about what was false or misleading, not sufficient. CO
Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Jan. 9, 2007) Motion seeking leave to submit request for review in excess of 10 pages denied due to no showing of unusual circumstances causing page limit to be too confining, nor did CHR see anything inherent in case warranting exception. CO

Post-Hearing Briefs – No new decisions in this volume.

Prima Facie Case – No new decisions in this volume.

Review of Final Order in Case
Williams v. Chicago Police Dept. et al., CCHR No. 98-PA-59 (Jan. 11, 2000) After CHR had dismissed case for lack of substantial evidence and later denied Complainant’s Request for Review, CHR denied Complainant’s second request for review as not permitted by regulation, and directed Complainant to state court to seek further review. CO

Williams v. Chicago Comm. on Human Relations, et al., CCHR No. 00-PA-38 (May 11, 2000) To the extent that the claim against CHR is an attempt to seek yet another unauthorized review of CHR’s dismissal of Complainant’s prior case [noted above], CHR dismissed that claim and directed Complainant to file his appeal in state court.

CO

Post-Hearing Briefs – No new decisions in this volume.

Prima Facie Case – No new decisions in this volume.

Review of Final Order in Case
Williams v. City Coll. of Chicago, CCHR No. 03-E-122 (Jan. 9, 2007) Motion seeking leave to submit request for review in excess of 10 pages denied due to no showing of unusual circumstances causing page limit to be too confining, nor did CHR see anything inherent in case warranting exception. CO

Post-Hearing Briefs – No new decisions in this volume.

Prima Facie Case – No new decisions in this volume.
Williams v. Chicago Comm. on Human Relations & Chic. Law Dept., CCHR No. 00-PA-38 (Aug. 10, 2000) (same) CO
Gill v. Chicago Board of Education, CCHR No. 00-PA-54 (Aug. 9, 2001) Same, with respect to request for review of dismissal for no substantial evidence. CO
Sigman v. R.R. Donnelly & Sons Co., CCHR No. 98-E-57 (Aug. 9, 2001) Same; also notes that Complainant did not state his reasons with specificity, as required by Regulation 250.130. CO
Rak v. Walgreens et al., CCHR No. 99-E-66 (Oct. 4, 2001) (same) CO
Banks v. Midwest Physician Grp., CCHR No. 96-E-77 (Oct. 17, 2001) (same) CO
Russell v. Alliance Hose & Rubber, CCHR No. 97-E-230 (Oct. 17, 2001) (same) CO
Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002)

In reviewing a request for review of a no jurisdiction dismissal, CHR considers factors set forth in Reg. 250.130(a) about content of a request for review, but notes that those are not exclusive; agrees to consider challenges to the legal basis for the dismissal order but not mere re-arguing of points already made and ruled upon. CO
Powell v. Chicago Transit Authority et al., CCHR No. 02-E-244 (July 13, 2006) Complainant must come forward with evidence to support reconsideration of no substantial evidence finding; insufficient only to assert that investigation had not been sufficiently thorough. CO

Mabry v. American Airlines, CCHR No. 02-E-111 (Oct. 5, 2006) Request for review of no substantial evidence finding denied where CHR could not discern any material information it was not aware of when it made its no substantial evidence determination, nor could it identify any material factual error. CO
Loving v. Marshall Hotel et al., CCHR No. 06-H-17 (Nov. 2, 2006) Purpose of request for review is to provide opportunity to address specific errors, not simply to revisit investigation or determination; not CHR’s responsibility to conduct general review of case to identify errors. CO
Loving v. Marshall Hotel et al., CCHR No. 06-H-17 (Nov. 30, 2006) Request for Review denial reaffirmed where claimed erroneous information was not basis for CHR’s no substantial evidence finding and did not support different outcome. CO

Williams v. Cont’l Cas. Co., CCHR No. 05-E-125 (Dec. 14, 2006) Purpose of request for review is to provide opportunity to address specific errors, not simply to revisit investigation or determination; not CHR’s responsibility to conduct general review of case to identify errors. Request for Review stating only “falsify evidence [sic] and misleading information” as basis, with no detail about what was false or misleading, not sufficient. CO
Avery v. City of Chicago Dept. of Health, CCHR No. 03-E-40 (Feb. 8, 2007) Burden is on Complainant to justify any reconsideration in requesting review. Complainant did not explain how witnesses not interviewed could provide evidence to support a substantial evidence finding and could not point to any impermissible credibility determination on a factual issue material to the outcome. CO
Freiman v. Crescent Heights Mgmt., CCHR No. 03-H-52 (July 12, 2007) Complainant requesting review must come forward with evidence to support reconsideration; insufficient to simply repeat allegations in complaint and assert that investigation was not thorough. In determining substantial evidence, CHR evaluates evidence in light most favorable to complainant; mere fact that position of respondent or statement of party or witness is reported in investigation summary does not mean CHR accepts it as true. CO
Henderson v. Southwest Women Working Together et al., CCHR No. 03-H-47 (Oct. 23, 2007) Discusses review standards and complainant’s burden on request for review of no substantial evidence finding asserting that investigation was not sufficiently thorough and CHR failed to interview certain witnesses. CO

Love v. Chicago Park District, CCHR No. 05-E-142 (Dec. 18, 2008) No basis to overturn no substantial evidence finding on request for review where all points raised on review were raised and considered during investigation, and no evidence showed employer’s actions were motivated by intent to discriminate. Purpose of CHR inquiry not to arbitrate whether employer’s decisions were correct or desirable. CO
McGill v. Bonds, CCHR No. 08-H-38 (July 29, 2010) Request for review denied as providing no relevant or newly discovered evidence not available during the investigation and showing no material factual errors by CHR. Landlord’s demand for money beyond agreed rent and transcript of a CHA hearing were both evidence known to Complainant but never included in Complaint or mentioned to investigator. CO

Untimely Filing
Staton v. The Woodlawn Organization et al., CCHR No. 03-H-96/05-H-65 (May 3, 2007) CHR denied request for review which had been filed one business day after the filing deadline. CO
Rodgers v. City of Chicago Dept. of Water Management et al., CCHR No. 05-E-27 (Nov. 29, 2007) Filing of request for review found timely where first mailing of order finding no substantial evidence was to incorrect address and Complainant filed within 30 days of re-mailing of order to correct address. Although Complainant did not serve request for review and it was difficult to discern the specific bases for it, CHR considered the request

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because Complainant was proceeding pro se and Respondent was not prejudiced because it had opportunity to respond. CO

_Augustus v. Chicago Police Department et al., CCHR No. 06-E-85 (Sept. 22, 2008) Request for Review and Motion for Extension of Time to file it denied where untimely filed. Needing time to hire an attorney not sufficient grounds for extension absent extraordinary circumstances. CO_

**RES JUDICATA**

_Availability at CHR – No new decisions in this volume._

_Collateral Estoppel – See separate Collateral Estoppel section, above._

_Commission Expertise – No new decisions in this volume._

**Cook County Proceedings**

_Salem v. Park Edgewater Condo. Assn. et al., CCHR No. 02-H-9 (May 6, 2003) CHR claims unrelated to Complainant’s eviction action in Circuit Court not barred by _res judicata_ because Complainant could not have brought them in eviction action. Also, _res judicata_ not applied to related claims because no final judgment yet entered in eviction action. CO_

_Blakemore v. Dublin Bar and Grill, CCHR No. 05-P-102 (Oct. 23, 2009) CHR dismissed race discrimination complaint based on _res judicata_ after administrative hearing and finding for respondent at Cook County Commission on Human Rights. Although Cook County complaint claimed only housing status discrimination, both involved same parties and arose from same group of operative facts, thus involving same cause of action. Also, Complainant could have claimed race discrimination at Cook County Commission, and even if _res judicata_ were inapplicable, Cook County findings have preclusive effect under collateral estoppel doctrine and thus mandate dismissal of CHR complaint. HO_

**Deferral of Case**

_Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) CHR cannot generally defer cases when a similar case proceeds at another agency or court; absent deferral agreement, CHR has deferred cases only when other tribunal has progressed to point where it was soon to issue a decision likely to have _res judicata_ effect on CHR case. CO_

_Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) Where cases had been stayed by federal district court, where court ruled in favor of respondents, complainants appealed and district court lifted stay, CHR found lifting of federal stay did not require it to proceed, just permitted it to; and, because the appeal would resolve most if not all issues in CHR cases, CHR continued to hold cases in abeyance while appeal is completed. CO_

_Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) CHR reviewed standards to apply _res judicata_, while noting that it was only determining whether to defer processing of cases while federal appeal was pending and that it was not making a final _res judicata_ analysis. CO_

_Blakemore v. Dublin Bar & Grill, Inc. d/b/a Dublin’s Pub, et al., CCHR No. 05-P-102 (Nov. 13, 2007) CHR stayed proceedings in race discrimination case where Complainant had filed housing status discrimination complaint alleging the same incident with Cook County Commission on Human Relations (CCCHR) that was in pre-hearing process, because CCCHR adjudication process likely to conclude before CHR’s and CCCHR findings were likely to bar a different decision by CHR under preclusion doctrines. CO_

**Definition – No new decisions in this volume.**

**Denied**

_Salem v. Park Edgewater Condo. Assn. et al., CCHR No. 02-H-9 (May 6, 2003) CHR claims unrelated to Complainant’s eviction action in Circuit Court not barred by _res judicata_ because Complainant could not have brought them in eviction action. Also, _res judicata_ not applied to related claims because no final judgment yet entered in eviction action. CO_

_Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Oct. 27, 2003) _Res judicata_ not applied to decision on unemployment compensation claim, so motion to dismiss CHR sexual harassment claim denied; decision notes that under Unemployment Insurance Act (UIA), no finding, determination, decision, ruling or order issued pursuant to UIA shall have _res judicata_ or collateral estoppel effect, or shall be admissible, in other proceedings. CO_

_Sewall v. Chicago Transit Authority, CCHR No. 99-E-67 (Jan. 6, 2004) CHR claim of sexual orientation...
discrimination not barred by res judicata doctrine because claim could not be brought in federal court due to lack of subject matter jurisdiction. CO

Gee v. Bd. of Educ. of the City of Chicago, CCHR No. 01-E-112 (Jan. 6, 2004) (1) CHR claim of sexual orientation discrimination not barred by res judicata doctrine because could not be raised in federal court due to lack of subject matter jurisdiction. (2) Where Complainant’s Illinois Educational Labor Relations Board proceeding concerned unfair labor practices and did not, and could not, consider sexual orientation discrimination, sexual orientation discrimination claim at CHR not barred because no identity of causes of action. CO

De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Sept. 20, 2007) Motion to dismiss based on res judicata denied where Illinois Department of Human Rights (IDHR) found no substantial evidence after investigating identical complaint. CHR does not apply res judicata to findings as to substantial evidence or reasonable cause absent an intergovernmental agreement to accept such determinations, although CHR has applied res judicata to decisions on the merits in court or administrative proceedings which provide full access to an evidentiary hearing. Investigations at other agencies may not be equivalent and CHR cannot readily assess equivalency given lack of a fully developed record. CO

Anguiano v. Abdi, CCHR No. 07-P-30 (Sept. 16, 2009) Res judicata not applied where Dept. of Consumer Services issued order regarding same incident under different ordinance but discrimination claims not litigated. R

Zulu v. Lathrop Elderly Apartments & Mellado, CCHR No. 08-H-17 (Oct. 13, 2009) Res judicata denied where discrimination claims could not have been raised in earlier eviction action because the alleged discrimination was unrelated to the eviction. CO

Federal Court Ruling


Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Apr. 18, 2002) CHR granted motion to dismiss cases due to res judicata, finding individual respondents and parent company in privity with subsidiary-defendant and finding that claim made at CHR about parent company arose from same core of operative facts as claim made in federal court. CO

Lampkin v. Northwestern Memorial Hosp., CCHR No. 01-E-50 (June 24, 2003) CHR race discrimination claim dismissed on res judicata grounds where based on nearly same factual pleadings as federal court claim, parties identical in both actions, and federal claim dismissed for failure to complete timely service of summons and complaint upon defendant, as dismissal for failure to prosecute or comply with federal rules considered final judgment on the merits unless otherwise specified by court. CO

Leonard v. Chicago Transit Authority et al., CCHR No. 99-E-61 (Jan. 6, 2004) Where federal court claims dismissed on merits (summary judgment), CHR claims dismissed on res judicata grounds because claims were identical and individual Respondent in CHR case was in privity with entity sued in federal court. CO

Sewall v. Chicago Transit Authority, CCHR No. 99-E-67 (Jan. 6, 2004) CHR claim of disability discrimination dismissed on res judicata grounds where identical to federal court claim, parties identical in both actions, and federal ADA claim was dismissed with prejudice by stipulation of parties; despite no findings of fact or conclusions of law, dismissal with prejudice constitutes final judgment on the merits. However, CHR claim of sexual orientation discrimination not barred because it could not be brought in federal court due to lack of subject matter jurisdiction. CO

Gee v. Bd. of Educ. of the City of Chicago, CCHR No. 01-E-112 (Jan. 6, 2004) CHR claims of race and disability discrimination dismissed on res judicata grounds where identical to federal court claims, parties identical in both actions, and federal claims dismissed with prejudice due to Complainant’s failure to comply with discovery order, as dismissal with prejudice constitutes final judgment on the merits. However, CHR claim of sexual orientation discrimination not barred because could not be raised in federal court due to lack of subject matter jurisdiction. CO

Brown v. Chicago Transit Authority et al., CCHR No. 97-E-10 (Mar. 16, 2004) Where federal court claims dismissed on the merits (summary judgment), CHR claims dismissed on res judicata grounds because identical and individual Respondents in CHR case were in privity with business sued in federal court. CO

Forcible Entry and Detainer Action

Salem v. Park Edgewater Condo. Assn. et al., CCHR No. 02-H-9 (May 6, 2003) Res judicata not applied to housing discrimination claims because (1) CHR claims unrelated to eviction action in Circuit Court not barred because Complainant could not have brought them in the eviction action; (2) related claims not adjudicated because no final judgment yet entered in eviction action; (3) applying res judicata or collateral estoppel to claims simply because they could have been raised in eviction action appears inconsistent with Illinois Human Rights Act, which
allows claimants to choose forum in which to adjudicate their housing discrimination cases and has created state and local agencies with specialized expertise to efficiently adjudicate such complaints; however, if Circuit Court has considered and ruled on the claims, the doctrines may be applied if properly raised by Respondents. CO

**Granted**


*Thompson et al. v. GES Exposition Svs., Inc., et al.*, CCHR No. 96-E-94 et al. (Apr. 18, 2002) CHR granted motion to dismiss cases due to *res judicata*, finding individual respondents and parent company in privity with subsidiary-defendant and finding that claim made at CHR about parent company arose from same core of operative facts as claim made in federal court. CO

*Lampkin v. Northwestern Memorial Hosp.*, CCHR No. 01-E-50 (June 24, 2003) CHR race discrimination claim dismissed on *res judicata* grounds where based on nearly same factual pleadings as federal court claim, parties identical in both actions, and federal claim dismissed for failure to complete timely service of summons and complaint upon defendant, as dismissal for failure to prosecute or comply with federal rules considered final judgment on the merits unless otherwise specified by court. CO

*Leonard v. Chicago Transit Authority et al.*, CCHR No. 99-E-61 (Jan. 6, 2004) Where federal court claims dismissed on merits (summary judgment), CHR claims dismissed on *res judicata* grounds because claims were identical and individual Respondent in CHR case was in privity with entity sued in federal court. CO

*Sewall v. Chicago Transit Authority*, CCHR No. 99-E-67 (Jan. 6, 2004) CHR claim of disability discrimination dismissed on *res judicata* grounds where identical to federal court claim, parties identical in both actions, and federal court ADA claim was dismissed with prejudice by stipulation of parties; despite no findings of fact or conclusions of law, dismissal with prejudice constitutes final judgment on the merits. CO

*Gee v. Bd. of Educ. of the City of Chicago*, CCHR No. 01-E-112 (Jan. 6, 2004) CHR claims of race and disability discrimination dismissed on *res judicata* grounds where identical to federal court claims, parties identical in both actions, and federal claims dismissed with prejudice due to Complainant’s failure to comply with discovery order, as dismissal with prejudice constitutes final judgment on the merits. CO

*Brown v. Chicago Transit Authority et al.*, CCHR No. 97-E-10 (Mar. 16, 2004) Where federal court claims dismissed on the merits (summary judgment), CHR claims dismissed on *res judicata* grounds because identical and individual Respondents in CHR case were in privity with business sued in federal court because claims were based on those individuals’ actions. CO

*Blakemore v. Dublin Bar and Grill*, CCHR No. 05-P-102 (Oct. 23, 2009) CHR dismissed race discrimination complaint based on *res judicata* after administrative hearing and finding for respondent at Cook County Commission on Human Rights. Although Cook County complaint claimed only housing status discrimination, both involved same parties and arose from same group of operative facts, thus involving same cause of action. Also, Complainant could have claimed race discrimination at Cook County Commission, and even if *res judicata* were inapplicable, Cook County findings have preclusive effect under collateral estoppel doctrine and thus mandate dismissal of CHR complaint. HO

**Identity of Causes of Action**

*Swanigan v. Horsehead Resource Devel. Co., Inc.*, CCHR No. 97-E-280 (Feb. 15, 2000) Fact that Complainant’s CHR case, but not his federal one, involved a race claim in addition to a disability one did not preclude the application of *res judicata* in that *res judicata* bars claims which could have been brought in the first case as well as those which actually were and in that Complainant’s race and disability claims are merely two legal theories, not two causes of action. CO

*Thompson et al. v. GES Exposition Svs., Inc., et al.*, CCHR No. 96-E-94 et al. (Apr. 18, 2002) Order includes discussion of what constitutes identity of causes of action and same core of operative facts. CO

*Thompson et al. v. GES Exposition Svs., Inc., et al.*, CCHR No. 96-E-94 et al. (Apr. 18, 2002) CHR granted motion to dismiss cases due to *res judicata*, finding federal decision precluded CHR cases concerning same cause of action or that which could have been made in federal court. CO

*Thompson et al. v. GES Exposition Svs., Inc., et al.*, CCHR No. 96-E-94 et al. (Apr. 18, 2002) Claim that parent company failed to respond to internal complaint that subsidiary had discriminated found to arise from same core of operative facts as claim that subsidiary had discriminated which the federal court had addressed. CO

*Salem v. Park Edgewater Condo. Assn., et al.*, CCHR No. 02-H-9 (May 6, 2003) *Res judicata* does not bar independent claim that is part of same cause of action if court in first action lacked subject matter jurisdiction over that claim. CO

*Gee v. Bd. of Educ. of the City of Chicago*, CCHR No. 01-E-112 (Jan. 6, 2004) Where Complainant’s
Illinois Educational Labor Relations Board proceeding concerned unfair labor practices and IELRB did not, and could not, consider sexual orientation discrimination, sexual orientation discrimination claim at CHR not barred by *res judicata* doctrine because no identity of causes of action. CO

**Not Applied – See Denied subsection, above.**

**Prior Administrative Decisions**

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Oct. 27, 2003) *Res judicata* not applied to decision on unemployment compensation claim, so motion to dismiss CHR sexual harassment claim denied; decision notes that under Unemployment Insurance Act (UIA), no finding, determination, decision, ruling or order issued pursuant to UIA shall have *res judicata* or collateral estoppel effect, or shall be admissible, in other proceedings. CO

Gee v. Bd. of Educ. of the City of Chicago, CCHR No. 01-E-112 (Jan. 6, 2004) Where Complainant’s Illinois Educational Labor Relations Board proceeding concerned unfair labor practices and IELRB did not, and could not, consider sexual orientation discrimination, sexual orientation discrimination claim at CHR not barred by *res judicata* doctrine because no identity of causes of action. CO

**Prior Personnel Board Decisions – No new decisions in this volume.**

**Privity of Parties**

Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Apr. 18, 2002) Order includes discussion of what constitutes privity of parties. CO

Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Apr. 18, 2002) CHR granted motion to dismiss cases due to *res judicata*, finding federal judgment in favor of company meant that the individual respondents who were the managers allegedly responsible for the discrimination were exonerated by that judgment. CO

Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Apr. 18, 2002) CHR granted motion to dismiss cases due to *res judicata*, finding subsidiary company which was federal defendant was in privity with its parent corporation, a CHR respondent, in that their interests in the two cases were the same. CO

Leonard v. Chicago Transit Authority et al., CCHR No. 99-E-61 (Jan. 6, 2004) CHR claims dismissed on *res judicata* grounds where individual Respondent in CHR case was in privity with entity sued in federal court because claims of discrimination were based on that individual’s actions. CO

Brown v. Chicago Transit Authority et al., CCHR No. 97-E-10 (Mar. 16, 2004) (same) CO

**Standards**

Swanigan v. Horsehead Resource Development Co., Inc., CCHR No. 97-E-280 (Feb. 15, 2000) *Res judicata* requires dismissal when a) the parties in both actions are identical, or their privies; b) there is an identity of the cause of action; and c) there is a final judgment on the merits. CO


Swanigan v. Horsehead Resource Development Co., Inc., CCHR No. 97-E-280 (Feb. 15, 2000) Specifically discusses that *res judicata* bars claims which could have been brought in the first case as well as those which actually were and that Complainant’s race and disability claims are merely two legal theories, not two causes of action. CO

Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Nov. 20, 2001) CHR reviewed standards to apply *res judicata*, while noting that it was only determining whether to defer processing of cases while federal appeal was pending and that it was not making a final *res judicata* analysis. CO See *Res Judicata/Deferral of Case* subsection, above.

Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Apr. 18, 2002) *Res judicata* requires dismissal when a) the parties in both actions are identical, or their privies; b) there is an identity of the cause of action; and c) there is a final judgment on the merits. CO

Thompson et al. v. GES Exposition Svs., Inc., et al., CCHR No. 96-E-94 et al. (Apr. 18, 2002) Order includes discussion of what constitutes privity of parties as well as identity of causes of action. CO

Salem v. Park Edgewater Condo. Assn. et al., CCHR No. 02-H-9 (May 6, 2003) *Res judicata* not applied to housing discrimination claims because (1) CHR claims unrelated to eviction action in Circuit Court not barred because Complainant could not have brought them in the eviction action; (2) related claims not adjudicated because no final judgment yet entered in eviction action; (3) applying *res judicata* or collateral estoppel to claims simply
because they could have been raised in eviction action appears inconsistent with Illinois Human Rights Act which allows claimants to choose forum in which to adjudicate their housing discrimination cases and has created state and local agencies with specialized expertise to efficiently adjudicate such complaints; however, if Circuit Court has considered and ruled on the claims, the doctrines may be applied if properly raised by Respondents. CO

State Court Decisions – No new decisions in this volume.

RETAILIATION

Harassment
Shedd v. 1550 N. Condo. Assn. et al., CCHR No. 01-E-69 (July 22, 2005) Retaliatory harassment, even if it does not result in discharge, is an adverse employment action concerning the “terms and conditions” of employment, and actionable under CHRO. Complaint alleging that Respondent’s representative tried to have Complainant fired over two-year period held sufficient to state retaliatory harassment claim. CO

Housing Discrimination
White v. B.W. Phillips Realty Partners, et al., CCHR No. 00-H-118 (June 28, 2001) CFHO does not prohibit retaliation. CO
Denison v. Condo Board, 212 W. Washington, CCHR No. 02-H-85 (Dec. 2, 2002) CFHO does not prohibit retaliation, intimidation, or coercion against person opposing discriminatory practices; thus, Complainant’s claim that she was retaliated against for complaining about discriminatory practice regarding children residing in building not within CHR’s jurisdiction. CO
Coleman v. Cradon Place Bd. of Directors, CCHR No. 03-H-45 (June 23, 2003) CFHO does not contain provision prohibiting retaliation; that claim available only under CHRO. CO
De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Aug. 23, 2006) (same) CO
Maat v. Chicago Housing Authority et al., CCHR No. 07-H-35 (Dec. 4, 2007) CFHO does not provide for retaliation claims, unlike CHRO. CO
Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) CFHO does not contain a provision prohibiting retaliation. Even if implied, Complainant did not offer evidence to support finding of retaliatory intent arising from discussion of her discrimination case against condo association and its president at board meeting called to adopt special assessment to pay legal fees for a defense. R

Indirect Retaliation – No new decisions in this volume.

Liability Found
Hampton v. Financial Strategy Network, LLC, CCHR No. 01-E-2 (Apr. 19, 2006) Former employer retaliated by refusing to pay severance unconditionally offered at the time Complainant’s employment was terminated, directly stating as the reason that Complainant had filed discrimination complaints about the discharge so they had to go through their insurance company and attorney. However, no retaliation was found in connection with partial payment of a bonus. R
Blakemore et al. v. Bitritto Enterprises, Inc. d/b/a Cold Stone Creamery #0430, et al., CCHR. No. 06-P-12/13/14/15/24 (Mar. 21, 2007) Rejecting recommendation of hearing officer, CHR held Complainant established prima facie case of retaliation where Complainant was told to leave ice cream store by manager after having previously filed Complaint against store and manager at CHR. Record showed that Complaint had been sent to manager, and this supported inference that manager was aware of it. R
Manning v. AQ Pizza LLC d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established prima facie case of retaliation where, after receiving notice that she filed a sex and race discrimination claim with CHR, restaurant manager left a racially and sexually derogatory telephone message about her on her voicemail. Such offensive and intimidating language held sufficient to constitute an adverse action in retaliation for filing a Complaint. R

Liability Not Found – No new decisions in this volume.

Opposition to Discrimination – No new decisions in this volume.

Ordinance Coverage
Brandt v. Chicago Area Interpreter Referral Svc., CCHR No. 01-E-57 (May 21, 2001) Only people who have filed or participated in a case at CHR are protected from retaliation under the CHRO; Complainant who claimed retaliation for having made an internal complaint at his employer is not protected. CO
White v. B.W. Phillips Realty Partners, et al., CCHR No. 00-H-118 (June 28, 2001) CFHO does not prohibit retaliation. CO

Marshall v. Rogers Park Section 8 Tenants Council, CCHR No. 02-PA-18 (Mar. 13, 2002) Same as Brandt, above; CHR dismissed complaint claiming “retaliation” for having complained to respondent organization’s funder. CO

Davis v. L.M.R. Nursing Svs., Inc., CCHR No. 02-PA-23 (Mar. 19, 2002) Same as Brandt, above; CHR dismissed complaint alleging “retaliation” for having filed a workers’ compensation claim. CO

Blakemore v. InterParking, CCHR No. 99-PA-24 (Apr. 26, 2002) Same as Brandt above; CHR denied request for review which included argument that Respondent had “retaliated” against Complainant because Complainant had filed a complaint with a separate agency. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (June 29, 2007) Where Complainants had not previously filed complaint against Respondents at CHR, Respondent’s actions not considered retaliation under CHRO; an action may be retaliatory only if taken after complainant files complaint against respondent at CHR and respondent knows of complaint. CO

Sexual Harassment

Brandt v. Chicago Area Interpreter Referral Svc., CCHR No. 01-E-57 (May 21, 2001) Negative action taken against a person who has refused to accede to sexual advances may be brought as part of a quid pro quo sexual harassment case even when such actions are not prohibited retaliation by the CHRO [see “Ordinance Coverage” sub-section above]; where Complainant claimed only retaliation for making an internal complaint and did not claim sex or otherwise make such a sexual harassment claim, CHR dismissed case. CO

Standard – No new decisions in this volume.

Threats – No new decisions in this volume.

RETROACTIVITY – No new decisions in this volume.

Ordinance

Regulations

SANCTIONS

Abuse of Process

Rutherford v. Maggie’s Foods, et al., CCHR No. 98-PA-65 (Apr. 14, 2000) Where Complainant failed to attend Administrative Hearing and where she did not properly complete a request to withdraw her complaint, her case was dismissed for failure to cooperate. HO

Rogers v. Metropolitan Water Reclam. Dist., CCHR No. 95-E-211 (Apr. 23, 2001) Pursuant to Reg. 240.398, Complaint dismissed when Complainant did not attend hearing of which she had notice. HO

Thomas v. Prudential Biros Real Estate, et al., CCHR No. 97-H-59/60 (Aug. 29, 2001) CHR fined Complainants $100 because they postponed the Conciliation Conference themselves the evening beforehand; they did not follow procedure to seek a continuance and did not have the authority to postpone it. CO

McGrav v. Chicago Dept. of Aviation, CCHR No. 99-E-27 (Mar. 28, 2002) Case dismissed where Complainant failed to participate in pre-hearing process, including not responding to motion to compel and to dismiss or to order requiring compliance, not attending pre-hearing conference and not making any effort to explain the lack of participation. HO

Blakemore v. AMC-GCT, Inc., CCHR No. 03-P-146 (Apr. 21, 2005) Case dismissed and fine imposed where Complainant refused to sit where directed at Conciliation Conference, argued with and insulted Conciliator, and caused disruption in CHR office; such behavior was tantamount to refusal to participate in Conciliation Conference. CO

Against Attorney

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Jan. 29, 2009) Respondents’ counsel fined $250 under new Reg. 235.440 for misrepresentations to CHR and opposing counsel in connection with a settlement conference. CO

Cotten v. Congress Plaza Hotel, CCHR No. 06-P-69 (Oct. 6, 2009) Hearing officer denied motion to vacate fine of $200 against Complainant’s attorney for inadequate response to notice of potential sanctions after failure to appear for administrative hearing. No sanction imposed on Complainant because he eventually provided sufficient evidence of good cause for the absence. HO
Burden of Proof – No new decisions in this volume.

Costs of Other Parties

_Cotten v. Denim Lounge_, CCHR No. 08-P-6 (Mar. 31, 2009) Under 2008 regulations imposition of procedural sanctions is within discretion of CHR, no motion for sanctions is created, and right of a party to petition for costs arising from procedural violation is limited to situations where CHR has decided to impose sanctions. **CO**

_Roe v. Chicago Transit Authority et al._, CCHR No. 05-E-115 (Mar. 8, 2012) Attorney fees and costs awarded for bringing successful motion to enforce injunctive order, subject to fee petition process. **CO**

Discovery – See Discovery/Sanctions section, above.

Failure to Attend CHR-Ordered Conference/Hearing

_Rutherford v. Maggie’s Foods, et al._, CCHR No. 98-PA-65 (April 14, 2000) Where Complainant failed to attend Administrative Hearing and where she did not properly complete a request to withdraw her complaint, her case was dismissed for failure to cooperate. **HO**

_Palermo v. Clayton & Daniels_, CCHR No. 96-E-216 (Dec. 8, 2000) Default order entered for Respondents’ failure to attend the scheduled Conciliation Conference without good cause. **CO**

_Cotten v. Insignia Mgt. Co._, CCHR No. 95-H-137 (Dec. 8, 2000) Where Complainant attended Conciliation Conference but would not proceed because he did not have an attorney, CHR declined to dismiss his case as Respondent requested, but fined him for not proceeding. **CO**

_Cotten v. Insignia Mgt. Co._, CCHR No. 95-H-137 (Dec. 8, 2000) Where Complainant attended Conciliation Conference but would not proceed because he did not have an attorney, CHR found that its Regulations did not allow it to order Complainant to pay Respondent’s attorney’s fees and costs incurred when it attended the Conference at which he did not proceed. **CO**

_Rogers v. Metropolitan Water Reclam. Dist._, CCHR No. 95-E-211 (Apr. 23, 2001) Pursuant to Reg. 240.398, Complaint dismissed when Complainant did not attend hearing of which she had notice. **HO**

_Thomas v. Prudential Biros Real Estate, et al._, CCHR No. 97-H-59/60 (Aug. 29, 2001) CHR fined Complainants $100 because they postponed the Conciliation Conference themselves the evening beforehand; they did not follow procedure to seek a continuance and did not have the authority to postpone it. **CO**

_Fox v. Satterfield_, CCHR No. 00-H-104 (Sep. 10, 2001) Pursuant to Reg. 240.398, Complaint dismissed when Complainant did not attend hearing of which she had notice. **HO**

_Henderson v. Robert Morris College_, CCHR No. 97-E-150 (Sep. 20, 2001) CHR dismissed case when Complainant did not attend Conciliation Conference, finding that her statement that she was just five minutes away at the time the Conference was to begin but not explaining why she did not come did not present good cause. **CO**

_Salwierak v. MRI of Chicago & Baranski_, CCHR No. 99-E-107 (Feb. 14, 2002) Default order entered against one of two Respondents for failure to attend the scheduled Conciliation Conference without good cause; counsel for each Respondent failed to properly provide updated contact information and CHR properly relied on information it had and none of its mailings was returned. **CO**

_Rogers/Slomba v. Diaz_, CCHR No. 01-H-33/34 (Apr. 17, 2002) Respondents who failed to attend the Pre-Hearing Conference fined the cost of the hearing officer’s fee, $85. **R**

_Leadership Council for Metropolitan Open Communities v. Carstea & Berzava_, CCHR No. 98-H-76 (Apr. 26, 2002) Default order entered against each of two Respondents for their failure to attend the scheduled Conciliation Conference without good cause; counsel for each Respondent failed to properly provide updated contact information and CHR properly relied on information it had and none of its mailings was returned. **CO**

_Anderson v. Joffe_, CCHR No. 03-H-28 (Oct. 27, 2003) Although Reg. 240.120(b) allows certain sanctions on party failing to attend Pre-Hearing Conference, it does not require imposition of any sanction nor does it explicitly provide for dismissal of case in that situation; if CHR finds “good cause” for failure to attend, it will not enter dismissal. Thus, Complainant’s failure to attend Pre-Hearing Conference did not warrant dismissal where CHR mailed notice of conference to wrong address for Complainant. **HO**

_Sanders v. Zoom Kitchen_, CCHR No. 03-E-29 (Feb. 5, 2004) Complaint dismissed by Hearing Officer after Complainant failed to appear for Administrative Hearing after 35 minutes from scheduled time, made no effort to show why she could not attend, and previously failed to attend Pre-Hearing Conference. **HO**

_Blakemore v. Dominick’s Finer Foods_, CCHR No. 01-PA-51 (July 11, 2005) CHR vacated order of default, giving Respondent benefit of doubt where it continued to insist it had not received notice of scheduled Conciliation Conference, and Respondent had cooperated with all prior and subsequent CHR directives. **CO**

_Syed v. Solaqa_, CCHR No. 01-H-51 (June 30, 2006) Where Complainant failed to appear for Administrative Hearing, although his counsel eventually appeared, Complaint dismissed and Complainant fined $306.50 for Hearing Officer’s and court reporter’s time pursuant to Reg. 240.398. **HO**

_Mastandrea v. Bar Celona Bar & Grill_, CCHR No. 03-P-7 (June 30, 2006) Although no sanctions imposed when parties did not attend Administrative Hearing because they settled the evening before, order notes that if
parties do not notify CHR and hearing officer of settlement during regular business hours of day before hearing, they will be expected to appear; after-business-hours phone messages or faxes do not constitute timely notification. CO

Flores & Morales v. Borcoman et al., CCHR No. 03-H-26/27 (Dec. 29, 2006) CHR typically gives parties benefit of doubt when they claim non-receipt of a CHR notice, if they comply with any notice of potential default or dismissal regarding non-compliance and have no prior record of failure to cooperate. CO

Barren-Johnson v. Mahmood, CCHR No. 03-P-9 (Dec. 30, 2006) Case dismissed after Complainant failed to attend pre-hearing conference or to file pre-hearing memorandum and preliminary witness list: explanations concerning series of misfortunes befalling her family during that period, not understanding her obligations, and merits of her case did not provide good cause in that she had ample written notice of her obligations, she did not seek continuance or extension of time, Respondent had been defaulted for failing to attend Conciliation Conference, and Respondent had filed the required pre-hearing documents. HO

Williams v. Cingular Wireless et al., CCHR No. 04-P-22 (Feb. 22, 2007) No default of Respondent who failed to attend Conciliation Conference due to misunderstanding of status of case and his responsibilities despite numerous CHR notices explaining his obligations, based on his response to notice affirming willingness to participate in further proceedings and fact that default is a severe sanction not to be entered punitively. CO

Mahon v. Movie Gallery, CCHR No. 04-E-8 (Apr. 5, 2007) Default and fine of $70 for failure to attend conciliation conference. Explanation that Respondent’s in-house counsel began maternity leave the week before not good cause where notice was mailed several weeks prior to commencement of leave, providing ample time to seek continuance or make alternative arrangements. Also, passage of time between initial filing and substantial evidence finding not good cause. CO

Richards v. Casa Aztlan, CCHR No. 06-P-68 (May 17, 2007) Default and fine of $70 for failure to attend conciliation conference. Explanation that executive staff was “dealing with serious and sensitive immigration matters” not good cause where Respondent was not the only organization addressing immigration issues and failed to seek continuance or arrange for an authorized representative to attend without evidence of inability to do so. CO

Smith v. Enterprise Car Rental et al., CCHR No. 04-P-83 (June 20, 2007) Hearing officer dismissed case after Complainant failed to attend pre-hearing conference, file preliminary witness list and pre-hearing memorandum, or respond to discovery requests. HO

Blakemore v. Dublin Bar & Grill, Inc. d/b/a Dublin’s Pub et al. CCHR No. 05-P-102 (Nov. 13, 2007) Despite untimely and minimal filing, CHR gave Complainant benefit of doubt and found good cause for failure to attend Conciliation Conference based on claimed non-receipt of notice, where Complainant had otherwise pursued case according to CHR procedures and no proof Complainant did receive the notice. CO

Martinez v. TS Management et al., CCHR No. 04-H-64 (Nov. 16, 2007) CHR denied motion to reconsider good cause finding where Respondent did not provide evidence that Complainant had actual notice of Conciliation Conference to counter Complainant’s explanation that notice was not received. Respondent not prejudiced by Complainant’s failure to serve explanation where CHR allowed Respondent to seek reconsideration. Dismissal and default are severe sanctions not to be entered punitively, and Respondent also benefited from CHR not imposing harsh sanctions for non-prejudicial technical errors. CO

Maat v. RTG Ltd. d/b/a Zorba’s House Restaurant, CCHR No. 05-P-23 (Nov. 16, 2007) Good cause finding reaffirmed over Respondent’s objections; minor procedural errors of CHR and Complainant did not justify severe sanction of dismissal; Complainant’s explanation for missing Conciliation Conference—that she did not receive the notice—was sufficient and credible. CO

Mualem v. McGrath Lexus of Chicago, CCHR No. 07-E-92 (Nov. 14, 2008) Motion to dismiss denied and no sanction imposed where Complainant attended but refused to participate in settlement conference after his attorney discontinued representing him shortly before. Despite Respondent’s vigorous arguments for sanctions claiming Complainant’s explanations were untruthful, Complainant’s timely response to notice and assertions that he had telephoned CHR staff who incorrectly told him to come to the conference and ask for a continuance do not point to willful disregard of CHR procedures. Decision discusses updated sanctions provisions under amended regulations effective July 1, 2008, and notes this is a close call in which Complainant is being given benefit of doubt but must diligently learn and comply with CHR procedures going forward, with or without counsel. To avoid further cost to Respondent, settlement conference not rescheduled and case would be set for hearing. CO

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Jan. 29, 2009) Assertion that Respondent had an unexpected work conflict is too vague and conclusory to support finding of good cause for last-minute continuance or for failure to attend settlement conference. Respondents’ counsel fined $250 under new Reg. 235.440 for misrepresentations to CHR and opposing counsel in connection with the missed proceeding. CO

Cotten v. Coffee Pot & Mail Drop, CCHR No. 08-P-39 (Mar. 12, 2009) No default but Respondent fined $100 for failure to attend settlement conference, where this was first procedural violation. CO

Cotten v. CCI Industries, Inc., CCHR No. 07-P-109 (June 24, 2009) Default vacated and sanction changed to fine of $350 for failure to attend pre-hearing conference due to negligence of former attorney, where Respondent
affidavit averring attorney’s scheduling mistake. Although questionable whether the explanation demonstrated
where Respondent failed to attend pre-hearing conference but timely responded to notice to show good cause by
CHR had made no such ruling and counsel had no authority to unilaterally continue a proceeding. CO
to inform his client about it, and for representing to opposing counsel that the conference had been continued when
settlement conference as an unexpected work conflict of Respondent-owner when actually due to attorney’s failure
under new Regs. 210.410, 210.420, and 235.440 for misrepresenting basis for “emergency motion” to continue
hearing officer, and court reporter for adjudication of case. R
Complainant for false testimony costing City extensive expenses for CHR staff time and payments to conciliator,
attend. No monetary sanctions because dismissal is a severe sanction and Respondent benefited from it. CO
on the day in question. Complainant failed to explain why he was unable to notify CHR in advance of his inability to
a doctor’s note of questionable authenticity which did not demonstrate knowledge of Complainant’s medical status
“good cause,” problem occurred early in proceeding and was the first such incident. HO
frivolous or false pleading, withdrawal or timing of withdrawal are not sufficient proof and other evidence in this
Respondent business on alleged discrimination date. Although voluntary withdrawal does not preclude sanctions for
imposition of procedural sanctions is within discretion of CHR, no motion for sanctions is created, and right of a
party to petition for costs arising from procedural violation is limited to situations where CHR has decided to impose
sanctions. No order of default where Respondent had previously responded to CHR and cooperated with
Investigation. CO
Cotten v. Congress Plaza Hotel, CCHR No. 06-P-69 (Oct. 6, 2009) Hearing officer denied motion to vacate
fine of $200 against Complainant’s attorney for inadequate response to notice of potential sanctions after failure to
appear for administrative hearing. Argument that hearing officer is not authorized to sanction is clearly contradicted
by the plain language of Reg. 240.398. Basis for sanction was that response stated Complainant was hospitalized,
which was not true, and the attached doctor’s note was incomplete and dated the day before the hearing—all of
which required further action by the hearing officer. Argument that counsel was reluctant to disclose confidential
and sensitive medical information about Complainant rejected, as the information was essential to establish good
cause for the absence, which requires serious illness or hospitalization and not mere discomfort. Counsel’s
submission found reckless at best, in violation of Reg. 210.400 prohibiting frivolous pleadings. No sanction imposed
on Complainant because he eventually provided sufficient evidence of good cause for the absence. HO
Cotten v. Addiction Sports Bar & Lounge, CCHR No. 08-P-68 (Oct. 21, 2009) Board upheld hearing
officer’s exercise of discretion to deny motion to vacate hearing where Respondent’s attorney asserted he failed to
mark the hearing date on his calendar and forgot to attend. R
Johnson v. Hyde Park Corporation d/b/a Hyde Park Citgo, CCHR No. 08-P-95,96, (Dec. 3, 2009) No
sanction against Respondent that missed settlement conference where it responded to notice by affidavit averring it
never received notice of the conference, and this was first instance of failure to cooperate with CHR procedures. CO
Mendez v. El Rey del Taco & Burrito, CCHR No. 09-E-016 (Apr. 5, 2010) No default or other sanction
where Respondent failed to attend pre-hearing conference but timely responded to notice to show good cause by
affidavit averring attorney’s scheduling mistake. Although questionable whether the explanation demonstrated
“good cause,” problem occurred early in proceeding and was the first such incident. HO
Cotten v. Connolly Currency Exchange, CCHR No. 11-P-61 (Jan. 12, 2012) Case dismissed where
Complainant failed to attend settlement conference then in response to notice of potential dismissal submitted by fax
a doctor’s note of questionable authenticity which did not demonstrate knowledge of Complainant’s medical status
on the day in question. Complainant failed to explain why he was unable to notify CHR in advance of his inability to
attend. No monetary sanctions because dismissal is a severe sanction and Respondent benefited from it. CO

Fines – See Fines section, above.

