



SUBJECT MATTER INDEX

Precedential Decisions from May 1990 through December 2014

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.

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, in light of evolving precedent, updates to the Ordinances and applicable regulations.

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Index Organization. The *Index* is organized alphabetically by topic. A Table of Topics and Subtopics at the beginning of 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. In addition to 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, these are the other 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 are available electronically through Westlaw,[®] and Board of Commissioners rulings from 2007 forward are available on the Commission's website.

- **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 \$.20 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 (to local numbers only) or email copies of decisions 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 09 means 2009. 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.

About this Update

This updated *Index* merges the previous Volume 1 and 2 and also adds decisions issued from **October 1, 2012 through December 31, 2014**. This *Index* replaces any previous *Indexes*. The most recent update prior to this update included decisions through September 30, 2012.

The *Index* no longer includes a list of Board of Commissioners rulings entered after an administrative hearing. 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).

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. 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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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

After Conclusion of Investigation

Bouressa v. First American Bank, CCHR No. 91-FHO-44-5629 (Jul. 22, 1992) Motion for access to files granted as to documents relating to "tests" conducted by CHR and denied as to all other documents generated by CHR, including those summarizing witness interviews, internal memoranda, and the like, pursuant to Reg. 220.150(a). HO

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

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

Chatman v. Woodlawn Cmty. Dev. Corp. et al., CCHR No. 05-H-22 (Jan. 27, 2006) Attempting to remove Complainant from housing unit by commencing Respondent’s formal tenancy termination process held sufficient to constitute adverse action under CFHO; physical eviction unnecessary to state claim. CO

De los Rios v. Draper & Kramer, Inc. et al., CCHR No. 05-H-32 (Aug. 23, 2006) On motion to dismiss, Complaint held sufficient to state claim which could be investigated even though totality of facts not before CHR to determine whether alleged conduct (failure to receive mail on time and inaction to correct problem) was sufficiently adverse to support discrimination claim. 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

Newby v. Chicago Transit Authority et al., CCHR No. 09-E-10 (Feb. 19, 2014) No gender identity discrimination found against transgender female, arising out of incidents in a train station. Based on credibility determinations by hearing officer as to conflicting testimony, Board found Complainant did not prove security officer referred to her as a man. Even if proved, that mistaken impression by itself is insufficient to constitute direct evidence of discriminatory animus. Referring to complainant as a male would have been belittling if Respondent was aware that Complainant was transgender and was using the term “man” or “male” in a derogatory manner. R

Standard

Smith v. Owner of Sullivan’s et al., CCHR No. 03-P-107 (Dec. 1, 2003) Whether allegation is trivial is issue of fact, which cannot be resolved by 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

Brown et al v. Metropolitan Pier et al., CCHR No. 91-E-127 (Sep. 11, 1992) Respondents' affirmative action plan promoting women upheld when they showed it was justified by a manifest imbalance, did not unnecessarily trammel the rights of other workers, and was temporary CO

AFFIRMATIVE DEFENSE

Burden of Proof

Noosbond v. Mogen David Social Club & Kayne, CCHR No. 94-PA-46 (Feb.16, 1995) Respondent has burden of proving that it is a private club exempt from coverage as a public accommodation. R

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb.27, 1995) Respondent bears the burden of proving that it is an exempt religious organization. CO

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

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Lack of subject matter jurisdiction cannot be waived so Respondent's failure to "plead" it does not preclude dismissal of case. R

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

McCutchen v. Robinson, CCHR No. 95-H-84 (May20, 1998) Respondent found to have waived a failure-to-mitigate defense where, among other things, he never argued it and did not even respond to its application when the Hearing Officer proposed it in his First Recommended Decision. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug.19, 1998) Where evidence shows that Complainant did not seek substitute employment after a year of unemployment but waited two years, CHR found he had failed to mitigate and cut off back pay after one year of unemployment. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Sets forth standards used to determine whether a complainant adequately mitigated damages. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) (same) R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Complainant's back pay cut off as of date she refused to accept a job which was comparable to, or better than, the one from which she was fired with respect to salary and benefits. R

Mixed Motives – See separate Mixed Motives section, below.

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Respondent bears the burden of proving, in a mixed motive case, that it would have taken the disputed action even absent the discriminatory motive. R

Pleading Not Required

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Respondents are not required to file an Answer so they will not be required to have plead an affirmative defense before an Administrative Hearing. R

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) (same) R

Timeliness of Claim

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Because the Ordinance's 180-day filing deadline has been held not to be jurisdictional, failure to file a claim within that time does not affect subject matter jurisdiction. R

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Lack of timeliness of one of Complainant's claims is an affirmative defense which Respondent must raise to have considered; because it was not raised, it could not be considered. R

Waiver

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Because Respondent did not raise that one of Complainant's claims may have been untimely and because timeliness is not jurisdictional, that defense was deemed waived. R

Noosbond v. Mogen David Social Club & Kayne, CCHR No. 94-PA-46 (Apr. 7, 1995) When Respondents failed to respond to CHR order regarding Respondents' motion to dismiss which raised an affirmation defense, CHR held the motion was waived until the case proceeds to an Administrative Hearing, if any. CO

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Totality of Respondent's conduct found to waive a failure-to-mitigate defense where he did not raise it in his pre-hearing memorandum or in his closing argument and where Hearing Officer explicitly raised it in the First Recommended Decision and Complainant objected, Respondent failed to respond at all. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Failure to raise an affirmative defense in pre-hearing memorandum is not itself a *per se* waiver; CHR regulations require consideration of such a failure on a case-by-case basis. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Failure to argue an affirmative defense in objections or response to First Recommended Decision alone will not necessarily be deemed a waiver; all of Respondent's conduct is considered. R

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

Marsh v. United Synagogues of America, CCHR No. 91-PA-40 (Mar. 4, 1992) Decision of a religious organization with a mission of providing a religious exemption for young Jewish adults ages 23-40 to exclude persons over 40 found not to be exempt from the Human Rights Ordinance because it was a "decision of a religious . . . organization . . . affecting the . . . advancement of its mission" within the meaning of §2-160-080. CO

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

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) After order of default entered against Respondent, 53 year-old African-American applicant established a direct evidence *prime facie* case that restaurant/bar owner refused to hire her based on her race and age when owner asked her race and age and replied to her responses, "No, no, no," you are "too old," and your are "not the right type for the job." 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

Audette v. Simko Provisions, CCHR No. 92-E-39 (June 16, 1993) Respondent found to have a non-discriminatory reason for discharge of 57-year-old Complainant where her primary duty was eliminated, where she was not sufficiently qualified to do the remaining duties and where the Respondent had laid off people under 40 as well. R

Deegan v. Falasz, CCHR No. 93-E-204 (Feb. 22, 1995) Respondent found not to have discriminated against Complainant where it was shown she was fired due to her inability and unwillingness to use computers. R

Mahaffey v. University of Chicago Hospitals et al., CCHR No. 93-E-221 (Feb. 22, 1998) Respondents found not liable for age and race discrimination where CHR found they terminated Complainant for not meeting legitimate job expectations and where there was no evidence that similarly situated younger and/or white employees were not terminated. 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

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 (Sep. 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

Vasilovik v. Chicago Park District, CCHR No. 94-E-120 (Sep. 13, 1994) Due to definition of age in CHRO, CHR dismissed Complaint where Complainant claimed age discrimination but was younger than 40 at the time of the incident in question. 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 (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

Kalecki v. Jake's Pub/Johnson, CCHR No. 93-E-173 (Jan. 31, 1994) While a principal may be held liable for the discriminatory acts of his agent, it does not follow that the agent is relieved of liability for his own acts; rather, the agent's acts may render the agent liable as well. HO

Toledo v. Brancato, CCHR No. 95-H-122 (Mar. 14, 1997) Where two of three provisions concerning coverage and prohibitions list agents, CFHO read to cover agents as respondents; case sent to jurisdictional hearing to determine whether facts show that Respondent is covered by CFHO. CO

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) Electrician for management company found not to be an agent; although the purported principal controlled his work, the electrician could not affect the company's legal relationships. CO

Toledo v. Brancato, CCHR No. 95-H-122 (Oct. 22, 1997) (same; denies a Request for Review concerning July 9, 1997 order, above.)

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) Where two of three provisions concerning coverage and prohibited actions list agents, CFHO read to cover agents as respondents. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) CHR finds that the CFHO covers the individual members of the condominium association's board of directors as agents; they admit that they are agents and otherwise appear to be agents. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) CFHO covers several levels of agents, including those who are agents of agents; therefore even if the condominium association itself is merely an agent of the owners, the individual members of the condominium association's board of directors are covered as agents of association's board. CO

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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014). Employing Liquor Store Respondent held vicariously liable for racially based discriminatory actions of the owner who was also Complainant’s supervisor. R

Indemnification Agreement

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) The fact that the by-laws for the condominium association states that the association will indemnify individual members of the condominium association's board of directors does not mean that the individuals may not be found liable. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) An indemnification clause does not bar suit against the persons to be indemnified; it does not bind either CHR or the complainant; and, in fact, its existence suggests that the individuals might be found liable. 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) 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

Hackett v. Judeh Brothers, Inc. et al., 93-E-111 (Jan. 18, 1995) Individual Respondent found to be an agent of company so that company was liable as well as individual; individual was part-owner of the company and had paid and discharged Complainant. R

Buckner v. Verbon, 94-H-82 (May 21, 1997) Without finding that landlord's companion was her "agent," CHR found her liable for her own racist actions and for ratifying her companion's tearing up the lease and making racist comments once he learned Complainant is Black. R

Doe v. 12345 Condominium Assoc. et al., 98-H-190 (Apr. 30, 1999) Where two of three provisions concerning coverage and prohibited actions list agents, CFHO read to cover agents as respondents. CO

Doe v. 12345 Condominium Assoc. et al., 98-H-190 (Apr. 30, 1999) CHR finds that the CFHO covers the individual members of the condominium association's board of directors as agents; they admit that they are agents and otherwise appear to be agents. CO

Doe v. 12345 Condominium Assoc. et al., 98-H-190 (Apr. 30-99) CFHO covers several levels of agents, including those who are agents of agents; therefore even if the condominium association itself is merely an agent of the owners, the individual members of the condominium association's board of directors are covered as agents of association's board. 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

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

Manzanares 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

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) Where there is no CHR precedent and where language of CFHO does not define "agent," CHR looks to definition in Illinois case law. CO

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) Party asserting agency has burden to prove it. CO

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) To be an agent under CFHO, person must be controlled by alleged principal and be able to affect the principal's legal relationships. CO

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) Agency relationship may be inferred from facts and circumstances. CO

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) Sexual harassment need not be part of purported agency relationship for agent to be found liable; case did not concern liability of principal. CO

Toledo v. Brancato, CCHR No. 95-H-122 (Oct. 22, 1997) To be an agent under CFHO, person must be controlled by alleged principal and be able to affect the principal's legal relationships; order denies Request for Review of July 9, 1997 order. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Apr. 9, 1998) CHR uses test for agency which is applied in Illinois courts. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Apr. 9, 1998) In order denying motion to dismiss due to outstanding questions of facts, CHR notes that the CFHO covers both direct and indirect agents; so if the chain of command over the individual who is accused of discriminating includes the organization respondent, even if several "levels" up, it may still be liable. CO

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)]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

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
Warren and Elbert v. Lofton & Lofton Management d/b/a McDonald's et al., CCHR No. 07-P-62/63/92 (July 15, 2009) CHR will determine potential liability of respondent owners in accordance with traditional agency principles in public accommodation cases. Decision extensively discusses *Meyer v. Holley*, 537 U.S. 280 (2003). R
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

Thomas v. Johnson Publishing, CCHR No. 91-E-44 (June 18, 1992) Amended claims that failure to reinstate after discharge was retaliatory and that Respondent had harassed Complainant on the job were found untimely and not allowed. CO

Thomas v. Johnson Publishing, CCHR No. 91-E-44 (June 18, 1992) Based on the particular facts of the case, CHR allowed amendment of complaint to add a claim of age discrimination for failure to recommend counselling where original complaint had both an age discrimination claim and a failure to recommend counselling claim. CO

Thomas v. America's Best Mortgage, CCHR No. 94-CR-1 (Oct. 13, 1994) Complainant allowed to amend her complaint to allege that actions taken by an already-named respondent constituted credit discrimination, not housing discrimination as originally alleged; the new allegation found only to amplify and clarify the former. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) CHR denied Complainant's request to add discharge claim to complaint finding it was untimely because omission of that claim was not a "technical defect or omission" but a wholesale addition and so had to have been added within 180 days of the discharge. CO **See Jurisdiction/Time for Filing section, below.**

Freeman v. Chapman and Cutler et al., CCHR No. 97-E-130 (Sep. 8, 1997) Amended complaint dismissed where it merely stated that is meant to "include sexual harassment" but provides no allegations which address, or could be read to address, sexual harassment. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Dec. 19, 1997) Complainant allowed to amend complaint to: add a basis which was described in the original complaint; correct certain dates; re-word a paragraph; and clarify allegations concerning his disability. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Dec. 19, 1997) Complainant not allowed to add: a new basis which was not even alluded to in original complaint; allegations about an arbitrator's decision which were, among other things, untimely and not about discrimination; and allegations about past discipline which were, among other things, untimely and not about discrimination. CO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (June 15, 1998) Order denies request to amend allegations after substantial evidence finding in that the motion did not allege that they were "technical" changes and did not allege either that the allegations did not arise before the original complaint or that they were unknown to the Complainant when he first filed. HO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (July 21, 1998) Denied motion to amend complaint to add details about possible agency relationship and theories for possible legal liability; adding these assertions was unnecessary once the individual was added as a respondent and discussions of legal theories are not appropriate in a CHR, fact-based complaint. HO

Olic v. Edgewater Plaza Condo Assoc. et al., CCHR No. CCHR No. 99-H-4 (May 5, 1999) Allegations in an amended complaint about incidents not covered by the original complaint were allowed as they were made within 180 days of the new incidents. CO

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

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Nov. 2, 1992) Denied Complainant's request to add wife and children as additional complainants after 180 days from incident due to failure to argue that the wife's and children's failure to file was inadvertent or that they were unavailable and found potential prejudice to Respondent if addition were allowed. HO

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Granted request of Complainant to add wife as additional complainant because: she is a necessary party and Respondent would be collaterally estopped by this CHR action; adding her allows for complete resolution of the matter; and Respondent not shown to be prejudiced by her addition. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) Allowed the adding of Complainant's wife as additional complainant at the Hearing based on Campbell, above; reverses order of 11-2-92 regarding the wife. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) CHR reversed the Hearing Officer's later adding of Complainant's children as additional complainants at the Hearing in that the Complainant's claim was parental status discrimination and the children do not have a "parental status". R

Leadership Council/Walters v. Koumbis, CCHR No. 93-H-25 (July 1, 1993) Pursuant to Regulation 210.160(c), granted Complainant's request to add Complainant's husband as additional complainant after CHR finding of substantial evidence. CO

Lee v. Barnes Enterprises, CCHR No. 93-E-198 (Apr. 8, 1994) Complainant's claim of discrimination found to survive his death and his sister, an heir, was allowed to be substituted for him. CO

Nash/Demby v. Sallas Realty/Sallas, CCHR No. 92-H-128 Motion to add organization as additional complainant denied because adding it would raise new factual issues, because discovery was closed, and because the Respondent would be prejudiced in that the Hearing was only two weeks away. HO

Brandt v. Sumegi, CCHR No. 96-H-22 (Apr. 29, 1997) Request to add complainant's fiancé as additional complainant denied where his addition after finding of substantial evidence would raise new factual question not considered during investigation and that question could have affected whether or not CHR would have found substantial evidence as to the fiancé. CO

Cerezo v. Davidovac, CCHR No. 98-H-132 (Apr. 8, 1999) Grants request to add complainant's wife as second complainant after substantial evidence was found where his wife was integrally involved in the incidents and was mentioned throughout the complaint so that respondent knew she could be involved as a complainant and where respondent expressly stated that he did not object to her addition. CO

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

Johnson v. City Realty & Development Co., CCHR No. 91-FHO-165-5750 (Sep. 3, 1992) Complainant's motion to add respondents after a finding of substantial evidence denied due to lack of allegation that the individuals sought to be added had any knowledge of the original complaint. HO

Kalecki v. Jake's Pub/Johnson, CCHR No. 93-E-173 (Feb. 15, 1994) Motion to add additional respondents granted where all the criteria in the relevant Regulation were met including, but not limited to, that those to be added had notice of the complaint and the actions which led to it. HO

Thomas v. America's Best Mortgage, CCHR No. 94-CR-1 (Oct. 13, 1994) Complainant not allowed to add new respondent after limitations period had run where the business had no notice or knowledge of original complaint within the limitations period. CO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Mar. 1, 1996) Motion to add Respondents just before Hearing denied pursuant to Reg. 210.160 where Complainant did not show that the persons to be added had the required knowledge or that the additions would not lead to new factual questions. HO

Sheppard v. Jacobs, CCHR No. 94-H-162 (June 25, 1996) Complainant allowed to add wife of Respondent as additional respondent after a few days of Hearing where, among other things, Complainant could not discover wife's role earlier because of Respondent's failure to comply with discovery and other pre-hearing procedures. HO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (June 15, 1998) Complainant allowed to add as a new respondent individual owner of corporate respondent who had timely notice of original complaint; order did not allow addition of second individual whom Complainant did not show knew of the complaint within 180 days of the alleged violation, as required; all other factors to add the new Respondents were found to be satisfied. HO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (July 21, 1998) Granted motion of other Complainant to add individual owner of corporate respondent who had timely notice of original complaint for reasons set forth in order of June 15, 1998, listed above. HO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (July 21, 1998) Other Complainant's motion to add second individual as respondent denied due to outstanding factual issues about that individual's ownership of the corporate respondent. HO

Hawkins v. Adriana Furs, CCHR No. 96-E-90 (Jan. 5, 1999) Complainant allowed to add executives of the business respondent as individual respondents before a determination of whether there is substantial evidence; the individuals had timely notice of the original complaint and had participated in responding to it; they knew they could be involved as respondents as both were mentioned in the text of the original complaint; and they shared the business respondent's interest in contesting the complaint. CO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (May 28, 1999) Motion denied to add respondents during hearing, finding that Complainant could have learned the information which formed the basis of his motion during discovery and so did not meet the standards of Regulation 210.160(b)(2); Complainant could have interviewed and sought discovery from the proposed additional respondents as well as other witnesses before the hearing started) HO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (Sep. 15, 1999) Hearing Officer rejects Respondents' motion to add new respondents, this time due to testimony presented at hearing, pursuant to Reg. 210.160(b)(2) which states that a complainant must show that the information which forms the basis of the motion is first learned at the Hearing and could not have been learned beforehand, including during discovery. HO

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 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-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

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

Thomas v. Johnson Publishing, CCHR No. 91-E-44 (June 18, 1992) Amended claims that failure to reinstate after discharge was retaliatory and that Respondent had harassed Complainant on the job were found untimely and not allowed. CO

Thomas v. Johnson Publishing, CCHR No. 91-E-44 (June 18, 1992) Based on the particular facts of the case, CHR allowed amendment of complaint to add a claim of age discrimination for failure to recommend counselling where original complaint had both an age discrimination claim and a failure to recommend counselling claim. CO

Thomas v. America's Best Mortgage, CCHR No. 94-CR-1 (Oct. 13, 1994) Complainant allowed to amend her complaint to allege that actions taken by an already-named respondent constituted credit discrimination, not housing discrimination as originally alleged; the new allegation found only to amplify and clarify the former. CO

At Hearing

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) Complainant allowed to correct a technical defect in pleadings at the Hearing where no prejudice to Respondent was shown. R

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

Bell v. 7-11 Convenience Store, CCHR No. 97-PA-68 (Apr. 22, 1998) CHR allowed amendments requested after 180 days which merely clarified original allegations; CHR denied other requests which sought to add new material which did not merely amplify original allegations or which sought to add information not relevant to a possible Human Rights Ordinance violation. CO

Barnes v. 7-11 Convenience Store, CCHR No. 97-PA-72 (Apr. 22, 1998) (same) CO

Olic v. Edgewater Plaza Condo Assoc. et al., CCHR No. 99-H-4 (May 5, 1999) Where the amended complaint, among other things, clarified and amplified some of the allegations of the original complaint, it replaced the prior complaint and became the "operative" one. CO

Washington v. Smith & Robinson, CCHR No. 99-H-9 (May 6, 1999) Where the original complaint gave a range of dates within which the harassment allegedly occurred and the amended complaint's only change was to list the specific dates of the harassment, amendment allowed as a clarification. CO

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

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) Where amended complaint had different allegation than original complaint with respect to end date of harassment, CHR did not strike either allegation, but kept both as a factual dispute to be investigated; cites Illinois court cases and CHR regulations. 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

Effect on Motion to Dismiss

Olic v. Edgewater Plaza Condo Assoc. et al., CCHR No. 99-H-4 (May 5, 1999) Where, in response to the motion to dismiss, Complainant filed an amended complaint which replaced the original complaint, the motion to dismiss was moot as dismissing the original complaint would not have any impact on the case. CO

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

Marback v. Chicago Tribune, CCHR No. 97-PA-10 (Dec. 12, 1997) Where original complaint alleged sexual orientation discrimination, Hearing Officer allowed amendment to add sex to indicate that the discrimination was because Complainant's partner is male, as he is; held that the amendment was "more form than substance". HO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Dec. 19, 1997) A new basis may be added in amended complaint depending on whether it is a permitted clarification of or a prohibited wholesale addition to original allegations. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Dec. 19, 1997) Where original complaint described Complainant's disability and how it may have affected his employment, Complainant allowed to add disability as a new basis. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Dec. 19, 1997) Where neither retaliation nor alleged retaliatory events were mentioned in the original complaint, Complainant not allowed to add it as a new basis in amended complaint. CO

Bell v. 7-11 Convenience Store, CCHR No. 97-PA-68 (Apr. 22, 1998) Where basis sought to be added after 180 days was not mentioned or suggested in original complaint, CHR denied request to add it. CO

Barnes v. 7-11 Convenience Store, CCHR No. 97-PA-72 (Apr. 22, 1998) Where bases sought to be added after 180 days were not mentioned or suggested in original complaint, CHR denied request to add them. CO

Standards – Adding Complainants

Brandt v. Sumegi, CCHR No. 96-H-22 (Apr. 29, 1997) Sets forth standards, from Reg. 210.160(a)(1), for adding complainants after a finding of substantial evidence. CO

Cerezo v. Davidovac, CCHR No. 98-H-132 (Apr. 8, 1999) Sets forth and applies standards from Reg. 210.160 concerning adding complainants after a finding of substantial evidence. CO

Pudelek/Weinmann v. Bridgeview Garden Condo Assoc., et al., CCHR No. 99-H-39/53 (Aug. 2, 2000) Sets forth standards from Reg. 210.160 pertaining to adding additional complainants, here spouses of original two, after a finding of substantial evidence. CO

Standards – Adding Respondents

Thomas v. America's Best Mortgage, CCHR No. 94-CR-1 (Oct. 13, 1994) Complainant may add new respondent if a complaint could be filed against it or where it had notice of the original complaint and the fact that it might be involved and it would not be prejudiced by being added. CO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Mar. 1, 1996) Sets forth standards, from Reg. 210.160, for adding respondents after a finding of substantial evidence. HO

Sheppard v. Jacobs, CCHR No. 94-H-162 (June 25, 1996) (same) HO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (June 15, 1998) Order recites Regulation 210.160(b)(2)'s standards governing the addition of respondents more than 180 after the incident; notes that each element must be met to add a new respondent. HO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (June 15, 1998) Complainant not required to show that he was not able to have named individuals as respondents during the 180-day limit. HO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (June 15, 1998) Whether individual who was owner of Respondent corporation can be added depends on meeting Regulation factors; it does not depend on whether Complainant can "pierce the corporate veil" as individuals can be held liable for their own actions, not just those of the corporation. HO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (June 15, 1998) Order rejects

individual's claim that her "due process" rights would be violated if she were allowed to be added as a respondent more than 180 days after the incident; there was no question that she had timely knowledge of the complaint and participated in the investigation and any concerns about discovery before the hearing could be addressed through appropriate motions. HO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (July 21, 1998) Adopts discussion of Regulation's standards for adding a respondent as set forth in the order of June 15, 1998, listed above. HO

Hawkins v. Adriana Furs, CCHR No. 96-E-90 (Jan. 5, 1999) Order applies standards of Regulation 210.160(b)(1) concerning seeking to add respondents after 180 days from the incident but before a determination of substantial evidence. CO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (May 28, 1999) Order applies standard from Reg. 210.160(b)(2) concerning a motion to add respondents after CHR has found substantial evidence. HO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (May 28, 1999) Pursuant to Regulation 210.160(b)(2), concerning a motion to add respondents during the hearing, complainant must show that the information which forms the basis of the motion is first learned at the Hearing and could not have been learned beforehand, including during discovery. HO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (Sep. 15, 1999) Same, concerning motion to add respondents based on testimony during hearing. HO

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

Thomas v. Johnson Publishing, CCHR No. 91-E-44 (June 18, 1992) Discussed standards and factors for CHR to consider regarding when a complaint may be amended to "clarify, amplify or add additional facts. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Dec. 19, 1997) Sets forth standards from Reg. 210.150 concerning amendments to cure technical defects and to clarify or amplify allegations made in the original complaint. CO

Thomas v. America's Best Mortgage, CCHR No. 94-CR-1 (Oct. 13, 1994) Complainant may add claims which clarify or amplify ones in the original complaint after the limitations period has run. CO

Freeman v. Chapman and Cutler et al., CCHR No. 97-E-130 (Sep. 8, 1997) Sets forth standards from Reg. 210.120(c) for content of complaints, including additional claims. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Dec. 19, 1997) A new basis may be added in amended complaint if it is a clarification of original allegations not a wholesale addition. CO

Bell v. 7-11 Convenience Store, CCHR No. 97-PA-68 (Apr. 22, 1998) Sets forth standards from Reg. 210.150 concerning amendments more than 180 days from incidents must be to cure technical defects and/or to clarify or amplify original allegations; wholly new allegations about original incident cannot be added. CO

Barnes v. 7-11 Convenience Store, CCHR No. 97-PA-72 (Apr. 22, 1998) (same) CO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (June 15, 1998) Order recites Regulation 210.150(c)(1)'s standards governing the amendment of claims and allegations, other than technical changes, after a substantial evidence finding. HO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (May 28, 1999) Order applies standard from Regulation 210.150(c)(2) which concerns seeking to amend a complaint to "conform" to evidence presented at the hearing. HO

Johnson v. Chicago Dept. of Health, CCHR No. 99-PA-104 (Dec. 20, 1999) CHR found that filing a complaint after 180 days is not a "technical defect" of the complaint which would allow the Complainant to "amend" his complaint to have it be deemed timely. CO

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

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr 18, 2001) Sets forth standards of Reg. 210.150(c)(1) concerning adding issues, but not claims, at the Hearing. R

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

Substitution of Party

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (Jan. 15, 1995) A legal successor may be substituted for a deceased complainant. CO

Cruz v. Melrose Optical & Reil, CCHR No. 95-E-61 (May 3, 1996) After individual Respondent died, Complainant allowed to amend complaint to substitute Respondent's wife, the administrator of his estate, as the Respondent. 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

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

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) CHR denied Complainant's request to add discharge claim to complaint finding it was untimely because omission of that claim was not a "technical defect or omission" but a wholesale addition and so had to have been added within 180 days of the discharge. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Dec. 19, 1997) If a complaint seeks to amend complaint to add an incident not covered by the original complaint, it must be added within 180 days of the incident. 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

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

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

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. CO

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. 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

ANCESTRY DISCRIMINATION

Liability Found

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Respondent found liable where there was direct evidence that they refused to rent to Hispanic tenant due to their fear of neighbors' reaction, not due to habitability of

apartment as they claimed at the hearing. R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 2, 1998) Landlord found liable for harassing Complainant, a Hispanic tenant, which created a hostile, intimidating and offensive environment, including by calling her an "f---ing Puerto Rican" and suggesting that she move to Humboldt Park. R

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. 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

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

ANSWER

Not Required

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Under 1992 Regulations, Respondents are not required to file an Answer so they will not be required to have plead an affirmative defense before an Administrative Hearing. R

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. HO

Testimony at Hearing Related To

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) CHR placed no weight on the fact that Respondent's testimony differed from the answer his attorney submitted during the investigation on his behalf. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Inclusion of a matter in the pleadings is not a prerequisite to crediting testimony adduced at trial on that matter. R

ARBITRATION

Compulsory Arbitration

Berg v. Household International/Hamilton Investments, CCHR No. 93-E-199 (Feb. 16, 1994) Following Supreme Court precedent, CHR dismissed complaint of Complainant-broker finding he was required to use the agreed-to compulsory arbitration procedure to resolve his claim. CO

Roxas v. JK Guardian Security Services, Inc., CCHR No. 95-E-192 (May 12, 1997) Following Supreme Court and 7th Circuit precedent, CHR denies motion to dismiss case in which Respondent argued that a collective bargaining agreement required that Complainant use a grievance-arbitration procedure instead of CHRO procedures. CO

Roxas v. JK Guardian Security Services, Inc., CCHR No. 95-E-192 (May 12, 1997) CHR finds that a union cannot consent for an employee to arbitration of the employee's CHRO claims simply by signing a collective bargaining agreement. CO

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. CO

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. CO

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

Owens v. Jacunski, CCHR No. 92-H-93 (Aug. 18, 1993) Where the question arose as to attorney's authority to settle for his client, a hearing was held on that issue and CHR found that the attorney had specific authority to settle for his client and so oral agreement was held enforceable. CO

Disqualification

Hoffman v. Pascal Pour Elle, CCHR No. 94-E-159 (Aug. 20, 1996) Where a member of the firm which represents Respondents was to be called as a witness, motion to disqualify the firm denied because the attorney/witness was not to be an advocate for Respondent and his testimony was expected to support Respondent. HO

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

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Motion to disqualify Complainant's attorney denied, although attorney deemed "necessary witness" based on his participation in a telephone call that formed bases if the claim, where disqualification would create substantial hardship. 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

White v. Ison, CCHR No. 91-FHO-126-5711 (Apr. 23, 1993) Party has duty to diligently track the course of his or her litigation and where Complainant had personal knowledge of the date of the Administrative Hearing but did not attend, he cannot vacate the default judgment by later claiming he had "sub-competent representation". HO

Barber v. Chicago Dept. of Buildings, CCHR No. 91-E-35 (Mar. 8, 1993) Attorney's failure to give Complainant/client timely notice of ruling, where attorney then withdrew and client acted diligently, not imputed to client so that she could file a Request for Review of the ruling nine days late. HO

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

Leadership Council for Metro. Open Comms. v. Carstea & Berzava, CCHR No. 98-H-76 (Apr. 26, 2002) In defaulting Respondents for failing to attend Conciliation Conference, CHR recites Illinois law which holds clients responsible for inaction of attorneys. 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 re-open 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

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Apr. 20, 1992) Counsel for Complainant granted leave to withdraw after hearing because it had no agreement to represent Complainant on appeal. HO

Murray v. Cabrera/American Advantage, CCHR No. 92-FHO-16-5766 (Nov. 12, 1992) Counsel for Respondent granted leave to withdraw where Respondent left for Mexico and left no forwarding address and where Complainant did not object. HO

Owens v. Jacunski, CCHR No. 92-H-93 (May 5, 1993) Attorney's request to withdraw after a finding of substantial evidence and after a Conciliation Conference denied because his stated reason was not sufficient, and because allowing him to withdraw could prejudice his client and could harm administrative efficiency. CO

Vallone v. Marilyn Miglin, CCHR No. 92-E-204 (May 24, 1993) Attorney allowed to withdraw where substantial evidence had not yet been determined, where there were no objections to the withdrawal, and where the withdrawal would not prejudice the client or harm administrative efficiency. CO

Wyka v. Marilyn Miglin, CCHR No. 92-E-214 (May 24, 1993) (same) CO

Carrion v. Marilyn Miglin, CCHR No. 92-E-214 (May 24, 1993) (same) CO

Reid v. Ross/Williams Realty, CCHR No. 93-H-42 (Aug. 24, 1993) Attorney allowed to withdraw where

there were no objections to the withdrawal and where the interests of justice and efficiency will not be thwarted. CO

Demby v. Sallas, CCHR No. 92-H-130 (Sep. 21, 1993) Leave granted in pre-substantial evidence stage, no objections filed, and no administrative inefficiency would result. R

White v. Josephinum High School, CCHR No. 93-PA-20 (Oct. 7, 1993) (same) CO

Hampton v. Levy Security, CCHR No. 92-E-107 (Nov. 18, 1993) Leave granted during discovery before a hearing where there were no objections and where the withdrawal would not impede administrative efficiency. HO

Baoku v. Broderick, CCHR No. 93-H-112 (Dec. 14, 1993) Leave granted where a substantial evidence determination had not yet been made and where no objections were made. CO

Freeman v. Association House, CCHR No. 93-E-145 (Feb. 1, 1994) Leave granted where a substantial evidence determination had not yet been made and where no objections were made. CO

Haliburton v. Everett Security, CCHR No. 93-E-252 (Feb. 1, 1994) (same) CO

Gettinger v. Salvatorie, CCHR No. 93-E-201 (Mar. 15, 1994) (same) CO

Mikulski v. Field Museum, CCHR No. 93-E-51 (Apr. 8, 1994) Leave granted after a finding of substantial evidence where a second attorney had already filed a substitute appearance and where there were no objections. CO

Shontz v. Milosavjevic, CCHR No. 94-H-1 (July 11, 1994) Leave granted where a substantial evidence determination had not yet been made and where no objections were made. CO

Koo v. Pet Care Plus, CCHR No. 94-E-27 (July 21, 1994) (same) CO

Hawthorne v. Conrail, CCHR No. 93-E-86 (July 26, 1994) (same) CO

Jeffers v. Chicago Board Options Exchange, CCHR No. 94-E-35 (Aug. 12, 1994) Same; and second attorney had already filed a substitute appearance. CO

McEwen v. Houston's Restaurant, CCHR No. 94-PA-1 Leave granted where a substantial evidence determination had not yet been made and where no objections were made. CO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (Apr. 21, 1995) Denied Complainant's attorney's request to withdraw where it was made only about two weeks before the hearing, where no other attorney was prepared to represent Complainant, where the request was oral so that no other party or the Complainant himself had prior notice; held that granting the request would cause substantial delay. CO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (5May 3, 1995) Complainant's attorney's request to withdraw granted because Hearing had already been held so no delay would ensue, because it appeared that irreconcilable differences exist between attorney and client and because client had not objected. HO

Eison v. Chicago Dept. of Human Services & American Red Cross, CCHR No. 94-PA-21 (May 9, 1995) Complainant's attorney's leave to withdraw granted after a finding of substantial evidence where a second attorney had already filed a substitute appearance. CO

Hall v. Becovic, CCHR No. 93-H-39 (May 19, 1995) (same) HO

Jackson v. Midland Mgt., et al., CCHR No. 95-H-49 (July 7, 1995) Leave to withdraw granted where no substantial evidence determination had yet been made, where no objections were made and where no administrative inefficiency would result. CO

Buckner v. Verbon, CCHR No. 94-H-82 (Aug. 17, 1995) Respondent's counsel allowed to withdraw after substantial evidence finding where there were no objections, conciliation efforts had ended and administrative hearing proceedings were just beginning. CO

Rottman v. Spanola, CCHR No. 93-H-21 (Aug. 23, 1995) Respondent's attorney allowed to withdraw after Respondent failed to comply with a settlement agreement where the attorney-client relationship was found to have broken down, despite objections from the Complainant and some delay in the hearing proceedings. HO

Roberts v. KPMG Peat Marwick, CCHR No. 95-E-55 (Oct. 17, 1995) Attorney for Complainant granted leave to withdraw where case was in investigation, no objections were filed and no administrative inefficiency would result from the withdrawal. CO

Caudillo v. Continental Bank, CCHR No. 94-E-119 (Oct. 26, 1995) (same) CO

Bowens v. United Airlines, CCHR No. 93-E-185 (Oct. 26, 1995) (same) CO

Jackson v. Midland Mgt., CCHR No. 95-H-49 (Jan. 29, 1996) Attorney given leave to withdraw during hearing process when neither party objected. HO

LaRosa v. Knudson, CCHR No. 95-E-173 (Mar. 21, 1996) Attorney for Complainant granted leave to withdraw where case was in investigation, no objections were filed and no administrative inefficiency would result from the withdrawal. CO

McCarthy v. Serra International, CCHR No. 95-E-54 (Mar. 25, 1996) (same) CO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (June 17, 1996) Despite Complainant's objections, Respondent's attorney allowed to resign during pre-hearing process where the attorney cited several difficulties in working with his client. HO

Crenshaw v. Harvey, CCHR No. 95-H-82 (July 5, 1996) Where case is in hearing stage and no objections are filed, one of Complainant's two attorney's allowed to withdraw. HO

Matias v. Zachariah, CCHR No. 95-H-110 (July 5, 1996) Where case is in hearing stage, no objections are filed, and Respondent's attorney showed that they had tried and failed to reach Respondent numerous times, attorney allowed to withdraw. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Oct. 28, 1996) Respondent's second attorney allowed to withdraw during Hearing phase due to lack of client cooperation and payment; Hearing not postponed. HO

Grayson v. Linnco Futures Group et al., CCHR No. 97-E-201 (May 21, 1999) Attorney for Complainant allowed to withdraw her appearance due to irreconcilable difference with her client as there were no objections and as her withdrawal would not materially impede the resolution of the case. HO

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 Svcs., 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

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) No error found where investigator spoke to Respondent without his attorney because Respondent had no absolute right to attorney and because Respondent could have left at any time. R

ATTORNEY'S FEES

Burden of Proof

Janicke v. Badrov, CCHR No. 93-H-46 (June 21, 1995) Person seeking fees has burden of presenting evidence from which CHR can determine if the requested fees are reasonable. R

Janicke v. Badrov, CCHR No. 93-H-46 (June 21, 1995) An absence of specificity concerning time and task precludes a finding of reasonableness. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Person seeking fees has burden of presenting evidence from which Commission can determine what fees are reasonable. R

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

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (May 16, 2001) 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. (Appellate 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

Hamilton and Hamilton v. Café Descartes CCHR No. 13-P-05/06 (Dec. 17, 2014) To determine an appropriate hourly rate, public interest attorney bears burden to submit affidavits from similarly experienced attorneys attesting to rates charged paying clients for similar work, then burden shifts to Respondent to demonstrate why a lower rate should be awarded. Despite requirement that entries for work completed for which attorney fees are sought provide sufficient detail for a determination of reasonableness, an entry noting "call with..." a fellow attorney, without any detail of the conversation, was deemed acceptable because it is reasonable to conclude that a conversation among attorneys working collectively on the case at issue was related to efforts associated with that case. R

Burden to Respondent

Rushing v. Jasniowski, et al., CCHR No. 92-H-127 (Jan. 18, 1995) Respondents' argument that the award of fees would "substantially burden" the individual Respondent found unsupported by the evidence and unrelated to the determination of appropriate fees. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Respondent's contention that Complainant should not be awarded attorney's fees because he could not afford it found insufficient to counter the award of fees allowed to the prevailing complainant by Ordinance. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Feb. 24, 1999) The amount of attorney's fees awarded to a prevailing complainant is not based on respondent's ability to pay. R

Costs – See separate Costs section, below.

Deferral of Ruling

Collins/Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 13, 1995) Ruling on petition for fees in state court appeal deferred until all appeals are finalized, to promote judicial economy. HO

Barnes v. Page, CCHR No. 92-E-1 (Dec. 4, 1998) Where Respondent appealed the appellate court decision to the Illinois Supreme Court, CHR deferred proceeding on Complainant's petition for fees earned in state court until all appeals are complete. CO

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

Sheppard v. Jacobs, CCHR No. 94-H-162 (Nov. 25, 1997) CHR is a tribunal covered by Illinois Supreme Court rule 764 and so it must review attorney's fees which the parties agreed would be paid to an attorney who was disbarred after her work on the case. HO

Sheppard v. Jacobs, CCHR No. 94-H-162 (Nov. 25, 1997) Where attorney did not comply with Supreme Court Rule 764 with respect to notifying CHR of her disbarment, she was not entitled to fees for her work on the case. HO

Sheppard v. Jacobs, CCHR No. 94-H-162 (Mar. 25, 1998) On request for review, CHR upheld decision not to award disbarred attorney her attorney's fees because she did not notify the Commission of her disbarment as required by Supreme Court Rule 764. CO

Sheppard v. Jacobs, CCHR No. 94-H-162 (Mar. 25, 1998) On request for review, CHR found that, applying usual rules of statutory construction, Supreme Court Rule 764 required disbarred attorney to notify Commission in order to receive attorney's fees and held that it could not merely ignore that requirement. CO

Sheppard v. Jacobs, CCHR No. 94-H-162 (Mar. 25, 1998) On request for review, CHR found that it is appropriate tribunal to address Supreme Court Rule 764 issue as it was tribunal before which the proceeding was instituted; found that deciding this issue was not discipline of attorney and so did not invade Illinois Supreme Court's purview; and held that the fact that her client consented to award of fees was not dispositive. CO

Discovery Related to Fees

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (May 30, 1996) Denies Complainant's motion to compel production of certain documents concerning time spent by Respondents' attorneys

in order to justify own time; although hearing officer finds that he has inherent power to allow discovery about fees, he found it was not warranted by good cause in this case. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Nov. 20, 1997) Denies request of Respondent for certain documents and information concerning time spent by Complainant's attorneys; although hearing officer finds that she has inherent power to allow discovery about fees, she finds that no good cause was shown and many requests were irrelevant to reasonableness of the requested fees. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Respondent's motion for discovery about attorney's fees previously denied due to lack of good cause; Respondent had opportunities to make responses to fee petition and recommended rulings; hearing on fees is not necessary. R

Extension of Time

King v. Houston/Taylor, CCHR No. 92-H-162 (Aug. 31, 1994) Complainant's attorney allowed to file attorney's fees petition two days late where, due only to inadvertence, he had received the ruling ordering the petition on the day the petition was due to be filed; Respondent found not to be prejudiced by the delay. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (May 15, 1996) Complainant allowed to file his request for fees two days late when he learned only on the due date that his attorney had not filed one. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Nov. 5, 1997) One of Complainant's attorneys allowed additional time to file petition where he showed that he was suddenly incapacitated by a back injury and then filed his fee petition promptly upon returning to work. HO

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

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Post-judgment, not pre-judgment, interest awarded on attorney's fees. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (June 18, 1998) Where the Commission's final order concerning attorney's fees did not award interest on the fees, Commission did not award such interest when it granted Complainant's motion seeking payment of the fees. CO **See also separate section for Execution of Decision, below.**

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

Sleper v. Maduff & Maduff, CCHR No. 06-E-90 (Feb. 20, 2013) Interest on fees and costs awarded post-judgment only, date from entry of Board ruling finding liability and awarding relief. 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

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) CHR follows U.S. Supreme Court precedent that, where payment of fees for work of paralegals and law students is the prevailing practice (as in Chicago), their reasonable fees shall be allowed. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) Where paralegals are usually paid, question is not whether their work is "legal" or "non-legal" but whether it is the type of work normally billed to paying clients. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) \$50/hour awarded for law student time and \$30/hour awarded for paralegal time. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Law students awarded \$50/hour; and paralegal awarded \$35/hour. R

Barnes v. Page, CCHR No. 92-E-1 (May 15, 1996) On remand, in an alternate holding, CHR found that if the Circuit Court requires the out-of-state attorney to be paid as a paralegal, her rate should be \$75/hour due to her law degree and three years' experience. R

Soria v. Kern, CCHR No. 95-H-13 (Nov. 20, 1996) Paralegal awarded rate of \$90/hour as that is rate customarily charged by the firm for his work. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Law firm's paralegal and librarian awarded \$70/hour not the requested \$85/hour because the \$85 rate was not justified by showing of experience, was very close to attorneys' rates and was over twice amount charged by ACLU for its paralegal. R

Barnes v. Page, CCHR No. 92-E-1 (Feb. 19, 1997) Upon order of circuit court, Board awarded fees to one of Complainant's attorney at a paralegal rate (\$75/hour) as she was not licensed in Illinois for a total fee for her plus second attorney of \$33,770.03. R

Matias v. Zachariah, CCHR No. 95-H-110 (Feb. 19, 1997) Law students awarded rate of \$50/hour. R

Wright v. Mims, CCHR No. 95-H-12 (Sep. 17, 1997. (same) R

McCutchen v. Robinson, CCHR No. 95-H-84 (Oct. 21, 1998) Law students allowed to be awarded fees; here awarded \$50 per hour, not the \$60 requested. R

McCutchen v. Robinson, CCHR No. 95-H-84 (Oct. 21, 1998) CHR deducted some requested time which was merely educational work for the law students. R

Huff v. American Management & Rental Svc., CCHR No. 97-H-187 (June 16, 1999) Law students compensated at \$50 per hour, not the \$60 per hour requested. R

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

Properties Huevo v. St. James, CCHR No. 90-E-44 (July 11, 1991) Prevailing party receives reasonable attorney's fees. R

Jenkins v. Artists' Restaurant, CCHR No. 90-PA-14 (Aug. 014, 1991) Same plus discussion of CHRO. R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) (same) R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Mar. 25, 1992) (same) R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) (same) R

Akangbe v. 1428 W. Fargo Condominiums, CCHR No. 91-FHO-7-5595 (July 29, 1992) (same) R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) (same) R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (Sep.16, 1992) Fees justified even applying the 1991 regulations which allowed attorney's fees when the other party's allegations were "groundless". R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) CHR's award of attorney's fees authorized both by Ordinance and Regulations. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Mar. 17, 1993) There is no requirement that Respondent's defense be "frivolous" in order to award Complainant fees. R

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Prevailing Respondent found not entitled to fees where it cites no authority for such an award and where the facts and circumstances of the case do not justify it. R

White v. Ison, CCHR No. 91-FHO-126-5711 (July 22, 1993) CHR routinely awards attorney's fees to prevailing Complainant. R

Boyd v. Williams, CCHR No. 92-H-72 (Sep. 23, 1993) (same) R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) (same) R

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Prevailing party receives reasonable

attorney's fees. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994. (same) R

King v. Houston/Taylor, CCHR No. 92-H-162 (Aug. 31, 1994) (same) R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (Oct, 19, 1994) (same) R

Starrett v. Duda/Sorice, CCHR No. 94-H-6 (Oct. 19, 1994) (same) R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) (same) R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Prevailing complainant is entitled to payment of attorney's fees. R

Reed v. Strange, CCHR No. 92-H-139 (Mar. 15, 1995) (same) R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) (same) R

Williams v. Banks, CCHR No. 92-H-169 (July 19, 1995) (same) R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) (same) R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) (same) R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) (same) R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) (same) R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) (same) R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) (same) R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) (same) R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (Jan. 10, 1996) (same) R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (Jan. 10, 1996) CHR rejects argument that Complainant was not entitled to fees because the Hearing Officer's first recommendation concerning liability did not include a recommendation for fees; CHR found it could award fees even if neither the first nor final recommendation mentioned them. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Prevailing complainant is entitled to payment of attorney's fees. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) (same) R

Hussian v. Decker, CCHR No. 93-H-13 (May 15, 1996) (same) R

Tate v. Briciu, CCHR No. 94-H-96 (July 17, 1996) (same) R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) (same) R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) (same) R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) (same) R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Although Complainant was awarded only \$500 in damages, he won an injunction of Respondent's anti-gay policy and defeated each of Respondent's defenses to coverage, Complainant considered prevailing party in this "principle" case. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Complainant's alleged bad faith for claiming to be a bona fide job seeker where he was found to be a tester not found to be a reason to award only nominal fees; was a reason to decrease fees for lack of success on a claim. R **See Attorney's Fees/Unsuccessful Claims section, below.**

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Prevailing complainant is entitled to payment of attorney's fees. R

Matias v. Zachariah, CCHR No. 95-H-110 (Feb. 19, 1997) (same) R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) (same) R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) (same) R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) (same) R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) *pro se* Complainant allowed to file petition delineating any costs he incurred pursuing his case. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) Prevailing complainant is entitled to payment of attorney's fees. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) (same) R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) (same) R

Austin v. Harrington, CCHR 94-E-237 (Oct. 22, 1997) *pro se* Complainant allowed to file petition delineating any costs he incurred pursuing his case. R

Austin v. Harrington, CCHR No. 94-E-237 (Mar. 18, 1998) *pro se* complainant found not entitled to attorney's fees for his own legal work as he did not incur any out-of-pocket expenses payable to someone acting as his legal representative; he was allowed costs for certain work -- see separate Costs section, below. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Prevailing complainant is entitled to payment of attorney's fees. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) (same) R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) (same) R

Malden v. Frontier Communes., et al., CCHR No. 97-E-156 (Aug. 19, 1998) (same) R

Reed v. Strange, CCHR No. 92-H-139 (Aug. 19, 1998) §2-120-510(l) allows attorney's fees to be paid to a prevailing complainant for work at CHR and at "any stage of judicial review" so CHR awarded and determined amount of such fees. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Prevailing complainant is entitled to payment of attorney's fees. R

Figuroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) (same) R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) (same) R

Malden v. Frontier Communes. et al., CCHR No. 97-E-156 (Jan. 20, 1999) (same) R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) (same) R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Feb. 24, 1999) (same) R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Feb. 24, 1999) (same) R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Apr. 19, 2000) Prevailing complainant is entitled to payment of attorney's fees. R

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) (same) R

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Oct. 18, 2000) (same) R

Godard v. McConnell, CCHR No. 97-H-64 (Jan. 17, 2001) (same) R

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) (same) R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assn. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) (same)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) (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

Pro Bono Attorneys

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) Fact that Complainant was represented on a pro bono basis is not relevant in awarding attorney's fees. R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Mar. 25, 1992) (same) R

Fulgern v. Pence, CCHR No. 91-FHO-65 (Dec. 16, 1992) (same) R

Friday v. Dykes, CCHR N. 92-FHO-23-5773 (July 22, 1993) (same) R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) Rate of pro bono attorneys established by documentation of rates prevalent in the practice for attorneys in the same locale with comparable experience and expertise. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) Fact that Complainants were represented on a *pro bono* basis found not relevant in awarding them attorney's fees; cites federal cases. R

Hussian v. Decker, CCHR No. 93-H-13 (May 15, 1996) (same) R

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

Barnes v. Page, CCHR No. 92-E-1 (May 15, 1996) On remand, CHR found that attorney who noted on her appearance that she was licensed out of state and noted that her co-counsel was licensed in Illinois had thus followed CHR's directions and so should not be penalized for not doing more where no formal regulation existed. R

Barnes v. Page, CCHR No. 92-E-1 (May 15, 1996) On remand, Complainant allowed to supplement record to include facts about her prior actions concerning her out-of-state status. R

Barnes v. Page, CCHR No. 92-E-1 (Feb. 19, 1997) Upon order of circuit court, Board awarded fees to one of Complainant's attorney at a paralegal rate (\$75/hour) as she was not licensed in Illinois for a total fee for her plus second attorney of \$33,770.03. R [court's remand reversed CHR order of 5-15-96]

Pro Se Complainant

Austin v. Harrington, CCHR No. 94-E-237 (Mar. 18, 1998) *pro se* complainant found not entitled to attorney's fees for his own legal work as he did not incur any out-of-pocket expenses payable to someone acting as his legal representative; he was allowed costs for certain work -- see separate Costs section, below. R

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

Akangbe v. 1428 W. Fargo Condominiums, CCHR No. 91-FHO-7-5595 (July 29, 1992) Attorney's affidavit of time spent sufficient even without actual time sheets. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Oct. 21, 1992) Respondent's request to conduct discovery concerning attorney's fee request denied as Regulations do not permit post-hearing discovery and because there was no claim that the documentary evidence in the fee petition was not sufficient. HO

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (May 28, 1993) Record of attorney's time should include date of activity, time spent, and a description of the activity with sufficient detail to allow determination of reasonableness. HO

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) Complainant's request for fees partially denied where time slips provided were in part illegible or where the work done was not explained sufficiently so that it could not be determined if time spent was reasonable. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Aug. 31, 1994) Sets forth guidelines for submitting sufficient fee petitions to CHR. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (Oct. 19, 1994) Cites regulations which set forth proof required to prove amount and rate of fees. R

Starrett v. Duda/Sorice, CCHR No. 94-H-6 (Oct. 19, 1994) Statement of fees and costs, attorney's affidavit, itemized record of time and affidavit of agency's attorney re: fees structure found to be sufficient proof. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (May 15, 1996) Where Complainant's attorney no longer represented Complainant during attorney's fees stage of case, bill he sent Complainant (which was paid) was evidence of the actual rate he billed. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Where 73% of firm's and 54% of ACLU's entries were in "block-bills" -- several activities in one time entry without specifying amount of time for each activity -- overall fees reduced by 25% of those entries [18.25% and 13.5% respectively] because such block-billing makes determining reasonableness of fees impossible. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Where 7% of entries did not adequately identify the activity done, making it difficult to determine reasonableness of time spent, overall time reduced by 7%. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Additional itemization of costs submitted as part of objections to first recommendation not considered where the information should have been provided as part of fee petition. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Where fee petition was sufficiently detailed to allow determination whether the amount of time spent on tasks was reasonable or excessive, some block-billing did not make the petition fatally defective, as argued by Respondent. R

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 than ten-minute increments allowed where Respondent did not object and amount of time spent on each task was reasonable. R

Rankin v. 6954 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

Sleper v. Maduff & Maduff, CCHR No. 06-E-90 (Feb. 20, 2013) Where attorneys provided evidence of their hourly rates for current or recent years, those deemed market rates absent basis to question them. For years without evidence of the attorneys' billing rates, CHR looked to affidavits from experienced attorneys, Commission precedent, and hearing officer's experience. Billings in segments less than a quarter-hour held acceptable, not improper rounding up. R

Public Law Office

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Mar. 20, 1996) Pursuant to CHR regulation, to calculate rate of pay for attorneys from a public law office, CHR reviews rate prevalent for attorneys in same locale with comparable experience and expertise. R

Reed v. Strange, CCHR No. 92-H-139 (Aug. 19, 1998) Pursuant to CHR regulation, rate for attorney from public law office is the fair market rate, determined by looking at "rates prevalent in the practice of law for attorneys in the same locale with comparable experience and expertise". R

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

Huezo v. St. James Properties, CCHR No. 90-E-44 (Oct. 9, 1991) \$10,141.25 in fees and \$821.40 in costs found to have been reasonably expended in sexual harassment cases. R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Mar. 25, 1992) \$11,747.00 in fees and \$697.40 in costs found to have been reasonably expended. R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (May 4, 1992) Hours reduced from 141.9 to 65 based on complexity of case, lack of discovery and expert witnesses, and attorney's prior experience; award totaled \$12,189.50. R

Eltogbi v. Martinez, CCHR No. 91-FHO-15-5600 (June 17, 1992) Complainant awarded attorney's fees of \$2,575.00 in housing case. R

Akangbe v. 1428 W. Fargo Condominiums, CCHR No. 91-FHO-7-5595 (July 29, 1992) Complainant awarded \$4,225 in attorney's fees. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (Sep. 16, 1992) Complainant awarded \$6,168.75 of fees -- including \$1,555 previously awarded as sanctions -- and \$33.20 as costs. R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Oct. 21, 1992) On Request for Review, CHR increased hours to be compensated from 65 hours to 90 hours; see order of 5-4-92 above. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) Complainant awarded \$4,935 in attorney's fees. R

Antonich v. Midwest Building Mgmt., CCHR No. 91-E-150 (Jan. 27, 1993) \$3,903.80 in fees and costs

awarded. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Jan. 27, 1993) Complainant awarded \$1,569.37 in fees and \$11.80 in costs. R

Blake v. Bosnjawkovski, CCHR No. 91-FHO-149-5734 (Apr. 21, 1993) \$17,072.50 in fees and \$53.75 in costs awarded. R

Campbell v. Dearborn Parkway Realty, CCHR No. 92-FHO-18-5630 (Apr. 21, 1993) \$13,507.50 in fees and \$261 in costs awarded. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (May 28, 1993) Complainant awarded \$1,347.50 for discovery work due to Respondent's failure to comply with discovery order. HO

White v. Ison, CCHR No. 91-FHO-126-5711 (July 22, 1993) Attorney's fees reduced from the requested \$11,941.50 to \$8,860.50 because CHR found some work to be excessive and some unrelated to the case at CHR. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (July 22, 1993) \$9,375.00 in attorney's fees found to have been reasonably expended. R

Johnson v. City Realty & Development Co., CCHR No. 91-FHO-165-5750 (July 22, 1993) \$9,310.00 in attorney's fees found to have been reasonably expended after reducing rate R

Boyd v. Williams, CCHR No. 92-H-72 (Sep. 23, 1993) \$8,184 found reasonable for time spent where case involved factual issues, but few legal ones; reduced from requested one. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (Sep. 23, 1993) \$5,953.50 awarded but trial preparation hours reduced due to simplicity of case. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) \$10,762.50 of fees and \$47.50 in costs found reasonable. R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) \$38,785.50 in fees and \$1,282.80 in costs found reasonable but some hours cut due to lack of complexity of case overall. R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) Complainant's request for reimbursement for 433 attorney hours spent in a sexual harassment case with a 3-day hearing that did not involve particularly complicated issues found to be excessive and so reduced to 296 hours utilizing a line-by-line review of time sheets. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Aug. 31, 1994) \$3,093.75 found reasonably expended in case where hearing was one day long. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (Oct. 19, 1994) \$6450 found reasonable for work done in pre-trial, client interviews, attendance at CHR-mandated conferences, preparation of witnesses and post-hearing briefs. R

Starrett v. Duda/Sorice, CCHR No. 94-H-6 (Oct. 19, 1994) \$397 awarded in default case with no briefs and where attorney sought fees only for time spent before CHR and preparing pleadings. R

Rushing v. Jasniowski, et al., CCHR No. 92-H-127 (Jan. 18, 1995) Complainant awarded \$14,174.00 in fees for 35.5 hours of work for one attorney and 72 hours for a second attorney. R

Reed v. Strange, CCHR No. 92-H-139 (Mar. 15, 1995) Complainant awarded \$5,118.75 for 22.75 hours of attorney work in a sexual harassment housing case. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Apr. 19, 1995) Complainant awarded \$33,267.50 for 190.1 hours of work and \$78.50 in costs in sexual harassment employment case; deducted several hours deemed excessive. R

Janicke v. Badrov, CCHR No. 93-H-46 (June 21, 1995) Complainant awarded \$6,745 for 22.25 hours of senior attorney's work and 23.65 hours of third-year law student's work. R

Williams v. Banks, CCHR No. 92-H-169 (July 19, 1995) Complainant awarded \$1,920 in fees for 16 hours of work. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) Complainants awarded \$22,416.50 and \$662 in costs for work of attorney, paralegal and law students; several deductions made. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) Deductions made where record of time spent was unclear or lacked detail and where time appeared duplicative or excessive. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Complainant awarded \$14,200 in fees and \$430.55 in costs in disability housing case for work of attorneys, law students and paralegal. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Deductions made where record of time spent was unclear or lacked detail and where time appeared duplicative or excessive. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (Jan. 10, 1996) Complainant awarded \$10,000 in fees and \$82.95 in costs for employment/sexual orientation harassment case; one-third of fees deducted for unsuccessful claims. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Mar. 20, 1996) In sexual harassment/ public

accommodation case, Complainant awarded \$23,153.59 in fees; deductions made for work on unsuccessful claims and for duplicative or excessive time. R

Hussian v. Decker, CCHR No. 93-H-13 (May 15, 1996) In sex discrimination/housing case, Complainant awarded \$11,013 in fees for approximately 75 hours of attorney work. R

Hussian v. Decker, CCHR No. 93-H-13 (May 15, 1996) CHR rejected Respondent's argument that the fact that entries about phone call duration for different attorneys did not match exactly demonstrated the records had been altered. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (May 15, 1996) \$1,387.50 awarded for pre-hearing work; Complainant's attorney did not bill Complainant for other work and did not submit a fee petition so Complainant submitted the attorney's bill. R

Tate v. Briciu, CCHR No. 94-H-96 (July 17, 1996) Complainant awarded \$10,136.50 in attorney's fees for approximately 65 hours of work. R

Soria v. Kern, CCHR No. 95-H-13 (Nov. 20, 1996) Complainant awarded \$15,127.50 in fees; deduction made for duplicate entry and reduction made for excessive time spent on fee petition. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) In case which spanned four years with several rounds of briefing, a 7-day hearing, and a myriad of contested constitutional and legal issues, Complainant awarded \$311,991.86 in fees. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) CHR reduced hours requested on percentage basis for overstaffing which resulted in duplicative work and excessive intra-firm conferences; for block-billing and for vague entries. R **See Proof of Fees sub-section, above.**

Barnes v. Page, CCHR No. 92-E-1 (Feb. 19, 1997) Upon order of circuit court, Board awarded fees to one of Complainant's attorney at a paralegal rate (\$75/hour) as she was not licensed in Illinois for a total fee for her plus second attorney of \$33,770.03. R

Matias v. Zachariah, CCHR No. 95-H-110 (Feb. 19, 1997) Complainant awarded \$10,109 for 139.3 hours of work by supervising attorney and law students; deductions made for excessive time and clerical work. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) Complainants awarded \$27,763.75 for attorneys work in state circuit and appeals courts defending Respondent's challenge to CHR's rulings. R

Wright v. Mims, CCHR No. 95-H-12 (Sep. 17, 1997) Complainant awarded \$12,257.00 in housing/parental status case for approximately 50 hours of work by senior attorney and approximately 80 by law students; some deductions made for duplicative and over-staffed work. R

Buckner v. Verbon, CCHR No. 94-H-82 (Oct. 22, 1997) Complainant awarded \$25,433.75 in housing/race case for approximately 150 hours of work throughout case; approximately 3 hours deducted as duplicative. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Nov. 19, 1997) Complainant awarded \$9,863.00 in fees for approximately 66 hours of work in public accommodation case with three days of hearing; some fees also were awarded previously as sanctions. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Approximately 325 hours spent by two attorneys found reasonable, especially where some of the time spent was caused by Respondent's discovery abuses; some time denied because excessive or spent on related state court case; awarded fees totaled \$56,706.25. R

Reed v. Strange, CCHR No. 92-H-139 (Aug. 19, 1998) After CHR rulings were upheld in circuit and appeals courts, CHR awarded Complainant attorney's fees of \$3,655 for about 16 hours of work in state court. R

McCutchen v. Robinson, CCHR No. 95-H-84 (Oct. 21, 1998) Complainant awarded approximately \$10,000 in attorney's fees for 155 hours of work by one attorney and several law students; some time deducted for merely educational work and for work related to respondents who settled before the hearing. R

Moulden v. Frontier Communic. et al., CCHR No. 97-E-156 (Jan. 20, 1999) Complainant awarded \$3,650 in attorney's fees for about 12 hours of work in default case. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Feb. 24, 1999) Complainant awarded \$8,258.50 of fees for approximately 25 hours of work; some time deducted for work on exhibits which were not admitted and for general background reading. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Feb. 24, 1999) Complainant awarded \$4,427.50 in attorney's fees for approximately 24 hours of work in default case. R

Huff v. American Management & Rental Svc., CCHR No. 97-H-187 (June 16, 1999) Complainant awarded \$3,151 for approximately 30 hours of work by attorneys and law students; some hours deducted as excessive. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) Over \$30,000 awarded to Complainant for her attorney's work in which they prevailed in both Circuit Court and the appellate court against Respondent's

challenges to CHR's rulings. R

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

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (May 16, 2001) Complainant awarded \$17,700 in attorneys' fees for over 100 hours of work for senior attorney and law student. 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

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 fees of \$83,781.31 and costs of \$691.75 awarded for successful workplace harassment claim after 15 per cent reduction of amount claimed to adjust for unsuccessful discharge claim. 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

Sleper v. Maduff & Maduff, CCHR No. 06-E-90 (Feb. 20, 2013) Fees of \$87,194.25 approved for work of two attorneys on pregnancy-related sex discrimination employment case after line item deductions totaling 30% of fee request for work found duplicative, excessive, or administrative. Additional 15% reduction recommended by hearing officer to bring fees in line with awards in similar cases rejected by Board as unnecessary. Billings in segments less than a quarter-hour held acceptable, not improper rounding up. R

Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al., CCHR No. 10-E-40 (May 15, 2013) Fees for 69.6 hours at \$375 per hour approved as reasonable in employment discrimination case involving sexual harassment and constructive discharge. R