Frivolous Pleadings or Representations
Williams v. Bally Total Fitness and Lounge, CCHR No. 06-P-48 (Jan. 21, 2009) $500 fine imposed on
Complainant for false testimony costing City extensive expenses for CHR staff time and payments to conciliator,
hearing officer, and court reporter for adjudication of case. R
Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Jan. 29, 2009) Respondent’s counsel fined $250
under new Regs. 210.410, 210.420, and 235.440 for misrepresenting basis for “emergency motion” to continue
settlement conference as an unexpected work conflict of Respondent-owner when actually due to attorney’s failure
to inform his client about it, and for representing to opposing counsel that the conference had been continued when
CHR had made no such ruling and counsel had no authority to unilaterally continue a proceeding. CO
Cotten v. Denim Lounge, CCHR No. 08-P-6 (Mar. 31, 2009) Respondent’s motion for sanctions denied
where Complainant withdrew complaint after failing to provide promised documentation of phone call to
Respondent business on alleged discrimination date. Although voluntary withdrawal does not preclude sanctions for
frivolous or false pleading, withdrawal or timing of withdrawal are not sufficient proof and other evidence in this
case is inconsistent with a finding that Complainant deliberately misrepresented facts. Also, under 2008 regulations
imposition of procedural sanctions is within discretion of CHR, no motion for sanctions is created, and right of a
party to petition for costs arising from procedural violation is limited to situations where CHR has decided to impose
sanctions. CO
Lee v. Miller and Voci, CCHR No. 09-H-32 (Aug. 28, 2009) CHR adjudication process will determine
whether claims in Complaint are well-founded and sanction any frivolous pleadings or representations. Later
Complaint filed by Respondent against Complainant and her attorney, alleging they were trying to enrich themselves
by manufacturing the claim against him, was dismissed as not alleging conducted prohibited by the Fair Housing or Human Rights Ordinance, noting CHR does not have jurisdiction over claimed violations of other laws. CO

_Cotten v. Congress Plaza Hotel_, CCHR No. 06-P-69 (Oct. 6, 2009) Hearing officer denied motion to vacate fine of $200 against Complainant’s attorney for inadequate response to notice of potential sanctions after failure to appear for administrative hearing. Argument that hearing officer is not authorized to sanction is clearly contradicted by the plain language of Reg. 240.398. Basis for sanction was that response stated Complainant was hospitalized, which was not true, and the attached doctor’s note was incomplete and dated the day before the hearing—all of which required further action by the hearing officer. Argument that counsel was reluctant to disclose confidential and sensitive medical information about Complainant rejected, as the information was essential to establish good cause for the absence, which requires serious illness or hospitalization and not mere discomfort. Counsel’s submission found reckless at best, in violation of Reg. 210.400 prohibiting frivolous pleadings. No sanction imposed on Complainant because he eventually provided sufficient evidence of good cause for the absence. HO

_Cotten v. A & T Restaurant_, CCHR No. 08-P-015 (Apr. 14, 2010) Case dismissed citing regulations prohibiting frivolous pleadings or representations, where Complainant submitted false document to CHR—a statement purportedly signed by a witness who, when interviewed, disavowed it as a forgery. Complainant then failed to respond to CHR inquiries about the purported statement. CO

_Cotten v. A & T Restaurant_, CCHR No. 08-P-015 (June 3, 2010) Request for review denied where case dismissed after Complainant submitted a false document to CHR—a statement purportedly signed by a witness who, when interviewed, disavowed it as a forgery. No administrative hearing required because the credibility determination was not made on any allegations of the Complaint but on the procedural issue of whether the document was genuine. Moreover, CHR attempted to contact Complainant and his attorney at least four times about the purported statement but neither one responded. CO

_Miller v. Solano-DeCarrier Mgmt. Co. d/b/a McDonald’s Restaurant_, CCHR No. 11-P-39/40 (Aug. 11, 2011) Noting that a discrimination complaint is a serious accusation requiring a respondent to mount a defense and possibly subjecting it to damages, CHR fined Complainants $100 under Regs. 210.410(a) and 210.420 for deliberate material misrepresentations that there was no accessible seating at Respondent’s restaurant and they had to stand 20 minutes. CO

_Robinson v. Mercy Hospital et al._, CCHR No. 12-P-03 (Jan. 30, 2012) CHR dismissed complaint, finding Complainant had made identical allegations against same parties in two cases already under investigation. Complainant cautioned about Reg. 210.410 prohibiting numerous repetitive filings for any improper purpose. CO

**Negative Inference Order – See separate Negative Inference Order section, above.**

_Sanctions Denied/Declined_

_Goddard v. McConnell_, CCHR No. 97-H-64 (Feb. 10, 2000) CHR declined to dismiss Complainant’s case where she explained that she did not appear at the Conciliation Conference, with an affidavit from her attorney, because her attorney never received the notice setting the Conference, finding that demonstrated good cause. CO

_Doxy v. Chicago Public Library_, CCHR No. 99-PA-31 (Mar. 23, 2000) CHR did not dismiss Complainant’s case where Complainant had called in the morning of the Conciliation Conference to state that he could not attend, where he called to check on the status of his case thereafter, and where he responded to the notice of potential dismissal as soon as he received it. CO

_Karlin v. Chicago Bd. of Education, et al._, CCHR No. 95-E-62 (Dec. 8, 2000) CHR declined to dismiss Complainant’s case or to default individual Respondent where both failed to attend the scheduled Conciliation Conference; Complainant repeatedly stated he had not gotten notice of the Conference and counsel for individual Respondent explained that the move of his office caused lack of communication with his client. CO

_Karlin v. Chicago Bd. of Education, et al._, CCHR No. 95-E-62 (Dec. 8, 2000) In declining to dismiss Complainant’s case or to default individual Respondent, CHR cites prior decisions which hold that dismissal and default are “severe sanction[s] which should not be entered in a punitive manner, especially where the underlying omission was due to error, not disregard for Commission procedures”. CO

_Cotten v. Insignia Mgt. Co._, CCHR No. 95-H-137 (Dec. 8, 2000) Where Complainant attended Conciliation Conference but would not proceed because he did not have an attorney, CHR found that its Regulations did not allow it to order Complainant to pay Respondent’s attorney’s fees and costs incurred when it attended the Conference at which he did not proceed; Complainant was fined, see Failure to Attend CHR-Ordered Conference, above. CO

_Myricks v. Tavern on the Pier_, CCHR No. 98-E-111 (Mar. 15, 2001) Where CHR’s own error addressing the order to Complainant caused Complainant not to receive notice of the Conciliation Conference, CHR did not dismiss Complainant for failing to attend it. CO

_Henderson v. Robert Morris Coll._, CCHR No. 97-E-150 (July 12, 2001) Where Complainant called CHR
the same day as the Conciliation Conference which she missed and then submitted a written explanation that she did not attend the Conference due to the illness of one of her young children, CHR declined to dismiss her case, noting that dismissal is severe and should not be used when the problem was not due to disregard for CHR procedures. CO

Nuspl v. Marchetti, CCHR No. 98-E-207 (Aug. 9, 2001) CHR declined to default Respondent who did not attend Conciliation Conference where his attorney stated that they had not received notice of it; CHR noted that the notice was correctly addressed to attorney and was not returned to CHR but that there is no “hard” evidence that it was delivered; also stated that default is a severe sanction which is not to be entered in a punitive manner. CO

Massingale v. Ford City Mall & Sears Roebuck & Co., CCHR No. 99-PA-11 (Sep. 10, 2001) Although Complainant did not call in advance of the Conciliation Conference to report that he had been hospitalized a week prior, CHR found that hospitalization to be good cause for missing the Conference and notes that Complainant had called several times after the fact to explain; states that dismissal is a severe sanction and should not be used when the problem was not due to disregard for CHR procedures. CO

Scott v. Covington, CCHR No. 99-E-10 (Oct. 31, 2001) CHR did not enter default order against Respondent who missed Conciliation Conference where Respondent’s counsel admitted that he had misplaced the order setting the Conference but had not willfully ignored the case or CHR procedures; notes that default is a severe sanction not to be entered punitively. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 9, 2001) Where expert witness visited building without authorization between days of hearing, hearing officer struck his testimony but did not otherwise sanction complainant’s attorney who had no knowledge of the visit. HO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 9, 2001) Where site appeared to have been altered on day of first site visit but where testimony did not demonstrate whether Respondent had caused or prompted the alteration, Hearing Officer ordered Respondent to pay a $75 fine but did not order it to pay Complainant’s for his costs for the second site visit. HO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 9, 2001) Where Complainant asked for sanctions for certain conduct months after he initially objected to it and where either his earlier request for sanctions was denied or where he had objected without previously asking for sanctions, Hearing Officer found current request for sanctions unfounded. HO

Scott v. Covington, CCHR No. 99-E-10 (Dec. 19, 2001) CHR did not dismiss Complainant who missed Conciliation Conference where she showed that she received an eviction notice the morning of the Conference which required immediate attention; notes that default is a severe sanction not to be entered punitively. CO

Williams v. NDC, et al., CCHR No. 00-PA-107 (June 7, 2002) CHR did not dismiss Complainant for missing Conciliation Conference where he had called CHR the morning of the Conciliation Conference stating he was running late and his written explanation stated he had an asthma attack for which he had to see his doctor that morning. CO

Blakemore v. Dublin Bar & Grill, Inc., et al., CCHR No. 05-P-102 (June 8, 2007) No default against Respondents who failed to attend conciliation conference but claimed their counsel was experiencing problems with new computerized docketing system and thus was unaware of it, responded to notice of potential default, and had a record of compliance with previous CHR orders and procedures. CO

Macklin v. Lucky Strike Lanes, CCHR No. 06-E-55 (Aug. 24, 2007) No default for failure to attend conciliation conference, despite urgings of Complainant, where Respondent’s representative learned on day scheduled that he needed to stay home with 13-month-old daughter due to miscommunication with estranged wife and he promptly telephoned CHR, filed a timely response to notice, and had otherwise cooperated with CHR process. Although Respondent might have exercised better planning or judgment, default and dismissal are severe sanctions and good cause has been found in similar circumstances. CO

Blakemore v. Dublin Bar & Grill, Inc. d/b/a Dublin’s Pub, et al., CCHR No. 05-P-102 (Nov. 13, 2007) Despite untimely and minimal filing, CHR gave Complainant benefit of doubt and found good cause for failure to attend Conciliation Conference based on claimed non-receipt of notice, where Complainant had otherwise pursued case according to CHR procedures and no proof Complainant did receive the notice. CO

Martinez v. TS Management et al., CCHR No. 04-H-64 (Nov. 16, 2007) CHR denied motion to reconsider good cause finding where Respondent did not provide evidence that Complainant had actual notice of Conciliation Conference to counter Complainant’s explanation that notice was not received. Respondent not prejudiced by Complainant’s failure to serve explanation where CHR allowed Respondent to seek reconsideration. Dismissal and default are severe sanctions not to be entered punitively, and Respondent also benefited from CHR not imposing harsh sanctions for non-prejudicial technical errors. CO

Cotten v. Denim Lounge, CCHR No. 08-P-6 (Mar. 31, 2009) Respondent’s motion for sanctions denied where Complainant withdrew complaint after failing to provide promised documentation of phone call to Respondent business on alleged discrimination date. Although voluntary withdrawal does not preclude sanctions for frivolous or false pleading, withdrawal or timing of withdrawal are not sufficient proof and other evidence in this
case is inconsistent with a finding that Complainant deliberately misrepresented facts. Also, under 2008 regulations imposition of procedural sanctions is within discretion of CHR, no motion for sanctions is created, and right of a party to petition for costs arising from procedural violation is limited to situations where CHR has decided to impose sanctions. CO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Apr. 9, 2009) Respondents’ motion to strike and sanction denied where Complainant’s counsel filed a pre-hearing memorandum containing details about content of settlement discussion between parties despite CHR order sealing parts of hearing record and Reg. 230.120 prohibiting use of settlement discussion as evidence on merits of claim. Under 2008 regulations, sanctions are within CHR discretion and no motion for sanctions is created. Issue was moot because complaint was dismissed for lack of jurisdiction and CHR issued a second order adding the pre-hearing memorandum to the documents under seal. Complainant’s error was not blatant or willful and Respondent was not prejudiced by hearing officer’s access to the information. CO

Cotten v. La Luce Restaurant, Inc., CCHR No. 08-P-034 (Apr. 21, 2010) Despite display of disregard and disrespect for CHR’s process throughout the case, no sanction entered against Respondent’s attorney for failure to serve certain documents properly on hearing officer and blatant disregard for deadlines during hearing process, given that impact was on CHR rather than Complainant and in hope that forbearance would promote compliance going forward. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Board upheld hearing officer’s denial of sanctions for failure to comply with discovery orders and ad hominem comments of attorney where Complainant was not prejudiced and warning was sufficient to promote compliance going forward. Sanctions for procedural violations are administered on a case-by-case basis and are not a mandatory penalty system. R

Sanctions Imposed
Williams v. Bally Total Fitness and Lounge, CCHR No. 06-P-48 (Jan. 21, 2009) $500 fine imposed on Complainant for false testimony costing City extensive expenses for CHR staff time and payments to conciliator, hearing officer, and court reporter for adjudication of case. R
Martinez v. Midtown Kitchen and Bar et al., CCHR No. 09-P-29 (Oct. 11, 2010) Case dismissed during pre-hearing process where Complainant failed to comply with hearing officer orders including discovery instructions, respond to sanctions motion, explain his non-compliance, or take any action to prosecute his case. HO

Striking Hearing Testimony
Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 9, 2001) Where expert witness visited building without authorization between days of hearing, hearing officer struck his testimony but did not otherwise sanction complainant’s attorney who had no knowledge of the visit. HO

SCHOOLS/UNIVERSITIES
Discretion of Board
Morris v. Chicago Board of Educ., CCHR No. 97-E-41 (Feb. 9, 2001) Fact that the Board of Education has discretion to make certain decisions does not make those decisions exempt from review to determine whether they were discriminatory. CO

Employee v. Student
Kenny v. Loyola Univ., et al., CCHR No. 01-E-87 (Oct. 4, 2001) CHR dismissed Complainant’s claims – such as being expelled and not allowed to use a certain shuttle – which concerned her status as a student not employee CHR had previously found these claims did not concern a covered public accommodation; see CCHR No. 01-PA-44 (Sep. 24, 2001). CO

Public Accommodations
Found Not Open to Public
Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) CHR found Respondent school not to be a public accommodation with respect to registering for or attending class as those functions are not made available to the general public, but only to students. CO
Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) Being threatened with expulsion not service provided to general public and so Respondent is not a covered public accommodation. CO
Gill v. Chicago Board of Education, CCHR No. 00-PA-54 (June 13, 2001) CHR found school not to be a public accommodation with respect to transferring existing student to new schools as transfers are not available to members of the general public. CO
Kenny v. Loyola Univ., et al., CCHR No. 01-PA-44 (Sep. 24, 2001) Where none of the particular services
at issue – a shuttle service, maintenance of records, and being expelled – are available to the general public, CHR found case does not involve public accommodation. CO

Anderson v. Malcolm X College, CCHR No. 00-PA-68 (Jan. 18, 2002) CHR found school not to be a public accommodation with respect to conduct of fellow students and administrators to Complainant-student; cites prior school-student cases which find that dealing with harassment and imposing discipline are not “services” which a school makes available to the general public. CO

Palacios v. City Colleges of Chicago, CCHR No. 02-PA-21 (Mar. 19, 2002) CHR found school not to be a public accommodation with respect to conduct of a professor and administrators to Complainant-student; cites prior school-student cases which find that dealing with harassment between students and teachers does not concern a “service” available to the general public. CO

Maat v. Chicago Bd. of Education, CCHR No. 01-PA-115 (May 17, 2002) (CHR found school not to be a public accommodation with respect to daughter’s receipt of a bad grade and attending parent-teacher meetings; CHR denied motion and sought additional information about whether public may observe classes and about nature of certain “public” events. CO

Parker v. Board of Educ. of City of Chicago, CCHR No. 02-PA-40 (Dec. 13, 2002) (same as Gill, above) CO

McFarland-Daniels v. Willis et al., CCHR No. 04-P-10/11/12/13 (Mar. 16, 2004) Where Complainant alleged that school officials and faculty deliberately made her autistic daughter’s classroom environment dangerous and unhealthful because of her disability, case dismissed because no public accommodation involved; classroom instruction and services were provided only to enrolled students, not to members of general public. CO

Sandy v. Columbia College Chicago, CCHR No. 03-P-177 (June 24, 2004) Entry to particular school building and computer laboratory found not to be public accommodations under CHRO based on Respondent’s affidavits stating they are not open to general public; fact that unauthorized persons may gain entry does not establish that premises are, as matter of school policy, open to general public. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (June 29, 2007) School not a public accommodation with respect to harassment of an enrolled student or renewal of enrollment. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (Sep. 6, 2007) Reaffirms decision of July 29, 2007, on request for review. That school’s initial admission process is open to public does not make the re-enrollment of existing students a public accommodation. CO

Found Open to Public – No new decisions in this volume.

Standard

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) To determine whether a respondent is a public accommodation as defined by the CHRO, CHR must decide whether the facility or function at issue is offered to the general public; it does not consider the entity in a more general sense. CO

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) CHR’s school decisions demonstrate that when a function is provided only to people who have a special status with respect to the respondent, such as students, and not to any person who is a member of the general public, the respondent is not a public accommodation with respect to that function. CO

Gill v. Chicago Board of Educ., CCHR No. 00-PA-54 (June 13, 2001) (same as both entries, above) CO

Kenny v. Loyola Univ., et al., CCHR No. 01-PA-44 (Sep. 24, 2001) (same) CO

Kenny v. Loyola Univ., et al., CCHR No. 01-PA-44 (Sep. 24, 2001) Specifically rejects Complainant’s attempt to have CHR consider public functions and facilities of Loyola which are not at issue in the case. CO

Anderson v. Malcolm X College, CCHR No. 00-PA-68 (Jan. 18, 2002) (same as Gill, above) CO

Palacios v. City Colleges of Chicago, CCHR No. 02-PA-21 (Mar. 19, 2002) (same as Gill, above) CO

Maat v. Chicago Bd. of Educ., CCHR No. 01-PA-115 (May 17, 2002) (same) CO

Parker v. Board of Educ. of City of Chicago, CCHR No. 02-PA-40 (Dec. 13, 2002) (same as Gill, above) CO

McFarland-Daniels v. Willis et al., CCHR No. 04-P-10/11/12/13 (Mar. 16, 2004) Classroom instruction and services to enrolled students not public accommodations under CHRO. CO

Sandy v. Columbia College Chicago, CCHR No. 03-P-177 (June 24, 2004) Whether school or university is public accommodation under CHRO turns on whether facility or service at issue is open to general public, not whether school is public or private institution nor whether unauthorized persons may sometimes gain entry. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (June 29, 2007) Whether facility or function of school or university is a public accommodation turns on whether it is open to general public or specifically designated for students and their guests, staff, faculty, and other authorized individuals. CO

Paolucci et al. v. Chicago City Day School et al., CCHR No. 07-P-68 (Sep. 6, 2007) Reaffirms decision of
July 29, 2007, on request for review. That school’s initial admission process is open to public does not make the re-enrollment of existing students a public accommodation. CO

State Universities

*Saunders et al. v. University of Illinois & Northeastern Ill. Univ., et al.,* CCHR No. 93-E-211 et al. (Dec. 21, 2001) Decisions by state appeals court causes City of Chicago not to be able to regulate state universities and so cases against them dismissed. CO

SERVICE/FILING OF DOCUMENTS – See also Complaints/Service of and Motions/Service sections, above.