Hamilton and Hamilton v. Café Descartes CCHR No. 13-P-05/06 (Dec. 17, 2014) Fees of \$14,760.25 approved for four attorneys on disability discrimination public accommodation case. R

Reasonable Rate

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Mar. 25, 1992) \$185.00 per hour found reasonable due to attorney's experience. R

Akangbe v. 1428 W. Fargo Condominiums, CCHR No. 91-FHO-7-5595 (July 29, 1992) Because Complainant's attorney failed to provide any information regarding his qualifications, he was reimbursed at the rate of \$100/hour, not at \$125/hour as he requested. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) Because Complainant's attorney failed to provide CHR with a factual basis for upholding a rate of \$175/hour, he was reimbursed at a rate of \$140/hour. R

Fulgern v. Pence, CCHR No. 91-FHO-65 (Dec. 16, 1992) \$200/hour found to be reasonable where Respondent did not object to this rate. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Jan. 27, 1993) \$75 per hours found to be reasonable rate for second-year law student intern. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Mar. 17, 1993) Respondent's request to decrease awarded rate of attorney's fees from \$140/hour denied due to failure to provide any basis for the request. R

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Apr. 21, 1993) \$200/hour and \$175/hour found to be reasonable. R

Campbell v. Dearborn Parkway Realty, CCHR No.92-FHO-18-5630 (Apr. 21, 1993) \$150/hour found to be reasonable. R

Campbell v. Dearborn Parkway Realty, CCHR No. 92-FHO-18-5630 (Apr. 21, 1993) Complexity of case is not relevant to the reasonableness of an hourly rate. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (May 28, 1993) \$175/hour found reasonable for attorney with over ten years' experience and expertise in discrimination litigation, including in federal courts and state agency. HO

White v. Ison, CCHR No. 91-FHO-126-5711 (July 22, 1993) Found attorney rates of \$195 and \$180 to be reasonable. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (July 22, 1993) CHR found that the rates of \$225 [for an expert consultation], \$150 and \$100 to be reasonable. R

Johnson v. City Realty & Development Co., CCHR No. 91-FHO-165-5750 (July 22, 1993) Requested rate of \$210.00/hour reduced to \$200.00/hour based on attorney's experience and on CHR prior awards to same attorney. R

Boyd v. Williams, CCHR No. 92-H-72 (Sep. 23, 1993) Awarded \$155 per hour where attorney: had been in practice for 9 years; been a trial lawyer in current position for 6 years; had several trials, including at IDHR; and where her employer charges \$155 per hour for her services. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (Sep. 23, 1993) Attorney reimbursed at \$180 per hour, not \$225 per hour, because no evidence of factors such as the number of trials or previous fee awards was submitted; only introduced the fact that the attorney had practiced for 18 years. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) \$175 per hour awarded where attorney practiced law over 10 years, has extensive federal practice and has discrimination cases in federal court and at agencies, and where \$175 is in accordance with the prevailing rate for an attorney of her experience. R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) Senior attorney awarded rate of \$204/hour where she has practiced for 14 years, has extensive employment discrimination litigation experience and had authored an employment discrimination chapter, where her employer's fee schedule fixes her rate at \$204 and where the Respondent did not object to the rate. R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) Junior attorney awarded rate of \$112/hour, not the \$119/hour requested, where she had practiced from 2-3 years, not 3-4, where her employer's fee schedule fixed the rate for attorneys with such experience at \$112/hour and where Respondent objected to \$119/hour. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Aug. 31, 1994) \$125 per hour found reasonable although little support provided; no opposing evidence challenging the reasonableness of the rate provided. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (Oct. 19, 1994) \$250 per hour found reasonable where attorney graduated law school in 1976; has extensive housing

discrimination experience, especially in race cases; teaches law school; and supervises a fair housing clinic. R

Starrett v. Duda/Sorice, CCHR No. 94-H-6 (Oct. 19, 1994) \$159 per hour found reasonable based on attorney's affidavit concerning his experience and on affidavit concerning the rate schedule at his agency. R

Reed v. Strange, CCHR No. 92-H-139 (Mar. 15, 1995) Complainant's attorney awarded \$225 per hour; she had practiced for 19 years, much of that in civil rights cases and she had been an ALJ for discrimination cases; her petition supported by affidavits of other attorneys. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Apr. 19, 1995) attorney awarded \$175 per hour where she has practiced for over 10 years, specializes in discrimination cases, and has been awarded that rate previously by CHR. R

Janicke v. Badrov, CCHR No. 93-H-46 (June 21, 1995) \$250 per hour awarded to attorney with "vast" experience who had previously received that rate; \$50 per hour awarded for work of third-year law student. R

Williams v. Banks, CCHR No. 92-H-169 (July 19, 1995) \$120 per hour awarded to attorney who has practiced three and a half years and done housing litigation work. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) \$30/hour awarded for paralegal time and \$50/hour awarded for law student time. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) \$250/hour awarded to attorney with over 19 years of practice and with specialization in civil rights and housing discrimination cases; CHR previously awarded this attorney that rate. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Attorney with over 20 years' experience awarded rate of \$250/hour; attorney practicing for 5 years awarded \$150/hour; law students awarded \$50/hour; and paralegal awarded \$35/hour. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Mar. 20, 1996) Two attorneys with 10 and 8 years' experience awarded \$180/hour; one with 5 years awarded \$124/hour; attorney who just graduated awarded \$80/hour before she was admitted to bar and \$100/hour after admitted. R

Hussian v. Decker, CCHR No. 93-H-13 (May 15, 1996) 2nd-year attorney awarded \$125/hour; 1st-year attorney awarded \$115/hour; and 20-year attorney with expertise in civil rights cases awarded \$225/hour. R

Barnes v. Page, CCHR No. 92-E-1 (May 15, 1996) On remand, CHR allowed attorney to supplement record retroactively to gain admittance *pro hac vice* so CHR upheld its prior award of \$119/hour for her work. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (May 15, 1996) In absence of fee petition, because Complainant's attorney stopped working on the case, the bill itself was evidence that the attorney actually commanded \$150/hour rate in the market. R

Tate v. Briciu, CCHR No. 94-H-96 (July 17, 1996) \$140/hour awarded for attorney 6 years out of law school and \$225/hour awarded to attorney with 20 years of experience and who had previously been awarded that rate. R

Soria v. Kern, CCHR No. 95-H-13 (Nov. 20, 1996) Attorney with 20 years of experience, who had previously been awarded fees at CHR, allowed rate of \$250/hour; 1st-year associate given \$110/hour. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Law firm which co-counseled case with ACLU and planned to donate fees to ACLU not required to decrease hourly rate of its attorneys to rates used by comparable ACLU attorneys; attorneys awarded market rates. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Depending on experience and market, Complainant's attorneys' rates range from \$270/hour to \$140/hour for firm's 5 attorneys and from \$240/hour to \$160/hour for ACLU's 4 attorneys. R

Matias v. Zachariah, CCHR No. 95-H-110 (Feb. 19, 1997) Attorney with 2 years of experience awarded rate of \$110/hour. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) In case reviewing fees for work in state circuit and appeals court, one attorney awarded rate of \$200/hour for 1992-93 work and \$225 for 1994-96 work; other attorney awarded \$95/hour for all state court work. R

Wright v. Mims, CCHR No. 95-H-12 (Sep. 17, 1997) Attorney with 6-7 years experience awarded \$165/hour, not the \$175 requested, based in part on CHR precedent. R

Buckner v. Verbon, CCHR No. 94-H-82 (Oct. 22, 1997) Attorney to whom CHR previously awarded \$250/hour again awarded that rate, not \$260/hour as requested, due to lack of proof that the increase was appropriate. R

Buckner v. Verbon, CCHR No. 94-H-82 (Oct. 22, 1997) Attorneys who were 14 and 8 years out of law school awarded \$150/hour and \$125/hour respectively, as requested. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Nov. 19, 1997) \$150/hour rate awarded to Complainant's attorney with 15 years of experience. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Attorney with over 20 years of experience, much of it doing fair housing work, awarded \$275 per hour; attorney with over 10 years of experience, much of it doing fair housing or other civil rights work, awarded \$150 per hour. R

Reed v. Strange, CCHR No. 92-H-139 (Aug. 19, 1998) Attorney with twenty years of experience litigating discrimination cases who was previously awarded \$225 per hour was awarded that rate here. R

Figueroa v. Fell, CCHR No. 97-H-5 (Sep. 14, 1998) In ruling on a request for fees awarded as a sanction for Respondent's discovery abuses, because not all necessary information was presented to her, Hearing Officer delayed ruling on reasonable rate until final attorney's fees work after hearing was completed. HO

McCutchen v. Robinson, CCHR No. 95-H-84 (Oct. 21, 1998) Attorney who has three years of experience in the fair housing area and who is a clinical professor of law awarded \$140 per hour; law students awarded \$50 per hour, not the \$60 requested. R

Moulden v. Frontier Communics. et al., CCHR No. 97-E-156 (Jan. 20, 1999) Attorney who graduated law school almost 20 years before and who had 15 years of discrimination law experience awarded hourly rate of \$200. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Feb. 24, 1999) Attorney with two years of experience awarded hourly rates of \$155 and \$175 where she showed those where the actual rates charged by her firm for her work. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Feb. 24, 1999) Attorneys awarded the rates which they charge clients, including civil rights clients, and which they had been awarded in other cases -- attorney with 17 years of experience awarded \$200/hour; one with 13 years of experience awarded \$175/hour; and attorney with six years of experience awarded \$150/hour. R

Huff v. American Management & Rental Svc., CCHR No. 97-H-187 (June 16, 1999) Supervising attorney awarded \$140/hour; law students awarded \$50/hour; and attorney with many years of experience and who spent one hour on case awarded \$275/hour. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) Attorneys not licensed in Illinois awarded paralegal rate of \$75 per hour; other attorneys awarded from \$109/hour to \$237/hour based on experience and LAF's rate schedule. R

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

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (May 16, 2001) Attorney with 23 years of experience awarded \$250 per hour; law student awarded \$50 per hour. 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 d/b/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

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). Hourly rates progressing from \$290 in 2003 to \$350 in 2008 approved for attorney who had practiced law since 1987, plus rates of \$100 in 2005 and \$200 in 2006 for a paralegal, based on attorney's 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 (Sep. 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 held 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. Iftekaruddin, 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. 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) 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

Sleper v. Maduff & Maduff, CCHR No. 06-E-90 (Feb. 20, 2013) Fees requested at attorneys' current hourly rates reduced based on historical rates for work done in earlier years. Where attorneys provided evidence of their hourly rates for current or recent years, those deemed market rates absent basis to question them. For years without evidence of the attorneys' billing rates, CHR looked to affidavits from experienced attorneys, Commission precedent, and hearing officer's experience, approving rates from \$250 in 2006 to \$400 in 2012 for experience ranging from 5-17 years. R

Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al., CCHR No. 10-E-40 (May 15, 2013) Hourly rate of \$375 found reasonable for Legal Assistance Foundation attorney with 28 years of legal experience. Attorney submitted summary of recent survey conducted by LAF of hourly market rates for Chicago attorneys in law firms performing litigation. R

Hamilton and Hamilton v. Café Descartes CCHR No. 13-P-05/06 (Dec. 17, 2014) Hourly rates of \$275, \$275, \$325, and \$425 for public interest attorneys found reasonable estimates of market rates for attorneys with similar experience. R

Recoverable Work

Huezo v. St. James Properties, CCHR No. 90-E-44 (Oct. 9, 1991) Work on fee petition held to be recoverable. R

Akangbe v. 1428 W. Fargo Condominiums, CCHR No. 91-FHO-7-5595 (July 29, 1992) (same) R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Oct. 21, 1992) Complainant may recover fees and costs for reasonable work done opposing Respondent's Request for Review regarding liability, negotiating a settlement on payment, preparing Request for Review on attorney's fees, and preparing a motion for enforcement of judgment. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (May 28, 1993) Work of Complainant's attorney caused by Respondent's failure to respond to discovery order held recoverable. HO

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Mar. 17, 1993) Complainant awarded an additional \$560 in attorney's fees for work incurred due to Respondent's refusal to comply with CHR order after hearing. R

Bolling v. Jimenez, CCHR No. 92-H-114 (July 1, 1993) Complainant awarded \$300 for work done due to Respondent's failure to comply with CHR-approved settlement agreement. CO

White v. Ison, CCHR No. 91-FHO-126-5711 (July 22, 1993) Complainant may not recover for work unrelated to case at hearing. R

Johnson v. City Realty & Development Co., CCHR No. 91-FHO-165-5750 (July 22, 1993) Complainant may not recover from remaining Respondent cost for attorney work done in settling with a former Respondent. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (Sep. 23, 1993) CHR refused to reduce Complainant's fees based on the objection that critical testimony was elicited by the Hearing Officer, not Complainant's attorney. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) Work on fee petition may be recovered. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) Work at IDHR recoverable in the limited circumstance where Respondent had asked IDHR to dismiss CHR case because: a) Complainant's recoverable work at IDHR was initiated by Respondent, b) the work was done to protect Complainant's ability to proceed at CHR, and c) Complainant cannot recover her fees at IDHR because she withdrew her claim there after winning at CHR Hearing. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Dec. 23, 1993) \$612.50 awarded for work done in connection with motion to enforce judgment after Administrative Hearing. CO

King v. Houston/Taylor, CCHR No. 92-H-162 (Aug. 31, 1994) Denied Respondent's assertion that costs for drafting certain documents be deemed to be merely clerical and instead found appropriate for attorney to have written. R

Collins/Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 13, 1995) §2-120-510(i) allows attorney's fees to be paid to prevailing complainants for work at CHR and "at any stage of judicial review" so CHR allowed to adjudicate Complainant's petition for fees for state court work in appeal of CHR decision. HO

Janicke v. Badrov, CCHR No. 93-H-46 (June 21, 1995) CHR disallowed time spent by law student which appeared excessive or which was inadequately documented. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) Where paralegals are usually paid (as in Chicago), question is not whether their work is "legal" or "non-legal" but whether it is the type of work normally billed to paying clients. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Commission decreased requested time for work deemed duplicative or excessive or for which insufficient explanation was given. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Attorney awarded fees at usual rate for small amount of travel time to and from hearing. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Work on fee petition itself is recoverable. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Case was found overstaffed so hours decreased 25% to account for 15-46% of different periods spent on intra-firm conferences and meetings. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Time spent on press-related activities not recoverable. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) "Administrative" time spent by attorneys recoverable for such work as organizing files and scheduling. R

Matias v. Zachariah, CCHR No. 95-H-110 (Feb. 19, 1997) Fees for work found to be merely clerical -- such as typing envelopes -- not allowed. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) Fees for work found to be merely clerical -- such as filing document in court -- not allowed. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Time spent on related state court case not compensable at CHR; found not the same as working on appeal of CHR case, for which Ordinance explicitly allows recovery. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Fact that two attorneys worked at hearing found not duplicative where it was Respondent's failure to turn over documents until eve of, or day of, hearing which necessitated having two. R

Reed v. Strange, CCHR No. 92-H-139 (Aug. 19, 1998) Attorney awarded \$25 for clerical work such as

filing documents in court, not hourly rate for such work. R

Figueroa v. Fell, CCHR No. 97-H-5 (Sep. 14, 1998) In ruling fees awarded as a sanction for Respondent's discovery abuses, Hearing Officer disallowed some time as duplicative or excessive. HO

McCutchen v. Robinson, CCHR No. 95-H-84 (Oct. 21, 1998) CHR deducted some requested time which was merely educational work for the law students and for work related to respondents who settled before the hearing. R

McCutchen v. Robinson, CCHR No.95-H-84 (Oct. 21, 1998) CHR granted Complainant the time spent seeking a type of damages which were not awarded, finding that aspect of the case was not so separate from the rest of the case as to warrant a deduction. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Feb. 24, 1999) CHR did not award time spent on exhibits which were not admitted and on general background reading. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) In request for fees for work in state court, CHR deducted time spent in conversations with amicus curiae as well as some time found excessive, administrative, or not sufficiently clear. R **See also Unsuccessful Claims, below.**

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-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 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 (May 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

Sleper v. Maduff & Maduff, CCHR No. 06-E-90 (Feb. 20, 2013) No fees for time deemed administrative including scheduling conferences or interviews, calls to CHR about simple administrative procedures, filing documents, exchanging e-mails about packages, scheduling matters, docketing, and organizing billing records. E-mails to client and co-counsel about case developments and planning, work on interest calculation, and organizing trial exhibits on day of hearing held recoverable. R

Hamilton and Hamilton v. Café Descartes CCHR No. 13-P-05/06 (Dec. 17, 2014) Attorney fees awarded for multiple attorneys where their activities were not excessively duplicative. No fee award for timesheet entries with insufficient detail to determine reasonableness of entry, time spent making referral unrelated to issues in present case, or clerical work. R

Relation to Damage Award

Huezo v. St. James Properties, CCHR No. 90-E-44 (Oct. 9, 1991) Fee award need not be proportional to damage award. R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Mar. 25, 1992) (same) R

Akangbe v. 1428 W. Fargo Condominiums, CCHR No. 91-FHO-7-5595 (July 29, 1992) (same) R

Fulgern v. Pence, CCHR No. 91-FHO-65 (Dec.-16-92) (same) R

Fulgern v. Pence, CCHR No. 91-FHO-65 (Apr. 21, 1993) CHR will not decrease attorney's fees award based on a formula created by Respondent which compared damages sought to damages won. R

McDuffly v. Jarrett, CCHR No. 92-FHO-28-5778 (Sep. 23, 1993) Fee award need not be proportional to damage award. R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) There is no requirement of proportionality between damages and fees and no requirement that fees be reduced because the damages awarded are less than the damages requested. R

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Prevailing Respondent found not entitled to fees where it cites no authority for such an award and where the facts and circumstances of the case do not justify it. R

Rushing v. Jasniowski, et al., CCHR No. 92-H-127 (Jan. 18, 1995) There is no requirement of proportionality between damages and fees and no requirement that fees be reduced when the damages awarded are less than the damages requested. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Apr. 19, 1995) There is no requirement that attorney's fees be proportional to damages awarded. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Respondent's argument that Complainant won only "nominal" damages and so was not entitled to fees found incorrect; Respondent was found liable for not renting to Complainant because he uses a guide dog and was ordered to pay Complainant \$2500 in damages. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Commission and U.S. Supreme Court have held that there need not be proportionality between damages and attorney's fees. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Mar. 20, 1996) There is no requirement that attorney's fees be proportional to damages awarded. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (May 15, 1996) (same) R

Richardson v. Chic. Area Council of Boy Scouts of Amer., CCHR No. 92-E-80 (Nov. 20, 1996) (same) R

Matias v. Zachariah, CCHR No.95-H-110 (Feb. 19, 1997) (same) R

Wright v. Mims, CCHR No. 95-H-12 (Sep. 17, 1997) (same) R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Nov. 19, 1997) (same) R

McCutchen v. Robinson, CCHR No. 95-H-84 (Oct. 21, 1998) There is no requirement that the amount of attorney's fees be proportional to the amount of damages recovered. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Feb. 24, 1999) (same) R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) (same) R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) Where fees concerned work in state court due to Respondent's challenges to CHR's rulings, proportionality between the underlying and damages and fees is particularly inapposite. R

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

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Prevailing Respondent found not entitled to fees where it cites no authority for such an award and where the facts and circumstances of the case do not justify it. R

Hallom v. Wendler, CCHR No. 92-H-141 (Sep. 23, 1993) Where Complainant chose not to proceed with the Administrative Hearing and her decision was not communicated until the day of the Hearing itself, she was ordered to pay Respondent's attorney's fees for time spent between the pre-hearing conference and the Hearing, not for losing, but to penalize non-communication. R

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

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Nov. 19, 1996) Respondent ordered to pay Complainant's attorney's fees and costs of \$1,246.80 for its failure to proceed at 1st Hearing without notice. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) CHR approves prior orders for attorney's fees and fines imposed due to Respondent's violations of hearing procedures. R

Nadeau et al. v. Family Physicians Center et al., CCHR No. 96-E-159/160/161 (Mar. 21, 1998) Hearing officer denied motion for sanctions for Respondent's failure to seek continuance of administrative hearing in a timely manner; after taking testimony concerning Respondent's health, including from his doctor, hearing officer determined that respondent's failure to notify others of need for continuance was not due to bad faith and was not intentional disregard for procedures; his neglect was primarily due to his diminished mental faculties caused by his brain tumor and the treatment for it. HO

Nadeau et al. v. Family Physicians Center et al. CCHR No. 96-E-159/160/161 (Mar. 21, 1998) Although motion for sanctions was denied, see entry above, hearing officer held that, if complainants prevail after a hearing, they will be entitled to seek attorney's fees for attendance at the hearing which had to be postponed. HO

Figueroa v. Fell, CCHR No. 97-H-5 (Sep. 14, 1998) Complainant awarded fees for 2.6 hours of work drafting sanctions motions concerning discovery abuses; determination of rate delayed until final attorney's fees work after hearing is completed. HO

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

Collins/Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 13, 1995) §2-120-510(l) allows attorney's fees to be paid to prevailing complainants for work at CHR and "at any stage of judicial review" so CHR allowed to adjudicate Complainant's petition for fees for state court work in appeal of CHR decision. HO

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) (same) R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) Complainants awarded \$27,763.75 for attorneys work in state circuit and appeals courts defending Respondent's challenge to CHR's rulings. R

Reed v. Strange, CCHR No. 92-H-139 (Aug. 19, 1998) §2-120-510(l) allows attorney's fees to be paid to a prevailing complainant for work at CHR and at "any stage of judicial review" so CHR awarded and determined amount of such fees. R

Reed v. Strange, CCHR No. 92-H-139 (Aug. 19, 1998) After CHR rulings were upheld in state circuit and appeals courts, CHR awarded Complainant \$3,655 for attorney's fees incurred in state court. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) Over \$30,000 awarded to Complainant for her attorneys' work in which they prevailed in state circuit and appeals courts against Respondent's challenges to CHR's rulings. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) Where fees concerned work in state court due to Respondent's challenges to CHR's rulings, any proportionality between the underlying and damages and fees are particularly inapposite. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Dec. 6, 2000) Pursuant to Chicago Muni. Code 2-120-510(l), Complainants awarded \$17,567.25 in attorneys' fees for work in state circuit and appeal courts against Respondents' appeal of CHR's initial ruling in favor of Complainants. R

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

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Sep. 21, 2005) Supplemental fees and costs awarded for

successful representation of Complainant in Circuit Court, Appellate Court, and Supreme Court review. 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

Huezo v. St. James Properties, CCHR No. 90-E-44 (Oct. 9, 1991) Rejects a "mathematical" approach to evaluating attorney's fees demand where work on unsuccessful claims or theories was interrelated to development of successful claims; focus is on the overall relief obtained by Complainant. R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Mar. 25, 1992) Denied compensation for hours spent on a brief which exceeded scope allowed by Administrative Hearing Officer. R

Huezo v. St. James Properties, CCHR No. 90-E-44 (May 26, 1992) On Request for Review, Complainant held entitled to fees for alternate theories of proof in support of a single, successful claim, even if Complainant did not recover under each theory. CO

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Jan. 27, 1993) 50% downward adjustment made for claims upon which Complainant did not prevail and which were distinct from, and did not share a core of common facts with, the claims on which she prevailed. R

Fulgern v. Pence, CCHR No. 91-FHO-65 (Apr. 21, 1993) CHR will not decrease attorney's fees award where Complainant was successful on the only claim brought. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (July 22, 1993) Rejects a mathematical approach to evaluating attorney's fee demands for work on unsuccessful claims and finds that there were no unsuccessful claims. R

Johnson v. City Realty & Development Co., CCHR No. 91-FHO-165-5750 (July 22, 1993) Fees not reduced for specific work done which does itself not succeed when it is part of overall presentation of a successful claim. R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) Because Complainant did not prevail on her discharge claim, fees were cut by 15% where that claim was distinct, but shared a substantial common nucleus of operative facts with the successful harassment claim. R

Rushing v. Jasniowski, et al., CCHR No. 92-H-127 (Jan. 18, 1995) Complainant allowed payment for attorneys' time spent researching a claim that was only partially rejected in liability ruling. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Apr. 19, 1995) Complainant won her hostile environment claim but not her *quid pro quo* one; CHR found that the factual predicate of each claim was the same so that identical evidence would have been presented even without the *quid pro quo* claim. R

Williams v. Banks, CCHR No. 92-H-169 (July 19, 1995) (same) R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (Jan. 10, 1996) Where Complainant won one claim and lost two distinguishable ones, his request for fees was cut over one-third. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Mar. 20, 1996) Where Complainant won her hostile environment claim but not the *quid pro quo* claim and the facts of the two claims were intertwined, fees reduced by 5%. R

Hussian v. Decker, CCHR No. 93-H-13 (May 15, 1996) Where Complainant won her sex discrimination claim but not her sexual harassment one, fees were not reduced as factual predicates of the two claims were identical and they just represented two different theories. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Where Complainant claimed he was a bona fide job seeker but was found to be a tester, his request for attorney's fees reduced by 10% to account for lack of success and lack of candor. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) Where appeals court remanded case for determination of damages after it found one of nine incidents may not be a basis for discrimination finding but upheld liability finding, CHR did not decrease attorneys fees incurred in state court as the one incident was intertwined with and inseparable from rest of case. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Time spent before and during hearing seeking punitive damages which were not awarded allowed; however, time spent on punitive damages in post-hearing briefs not allowed as easily segregated from other, compensable work. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) Fees were not disallowed for time spent on arguments, as opposed to claims, which did not prevail in state court. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) Fact that Complainant did not prevail on every argument in state court did not lead to a reduction in fees; a party need not choose among arguments or lose fees

where a court rules in her favor on less than all arguments, or when it simply chooses one argument upon which to rule. R

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

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (Mar. 28, 1997) CHR finds that the automatic stay of the federal bankruptcy laws acts to stay a CHR hearing against a bankrupt respondent. CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (Mar. 28, 1997) CHR finds that a hearing at CHR is not an action "by" a governmental unit, so, although the action is in the public interest, the governmental unit exemption to the automatic stay does not apply. CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (Mar. 28, 1997) The hearing scheduled against an individual respondent was also stayed as CHR found it inseparable from the case against the bankrupt business. CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (Mar. 28, 1997) CHR did not overturn its prior decision that it may proceed with an investigation of a case despite a respondent's bankruptcy; it stayed only the hearing stage of the case. CO

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

Olinger v. Midway Airlines, CCHR No. 91-E-79 (Oct. 16, 1991) Request by Respondent for automatic stay under the United States Bankruptcy Code denied due to 11 U.S.C. sec. 362(b)(4) and cases thereunder which allow government agencies to proceed to enforce their regulatory powers, including enforcing equal employment laws. CO

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, 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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) BSA's claimed BFOQ that homosexual individuals cannot be employees because they are not "morally straight" or "clean" found to be based on assumptions and myths and so denied as a matter of law. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) BSA's claimed BFOQ that homosexual individuals cannot be employees because they are not "morally straight" or "clean" not based on privacy concerns and found to be a "customer preference" defense and so denied as a matter of law. CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Respondent's policy found to exclude all gay people, not just those expressing certain views, so policy not protected as seeking a BFOQ. R

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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Burden on proof is on party asserting the BFOQ exemption. CO

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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) BFOQ doctrine includes the right to condition employment to preserve the employer's right to associate for expressive purposes. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Due to outstanding issues of fact, CHR denied BSA's motion to dismiss which alleged that, if it were forced to hire Complainant, a gay man, its right to associate to express certain philosophies would be undermined thus making not hiring gay people a BFOQ. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Sets forth standards from United States Supreme Court cases to determine whether application of the CHRO to require the BSA to hire a gay man might infringe upon its right to associate for expressive purposes. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) An employer may raise as a BFOQ that its right to associate may be implicated, but the scope of that right is more limited in the employment context than in the membership context. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Sets forth the factual issues to be addressed at a Hearing for this BFOQ defense to be proved. CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Respondent's policy found to exclude all gay people, not just those expressing certain views, so policy not protected as seeking a BFOQ. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) CHR found that gay Complainant would not have taken positions contrary to Respondent's had he been hired. R

Role Models

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Defense that homosexual individuals cannot be employees because they are not good role models not shown to be based upon a link between homosexuality and a specific goal of the organization so denied as a matter of law. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) BSA's claimed BFOQ that homosexual individuals cannot be employees because they are not good role models denied as a matter of law as based on generalizations concerning status not on any improper conduct by the Complainant. CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) CHR rejects argument that a gay individual cannot be a role model merely because of his status of being gay. R

Standard

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) To be a BFOQ, the challenged practice must be "necessary for safe and efficient job performance". CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) To be a BFOQ, the challenged practice may not be based upon stereotypes and myths, but must have a factual basis. CO

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

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) Respondent

only responsible for discriminatory acts which they committed that proximately caused harm to the Complainant. R
Mark v. Truman College, CCHR No. 91-E-7 (8-26-92) Fact that Complainant may have been passed over for a position for a person of a different national origin is not itself sufficient without proof that she was passed over because of her national origin. R

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

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 its August order [above] did not create an "irrebuttable 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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25

(June 18, 2014) The Chicago Human Rights Ordinance is separate from the building code and can only be enforced by the Chicago Commission on Human Relations. R

Home Rule Authority

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) It is the City's constitutional home rule authority, not state law, which authorizes the City to pass the CFHO; citing state court cases. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) When the state does not expressly preempt home rule units from taking certain actions, then they may exercise any function pertaining to their government and affairs, including regulating for the protection of public health, safety, morals and welfare as with 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

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

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) The CFHO is proper exercise of the City's police power; citing state court cases. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) (same) CO

Preemption – See separate Preemption section, below.

COLLATERAL ESTOPPEL

Defensive Use

Simpson v. Montgomery Ward & Co. et al., CCHR No. 93-E-99 (May 6, 1998) CHR follows Illinois law which allows "non-mutual, defensive collateral estoppel by persons who were not parties to the prior case. CO

Definition

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Distinguishes *res judicata* from collateral estoppel; collateral estoppel looks to resolved issues, *res judicata* looks to resolved claims. CO

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

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Collateral estoppel is unavailing from a forcible entry and detainer action as no facts about sexual harassment -- the claim at CHR -- could have been or were already litigated. CO

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Even if certain facts regarding the forcible entry and detainer action were conclusively determined in state court, those do not defeat the sexual harassment claim as a matter of law. CO

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. Lathrop 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

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Collateral estoppel is unavailing from a forcible entry and detainer action as no facts about sexual harassment -- the claim at CHR -- could have been or were already litigated. CO

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Even if certain facts regarding the forcible entry and detainer action were conclusively determined in state court, those do not defeat the sexual harassment claim as a matter of law. CO

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

Simpson v. Montgomery Ward & Co. et al., CCHR No. 93-E-99 (May 6, 1998) Individuals not named as respondents in prior federal action dismissed from CHR case in "defensive" use of collateral estoppel; Complainant was a party in both cases, the issue was identical and there was a determination on the merits; *res judicata* also discussed. CO

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

Cornelius v. De La Salle Institute, CCHR No. 93-PA-68 & 69 (June 2, 1994) CHR is charged to handle only claims of discrimination so it will not review whether Complainants received due process from Respondent; it will consider whether the Complainants were afforded the same or similar process as similarly situated others received, but not whether that process was sufficient. CO

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 CHRO or 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

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

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) Although CFHO refers only to fines for violations, Complainant may still seek damages as CFHO states that complainants may pursue other legal and equitable relief and such relief is specified at length in the ordinance empowering CHR. HO

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(1), 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

Board of Commissioners' Authority

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) In making the final ruling in a case, City Ordinance gives Board of Commissioners authority to "adopt, reject or modify" the hearing officer's recommendations; it is to adopt factual findings unless they are "contrary to evidence presented". R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (3-17-99) The Board of Commissioners may not overturn a hearing officer's factual findings unless they are "contrary to the evidence presented at hearing" and so will not re-weigh credibility or set aside proposed findings of fact merely because another interpretation is plausible. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Board rejected hearing officer's recommendation to find defaulted respondent liable as contrary to evidence presented at hearing; it held that where one respondent is defaulted but the other one is not, it cannot ignore evidence and findings that demonstrate that the alleged sexual harassment did not occur and so found that neither respondent violated the CFHO; decision is expressly limited to situation where one respondent is not defaulted and so is allowed to address merits of complainant's case. R

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) In awarding \$1,000 in emotional distress damages awarded to applicant denied a job based on her race and age, Board rejected hearing officer's recommendation not to award emotional distress damages because Complainant had not presented any evidence or proven the proper amount to be awarded. While medical documentation or testimony may add weight to a claim for emotional distress, Board held Complainant's minimal testimony at hearing, that she felt demeaned by incident and that her depression and frustration worsened by inability to obtain employment to pay bills, was sufficient to establish compensable emotional injury. R

Breadth of Ordinances – See also Employment, Housing, Jurisdiction & Public Accommodation sections, below.