By CHR

*Vitek v. Blockbuster*, CCHR No. 02-PA-135 (July 17, 2003) CHR Regulations do not specifically require CHR to mail Respondent Notifications and other notices to corporate registered agents; under Reg. 210.145, complainant is responsible to provide address sufficient to enable CHR to serve each named respondent. CO

*Sanders v. Zoom Kitchen*, CCHR No. 03-E-29 (Aug. 14, 2003) CHR not required to personally serve owner or manager of business entity to constitute good service; throughout CHR’s Regulations, service defined to include depositing in U.S. Postal Service mailbox. Therefore, where CHR mailed Order of Default, it was presumed that U.S. Postal Service delivered mailing to Respondent at its then-operating location and that delivery receipt was signed by Respondent’s agent at that address. CO

*Blakemore v. Walgreen’s*, CCHR No. 03-P-156 (Nov. 4, 2004) No error in directing mail service of Complaint against well-known large corporate respondent to company-operated branch store in Chicago where alleged discrimination occurred, as it should have alerted agent of corporation, namely store manager; service on corporate headquarters outside City not required. However, where no response was received and CHR could not confirm that mailing reached proper representative, held not improper to re-notify corporation utilizing corporate address provided by respondent in previous cases against it. Complainant not entitled to order of default on these facts, where respondent had record of compliance with CHR procedures and promptly responded to notice sent to second address. CO

*Maat v. Brian’s Juice Bar & Deli, Inc.*, CCHR No. 05-P-25 (Apr. 21, 2005) Complaint not dismissed where CHR did not serve it on Respondent in ten days after filing; deadlines for CHR action are directory not mandatory and do not provide grounds for dismissal; Complainant has property interest in case with due process right to proceed. CO

*Molden v. BGK Sec. Serv., Inc.*, CCHR No. 04-E-141 (May 5, 2005) Default order entered after Respondent’s written explanation failed to provide good cause for failure to attend Conciliation Conference: Respondent failed to notify CHR of address change, as is its obligation, so CHR entitled to rely on latest contact information in file; evidence showed that mailings to the address were received and no mailings were returned to CHR undelivered. CO

*Blakemore v. Dominick’s Finer Foods*, CCHR No. 01-PA-51 (May 5, 2005) Default order entered after Respondent’s written explanation for missing Conciliation Conference failed to establish that it did not receive notice of it: record shows mailings were sent to latest address provided to CHR; no evidence to confirm speculation that notice was incorrectly addressed; and evidence showed that other mailings to address were received. CO

*Bilal v. Daniel Murphy Scholarship Found.*, CCHR No. 02-E-4 (June 8, 2005) CHR denied Complainant’s request to send all documents by certified mail where not required to do so under Reg. 270.210. CO

*Brandon v. Kentucky Fried Chicken*, CCHR No. 04-P-62 (Sep. 8, 2005) Service on respondent fast food restaurant held adequate where mailed to address of restaurant where alleged discrimination occurred; no requirement to serve registered agent of owner corporation. CO

*Williams v. Iggy’s Restaurant*, CCHR No. 05-P-79 (Sep. 8, 2005) Service on respondent restaurant held adequate where mailed to restaurant address; CHR has always held it sufficient to serve at address where business operates, especially when mail is deliverable there. Not required to serve registered agent of owner corporation. CO

*Maat v. RTG, Ltd.*, CCHR No. 05-P-23 (Oct. 3, 2005) (same as *Maat v. Brian’s Juice Bar & Deli, Inc.*, above.) CO

*Cooper v. Park Management & Investment Ltd. et al.*, CCHR No. 03-H-48 (July 26, 2007) Business Respondent’s request for information about CHR’s attempts to serve individual Respondent denied pursuant to Reg. 220.410(a)(2); CHR does not disclose to parties evidence or other information in investigative file until case dismissed or substantial evidence decision made, nor is CHR required to inform respondents about efforts to serve co-respondents. CO

*Hawkins v. Ward & Hall*, CCHR No. 03-E-114 (Aug. 23, 2007) Mailing to last address CHR has for a respondent is sufficient notice under Reg. 210.270. A respondent that does not update contact information cannot later rely on failure to receive any notice, order, or other document as a defense. Thus order of default was reaffirmed. CO

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By Parties

Vitek v. Blockbuster, CCHR No. 02-PA-135 (July 17, 2003) Reg. 270.220 states documents sent via facsimile are deemed filed on receipt but not complete until original and one copy are received by mail or in person. Reg. 270.210 states documents required to be served must be served so they are received on day designated. CO

Hernandez v. Colonial Medical Center et al., CCHR No. 05-E-14 (June 25, 2007) Reg. 240.349(a) requires that all motions in hearing process be served on hearing officer; continuance motion denied for lack of proper service and other deficiencies. HO

Blakemore v. Bitritto Enterprises Inc., et al., CCHR No. 06-P-12/24 (Sep. 12, 2007) Statement seeking attorney fees dismissed for failure to properly file and serve it pursuant to Regs. 240.630 and 270.210. HO

Henderson v. Heartland Housing Inc., et al., CCHR No. 06-H-04 (June 11, 2008) Parties admonished to review orders and regulations to avoid further procedural errors causing delay in responding to motions—including need to file attorney appearance, need to serve hearing officer, and need to serve opposing party. HO

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (July 1, 2009) Motion to vacate default denied for lack of good cause and because it was not served on the hearing officer, nor was proof of service on complainant provided. HO

Monticello v. Tran et al, CCHR No. 10-P-99 et al., (Nov. 4, 2010) Request for accommodation to file complaints and other documents by e-mail denied where Complainant failed to establish that disability or other good cause required e-mail filing such that no permitted filing method—in-person, mail, or fax—was workable. Complainant can use e-mail only to communicate questions about complaint process to and from CHR. CO

SETTLEMENT AGREEMENTS

Agreements Made Elsewhere

Haywood v. Chicago Transit Authority, CCHR No. 99-E-117 (Oct. 30, 2003) Where settlement agreement and release entered into in federal court with same Respondent demonstrated that Complainant settled and released her CHR claims, motion to dismiss granted and Complaint dismissed. CO

Hoppenfeldt et al. v. Chicago Transit Authority et al., CCHR No. 93-PA-64 et al. (Dec. 8, 2003) Complaints dismissed where class action settlement agreement and release entered into in federal court covered some CHR Complainants as named plaintiffs and others as class members, covered same Respondent (and its employees), and involved same accessibility-related claims in connection with Respondent’s fixed-route bus and rail system; language of settlement and release demonstrated its application to CHR claims. CO

Biondi v. Chicago Transit Authority; CCHR No. 94-PA-42 (Dec. 21, 2005) CHR denied motion to dismiss based on federal court settlement and release covering “all accessibility related claims in connection with the CTA’s fixed route bus and rail systems,” where CHR Complaint claimed accessibility problems with CTA’s paratransit services, which were not fixed routes and so not covered by release. CO

Harris v. City Colleges of Chicago, CCHR No. 03-E-122 (Dec. 21, 2006) CHR has dismissed complaints based on settlements and releases entered in context of federal court proceeding. CO

Harris v. City Coll. of Chicago, CCHR No. 03-E-122 (Feb. 8, 2007) Decision upheld on request for review. CO

Approval

Blakemore v. AMC-GCT Inc., CCHR No. 03-P-146 (May 19, 2005) Final order modified to change closure basis to voluntary withdrawal pursuant to private settlement where initially entered as failure to cooperate at Conciliation Conference and CHR was unaware of later settlement. Modification warranted in light of CHR policy encouraging voluntary settlements, but order finding failure to cooperate not withdrawn and fine not vacated. CO

Ross v. Royal Michigan Motel et al., CCHR No. 01-H-3 (Aug. 7, 2008) Motion to enforce oral agreement denied where record did not provide uncontested facts that agreement had been reached, Respondent testified he had not accepted offer, and there was no testimony that a definitive agreement was reached regarding one of the terms. Standards and precedents as to approval of oral settlement agreement discussed. CO

Henderson v. Heartland Housing, Inc. et al, CCHR No. 06-H-4 (Aug. 21, 2008) Approval of settlement agreement denied where Respondent’s attorney, not Respondent, signed it without the certification of authority explicitly required by Reg. 230.130(a). Case remained pending before hearing officer, whose authority was discussed. CO

Williams v. Fletcher, CCHR No. 06-H-16 (Jan. 29, 2009) CHR denied approval of proposed settlement agreement which contained provision for fines to the City of Chicago and for training involving the Commission. Commission is neutral adjudicator and cannot participate in settlement agreement. CO
**Cotten v. Hollywood Grill**, CCHR No. 09-P-74 (June 30, 2010) Case dismissed without approval of proposed settlement agreement where complainant failed to respond to order to submit either certification of his attorney’s authority to sign it or a withdrawal request. Failure of complainant to attend the settlement conference where the agreement was signed compounded its lack of authority and enforceability. CO

**Shipp v. Century 21 Kniecek Inc. et al.**, CCHR No. 12-H-16 (June 28, 2012) CHR cannot approve settlement agreement which would compel CHR to take an action which is unauthorized or discretionary, or which limits a party’s right to seek enforcement of the agreement under any applicable law. CHR does not become a party to a settlement agreement by approving it. CO

**Enforcement of** – See Enforcement of Settlement Agreement section, above.

**Offer**

**Matthews v. Hinckley & Schmitt**, CCHR No. 98-E-206 (Jan. 17, 2001) Fact that Respondent later offered Complainant the job she claims she was discriminatorily denied is not evidence of pretext but is simply an acceptable means of limiting potential liability. R

**Private Settlements**

**Hawkins v. Jack’s Lounge**, CCHR No. 05-P-61 (Apr. 7, 2006) Under Reg. 235.210, after CHR dismisses a case pursuant to a private settlement agreement, it has no jurisdiction over any dispute about the agreement’s validity, terms, or implementation. CO

**Releasing CHR Claims** – See separate Release of CHR Claims section, above.

**SETTLEMENT CONFERENCE** – See also Conciliation Conference section for decisions issued prior to July 1, 2008, above.

**Commission Discretion**

**Montelongo v. Azarpira**, CCHR No. 09-H-23 (June 1, 2010) Whether to hold settlement conference is within Commission’s discretion under 2008 Regs. CO

**Continuance**

**Montelongo v. Azarpira**, CCHR No. 09-H-23 (June 1, 2010) Continuance denied where request submitted two days before scheduled settlement conference with no evidence of service on respondent. That Complainant had an appointment with a law office which may represent her did not provide good cause. CO

**Failure to Attend**

**Sanction Declined**

**Mualem v. McGrath Lexus of Chicago**, CCHR No. 07-E-92 (Nov. 14, 2008) Motion to dismiss denied and no sanction imposed where Complainant attended but refused to participate in settlement conference after his attorney discontinued representing him shortly before. Despite Respondent’s vigorous arguments for sanctions claiming Complainant’s explanations were untruthful, Complainant’s timely response to notice and assertions that he had telephoned CHR staff who (incorrectly) told him to come to the conference and ask for a continuance do not point to willful disregard of CHR procedures. Decision discusses updated provisions for procedural sanctions under amended regulations effective July 1, 2008, and notes this is a close call in which Complainant is being given benefit of doubt but must diligently learn and comply with CHR procedures going forward, with or without counsel. To avoid further cost to Respondent, settlement conference not rescheduled and case would be set for hearing. CO

**Flores v. A Taste of Heaven et al.**, CCHR No. 06-E-32 (Jan. 29, 2009) Assertion that Respondent had an unexpected work conflict is too vague and conclusory to support finding of good cause for last-minute continuance or failure to attend settlement conference. Respondents’ counsel fined $250 under new Reg. 235.440 for misrepresentations to CHR and opposing counsel in connection with the missed proceeding. CO

**Johnson v. Hyde Park Corporation d/b/a Hyde Park Citgo**, CCHR No. 08-P-95,96, (Dec. 3, 2009) No sanction against Respondent that missed settlement conference where it responded to notice by affidavit averring it never received notice of the conference, and this was first instance of failure to cooperate with CHR procedures. CO

**Sanction Entered**

**Cotten v. Coffee Pot & Mail Drop**, CCHR No. 08-P-39 (Mar. 12, 2009) No default but Respondent fined $100 for failure to attend settlement conference, where this was first procedural violation. CO

**Cotten v. Connolly Currency Exchange**, CCHR No. 11-P-61 (Jan. 12, 2012) Case dismissed where Complainant failed to attend settlement conference then in response to notice of potential dismissal submitted by fax
a doctor’s note of questionable authenticity which did not demonstrate knowledge of Complainant’s medical status on the day in question. Complainant failed to explain why he was unable to notify CHR in advance of his inability to attend. No monetary sanctions because dismissal is a severe sanction and Respondent benefited from it. CO

When to Hold

McGhee v. Mado Management LP, CCHR No. 11-H-10 (Aug. 18, 2011) CHR granted Respondent’s request to cancel settlement conference where Complainant, who was represented by counsel, did not respond to request and Respondent stated it was unwilling to settle. 2008 amendments to CHR regulations give CHR discretion whether to order a settlement conference, and CHR did not wish to expend resources on one that was unlikely to be productive. CO

SEX DISCRIMINATION

Affirmative Action Plan – No new decisions in this volume.

Athletics – No new decisions in this volume.

Bathrooms

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) CHRO specifically exempts bathrooms from the prohibition against sex discrimination in public accommodations so CHR found Complainant’s sex-based claims about not having full use of a restroom not to be actionable. CO

Sandy v. Chicago Cultural Center et al., CCHR No. 03-P-10 (Jan. 25, 2005) Where a security guard attempted to determine Complainant’s sex as she was using a restroom, CHR dismissed sex discrimination claim because private facilities such as restrooms are exempt from the CHRO’s public accommodation discrimination prohibition. CO

Burden Shifting – See Disparate Treatment section, above.

Dress Codes – No new decisions in this volume.

Exemption – No new decisions in this volume.

Grooming Standards – No new decisions in this volume.

Liability Found

Griffiths v. DePaul University, CCHR No. 95-E-224 (Apr. 19, 2000) Respondent found liable for revoking job offer as “Resident Hall Minister” to female Complainant once it learned she was pregnant. R

Salwierak v. MRI of Chicago, Inc. & Baranski, CCHR No. 99-E-107 (July 16, 2003) Sexual harassment found where supervisor made offensive sexual remarks, taunted Complainant about her sex life, and touched her inappropriately, all of which Complainant made clear was unwelcome. Employer corporation found liable with individual harasser, as undisputed evidence was that it was aware of the harassment but took no steps to stop it. R

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Prima facie case of sexual harassment established where landlord repeatedly demanded sexual favors from tenant, offered to reduce security deposit in return for sex, sexually assaulted her, then attempted to evict her for resisting his advances using unfounded termination notices. R

Martin v. Glen Scott Multi-Media, CCHR Case No. 03-E-034 (Apr. 21, 2004) After default order, Complainant established prima facie case of pregnancy-related sex discrimination where discharged for being absent two days due to illness after she told her employer she was pregnant. R

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) Quid pro quo sexual harassment found where owner of business caused termination of Complainant’s employment after she discontinued an initially-consensual dating relationship with him, then refused to pay all compensation due. R

Morrow v. Tumala, CCHR No. 03-P-2 (Apr. 18, 2007) After order of default, prima facie case of race and sex discrimination proved where driver told female African-American taxicab passenger she must pay at rate of a meter and a half to ride from downtown Chicago to Oak Park, then took white male passenger on same trip at straight meter rate. R

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established prima facie case of sexual harassment where restaurant manager subjected her to repeated sexual advances which included exposing himself and physical assault. R

Williams v. Funky Buddha Lounge, CCHR No. 04-P-82 (July 16, 2008) After order of default, prima facie case of sex and sexual orientation discrimination established where Complainant was denied entry to nightclub
because he was not a gay woman. Although males were inside the establishment, sex discrimination established where two women not on guest list were allowed entry while male Complainant not on guest list was denied entry. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) After order of default, Mexican-American kitchen employee established *prima facie* case that restaurant owner harassed and discharged her based on age, sex, and national origin when he engaged in repeated derogatory slurs and insults, then discharged her stating “I don’t need her work because she’s already old. And I don’t like Mexicans in my business.” R

**Liability Not Found**

Chimpoulis/Richardson v. J & O Corp. et al., CCHR No. 97-E-123/127 (Sep. 20, 2000) CHR found that neither male, over-age-40 Complainant overcame Respondents’ non-discriminatory, performance-related reasons to discharge them; Respondents presented evidence of malfeasance and poor performance and any comments about their age and sex were made by personnel who did not make the discharge decisions. R

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) No pregnancy-related sex discrimination where evidence did not establish that Respondent knew Complainant was pregnant when it decided to discharge her. Also no evidence Respondent treated Complainant differently after allegedly being informed of the pregnancy. R

Harris v. Dunkin Donuts, Baskin Robbins et al., CCHR No. 05-P-97 (July 16, 2008) No race or sex discrimination where African-American male was denied access to Respondent’s restroom but Caucasian woman allowed to enter to look for her keys. Although Complainant proved a *prima facie* case, Respondent proved that the restroom was out of order at the time and not usable by any member of public. R

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) No pregnancy-related sex discrimination where evidence did not establish that Respondent knew Complainant was pregnant when it decided to discharge her. Also no evidence Respondent treated Complainant differently after allegedly being informed of the pregnancy. R

**Physical Intimidation – No new decisions in this volume.**

**Pregnancy Discrimination – See separate Pregnancy Discrimination section, above.**

**Proof**

Blakemore v. Kinko’s, CCHR No. 01-PA-77 (Dec. 6, 2001) CHR found complaint sufficient to state a claim, but noted that the facts that Complainant was male and African-American while the employee was white and a customer complaining about him was white and female were not alone sufficient to demonstrate that he was asked to end his use of a public service due to his race or sex. CO

Blakemore v. AMC-GCT, Inc., CCHR No. 03-P-146 (Apr. 21, 2005) CHR rejects stereotypical assumptions suggesting that individual’s race or gender inherently taints any decisions or conduct concerning persons of another race or gender. CO

Poole v. Perry & Assoc., 02-E-161 (Feb. 15, 2006) No pregnancy-related sex discrimination where evidence did not establish that Respondent knew Complainant was pregnant when it decided to discharge her. Also no evidence Respondent treated Complainant differently after allegedly being informed of the pregnancy. R

**Reasonable Woman Standard**

Harper v. Cambridge Systematics, Inc. et al., CCHR No. 04-E-86 (Feb. 17, 2010) CHR reviewed record as whole and totality of circumstances from perspective of reasonable woman to determine whether conduct sufficiently severe or pervasive to create hostile workplace environment. Two male managers grabbing their genitalia for one to two seconds in Complainant’s presence deemed not sufficiently severe or pervasive. R

**Sexual Harassment**

Salwierak v. MRI of Chicago, Inc. & Baranski, CCHR No. 99-E-107 (July 16, 2003) Sexual harassment found where supervisor made offensive sexual remarks, taunted Complainant about her sex life, and touched her inappropriately, all of which Complainant made clear was unwelcome. Employer corporation found liable with individual harasser, as undisputed evidence was that it was aware of the harassment but took no steps to stop it. R

Frazier v. Midlakes Mgmt. LLC et al., CCHR No. 03-H-41 (Sep. 15, 2003) Reg. 420.170 makes clear that CFHO’s prohibition of discrimination against any person because of his or her sex in any terms and conditions of housing includes sexual harassment. Complaint alleging Complainant was refused opportunity to rent larger unit in building after refusing building manager’s sexual advances held sufficient to state claim. CO

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) *Prima facie* case of sexual harassment established where landlord repeatedly demanded sexual favors from tenant, offered to reduce security deposit in return for sex,
sexually assaulted her, then attempted to evict her for resisting his advances using unfounded termination notices. R

*Heinstein v. Premiere Connections, LLC et al.,* CCHR No. 02-E-215 (Oct. 27, 2003) Complaint sufficient to state sex discrimination claim by alleging that after Complainant rejected further dating relationship with business owner, Respondents terminated her employment, denied her compensation, and otherwise treated her adversely in connection with her employment; fact that all employees were female not determinative of outcome of sexual harassment claim. CO

*Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al.,* CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established *prima facie* case of sexual harassment where restaurant manager subjected her to repeated sexual advances which included exposing himself and physical assault. R

*Harper v. Cambridge Systematics, Inc. et al.,* CCHR No. 04-E-86 (Feb. 17, 2010) Complainant’s testimony that two male managers grabbed their genitals for one to two seconds in her presence found not credible, and actions deemed not sufficiently severe or pervasive to create hostile working environment. R

*Williams v. RCJ Inc. et al.,* CCHR No. 10-E-91 (Oct. 19, 2011) *Prima facie* case of sexual harassment where convenience store owner asked cashier to wear revealing clothes to attract male customers, inquired about her sex life, asked what she would charge for a blow job, pressed his private parts against her, and told her teenage daughter to come to a back room with him to work for her food. R

**Transsexualism** – See Volume 1 and Gender Identity Discrimination section, above

**SEXUAL HARASSMENT**

**Burden of Proof**


**Burden Shifting** – No new decisions in this volume.

**Constructive Discharge** – No new decisions in this volume.

**Continuing Violation** – No new decisions in this volume.

**Co-Worker Conduct** – No new decisions in this volume.

**Harassment of Others**

*Carnithan & Lencioni v. Chicago Park Dist., et al.,* CCHR No. 00-E-147/148 (May 24, 2001) Even if Respondent were correct that one Complainant was only a witness of sexual harassment, not the target, he could proceed with a hostile environment claim, as he could prove that the harassing conduct had the purpose or effect of substantially interfering with his work performance or that it created an intimidating, hostile or offensive work environment. CO

**Hostile Environment**

*Hostile Environment*

*Duignan v. Little Jim’s Tavern, et al.,* CCHR No. 01-E-38 (Sep. 10, 2001) CHR denied motion to dismiss in which complainant alleged that there were several harassing events in just over two months, one of which involved touching, and where he claimed harassing comments were made starting at the inception of his employment, thus finding it could not find a lack of frequency and pervasiveness as a matter of law. CO

*Duignan v. Little Jim’s Tavern, et al.,* CCHR No. 01-E-38 (Sep. 10, 2001) Although it is true that the Supreme Court directs fact-finders to consider “social context” in same-sex sexual harassment cases, CHR declined to find, as a matter of law, that gay bars are so rife with sexual conduct that it must find it acceptable for a supervisor
in a gay bar to make passes at employees, as alleged. CO

**Little v. Tommy Gun’s Garage, Inc.,** CCHR No. 99-E-11 (Jan. 23, 2002) In order to create an unlawful hostile environment, co-worker’s conduct must be sufficiently severe and pervasive to alter the conditions of the complainant’s work environment; a single, isolated event was not enough. R

**Little v. Tommy Gun’s Garage, Inc.,** CCHR No. 99-E-11 (Jan. 23, 2002) Even if the one allegedly sexual event were enough to show a hostile environment [see entry above], management took reasonable corrective action which effectively stopped all harassment from taking any other action against Complainant. R

**Salwierak v. MRI of Chicago, Inc. & Baranski,** CCHR No. 99-E-107 (July 16, 2003) Sexual harassment found where supervisor made offensive sexual remarks, taunted Complainant about her sex life, and touched her inappropriately, all of which Complainant made clear was unwelcome. Employer Corporation found liable with individual harasser, as undisputed evidence was that it was aware of the harassment but took no steps to stop it. R

**Caproni v. The Ark, Singer Residence et al.,** CCHR No. 02-H-78 (Aug. 21, 2003) Motion to dismiss asserting insufficient facts to support sex discrimination claim denied where Complainant alleged at least one request for sex by Respondent while providing Complainant with needed household items and also alleged Respondent stopped knocking on Complainant’s door when her husband was present. CO

**Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al.,** CCHR No. 06-E-17 (Sept. 19, 2007) Hostile environment sexual harassment established where restaurant manager subjected Complainant to repeated sexual advances which included exposing himself and physical assault. R

**Hawkins v. Ward & Hall,** CCHR No. 03-E-114 (May 21, 2008) Hostile environment sexual harassment found where supervisor regularly asked Complainant out, once got close to Complainant and told her she was attractive, and once asked Complainant, “What color panties have you got on?” R

**Harper v. Cambridge Systematics, Inc. et al.,** CCHR No. 04-E-86 (Feb. 17, 2010) Complainant’s testimony that two male managers grabbed their genitals for one to two seconds in her presence found not credible, and actions deemed not sufficiently severe or pervasive to create hostile working environment. R

**Shores v. Nelson d/b/a Blackhawk Plumbing,** CCHR No. 07-E-87 (Feb. 17, 2010) After order of default, employee proved *prima facie* case of hostile environment and *quid pro quo* sexual harassment where company owner exposed himself in her presence, propositioned her, asked her not to come to work for several days and stopped payment on a bonus check when she rebuffed his advances, and ultimately locked her out of the company. R

**Gray v. Scott,** CCHR No. 06-H-10 (Apr. 20, 2011) Respondent landlord created hostile housing environment where he frequently made sexual gestures and comments such as “you’re not nice to me” which were offensive, unwelcome, and pervasive. R

**Liability Found**

**Salwierak v. MRI of Chicago, Inc. & Baranski,** CCHR No. 99-E-107 (July 16, 2003) Sexual harassment found where supervisor made offensive sexual remarks, taunted Complainant about her sex life, and touched her inappropriately, all of which Complainant made clear was unwelcome. Employer Corporation found liable with individual harasser, as undisputed evidence was that it was aware of the harassment but took no steps to stop it. R

**Sellers v. Outland,** CCHR No. 02-H-37 (Oct. 15, 2003) *Prima facie* case of sexual harassment established where landlord repeatedly demanded sexual favors from tenant, offered to reduce security deposit in return for sex, sexually assaulted her, then attempted to evict her for resisting his advances using unfounded termination notices. R

**Carroll v. Riley,** CCHR No. 03-E-172 (Nov. 17, 2004) After default order, male employee established *prima facie* case of sexual harassment where female employer fired him because he entered relationship with another woman after a personal relationship with her.

**Feinstein v. Premiere Connections, LLC et al.,** CCHR No. 02-E-215 (Jan. 17, 2007) *Quid pro quo* sexual harassment found where owner of business caused termination of Complainant’s employment after she discontinued an initially-consensual dating relationship with him, then refused to pay all compensation due. R

**Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al.,** CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established *prima facie* case of sexual harassment where restaurant manager subjected her to repeated sexual advances which included exposing himself and physical assault. R

**Hawkins v. Ward & Hall,** CCHR No. 03-E-114 (May 21, 2008) After default, *prima facie* case of sexual harassment established where supervisor regularly asked Complainant out, once got close to Complainant and told her she was attractive, and once asked Complainant “What color panties have you got on?” Harasser’s supervisor also liable for sexual harassment due to failure to take remedial action when she knew of the harassment. R

**Shores v. Nelson d/b/a Blackhawk Plumbing,** CCHR No. 07-E-87 (Feb. 17, 2010) After order of default, employee proved *prima facie* case of hostile environment and *quid pro quo* sexual harassment where company owner exposed himself in her presence, propositioned her, asked her not to come to work for several days and stopped payment on a bonus check when she rebuffed his advances, and ultimately locked her out of the company. R

**Gray v. Scott,** CCHR No. 06-H-10 (Apr. 20, 2011) Based on hearing officer’s assessment of credibility,
sexual harassment found where landlord frequently made sexual gestures and comments such as “you’re not nice to me” which were offensive, unwelcome, and pervasive. R

Williams v. RCI Inc. et al., CCHR No. 10-E-91 (Oct. 19, 2011) Prima facie case of sexual harassment where convenience store owner asked cashier to wear revealing clothes to attract male customers, inquired about her sex life, asked what she would charge for a blow job, pressed his private parts against her, and told her teenage daughter to come to a back room with him to work for her food. R

Liability Not Found

Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) CHR found Complainant did not prove that Respondent subjected Complainant to racial or sexual harassment or that it terminated her due to race or sex; ruling based on credibility of parties and witnesses. R

Little v. Tommy Gun’s Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) Respondent showed that it had a legitimate, nondiscriminatory basis for taking Complainant off the schedule – she disrupted co-workers and customers and missed meetings with management to discuss that – and Complainant did not show that was a pretext for race or sex discrimination. R

Miller v. Stony Sub et al., CCHR No. 05-E-150 (Jan. 21, 2009) No ordinance violation where female minor claimed she was sexually harassed and constructively discharged from employment at convenience store, but evidence was insufficient to prove she was in an employment relationship as defined by the Human Rights Ordinance. R

Harper v. Cambridge Systematics, Inc. et al., CCHR No. 04-E-86 (Feb. 17, 2010) Complainant’s testimony that two male managers grabbed their genitals for one to two seconds in her presence found not credible, and actions deemed not sufficiently severe or pervasive to create hostile working environment. R

Quid Pro Quo

Brandt v. Chicago Area Interpreter Referral Svc., CCHR No. 01-E-57 (May 21, 2001) Negative action taken against a person who has refused to accede to sexual advances may be brought as part of a quid pro quo sexual harassment case even when such actions are not prohibited retaliation by the CHRO [see Retaliation/Ordinance Coverage sub-section above]; where Complainant claimed only retaliation for making an internal complaint and did not claim sex or otherwise make such a sexual harassment claim, CHR dismissed case. CO

Duignan v. Little Jim’s Tavern, et al., CCHR No. 01-E-38 (Sep. 10, 2001) CHR denied motion to dismiss in which complainant alleged that he was discharged by his supervisor just after he rebuffed his supervisor’s advances. CO

Duignan v. Little Jim’s Tavern, et al., CCHR No. 01-E-38 (Sep. 10, 2001) On motion to dismiss, CHR declined to ascribe one motivation to respondent, that complainant was not a good employee, where his complaint suggests that he was discharged after rebuffing his supervisor’s advances. CO

Chambers v. Unicorn Club, Ltd./Steamworks et al., CCHR No. 03-E-16 (Nov. 9, 2004) Complainant’s allegation that he was fired after his personal relationship with Respondent ended adequately stated a quid pro quo sexual harassment claim. Motion to dismiss was denied as not taking into account the meaning of quid pro quo sexual harassment under the CHRO. CO

Carroll v. Riley, CCHR No. 03-E-172 (Nov. 17, 2004) After default order, male employee established prima facie case of sexual harassment where female employer fired him because he entered relationship with another woman after a personal relationship with her. R

Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Jan. 17, 2007) Quid pro quo sexual harassment found where owner of business caused termination of Complainant’s employment after she discontinued an initially-consensual dating relationship with him, then refused to pay all compensation due. R

Manning v. AQ Pizza LLC, d/b/a Pizza Time et al., CCHR No. 06-E-17 (Sept. 19, 2007) After order of default, Complainant established prima facie case of quid pro quo sexual harassment where restaurant manager demanded that she submit to his sexual advances and other sexual conduct in order to keep her job. R

Hawkins v. Ward & Hall, CCHR No. 03-E-114 (May 21, 2008) After order of default, prima facie case of sexual harassment established where two supervisors strictly and arbitrarily enforced a new, unfavorable work schedule given to Complainant after she complained about sexual harassment by one supervisor. R

Shores v. Nelson d/b/a Blackhawk Plumbing, CCHR No. 07-E-87 (Feb. 17, 2010) After order of default, employee proved prima facie case of hostile environment and quid pro quo sexual harassment where company owner exposed himself in her presence, propositioned her, asked her not to come to work for several days and stopped payment on a bonus check when she rebuffed his advances, and ultimately locked her out of the company. R

Gray v. Scott, CCHR No. 06-H-10 (Apr. 20, 2011) No quid pro quo sexual harassment found where hostile environment was often associated with Complainant’s request for repairs but Complainant’s submission to unwelcome sexual conduct was not made a condition of her tenancy or of completing the repairs. R
Reasonable Corrective Action – No new decisions in this volume.

Reasonable Woman Standard
Harper v. Cambridge Systematics, Inc. et al., CCHR No. 04-E-86 (Feb. 17, 2010) CHR reviewed record as whole and totality of circumstances from perspective of reasonable woman to determine whether conduct sufficiently severe or pervasive to create hostile workplace environment. Two male managers grabbing their genitalia for one to two seconds in Complainant’s presence deemed not sufficiently severe or pervasive. R

Retaliation
Brandt v. Chicago Area Interpreter Referral Svc., CCHR No. 01-E-57 (May 21, 2001) Negative action taken against a person who has refused to accede to sexual advances may be brought as part of a quid pro quo sexual harassment case even when such actions are not prohibited retaliation by the CHRO [see Retaliation/Ordinance Coverage sub-section above]; where Complainant claimed only retaliation for making an internal complaint and did not claim sex or otherwise make such a sexual harassment claim, CHR dismissed case. CO

Sex Discrimination
Frazier v. Midlakes Mgmt. LLC et al., CCHR No. 03-H-41 (Sep. 15, 2003) Reg. 420.170 makes clear that CFHO’s prohibition of discrimination against any person because of his or her sex in any terms and conditions of housing includes sexual harassment. Complaint alleging Complainant was refused opportunity to rent larger unit in building after refusing building manager’s sexual advances held sufficient to state claim. CO
Feinstein v. Premiere Connections, LLC et al., CCHR No. 02-E-215 (Oct. 27, 2003) Complaint sufficient to state sex discrimination claim by alleging that after Complainant rejected further dating relationship with business owner, Respondents terminated her employment, denied her compensation, and otherwise treated her adversely in connection with her employment; fact that all employees were female not determinative of outcome of sexual harassment claim. CO

Strict Liability
Carnithan & Lencioni v. Chicago Park Dist., et al., CCHR No. 00-E-147/148 (May 24, 2001) Unlike under Title VII and like under the IHRA, employers is strictly liable for the harassment of a supervisor or manager even if upper management were not aware of it. CO

Supervisory Personnel
Hawkins v. Andriana Furs, et al., CCHR No. 96-E-90 (May 15, 2000) Fact that former general counsel chose not to substantially address harassment claims in the company’s original response to the complaint is what causes much the alleged “prejudice” he now claims in opposition to the request to add him as an individual respondent; business respondent could be found liable for harassment by management personnel and its original response should have addressed those claims even when the managers themselves were not individually named. CO
See Amendment of Complaints/Adding Respondents section, above.
Carnithan & Lencioni v. Chicago Park Dist., et al., CCHR No. 00-E-147/148 (May 24, 2001) Unlike under Title VII and like under the IHRA, employers is strictly liable for the harassment of a supervisor or manager even if upper management were not aware of it. CO
Salwierak v. MRI of Chicago, Inc. & Baranski, CCHR No. 99-E-107 (July 16, 2003) Employer corporation found liable for sexual harassment along with individual harasser, as undisputed evidence was that it was aware of the harassment but took no steps to stop it. R

Unwelcome Comments/Behavior – No new decisions in this volume.

SEXUAL ORIENTATION DISCRIMINATION
Bona Fide Occupational Qualification – No new decisions in this volume.

Burden of Proof – No new decisions in this volume.

Hostile Environment
Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) To make a claim for sexual orientation harassment, Complainant must show that Respondent’s conduct had the purpose or effect of creating an intimidating, hostile or offensive housing environment; had the purpose or effect of unreasonably interfering with Complainant’s housing; or otherwise adversely affected Complainant’s housing opportunity. R
Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) Sexual orientation harassment claim may proceed even if there is no eviction claim as it constitutes possible discrimination in “terms, conditions and privileges” of occupancy. R

Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) Respondent not found liable where Complainant’s only allegation of sexual orientation harassment consisted of one unsupported statement in which a third party allegedly told Complainant that his supervisor made a negative comment about his sexual orientation; even if true, one such comment is not sufficient to create the required severe or pervasive negative environment to make an actionable harassment claim. R

Duignan v. Little Jim’s Tavern, et al., CCHR No. 01-E-38 (Sep. 10, 2001) Although it is true that the Supreme Court directs fact-finders to consider “social context” in same-sex sexual harassment cases, CHR declined to find, as a matter of law, that gay bars are so rife with sexual conduct that it must find it acceptable for a supervisor in a gay bar to make passes at employees, as alleged. CO

Fox v. Walgreens et al., CCHR No. 99-E-66 (Oct. 4, 2001) CHR denied Complainant’s Request for Review of a NSE finding about his sexual orientation-hostile environment claim, stating that facts showed that once Complainant informed management about the co-worker’s alleged harassment, it took reasonable corrective action; also finds that there is no substantial evidence that management knew of the problem before he reported it. CO

Brennan v. Zemen, CCHR No. 00-H-5 (Feb. 19, 2003) Prima facie case of sexual orientation where landlord harassed gay tenant and roommate including calling them “faggot” and “queer,” refused to renew lease after doubling rent, then rented unit to heterosexual tenant at lower price. R

Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) After default order, Complainants established prima facie case of discrimination based on perceived sexual orientation where president of Respondent company harassed them by accusing them of being gay, taunting them about it, then discharging one Complainant after hiring a less-qualified replacement over objections of company vice-president, and constructively discharging the other. R

Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) Hostile environment created where Respondents made pejorative and vulgar references to Complainant as homosexual, including “faggot” and Polish word “pedal,” that separated and belittled Complainant. R

Bellamy v. Neopolitan Lighthouse, CCHR No. 03-E-190 (Apr. 18, 2007) Three remarks bearing on sexual orientation over a 14-month period held not pervasive and did not create hostile environment where no incidents were physical or severe. R

Ramirez v. Mexicana Airlines (Mexicana de Aviacion S.A. de C.V.) and Pliego, CCHR No. 04-E-159 (Mar. 17, 2010) Complainant failed to prove sexual orientation harassment by supervisor who made seven comments Complainant found offensive and did not give him soccer tickets a coworker received. Hearing officer resolved credibility issues in favor of Respondents. Assuming the statements occurred, they were not objectively offensive where incidents were isolated and statements did not reference or relate to Complainant’s sexual orientation. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Supervisor created hostile work environment where she repeatedly harassed employee both in and out of employee’s presence about his clothing, mannerisms, associates, activities, and work based on perception that employee is gay and caused co-workers to join in. Although only one of the two is required for hostile environment, conduct was both severe and pervasive. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Hostile environment created where condo association president made multiple negative and derogatory comments about lesbian condo unit owner’s sexual orientation, reflecting president’s stated desire to keep “gay lifestyle” out of the building. R

Liability Found

Nuspl v. Marchetti, CCHR No. 98-E-207 (Sept. 18, 2002) Restaurant co-owner subjected kitchen manager to hostile work environment based on sexual orientation via tirades against gay men which increased in intensity over a short period culminating in direct attack against Complainant in front of his staff using derogatory language about him as a gay man. R

Brennan v. Zeeman, CCHR No. 00-H-5 (Feb. 19, 2003) Prima facie case of sexual orientation where landlord harassed gay tenant and roommate including calling them “faggot” and “queer,” refused to renew lease after doubling rent, then rented unit to heterosexual tenant at lower price. R

eviction due to sexual orientation established in default case where landlord commented negatively about tenant being gay, barred his guest perceived to be gay, told his family he is gay when he had not informed them, told his mother she did not want him in building because he is gay, then issued termination notice on pretext of not being current in rent. R

Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) After default order, Complainants established prima facie case of discrimination based on perceived sexual orientation where president of Respondent company harassed them by accusing them of being gay, taunting them about it, then discharging one Complainant after hiring a less-qualified replacement over objections of company vice-president, and constructively discharging the other. R

Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) Sexual orientation discrimination found where officers of Respondent organization, in whose building Complainant rented office space, created hostile environment by repeatedly directing pejorative and vulgar references to him as homosexual and/or failed to take corrective action after Complainant complained about this treatment. R

Bellamy v. Neopolitan Lighthouse, CCHR No. 03-E-190 (Apr. 18, 2007) Sexual orientation discrimination found in terms and conditions of employment where executive director of human service organization required openly lesbian employee not to express her sexual orientation in the workplace, including not mentioning or sharing pictures of her partner, while heterosexual employees including the executive director were able to discuss their personal lives freely including their families, children, and marital status. R

Williams v. Funky Buddha Lounge, CCHR No. 04-P-82 (July 16, 2008) After order of default, prima facie case of sex and sexual orientation discrimination established where Complainant was denied entry to Respondent’s establishment because he was not a gay woman. R

Alexander v. 1212 Restaurant Group et al., CCHR No. 00-E-110 (Oct. 16, 2008), aff’d Cir. Ct. Cook Co. No. 09-CH 16337 (Feb. 19, 2010), aff’d Ill. App. Ct. No 1-20-0797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No 113274 (Jan. 25, 2012). Restaurant company and individual agents discriminated against employee based on perceived sexual orientation by creating hostile work environment through frequent, continuing comments and derogatory epithets insinuating that he is gay. No discrimination found in connection with termination of Complainant’s employment, which was due to disputes about authority and attendance. R

Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald’s et al., CCHR No. 07-P-62/63/92 (July 15, 2009) Liability found where restaurant security guard audibly discussed and ridiculed two customers as “fags” and made other anti-gay comments. Restaurant owner held vicariously liable for security guard’s actions where agency relationship found to exist and action was foreseeable. R

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Sexual orientation harassment found where (1) supervisor subjected employee to a hostile work environment after determining he is gay including slurs, references to homosexuality, stereotypical gestures, and causing co-workers to join in; and (2) employer took inadequate corrective action after employee reported the harassment under established policies. R

Gilbert & Gray v. 7335 South Shore Condo. Assn. et al., CCHR No. 01-H-18/27 (July 20, 2011) Negative and derogatory remarks by condo association president about lesbian unit owner’s sexual orientation created hostile housing environment for unit owner. Using mixed motive analysis, CHR found the association president’s anti-gay animus played a part in unit owner’s eviction and in blocking a unit purchase by unit owner’s lesbian partner, but Respondents proved “same result” defense that the eviction and purchase denial would have occurred even if Complainants were not lesbian. Although Respondents not absolved of liability by mixed motives, damages would be reduced appropriately. R

Liability Not Found

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) Complainant did not prove that Respondent created hostile environment due to Complainant’s sexual orientation in where he alleged just one anti-gay statement; statement, even if made, said in context of argument over unpaid rent and is not, in any case, sufficient to create hostile environment; Respondent also showed that he had rented to at least one other gay individual without difficulty. R

Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (Oct. 18, 2000) Respondent found not liable where Complainant’s only allegation of sexual orientation harassment consisted of one unsupported statement in which a third party allegedly told Complainant that his supervisor made a negative comment about his sexual orientation; even if true, one such comment is not sufficient to create the required severe or pervasive negative environment to make an actionable harassment claim. R

Doxy v. Chicago Public Library, CCHR No. 99-PA-31 (Apr. 18, 2001) Respondent found not liable where Complainant’s allegations that he was called a “faggot” and referred to as a dancer were found not credible; Respondent’s defense that it asked Complainant to leave because his genitals were visible was found credible. R

Review about the position into which gay Complainant was placed after being laid off, CHR considered that the other person laid off from Complainant’s two-person unit, and who was not gay, was not placed into any new position and so was treated worse than Complainant. CO

Richardson v. Chicago Area Council, Boy Scouts of America, CCHR No. 92-E-80 (Feb. 19, 2003) Tester failed to prove he was treated differently based on his sexual orientation with regard to hiring for non-expressive positions with Boy Scouts where he did not submit the resume requested and did not refute Respondent testimony that complete resume was required to in order to be considered; thus he lacked standing because he failed to complete the test as to such positions. R

Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (July 16, 2003) No sexual orientation discrimination where Complainant did not prove hostile environment or that stated reason for discharge was pretextual: company decision-makers found not aware that co-worker’s anti-gay bias may have influenced physical altercation which resulted in discharge for violation of no-fighting policy; no credible evidence decision-makers were biased against Complainant based on his sexual orientation, and examples of non-gay workers not discharged after a fight found not comparable. Also, all credible incidents of claimed anti-gay harassment occurred outside the timely filing period. R

Holman v. Funky Buddha, Inc. d/b/a Funky Buddha Lounge, CCHR No. 06-P-62 (May 21, 2008) After Complainant proved prima facie case of sexual orientation discrimination, Respondent articulated legitimate non-discriminatory reason for ejecting him from nightclub—that he was intoxicated and acting aggressively. Complainant did not prove the real motive was discriminatory where guard who removed him did not know he is gay. Guard’s use of excessive force in violation of club policy did not provide circumstantial evidence of discriminatory animus. R

Alexander v. 1212 Restaurant Group et al., CCHR No. 00-E-110 (Oct. 16, 2008), aff’d Cir. Ct. Cook Co. No. 09-CH 1637 (Feb. 19, 2010), aff’d Ill. App. Ct. No 1-20-0797 (1st Dist, Aug. 25, 2011), PLA denied Ill. S.Ct. No 113274 (Jan. 25, 2012). Although restaurant company and individual agents discriminated against an employee based on perceived sexual orientation by creating hostile work environment, no discrimination found in connection with termination of Complainant’s employment, which was due to disputes about authority and attendance. R

Ramirez v. Mexicana Airlines (Mexicana de Aviacion S.A. de C.V.) and Pliego, CCHR No. 04-E-159 (Mar. 17, 2010) No sexual orientation discrimination where Complainant failed to prove that supervisors involved in firing knew or perceived him to be homosexual or that similarly-situation persons not known or perceived to be homosexual were treated differently where company needed to eliminate one position and made decision based on objective performance evaluations. Also, no hostile environment shown where asserted conduct involved seven isolated comments not referencing Complainant’s sexual orientation. R

Newspaper Treatment of – No new decisions in this volume.