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) CHR may read its prohibition of marital status discrimination more broadly than the State reads the Illinois Human Rights Act's prohibition due to a provision in the IHRA specifically authorizing municipalities to legislate more broadly than the State. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) Fact that Respondent would be exempt under Illinois Human Rights Act because of size of her building does not require that she be exempt under the FHO. HO

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) Illinois General Assembly, in response to

Hutchcraft v. Urbana Human Relations Commission, specifically authorizes municipalities to legislate more broadly than prohibitions in Illinois Human Rights Act. HO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) Standards that must be met to show a disability under CHRO are very different from those under the Americans with Disabilities Act or the Rehabilitation Act and so CHRO found to cover gender dysphoria.¹ CO

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

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

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

Cotten v. Lou Mitchell's, CCHR No. 06-P-9 (Dec. 16, 2009) CHR has authority to order structural alterations to make a restroom wheelchair accessible. Also, in applying the CHRO, CHR is not bound by the Americans with Disabilities Act (ADA) or Illinois Human Rights Act (IHRA). R

Cases Against CHR

Blakemore v. Commission on Human Relations, et al., CCHR No. 98-PA-10/49/50 (Nov. 27, 1998) Pursuant to resolution of Board of Commissioners concerning conflict of interest, CHR dismissed cases filed against CHR at CHR. R

Blakemore v. CHR, CCHR No. 98-PA-10/49/50 (Jan. 14, 1999) Denied Request for Review of cases which were dismissed pursuant to Board of Commissioners' resolution against CHR handling cases against CHR because CHR staff did not have authority to overturn, modify or uphold the Board resolution; complainant directed to state court. CO

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

¹ The *Evans* decision was decided prior to "gender identity," which is inclusive of transsexualism, being added as a protected classification in November 2002.

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

Williams v. Comm’n on Human Relations et al., CCHR No. 03-P-20 (Aug. 6, 2003) (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 Deadlines/Errors – See separate Commission Deadlines/Errors section, below.

Commission Expertise

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) CHR relied on its expertise in reviewing discrimination and retaliation claims and in construing the CHRO, as well as its charge to monitor City departments' compliance with the CHRO, in refusing to apply *res judicata* to the decision of the City's Personnel Board. R

Constitutional Limits

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) Because the CHRO provides at least as much protection as the Constitution does, CHR shall not read the CHRO to violate the Constitution. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) (same) CO

Federal Stay

Thompson et al. v. GES Exposition Services, Inc. et al., CCHR No. 96-E-94/100/101/102/103/105/ 151/152 (Feb. 24, 1998) CHR not authorized to stay proceedings in a case because complainant has a same claims pending in federal court case. CO

Thompson et al. v. GES Exposition Services Inc. et al., CCHR No. 96-E-94/100/101/102/103/105 & 98-E-29/30/31/32/33 (Apr. 10, 1998) When the federal court handling the related federal claims entered an order staying CHR's proceedings for 30 days, CHR agreed to defer its work. CO

Thompson et al. v. GES Exposition Services, Inc. et al., CCHR No. 96-E-94/100/101/102/103/105 & 98-E-29/30/31/32/33 (June 26, 1998) (same) CO

Thompson et al. v. GES Exposition Services, Inc. et al., CCHR No. 96-E-94/100/101/102/103/105 & 98-E-29/30/31/32/33 (Aug. 12, 1998) (same) CO

Thompson et al. v. GES Exposition Services Inc. et al., CCHR No. 96-E-94/100/101/102/103/105 & 98-E-29/30/31/32/33 (Sep. 21, 1998) When the federal court handling the related federal claims entered an order staying CHR's proceedings indefinitely, CHR agreed to defer its work; CHR also ordered status reports from parties. CO

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

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) Regulation interpreting CHRO is followed unless it conflicts with CHRO. CO

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) As an administrative agency, CHR's power is limited by the ordinances which govern its work. CO

Diaz v. Metropolitan Pier & Exposition Authority, CCHR No. 95-PA-168 (Oct. 2, 1997) CHR regulations cannot be read to limit coverage of CHRO. CO

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) CHR's authority is defined by its governing ordinances and so it cannot impose liability for a racial statement unless there is evidence that the statement violates the CHRO -- here, that it occurred with respect to use of a public accommodation. R

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHR is an administrative agency and so has only those powers conferred by its governing ordinances; nothing in the CHRO requires CHR to read the CHRO as coterminous with any other law. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHRO's provision stating that nothing in it should be read to "limit rights granted" under other laws does not mean that CHRO must be read as having the same breadth or limitations of those other laws [some of which have language very different from the CHRO]; it just means that the CHRO does not limit individuals' ability to file under other laws. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) CHR is an administrative agency and so has only those powers conferred by its governing ordinances. CO

Monegain v. Levy Food Services Ltd. Partnership, CCHR No. 98-E-196 (Dec. 5, 1998) CHR is an administrative agency and so has only those powers conferred by its governing ordinances; nothing in CHR's governing ordinances allows it to dismiss or defer work because a related complaint is filed elsewhere. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Although CHR default regulation states that a defaulted respondent may not challenge sufficiency of complainant's allegations, CHR, as an administrative agency, has an independent obligation to ensure that it assesses liability and damages only when the record demonstrates an ordinance violation. R

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) As an administrative agency, CHR has only those powers conferred by its governing ordinances. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-9/12/20 (Aug. 3, 1999) (same) CO

Shepard v. IBM Corp., Chicago Dept. of Revenue, et al., CCHR No. 98-PA-73 (Aug. 17, 1999) (same) CO

Steele v. American Youth Soccer Org., 98-PA-54 (Aug. 25, 1999) Same; specifically, CHR cannot determine whether a respondent has violated the United States Constitution or statute other than its governing ordinances. CO

Blakemore v. Kinko's and BT Office Products, CCHR No. 99-PA-71 (Nov. 10, 1999) (same) As an administrative agency, CHR has only those powers conferred by its governing ordinances. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) (same) CO

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

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) (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

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Public policy of Illinois is the State Legislature's grant of power to municipalities to cover discrimination more broadly than that covered by the Illinois Human Rights Act. R

Regulation Breadth

Bosh v. CNA et al., CCHR No. 92-E-83 (July 29, 1994) CHR regulations cannot limit the scope of the Ordinance. R

Bosh v. CNA et al., CCHR No. 92-E-83 (July 29, 1994) Where definition of disability in the Commission's regulation led to recommendation that Complainant did not have a disability when he would have had one under the CHRO, the regulation is considered of no effect; case remanded for reconsideration without regard to regulation. R

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHR regulation cannot be read to limit coverage of CHRO; therefore, if regulation about definition of public accommodation could be read more narrowly than CHRO itself, it would be void. CO

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) CHR's regulations cannot alter the scope of the CHRO or define violations beyond those defined by the CHRO. R

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) CHR regulations cannot be read to limit coverage of the CHRO so, if the regulation about the definition of public accommodation did so, it would be void; in this case, CHR found the regulation conformed to the CHRO. CO

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

Turek v. Carl Sandburg Village Condo. Assoc. et al., CCHR No. 97-H-16 (Mar. 20, 1998) Where parties had settled case before Commission entered order but did not inform Commission and where the settlement stated that withdrawal of the case was important consideration, the Commission withdrew its order. CO

Turek v. Carl Sandburg Village Condo. Assoc. et al., CCHR No. 97-H-16 (Mar. 20, 1998) Commission stated that, in reviewing requests to withdraw its orders, policy of promoting settlements conflicted with the public interest in precedential orders and it noted that it would withdraw the order in question only due to factors noted in entry above. CO

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

T'Hart v. Jean Moss Photography, CCHR No. 91-E-32 (Mar. 12, 1992) Based on the facts, CHR did not need to decide whether CHR's failure to comply with 30-day deadline regarding determination of substantial evidence constitutes sufficient grounds to dismiss complaint. CO

Ratkovich v. Illinois Bell, CCHR No. 91-E-50 (Oct. 30, 1992) Upon parties' request to delay commencement of hearing beyond the required 90 days from substantial evidence finding, CHR ruled it would delay the commencement if the parties each waived their right to proceed in 90 days in writing. CO

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) Hearing Officer's failure to turn over recommended order to Board of Commissioners within 60 days was not grounds for reversal, among other reasons, because Respondent did not show prejudice. R

Littleton v. Chicago Municipal Credit Union, CCHR No. 91-CR-5 (Mar. 5, 1993) Denies motion to dismiss based upon fact that CHR did not complete its investigation within 180 days of filing because the language of the CHRO does not require CHR to complete its investigation in 180 days in all circumstances and because of case law holding that a) the complainant has a property interest in CHR proceedings and b) the 180-day investigative period is not jurisdictional. CO

Kennedy v. Chicago Transit Authority, CCHR No. 91-PA-14 (July 26, 1993) CHR did not lose jurisdiction when its investigation exceeded 180 days, citing Littleton above and noting that Respondent's failure to cooperate made it impractical, even impossible, for CHR to complete its investigation within 180 days. CO

Berman v. Chicago Transit Authority, CCHR No. 91-PA-45 (July 26, 1993) (same) CO

Tories v. Chicago Transit Authority, CCHR No. 92-PA-50 (July 26, 1993) (same) CO

Thomas v. Chicago Dept. of Health et al., CCHR No. 97-E-221 (June 29, 1999) CHR denied motion of an individual respondent to be dismissed for allegedly not being timely served with copy of an amended complaint; CHR found, among other things, that it had sent the complaint to that individual and that the respondent Department's response suggested that the individual had received that notice. CO

Thomas v. Chicago Dept. of Health et al., CCHR No. 97-E-221 (June 29, 1999) CHR denied motion of second individual respondent to be dismissed for allegedly not being timely served with copy of the amended complaint; CHR held that, even if the individual had not been timely served, given the circumstances of this case, he was not so prejudiced by that to allow CHR to infringe upon the complainant's right to proceed with his case against that individual. CO

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

Tibo v. Thermaline, CCHR No. 91-E-29 (June 1, 1992) Motion to dismiss for failure to state a claim of disability discrimination denied where Complainant had asserted facts which, if proved, would lead to a finding of disability discrimination. CO

Brown v. Chicago Department of Aviation, CCHR No. 90-E-82 (June 17, 1992) Lack of date and absence of particular allegedly discriminatory remarks in Complaint not fatally defective because of liberal complaint requirements under CHRO, because Respondent had sufficient knowledge of Complainant's allegations and so was not prejudiced, and because Complaint was actually timely. R

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Oct. 30, 1992) Denied Respondent's motion to dismiss complaint as insufficient for Complainant's failure to plead that he applied and was rejected for a particular job holding that because Complainant knew and was told that the Boy Scouts had a prohibition against hiring a gay men, he was not required to make a formal application. CO

Armbrust v. Clausen, Miller & Gorman, CCHR No. 92-E-81 (Dec. 7, 1992) Requirement in Reg. 210.110(d) that complaints be in substantially the same form as CHR form was satisfied where Complainant signed a complaint before a notary public and swore that its allegations were true and correct; using the exact language of the CHR form is not necessary. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) Purpose of complaint is to set forth the scope of the case so that neither party is prejudiced; here, respondents clearly had knowledge of the basis of the complaint. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) Complaints are to be liberally construed so that policies of the CHRO are not frustrated. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) Complainant need not prove his case at the pleading stage so the complaint will not be dismissed merely because it is inartfully drafted or does not allege specific facts when the scope of the complaint is clear. CO

Freeman v. Association Family Shelter, CCHR No. 93-E-145 (Oct. 13, 1993) Because the purpose of a complaint is to set forth the scope of the case so that no party is prejudiced and because complaints are to be liberally construed, CHR found that there was no question that one respondent who had been named individually had sufficient notice of the claim brought against her. CO

Freeman v. Association Family Shelter, CCHR No. 93-E-145 (Oct. 13, 1993) Where complaint had no allegations about two individual respondents, CHR granted motion to dismiss them, with leave to amend. CO **See Individual Liability section, below.**

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Mar. 29, 1995) Complainant's assertion that he can prove the employer's knowledge or perception of his sexual orientation found sufficient. HO

Alceguere v. Cook County MIS et al., CCHR No. 91-E-137 (Mar. 30, 1995) Where Complainant alleged that Respondent ignored his request to accommodate a disability by not rotating his shift, Respondent's motion to dismiss for failure to state a claim was denied. HO

Algarin v. Sanchez Mgt./Sanchez, CCHR No. 95-H-36 (June 29, 1995) Complaint found sufficient where Complainant checked the sex and marital status boxes and listed a series of incidents the landlord allegedly performed due to such discrimination. CO

Sheppard v. Pabon, CCHR No. 94-H-173 (Oct. 12, 1995) Motion to dismiss denied where complaint set forth facts which, if proved, would support a judgment against Respondents. HO

Crenshaw v. Harvey, CCHR No. 95-H-82 (Jan. 23, 1996) Complaint sufficiently stated a cause of action where Respondent's motion to dismiss presented only a defense to allegations. CO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) Where retaliation box in complaint was not checked but text makes it clear that that was one basis of the complaint and Respondent was aware of it, retaliation claim considered to be alleged. CO

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) Complaint not dismissed as it was read contained allegations of discrimination concerning Respondent, not just her brother. HO

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) Complaint's reference to the FHO, and not a particular subsection of it, found to be sufficient as the Complaint read as a whole put Respondent on notice of the violation with which she was charged. HO

Perez v. SEIU, CCHR No. 95-E-93 (June 3, 1996) Where Complainant described her claim by providing relevant dates, purported comparatives and type of discrimination, complaint found to sufficiently apprise Respondent of her allegations and so allowed to stand. CO

Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Oct. 18, 1996) Where Complainant pled that he was called a "faggot," CHR denied motion to dismiss because that was sufficient to state a claim that he was harassed because he was perceived to be gay. CO

Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Oct. 18, 1996) Motion to dismiss denied despite Complainant's allegations that others were harassed by the same person; Complainant raised inference that name-calling due to his sexual orientation was worse treatment than the others. CO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) Where both Complainants' race claims and one Complainant's disability claim turned on disputed facts, motion to dismiss denied; where one Complainant's claimed disability was a contusion, motion granted as that found to be insubstantial and temporary. CO **See Disability/Insubstantial and Temporary section, below.**

Schlack v. Chicago East Apts. et al., CCHR No. 97-E-168 (Aug. 13, 1997) Where Respondent and Complainant disagreed about whether an offer of employment was made, CHR denied motion to dismiss due to those outstanding questions of fact. CO

Schlack v. Chicago East Apts. et al., CCHR No. 97-E-168 (Aug. 13, 1997) Complaint found to state a claim where Complainant alleged he had worked for prior company but was not kept on by new owner due to his disability; complaint read as raising either failure to hire, despite using word "terminate," with respect to new owner, or as suggesting that new owner had offered him a job and later reneged. CO

Freeman v. Chapman and Cutler et al., CCHR No. 97-E-130 (Sep. 8, 1997) Amended complaint dismissed where it merely stated that is meant to "include sexual harassment" but provides no allegations which address, or could be read to address, sexual harassment. CO

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Complaint found to allege sufficient facts for claims of both *quid pro quo* and hostile environment sexual harassment where, for example, it states that Respondent stared at her, touched her, made sexual advances, and, when she refused, evicted her; also found sufficient to claim hostile environment due to her sex. CO

Chilton v. Cedar Hotel & Inn-Town Hotel, CCHR No. 97-H-203 (Feb. 20, 1998) Complaint concerning Respondents' removal of Complainant's belongings from his unit found to state claims for discrimination concerning terms & conditions of occupancy as well as concerning eviction. CO

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) CHR denies motion to dismiss a complaint which alleged that Respondent made work uncomfortable and then fired Complainant because she rejected sexual advances; CHR found it stated a claim for *quid pro quo* sexual harassment, but not for retaliation or hostile environment. CO

Leadership Council for Metro. Open Communities v. Carstea & Berzava, CCHR No. 98-H-76 (Aug. 19, 1998) Complaint which suggested that either landlord herself or her agent had discriminated was sufficient to apprise landlord of the alleged violation. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) Complaint found sufficient to survive motion to dismiss where it alleged that Complainant was harassed due to sex and sexual orientation and that Respondent failed to take reasonable corrective action; includes discussion of possible liability of Respondent where it may not have been employer of alleged harasser. CO

Marshall v. Getsla, CCHR No. 98-H-167 (Jan. 27, 1999) CHR found sufficient allegations that respondent did not meet with African-American complainant but did meet with her Caucasian friend. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) Where Complainant alleged the nature of the harassing remarks, identified who made them and stated that they were "ongoing," CHR found that sufficient to substantially apprise Respondents of the alleged violations. CO

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Where Complainant alleged that her foot surgery required her to miss only two weeks of work and she then had work restrictions for only eight to ten weeks, CHR found Complainant's foot condition to be insubstantial and transitory and so not a protected disability. CO

Williams v. Chicago Police Dept. et al., CCHR No. 98-PA-59 (Apr. 26, 1999) Where complainant contended that respondents exonerated the police officers he had accused in his OPS complaint due to complainant's membership in several protected classes, CHR found that his complaint sufficiently apprised respondents of his claim, but, due to the limited nature of the complaint, it also set forth what respondent was required to respond to articulate a proposed legitimate, non-discriminatory defense to the complaint. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) CHR found sufficient the complaint which alleges that the board members of the condominium association knew of complainant's disability and which describes their denial of her request for an accommodation to its no-pet rule. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) Fact that the complaint did not provide detailed facts or evidence about how the condominium association learned of complainant's disability did not require CHR to dismiss it; it set forth sufficient facts to apprise the respondents of her claim, including through its exhibits. CO

Washington v. Smith & Robinson, CCHR No. 99-H-9 (May 6, 1999) CHR denied motion to dismiss where complaint alleged that the Respondent sexually harassed Complainant "every day" after she rejected his advances and then forced her to move; even though the date she rejected the advances was more than 180 days before she filed, the harassment and constructive eviction occurred within that time. CO **See also Sexual Harassment section, below.**

Greenwood v. Aramark Corp., CCHR No. 99-E-60 (June 30, 1999) Case in which Complainant claimed she was demoted because she could not afford to buy a car to use on the job did not involve "source of income" as that looks to the source of one's money, not its sufficiency and so did not state a claim upon which relief could be granted. CO

Jackson v. Wilmette Realty et al., CCHR No. 99-H-32 (Sep. 27, 1999) Where Complainant's complaint stated that she was rejected as a tenant due to the amount of her income, not its source, CHR dismissed complaint as not related to the "source" of her income and so did not state a claim upon which relief could be granted. CO

Jordan v. AMTRAK, CCHR No. 99-PA-34 (Dec. 28, 1999) CHR found sufficient a complaint which alleged that AMTRAK guards singled out and assaulted Complainant because he is African-American and perceived to be Rastafarian due to his dreadlocks and which provided the date and time, the names and races of the guards, and a description of the discussion among them. CO

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

Sigman v. R.R. Donnelly & Sons Co., 98-E-57 (Aug. 9, 2001) (same) 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 video-taping] 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. Thorndale 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 appraised" 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 Complainant 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

Kirth 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, Complainant'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) Complaints 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, Complaint 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 (Sep. 14, 2004); punitive damages award reversed due to inadequate notice by Appellate Court, No. 1-04-3599, Sep. 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 harassment 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 alleged that it was Complainant's employer and discharged her based on race and sex; complaint need not prove case, state all supporting evidence, or allege facts supporting each element of claim. 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 justify failure 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 occupancy. 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

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) Where amended complaint had different allegation than original complaint with respect to end date of harassment, CHR did not strike either allegation, but kept both as a factual dispute to be investigated; cites Illinois court cases and CHR regulations. 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

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

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (May 31, 1996) CHR will not re-open case on Request for Review where Complainants rely upon events not covered by complaints and which occurred after the filing of complaints and after the order of dismissal was entered. 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 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

Collins v. Bockwinkel, CCHR No. 98-E-191 (Feb. 19, 1999) CHR Reg. 210.120(a) requires people to file in

person unless there are extraordinary circumstances such as being out of town until after the filing period will run out. CO

Collins v. Bockwinkel, CCHR No. 98-E-191 (Feb. 19, 1999) Where it was clear that Complainant had signed her complaint before a notary public from Mississippi, CHR denied a motion to dismiss which alleged that Complainant was actually in Chicago when she signed. CO

Minors

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Where adult complainant signed complaint but also listed names of minor dependents, CHR found it unnecessary to determine whether minors were proper complainants as they requested only punitive damages and CHR found that punitive damages should be paid only to Complainant herself. R

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 burden 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

Thomas v. Johnson Publishing, CCHR No. 91-E-44 (June 18, 1992) Denied as frivolous Respondent's claim that notarization of Complainant's signature on only the first page of a two-page complaint made allegations on the second page subject to dismissal. CO

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 (Sep. 14, 2004); punitive damages award reversed due to inadequate notice by Appellate Court, No. 1-04-3599, Sep. 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

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Respondent found to be properly served when the complaint was mailed to three addresses and he was personally served two times. R

Thomas v. Chicago Dept. of Health et al., CCHR No. 97-E-221 (June 1, 1999) CHR denied motion of individual respondent to be dismissed for allegedly not being timely served with copies of the original and amended complaints; CHR found, among other things, that it had sent the complaints to that respondent and that the respondent department had informed CHR in writing that the individual respondent had received the complaint in a timely manner. CO

Thomas v. Chicago Dept. of Health et al., CCHR No. 97-E-221 (June 29, 1999) CHR denied motion of an individual respondent to be dismissed for allegedly not being timely served with copy of the amended complaint; CHR found, among other things, that it had sent the complaint to that respondent and that the Respondent department's response suggested that the individual had received that notice. CO

Thomas v. Chicago Dept. of Health et al., CCHR No. 97-E-221 (Jun 29, 1999) CHR denied motion of second individual respondent to be dismissed for allegedly not being timely served with copy of the amended complaint; CHR held that, even if the individual had not been timely served, given the circumstances of this case, he was not so prejudiced by that to allow CHR to infringe upon the complainant's right to proceed with his case against that individual. 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

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

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Complainant conceded adults whose names were listed on complaint but who did not sign own complaint were not proper complainants. R

Johnson v. Chicago Dept. of Health, CCHR No. 99-PA-104 (Dec. 20, 1999) CHR dismissed Complainant's complaint as untimely where he did not sign it, and so did not file it, until the 181st day. CO

Johnson v. Chicago Dept. of Health, CCHR No. 99-PA-104 (Dec. 20, 1999) CHR's regulations do not allow it to waive the requirement that a complainant sign the complaint so the fact that he had started the complaint drafting process on the 180th day was not sufficient where he left the office without explanation and without reviewing or signing the complaint until he returned the next day. CO

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

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Mar. 29, 1995) Complaint need only "substantially apprise" respondent of the alleged violation; it need not set out every fact or all the evidence. HO

Algarin v. Sanchez Mgt./Sanchez, CCHR No. 95-H-36 (June 29, 1995) Purpose of complaint is to set forth the scope of the case; it must "substantially apprise" the respondent of the violation. CO

Algarin v. Sanchez Mgt./Sanchez, CCHR No. 95-H-36 (June 29, 1995) Complaints are to be liberally construed, especially where the complainant is not represented. CO

Sheppard v. Pabon, CCHR No. 94-H-173 (Oct. 12, 1995) Complaint need not set forth proof or evidence of *prima facie* case so long as it sets forth scope of case so no party is prejudiced. HO

Crenshaw v. Harvey, CCHR No. 95-H-82 (Jan. 23, 1996) CHR reads complaints liberally, especially when complainant is not represented, and it reads them as a whole. CO

Crenshaw v. Harvey, CCHR No. 95-H-82 (Jan. 23, 1996) Complaint need not allege every fact or all evidence so long as it "substantially appraises" respondent of the basis. CO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) (same) CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) (same) CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) CHR reads complaints

liberally, especially when complainant is not represented, and it reads them as a whole. CO

Perez v. SEIU, CCHR No. 95-E-93 (June 3, 1996) Complaint need not allege every fact or all evidence so long as it "substantially appraises" respondent of the basis; CHR reads complaints liberally, especially when complainant is not represented, and it reads them as a whole. CO

Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Oct. 18, 1996) (same) CO

Schlack v. Chicago East Apts. et al., CCHR No. 97-E-168 (Aug. 13, 1997) (same) CO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) (same) CO

Freeman v. Chapman and Cutler et al., CCHR No. 97-E-130 (Sep. 8, 1997) (same) CO

Chilton v. Cedar Hotel & Inn-Town Hotel, CCHR No. 97-H-203 (Feb. 20, 1998) A complaint need only "substantially apprise" respondent of the alleged violation and need not set out detailed facts or supporting evidence; CHR liberally construes complaints to ensure that policies of ordinances are not frustrated. CO

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) (same) CO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (July 21, 1998) Same; also notes difference between complaints filed at CHR from those filed in court proceedings. HO

Leadership Council for Metro. Open Communities v. Carstea & Berzava, CCHR No. 98-H-76 (8-19-98) A complaint need only "substantially apprise" respondent of the alleged violation and need not set out detailed facts or supporting evidence; CHR liberally construes complaints to ensure that policies of ordinances are not frustrated. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) (same) CO

Marshall v. Getsla, CCHR No. 98-H-167 (Jan. 27, 1999) Same; also CHR states that complainants who are not represented cannot usually be held to formal pleading requirements. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) (same) CO

Williams v. Chicago Police Dept. et al., CCHR No. 98-PA-59 (Apr. 26, 1999) (same) CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) (same) CO

Jackson v. Wilmette Realty et al., CCHR No. 99-H-32 (Sep. 27, 1999) (same) CO

Jordan v. AMTRAK, CCHR No. 99-PA-34 (Dec. 28, 1999) (same) CO

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 (May 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

Sigman v. R.R. Donnelly & Sons Co., CCHR No. 98-E-57 (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. Kinko'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

Kirth 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., CHR 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 (Sep. 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 (Sep. 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 (Sep. 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. 98-PA-42 (Dec. 22, 1999) CHR dismissed allegations that Department employees asked Complainant to keep quiet while one was on the telephone and met with him in a carrel and not an office finding that those claims were too trivial to state a violation of the CHRO. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR did not dismiss claim that Respondents mishandled Complainant’s cases because Complainant had filed a prior claim against them was not found to be trivial, but to go to the very essence of the services they were to provide. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) 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) 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

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 4, 2012) Deadlines for training ordered as injunctive relief for sexual orientation harassment were extended a second time based on agreement of the parties and evidence they were working together to resolve any issues about compliance. CO

Failure to Attend Conciliation Conference Sanction Denied

Mariduena/Sutton/Reed v. Cervantes, CCHR No. 95-H-21/23/28 (Feb. 22, 1996) Where Complainants' attorney did not tell clients of the Conciliation Conference so a second Conference was needed, CHR fined attorney the cost of the Conciliator for the first Conference but did not dismiss complaints. CO

Leahy v. Cosmetic Surgery Instit. & Tcheupdjian, CCHR No. 95-E-21 (Jan. 14, 1998) Where Conciliation Conference was attended by a representative for both business and individual Respondents as well as by attorney for both, but not attended by individual Respondent himself, and where circumstances around individual Respondent's absence did not indicate a disregard of CHR procedures, Commission found his absence was excused by good cause and so denied request to default individual Respondent. CO

Duvergell v. Zivkovic, CCHR No. 97-H-63 (Jan. 14, 1998) Although Complainant did not report her new address to CHR, CHR did not dismiss her case for failing to attend a Conciliation Conference because it appeared that she did not receive notice of it; she responded promptly to a notice of potential dismissal that CHR sent once it learned her new address. CO

Jones, Leigh & Ford v. Tina's Pizza, CCHR No. 97-PA-23 & 24 (Jan. 14, 1998) Where Respondent did not attend Conciliation Conference and its attorney claimed not to have received notice of it, CHR did not default Respondent despite fact that notice was correctly addressed to attorney and was not returned to CHR; CHR found that there was no evidence that the notice was delivered to attorney and noted that default is a severe sanction. CO

Smith v. Wilmette Real Estate & Mgt., CCHR No. 95-H-159 (Aug. 13, 1998) Where Complainant did not attend Conciliation Conference because CHR mis-sent first notice and where the later one was misrouted, and where Complainant explained his absence as soon as he learned of it, CHR did not dismiss Complainant's case for failure to cooperate. CO

Slazyk v. Sears, CCHR No. 93-E-101 (Dec. 4, 1998) CHR did not enter default order because Respondent did not receive the order setting the Conciliation Conference enough in advance for it to attend; CHR did, however, fine Respondents for cost of conciliator's attendance as it did not notify the Commission in writing of its inability to attend in advance; CHR noted that default is a severe sanction which should not be entered in a punitive manner. CO

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (June 30, 1999) Where Complainant's failure to attend the Conciliation Conference was caused a medical emergency where she used great effort to attend nonetheless, CHR found that she demonstrated good cause and so did not dismiss her case for failure to cooperate. CO

Wortham v. Wright Property Mgt. et al., CCHR No. 96-E-141 (June 30, 1999) Where Complainant explained that he did not attend Conciliation Conference because he did not receive notice of it and described his general problems with his mail, and where he responded as soon as he received the notice of potential dismissal, CHR found that he demonstrated good cause and so did not dismiss his case for failure to cooperate. CO

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

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 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

Riney v. McDonald's, CCHR No. 91-FHO-43-5628 (Jan. 7, 1992) Case dismissed and fines issued pursuant to Regulation 230.100(b) for Complainant's unexcused failure to attend two Conciliations Conferences. CO

Johnson v. Tran, CCHR No. 91-FHO-165-5750 (Apr. 6, 1992) Respondent fined cost of Conciliator's fees, \$50, for unexcused failure to attend Conciliation Conference. CO

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Apr. 15, 1992) (same) CO

White v. Ison, CCHR NO. 91-FHO-126 (Dec. 16, 1992) (same) R

Hyman v. Ponderosa Restaurant, CCHR No. 92-E-142 (June 8, 1993) Respondent fined \$50 for failure to attend Conciliation Conference. CO

Scott v. Noble Horse Equestrian Center, CCHR No. 92-E-153 (June 17, 1993) (same) CO

Starrett v. Duda/Sorice, CCHR No. 93-E-6 (Aug. 19, 1993) Default entered pursuant to Regulation 230.100(b) where Respondents failed to attend several scheduled Conciliation Conferences. CO

Akin v. Pedus Services, CCHR No. 92-E-44 (Dec. 10, 1993) Complaint dismissed where Complainant failed to attend scheduled Conciliation Conferences without good cause. CO

Peters v. Rudnicki, CCHR No. 93-H-33 (Dec. 15, 1993) (same) CO

McCall v. Cook County Sheriff et al., CCHR No. 92-E-122 (Mar. 11, 1994) Individual Respondents fined \$50, cost of Conciliator, where they failed to appear. CO

McCall v. Cook County Sheriff et al., CCHR No.92-E-122 (Apr. 25, 1994) Upheld fine of individual Respondents who failed to attend Conciliation Conference where attorney for government Respondent appeared; Complainant's motion for default of individual Respondents denied. HO

Houston v. Mims, CCHR No. 94-H-18 (Dec. 19, 1994) Respondents defaulted when they did not attend two Conciliation Conferences, as had been warned. CO

Bowen v. McCleton, CCHR No. 94-H-105 (Apr. 12, 1995) Where Complainant did not attend three Conciliation Conferences, her case was dismissed for failure to cooperate as had been warned. CO

Soria v. Kern, CCHR No. 95-H-13 (Sep. 7, 1995) Respondent defaulted where he did not attend two Conciliation Conferences, as had been warned. CO

Cruz v. Fonseca, CCHR No. 94-H-141 (Feb. 2, 1996) Respondent defaulted where he did not attend two Conciliation Conferences, as had been warned. CO

Scott v. Lind, CCHR No. 95-H-156 (Feb. 28, 1996) Where Complainant failed to attend two Conciliation Conferences, her complaint was dismissed as had been warned. CO

Wright v. Mims, CCHR No. 95-H-12 (May 24, 1996) Respondent defaulted when he did not attend Conciliation Conference and then did not contact CHR or provide good cause as ordered. CO

Chenault v. Gooley-Wilson & Will, CCHR No. 94-H-169 (May 29, 1996) Complaint dismissed when Complainant failed to attend Conciliation Conference and then did not contact CHR or provide good cause as ordered. CO

Smith v. Pitts, CCHR No. 98-H-173 (May 6, 1999) Where Complainant missed the scheduled Conciliation Conference without good cause, her case was dismissed. CO

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. BKG 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

Morris v. ARAMARK Educational Group, CCHR No. 97-E-131 (Sep. 1, 1998) Where Respondent attended the Conciliation Conference but did not bring anyone with authority to settle and where Respondent subsequently did not provide good cause for that failure as ordered, CHR fined Respondent for the cost of the Conciliator's attendance at the Conference. 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 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

Blakemore v. Commission on Human Relations, et al., CCHR No. 98-PA-10/49/50 (Nov. 27, 1998) Pursuant to resolution of Board of Commissioners concerning conflict of interest, CHR dismissed cases filed against CHR at CHR. R

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

Doering v. Chicago Park District, CCHR No. 91-PA-10 & 11 (Oct. 29, 1991) Neither the CHRO nor the

Ethics Ordinance prohibit a Commissioner from filing a complaint at the Commission on Human Relations so long as he or she recuses himself or herself from, and refrains from influencing, decisions about the case. CO

Doering v. Zum Deutschen Eck, CCHR No. 94-PA-35 (Sep. 14, 1995) Member of CHR' s Board of Commissioners may bring a case at CHR so long as she recuses herself from the matter, other than as complainant. CO

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

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

CONSOLIDATION

Effect of Consolidation

Chimpoulis/Richardson v. The Cove Lounge, CCHR No. 97-E-123/127 (Apr. 8, 1998) Consolidation does not mean that both Complainants will prevail or both will lose; if the hearing officer finds that one Complainant does prove his case while the other does not, she can make that recommendation. CO

Post-Substantial Evidence Finding

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Jan. 10, 1995) Consolidation denied where one case was at the Hearing stage [after a substantial evidence finding] and the other was still being investigated [before a substantial evidence determination] and where consolidation would unduly delay the case in hearing. HO

Prejudice

Belcina v. Jacob, CCHR No. 91-FHO-16-5601 (Aug. 23, 1991) Found no prejudice to consolidate after discovery was closed where Respondent had knowledge of all complaints, where all Complainants answered Respondent's discovery requests, and where the witnesses were identical in each consolidated case. HO

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

Chimpoulis/Richardson v. The Cove Lounge, CCHR No. 97-E-123/127 (Apr. 8, 1998) CHR denied one Complainant's motion to sever finding: the two Complainants both claim that the same persons discharged them due to age and sex and that they were replaced by younger women; the objecting Complainant's complaint specifically referred to the second Complainant; there will be common witnesses and testimony; and the danger of confusion is small, especially because the trier of fact is a hearing officer, not a jury. Fact that Respondent's defense about each Complainant's performance may be different is not sufficient to require severing. CO

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

Belcina v. Jacob, CCHR No. 91-FHO-16-5601 (Aug. 23, 1991) Consolidation granted even after discovery had closed where there was common questions of law and fact and identical witnesses for hearing. HO

Hill v. Basan, CCHR No. 91-H-150 (Apr. 1, 1992) Motion to separate consolidated claims denied where claims involved common questions of law and fact, where the same attorney represented all three Complainants, and where Respondent failed to show prejudice. CO

May v. Andriukaitis, CCHR No. 91-FHO-140-5725 (May 27, 1992) Respondents' motion to sever consolidated actions denied due to virtually identical witnesses and facts in both cases; fact that the Respondent spouses are divorcing each other not sufficient to bifurcate their cases. HO

Abbati v. Venture, Inc., CCHR No. 92-PA-19 (Dec. 28, 1992) Consolidation ordered for purposes of Disability Evidentiary Conference where two cases had same common issue of law and fact. CO

Chimpoulis/Richardson v. The Cove Lounge, CCHR No. 97-E-123/127 (Apr. 8, 1998) CHR cites Reg. 210.180 which allows consolidation where there is a "common question of law or facts" and consolidation will not prejudice the parties; not all questions of law or fact need be common. CO

Chimpoulis/Richardson v. The Cove Lounge, CCHR No. 97-E-123/127 (Apr. 8, 1998) CHR reviews both state and federal court cases considering proper consolidation in order denying one complainant's motion to sever; among other things, these indicate that there must be sufficient commonality between the cases so that an increase in efficiency is not outweighed by prejudice. 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) 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

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) City held to have a compelling interest in ending discrimination to justify application of CHRO. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) In finding a compelling governmental interest, CHR looks at expert witness testimony showing salutary effects of anti-discrimination law on gay people. R

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) If speech does not fall into a First Amendment exception, the government's interest in regulating it, even if compelling, is not relevant; no balancing test is used in such a case. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) CHR previously found that there is a compelling interest in CHRO's prohibition of sexual orientation discrimination. CO

Due Process

No Violation Found

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR found that Respondent was not deprived of procedural due process because CHR read "source of income" to include Section 8 even if there may be interference with Respondent's right to contract with whomever it pleases; civil rights laws have long been upheld as a proper exercise of police power. CO **See also City of Chicago Authority/Police Power, above and Source of Income/Section 8 below.**

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR held that Respondent's freedom to contract was not impermissibly restricted by its reading that the CFHO includes Section 8 as a source of income even though that reading compels Respondent to accept Section 8; there is, in essence, a long-standing exception to the freedom of contract for proper anti-discrimination laws such as the CFHO. CO **See also Source of Income/Section 8, below.**

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 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

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 (citing *Cooper v. Salazar*). CO

Diaz v. El Tropicco, Inc., et al., CCHR 08-P-62 (Feb. 23, 2009) Lack of opportunity for jury trial in CHR 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

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 3, 1999) To evaluate whether there is a due process violation, there must be an "evil" which affects the public, health, safety, morals or general welfare and the law in question must choose reasonable means to address that evil. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) A reasonable law may restrict the freedom of contract without violating due process so long as it has a reasonable relation to a proper legislative purpose, and is neither arbitrary nor discriminatory. CO

Equal Protection

Steele v. American Youth Soccer Org., CCHR No. 98-PA-54 (Aug. 25, 1999) In order describing open legal issues the parties will have to resolve in this case which concerns AYSO's separation of teams by sex, CHR discusses equal protection cases addressing sex discrimination in athletics and how they may differ from an analysis under the CHRO. CO

Fifth Amendment Taking

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR held that its ruling that "source of income" covers Section 8 does not violate the takings clause of the Fifth Amendment; the argument was premature as CHR had not yet made a determination of Respondent's potential liability and, more importantly, land use restrictions are not takings if, as here, they substantially advance a legitimate government interest. CO **See also Source of Income/Section 8, below.**

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) The CFHO substantially advances a legitimate state interest and so application of it does not effect an impermissible taking even if it burdens the landlord. CO

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

Peterson v. St. Nikolai United Church of Christ, CCHR No. 92-E-167 (Dec. 21, 1993) CHR dismissed Complaint of minister -- a member of the clergy -- who sued Respondent for failing to hire him, allegedly due to his sexual orientation, because proceeding with the case would excessively entangle CHR with religion in violation of the First Amendment's Establishment Clause. CO

Peterson v. St. Nikolai United Church of Christ, CCHR No. 92-E-167 (Dec. 21, 1993) Sets forth standard for withstanding scrutiny under the Establishment Clause of the First Amendment. CO

First Amendment/Free Association

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Sets forth standards based on United States Supreme Court cases to determine whether application of the CHRO to require the Boy Scouts to hire a gay man would infringe upon its right to associate for expressive purposes and so be a BFOQ. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) An employer may raise as a BFOQ that its right to associate may be implicated, but the scope of that right is more limited in the employment context than in the membership context. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Sets forth the factual issues to be addressed at a Hearing for this BFOQ defense to be proved. CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Free association protects expressive goals; the hiring of an employee has little expressive quality. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Free association rights are more limited in an employment case than in a membership case as the intrusion into the organization is less. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) A goal about which others are unaware is not an expressive goal. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Application of the CHRO to enjoin use of Respondent's anti-gay hiring policy found not to be a violation of Respondent's free association rights in that opposition to homosexuality was held not to be an expressive goal of the Respondent. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Application of the CHRO found not to interfere with or curtail Respondent continuing with its current activities and mission. R

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 Commercial Speech

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHR dismissed case involving the manner in which the Tribune refers to homosexual partners in death notices; CHR held it could not regulate the content of the Tribune's death notices, finding that they are news items and so expressive, not mere commercial speech. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR finds the facts that the death notices Complainant wanted to regulate are purchased, are not editorial, are mechanically laid out, sometimes seek memorial contributions, and are printed below the obituaries are not sufficient to make the notices regulable when they do not seek a commercial transaction or otherwise have a commercial message. CO

Decision Not to Hire as Speech

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) A hiring decision has no more than an element of "speech" to it so requiring Respondent to consider gay people for employment does not violate its right to free speech; opposition to homosexuality found not to be an expressive goal of Respondent. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) To extent that refusing to hire gay people has an element of speech, discrimination is not afforded affirmative constitutional protection. R

Standards

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) Neither the fact that people pay the Tribune to have a death notice placed nor the fact that death notices are mechanically laid out make them commercial speech; the key is whether the content is expressive. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) Fact that it was the Tribune, not Complainant, who wanted to add a modifier to the reference to Complainant's partner in a death notice does not deprive the Tribune of First Amendment protection. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR applies First Amendment standards concerning commercial speech; it cites Supreme Court and federal court cases which explain that, for speech to be regulated, it must fall into a First Amendment exception, such as commercial speech -- that which proposes a commercial transaction. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR holds that the language of the speech need not explicitly say "buy this" so long as it is part of a context in which a commercial transaction is the central focus. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR holds that if speech does not fall into a First Amendment exception [such as commercial speech], the government's interest in regulating it, even if compelling, is not relevant; no balancing test is used. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR finds that where the speech is fully protected by the First Amendment, the speaker is allowed to discriminate. CO

First Amendment/Religion Clauses

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Although Respondent business itself does not have a religious purpose, the business was essentially its owner's "personal business organized in a corporate form" and so had standing to raise a First Amendment-establishment clause defense to the Complaint. R

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Respondent found not substantially burdened by having to rent to an unmarried couple in contravention of his religious beliefs where the property being rented was not his and he did not have to take part in the renting of it; construes the Religious Freedom Restoration Act. R

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Applying the United States Supreme Court case of *Employment Division v. Smith*, CHR finds that the Fair Housing Ordinance is a neutral, generally applicable law. R

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb. 27, 1995) CHRO's provides religious organizations at least as much protection as the U.S. Constitution does. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) (same) 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

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

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Complainant found to be constructively discharged after she resigned because her work environment was worsening due to Respondents' continuous sexual harassment. R

No Liability Found

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Evidence found insufficient where acts complained of terminated long before Complainant's resignation. R

Daniele v. Mitsubishi Trust & Banking Corp., CCHR No. 92-E-23 (Sep. 21, 1993) CHR found no substantial evidence of a claim of constructive discharge where the conditions about which Complainant complained were not so unreasonable that a reasonable person would feel compelled to resign. CO

Gapinski v. Crown Books, CCHR No. 93-E-149 (Nov. 1, 1993) Complainant cannot maintain that his work conditions were intolerable due to sexual harassment when he was given a *bona fide* offer to work in a neutral, non-hostile environment and when he failed even to try to correct the problem through the company's internal grievance procedure; CHR differentiates this from the standard to determine whether an employer took reasonable corrective actions to address sexual harassment. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Where Respondent's treatment of Complainant was not found to be unlawful discrimination and where the work environment would not have caused a reasonable person to resign, constructive discharge not found. R

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) Where Complainant did not prove underlying sexual harassment, she was found not to have proved her resignation was constructive discharge. R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) No liability found where Complainant did not show that the conduct which precipitated his quitting was due to race or sex discrimination and where the conduct was found not so intolerable as to have caused a reasonable person to have resigned. R

Scadron/Zuberbier v. Martini's of Chicago & Jones, CCHR No. 94-E-195/196 (Feb. 19, 1997) Where Complainants found not to have proved sexual harassment, one's claim of constructive discharge failed. 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.” R

Standard

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) A Complainant can be found to have been constructively discharged where she resigns because of intolerable working conditions, caused by unlawful discrimination, which would cause a reasonable person to feel compelled to resign. R

Daniele v. Mitsubishi Trust & Banking Corp., CCHR No. 92-E-23 (Sep. 21, 1993) (same) CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) *prima facie* case for constructive discharge includes that complainant's working conditions were sufficiently intolerable to have caused a reasonable person to have felt compelled to resign. CO

Gapinski v. Crown Books, CCHR No. 93-E-149 (Nov. 1, 1993) (same as Ordon above) CO

Gapinski v. Crown Books, CCHR No. 93-E-149 (Nov. 1, 1993) A finding of substantial evidence of sexual harassment does not mandate a finding of constructive discharge or else the two doctrines would be duplicative. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Complainant must show that his work conditions were sufficiently intolerable to have caused a reasonable person to have felt compelled to resign and that the conditions were caused by unlawful discrimination. R

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) (same) R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) (same) R

Scadron/Zuberbier v. Martini's of Chicago & Jones, CCHR No. 94-E-195/196 (Feb. 19, 1997) (same) R

CONSTRUCTIVE EVICTION

Claim Stated

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR holds that the language of the speech need not explicitly say "buy this" so long as it is part of a context in which a commercial transaction is the central focus. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR holds that if speech does not fall into a First Amendment exception [such as commercial speech], the government's interest in regulating it, even if compelling, is not relevant; no balancing test is used. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR finds that where the speech is fully protected by the First Amendment, the speaker is allowed to discriminate. CO

Liability Found

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) In parental status case, Respondent's terms restricting Complainants' children were so limiting that Complainants were found reasonably to have refused to move in; includes discussion of the unreasonableness of the terms. R

CONTINUANCE – See Attorney Appearance/Extension of Time and Continuance, Attorney's Fees/Extension of Time, Default Judgment/Extension of Time, Disqualification/No Continuance, Hearing Procedures/Extension of Time, Hearing Procedures/Continuance, Motions/Extension of Time & Continuance, and Requests for Review/Extension of Time to File.

COSTS

Proof of

Blake v. Bosnjawkowski, CCHR No. 91-FHO-149-5734 (Apr. 21, 1993) Complainant's costs for conducting a "test" denied where no documentation or proper statement was submitted. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Additional itemization of costs submitted as part of objections to first recommendation not considered where the information should have been provided as part of fee petition. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Where copying and fax requests did not specify documents worked on, number of pages or price per page, almost \$23,000 of requested costs not awarded. R

Wright v. Mims, CCHR No. 95-H-12 (Sep. 17, 1997) Complainant supplied affidavit plus copies of money orders, invoices and receipts for transcript and witness costs. R

Austin v. Harrington, CCHR No. 94-E-237 (Mar. 18, 1998) Where *pro se* complainant did not file any receipts but filed an affidavit stating he incurred costs, several items reduced or not awarded due to lack of documentation. R

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

Sleper v. Maduff & Maduff, CCHR No. 06-E-90 (Feb. 20, 2013) Costs awarded for documented transcript expenses but not for copying and supplies where Complainant did not follow up with documentation as promised. R

Reasonable Costs

Huezo v. St. James Properties, CCHR No. 90-E-44 (Oct. 9, 1991) Photocopying costs awarded. R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Mar. 25, 1992) Cost of trial transcript awarded. R

Body v. Williams, CCHR No. 92-H-72 (Sep. 23, 1993) (same) R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Nov. 15, 1995) \$662 in costs awarded for service of subpoenas and costs of flying in one complainant and one witness. R

Hall v. Becovic, CCHR No. 94-H-39 (Jan. 10, 1996) Complainant awarded \$430.55 for costs of depositions, copying and cabs. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (Jan. 10, 1996) Complainant awarded \$82.95 for costs for copying, parking and witness and mileage fees for subpoenaed witnesses. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Mar. 20, 1996) Complainant awarded \$1,387.50 for costs of duplicating, transcripts and service of subpoenas. R

Hussian v. Decker, CCHR No. 93-H-13 (May 15, 1996) Complainant awarded \$915.89 for cost of duplicating and transcripts. R

Soria v. Kern, CCHR No. 95-H-13 (Nov. 20, 1996) \$688.36 for transcripts, local transportation, service, copying and research to discover Respondent's assets. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Complainant awarded \$23,756.26 in costs for items such as copying, witness and expert fees, transcript fees; approximately \$26,500 deducted due to insufficient proof and excessiveness. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) \$110 in cab costs for attorney's intra-city travel not awarded. R

Matias v. Zachariah, CCHR No. 95-H-110 (Feb. 19, 1997) Costs of \$796.49 awarded for items including expert witness fees, transcript costs, subpoena costs. R

Wright v. Mims, CCHR No. 95-H-12 (Sep. 17, 1997) Complainant awarded \$247 for transcript and witness costs. R

Buckner v. Verbon, CCHR No. 94-H-82 (Oct. 22, 1997) Complainant awarded \$201.70 for subpoenas made necessary by Respondent as well as for copies and other expenses. R

Austin v. Harrington, CCHR No. 94-E-237 (Mar. 18, 1998) *pro se* complainant awarded total costs of

\$532.40, largely for copying expenses which were sufficiently documented. R

Austin v. Harrington, CCHR No. 94-E-237 (Mar. 18, 1998) *pro se* complainant's requests for typing costs, telephone calls, notary services and postage denied where he provided no explanation and/or proof about many of these items. R

Austin v. Harrington, CCHR No. 94-E-237 (Mar. 18, 1998) *pro se* complainant's requests for transportation costs reduced to align number of trips requested with amount sought. R

McCutchen v. Robinson, CCHR No. 95-H-84 (Oct. 21, 1998) Complainant awarded \$275 for cost of expert witness. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Feb. 24, 1999) Complainant awarded \$145.45 as costs for messengers and copying; costs for typing not awarded due to high hourly rate. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Feb. 24, 1999) Complainant awarded \$117.50 in costs for copying, local transportation and facsimile charges. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 15, 1999) Complainant awarded \$487.40 for costs of copying and binding brief and appendix in state court. R

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

Sellers v. Outland, CCHR No. 02-H-37 (Mar. 17, 2004) Costs of \$275.72 for trial transcript and copies of CHR decisions awarded as reasonable. (Appellate court review pending) 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 duplicative photocopying of documents already in record and inability to distinguish what were reasonable costs. HO

Warren et al. v. Lofton & Lofton Management d/b/a McDonald's et al., CCHR No. 07-P-62/63/92 (May 19, 2010) Compensation for purchase of administrative hearing transcript allowed.

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

Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al., CCHR No. 10-E-40 (May 15, 2013) \$455 awarded in costs for hearing transcript. R

Hamilton and Hamilton v. Café Descartes CCHR No. 13-P-05/06 (Dec. 17, 2014) \$30.25 in costs incurred for travel expenses to the Commission found to be reasonable compensable costs. 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

Employment

Parson v. NEW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Customer preference is not an acceptable defense to discrimination. R

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) BSA's claimed BFOQ that homosexual individuals cannot be employees because they are not "morally straight" or "clean" held not based on privacy concerns and is a "customer preference" defense and so denied as a matter of law. CO

Housing

Santiago v. Soho, CCHR No. 91-FHO-54-5639 (May 26, 1992) "Customer preference" held not to be a legitimate defense. R

Public Accommodation

Soho & Cohen v. Castile & Horwich, CCHR No. 91-PA-19 (Oct. 20, 19-93) Where Respondents' defense was that they did not renew the lease of the complainants/dentists because other tenants complained about bloody gauze being left in the hallways, holes burned in the carpet and other problems with the dentists' patients, CHR found that this was not the case of respondents appealing impermissible "customer preference" because the preferences of the other tenants had not been discriminatory. R

DAMAGES

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

Authorization

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) Rejects Respondent's challenge to award of damages finding CHR's award of damages authorized by CFHO. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) Complainant may seek damages for housing discrimination as such relief is specified at length in the ordinance empowering CHR; although CFHO refers only to fines for violations, it states that complainants may pursue other legal and equitable relief. HO

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) In upholding Complainant's ability to seek damages, notes that CHR routinely awards damages and the Circuit Court has enforced them. HO

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Front pay award authorized by "make whole" language in Municipal Code which is same as that in Illinois Act which has been read to allow front pay. R

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

Antonich v. Midwest Building Mgt., CCHR No. 91-E-150 (Oct. 21, 1992) \$300 awarded for emotional distress when Complainant failed to provide specific evidence; damages inferred from the discrimination. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) \$500 awarded where Complainant failed to present specific evidence of emotional distress; damages presumed to flow from wrong. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Complainant awarded \$10,000 after her credible testimony of her distress due to long term, repeated sexual harassment. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Victim of sexual harassment awarded \$5000 where she presented substantial testimony regarding her stress, physical and emotional reactions, difficulty sleeping, depression, fear and where she presented expert witness testimony concerning post-traumatic stress disorder, but where CHR found much of her testimony to be inconsistent and exaggerated. R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) CHR denied the request to increase emotional distress damages where the original award covered not only Complainant's distress suffered during the sexual harassment but also any ongoing distress due to the harassment. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) In sexual harassment hostile environment case, Complainant awarded \$10,000 for emotional distress after she testified to stress, weight gain, sleep disturbance, physical discomfort and after she cried and was visibly shaken during the Hearing. R

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) *pro se* Complainant who testified that she felt depersonalized and ashamed awarded \$2,000 in emotional distress damages in employment/sex case. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Complainant awarded \$10,000 where Respondents found liable for creating a hostile environment due to his sexual orientation, including name-calling. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Complainant awarded \$500 for emotional distress where he was a "tester" who knew of the anti-gay hiring policy before he was rejected. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Complainant awarded \$15,000 based on his own testimony of his vulnerability, distress and psychiatric treatment due to the discrimination in case where Complainant was beaten up, humiliated and discharged due to his disability. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Complainant who was discharged due to his sex awarded \$1000 in emotional distress where his evidence of distress was "minimal". R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Complainant who was forced to take a medical exam and then fired due to his perceived disability awarded \$2,000 for his emotional distress; his evidence of distress was small. R

Moulden v. Frontier Communics., et al., CCHR No. 97-E-156 (Aug. 19, 1998) In case where Black Complainant received lower raises and bonuses than similarly situated white employee, CHR awarded her \$3,500 in emotional distress; she provided testimony of on-going sleep problems as well as on-going hypertension caused by the discrimination. R

Moulden v. Frontier Communics., et al., CCHR No. 97-E-156 (Aug. 19, 1998) Where effects of the discrimination included long-term sleep problems and hypertension but where the discrimination itself was not especially severe or on-going, CHR awarded Complainant \$3,500, not the \$7,500 the Hearing Officer ultimately recommended. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Where the discharge due to her sexual orientation was explicit and direct but was a one-time event and did not involve name-calling or physical conduct and where Complainant's symptoms were significant but did not involve physical problems and did not require a doctor's assistance, Complainant awarded \$5,000. R

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 (Sep. 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

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. 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). 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. R

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. R

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. R

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Aug. 18, 2010) \$20,000 for emotional distress where 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. R

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. R

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. 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

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. R

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) \$50,000 for emotional distress to security guard who was harassed for almost five years and terminated by store owner based on his race. Complainant and his wife testified credibly to his long term ongoing emotional trauma. R

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) In awarding \$1,000 in emotional distress damages awarded to applicant denied a job based on her race and age, Board rejected hearing officer’s recommendation not to award emotional distress damages because Complainant had not presented any evidence or proven the proper amount to be awarded. While medical documentation or testimony may add weight to a claim for emotional distress, Board held Complainant’s minimal testimony at hearing, that she felt demeaned by incident and that her depression and frustration worsened by inability to obtain employment to pay bills, was sufficient to establish compensable emotional injury. R

Housing

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) \$1000 in damages awarded in failure to rent/race and color case where Complainant presented "minimal" evidence. R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) In housing/race case, \$6,600 in damages awarded due to serious nature of the evidence. R

Eltogbi v. Martinez, CCHR No. 91-FHO-15-5600 (Feb. 26, 1992) Complainant awarded \$1000 where landlord used ethnic slurs at his family and where Complainant presented evidence of feeling "nervous, tense and angry". R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) \$500 awarded to Nigerian Complainant prevented from buying a condominium; Complainant presented only "minimal" damages evidence but emotional pain inferred from the discrimination. R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (May 4, 1992) Upon a Request for Review, found that recent federal, state and local fair housing cases have awarded emotional distress damages in amounts from \$100 to \$1,171,155.99 and over half over \$10,000 so that the award of \$6,600 need not be altered as beyond a reasonable amount. HO

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (May 4, 1992) Upon a Request for Review, held that expert witness testimony not necessary to establish emotional distress where Complainant had cried on the stand and testified to emotional distress. HO

Garcia v. Vazquez, CCHR No. 91-FHO-61-5646 (June 17, 1992) In sexual harassment case, Complainant was awarded \$2040 in part for emotional distress based on testimony of fear felt by Complainant and her child. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) \$2500 awarded due to racial harassment including name calling and turning off of utilities culminating in Complainant being forced to move; little damages evidence presented but distress inferred from the extent of the injuries. R

Lawrence v. Atkins, CCHR NO. 91-FHO-17-5602 (July 29, 1992) Awarded \$500 after only limited evidence of damages in failure to rent case. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Landlord ordered to pay tenant \$25,000 in emotional distress damages for 14 months of trauma caused by its unreasonable refusal to modify a no-pet rule for tenant with disability; evidence included expert witness testimony. R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Sep. 16, 1992) Awarded \$2000 in race/failure to rent case

where Complainant testified to headaches, loss of sleep, and deterioration of the relationship with white fiancé. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) Awarded \$14,000 to one Complainant and \$9,000 to the other in race-religion/harassment case after presentation of "substantial" evidence of emotional distress and physical illness due to the discrimination. R [see below where \$14,000 award reduced to \$9000]

White v. Ison, CCHR No. 91-FHO-126-5711 (Dec. 16, 1992) Emotional distress portion of Hearing Officer's recommended ruling remanded for reconsideration of increased damages and consideration of punitive damages. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 6, 1992) Emotional distress proved by testimony and it is presumed to flow from illegal discrimination so Complainants awarded \$3500 each in housing/parental status case. R

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Jan. 27, 1993) \$2000 awarded in emotional distress damages for the humiliation and the work and housing problems caused by the failure to rent due to Complainant's race. R

White v. Ison, CCHR No. 91-FHO-126-5711 (Feb. 18, 1993) On remand, emotional distress damages increased from \$1,000 to \$1,500 based on Complainant's fear for her life at time of sexual harassment and fear of future harassment. R

White v. Ison, CCHR No. 91-FHO-126-5711 (Feb. 18, 1993) Expert witness testimony not necessary to establish emotional distress. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 17, 1993) Where no medical testimony is offered, a complainant must "reasonably and sufficiently explain the circumstance of the injury" so, on Request for Review, CHR overturned damage award for impotence where the nexus to the discrimination was not sufficiently made. R

Johnson v. City Realty & Devel., CCHR No. 91-FHO-165-5750 (Mar. 17, 1993) \$1000 awarded based on minimal evidence of distress. R

Friday v. Dykes, CCHR NO. 92-FHO-23-5773 (4-22-93) \$4000 awarded to each Complainant in a parental status case where Respondent's lease terms restricting Complainants' children reasonably forced Complainants to move elsewhere and where Complainants put on limited evidence of distress. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) In a housing case where Complainant proved the landlord sexually harassed her by creating a hostile environment, Complainant awarded \$5000 after she presented evidence of her emotional and physical reactions to the harassment. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Complainant who was sexually harassed and evicted after rejecting Respondent's advances awarded \$5,000 based on her testimony including description of her depression, feelings of dehumanization and continuing nightmares. R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Where Respondent refused Complainant an opportunity to rent apartment due to her race, Complainant awarded \$1,500 in emotional distress damages. She put on "little evidence" of her damages -- testimony that she felt like a failure -- and the distress was presumed to flow from the injury. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Complainant awarded \$1,500 of emotional distress damages where owner did not rent to her because of her parental status -- she had teenaged children -- and where her evidence was not fully developed. She testified only that she felt "stupid" and "hurt" and was not used to being treated that way; she had been upset enough to discuss the problem with a friend and her mother. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Complainant awarded \$3,000 of emotional distress damages where Respondent refused to rent to him due to his national origin and subjected him to an ethnic slur. Award was based upon Complainant's credible testimony that he was upset and angry, continued to be upset about the incident, could not sleep and had flashbacks to severe persecution he suffered in Iran due to his ethnicity. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Respondent liable for all damages suffered by Complainant even where Complainant was unusually sensitive to discrimination; specifically, the landlord was liable for Complainant's flashbacks to past persecution caused by the landlord's discriminatory conduct. R

Starrett v. Duda/Sorice, CCHR No. 93-H-6 (Apr. 20, 1994) \$350 awarded where female landlord sexually harassed male tenant; Complainant did not testify at Hearing so minimal award inferred from "scant" evidence based on Respondents' admission regarding an attempted unauthorized eviction in which they put some of Complainant's belongings on the street. R

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) In case where landlord did not rent to an unmarried couple in contravention of marital status discrimination prohibition, Complainant awarded \$500 where he

offered only "limited testimony" of his distress but where Respondent had refused him the apartment in a public manner. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Based on testimony of the individual Complainants' anguish, distress and physical symptoms caused by the race-based denial of an apartment, \$2,500 awarded to each spouse. R

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Complainant awarded \$10,000 due to landlord's "punitive" action taken after Complainant rejected his sexual advances where she testified, among other things, that her hair fell out, she felt like a prisoner in her home, she feared his death threats, she had asthma attacks and had to see a therapist for the first time. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Jan. 18, 1995) On remand, \$3,500 and \$3,000 in emotional distress damages awarded to complainant wife and husband, respectively, based on testimony of distress suffered when landlord would not rent them the promised apartment. R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Complainant awarded emotional distress damages of \$7,500 where, among other things, his relationship with his sister, his nieces and a friend were harmed by his landlord's discrimination. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Where Complainant offered minimal evidence of emotional distress and much of that was related to sexual harassment claims found to be without merit, Complainant awarded \$1,500 for her distress caused by landlord's physical intimidation, including once hitting her. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Complainant tenant who was not allowed to sublet to Black Complainant awarded \$3,000; prospective subtenant who was denied the apartment awarded \$15,000. R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) Where landlord refused to waive no-pet rule for blind person with seeing eye dog, \$2,500 in emotional distress damages awarded. R

Mitchell v. Kocan, CCHR No. 93-H-108 (10-18-95) Where Complainant testified to anger, nervousness, depression and other symptoms, he was awarded \$2,000 in emotional distress damages for a one-time incident of race discrimination. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Where Respondent intimidated Complainant due to her sex with a series of acts over only 3 months but where Complainant was unusually fragile due to childhood trauma, \$5,000 of emotional distress damages awarded. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Complainant who was "terrified" by the sex-based harassment directed at the other complainant awarded \$1,000 of emotional distress damages. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Complainant awarded \$2,500 for emotional distress in parental status case where he was denied an apartment due to the number of children he had and had to rent a smaller apartment in a different neighborhood. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Complainant awarded \$3,000 for emotional distress where Respondent created a sexually hostile housing environment but where, among other things, her distress was not all caused by the sexual harassment. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) \$15,000 in emotional distress damages where landlord did not rent to African-American Complainant due to her race, made explicit racist comments and where Complainant experienced severe distress and was forced to live in worse conditions due to the discrimination. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Where Complainant showed that she was angry, humiliated and sad, but where the Respondents were not rude or derogatory, where incident was brief without prolonged effects or medical treatment, Complainant awarded \$3,500. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Defaulted Respondent ordered to pay Complainant emotional distress damages of \$2,000 where he did not rent to her due to her parental status. R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Defaulted Respondent ordered to pay \$15,000 in emotional distress damages to Complainant who became distraught about becoming homeless and whose work suffered after Respondent refused to rent to her and did not return her security deposit due to Complainant's parental status. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) Where state appeals court remanded case for determination of damages after it found one of nine incidents may not be a basis for discrimination finding but upheld liability finding, CHR decreased damages to one Complainant by \$500 but did not change damages awarded to other as she did not rely on that event for her claim for original damages. R