Ordinance Coverage

Kelly v. North Park Univ., CCHR No. 03-E-173 (Nov. 30, 2005) Complaint alleging sexual orientation and religious discrimination in refusal of church-owned and operated university to hire openly-homosexual candidate for permanent faculty position dismissed based on First Amendment principles of expressive association and excessive entanglement as well as entitlement to CHRO religious exemption in light of documented linkage of faculty hiring policies to church opposition to homosexual practices. CO

Raffety v. Great Expectations, CCHR No. 04-P-35 (Nov. 1, 2007) Motion to dismiss denied where commercially advertised dating service limited to heterosexuals asserted it did not provide services to general public because it prescreens applicants. Business may not offer a product or service to general public, then limit its use based on a protected status. Evidence that another business serves the excluded group does not absolve respondent of obligation not to discriminate. CO

Perception

Arellano & Alvarez v. Plastic Recovery Technologies Corp., CCHR No. 03-E-37/44 (July 21, 2004) After default order, Complainants established prima facie case of discrimination based on perceived sexual orientation where president of Respondent company harassed them by accusing them of being gay, taunting them about it, then discharging one Complainant after hiring a less-qualified replacement over objections of company vice-president, and constructively discharging the other. R

Lapa v. Polish Army Veterans Association, et al., CCHR No. 02-PA-27 (Mar. 21, 2007) Respondents perceived Complainant to be homosexual where they made numerous comments that referred him as gay; Complainant’s marriage has no bearing on his claim. R

No 113274 (Jan. 25, 2012). Restaurant company and individual agents discriminated against employee based on perceived sexual orientation by creating hostile work environment through frequent, continuing comments and derogatory epithets insinuating that he is gay. Even if Respondents did not perceive Complainant to be homosexual or bisexual, they still violated the CHRO by maintaining an anti-gay atmosphere that interfered with the employee’s ability to perform his job “because of” sexual orientation. R

Proof of Discrimination

Anderson v. Stavropoulos, CCHR No. 98-H-14 (Feb. 16, 2000) To make a claim for sexual orientation harassment, Complainant must show that Respondent’s conduct had the purpose or effect of creating an intimidating, hostile or offensive housing environment; had the purpose or effect of unreasonably interfering with Complainant’s housing; or otherwise adversely affected Complainant’s housing opportunity. R


Powell v. Chicago Transit Authority et al., CCHR No. 02-E-244 (July 13, 2006) That lesbian complainant was denied a leave then disciplined and discharged for excessive absenteeism even though employer knew she was caring for seriously ill partner did not establish substantial evidence of discriminatory intent. Complainant could not point to any other employee treated more favorably in similar circumstances or to any evidence that employer’s stated reasons for its actions were pretextual or otherwise discriminatory. CO

Sorrese v. Garrison Partners Consulting, CCHR No. 03-E-139 (Apr. 19, 2007) No substantial evidence finding affirmed on request for review where stated reason for discharging Complainant after some staff learned he is gay and had a pre-existing medical condition—that the person he replaced had resumed full time duties and two people were not needed—could not be found illegitimate or pretextual based on timing alone and no evidence supported Complainant’s theories of anti-gay animus or a stereotypical assumption that gay people with pre-existing conditions are HIV-positive. CO

Holman v. Funky Buddha, Inc. d/b/a Funky Buddha Lounge, CCHR No. 06-P-62 (May 21, 2008) After Complainant proved prima facie case of sexual orientation discrimination, Respondent articulated legitimate non-discriminatory reason for ejecting him from nightclub—that he was intoxicated and acting aggressively. Complainant did not prove the real motive was discriminatory where guard who removed him did not know he is gay. Guard’s use of excessive force in violation of club policy did not provide circumstantial evidence of discriminating animus. R

Reasonable Corrective Action

Rak v. Walgreens et al., CCHR No. 99-E-66 (Oct. 4, 2001) CHR denied Complainant’s Request for Review of a NSE finding about his sexual orientation-hostile environment claim, stating that the facts showed that once Complainant had informed management about the co-worker’s alleged harassment, it took reasonable corrective action, stopping contact between the two workers; also finds that there is no substantial evidence that management knew of the problem before he reported it. CO

Role Models – No new decisions in this volume.

Stereotypes

Duignan v. Little Jim’s Tavern, et al., CCHR No. 01-E-38 (Sep. 10, 2001) Where gay complainant contended that he was harassed and ultimately fired because he did not conform to stereotype of gay men held by employer, a gay bar, and where complainant pointed to particular comments made by supervisor as support, CHR denied motion to dismiss. CO

Duignan v. Little Jim’s Tavern, et al., CCHR No. 01-E-38 (Sep. 10, 2001) CHR relied upon Supreme Court’s decision in Price Waterhouse in finding actionable complainant’s claim that respondent took adverse actions against him because he did not conform to its stereotype of a protected classification, a gay man. CO

Duignan v. Little Jim’s Tavern, et al., CCHR No. 01-E-38 (Sep. 10, 2001) Although “appearance” is not protected, CHR may consider whether the employer referred to complainant as “too macho,” among other things, in that it may indicate that it harmed complainant because he did not fit its stereotype of gay men. CO

Bellamy v. Neopolitan Lighthouse, CCHR No. 03-E-190 (Apr. 18, 2007) Requiring a lesbian employee to act or appear straight in the workplace can violate CHRO. R

Transsexualism – See Volume 1 and Gender Identity Discrimination section, above.
SOURCE OF INCOME DISCRIMINATION

Failure to Sell

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) After order of default, source of income discrimination found where nonprofit developer receiving support through City of Chicago to build affordable housing refused to complete sales transactions of two home purchasers because they would finance purchases in part with a subsidy through a different City-sponsored program. R

Indirect Discrimination – No new decisions in this volume.
Lawfulness – No new decisions in this volume.

Lease Extension

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Despite the fact that Respondent refused to consider Complainant’s Section 8 voucher before he knew that accepting it would require him to extend her lease, he was found not liable because he had decided, before he knew that Complainant wanted to use her voucher, to rent the apartment to his daughter after the original end-date of Complainant’s lease; there was no evidence that Respondent modified leases of tenants who did not use Section 8 vouchers. R

Liability Found

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (July 18, 2001), affirmed Godinez v. Sullivan-Lackey et al., 815 N.E.2d 822 (Ill. App. 2004) Landlords who refused to rent to Complainant because she was to pay her rent with a Section 8 voucher and who told testers that they would not accept Section 8 found liable for source of income discrimination. R

Hoskins v. Campbell, CCHR No. 01-H-101 (Apr. 16, 2003) Prima facie case of source of income discrimination where Section 8 voucher holder inquiring about apartment advertised for rent was asked how she would pay and then told that landlord did not take Section 8 vouchers, only “working people.” R

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Complainant proved through direct evidence that landlord discriminated against her due to source of income by refusing to show her an apartment advertised for rent because she was not employed but instead received Social Security Disability income. R

Torres v. Gonzales, CCHR No. 01-H-46 (Jan. 18, 2006) Based on Order of Default, prima facie case of Section 8 source of income discrimination presented where landlord accepted security deposit and signed moving papers, then failed to appear for four scheduled inspection appointments, rented to other tenants, and told Complainant he did not want to deal with Section 8 “mumbo jumbo.” R

Draft v. Jercich, CCHR No. 05-H-20 (July 16, 2008) After order of default, prima facie case of source of income discrimination established where apartment owners showed unit to prospective tenant but when they learned she would use a Section 8 voucher told her they would not rent to Section 8 recipients. R

Diaz v. Wykurz et al., CCHR No. 07-H-28 (Dec. 16, 2009) Source of income discrimination found where co-owner of building made the decision and told Complainant she would not accept a Section 8 voucher. Asserted lack of knowledge about Section 8 program found not credible and not a defense to liability. R

Hutchison v. Iftekaruddin, CCHR No. 08-H-21 (Feb. 17, 2010) Source of income discrimination proved through direct evidence where landlord refused to rent to voucher holder stating he “had bad experiences with Section 8.” Frustration with administration of the voucher program does not justify refusal to rent to voucher holders where landlord has not shown a substantial burden imposed on him in the particular case. Violation also proved through indirect evidence in that Complainant complied with all application steps requested and Respondent never asked for application fee despite claiming failure to pay the fee was his reason for rejecting her. R

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Resolving credibility issues in Complainant’s favor, source of income discrimination found based on direct evidence a property manager told Complainant the owner would not accept Section 8 recipients in the building. Building owner and management company found vicariously liable. R

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) After order of default, source of income discrimination found where nonprofit developer receiving support through City of Chicago to build affordable housing refused to complete sales transactions of two home purchasers because they would finance purchases in part with a subsidy through a different City-sponsored program. R

Liability Not Found

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Despite the fact that Respondent refused to consider Complainant’s Section 8 voucher before he knew that accepting it would require him to extend her lease, he was found not liable because he had decided, before he knew that Complainant wanted to use her voucher, to rent the apartment to his daughter after the original end-date of Complainant’s lease; there was no evidence that Respondent
modified leases of tenants who did not use Section 8 vouchers. R

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Although there is no question, under CHR precedent, that a section 8 voucher is a source of income under the CFHO, rejecting a voucher is not per se illegal source of income discrimination under the CFHO. R

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Among other things, Complainant did not show that Respondent had ever agreed to modify existing leases for tenants who did not pay rent with a Section 8 voucher. R

Marshall v. Gleason, CCHR No. 00-H-1 (Apr. 21, 2004) No discrimination found where landlord knew Complainant would use Section 8 voucher when he agreed to show an apartment he was renovating, explained the unit was not habitable and not on the market, offered to rent her other units knowing she would use a voucher, never put the unit on the market but occupied it himself, and rented to other Section 8 recipients in Chicago during relevant time period. Landlord’s comments about Section 8 program did not establish pretext. R

Hodges v. Hua & Chao, CCHR No. 06-H-11 (May 21, 2008) Based on hearing officer’s assessment of credibility, no source of income discrimination found where Complainant claimed that landlord told her he did not accept Section 8 vouchers. Respondents did not rent apartment to Complainant because she did not view it and complete application as Respondents’ policy required. R

Respondent Burden

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Although there is no question, under CHR precedent, that a Section 8 voucher is a source of income under the CFHO, rejecting a voucher is not per se illegal source of income discrimination; CHR shall evaluate the facts of each such case, including determining how burdensome it may be to a landlord to participate in the Section 8 program. R

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Although certain burdens may be placed on landlords when they accept Section 8 vouchers, the requested midterm extension of the existing lease was a significant detriment for Respondent who had already relied on its end date in deciding to rent to his daughter. R

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) A Section 8 recipient cannot use Section 8 funding unless there is compliance with the governing regulations; thus, the fact that a landlord professes an objection to a regulation is not enough to defeat a section-8-based source-of-income complaint as a matter of law. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) It is possible that specific Section 8 requirements would be so onerous for a particular landlord that not wanting to accept them would be a legitimate, non-discriminatory defense to the refusal to rent to a Section 8 recipient; however, that is a question of fact not subject to disposition on a motion to dismiss and which would have to be supported by credible evidence, not generalizations. CO

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (July 18, 2001) affirmed Godinez v. Sullivan-Lackey et al., 815 N.E.2d 822 (Ill. App. 2004) Although landlords must consider accepting a Section 8 voucher to pay rent, a landlord may be able to demonstrate that his or her own individualized circumstances make doing so unduly burdensome; general or speculative assertions, such as Respondents’ unsupported claim that their building might not have passed inspection, are not sufficient. R

Scope

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Although there is no question, under CHR precedent, that a Section 8 voucher is a source of income under the CFHO, rejecting a voucher is not per se illegal source of income discrimination; CHR shall evaluate the facts of each such case, including determining how burdensome it may be to a landlord to participate in the Section 8 program. R

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 20, 2000) Although certain burdens may be placed on landlords when they accept Section 8 vouchers, the requested midterm extension of the existing lease was a significant detriment for Respondent who had already relied on its end date in deciding to rent to his daughter. R

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Complainants found to have made adequate source of income complaints where one Complainant claimed that Respondent explicitly stated it would not rent to people using Section 8 vouchers and where the other two Complainants showed that Respondent ceased its dealings with them upon learning that they used Section 8 vouchers. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Construing the CFHO to find that source of income discrimination prohibited discrimination against people using Section 8 vouchers, as done via April 1999 order, is consistent with Illinois and Chicago laws. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Even if construing the CFHO to find that source of income discrimination prohibited discrimination against people using Section 8 vouchers, as done via April 1999 order, were inconsistent with Illinois and Chicago laws, the
City’s home rule authority allows it to do so. CO

_Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co._, CCHR No. 95-H-159 & 98-H-44/43 (Oct. 6, 2000) Where complaints alleged discrimination on source of income, not sufficiency of income, they were sufficient to withstand motion to dismiss. HO

_Sullivan-Lackey v. Godinez,_ CCHR No. 99-H-89 (July 18, 2001), affirmed _Godinez v. Sullivan-Lackey et al._, 815 N.E.2d 822 (Ill. App. 2004) CHR reaffirms prior decision in which it already rejected argument now made by Respondents and again holds that failing to accept a Section 8 voucher may constitute source of income discrimination despite the fact that federal law does not require landlords to accept such vouchers. R

_Sandy v. Chicago Cultural Center et al._, CCHR No. 03-P-10 (Jan. 25, 2005) (1) Complainant’s allegation that she was subjected to discrimination because she supported herself by selling or distributing newspapers stated a source of income discrimination claim. However, alleged discrimination based on actual or perceived homelessness is not source of income discrimination and is not covered under the CHRO and CFHO. (2) Although there are no references to “perceived source of income” in the CHRO and Commission Regulations, the protected classification “source of income” also includes “perceived source of income,” consistent with CHR precedent regarding “perceived sex.” CO

Section 8

_Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co._, CCHR No. 95-H-159 & 98-H-44/43 (Oct. 6, 2000) Landlord’s objection to terms of lease required by Section 8 program found not enough to defeat source of income complaints as a matter of law. CO

_Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co._, CCHR No. 95-H-159 & 98-H-44/43 (Oct. 6, 2000) A Section 8 tenant cannot use Section 8 funding unless there is compliance with the governing regulations; thus, the fact that a landlord professed an objection to a regulation is not enough to defeat a section-8-based source-of-income complaint as a matter of law. CO

_Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co._, CCHR No. 95-H-159 & 98-H-44/43 (Oct. 6, 2000) It is possible that specific Section 8 requirements would be so onerous for a particular landlord that not wanting to accept them would be a legitimate, non-discriminatory defense to the refusal to rent to a Section 8 recipient; however, that is a question of fact not subject to disposition on a motion to dismiss and which would have to be supported by credible evidence, not generalizations. CO

_Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co._, CCHR No. 95-H-159 & 98-H-44/43 (Mar. 22, 2001) Fact that CFHO’s prohibition of “source of income” discrimination encompasses Section 8 rent subsidies and so requires that landlords rent qualifying property to otherwise qualified Section-8-holding tenants does not thereby cause landlord to become a “state actor” subject to liability under federal constitutional and statutory provisions. CO

_Sullivan-Lackey v. Godinez,_ CCHR No. 99-H-89 (July 18, 2001), affirmed _Godinez v. Sullivan-Lackey et al._, 815 N.E.2d 822 (Ill. App. 2004) Landlords who refused to rent to Complainant because she was to pay her rent with a Section 8 voucher and who told testers that they would not accept Section 8 found liable for source of income discrimination. R

_Sullivan-Lackey v. Godinez,_ CCHR No. 99-H-89 (July 18, 2001), affirmed _Godinez v. Sullivan-Lackey et al._, 815 N.E.2d 822 (Ill. App. 2004) CHR reaffirms prior decision in which it already rejected argument now made by Respondents and again holds that failing to accept a Section 8 voucher may constitute source of income discrimination despite the fact that federal law does not require landlords to accept such vouchers. R

_Hoskins v. Campbell,_ CCHR No. 01-H-101 (Apr. 16, 2003) _Prima facie_ case of source of income discrimination where Section 8 voucher holder inquiring about apartment advertised for rent was asked how should would pay and then told that landlord did not take Section 8 vouchers, only “working people.” R

_Marshall v. Gleason,_ CCHR No. 00-H-1 (Apr. 21, 2004) No discrimination found where landlord knew Complainant would use Section 8 voucher when he agreed to show an apartment he was renovating, explained the unit was not habitable and not on the market, offered to rent her other units knowing she would use a voucher, never put the unit on the market but occupied it himself, and rented to other Section 8 recipients in Chicago during relevant time period. Landlord’s comments about Section 8 program did not establish pretext. R

_Torres v. Gonzales,_ CCHR No. 01-H-46 (Jan. 18, 2006) _Prima facie_ case of Section 8 source of income discrimination presented where landlord accepted security deposit and signed moving papers, then failed to appear for four scheduled inspection appointments, rented to other tenants, and told Complainant he did not want to deal with Section 8 “mumbo jumbo.” R

_Hodges v. Hua & Chao,_ CCHR No. 06-H-11 (May 21, 2008) Based on hearing officer’s assessment of credibility, no source of income discrimination found where Complainant claimed that landlord told her he did not accept Section 8 vouchers. Respondents did not rent apartment to Complainant because she did not view it and complete application as Respondents’ policy required. R

_Draft v. Jerich,_ CCHR No. 05-H-20 (July 16, 2008) After order of default, _prima facie_ case of source of
income discrimination established where apartment owners showed unit to prospective tenant but when they learned she would use a Section 8 voucher told her they would not rent to Section 8 recipients. R

Sercye v. Reppen and Wilson, CCHR No. 08-H-42 (Oct. 21, 2009) Source of income discrimination admitted by Respondents where real estate agent told Complainant the owner did not participate in Section 8 voucher program. R

Diaz v. Wykurz et al., CCHR No. 07-H-28 (Dec. 16, 2009) Source of income discrimination found where co-owner of building made the decision and told Complainant she would not accept a Section 8 voucher. Asserted lack of knowledge about Section 8 program found not credible and not a defense to liability. R

Hutchison v. Iftekaruddin, CCHR No. 08-H-21 (Feb. 17, 2010) Source of income discrimination proved through direct evidence where landlord refused to rent to voucher holder stating he “had bad experiences with Section 8.” Frustration with administration of the voucher program does not justify refusal to rent to voucher holders where landlord has not shown a substantial burden imposed on him in the particular case. Violation also proved through indirect evidence in that Complainant complied with all application steps requested and Respondent never asked for application fee despite claiming failure to pay the fee was his reason for rejecting her. R

Rankin v. 6954 N. Sheridan Inc., DLG Management, et al., CCHR No. 08-H-49 (Aug. 18, 2010) Resolving credibility issues in Complainant’s favor, source of income discrimination found based on direct evidence a property manager told Complainant the owner would not accept Section 8 recipients in the building. Building owner and management company found vicariously liable. R

State Actor

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Mar. 22, 2001) Fact that CFHO’s prohibition of “source of income” discrimination encompasses Section 8 rent subsidies and so requires that landlords rent qualifying property to otherwise qualified Section-8-holding tenants does not thereby cause landlord to become a “state actor” subject to liability under federal constitutional and statutory provisions. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Mar. 22, 2001) The government “coercion” test focuses on whether the government should be held responsible for an unconstitutional action it coerced a private entity to take, not on whether a private entity is transformed into a state actor which itself can be held liable. CO

SPANISH-SPEAKING ABILITY – No new decisions in this volume.

STANDING

Attorneys as Complainants – No new decisions in this volume.

Business Complainants – No new decisions in this volume.

Co-Signer

Henderson v. Simms et al., CCHR No. 04-C-2 (Aug. 18, 2004) Refusing to accept an individual as co-signer on a lease, where the co-signer did not plan to live in the rental unit, does not adversely affect the co-signer and so does not confer standing on co-signer to complain of parental status discrimination against the prospective tenants. CO

Failure to Hire

Richardson v. Chicago Area Council, Boy Scouts of America, CCHR No. 92-E-80 (Feb. 19, 2003) Tester failed to prove he was treated differently based on his sexual orientation with regard to hiring for non-expressive positions with Boy Scouts where he did not submit the resume requested and did not refute Respondent testimony that complete resume was required to in order to be considered; thus he lacked standing because he failed to complete the test as to such positions. R

Futile Gesture

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR rejected Respondents’ defense that the Complainant/sellers and Complainant/buyers canceled their sale prematurely; CHR found that Respondents made it clear in numerous statements and documents that they would reject the sale because buyers had a child and that complainants are not required to make a futile gesture merely to get an actual rejection. R

Scarse v. Chicago Dept. of Streets & Sanitation, CCHR No. 01-PA-2 (Jan. 11, 2002) Where Complainant learned at her first visit that Respondent’s office did not appear accessible to her and where a companion reported that it was no different at her second visit, Complainant’s failure to enter office was excused as it would have been a
futile gesture; order discusses “futile gesture theory”. CO

Anthony v. O.A.I., Inc., CCHR No. 02-PA-71 (Aug. 25, 2003) Where Complaint alleged Respondent’s representatives told Complainant she “should” not wear hijab to school application interview, failure to attend interview does not deprive her of standing to pursue religious discrimination claim; to have standing, complainant not required to engage in futile gesture in face of clearly-stated discouragement. CO

Harm Required

McCabe v. Chipotle et al., CCHR No. 03-P-119 (Aug. 8, 2003) Where Complainants did not explain how they were personally aggrieved by restaurants’ outdoor eating facilities allegedly blocking sidewalk access, Complaint held insufficient due to no allegations showing Complainants’ standing: to pursue complaint under CHRO or CFHO, individual must have suffered injury; merely reporting potentially discriminatory situation not sufficient. CO

Cooper v. Park Management & Investment Ltd. et al., CCHR No. 03-H-48 (July 26, 2007) Motion by business Respondent to dismiss individual Respondent denied for lack of standing where moving Respondent no longer had contact with or control over, was not authorized to represent her, and no prejudice to filing Respondent was discerned due to possible default or negative inference of individual Respondent. CO

Brown v. South Shore Beach Apts. et al., CCHR No. 07-H-54 (Mar. 12, 2008) Respondents cannot file motion to dismiss on behalf of another Respondent not associated with them or represented by their attorneys. CO

“Independent Contractor” – No new decisions in this volume.