Buckner v. Verbon, CCHR No. 94-H-82 (5-21-97) Using factors set out in *Nash/Demby*, Complainant awarded \$7,500 for emotional distress where Complainant felt humiliated, became mistrustful, was forced to live in

a high-crime area longer than expected and where Respondent failed to rent to Complainant because he is black just one day before move-in; fact that refusal was a one-time event and had relatively few long-term effects mitigated against higher award. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) Complainant awarded \$1,000 in case where landlords did not make repairs to her apartment for years due to her sex; Complainant presented very little evidence about her stress but distress presumed to flow from the discrimination. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) In awarding emotional distress damages, CHR looks to Complainant's testimony about her distress and also to the egregiousness of the discriminatory behavior. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Where landlords evicted tenants/nuns once learning that the new one was Black, Complainant awarded \$50,000 in emotional distress because, among other things, she lost her hair permanently due to the discrimination. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Respondents must take complainants as they find them, be that particularly resilient or particularly vulnerable. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) White Complainant/tenant awarded \$15,000 in case where Respondent created differential terms and conditions due to her Black boyfriend and where Complainant testified to her sensitivity to such discrimination. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Respondents must take complainants as they find them. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Complainant who was denied apartment because he has four children in his family awarded \$11,000 for his emotional distress where he demonstrated fear of having to split family to find smaller housing, having to live in worse neighborhood, children attended worse schools, marital difficulties, and stress disorder requiring medication. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Complainant awarded \$2,000 in emotional distress where Respondent broker discriminated against her in the sale of housing due to her source of income and she put on relatively minimal evidence of her distress. R

Figuroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) Complainant awarded \$15,000 in emotional distress damages in case where landlord explicitly and persistently created a hostile housing environment based on her Hispanic ancestry; Complainant saw a doctor for her anxiety, her sleep was interfered with and her relationship with her husband was damaged. R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) Complainant awarded \$750 in emotional distress damages in source-of-income discrimination case where her evidence about distress was minimal and not all evidence was tied to the discrimination. R

Puryear v. Hank, CCHR No. 98-H-139 (Sep. 15, 1999) Complainant awarded \$500 in emotional distress damages where she put on minimal evidence of distress and where the underlying conduct was neither long nor severe. 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 \$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

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) CHR awarded \$15,000, not the \$10,000 recommended by Hearing Officer, finding he had "undervalued" her distress and finding her distress comparable to that suffered by other complainants who had been awarded \$15,000. R

Godard v. McConnell, CCHR No. 97-H-64 (Jan. 17, 2001) Where Complainant testified that Respondent was only one of dozens of landlords who may have discriminated against her, causing her emotional distress, \$400 of her distress was found attributable to Respondent. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR awarded Complainant/buyers emotional distress damages of \$4,500 for the wife and \$3,500 for the husband for their anger and frustration, including the egregiousness of underlying conduct; wife awarded more because Respondents' discrimination forced them to live in temporary housing which had cats which aggravated her allergies. 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

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. Jercich, 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

Shipp v. Wagner et al., CCHR No. 12-H-19 (July 16, 2014) \$3,000 awarded in emotional distress damages in source of income refusal to rent case where Complainant testified about finding a better neighborhood for her children, with less crime and good schools, her voucher almost expired, and that she contacted her attorney only after she stopped crying. Elements considered in calculating recoverable emotional distress damages are those which flow proximately from the fact that a complainant must forego better schools, live in a less desirable neighborhood, and deprive herself and her family of the intangible benefits of a more favorable living environment. In the absence of any supporting authority, the hearing officer refused to recognize Complainant's request for a new type of intangible damage, "delayed housing opportunity" damages. R

Public Accommodations

Jenkins v. Artists' Restaurant, CCHR No. 90-PA-14 (Aug. 14, 1991) \$1,000 in damages awarded in public accommodations/race case where Complainant put on "slim" damages evidence. R

Pryor/Boney v. Echevarria, CCHR No. 92-PA-62/63 (Oct. 19, 1994) One Complainant awarded \$500 with little evidence of damages; the other awarded \$1,000 where she said she had been angry and upset and had gotten medication for her nerves after the owner had them leave his store and referred to them as "niggers". R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) In case where Respondents found liable for calling client/customer explicit racist name in course of providing services, Complainant awarded \$1,250 for emotional distress due to the name-calling and \$1,500 for the several-day loss of plumbing services caused when Complainant had to find a new plumber. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) In case where Respondent was found liable for holding a tournament which was not accessible to Complainant, a person who uses a wheelchair, Complainant was awarded \$3,500 for his distress. R

Carter v. CV Snack Shop, CCHR No. 98-PA-3 (Nov. 18, 1998) Complainant awarded \$1,000, the total he sought, for his emotional distress in case where Respondent restaurant did not serve him due to his race. R

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

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 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 (Sep. 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

Hamilton and Hamilton v. Café Descartes CCHR No. 13-P-05/06 (June 18, 2014) \$5,500 and \$3,000 in emotional distress damages to vulnerable Complainant with autism using service animal and her mother where they were initially denied entry to café, then their full use and enjoyment was curtailed. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) \$500 in emotional distress damages instead of requested \$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. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) \$500 in emotional distress damages because of Complainant's minimal testimony that he was embarrassed and felt like a second class citizen, lack of personal contact with Respondent's personnel, and the brief duration of the discriminatory encounter. R

Cotten v. Ochoa Sporting Goods, CCHR No. 14-P-15 (Dec. 17, 2014) \$500 in emotional distress damages, instead of the \$800 requested by Complainant, where wheelchair user could not enter store but encounter was brief and Complainant offered minimal testimony, stating only that he felt like a "second-class citizen" and that "his feelings were hurt." R

Purpose

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Purpose of emotional distress damages is to fully compensate complainant for the suffering caused by the unlawful conduct. R

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

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Sets forth factors to consider in determining size of emotional distress damages award including duration and severity of under-lying conduct and the effect of the conduct on the complainant; substantial review of both HUD and CHR cases. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Where discrimination is discrete and brief, emotional distress damages are generally less than \$5000 unless complainant is unusually fragile. R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Emotional distress of \$15,000 warranted where effects of discrimination were severe, including Complainant's fear of becoming homeless and effect on her work performance and her disabled son. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) CHR looks to vulnerability of complainant, egregiousness and duration of discrimination, duration and severity of distress, including whether or not complainant received psychiatric treatment. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) (same) R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Same; and noting that in housing cases, suffering may be severe as it brings discrimination into the home. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Sets forth factors CHR uses to determine the amount of emotional distress damages, including severity and duration of injury and severity and duration of distress. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) (same) R

Moulden v. Frontier Communics., et al., CCHR No. 97-E-156 (Aug. 19, 1998) (same) R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) (same) R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) (same) R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) Notes that discrimination in a person's own home may be particularly distressing as it undermines the complainant's ability to feel secure in her home. R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) CHR can award emotional distress damages only for the distress caused by the respondent's discrimination, not for that caused by the respondent's other injurious conduct. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Sets forth factors used to consider the amount of emotional distress damages, including severity and duration of injury and severity and duration of distress. R

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

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) CHR looks to vulnerability of complainant, egregiousness and duration of discrimination, duration and severity of distress. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) (same) 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. Diaz, 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

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Upward adjustment of damages to account for tax consequences denied. 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

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Front pay award authorized by "make whole" language in Municipal Code which is same as that in Illinois Act which has been read to allow front pay. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Front pay is a lump sum which represents the discounted present value of the difference between earnings complainant would have received and earnings he can expect to receive. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) In default case where disabled Complainant was beaten up, humiliated as well as discharged, front pay found proper, not reinstatement. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Front pay for one year awarded where disabled Complainant was beaten up, humiliated and discharged and had been unable to find a comparable job in past year but limited to one year where he also received punitive as well as other damages. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Where no expert testimony was introduced, the statutory interest rate was used to calculate present value. R

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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) Liquor store security guard awarded front pay of \$74,360 where hearing officer determined reinstatement

would be impracticable, Complainant unsuccessfully attempted to mitigate damages, and Complainant will lose at least two years of future income given his level of education, age, and the state of the economy. R

Frustration of Mission

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Frustration of purpose damages awarded to Complainant civil rights organization where the discrimination "perceptively impaired" the organization's attempts at achieving its goal of open housing. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Frustration of purpose damages of \$920 awarded to pay for organization's cost of testing landlord during the investigation and \$3,680 awarded for its costs in monitoring Respondent for a year. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) Purpose of frustration-of-mission damages is to compensate organizations for expenses actually incurred in furthering their mission. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) Fair housing organization/complainant whose mission is to eliminate housing discrimination did not present evidence of its out-of-pocket costs in pursuing case or general costs of conducting investigation so frustration-of-mission damages not awarded. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) Fair housing organization/complainant whose mission is to eliminate housing discrimination not awarded damages to monitor whether Respondent continued to post discriminatory sign because it did not offer any evidence as to amount of money it needed to monitor and where any costs to monitor sign would be *de minimis*. R

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Fair housing organization awarded \$3,038.50 of damages for frustration of its mission to compensate it for costs of testing and preparation in this case. R

Immunity

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) CHR construes Illinois laws and cases as well as IHRC case in determining scope of immunity for Hospital and doctor in case concerning revoking certain privileges from doctor/Complainant. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) Following Illinois laws and cases, Hospital found immune from civil damages, but not entirely immune, in case concerning revoking certain privileges from doctor/Complainant. CO

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

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Respondent was ordered to rent apartment to Complainant at the end of her current lease at the rent she had been charged previously. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Landlord ordered to permit tenant with severe psychiatric condition to keep a dog as part of his treatment in spite of a no-pet rule. R

Antonich v. Midwest Building Mgt., CCHR No. 91-E-150 (Oct. 21, 1992) Employer who was found liable for not hiring Complainant due to her rejections of his sexual advances was ordered to hire Complainant in position she had originally been offered. R

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Jan. 27, 1993) Respondent ordered to receive fair housing training for its staff. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Respondent ordered to provide Complainant with a neutral job reference. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Respondent ordered not to discriminate against tenants or applicants and ordered to take a series of other steps including keeping tenant and applicant data, posting a non-discrimination notice, and training its staff. R

Pryor/Boney v. Echevarria, CCHR No. 92-PA-62/63 (Oct. 19, 1994) Owner who had Complainants leave his store and referred to them as "niggers" ordered to extend to Complainants full and equal enjoyment of his facilities. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Due to landlord's long-standing policy of race discrimination, it is ordered to have its rental practices monitored for five years. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Administrative agencies have

not only the power but also the duty to eliminate effects of past discrimination, including having Respondent keep track of race of people who apply and whom they rent to. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Pursuant to CFHO, where a broker is found liable for discriminating, Office of Corporation Counsel is directed to file a notice of that finding with the state Department of Professional Regulation. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Respondent enjoined from considering sexual orientation in hiring decisions and from indicating a preference for any orientation in its employment criteria. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Complainant who was a "tester" found eligible for injunctive relief due to language of CHRO, whether or not he would personally be injured by Respondent's anti-gay hiring policy again. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Request for injunctive relief denied where there is no long-standing pattern or practice of discrimination. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) Respondent who refused entry to Complainant because he had Black companions ordered to provide equal services to Complainant and to Black individuals. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) Where Respondent posted a sign which discriminated due to parental status, CHR entered injunction forbidding it to publish or communicate any limitation of tenants due to their parental status. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) Respondent who posted a sign which discriminated due to parental status ordered to attend a training session provided by complainant; complainant awarded \$500 to pay cost of training. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Pursuant to Ordinance, where salesperson or broker is found to violate CFHO, Office of Corporation Counsel is directed to file a notice of the finding with Department of Professional Regulation. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) CHR did not order reinstatement where there was some hostility between the parties and where Respondent has a small staff which needs to be harmonious. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) In case where Respondent was found liable for holding a tournament which was not accessible to Complainant, a person who uses a wheelchair, Respondent ordered to hold future tournaments in Chicago in a manner which provides accessibility to people with disabilities. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Respondent ordered to reinstate Complainant whom it fired from her "ideal job" due to her sexual orientation. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) CHR ordered sensitivity training for Respondent who fired Complainant due to her sexual orientation based on stereotypical and untrue assumptions about gay people. R

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

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) 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

Maat v. El Novillo Steak House, CCHR No. 05-P-31 (Aug. 16, 2006) (same) 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 (Sep. 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

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 4, 2012) Deadlines for training ordered as injunctive relief for sexual orientation harassment were extended a second time based on agreement of the parties and evidence they were working together to resolve any issues about compliance. CO

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Jan. 24, 2013). Third extension of time granted to complete training ordered as injunctive relief, based on lack of objection from Complainant, but noting that no further extensions are contemplated. CO

Hamilton and Hamilton v. Café Descartes CCHR No. 13-P-05/06 (June 18, 2014) Where restaurant initially denied customer with service animal entry, then curtailed her full use and enjoyment, Respondent ordered to (1) develop written policy regarding service animals, (2) post, distribute, and train employees regarding policy, and (3) report compliance to CHR by deadline. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) 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, adopt written policies, and staff training; (2) to report to Complainant and CHR steps taken. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) 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, adopt related written policies, and staff training; (2) to report to Complainant and CHR steps taken by stated deadline. R

Cotten v. Ochoa Sporting Goods, CCHR No. 14-P-15 (Dec. 17, 2014) Where store entrance found not wheelchair accessible and undue hardship not shown, Respondent ordered (1) to provide permanent access or objective documentation of undue hardship and reasonable accommodation such as portable ramp, doorbell, exterior notice, adopt related written policies, and staff training; (2) to report to Complainant and CHR steps taken by stated deadline. R

"Lost Housing Opportunity"

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) CHR did not award Complainant damages for lost housing opportunity where she did not request it in her pre-hearing memorandum and where the award for emotional distress damages compensated her for this injury. R

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

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Respondent has burden to prove Complainant's failure to mitigate. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) In public accommodation context, Respondent showed no requirement that Complainant had to mitigate by reporting a managerial employee's sexual harassment of her to his superiors; and, evidence showed that once Complainant learned of the availability of Respondent's internal investigation office, she reported it. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Complainant paid damages for one year, not the two for which he was out of work, because his level of education and the type of job he performed made it unreasonable that he could not find any employment in two years. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Respondent found to have waived a failure-to-mitigate defense where, among other things, he never argued it and did not defend its application when the Hearing Officer proposed it in his First Recommended Decision. R **See Affirmative Defense section, above.**

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Where evidence showed that Complainant did not seek substitute employment after a year of unemployment but waited two years, CHR found he failed to mitigate and cut off back pay after one year of unemployment. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Sets forth standards used to determine whether a complainant adequately mitigated damages. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) (same) R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Complainant's back pay cut off as of date she refused to accept a job which was comparable to, or better than, the one from which she was fired with respect to salary and benefits. R

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

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 have burden to prove Complainant failed to mitigate damages. 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

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) In a mixed motive case, Respondent can reduce the amount of damages by proving Complainant would have been discharged at the same or later time for non-discriminatory reason. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Even if landlord was motivated only in part by a discriminatory intent, such mixed motivation could reduce the damage award but landlord would still be found to have violated the Ordinance. R

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

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Complainant awarded \$2,812.50 in lost wages after she was fired from her job due to her sexual orientation. R

Antonich v. Midwest Building Mgt., CCHR No. 91-E-150 (Oct. 21, 1992) \$11,599 awarded as back pay and back pay ordered paid until reinstatement and payment for perquisites which Complainant would have received had Respondent not failed to hire her after she rejected his advances. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) \$1,238.40 awarded for raise lost due to Complainant's refusal to accede to Respondent's sexual advance. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Complainant awarded back pay after constructive discharge due to Respondents' sexual harassment. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Complainant not awarded back pay where she was found to have been discharged for a legitimate reason although she was awarded damages for sexual harassment. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Where Complainant found to be a "tester" not a genuine job seeker, he was not awarded back pay in sexual orientation/failure to hire case. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Lebanese/Arab Complainant who

was a wrong-doer but fired 14 months before a similarly-situated, Jewish wrong-doer awarded \$25,670.88 in back pay for the 14 months of lost salary. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Where Complainant was beaten up, humiliated as well as discharged due to his mental disability, he was awarded unpaid wages of \$258, back pay of \$9,880 and front pay of \$9,000 as well as other damages. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Back pay award of \$9880 was calculated by subtracting amount Complainant earned per week since the discharge from the amount he would have earned had he not been fired due to his disability. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Complainant awarded \$15,000 in back pay where he was discharged due to his sex; that amount represents one year of the two he was out of work. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Individual respondent, who was Executive Director of agency at which Complainant worked and who was the only respondent, ordered to pay Complainant back pay/out-of-pocket damages; decision based on language of CHRO covering "persons" not just employers. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Complainant fired due to a perceived disability awarded \$4,890 which is back pay for approximately one year; evidence as to wages not clear; more disallowed due to failure to mitigate. R **See also Damages/ Mitigation section, above.**

Moulden v. Frontier Communics., et al., CCHR No. 97-E-156 (Aug. 19, 1998) Black Complainant who was not given commensurate bonuses and raises as white employee awarded \$1,191.16 for that difference; original differential was reduced by amount Respondent paid before the hearing. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Complainant fired due to her sexual orientation awarded \$7,221 in back pay calculated from date of discharge until she refused an offer of a job with a comparable salary and better benefits and by subtracting other earnings she made in that period. R **See also Damages/Mitigation section, above.**

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 Muffler 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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) Liquor store security guard awarded back pay of \$56,127 after discharge, measured by wages lost from date of termination to date of final order. Back pay runs from the date of discrimination in such time as the complainant fully mitigates the damages, is offered reinstatement, or the final ruling is issued. R

Housing

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) \$144 awarded for payment of work missed seeking alternative housing which would not have been missed had the apartment sought not been discriminatorily denied. R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) Damages not awarded for work Complainant missed in pursuing discrimination complaint at CHR. R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) \$2,280 awarded for difference between present rent payments and lower rent he would have paid had he not discriminatorily been denied the apartment he

sought. R

Gould v. Rozdilsky, CCHR No. CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) \$650 awarded for cost of apartment hunting after being denied the apartment. R

Eltogbi v. Martinez, CCHR No. 91-FHO-15-5600 (Feb. 26, 1992) Complainant awarded \$175 as differential between Respondent's advertised rent and amount over that Complainant was charged because he had children. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) \$320 awarded for moving and mortgage application expenses where Complainant was prevented from buying condominium due to his national origin. R

Garcia v. Vazquez, CCHR No. 91-FHO-61-5646 (June 17, 1992) In sexual harassment case, Complainant awarded \$2,040 in part for differential in rent paid and rent that would have been paid. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Complainant in racial harassment case awarded: \$450 for return of security deposit; \$720 in rent paid under new lease which what would not have been paid had Complainant not been forced to move; and moving expenses of \$329.61. R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Sep. 16, 1992) Complainant awarded \$1,007.23 in failure to rent case including lost income, difference in rent paid and rent Complainant would have paid, and gas bill paid which Respondent owed. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) Complainants awarded \$1,310 including damages for cost of stolen items and attorney's fees spent defending discriminatory eviction suit. R

White v. Ison, CCHR No. 91-FHO-126 (Dec. 16, 1992) \$5,900 awarded for lost wages where landlord discriminatorily took possession of Complainant's belongings, including materials needed to perform her job. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Complainants awarded \$1,120 for rent which would not have been paid if not for the illegal discrimination. R

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Jan. 27, 1993) \$420 awarded for rent which would not have been paid if not for the illegal discrimination. R

Johnson v. City Realty & Devel., CCHR No. 91-FHO-165-5750 (Mar. 17, 1993) Complainant not awarded damages for renting an apartment more expensive than her prior one where it was showed that she passed up cheaper apartments and did so due to a change in her husband's job status. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) In parental status/housing case, \$1500 awarded for payment of rent and security deposit to Respondent and an additional \$1500 awarded for rent and security deposit which would not have been paid absent the discrimination. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) In parental status/housing case, expenses incurred moving to the apartment at issue not recoverable where they would have been incurred without the discrimination. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) In parental status/housing case, no award of back pay for time spent filing claim and testifying at hearing. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Complainant not awarded tuition cost of class she failed in that she did not prove that the failure was caused by the landlord's sexual harassment. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Complainant who was sexually harassed and evicted after rejecting Respondent's advances awarded unreturned security deposit of \$219 and \$281 of costs incurred once evicted. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Complainant cannot recover for work missed in pursuing his discrimination claim. R

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) In case where landlord did not rent to an unmarried couple in contravention of marital status discrimination prohibition, Complainant awarded \$133 for work missed seeking the apartment. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Individual Complainants awarded \$180 for work missed seeking an apartment after race-based denial of Respondent's apartment. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Individual Complainants not awarded damages for their long commute or for their utility bills where neither was shown to be incurred due to the discriminatory failure to rent. R

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Complainant awarded \$2,265 for moving and therapy-related expenses caused by the landlord's sexual harassment of her. R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Complainant awarded \$2723.61 for rent and utility costs Complainant would not have paid if the landlord's discrimination had not prevented him from having black

roommates. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Complainant awarded \$360 for her moving costs, but no money for telephone rewiring of new apartment due to insufficient proof. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Tenant Complainant who was not allowed to sublet to Black Complainant provided no proof of out-of-pocket losses; Black prospective tenant awarded \$1,230 as the difference between the rent he paid and the rent he would have paid in the apartment in question. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Complainants awarded \$300 in moving costs when they were forced to move due to Respondent's sex-based harassment. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Where Complainant did not prove that he missed work to prosecute his case, his claim for lost wages was denied. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Complainant awarded \$1,000 for costs of moving and \$470 for rent differential caused by Respondent's sexual harassment of her. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) CHR denied out-of-pocket damages as there was no evidence that Complainant missed work or incurred other actual expenses. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Complainant awarded costs for utility payments that she would not have made had Respondents rented her the apartment. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Complainant not awarded costs for travel from new apartment where the apartment was closer to day-care, although farther from Complainant's work; where travel time was not compensable; and because any increase in travel time is a factor in considering emotional distress damages. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Defaulted Respondent ordered to pay Complainant \$600 for difference in rent she paid that she would not have if Respondent not discriminated. R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Defaulted Respondent ordered to pay Complainant \$934.13 -- the amount of the unreturned security deposit and gas bills she incurred after he refused to rent to her due to her parental status. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Complainant awarded \$1,560 for difference of rent for new apartment and that of Respondent's apartment, for extra transportation costs and lost wages in case where Respondent failed to rent to Complainant because he is black. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) Respondent who posted a sign which discriminated due to parental status ordered to attend a training session provided by complainant; complainant awarded \$500 to pay cost of training. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) Where Complainant had not paid rent for several months due to landlords' discriminatory failure to make repairs, CHR ordered that, if landlords try to collect that rent in the future, they will have to pay Complainant damages in an amount equal to that back rent. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) Return of Complainant's \$1,250 security deposit ordered where landlords should not have kept it as rent when they refused to maintain her apartment due to her sex. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) Complainant awarded \$40 for costs in pursuing claim and \$300 for moving expenses, based on Complainant's certain testimony about costs. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Complainant who was denied apartment because of the number of children in his family awarded \$5533.81 in rent and utility differentials between amount paid and amount he would have paid in Respondent's building and in interest on excess security deposit he had to pay to compensate for loss of use. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Complainant awarded \$5,064 as difference in rent actually paid from monthly mortgage expenses she would have paid had Respondent broker not discriminated against her in the sale of housing due to her source of income R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Complainant awarded \$370.21 as depreciated cost of swing set she would have been taken to new home, but could not take to rented apartment, where Respondent broker discriminated against her in the sale of housing due to her source of income. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Complainant not awarded cost of bedroom set she would have been taken to new home, but could not take to rented apartment, where she could not show its cost. R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) Complainant awarded \$720 as the difference in the rent she did pay and the rent she would have paid had the discrimination not occurred. R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) Complainant not awarded costs for moving expenses, seeing a psychiatrist, certain medication and a higher security deposit because she neither testified to the amounts of those damages nor offered exhibits to support those claims; CHR notes that out-of-pocket damages can be supported by a complainant's certain testimony about them. R

Puryear v. Hank, CCHR No. 98-H-139 (Sep. 15, 1999) Complainant awarded \$25 for cab fare, \$25 for credit check, and \$100 for application fee which she would not have incurred had Respondent not denied her an available apartment due to her race. R

Puryear v. Hank, CCHR No. 98-H-139 (Sep. 15, 1999) Complainant not awarded moving fees as she would have incurred them anyway and she also paid less in rent than she would have absent the discrimination. R

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 not 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

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Complainant's costs in travelling from New York to hearing are not compensable as out-of-pocket damages; may be recovered as costs. R

Macklin v. F & R Concrete et al., CCHR No. 95-PA-35 (Nov. 20, 1996) In default case, black Complainant awarded \$1,657.50 in "contract" damages due to Respondents' failure to do work for him. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) In case where Respondents' racist conduct caused Complainant to incur \$400 in plumbing repairs completed by another company, Respondents ordered to pay Complainant costs that he would not have had to pay if Respondents had completed the work; costs not caused by Respondents' conduct not awarded as damages. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) CHR denied Complainant's request for payment for time missed from work where he did not provide sufficient proof of his occupation, daily wages or employer's identity. R

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

Jordan v. Nat'l Railroad Passenger Corp. (AMTRAK), CCHR No. 99-P-34 (Feb. 19, 2003) African-American man awarded damages for medical expenses incurred after being struck by security guard in race discriminatory ejection from railroad station waiting room. 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

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

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 (Sep. 14, 2004); punitive damages award reversed due to inadequate notice by Appellate Court, No. 1-04-3599, Sep. 15, 2008*]R

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

Pre- & Post-Judgment Interest

Jenkins v. Artists' Restaurant, CCHR No. 90-PA-14 (Aug. 14, 1991) Calculate interest using prime rate, adjusted quarterly, compounded annually from date of injury. R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) (same) R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) (same) R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Sep. 16, 1992) (same) R

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) (same) R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) (same) R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) (same) R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) (same) R

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994)(same) R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) (same) R

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) Calculate interest using prime rate, adjusted quarterly, compounded annually, from date of injury. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) (same) R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) (same) R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) (same) R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) (same) R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) (same) R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) (same) R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) (same) R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) (same) R
Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) (same) R
Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) (same) R
Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) (same) R
Macklin v. F & R Concrete et al., CCHR No. 95-PA-35 (Nov. 20, 1996) (same) R
Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) (same) R
Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) (same) R
Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) (same) R
Efstathiou v. Cafe Kallisto, 95-PA-1 (May 21, 1997) (same) R
Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) Calculate interest using prime rate, adjusted quarterly, compounded annually, from date of injury. R
Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Prejudgment interest awarded on all damages except front pay; post-judgment interest awarded on all damages; interest calculated using prime rate, adjusted quarterly, compounded annually. R
Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Calculate pre- and post-judgment interest using prime rate, adjusted quarterly, compounded annually, from date of injury. R
Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Same; uses mid-point of harassment as date of injury. R
Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Calculate pre- and post-judgment interest using prime rate, adjusted quarterly, compounded annually, from date of injury. R
Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) (same) R
Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) Interest on actual damages calculated at the "prime rate;" from the date of injury for emotional distress damages and from the date of decision for other damages. R
McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Calculate pre- and post-judgment interest using prime rate, adjusted quarterly, compounded annually, from date of injury. R
Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) (same) R
Moulden v. Frontier Communics., et al., CCHR No. 97-E-156 (Aug. 19, 1998) (same) R
Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) (same) R
Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) (same) R
Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) (same) R
Carter v. CV Snack Shop, CCHR No. 98-PA-3 (Nov. 18, 1998) (same) R
Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) (same) R
Puryear v. Hank, CCHR No. 98-H-139 (Sep. 15, 1999) (same) R
Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (Apr. 19, 2000) Calculate interest using prime rate, adjusted quarterly, compounded annually from date of injury; Reg. 240.700. R
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
Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) (same) R
Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) (same) R
Godard v. McConnell, CCHR No. 97-H-64 (Jan. 17, 2001) (same) R
Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) (same) R
Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) (same) R
Pudelek/Weinmann v. Bridgeview Garden Condominium Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) (same) 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) (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
Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) Interest awarded from date of first incident of harassment of gay tenant. 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

Torres v. Gonzales, CCHR No. 01-H-46 (Jan. 18, 2006) (same as *Nash/Demby*, above) 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. Neopolitan 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 Damages

Employment

Antonich v. Midwest Building Mgt., CCHR No. 91-E-150 (Oct. 21, 1992) \$300 of emotional distress inferred from the wrong when Complainant failed to provide proof of emotional distress. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) CCHR presumed \$500 of emotional distress to flow from discrimination where Complainant failed to present specific evidence of emotional distress. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Medical expert testimony not needed to establish emotional distress damages; Complainant's own credible testimony regarding her distress about the sexual harassment was sufficient. R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) Request to increase emotional distress damages denied where expert's testimony concerning Complainant's emotional distress was necessarily based on Complainant's report to her, and to the extent that Complainant's hearing testimony concerning the magnitude of her injuries was discounted, expert's testimony was similarly discounted. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) Where Complainant did not introduce evidence about the difference in pay between Complainant's job and the promotion she would have received absent the sexual harassment, she was not awarded any damages for the pay differential. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) Complainant's own testimony plus observations of her by other witnesses found sufficient to establish compensable emotional injury. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Back pay is a usual award in discriminatory termination cases; where the amount is difficult to determine, CHR uses the clearest evidence available. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Back pay should be awarded even if a precise amount cannot be determined; ambiguities should be resolved against the employer whose discrimination gave rise to the uncertainty. R

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

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Oct. 18, 1991) Objective evidence required to prove that medical expenses were incurred; other out-of-pocket expenses need only be proved by credible testimony. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Damages for alleged exacerbation of poor health not allowed due to insufficient objective support. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Emotional distress damages awarded where little damages evidence presented but distress inferred from the extent of the injuries. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Complainant offered little evidence about rent paid and little about emotional distress so awarded only \$500 as compensatory damages. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (Sep. 16, 1992) In housing discrimination case, "emotional injury, embarrassment and humiliation are damages presumed to flow from the wrong itself". R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (Sep. 16, 1992) Emotional distress damages may be proved solely by testimony of Complainant without medical evidence. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (Sep. 16, 1992) Emotional distress damages do not depend on any malice or ill will by Respondent. R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Sep. 16, 1992) Because Complainant did not provide bills to support testimony that she saw a chiropractor, damages for those alleged costs denied. R

White v. Ison, CCHR No. 91-FHO-126 (Dec. 16, 1992) Complainant offered no documentation to support her claim that she had to replace personal items illegally confiscated or damages by respondent landlord and so awarded only \$200. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Emotional distress proved by testimony and it is presumed to flow from illegal discrimination so Complainants awarded \$3,500 each in housing/parental status case. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 17, 1993) Where no medical testimony is offered, a complainant must "reasonably and sufficiently explain the circumstance of the injury" so, on Request for Review, CHR overturned damage award for impotence where the nexus to the injury was not sufficiently made. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 17, 1993) Receipt for value of an item found stolen by Respondent held not to be required where Complainant testified with certainty to its value. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) In parental status case, hospitalization of one Complainant which occurred 3-4 months after the discriminatory event not sufficiently tied to the discrimination to be recoverable. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Where it is reasonable to infer distress from the respondent's actions, such as race discrimination against blacks, conclusory testimony can support the award of emotional distress damages. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Out-of-pocket damages not awarded where Complainant failed to present records or to testify credibly concerning his alleged lost wages and rent differential. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Based on historical persecution, emotional distress presumed to flow from use of racial epithet. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Emotional distress damages can be proved without medical evidence, but failure to consult a doctor bears on seriousness of Complainant's symptoms. R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Emotional distress presumed to flow from racial discrimination. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Jan. 18, 1995) On remand, \$3,500 and \$3,000 in emotional distress damages awarded to complainant wife and husband, respectively, based on testimony of distress suffered when landlord would not rent them the promised apartment. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Emotional injury, embarrassment and humiliation are presumed to flow from the wrong itself. R