Indirect Discrimination – See separate Indirect Discrimination section, above.

Organizational Standing

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Organization developed to advocate for equal housing rights for members of protected classes may sue and may recover damages if it shows its purposes were frustrated. R

Tester Standing – See also separate Testing section, below.

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Fact that Complainant’s case rested on testimony of testers who did not actually wish to rent the apartment does not itself cause Complainant to lose as the Supreme Court, other courts and CHR have found that testers can have standing to sue, more than they were doing here. R

Third Party Beneficiary

Savano v. Biology Bar & Volume Five, CCHR No. 03-P-174 (Jan. 19, 2005) Where Complainant alleged that she and her friends were humiliated because of their gender identity by actions and comments of disk jockeys performing in a bar, CHR found that Complainant had standing, as a third party beneficiary, to pursue a claim against the disk jockey service which presumably contracted with and was paid by the bar. Based on the CHRO’s broad language prohibiting discrimination “against any individual,” a third party beneficiary has standing to make a claim against a party if he or she suffered an injury due to the party’s discrimination, even though the disk jockeys may have been paid by the bar and not by Complainant directly. CO

STATUTE OF LIMITATIONS – No new decisions in this volume.

STATUTORY CONSTRUCTION

Absence of Provisions

Torres et al. v. Chicago Transit Authority et al., CCHR No. 92-PA-50 et al. (Sep. 6, 2002) CTA’s request for leave to appeal CHR interlocutory order to state court denied because CHR’s Regulations do not permit review or “certification for appeal” of interlocutory orders. CO

Byrd v. Hyman, CCHR No. 97-H-2 (Mar. 28, 2003) Request to stay enforcement proceeding pending outcome of certiorari petition denied where CHR Ordinances and Regulations do not articulate procedures for such stay or impose related bond requirement and Illinois law has established mechanism to obtain stay. Decision overrules past precedents suggesting CHR has authority or obligation to stay enforcement pending outcome of court review. CO

Jordan v. Nat’l Railroad Passenger Corp. (Amtrak), CCHR No. 99-PA-34 (June 10, 2003) Objections to and Petition for Reconsideration of Final Ruling denied where Ordinances and Regulations make no provision for such procedure; available review is in state court. CO

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Fernandez v. Rosing et al., CCHR No. 03-E-17 (Apr. 26, 2004) Motion to Compel denied where filed during investigation stage because CHR Regulations do not provide for discovery by parties prior to hearing process; during investigation, only CHR may serve Request for Documents and Information on either party. CO

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Apr. 7, 2005) No provision in Ordinances or Regulations for stay of enforcement proceedings on filing of court action seeking review of Final Order. Although CHR had previously granted such stays, it no longer does so and rejects prior precedents to that effect. CO

Wyatt v. Aragon Arms Hotel, CCHR No. 01-H-10 (Jan. 27, 2006) Where CHR Ordinances and Regulations do not specifically provide for reconsideration of substantial evidence finding but provide full de novo consideration of respondent’s position via administrative hearing, request to reconsider substantial evidence finding denied. CO

Conflicting Municipal Ordinances
Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) In construing two conflicting municipal ordinances – CHRO and a mandatory retirement provision – CHR applied statutory construction rules including: giving intent to legislature by presuming it has acted rationally; reading the two ordinances so that both can stand, where possible; determining which ordinance was the later passed; deciding which was more specific; and considering fact that no exception in CHRO permits mandatory retirement. CO
Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) CHR held that a mandatory retirement ordinance [MRO] for certain police and fire personnel should be read as an implied exception to CHRO; finds MRO to be the more specific and the later passed and also finds that reading the MRO as an exception follows the intent of City Council. CO
Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) Finds that to give precedence to CHRO over a mandatory retirement ordinance [MRO] would not be consistent with presuming that City Council acted rationally in passing both ordinances in that individuals forced to retire under the MRO would then be entitled to reinstatement and damages under CHRO. CO
Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In request for review of dismissal order, CHR held that finding mandatory retirement ordinance to be an implied exception to the CHRO does not imperil the entire CHRO; state court case concerning severability inapposite. CO
Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In denying request for review of dismissal order, CHR upheld its decision that the mandatory retirement ordinance was more specific and later passed than the CHRO and so properly found to be an implied exception to CHRO. CO
Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) In denying request for review of dismissal order, CHR found that the mandatory retirement ordinance was more specific than the CHRO even with respect to discrimination. CO

Constitutional Limits – No new decisions in this volume.

Damages – No new decisions in this volume.

Disability Discrimination – No new decisions in this volume.

Exemptions
Chatman v. Woodlawn Community Development Corp. et al., CCHR No. 05-H-22 (Jan. 27, 2006) CFHO’s age exemption requires Respondent to show that limiting housing accommodation to certain age group is “authorized, approved, financed or subsidized” by some level of government for benefit of that age group; mere assertion of entitlement to exemption without such evidence not sufficient to dismiss Complaint. CO

Housing Coverage – No new decisions in this volume.
**Hutchcraft** – No new decisions in this volume.

**Individual Liability** – See separate Individual Liability section, above.

**Liberal Construction**

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., 95-H-159 & 98-H-44/63 (Oct. 6, 2000) The CFHO, as a remedial statute, is to be liberally construed. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) Although CHRO is to be liberally construed, that does not mean that it must always prevail in a contest with other legislation; order distinguishes CHRO language from provision in other law which specifically states that the act is to take precedence when there is a conflict. CO

Banks v. Midwest Physician Grp., CCHR No. 96-E-77 (Oct. 17, 2001) The CHRO, as a remedial statute, states that it is to be liberally construed. CO

Gilbert v. Thorndale Beach North Condo. Assoc. et al., CCHR No. 01-H-74 et al. (Apr. 25, 2002) Although CHRO, as a remedial statute, is to be liberally construed, reading CFHO liberally does not allow CHR to ignore CFHO’s limiting terms, such as that an owner or lessee must have the right to sell, rent or lease the housing accommodation at issue and not simply be an owner or renter without rights to property in question. CO

**Limitation on Commission Authority** – See also Commission Authority section, above.

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-13/20 & 99-PA-4/53/84 (Feb. 10, 2000) As an administrative agency, CHR’s power is limited by the ordinances which govern its work. CO

Martinez v. Fojtik et al., CCHR No. 99-H-33 (May 1, 2000) (same) CO

Gaddy v. Chicago Dept. of Streets & Sanitation, CCHR No. 00-PA-52 (Nov. 28, 2000) (same) CO

Blakemore v. Metropolitan Pier & Exposition Auth., et al., CCHR No. 01-PA-18 (July 31, 2001) (same)

Kenny v. Loyola Univ., et al., CCHR No. 01-PA-44 (Sep. 24, 2001) (same) CO

Saadah v. Chicago Depts. of Consumer Services & Aviation, CCHR No. 01-PA-84/93/95 (Jan. 30, 2002) (same) CO

Mukemu v. Sun Taxi Assoc., et al., CCHR No. 02-PA-11 (Feb. 5, 2002) (same) CO

Blakemore v. Chicago Dept. of Consumer Services et al, CCHR No. 01-PA-25 (Feb. 26, 2002) (same) CO

**Mandatory Retirement**

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) CHR held that a mandatory retirement ordinance [MRO] for certain police and fire personnel should be read as an implied exception to CHRO; finds MRO to be the more specific and the later passed and also finds that reading the MRO as an exception follows the intent of City Council. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) Finds that to give precedence to CHRO over a mandatory retirement ordinance [MRO] would not be consistent with presuming that City Council acted rationally in passing both ordinances in that individuals forced to retire under the MRO would then be entitled to reinstatement and damages under CHRO. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Feb. 28, 2002) CHR denies request for review of August order [above], again finding that the mandatory retirement order [MRO] for certain police and fire personnel is to be read as an implied exception to the CHRO; among other things, finds MRO to be more specific than CHRO and finds that City Council intended the MRO to be effective. CO

**No Superfluous Provisions** – No new decisions in this volume.

**Other Laws**

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) When deciding issues of first impression, CHR looks to decisions interpreting other, similar laws; here, looks to decisions construing Illinois Human Rights Act concerning failure-to-promote standards. R

Oliva v. Simmons Corp., CCHR No. 01-PA-32 (July 17, 2001) CHR does look to decisions interpreting other laws for guidance; here, however, the issue was not one of first impression and so CHR precedent was best guidance and the ADA, cited by Respondent, has a significantly different definition of a public accommodation” and so cases construing it are not useful to CHR. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) Provision in CHRO which states that nothing in CHRO is to limit rights granted under state or federal law is a not a limitation on City Council’s power to limit or alter rights it provided itself. CO

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In order denying request for review of dismissal order, CHR held that provision in CHRO which states that nothing in CHRO is to limit rights granted under state or federal law does not mean that the CHRO must be read as coterminous with federal or state law; fact that CHRO might provide less protection in some instances does not prevent individuals from pursuing federal or state claims.

Because the definition of “public accommodation” in the IHRA is not the same as that in the CHRO, CHR looks to decisions interpreting the IHRA for guidance, but they are not dispositive.

CFHO’s language about who is prohibited from discriminating is substantially different from that of the federal Fair Housing Act and so cases construing federal act are not helpful.

In construing two conflicting municipal ordinances – CHRO and a mandatory retirement provision – CHR applied statutory construction rules including: giving intent to legislature by presuming it has acted rationally; reading the two ordinances so that, where possible, both can stand; determining which ordinance was the later passed; deciding which was more specific; and considering fact that no exception in CHRO permits mandatory retirement.

In dicta, CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents.

In denying request for review of dismissal order, CHR found that its August order [above] did not create an “irrebutable presumption” that City Council was rational in passing the mandatory retirement ordinance; instead, CHR simply reflected the judicial presumption that a legislature intended to enact an effective law which was not a “vain” act.

In giving effect to intent of legislature, CHR looks to language of statute and gives words their “popular ordinary and plain meanings”. In denying request for review of dismissal order, CHR found that its August order [above] did not create an “irrebutable presumption” that City Council was rational in passing the mandatory retirement ordinance; instead, CHR simply reflected the judicial presumption that a legislature intended to enact an effective law which was not a “vain” act.

In dicta, CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents. CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents.

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In dicta, CHR notes that owners of housing accommodations have a non-delegable duty not to discriminate and may be held liable for the acts of their agents.
Supervisory Personnel
Carnithan & Lencioni v. Chicago Park Dist., et al., CCHR No. 00-E-147/148 (May 24, 2001) Unlike under Title VII and like under the IHRA, employer is strictly liable for the harassment of a supervisor or manager even if upper management were not aware of it. CO

SUBPOENAS
CCHR Employee
Thomas v. Chicago Dept. of Health, et al., CCHR No. 97-E-221 (Apr. 26, 2000) No subpoena needed to ensure presence of CHR investigator at hearing; request for appearance is sufficient; Reg. 240.370. HO

Deadlines
Luckett v. Chicago Dept. of Aviation, CCHR No. 97-E-115 (May 31, 2000) Because certain deadlines for subpoenas are set by ordinance, neither Commission nor hearing officer may compress the deadline to issue one. R

Motion to Quash – No new decisions in this volume.

Necessity
Thomas v. Chicago Dept. of Health, et al., CCHR No. 97-E-221 (Apr. 26, 2000) No subpoena needed to ensure presence of CHR investigator at hearing; request for appearance is sufficient; Reg. 240.370. HO

Quashed – No new decisions in this volume.

Request Denied
Leadership Council for Metropolitan Open Communities. v. Chicago Tribune, CCHR No. 02-H-19 (June 6, 2002) A complainant must identify each respondent sufficient to allow service of the complaint; CHR has no authority to issue a subpoena outside the investigation of a properly-filed complaint to identify a respondent on complainant’s behalf. CO

Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (Sep. 3, 2002) Respondent’s request for subpoena denied where it did not provide witness address so it was unclear whether witness resided in Illinois and CHR has no authority to issue subpoenas to persons residing out of state, but Respondent invited to renew request if address obtained. HO

Long v. Chicago Public Library et al., CCHR No. 00-PA-13 (Jan. 18, 2006) Request to enforce subpoena directed to former CHR investigator denied where no showing was made that her testimony would be anything other than cumulative, as the witness had already acknowledged making the statement sought to be confirmed through the testimony. R

Blakemore v. Walgreen Co. et al., CCHR No. 03-P-156 (Mar. 5, 2007) Respondent’s last-minute subpoena request to prove death of witness denied where alleged role of witness was known since commencement of action and death could be proved through public documents; Reg. 220.210(b) requires a showing that “the need for subpoena was not known, and could not have been known, until the time of the request” for a subpoena request within 21 days of hearing date. HO

Request Granted
Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Sep. 12, 2000) Request for documents from IRS and Complainant’s former criminal attorney granted so long as limited to non-privileged documents about the criminal proceeding and to any accommodations made for his disability. HO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Sep. 12, 2000) Request for documents from arbitrator and American Arbitration Association granted with respect to the non-privileged pleadings, transcripts and exhibits in the relevant case; effect of arbitral immunity discussed. HO

Scope
Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Sep. 12, 2000) Phrase in regulation governing use of subpoenas during hearing process which states that subpoenas are to be “in connection with an Administrative Hearing” does not mean that production is limited to at the Hearing itself but means that the subpoenaed documents must be related to the hearing. HO

Leadership Council for Metro. Open Communities. v. Chicago Tribune, CCHR No. 02-H-19 (June 6, 2002) A complainant must identify each respondent sufficient to allow service of complaint; CHR has no authority to issue subpoena outside investigation of a properly-filed complaint to identify a respondent on complainant’s behalf. CO
SUBSTANTIAL EVIDENCE

Credibility

Carnihan & Lencioni v. Chicago Park Dist., et al., CCHR No. 00-E-147/148 (May 24, 2001) When it decides whether or not there is substantial evidence, CHR cannot make credibility determinations; therefore, when there is no “concrete” evidence, it cannot disbelieve a complainant merely because the respondent presents a different story. CO

Carroll v. Moravec, CCHR No. 00-E-12 (May 24, 2001) (same) CO

Banks v. Midwest Physician Grp., CCHR No. 96-E-77 (Oct. 17, 2001) (same) CO

Russell v. Alliance Hose & Rubber, CCHR No. 97-E-230 (Oct. 17, 2001) (same) CO

Wong v. City of Chicago Dept. of Fire, CCHR No. 99-E-73 (Dec. 5, 2002), aff’d, No. 03 CH 00793 (Cir. Ct. Cook Co., Dec. 11, 2003) CHR investigation does not resolve any material factual issue based on evidence subject to credibility determination; but application of shifting-burden analysis and analysis of evidence should not be confused with making a credibility determination. CO

Gibson v. Dedich et al., CCHR No. 00-H-99 (Aug. 14, 2003) CHR found substantial evidence of race and color discrimination where stories of parties differed regarding scheduling of apartment showing; where stories of two parties differ on factual issues critical to outcome of case and there is no independent evidence to resolve conflicting accounts, determining what occurred depends on assessment of parties’ credibility and so CHR must find substantial evidence of discrimination. CO

Shein v. Garland Brothers et al., CCHR No. 02-E-16 (Apr. 7, 2005) Although CHR does not make credibility determinations at substantial evidence stage, credibility not necessarily at issue in evaluating a respondent’s stated reasons for actions alleged to be discriminatory; even if issue exists as to truth of facts supported the stated reasons, complainant has further burden to show that any inaccuracy or untruth provides substantial evidence of pretext. CO

Calamus v. Chicago Park Dist. et al., CCHR No. 01-E-115 (Sep. 22, 2005) Although CHR may not make credibility determinations when determining substantial evidence, credibility not necessarily the issue with respect to whether a respondent’s stated reasons for alleged discriminatory actions are pretextual. Complainant’s burden goes beyond merely setting up “swearing contest” by interposing contrary testimony as to whether the reasons are “true” or good business judgment; complainant has further burden to provide substantial evidence that the real reasons point to discriminatory intent. [Decision reversed and remanded by Circuit Court on age discrimination claim, and substantial evidence finding subsequently entered.] CO

Jones v. 4128 N. Clarendon Bldg. Assn. et al., 01-H-107 (July 13, 2006) Neither CHR procedure nor constitutional principles require evidentiary hearing before dismissal for no substantial evidence as no credibility determinations are made against complainant at that point. CO

Avery v. City of Chicago Dept. of Health, CCHR No. 03-E-40 (Feb. 8, 2007) In making no substantial evidence determination, CHR took as true all testimony of Complainant as to specific events which occurred. CHR considered but was not required by no-credibility-determinations principle to accept Complainant’s opinions, characterizations, interpretations, or speculations concerning the meaning of particular testimonial statements.

Blakemore v. Chicago Transit Authority, CCHR No. 06-P-34 (Sep. 17, 2008) Request for Review denied where CHR correctly found no substantial evidence of race discrimination based on Complainant’s own statements of what occurred. Although Complainant, who is black, was initially not allowed to board a CTA bus while white passengers boarded, the driver promptly acknowledged error, apologized, and let Complainant board. This conduct did not constitute material adverse action against Complainant. Only after Complainant himself prolonged the incident by questioning the driver and accusing him of discrimination and abuse, did the driver call police and have Complainant removed. CHR made no impermissible credibility determinations about the validity of the fare card Complainant presented, and Complainant himself told inconsistent stories about which of two cards he used. CO

Effect on Consolidation – No new decisions in this volume.

Effect on Motions to Dismiss – No new decisions in this volume.

Findings

No Substantial Evidence

Taylor v. Chicago Hilton & Towers, CCHR No. 00-E-161 (Apr. 26, 2001) CHR found no evidence of disability discrimination, relying upon EEOC’s investigation and no reasonable cause determination, finding, in short, that Complainant’s request for “accommodation” may not have related to her disability; that Respondent’s response, in any case, was effective even if not her desired one; and there was no evidence to suggest that discipline imposed on her for insubordination and improper use of company computer was at all pretextual. CO

Sadowski v. Rush-Presbyterian-St. Lukes Hosp., et al., CCHR No. 01-E-13 (Sep. 20, 2001) Upon review of
EEOC file, CHR finds no substantial evidence of age, national origin and disability, where complainant was laid off when respondent lost a contract, was offered an equal job which he turned down, and where only other person in unit, who was outside complainant’s protected classes, was treated less well. CO

Zhou v. eForce, CCHR No. 01-E-14 (Sep. 20, 2001) Upon review of EEOC file, CHR finds no substantial evidence of race, sex and national origin discrimination where respondent revoked offer of employment to all individuals whom it had planned to hire and where questions about complainant’s race, sex and national origin were asked only as part of immigration process which would have allowed her to be hired. CO

Wheeler-Robinson v. Univ. of Chicago Hosp., CCHR No. 01-E-103 (Nov. 14, 2001) When disabled Complainant dropped out of “inter-active process” and was insubordinate, she thwarted Respondent’s attempts to reasonable accommodate her and so CHR adopted EEOC’s finding to dismiss case. CO

Smallwood v. Allied Waste Inds., et al., CCHR No. 01-E-15 (Jan. 30, 2002) After reviewing supplemental information to EEOC file about identified comparables, CHR found that Respondent applied its disciplinary policy without regard to race or age. CO

Dillard v. Bloomingdale’s, CCHR No. 02-E-27 (Apr. 11, 2002) Relying upon EEOC’s investigation, CHR found no evidence of race discrimination where Respondent showed it did not hire Complainant due to her poor interview and where it hired a qualified internal candidate. CO

Shackelford v. Roadway Express, Inc., CCHR No. 01-E-40 (Apr. 11, 2002) Upon review of EEOC file, CHR found that African-American Complainant was fired for misconduct towards a customer and that Respondent had fired at least one white driver for similar behavior. CO

Casey v. Xerox Corp., CCHR No. 01-E-151 (Apr. 26, 2002) CHR found no evidence of age discrimination in Complainant’s termination where Respondent showed that she was given numerous opportunities to improve but never met her quota and where sales representatives over 40 were not disciplined or discharged disproportionately to their overall percentage in the sales force. CO

Vitca v. Chicago Police Dept., CCHR No. 01-E-152 (Apr. 26, 2002) CHR adopted EEOC’s finding that it was not discriminatory for Police to require that Complainant take a fitness-for-duty examination; but where Complainant also contended that he was harassed due to his Romanian origin, CHR requested additional information from Respondent about, among other things, its investigation into his internal complaint as EEOC file did not include that information. CO

Springer v. TrizecHahn Office Props., et al., CCHR No. 02-E-40 (May 23, 2002) CHR adopted EEOC’s finding that Respondent did not discriminate when it terminated Complainant, a white 54-year-old supervisor, for harassing other employees; it had evidence that Complainant made the offending remarks, there was no other employee who had violated the harassment policy twice, and the comparative evidence showed that whites and workers over 40 were discharged at a lower rate than their representation in the workforce. CO

Chan v. Advocate Health Care et al., CCHR No. 99-E-58 (June 19, 2003) That Complainant doctor was discharged and not rehired even though he apparently provided good quality patient care did not establish substantial evidence of discrimination where Respondent was required to reduce staff by one physician and chose Complainant due to his argumentative behavior; no indication Respondent’s choice was so unreasonable as to suggest pretext for age discrimination. CO