Nash/Demby v. Sallas Realty & Sallas, 92-H-128 (May 17, 1995) Emotional distress damages may be proved by testimony and by circumstances of the case. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) Neither expert nor medical evidence is necessary to establish emotional distress; Complainant's testimony alone may be sufficient. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) CHR denied out-of-pocket damages as there was no evidence that Complainant missed work or incurred other actual expenses. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Complainant not awarded for utility costs for

months where she could not show costs and CHR could not assume summer bills would be the same as winter bills. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Emotional distress can be inferred from circumstances of case as well as proved by testimony; precise proof is not required. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Emotional distress damages of \$2,000 in failure to rent/parental status case based on Complainant's testimony of frustration, insecurity and sadness as well as from distress that can be presumed to flow from the discrimination itself. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Emotional distress can be inferred from wrong itself and expert testimony not required. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Detailed testimony by Complainant and his witnesses about effect of discrimination on him -- including humiliation, mistrustfulness and forced to live in high-crime area longer -- led to award of \$7,500 in emotional distress. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) Complainant's certain testimony sufficient to award her moving expenses as out-of-pocket damages even when she did not have receipts. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) In awarding emotional distress damages, CHR does not require precise proof. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) In awarding emotional distress damages, CHR does not require precise proof. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Award to Complainant of \$50,000 in emotional distress damages rested, in part, on expert testimony concerning her permanent hair loss. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) In awarding emotional distress damages, CHR does not require precise proof. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Complainant not awarded cost of bedroom set she would have been taken to new home, but could not take to rented apartment, where she could not show its cost. R

Figuroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) To demonstrate emotional distress, neither expert testimony nor medical evidence is required; complainant's own testimony may be sufficient. 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 \$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 *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 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

Public Accommodation

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Testimony of Complainant and her husband was sufficient to establish her emotional injury. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Testimony of Complainant was sufficient to establish his emotional injury. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) CHR denied Complainant's request for payment for time missed from work where he did not provide sufficient proof of his occupation, daily wages or employer's identity. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) To demonstrate emotional distress, neither expert testimony nor medical evidence is required; complainant's own testimony may be

sufficient. 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

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

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Upward adjustment of damages to account for tax consequences denied. R

Unemployment Compensation

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (11-17-93) Fact that Complainant received unemployment compensation after leaving Respondent's employ does not necessarily lead to the deduction of her damage award; she may have to reimburse the state, but not the Respondent. R

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

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Although CHR default regulation states that a defaulted respondent may not challenge sufficiency of complainant's allegations, CHR, as an administrative agency, has an independent obligation to ensure that it assesses liability and damages only when the record demonstrates an ordinance violation. R

Complainant's Allegations

Reed v. Strange, CCHR No. 92-H-139 (Mar. 16, 1994) Where a respondent is defaulted having never appeared, CHR must take all of Complainant's allegations as true at the Hearing. R

Starrett v. Duda/Sorice, CCHR No. 93-H-6 (Apr. 20, 1994) Respondents deemed to have admitted factual allegations of Complaint based on default entered after they failed to attend two consecutive Conciliation Conferences. R

Starrett v. Duda/Sorice, CCHR No. 93-H-6 (Apr. 20, 1994) Where Complainant failed to appear at the Hearing, his attorney was permitted to establish damages through Respondents' testimony. R

Starrett v. Duda/Sorice, CCHR No. 93-H-6 (Apr. 20, 1994) CHR, in dicta, stated that even in the event that neither Complainant nor Complainant's counsel appears at a Hearing after a default has been entered, it is proper for CHR to persist in the default and consider damages. R

Soria v. Kern, CCHR No. 95-H-13 (Sep. 7, 1995) Where the respondent is defaulted without putting the complainant's allegations at issue, CHR takes the complainant's allegations as true. CO

Cruz v. Fonseca, CCHR No. 94-H-141 (Feb. 2, 1996) (same) CO

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) (same) R

Wright v. Mims, CCHR No. 95-H-12 (May 24, 1996) (same) R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) (same) R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) (same) R

Macklin v. F & R Concrete et al., 95-PA-35 (Nov. 20, 1996) (same) R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) (same) R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) (same) R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) (same) R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) Where the respondent is defaulted, CHR takes the allegations of the complaint to be true. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) (same) R

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) Same; but noting that CHR cannot assess liability and damages against a respondent unless the record demonstrates CHR has jurisdiction and supports a finding that a violation of the ordinance took place. R

Moulden v. Frontier Communics., et al., CCHR No. 97-E-156 (Aug. 19, 1998) Where the respondent is defaulted, CHR takes the factual allegations of the complaint to be true; states that Complainant must nevertheless establish a *prima facie* case in order to recover damages. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) (same) R

Houck v. Inner City Horticultural Foundation, 97-E-93 (Oct. 21, 1998) (same) R

Carter v. CV Snack Shop, 98-PA-3 (Nov. 18, 1998) (same) R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) (same) R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Same; but notes that CHR cannot assess liability and damages against a respondent unless the record demonstrates CHR has jurisdiction and supports a finding that a violation of the ordinance took place. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) In addition to above, also finds that where one respondent is defaulted but the other one is not, CHR cannot ignore evidence and findings that demonstrate that the alleged sexual harassment did not occur and so found that neither respondent violated the CFHO. R

Puryear v. Hank, CCHR No. 98-H-139 (Sep. 15, 1999) Where the respondent is defaulted, CHR takes the factual allegations of the complaint to be true; states that complainant must nevertheless establish a *prima facie* case in order to recover damages. R

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

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) (same) R

Godard v. McConnell, CCHR No. 97-H-64 (Jan. 17, 2001) (same) 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

Jones v. Zvizdic, CCHR No. 91-H-78 (Jan. 15, 1992) Motion for default denied where Respondent failed to comply with discovery, but lesser sanctions were imposed. HO

Diaz v. Prairie Builders, CCHR No. 91-E-204 (July 22, 1992) When Respondent failed to turn over witness list as ordered, Hearing Officer ordered exclusion of all Respondent's witnesses except Respondent himself, as had been warned; motion for default due to lack of witness list denied as too harsh. HO

Diaz v. Prairie Builders, CCHR No. 91-E-204 (July 30, 1992) Where no motion to compel was filed, default found to be too drastic, but Respondent ordered to allow Complainant immediate inspection of documents. HO

McCall v. Cook County Sheriff et al, CCHR No. 92-E-122 (Apr. 25, 1994) Failure of individual Respondents to attend Conciliation Conference did not require a default where the attorney appeared and stated that the Respondents did not want to settle; Respondents were fined for the failure to attend. HO

Crenshaw v. Harvey, CCHR No. 95-H-82 (Sep. 5, 1996) Complainant's motion to default Respondent for failing to respond to discovery denied, noting that default is a severe sanction and that Respondent's attorney had been involved in a murder trial; motion to compel granted with warning of more serious sanctions for any future violations. HO

Houck v. Inner City Horticultural Fdn., CCHR No. 97-E-93 (Aug. 20, 1997) While not waiving compliance with regulations, CHR recognizes that default is a severe sanction and is not meant to be punitive so it did not strike response, and so default Respondent, where only defect of response is failure to provide Respondent's address. CO **See Verified Response section, below.**

Leahy v. Cosmetic Surgery Instit. & Tcheupdjian, CCHR No. 95-E-21 (Jan. 14, 1998) Where Conciliation Conference was attended by representative for both business and individual Respondent as well as by attorney for both, but not attended by individual Respondent himself, and where circumstances around individual Respondent's absence did not indicate a disregard of CHR procedures, Commission found absence was excused by good cause and so denied request to default individual Respondent. CO

Leahy v. Cosmetic Surgery Instit. & Tcheupdjian, CCHR No. 95-E-21 (Jan. 14, 1998) In denying to default Respondent [the decision described above], CHR notes that default is a severe sanction that is not intended to be punitive. CO

Jones, Leigh & Ford v. Tina's Pizza, CCHR No. 97-PA-23 & 24 (Jan. 14, 1998) Where Respondent did not attend Conciliation Conference and its attorney claimed not to have received notice of it, CHR did not default Respondent despite fact that notice was correctly addressed to attorney and was not returned to CHR; CHR found that there was no evidence that the notice was delivered to attorney and noted that default is a severe sanction. CO

Slazyk v. Sears, CCHR No. 93-E-101 (Dec. 24, 1998) CHR did not enter default order because Respondent did not receive the order setting the conciliation conference enough in advance for it to attend; CHR did, however, fine Respondents for cost of conciliator's attendance as it did not notify the Commission in writing of its inability to attend in advance; CHR noted that default is a severe sanction which should not be entered in a punitive manner. CO

Jackson v. Chicago Baking Co., CCHR No. 97-E-173 (July 15, 1999) CHR did not enter default order against Respondent who missed Conciliation Conference, finding that Respondent did not willfully ignore CHR procedures and noting that default is a severe sanction; Respondent's counsel admitted that the order setting the Conference was not filed or docketed correctly and he contacted CHR as soon as he realized the error, before even receiving notice from CHR. CO

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 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

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

Cotten v. Casa Aztlan, CCHR No. 11-P-63 (Oct. 4, 2012) Respondent fined \$70 for arriving 35 minutes late to scheduled proceeding; no default because the tardiness was negligent but not in willful disregard of CHR procedures. CO

Due Process Standards

Kemnitz v. Crisan & Maejla, CCHR No. 96-H-88 (Feb. 11, 1997) Discussion of rulings by Illinois courts concerning default regulations applied by other agencies and recites CHR's procedures concerning default orders. CO

Janas v. Zuniga, CCHR No. 96-H-74 (Apr. 9, 1997) (same) CO

Williams v. Stamatopoulos, CCHR No. 96-H-127 (May 29, 1997) Adopts the discussion in Kemnitz by reference. CO

Williams v. Chicago Mayor's Office for Employ. & Training, CCHR No. 97-E-121 (Oct. 8, 1997) (same) CO

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

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) Defaulted respondent is deemed to have admitted the allegations of complaint and waived any defenses to the allegations including the sufficiency of

complaint. Defaulted respondent's participation in subsequent administrative hearing is limited to presenting evidence regarding the reasonableness of relief sought. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) Defaulted Respondent is deemed to have admitted the allegations of complaint and waived any defenses to the allegations including the sufficiency of complaint. Defaulted Respondent's participation in subsequent administrative hearing is limited to presenting evidence regarding the reasonableness of relief sought and whether it was supported by the evidence. R

Cotten v. Ochoa Sporting Goods, CCHR No. 14-P-15 (Dec. 17, 2014) Defaulted respondent is deemed to have admitted the allegations of complaint and waived any defenses to the allegations, including the sufficiency of complaint. R

Entered

Garcia v. Vazquez, CCHR. No. 91-FHO-61-5646 (June 17, 1992) Default judgment entered against Respondent pursuant to Regulation 240.110(o) for failure to cooperate during hearing process. R

Antonich v. Midwest Building Mgt., CCHR. No. 91-E-150 (Oct. 21, 1992) (same) R

Starrett v. Duda/Sorice, CCHR. No. 93-H-6 (Aug. 19, 1993) Default entered pursuant to Regulation 230.100(b) where Respondents failed to attend several scheduled Conciliation Conferences as warned. CO

Houston v. Mims, CCHR. No. 94-H-18 (Dec. 19, 1994) Respondents defaulted when they did not attend two Conciliation Conferences as had been warned. CO

Soria v. Kern, CCHR. No. 95-H-13 (Sep. 7, 1995) Respondent defaulted where he did not attend two Conciliation Conferences, as had been warned. CO

Cruz v. Fonseca, CCHR. No. 94-H-141 (Feb. 2, 1996) Respondent defaulted where he did not attend two Conciliation Conferences, as had been warned. CO

Wright v. Mims, CCHR. No. 95-H-12 (May 24, 1996) Respondent defaulted when he did not attend Conciliation Conference and then did not contact CHR or provide good cause as ordered. CO

Roberts/Harley v. Taylor, CCHR. No. 96-H-59/60 (July 31, 1996) Respondent defaulted for not responding at all to Complaint and/or Commission's request for documentation. CO

Metropolitan Tenants' Org. v. Looney et al., CCHR. No. 96-H-16 (July 31, 1996) (same) CO

Johnson-Bluitt v. Aldi Foods, CCHR. No. 96-H-126 (Aug. 9, 1996) (same) CO

Sorrel v. Williams, CCHR. No. 96-H-67 (Aug. 28, 1996) (same) CO

White v. Guernsey Dell, CCHR. No. 95-E-213 (Aug. 28, 1996) (same) CO

Steward v. Campbell's Cleaning, CCHR. No. 96-E-170 (Sep. 11, 1996) (same) CO

Gill v. Crayon Campus, CCHR. No. 96-E-168 (Sep. 25, 1996) (same) CO

Janas v. Zuniga, CCHR. No. 96-H-74 (Sep. 25, 1996) (same) CO

Williams v. O'Neal, CCHR. No. 96-H-73 (Oct. 11, 1996) (same) CO

Kemnitz v. Christian, CCHR. No. 96-H-88 (Oct. 11, 1996) (same) CO

Moses v. Bebek & B&B Mgt., CCHR. No. 96-H-92 (Nov. 6, 1996) (same) CO

Maat v. Village North Theater, CCHR. No. 96-PA-89 (Dec. 20, 1996) (same) CO

Williams v. Stamatopoulos, CCHR. No. 96-H-127 (Jan. 16, 1997) (same) CO

Bradtke v. Goda Group, et al., CCHR. No. 95-E-205 (Jan. 16, 1997) (same) CO

Novak v. Padlan, CCHR. No. 96-H-133 (Mar. 14, 1997) (same) CO

Kemnitz v. Crisan & Maejla, CCHR. No. 96-H-88 (Mar. 14, 1997) Where original default against Maejla was vacated concerning respondent Maejla but where he was ordered to file two items and then did not file one, new default order was entered against him. CO

Hall v. Station Cleaners, CCHR. No. 96-PA-102 (Mar. 26, 1997) Respondent defaulted for not responding at all to Complaint and to Commission's request for documentation. CO

Thomas v. Rodriguez, CCHR. No. 97-H-8 (Mar. 26, 1997) (same) CO

Johnson v. Wingar, CCHR. No. 97-H-29 (June 11, 1997) (same) CO

Wiles v. McNeal & The Woodlawn Organization, CCHR. No. 96-H-1 (Aug. 6, 1997) Individual respondent defaulted for not responding at all to Complaint and to Commission's request for documentation; organizational respondent not defaulted, but CHR found substantial evidence against it. CO

Williams v. Chicago Mayor's Office for Employment & Training, CCHR. No. 97-E-121 (Aug. 6, 1997) Respondent defaulted for not responding at all to Commission's request for documentation. CO

Miller v. Drain Experts & Dekrits, CCHR. No. 97-PA-29 (Aug. 6, 1997) Respondents defaulted for not responding at all to Complaint and to Commission's request for documentation. CO

Maat v. Fresh Choice Rest. & Property Owner, CCHR. No. 97-PA-47 (Aug. 6, 1997) (same) CO

Moulden v. Frontier Communics. & Mitter, CCHR. No. 97-E-156 (Sep. 10, 1997) (same) CO

Houck v. Inner City Horticultural Fdn., CCHR. No. 97-E-93 (Sep. 10, 1997) Respondent defaulted for not responding at all to Commission's request for documentation. CO

del Real v. ABM Janitorial Supply, CCHR. No. 97-E-178 (Sep. 24, 1997) Respondent defaulted for not responding at all to Complaint and to Commission's request for documentation. CO

Hanson v. Assoc. of Volleyball Professionals, CCHR. No. 97-PA-62 (Sep. 24, 1997) (same) CO

Lawrence v. Multicorp, CCHR. No. 97-PA-65 (Oct. 22, 1997) Same; sex and age claims dismissed as complaint included no allegations about them; race claim allowed to proceed. CO

Maat v. The Fisher Building, CCHR. No. 96-PA-91 (Nov. 5, 1997) Respondent defaulted for not responding at all to a Commission order. CO

McCutcheon v. Robinson & Barnett, CCHR. No. 95-H-84 (Nov. 20, 1997) One Respondent defaulted for not responding at all to a Hearing Officer order or to Complainant's motion seeking default. HO

Collins v. Morton International, CCHR. No. 97-E-217 (Dec. 4, 1997) Respondent defaulted, after having been warned, when it did not submit a Verified Response. CO

Shen v. Golden Ox Restaurant, CCHR. No. 97-E-279 (Mar. 25, 1998) Respondent defaulted for not filing and serving Verified Response and not filing a response to the Commission's request for documents and information. CO

Carter v. CV Snack Shop, CCHR. No. 98-PA-3 (Mar. 25, 1998) (same) CO

Miller-Holt v. Klein Builders, CCHR. No. 97-E-197 (Apr. 8, 1998) (same) CO

Huff v. American Mgt. & Rental Svcs., 97-H-187 (May 28, 1998) (same) CO

Chmelar v. Dicristofaro, CCHR. No. 98-H-55 (June 24, 1998) (same) CO

LeFlore v. Asia Bowl et al., CCHR. No. 98-E-67 (Sep. 10, 1998) (same) CO

Smith v. Chicago Apartments & Condos, 98-H-142 (Nov. 19, 1998) (same) CO

Baciu v. Rivera, CCHR. No. 98-H-82 (Dec. 3, 1998) (same) CO

Puryear v. Hank, CCHR. No. 98-H-139 (Dec. 17, 1999) (same) CO

Blakemore v. Kinkos, CCHR. No. 98-PA-32 (Jan. 14, 1999) (same) CO

Thomas v. Unilever Home & Personal Care, CCHR. No. 98-E-203 (Apr. 22, 1999) Respondent defaulted for not providing a response to CHR's request for documents and information and for filing its verified response later than the final deadline set, which was after a long series of extensions. CO

Duvergel v. Petrovic & Letica, CCHR. No. 99-H-18 (May 6, 1999) Respondents defaulted for not filing and serving Verified Responses and not filing responses to CHR's requests for documents and information. CO

Blanks v. Lutheran Social Services et al., CCHR. No. 99-H-15 (June 3, 1999) (same) CO

Richards v. Dominick's Finer Foods, CCHR. No. 99-PA-26 (July 29, 1999) (same) CO

Maat v. Dominick's Finer Foods, CCHR. No. 99-PA-56 (Aug. 12, 1999) (same) CO

Horn v. A-Aero Locksmith Svc., CCHR. No. 99-PA-32 (Sep. 8, 1999) (same) CO

Howery v. Labor Ready et al., CCHR. No. 99-E-131 (Nov. 4, 1999) (same) CO

Aljazi v. Tsang & Tam, CCHR. No. 99-H-75 (Nov. 18, 1999) (same) CO

Wilkie v. Venante Jose Mgt., CCHR. No. 99-H-34 (Nov. 4, 1999) (same) CO

Hendrix v. Frazier, CCHR No. 99-H-67 (Jan. 13, 2000) Default order entered pursuant to Reg. 220.100 for failing to file its response to CHR's request for documents and information. CO

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

Haywood v. Holsten Mgt. Corp., CCHR No. 97-H-42 (May 11, 2000) 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

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

Manzanares v. Lalo’s Restaurant, CCHR No. 10-P-18 (May 16, 2012) Default order entered after Respondent failed to appear at pre-hearing conference, provide notice of absence, or respond to Notice of Potential Default. R

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) After an Order of Default was entered against Respondents who failed to appear at the pre-hearing conference and the administrative hearing, Complainant established a prima facie case of race harassment and discrimination and established the nature of relief he was seeking during administrative hearing. R

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) Default order entered where Respondent failed to respond to the Complaint. Respondent not permitted to contest sufficiency of the complaint or present any evidence in defense, but could present evidence as to whether relief sought by Complainant was reasonable and supported by Complainant’s evidence. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) Defaulted entered after Respondent failed to respond to the complaint and failed to respond to two Notices of Potential Default. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) Default entered after Respondent failed to respond to the complaint and failed to respond to two Notices of Potential Default. R

Cotten v. Ochoa Sporting Goods, CCHR No. 14-P-15 (Dec. 17, 2014) Default entered after Respondent failed to respond to the Complaint and failed to respond to two Notices of Potential Default. Hearing held solely for Complainant to establish *prima facie* case and nature and amount of relief to be awarded, but Respondent did not attend pre-hearing conference or hearing. R

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

White v. Ison, CCHR No. 91-FHO-126-5711 (Apr. 23, 1993) Pre-1996 Regs: motion to vacate a default judgment denied where Respondent claimed default was due to "subcompetent representation" but where he had personal knowledge of the date of the Administrative Hearing and did not attend, where he had repeatedly failed to attend ordered conferences and to meet ordered deadlines, and where case law puts the burden on the party to follow the course of litigation. HO

Starrett v. Duda/Sorice, CCHR No. 93-H-6 (Apr. 20, 1994) Pre-1996 Regs: although Respondents appeared at the Hearing, CHR found them to be bound by prior default because no motion to vacate was made. R

Johnson-Bluitt v. Aldi Foods, CCHR No. 96-E-126 (Sep. 25, 1996) Where Respondent filed its request to vacate late, did not provide good cause for its initial failure and neither provided the outstanding material nor provided good cause for not providing it, CHR denied request to vacate default. CO

Johnson-Bluitt v. Aldi Foods, CCHR No. 96-E-126 (Sep. 25, 1996) Fact that Respondent purported not to understand difference between CHR and Illinois Department of Human Rights, despite prior conversations with CHR, found not to be "good cause" for inaction which led to default. CO

Kemnitz v. Crisan & Maejla, CCHR No. 96-H-88 (Feb. 11, 1997) Request to vacate denied with respect to one respondent where request was filed late without good cause, did not meet substantive requirements, did not allege that Respondent did not receive the series of documents that led to the default order and presented no other reason to vacate default order. CO

Janas v. Zuniga, CCHR No. 96-H-74 (Apr. 9, 1997) Respondent's argument that his failure to respond was due to his attorney's inaction, CHR follows state decisions that an attorney's negligence does not constitute good cause to vacate a default. CO

Janas v. Zuniga, CCHR No. 96-H-74 (Apr. 9, 1997) Where Respondent did not respond to CHR notices, filed the request to vacate late and where attorney's inaction does not constitute good cause [see above], request to vacate denied. CO

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Motion to vacate denied where Respondent did not show good cause for not complying with discovery and not responding to order about his purported ill health which he used as a reason to delay the hearing. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) CHR denied Respondent's objections to default order which were filed only after Hearing Officer had issued his first recommended decision on liability; CHR held that it has subject matter jurisdiction over the case and that the evidence made it clear that it had personal jurisdiction in that Respondent was served and had participated in response to the case. R

Thomas v. Unilever Home & Personal Care, CCHR No. 98-E-203 (June 17, 1999) CHR denied motion to vacate where it was filed a week late and where Respondent did not provide good cause for missing a long series of deadlines before the default had been entered. CO

Maat v. Dominick's Finer Foods, CCHR No. 99-PA-56 (Nov. 4, 1999) CHR denied request to vacate order of default where Respondent did not file the required material and did not provide good cause -- it only suggested that CHR's notices were not properly routed internally. CO

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

Gill v. Crayon Campus, CCHR No. 96-E-168 (Oct. 11, 1996) CHR granted motion to vacate where Respondent provided good cause -- did not receive complaint -- and filed both its Verified Response and its response to request for documents and information with its motion. CO

Kemnitz v. Crisan & Maejla, CCHR No. 96-H-88 (Feb. 11, 1997) Request to vacate granted with respect to one respondent despite request to vacate's late filing and inadequate substance because some underlying documents were addressed using only Respondent's first name and the Notice of Potential Default was not mailed to him. CO

Kemnitz v. Crisan & Maejla, CCHR No. 96-H-88 (Feb. 11, 1997) With respect to one respondent whose request to vacate was granted despite its deficiencies, respondent given two weeks to file verified response and

response to CHR's request for documents and information or else default order would issue. CO

Williams v. Stamatopoulos, CCHR No. 96-H-127 (May 29, 1997) Where Commission entered Order of Default but Notice of Potential Default found to have been returned unclaimed, request to vacate granted. CO

Williams v. Chicago Mayor's Office for Employment & Training, CCHR No. 97-E-121 (Oct. 8, 1997) Where Respondent had filed the Verified Response and default was entered for failure to provide requested documents, default vacated where Respondent showed that the Verified Response included much of the requested documentation. CO

Richards v. Dominick's Finer Foods, CCHR No. 99-PA-26 (Aug. 25, 1999) Where Respondent provided copies of the responsive documents it claimed to have sent to CHR before the Order of Default was entered, CHR vacated the default. CO

Hendrix v. Frazier, CCHR No. 99-H-67 (Mar. 23, 2000) Where Respondents stated that they had actually 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

White v. Ison, CCHR No. 91-FHO-126-5711 (Apr. 23, 1993) CHR follows state law in holding that where a motion to vacate is filed more than 30 days after the default judgment was entered, it will be granted only where the movant can show a valid defense, and not merely a lack of diligence. HO

Johnson-Bluitt v. Aldi Foods, CCHR No. 96-E-126 (Sep. 25, 1996) CHR 1996 Regulations require respondent requesting to have default vacated to show good cause for initial failure as well as either providing the material which formed the basis of the default or providing good cause for not providing that material. CO

Gill v. Crayon Campus, CCHR No. 96-E-168 (Oct. 11, 1996) (same) CO

Kemnitz v. Crisan & Maejla, CCHR No. 96-H-88 (Feb. 11, 1997) (same) CO

Janas v. Zuniga, CCHR No. 96-H-74 (Apr. 9, 1997) (same) CO

Janas v. Zuniga, CCHR No. 96-H-74 (Apr. 9, 1997) In reviewing motion to vacate default, CHR applies its own default regulations, not the federal rules of civil procedure so assertions about a meritorious defense and lack of prejudice to complainant are not relevant. CO

Williams v. Stamatopoulos, CCHR No. 96-H-127 (May 29, 1997) CHR 1996 Regulations require respondent requesting to have default vacated file a timely request, show good cause for initial failure as well as either provide the material which formed the basis of the default or provide good cause for not providing that material. CO

Williams v. Chicago Mayor's Office for Employ. & Training, CCHR No. 97-E-121 (Oct. 8, 1997) (same) CO

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) CHR 1996 Regulations require respondent requesting to have default vacated show good cause for initial failure as well as either providing the material which formed the basis of the default or providing good cause for not providing that material. R

Thomas v. Unilever Home & Personal Care, CCHR No. 98-E-203 (June 17, 1999) (same) CO

Richards v. Dominick's Finer Foods, CCHR No. 99-PA-26 (Aug. 25, 1999) (same) CO

Maat v. Dominick's Finer Foods, CCHR No. 99-PA-56 (Nov. 4, 1999) (same) CO

Duvergel v. Petrovic/Letica, CCHR No. 99-H-18 (Feb. 24, 2000) Regulations require respondents requesting to have default vacated to: file a timely request; show good cause for initial failure; as well as either provide the material which formed the basis of the default or provide good cause for not providing that material. CO

Howery v. Labor Ready, et al., CCHR No. 99-E-131 (Mar. 10, 2000) (same) CO

Hendrix v. Frazier, CCHR No. 99-H-67 (Mar. 23, 2000) (same) CO

Wilkie v. Venanté Jose Mgt., CCHR No. 99-H-34 (Mar. 23, 2000) (same) CO

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

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. R

Who Decides

Kemnitz v. Crisan & Maejla, CCHR No. 96-H-88 (Feb. 4, 1997) Where default order is entered before Commencement of Hearing, pursuant to Reg. 215.250(a), the Commission's Executive Compliance Staff reviews any request to vacate that order. CO

Janas v. Zuniga, CCHR No. 96-H-74 (Apr. 9, 1997) (same) CO

Williams v. Stamatopoulos, CCHR No. 96-H-127 (May 29, 1997) (same) CO

Williams v. Chicago Mayor's Office for Employ. & Training, CCHR No. 97-E-121 (Oct. 8, 1997) (same) CO

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

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) Where Respondent's employee made a racial comment to the complainant but the complainant was not a customer or a prospective customer [was a stranger to the employee and business], defaulted Respondent found not to have discriminated with respect to "full use of a public accommodation" and so held not liable. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR finds that where one

respondent is defaulted but the other one is not, CHR cannot ignore evidence and findings that demonstrate that the alleged sexual harassment did not occur and so found that neither respondent violated the CFHO; decision expressly limited to situation where one respondent is not defaulted and so is allowed to address merits of complainant's case. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Although CHR default regulation states that a defaulted respondent may not challenge sufficiency of complainant's allegations, CHR, as an administrative agency, has an independent obligation to ensure that it assesses liability and damages only when the record demonstrates an ordinance violation. R

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

Gardner v. Ojo et al., CCHR No. 10-H-50 (Dec. 19, 2012) Defaulted Respondents found not liable where, after administrative hearing including a non-defaulted Respondent, Complainant failed to establish a *prima facie* case against them, because evidence at hearing controls factual findings against both defaulted and non-defaulted respondents to the extent there is a conflict between the hearing evidence and the complaint allegations. R

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

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

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 CCHR 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 reasonably 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. Bloomington'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

Chambers v. Unicorn Club, Ltd./Steamworks et al., CCHR No. 03-E-16 (Nov. 9, 2004) A charge filed at Illinois Department of Human Rights ("IDHR"), even if cross-filed at Equal Employment Opportunity Commission ("EEOC") pursuant to intergovernmental agreement between IDHR and EEOC, is *not* a parallel-filed case subject to intergovernmental agreement between EEOC and CHR. Only charges filed *directly* at EEOC and also at CHR are covered by CHR's intergovernmental agreement. 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 Svcs., 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 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

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 (Sep. 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

Head v. St. Joseph's Hospital, CCHR No. 93-PA-13 (Sep. 8, 1993) CHR denied Respondent's motion to dismiss holding that an alleged failure to offer Complainant services on the same terms and conditions as others may constitute an Ordinance violation even where there is no total denial of access. CO

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) Where disabled student Complainant alleged that some of Respondent's facilities were not accessible to her, CHR found Respondent to be a public accommodation to the extent that those facilities were open to the public. CO

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Respondent found liable for holding tournament which was not accessible to Complainant, a person who uses wheelchair. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Fact that Complainant, a person who uses a wheelchair, refused Respondent's offer to carry him into an inaccessible tournament does not defeat Complainant's *prima facie* case as Respondent did not provide him with "full use" of the tournament as his access was under different terms than applied to others -- a restricted view and missing a substantial part of the tournament. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Where issue is whether or not there is substantial evidence, not whether or not there is liability, CHR found the disputed issues concerning respondent's ability to make building accessible to person using wheelchair -- such as undue costs and excessive problems to building's heating system -- did not overcome the "scintilla of relevant evidence" that there was substantial evidence and so found the issues should be resolved in hearing process. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Because CFHO requires that housing be "fully" accessible, at the substantial evidence determination stage, Respondent's argument that it improved doors other than at front entrance which makes the building accessible to Complainant who uses wheelchair is not enough until Respondent proves that full, front-door, accessibility is an undue hardship. CO

Winter v. Chicago Park District, et al., CCHR No. 97-PA-35 (Jan. 28, 1999) After holding a Disability Evidentiary Conference, CHR found that, where Park District presented no evidence that proposed accommodations constituted an undue hardship, there was substantial evidence that certain Park District facilities were not accessible to Complainant who used wheelchair. CO

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

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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Disability discrimination found where force of door prevented wheelchair user from opening restaurant entrance door independently and Respondent failed to plead and prove undue hardship to be fully accessible. Requiring Complainant to rely on the help of other patrons or employees to access restaurant does not constitute the provision of “full use” of its restaurant. Respondent also failed to prove that it had provided a reasonable accommodation when its witnesses testified only about ad hoc situations involving other customers but failed to prove that it had offered such services to Complainant. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) After order of default, *prima facie* case of disability discrimination where wheelchair user sought to enter a restaurant but could not due to steps at entrance. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) After order of default, *prima facie* case of disability discrimination established where wheelchair user sought to enter a restaurant but could not due to steps at entrance. R

Cotten v. Ochoa Sporting Goods, CCHR No. 14-P-15 (Dec. 17, 2014) After Order of Default, *prima facie* case of disability discrimination established where wheelchair user sought to enter a store but could not due to steps at entrance. R

Adequacy of Complaint

Tibo v. Thermaline, CCHR No. 91-E-29 (June 1, 1992) Motion to dismiss for failure to state a claim of disability discrimination denied where Complainant had asserted facts which, if proved, would lead to a finding of disability discrimination. CO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (Mar. 30, 1995) Where Complainant alleged that Respondent ignored his request to accommodate a disability by not rotating his shift, Respondent's motion to dismiss for failure to state a claim was denied. HO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) Where one Complainant's injury was a contusion, she was found not to have a protected disability as it is insubstantial and transitory; other condition, a knee injury, not dismissed as there were disputed facts about it. CO