Hoskins v. Linton, CCHR No. 01-H-85 (Sep. 9, 2004) Commission cannot find substantial evidence of refusal to rent where there was no substantial evidence that a housing unit was available to rent at the time of Complainant’s inquiry. Even though Complainant stated that a For Rent sign was displayed at the property, documentary and independent evidence supported Respondent’s statements that there was no apartment available to rent at the time of Complainant’s inquiry, so no material credibility issue was found to exist. CO

Shein v. Garland Brothers et al., CCHR No. 02-E-16 (Apr. 7, 2005) CHR denied request for review as to age discrimination claims of commission sales representative, finding that new policies and performance criteria used to explain his discharge were not so irrational or arbitrary to suggest pretext, no evidence they were not applied to sales representatives of all ages, no evidence of age-based animus, and no impermissible credibility determinations were made. Discusses standards for evaluating credibility and pretext in determining substantial evidence. CO

Calamus v. Chicago Park Dist. et al., CCHR No. 01-E-115 (Sep. 22, 2005) Request for review of no substantial evidence finding denied where despite education and experience gap between complainant and candidate selected for promotion, as well as evidence of use of criteria other than those stated for position, articulated reasons for selection decision found not so irrational or unreasonable as to suggest they were not the real reasons or that discriminatory intent was involved. [Reversed and remanded by Circuit Court on age discrimination claim, and substantial evidence finding subsequently entered.] CO

Powell v. Chicago Transit Authority et al., CCHR No. 02-E-244 (July 13, 2006) That lesbian complainant was denied a leave then disciplined and discharged for excessive absenteeism even though employer knew she was caring for seriously ill partner did not establish substantial evidence of discriminatory intent. Complainant could not
point to any other employee treated more favorably in similar circumstances or to any evidence that employer’s stated reasons for its actions were pretextual or otherwise discriminatory. CO

**Blakemore v. Starbucks Coffee Company**, CCHR No. 07-P-13/91 (Sep. 17, 2008) Finding of no substantial evidence of race discrimination affirmed on review. That Complainant, who is black, had to argue with store personnel to get a free cup of ice he requested is not sufficient to prove he was denied full use of a public accommodation where the ice was given to him within a very short period of time. Even though Complainant then became involved in disputes with two customers, to which store personnel did not respond as Complainant desired, Complainant was able to sit in the shop and consume his beverage. No racial language was used by store personnel nor was their conduct invidious, long-lasting, or pervasive. That CHR did not interview store personnel but relied on Respondent’s position statement was not error, as their statements were unlikely to support a substantial evidence finding. Nor was it necessary to investigate whether police had asked the store not give out free cups of ice, as it had no bearing on whether the initial denial of Complainant’s request was race discrimination. There was no evidence that any non-black individual was given a free cup of ice. CO

**Substantial Evidence**

**Massingale v. Ford City Mall & Sears Roebuck & Co.,** CCHR No. 99-PA-11 (Sep. 14, 2000) Where disabled Complainant could not use entrance between Ford City’s underground pedway and Sears store, CHR found substantial evidence of failure to accommodate, finding that the CHRO requires “full” access, unless undue hardship, and that it could not find that Respondents had shown an undue hardship at this stage of the case. CO

**Martin v. Kane Security Services,** CCHR No. 99-E-141 (Oct. 17, 2000) CHR found there was substantial evidence that Respondent failed to accommodate Complainant’s religious beliefs in case parallel-filed with EEOC in which evidence collected by EEOC and CCHR showed that Respondent told Complainant to remove her hijab, a scarf it knew she wore for religious reasons, refused to allow her to wear any employer-issued head-covering thus causing Complainant to feel compelled to quit. CO

**Johnson v. Norfolk Southern Corp.,** CCHR No. 00-E-61 (Apr. 12, 2001) CHR finds substantial evidence of disability discrimination, relying upon EEOC’s investigation and reasonable cause determination, finding, in short, that Respondent had required Complainant to submit to a medical examination and put him on no-pay status because he limped although Complainant performed the essential functions of his job without incident upon return from a leave of absence. CO

**Russell v. Alliance Hose & Rubber,** CCHR No. 97-E-230 (Oct. 17, 2001) Where there was a credibility-based dispute about whether the over-40-year-old Complainant was terminated just before cancer surgery after rejecting an offer of early retirement, CHR found substantial violation of age and disability discrimination. CO

**Harboe/Dimm v. Realty & Mortg. Co., et al.,** CCHR No. 98-H-140 & 00-H-115 (May 9, 2002) Where the apartment in question was large enough, per Chicago’s occupancy code, for Complainants’ family and where Respondents expressly did not renew Complainants’ lease due to the size of their family, CHR found substantial evidence of parental status discrimination; left issue about whether sleeping arrangements were proper – one child in a “closet” – for possible administrative hearing. CO

**Gibson v. Dedich et al.,** CCHR No. 00-H-99 (Aug. 14, 2003) CHR found substantial evidence of race and color discrimination where stories of parties differed regarding scheduling of apartment showing and where Respondent’s inability to document that she had shown or rented property to other African-American applicants suggested her stated reasons for denial of showing were pretextual. CO

**Cunningham v. Bui & Phan,** CCHR No. 01-H-36 (May 4, 2006) Finding of substantial evidence of parental status and race discrimination based on direct evidence that prospective tenant was told “no children” and indirect evidence including testing by African-American. That advertised unit was not habitable under City codes did not bar finding where Respondents were attempting to rent out unit and habitability was not stated reason for rejecting prospective tenant or tester. CO

**Investigation**

**Ziomber v. Globetrotters Engineering Corp.,** CCHR No. 02-E-58 (Aug. 14, 2002) EEOC finding of no substantial evidence not adopted and investigation continued where there was evidence that Respondent’s supervisor
and co-workers had made certain derogatory statements about Complainant’s religion, age, and national origin and where there was no concrete information about ensuing layoff which complainant alleged was discriminatory. CO

**Alexander v. 1212 Rest. Group, LLC et al.**, CCHR No. 00-E-110 (Oct. 2, 2002) Under Reg. 220.510, CHR not required to interview particular witnesses suggested by party. CO

**Wong v. City of Chicago Dept. of Fire**, CCHR No. 99-E-73 (Dec. 5, 2002), aff’d, No. 03 CH 00793 (Cir. Ct. Cook Co., Dec. 11, 2003) Despite liberal pleading standards, CHR role not to conduct wide-ranging audit of all potentially discriminatory practices and not broadly prosecutorial; claims investigated must be drawn from timely events and incidents alleged in complaint. Thus, where Complainant alleged failure to promote and three incidents of discipline, scope of investigation was to assess whether there was substantial evidence of discriminatory or retaliatory motive for those actions. CO

**Powell v. Chicago Transit Authority et al.**, CCHR No. 02-E-244 (July 13, 2006) In conducting investigation, CHR not required to search out evidence to prove complainant’s case or to interview every witness suggested. Complainant has burden either to present evidence sufficient to meet substantial evidence standard or to provide information directing CHR to evidence which appears reasonably likely to lead to substantial evidence finding. CO

**Rochford v. City of Chicago Police Dep’t**, 02-E-197 (Nov. 16, 2006) CHR not required to search out evidence to prove complainant’s case or respondent’s defense. Complainant must provide evidence sufficient to meet substantial evidence standard or direct CHR to evidence obtainable using its investigatory powers which appears reasonably likely to lead to substantial evidence finding. Where Complainant had given investigator specific information suggesting discriminatory animus by person who took action leading to his discharge, Request for Review granted to investigate further; however, where Complainant merely asserted existence of witnesses with supporting evidence, without sufficient identifying information, CHR would not seek out such witnesses. CO

**Avery v. City of Chicago Dept. of Health**, CCHR No. 03-E-40 (Feb. 8, 2007) Investigation found sufficiently thorough on request for review of no substantial evidence finding in case alleging discharge based on race. Standards for adequate investigation and complainant responsibilities discussed: CHR must conduct reasonable investigation into claims but not required to search out evidence to prove them, interview every proposed witness, pursue every proposed line of inquiry, or audit a respondent’s records in hope of finding pattern of disparate treatment or impact. Complainant must either present evidence sufficient to meet substantial evidence standard or show how use of CHR’s investigatory powers is reasonably likely to lead to substantial evidence. CO

**Knight v. Walgreen Co.**, CCHR No. 04-E-7 (July 26, 2007) CHR denied request for review of no substantial evidence determination charging inadequate investigation. Although required to consider evidence and arguments presented by parties, CHR need not interview every witness or pursue every proposed avenue of inquiry. Complainant’s discharge based on internal investigation finding he threatened violence against a subordinate employee did not require review of all information gathered in that investigation or examination of the subordinate’s personnel records. Issue not whether Respondent’s decision was factually correct or managerially sound, but whether Respondent reasonably believed it acted correctly. Parties agreed on essential facts of incident, subordinate non-managerial employee was not similarly-situated to Complainant, and Respondent’s stated basis for discharge was not so unreasonable or incredible to suggest pretext for sexual orientation or gender identity discrimination.. CO

**Henderson v. Southwest Women Working Together et al.**, CCHR No. 03-H-47 (Oct. 23, 2007) Discusses review standards and complainant’s burden on request for review of no substantial evidence finding asserting that investigation was not sufficiently thorough and CHR failed to interview certain witnesses. CO

**Love v. Chicago Park District**, CCHR No. 05-E-142 (Dec. 18, 2008) Request for review denied where Complainant argued he should have received more time to submit documents during investigation, finding the four extensions granted were ample. No basis to overturn no substantial evidence finding where all points raised on review were raised and considered during investigation, and no evidence showed employer’s actions were motivated by intent to discriminate. Purpose of CHR inquiry not to arbitrate whether employer’s decisions were correct or desirable. CO

**Requests for Review – See separate Requests for Review section, above.**

**Standard**

**Massingale v. Ford City Mall & Sears Roebuck & Co.**, CCHR No. 99-PA-11 (Sep. 14, 2000) CHR determines whether or not there is substantial evidence by deciding whether there is “more than a mere scintilla of relevant evidence such that a reasonable mind might find it sufficient to support such a conclusion”. CO

**Carnithan & Lencioni v. Chicago Park Dist., et al.**, CCHR No. 00-E-147/148 (May 24, 2001) When it decides whether or not there is substantial evidence, the Commission cannot make credibility determinations; therefore, it cannot simply disbelieve a complainant merely because the respondent presents a different story. CO

**Carroll v. Moravec**, CCHR No. 00-E-12 (May 24, 2001) (same) CO
Banks v. Midwest Physician Grp., CCHR No. 96-E-77 (Oct. 17, 2001) (same) CO
Russell v. Alliance Hose & Rubber, CCHR No. 97-E-230 (Oct. 17, 2001) (same) CO
Russell v. Alliance Hose & Rubber, CCHR No. 97-E-230 (Oct. 17, 2001) CHR determines whether or not there is substantial evidence by deciding whether there is “more than a mere scintilla of relevant evidence such that a reasonable mind might find it sufficient to support such a conclusion”. CO
Chan v. Advocate Health Care et al., CCHR No. 99-E-58 (June 19, 2003) In determining whether there is substantial evidence of discrimination, CHR looks to evidence on all elements of claim, including whether respondents articulated legitimate non-discriminatory reason for adverse action taken and, if so, whether there is substantial evidence of pretext which overcomes that articulated reason and suggests discriminatory motive. Not CHR’s role to determine whether respondents have made good business decisions. CO
Jones v. 4128 N. Clarendon Bldg. Assn. et al., 01-H-107 (July 13, 2006) Neither CHR procedure nor constitutional principles require evidentiary hearing before dismissal for no substantial evidence, as no credibility determinations are made against complainant at that point. CO
Powell v. Chicago Transit Authority et al., CCHR No. 02-E-244 (July 13, 2006) Substantial evidence needed as to each element under the indirect evidence, burden shifting analysis, including disparity and pretext. Respondents not required to provide supporting evidence of legitimate non-discriminatory reasons but only to articulate them. CO
Knight v. Walgreen Co., CCHR No. 04-E-7 (July 26, 2007) Same as Chan, above with addition that CHR also looks at whether there is evidence of disparate treatment in substantial evidence determinations. CO
Jenzake v. Rapid Displays, CCHR No. 06-E-87 (May 15, 2008) Same as Chan, above. Mere fact that Complainant’s physician stated an opinion different from Respondent’s physician does not provide substantial evidence of pretext or raise a credibility issue where employer reasonably relied on its own physician’s pre-employment exam finding Complainant could not lift over 10 pounds and an essential function of the job was lifting up to 30 pounds or more. CO
Maat v. City of Chicago Department of Transportation et al., CCHR No. 06-P-61, 07-P-84/85/86/88/98/111 (Nov. 13, 2008) CHR order finding substantial evidence complies with ordinance and regulation provisions calling for a written determination, as the parameters of the decision are readily discernable from the order, complaints, the details stated in the investigation summary and determination. No further “findings” required at this point in case. CO

SURVIVAL OF CLAIMS

Discovery – No new decisions in this volume.

Dismissal for No Successor
Wylie v. Bernie’s Tavern & New Frontier Realty Mgt., CCHR No. 00-PA-99 & 00-H-111 (July 12, 2001) Where executor of Complainant’s estate did not wish to proceed with her cases upon notice that he could do so, CHR dismissed them. CO
Tragas v. Wald Mgt., CCHR No. 96-H-124 (July 26, 2001) Where there was no response to letters to deceased Complainant’s attorney and to his “contact person” about who a successor might be, CHR dismissed the case. CO
Cotten v. Fat Sam’s Fresh Meat & Produce (SBM Foods Inc.), CCHR No. 08-P-76 (July 20, 2010) Case dismissed where Respondent corporation was dissolved subsequent to filing of Complaint, mailings to it were returned, and Complainant did not provide information to allow case to proceed, such as evidence the corporation is in business in different location or evidence of identity and location of successor. HO

Respondent Dissolution
Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sept. 19, 2007) Where corporation was involuntarily administratively dissolved by Illinois Secretary of State while CHR proceeding was pending, final order can be entered against it, as under Illinois Business Corporation Act, existing claim or civil remedy survived dissolution for 5 years. However, individual manager of corporation could not be held personally liable where Complaint not properly amended to add as respondent. R

Successor Substitution
Reed v. Strange, CCHR No. 92-H-139 (Apr. 4, 2000) Where Complainant’s request for enforcement of attorneys’ fees ruling was filed over 18 months after the alleged non-payment, where Respondent had died in the interim, and where Complainant did not provide any information needed to allow for service on any successor of Respondent, CHR denied the request until Complainant provided that necessary information. CO
Reed v. Strange, CCHR No. 92-H-139 (Apr. 4, 2000) It is true that legal successors can be substituted for deceased parties; however, the complainant must amend his complaint to do so and so must have information adequate to name the successor and allow for service on the successor. CO

Ramos v. Kinsler, CCHR No. 99-H-79/80 (Nov. 2, 2001) Where CHR learned that Respondent died, it permitted Complainants to amend their complaints to name his surviving wife as a successor. CO

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Oct. 6, 2004) After Complainant died, CHR issued order amending complaint upon motion to substitute Complainant’s daughter, successor in interest, as Complainant; pursuant to Reg. 210.160(e), order sufficient to substitute and not necessary to file separate amended complaint. CO

TEMPORARY RESTRAINING ORDERS – See Injunctive Relief/Temporary Restraining Orders, above.

TESTING

Employment

Richardson v. Chicago Area Council, Boy Scouts of America, CCHR No. 92-E-80 (Feb. 19, 2003) Tester failed to prove he was treated differently based on his sexual orientation with regard to hiring for non-expressive positions with Boy Scouts where he did not submit the resume requested and did not refute Respondent testimony that complete resume was required in order to be considered; thus he lacked standing because he failed to complete the test as to such positions. R

Housing

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Fact that Complainant’s case rested on testimony of testers who did not actually wish to rent the apartment does not itself cause Complainant to lose as the Supreme Court, other courts and CHR have found that testers can have standing to sue, which is more than they were doing here. R

Cunningham v. Bui & Phan, CCHR No. 01-H-36 (Mar. 19, 2008) Hearing officer did not credit testimony where it contradicted Complaint filed by deceased person and witness could not identify which Respondent showed the apartment or provide the location of the apartment. R

Davis v. Aljack Investments Inc. et al., CCHR No. 09-H-12 (Aug. 4, 2010) Complainant cannot use results of later testing to establish continuing violation because it was not an additional discriminatory act against the particular Complainant. However, a tester has standing to file his or her own discrimination complaint. CO

TOLLING – See also Jurisdiction section, above.

Agency Error

Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) Equitable tolling is available when an agency misleads an individual or makes errors which frustrate his or her attempt to file a complaint. Case recites standards which must be met to toll filing period due to agency error, including that CHR have refused to take a case or lulled the person into believing they had already filed. However, the fact that CHR’s intake person may not have told the individual the time within which she had to file was not misleading, a refusal to take a complaint, or an error which frustrated an attempt to file, especially where the conversation took place no less than three months before the filing period was to end. CO

Burden of Proof – No new decisions in this volume.

Continuing Violation

Minter v. CSX Transportation & United Transportation Union, CCHR No. 00-E-9 (June 12, 2000) Where CHR was preempted from proceeding with the only timely event, Complainant could not claim a continuing violation as there was not at least one viable, timely discriminatory act. CO

Carroll v. Moravec, CCHR No. 00-E-12 (May 24, 2001) CHR holds that continuing violation theory allows a complainant to have considered otherwise untimely, prior events but does not excuse a complainant from failing to amend her complaint to address an incident which occurred subsequent to filing; CHR holds she and her attorney should have amended her complaint to address that subsequent, distinct event. CO

Sigman v. R.R. Donnelly & Sons Co., CCHR No. 98-E-57 (Aug. 9, 2001) In denying Request for Review about position into which Complainant was placed after lay-off, CHR held that Complainant could not consider alleged past denials of promotions to be part of a continuing violation in that each promotion denial would be a discrete event which should have put Complainant on notice that his rights may have been violated. Discusses factors to determine whether the “continuing violation” doctrine might apply – subject matter, frequency and permanence – and focuses on Complainant’s failure to meet permanence component. CO

Insalata v. Realty Resources Grp., et al., CCHR No. 01-H-70 (Dec. 3, 2001) Fact that the effects of past
discrimination may continue into the present does not make the injury “continuing” and cannot form the basis of a complaint filed later than 180 days. CO

_{Scarse v. Chicago Dept. of Streets & Sanitation, CCHR No. 01-PA-2 (Jan. 11, 2002)}_ Where Complainant made only two visits to office in question which were about seven months apart, CHR found the visits were separate and distinct events which did not meet the frequency or the permanency prongs of continuing violation test. CO

**Disability of Complainant – No new decisions in this volume.**

**Discovery of Injury**

_{Marshall v. Knezovic & Oak Mgmt., CCHR No. 01-PA-102 (Dec. 16, 2002)}_ Discovery rule permits tolling of limitations period where discrimination victim neither knew nor reasonably should have known of discriminatory basis of action taken; victim cannot be expected to suspect that discrimination underlies adverse action. Thus, discovery rule found applicable and Complaint found timely where Complainant made only two visits to office in question which were about seven months apart, CHR found the visits were separate and distinct events which did not meet the frequency or the permanency prongs of continuing violation test. CO

_{Diabor v. Kenny-Kiewit-Shea Joint Venture et al., CCHR No. 01-E-118 (Dec. 18, 2002)}_ Where Complainant argued she was unaware of one respondent’s discriminatory disregard of her harassment allegations until over one year after last incident of harassment but evidence showed he met with Complainant twice regarding her harassment allegations, doctrine of equitable tolling found inapplicable. CO

**Equitable Estoppel – No new decisions in this volume.**

**Filing Deadline**

_{Stephney v. Jama, CCHR No. 07-P-33 (Nov. 29, 2007)}_ Order of Default affirmed on motion to vacate filed more than two months late with no basis for equitable tolling; standards for equitable tolling reaffirmed. CO

_{Crown v. City of Chicago Office of the Inspector General, CCHR No. 08-E-34 (Jan. 11, 2010)}_ Filing period begins when Complainant first receives notice of the alleged discriminatory action; not tolled by filing of separate _Shakman_ claim, and approval of _Shakman_ claim does not constitute first notice of potential CHRO claim. CO

**Investigation Deadline – No new decisions in this volume.**

**Request for Reconsideration**

_{Minter v. CSX Transportation & United Transportation Union, CCHR No. 00-E-9 (June 12, 2000)}_ One or more requests for reconsideration will not toll or re-start a filing period. Also, failing to undo an allegedly discriminatory action does not perpetually keep the filing period running. CO

_{Maynard v. Ernst & Young, CCHR No. 02-E-80 (Apr. 29, 2002)}_ Contacts which Complainant had with her supervisor after her termination were essentially requests for reconsideration of the decision and such requests do not start or re-start the complaint filing period. CO

**Soldiers & Sailors Relief Act – No new decisions in this volume.**

**Statute of Limitations – No new decisions in this volume.**

TRANSSEXUALISM – See Gender Identity Discrimination section, above.
each named respondent must sign a verification and attach it to end of its verified response. Verification of non-
individual respondent must be signed by person who has authority to bind that respondent; signature of outside
counsel is not sufficient. Each respondent’s verification must state that verified response is true and correct, using
language set forth in Reg. 210.240 or something substantially similar. CO

Sufficiency – No new decisions in this volume.

WITHDRAWAL OF ATTORNEY – See Attorney Appearance/Leave to Withdraw, above.

WITHDRAWAL OF COMPLAINT – See Complaints/Withdrawal Of section, above.
SUBJECT MATTER INDEX
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