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Where Complainant alleged that her foot surgery required her to miss only two weeks of work and she then had work restrictions for only eight to ten weeks, CHR found Complainant's foot condition to be insubstantial and transitory and so not a protected

disability. CO

Burden of Proof

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Complainant must establish failure to accommodate by preponderance of the evidence, then respondent must prove that the accommodation would cause an undue hardship. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) For failure to accommodate claim, employee has burden to show either that she/he initiated a request for accommodation or that the need for one was apparent. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) In case involving forced medical examination, complainant has burden to show that he is disabled or is perceived to be, that he is able to perform the job's essential functions and that he was forced to submit to a medical examination; respondent then has burden to show that the medical examination was directly related to the employee's ability to perform the job; pretext is not an issue. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Burden of proof is on respondent to show that a proposed accommodation would be an undue hardship. CO

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

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Sets forth *prima facie* case for complaint involving failure to accommodate a person with a disability. R

Dawson v. YWCA, CCHR No. 93-E-128 (Jan. 19, 1994) Differentiates burden shifting in disability cases where complainant claims a failure to accommodate in that once the complainant establishes a *prima facie* case, the burden of persuasion shifts to employer to show that making the accommodation would cause an undue hardship. CO

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) (same) R

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Sets forth shifting burdens, including *prima facie* case, in employment case concerning accommodation of employee with a mental disability. R

Doering v. Zum Deutschen Eck, CCHR No. 94-PA-35 (Sep. 14, 1995) Sets forth burden shifting test used to determine whether or not there is substantial evidence of discrimination in a disability-public accommodation case. CO

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Feb. 21, 1996) (same) R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Sets forth burden shifting standards in case involving discharge due to disability; distinguishes standards from cases concerning ability to perform essential functions of job. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Ruling sets forth long discussion of different standards for proof of disparate treatment claim -- adverse action due to disability -- versus those for failure-to-accommodate claim in employment/disability case. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) In case involving forced medical examination, complainant must show that he is disabled or is perceived to be, that he is able to perform the job's essential functions and that he was forced to submit to a medical examination; respondent then has burden to show that the medical examination was directly related to the employee's ability to perform the job. 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

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

Baumgartner v. 327 S. LaSalle Building, CCHR No. 91-E-98 (May 6, 1992) Under the facts presented in this case, obesity found not to constitute a disability either under section 2-160-020(c) of the CHRO or under Regulation 100(9). CO

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Rejects Respondent's argument that the CFHO applies to people with physical disabilities but not mental ones. R

Nash v. Lutheran Social Services, CCHR No. 91-FHO-161-5746 (July 29, 1992) No disability discrimination found where Complainant uses crutches and Respondent's housing facility gave preferences to persons using wheelchairs to rent apartments specifically designed for persons with severe mobility impairments. CO

Nash v. Lutheran Social Services, CCHR No. 91-FHO-161-5746 (July 29, 1992) Respondent not liable for creating housing to serve needs of people who use wheelchairs, and not for people using crutches, in that it does not discriminate based on having a disability and its program is similar to bona fide affirmative action programs. CO

Ilhardt v. Sara Lee Corp., CCHR No. 93-E-257 (July 22, 1994) A normal pregnancy, not accompanied by a disabling condition, is not considered a disability. CO

Bosh v. CNA et al., CCHR No. 92-E-83 (July 29, 1994) The definition of disability in the Commission's regulations -- stating that a claimed disability must substantially limit a major life activity -- found to be of no effect where the CHRO's definition required the disability only to be determinable and where Complainant's claim would have been dismissed under the regulation but not under the CHRO; case remanded for reconsideration without regard to Regulation. R **See also Regulation section, below.**

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) CHRO requires that a disability be "determinable" necessitating diagnostic procedures be available to identify it. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Mental retardation held to be a determinable disability, but mental slowness and lack of adaptability were not. R

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) Standards that must be met to show a disability under CHRO are very different from those under the Americans with Disabilities Act or the Rehabilitation Act. Because gender dysphoria is listed as a psychiatric disorder with specific symptoms, it is sufficient to be a determinable disability to survive a motion to dismiss.² CO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) CHR adopts standards used under Illinois law which defines disability not to include conditions which are insubstantial, transitory or not significantly debilitating or disfiguring. CO

Moore v. Northwestern Memorial Hospital et al., CCHR No. 96-E-224 (Jan. 20, 1999) CHRO's definition of disability is like that in the Illinois Human Rights Act and CHR has adopted the requirement that a condition not be transitory or insubstantial to be a disability. R

Moore v. Northwestern Memorial Hospital et al., CCHR No. 96-E-224 (Jan. 20, 1999) Complainant's alleged case of mild sleep apnea was not a disability under the CHRO because it was found to be insubstantial and transitory; it was asymptomatic for periods of time and could be vitiated by the person's own actions; further she no longer had a medical reason for her sleepiness at the time she was fired. R

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Where Complainant alleged that her foot surgery required her to miss only two weeks of work and she then had work restrictions for only eight to ten weeks, CHR found Complainant's foot condition to be insubstantial and transitory and so not a protected disability. CO

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Notes that CHRO's definition of disability is like that in the IHRA and not like that in the ADA; however, under both of those laws, temporary and transitory conditions are not considered disabilities. CO

Coats v. Chicago Housing Authority, CCHR No. 98-H-241 (May 6, 1999) CHRO's definition of disability is like that in the IHRA, not the ADA, so it looks to decisions interpreting the IHRA for guidance. CO

Coats v. Chicago Housing Authority, CCHR No. 98-H-241 (May 6, 1999) Following a decision interpreting the IHRA, CHR finds that substance abuse could be proved to be a disability; whether substance abuse is a disability turns on facts not before the Commission so it denies motion to dismiss. CO

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

² The *Evans* decision was decided prior to "gender identity," which is inclusive of transsexualism, being added as a protected classification in November 2002.

– 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

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Ruling sets forth long discussion of different standards for proof of disparate treatment claim -- adverse action due to disability -- versus those for failure-to-accommodate claim in employment/disability case. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Upon judicial remand, CHR found that Respondent did not discriminate against Complainant, a mentally retarded man; there was no evidence that non-disabled employees were not discharged when they yelled at supervisor. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Employees who were rude to co-workers are not similarly situated to Complainant who was rude to supervisor -- i.e., insubordinate. 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

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

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Where complainant must show that his employer perceived him to be disabled and that he was able to perform the job's essential functions, respondent found liable when it failed to show that the medical examination was directly related to the employee's ability to perform the job. R

Moore v. Northwestern Memorial Hospital et al., CCHR No. 96-E-224 (Jan. 20, 1999) CHR found that Complainant who was fired for sleeping on the job did not prevail on her disability discrimination claim as she did not show that her alleged sleep apnea was a disability or that Respondent failed to accommodate it. R

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

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (July 27, 1992) Social Security Administration's finding that Complainant was entitled to disability benefits -- and so unable to work -- from date preceding her termination estops Complainant from preceding with her disability claim in that she was not "otherwise qualified" to perform the essential functions of her job. CO [reversed by next entry].

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Apr. 19, 1993) Social Security Administration's determination of disability is not, as a matter of law, the same as a finding that a complainant is "otherwise qualified" under CHRO; overrules order of 7-27-93 due to a subsequent Seventh Circuit ruling. CO

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.

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Pursuant to CHR regulations and Illinois case law, an employee with a disability must initiate the request for accommodation where the disability is not obvious, as with Complainant's mental disability. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Upon judicial remand, CHR found that Respondent did not discriminate against Complainant, a mentally retarded man, as Complainant never sought an accommodation related to sudden outbursts and the need for such accommodation was not evident. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Ruling sets forth long discussion of different standards for proof of disparate treatment claim -- adverse action due to disability -- versus those for failure-to-accommodate claim in employment/disability case. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) The only accommodations required are those which would enable the employee to perform the essential functions of his/her job. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Employer need make reasonable accommodations only where it knows that the employee has a "disability requiring accommodation," citing Reg. 365.130(a). R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Employee has burden to show either that she/he initiated a request for accommodation or that the need for one was apparent. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) A request for accommodation made once the litigation had begun is too late to charge employer with a prior failure to accommodate. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Knowledge that an employee has a particular condition -- here mental retardation -- does not automatically mean that the employer knows of particular limitations it causes or the steps needed to accommodate such limitations. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Complainant failed to show that his requested accommodations would allow him to perform the essential functions of his job; they would have only allowed him a "second chance" or they were actually done. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Complainant cannot script a supervisor's interaction with him -- an accommodation at issue -- so long as it is reasonable. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Where there is no disparate treatment, it is not generally a "failure to accommodate" for an employer to prohibit unacceptable work place conduct, even if a particular employee's disability causes his/her conduct. R

Galligani v. Nabisco, CCHR No. 94-E-238 (Jan. 14, 1998) CHR denied Complainant's Request for Review of dismissal for no substantial evidence where it found that she had not made a request for an accommodation of her disability and where the need for an accommodation was not obvious. CO

Galligani v. Nabisco, CCHR No. 94-E-238 (Jan. 14, 1998) CHR denied Complainant's Request for Review of CHR dismissal for no substantial evidence where her history of employment gave no indication that the problem which caused her discharge was related to her disability; an employer does not necessarily know every possible manifestation of a disability. CO

Galligani v. Nabisco, CCHR No. 94-E-238 (Jan. 14, 1998) CHR denied Complainant's Request for Review of CHR dismissal for no substantial evidence where there appeared to be no accommodation possible other than a "second chance" and not one that would allow her to perform the essential functions of her job. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Where issue is whether or not there is substantial evidence, not whether or not there is liability, CHR found the disputed issues concerning respondent's ability to make building accessible to person using wheelchair -- such as undue costs and excessive problems to building's heating system -- did not overcome the "scintilla of relevant evidence" that there was substantial evidence and so found the issues should be resolved in hearing process. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Because CFHO requires that housing be "fully" accessible, at the substantial evidence determination stage, Respondent's argument that it has improved doors other than at front entrance which make the building accessible to Complainant who uses wheelchair is not enough until Respondent shows that full, front-door, accessibility is an undue hardship. CO

Moore v. Northwestern Memorial Hospital et al., CCHR No. 96-E-224 (Jan. 20, 1999) Complainant who was fired for sleeping on the job did not prevail on her disability discrimination claim as she did not show Respondent failed to accommodate her alleged disability; her duties included walking around and Respondent allowed her to take breaks at which time she could move about and smoke. R

Moore v. Northwestern Memorial Hospital et al., CCHR No. 96-E-224 (Jan. 20, 1999) Employers are not required to "accommodate" a disabled employee by allowing her to violate reasonable workplace rules. R

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) Sets forth standards Complainant must meet to prove a failure to accommodate claim. R

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) When disabled Complainant dropped out of "inter-active process" and was insubordinate, she thwarted Respondent's attempts to reasonably 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 "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

Vasilovik v. Chicago Park District, CCHR No. 98-E-74 (Oct. 9, 1998) Where Complainant's last doctor's note submitted to Respondent before the hiring decision indicated that Complainant may be able to return to work in time for the job to start, CHR found that Respondent was put on notice that it needed to take part in an "interactive process" to determine whether Complainant was a qualified individual able to perform the essential functions of the available job. CO

Vasilovik v. Chicago Park District, CCHR No. 98-E-74 (Oct. 9, 1998) Where doctor's notes submitted after the start date demonstrate that Complainant was not able to perform the essential functions of the available job, CHR held that Complainant could not proceed with a failure to hire claim, but could proceed with a claim concerning Respondent's failure to take part in an interactive process during hiring. CO

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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Disability discrimination found where force of door prevented wheelchair user from opening restaurant entrance door independently and Respondent failed to plead and prove undue hardship to be fully accessible. Requiring Complainant to rely on the help of other patrons or employees to access restaurant does not constitute the provision of "full use" of its restaurant. R

Housing Discrimination

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Landlord found to have violated §5-08-030A and Reg. 420.180(b) by unreasonably failing to modify its no-pet rule so as to permit Complainant -- who has a severe psychiatric condition -- to keep a dog as part of his doctor-recommended therapy. R

Gilun v. Tomasinski, CCHR No. 91-FHO-85-5670 (July 29, 1992) Found for Respondent when no

evidence presented that the allegedly discriminatory remark was actually said and evidence was presented that the woman who allegedly said it speaks almost no English. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Where issue is whether or not there is substantial evidence, not whether or not there is liability, CHR found the disputed issues concerning respondent's ability to make building accessible to person using wheelchair -- such as undue costs and excessive problems to building's heating system -- did not overcome the "scintilla of relevant evidence" that there was substantial evidence and so found the issues should be resolved in hearing process. CO

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

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) Where sister of woman with disability claims that she was injured because Respondents allegedly would not provide them services due to her sister's disability, that states a claim for indirect disability discrimination. CO

Diaz v. Metropolitan Pier & Exposition Authority, CCHR No. 95-PA-168 (Oct. 2, 1997) Due to language of both CHRO and Commission regulations which prohibit indirect discrimination and due to CHR precedent, CHR allows indirect disability claim to proceed. CO

Diaz v. Metropolitan Pier & Exposition Authority, CCHR No. 95-PA-168 (Oct. 2, 1997) Claim by employee that he was fired due to disability of family member allowed to proceed. CO

Insubstantial & Transitory

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) CHR adopts standards used under Illinois law which defines disability not to include conditions which are insubstantial, transitory or not significantly debilitating or disfiguring. CO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) Where one Complainant's injury was a contusion, she was found not to have a protected disability as it is insubstantial and transitory; other condition, a knee injury, not dismissed as there were disputed facts about it. CO

Moore v. Northwestern Memorial Hospital et al., CCHR No. 96-E-224 (Jan. 20, 1999) Complainant's alleged case of mild sleep apnea was not a disability under the CHRO because it was found to be insubstantial and transitory; it was asymptomatic for periods of time and could be vitiated by the person's own actions; further she no

longer had a medical reason for her sleepiness at the time she was fired. R

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Where Complainant alleged that her foot surgery required her to miss only two weeks of work and she then had work restrictions for only eight to ten weeks, CHR found Complainant's foot condition to be insubstantial and transitory and so not a protected disability. CO

Klimczak v. Williams, CCHR No. 11-H-45 (Sep. 1, 2011) Complaint predicated on “temporary disability” (broken collarbone) dismissed because definition of disability excludes “insubstantial and transitory” conditions. CO

Liability Found

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Landlord found to have violated CFHO §5-8-030A and Reg. 420.180(b) by unreasonably failing to modify its no-pet rule so as to permit Complainant -- who has a severe psychiatric condition -- to keep a dog as part of his doctor-recommended therapy. R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) Landlord found liable for not waiving no-pet rule for blind person with seeing eye dog. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) In default case, Respondent company and its owner found liable for physically beating, humiliating as well as discharging complainant who has a mental disability. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Where complainant must showed that his employer perceived him to be disabled and that he was able to perform the job's essential functions, respondent found liable when it failed to show that the medical examination was directly related to the employee's ability to perform the job. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Respondent found liable where evidence showed that it discharged Complainant because it perceived him to have a disability, hypertension. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Respondent found liable for holding tournament which was not accessible to Complainant, a person who uses wheelchair. R

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 (Sep. 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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Disability discrimination found where force of door prevented wheelchair user from opening restaurant entrance door independently and Respondent failed to plead and prove undue hardship to be fully accessible. Requiring Complainant to rely on the help of other patrons or employees to access restaurant does not constitute the provision of "full use" of its restaurant. Respondent also failed to prove that it had provided a reasonable accommodation when its witnesses testified only about ad hoc situations involving other customers but failed to prove that it had offered such services to Complainant. R

Hamilton and Hamilton v. Café Descartes, CCHR No. 13-P-05/06 (June 18, 2014) After an order of default, *prima facie* case of disability discrimination where customer with service animal initially denied entry to café, then full use and enjoyment curtailed. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) After order of default, *prima facie* case of disability discrimination where wheelchair user sought to enter a restaurant but could not due to steps at entrance. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) After order of default, *prima facie* case of disability discrimination established where wheelchair user sought to enter a restaurant but could not due to steps at entrance. R

Cotten v. Ochoa Sporting Goods, CCHR No. 14-P-15 (Dec. 17, 2014) After Order of Default, *prima facie* case of disability discrimination established where wheelchair user sought to enter a store but could not due to steps at entrance. R

Liability Not Found

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) No violation found where housing complex refused to rent to Complainant and her six children due to its interpretation of HUD occupancy standards as prohibiting rental of a 3-bedroom apartment to more than 6 people. R

Nash v. Lutheran Social Services, CCHR No. 91-FHO-161-5746 (July 29, 1992) No disability

discrimination found where Complainant uses crutches and Respondent's housing facility gives preferences to persons using wheelchairs to rent apartments specifically designed for persons with severe mobility impairments. CO

Nash v. Lutheran Social Services, CCHR No. 91-FHO-161-5746 (July 29, 1992) Respondent not liable for creating housing to serve needs of people who use wheelchairs, and not for people using crutches, in that it does not discriminate based on having a disability and its program is similar to bona fide affirmative action programs. CO

Gilun v. Tomasinski, CCHR No. 91-FHO-85-5670 (July 29, 1992) CHR found for Respondent when no evidence presented that the allegedly discriminatory remark was actually said and evidence was presented that the woman who allegedly said it speaks almost no English. R

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Ap. 20, 1994) Where the discrimination was found to have occurred prior to the effective date of the current CHRO, Respondent was not liable because the CHRO held not to apply retroactively. R

Alm v. Metra & Chicago and Northwestern Railroad, CCHR No. 94-PA-51 (Mar. 2, 1995) Although Complainant's disability caused him to be so fatigued that he needs assistance walking, Respondents were found not obligated to provide him a wheelchair where Complainant had not alleged that any of Respondents' facilities were inaccessible, finding the wheelchair to be a personal use item. CO

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Where Complainant's disability was not obvious and where he had not asked for an accommodation, Respondent found not liable when it fired him. R

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Feb. 21, 1996) Where complaint used a guide dog and was given a shared ride at a shared ride price, Respondent found not liable for disability discrimination; second claim found to have occurred outside of City so dismissed for no jurisdiction. R

Alceguiere v. Cook County MIS & Yaeger, CCHR No. 91-E-137 (Mar. 20, 1996) Where Complainant was barred by *res judicata* from proceeding with his race claims and where he refused to proceed with his disability claim, ruling made for Respondents. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Upon judicial remand, CHR found that Respondent did not discriminate against Complainant, a mentally retarded man, as Complainant never sought an accommodation related to sudden outbursts and the need for such accommodation was not evident; also there was no evidence that non-disabled employees were treated better. R

Moore v. Northwestern Memorial Hospital et al., CCHR No. 96-E-224 (Jan. 20, 1999) CHR found that Complainant who was fired for sleeping on the job did not prevail on her disability discrimination claim as she did not show that her alleged sleep apnea was a disability or that Respondent failed to accommodate it. R

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

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Where complainant must showed that his employer perceived him to be disabled and that he was able to perform the job's essential functions, respondent found liable when it failed to show that the medical examination was directly related to the employee's ability to perform the job. 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

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

Alm v. Metra & Chicago and Northwestern Railroad, CCHR No. 94-PA-51 (Mar. 2, 1995) Although Complainant's disability caused him to be so fatigued that he needs assistance walking, Respondents were found not obligated to provide him a wheelchair where Complainant had not alleged that any of Respondents' facilities were inaccessible, finding the wheelchair to be a personal use item. CO

Pregnancy Discrimination

Ilhardt v. Sara Lee Corp., CCHR No. 93-E-257 (July 22, 1994) A normal pregnancy, not accompanied by a disabling condition, is not considered a disability. CO

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

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) Where student Complainant who has a disability alleged that some of Respondent's facilities were not accessible to her, CHR found Respondent to be a public accommodation to the extent that those facilities were open to the public. CO **See School/University section, below.**

Roth v. University of Illinois & Illinois Masonic Medical Center, CCHR No. 92-PA-30 (Apr. 21, 1995) Where medical student who had a disability alleged discrimination by a doctor who supervised and graded his performance in a required hospital rotation, neither the medical school nor the hospital were found to be public accommodations as supervising and grading medical students were functions not open to the general public. CO **See School/University section, below.**

Doering v. City of Chicago Mayor's Office of Special Events, CCHR No. 92-PA-12 (Apr. 26, 1995) Where

area to which Complainant was invited was not open to the general public, CHR dismissed complaint for lack of jurisdiction. CO

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Respondent found liable for holding tournament which was not accessible to Complainant, a person who uses wheelchair. R

Winter v. Chicago Park District et al., CCHR No. 97-PA-35 (Jan. 28, 1999) After holding a Disability Evidentiary Conference, CHR found that, where Park District presented no evidence that proposed accommodations constituted an undue hardship, there was substantial evidence that certain Park District facilities were not accessible to Complainant who used wheelchair. CO

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 (Sep. 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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Disability discrimination found where force of door prevented wheelchair user from opening restaurant entrance door independently and Respondent failed to plead and prove undue hardship to be fully accessible. Requiring Complainant to rely on the help of other patrons or employees to access restaurant does not constitute the provision of "full use" of its restaurant. Respondent also failed to prove that it had provided a reasonable accommodation when its witnesses testified only about ad hoc situations involving other customers but failed to prove that it had offered such services to Complainant. R

Hamilton and Hamilton v. Café Descartes, CCHR No. 13-P-05/06 (June 18, 2014) After an order of default, *prima facie* case of disability discrimination where customer with service animal initially denied entry to café, then full use and enjoyment curtailed. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) After order of default, *prima facie* case of disability discrimination where wheelchair user sought to enter a restaurant but could not due to steps at entrance. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) After order of default, *prima facie* case of disability discrimination established where wheelchair user sought to enter a restaurant but could not due to steps at entrance. R

Cotten v. Ochoa Sporting Goods, CCHR No. 14-P-15 (Dec. 17, 2014) After Order of Default, *prima facie* case of disability discrimination established where wheelchair user sought to enter a store but could not due to steps at entrance. R

Qualified Individual

Vasilovik v. Chicago Park District, CCHR No. 98-E-74 (Oct. 9, 1998) In case involving failure to hire, issue is whether Complainant was a qualified individual -- able to do the essential functions of the job, with or without accommodation -- at the time of the hiring decision. CO

Vasilovik v. Chicago Park District, CCHR No. 98-E-74 (Oct. 9, 1998) Where Complainant's last doctor's note submitted to Respondent before the hiring decision indicated that Complainant may be able to return to work in time for the job to start, CHR found that Respondent was put on notice that it needed to take part in an "interactive process" to determine whether Complainant was a qualified individual able to perform the essential functions of the available job. CO

Vasilovik v. Chicago Park District, CCHR No. 98-E-74 (Oct. 9, 1998) Where doctor's notes submitted after the start date demonstrate that Complainant was not able to perform the essential functions of the available job, CHR held that Complainant could not proceed with a failure to hire claim, but could proceed with a claim concerning Respondent's failure to take part in an interactive process during hiring. CO

Reasonable Accommodation

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Based on expert testimony, CHR found Complainant's use of a support dog "necessary" for him to have "equal opportunity to use and enjoy" housing; Complainant need not show that he would be completely unable to live in housing without the disputed accommodation. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Fact that Complainant never used or needed a support dog in the past does not make his request for one in the present unreasonable. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Equal opportunity, not merely equal treatment, is required -- fact that landlord applies the no-pet rule equally both to people with and without disabilities is not a defense. R

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Even without Regulations which explicitly require an employer to reasonably accommodate an employee, the CHRO's prohibition of discrimination against people with disabilities implies within it the duty to reasonably accommodate. R

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 inter-active 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 “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

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

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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Disability discrimination found where force of door prevented wheelchair user from opening restaurant entrance door independently and Respondent failed to plead and prove undue hardship to be fully accessible. Requiring Complainant to rely on the help of other patrons or employees to access restaurant does not constitute the provision of “full use” of its restaurant. Respondent also failed to prove that it had provided a reasonable accommodation when its witnesses testified only about ad hoc situations involving other customers but failed to prove that it had offered such services to Complainant. R

Request for Accommodation

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Pursuant to CHR regulations and Illinois case law, an employee with a disability must initiate the request for accommodation where the disability is not obvious, as with Complainant's mental disability. 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) 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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Disability discrimination found where force of door prevented wheelchair user from opening restaurant entrance door independently and Respondent failed to plead and prove undue hardship to be fully accessible. Requiring Complainant to rely on the help of other patrons or employees to access restaurant does not constitute the provision of “full use” of its restaurant. Respondent also failed to prove that it had provided a reasonable accommodation when its witnesses testified only about ad hoc situations involving other customers but failed to prove that it had offered such services to Complainant. R

Substance Abuse

Coats v. Chicago Housing Authority, CCHR No. 98-H-241 (May 6, 1999) Following a court decision interpreting the IHRA, CHR finds that substance abuse could be proved to be a disability; CHR denied the motion to dismiss because whether substance abuse is a disability turns on facts not before the Commission at this stage. CO

Coats v. Chicago Housing Authority, CCHR No. 98-H-241 (May 6, 1999) CHRO's definition of disability is like that in the IHRA, not the ADA, and so it looks to decisions interpreting the IHRA for guidance; laws which contain a specific exemption for substance abuse are not helpful as the CHRO does not include such an exemption. CO

Substantial Evidence Found

Pierce/Haug v. Chicago Public Library, CCHR No. 94-PA-8/84 (July 29, 1998) After holding a Disability Evidentiary Conference, CHR determined that there was substantial evidence that the Library did not provide "full use" of its facilities to people with sight disabilities as alleged. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Where issue is whether or not there is substantial evidence, not whether or not there is liability, CHR found the disputed issues concerning respondent's ability to make building accessible to person using wheelchair -- such as undue costs and excessive problems to building's heating system -- did not overcome the "scintilla of relevant evidence" that there was substantial evidence and so found the issues should be resolved in hearing process. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Because CFHO requires that housing be "fully" accessible, at the substantial evidence determination stage, Respondent's argument that it has improved doors other than at front entrance which make the building accessible to Complainant who uses wheelchair is not enough until Respondent shows that full, front-door, accessibility is an undue hardship. CO

Winter v. Chicago Park District et al., CCHR No. 97-PA-35 (Jan. 28, 1999) After holding a Disability Evidentiary Conference, CHR found that, where Park District presented no evidence that proposed accommodations constituted an undue hardship, there was substantial evidence that certain Park District facilities were not accessible to Complainant who used wheelchair. CO

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

Undue Hardship

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Burden is on respondent to prove by preponderance of the evidence that the requested accommodation cannot be made without undue hardship -- greater burden than the *Burdine* test. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Preference of other tenants does not establish an undue hardship. R

Parker v. American Airport Limousine, CCHR No. 93-PA-36 (July 19, 1995) Remand order sending case back to hearing officer sets forth standards Respondent must meet to show that making the requested accommodation would cause an undue hardship. R

Doering v. Zum Deutschen Eck, CCHR No. 94-PA-35 (Sep. 14, 1995) Sets forth standards the Respondent must meet to show that the proposed accommodations would cause an undue hardship and finds that, for purposes of a substantial evidence finding, the Respondent did not meet them. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Burden of proof is on respondent to show that a proposed accommodation would be an undue hardship. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Where issue is whether or not there is substantial evidence, not whether or not there is liability, CHR found the disputed issues concerning respondent's ability to make building accessible to person using wheelchair -- such as undue costs and excessive problems to building's heating system -- did not overcome the "scintilla of relevant evidence" that there was substantial evidence and so found the issues should be resolved in hearing process. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Because CFHO requires that housing be "fully" accessible, at the substantial evidence determination stage, Respondent's argument that it has improved doors other than at front entrance which make the building accessible to Complainant who uses wheelchair is not enough until Respondent shows that full, front-door, accessibility is an undue hardship. CO

Winter v. Chicago Park District et al., CCHR No. 97-PA-35 (Jan. 28, 1999) After holding a Disability Evidentiary Conference, CHR found that, where Park District presented no evidence that proposed accommodations constituted an undue hardship, there was substantial evidence that certain Park District facilities were not accessible to Complainant who used wheelchair. CO

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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Respondent restaurant failed to prove undue hardship by objective evidence, where hearing officer rejected as inadmissible a \$6,000 estimate offered by a witness who had never installed an automatic door and where

the estimated annual net income of the restaurant was \$240,000. R

DISCOVERY

Attorney's Fees

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Oct. 21, 1992) Respondent's request to conduct discovery concerning attorney's fee request denied as Regulations do not permit post-hearing discovery and because there was no claim that the documentary evidence in the fee petition was not sufficient. HO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (May 30, 1996) Denies Complainant's motion to compel production of certain documents concerning time spent by Respondents' attorneys in order to justify own time; although hearing officer finds that he has inherent power to allow discovery about fees, he found it was not warranted by good cause in this case. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Nov. 20, 1997) Denies request of Respondent for certain documents and information concerning time spent by Complainant's attorneys; although hearing officer finds that she has inherent power to allow discovery about fees, she finds that no good cause was shown and many requests were irrelevant to reasonableness of the requested fees. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (May 20, 1998) Respondent's motion for discovery about attorney's fees previously denied due to lack of good cause; Respondent had opportunities to make responses to fee petition and recommended rulings; hearing on fees is not necessary. R

CCHR Investigative Materials & Investigator – See also Evidence/CCHR Investigative Summary section, below.

McGee v. Sims, CCHR No. 94-H-131 (May 23, 1995) Allows CHR employee to be called as witness where his testimony about Respondent's statements during the investigation would constitute admissions against interest and where they cannot be obtained through another source, pursuant to CHR regulation. HO

Sheppard v. Jacobs, CCHR No. 94-H-162 (Feb. 13, 1996) Complainant allowed to call CHR employee as witness where Respondent failed to produce documents, where information sought is not otherwise available, and where CHR employee may be needed for impeachment purposes. HO

Matias v. Zachariah, CCHR No. 95-H-110 (Mar. 8, 1996) Complainant allowed to call CHR employee to testify that the Respondent's defense is different from the one given during the investigation; such testimony could not be obtained from another source. HO

Mahaffey v. University of Chicago Hospital, CCHR No. 93-E-221 (Oct. 20, 1997) Complainant not allowed to subpoena CHR investigator to testify about documents collected in investigation as they were available to Complainant through other means as per Reg. 240.370. HO

Nadeau et al. v. Family Physician Center, Ltd. et al., CCHR No. 96-E-159/160/161 (Nov. 3, 1997) Hearing Officer denied Respondents' request to admit CHR's Investigative Report in that it contains double hearsay, is prejudicial and is not probative. HO

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Aug. 7, 1998) Hearing Officer held that Complainant could call a CHR investigator at the upcoming hearing only if it was for impeachment purposes, citing CHR regulation 240.370. HO

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) (same) HO

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Aug. 22, 2013) Where Complainant failed to show that the information she sought was not available by other means, CHR investigative material barred with one exception. Investigator summary of witness testimony in investigative summary allowed for impeachment of one inconsistent witness statement. HO

Newby v. Chicago Transit Authority et al., CCHR No. 09-E-10 (Feb. 19, 2014) CHR investigators may only be subpoenaed to testify about their investigative interviews for impeachment purposes where the information sought cannot be obtained through other methods. R

Consolidation Effect

Belcina v. Jacob, CCHR No. 91-FHO-16-5601 (Aug. 23, 1991) Discovery period not reopened upon consolidation where all Complainants had already answered Respondent's discovery requests. HO

Depositions

Santiago v. Soto, CCHR No. 91-H-54 (Jan. 27, 1992) Deposition request denied because good cause was not shown. HO

Pearson v. NJW Personnel, Inc., CCHR No. 91-E-126 (Apr. 21, 1992) (same) HO

Bouressa v. 1st American Bank, CCHR No. 91-FHO-44-5629 (Apr. 24, 1992) (same) HO

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (Jan. 15, 1995) In case where Complainant was expected to die within days, his attorney was allowed to take his deposition during the investigation stage to preserve his testimony. CO

McGavock v. Burchett, CCHR No. 95-H-22 (Oct. 16, 1995) Request for depositions denied where the purported "good cause" was that Respondent might be able to undermine credibility of Complainant and her witnesses; found credibility could be addressed through direct and cross-examination. HO

Harris v. Jenny Craig International, CCHR No. 93-E-88 (Apr. 9, 1998) Respondent's request to depose Complainant denied where good cause was not shown. HO

Nadeau/LeBeau/Warren v. Suson & Family Physicians Center, CCHR No. 96-E-159/160/161 (June 30, 1998) Hearing officer reversed prior order which had allowed Complainants to take deposition of individual respondent; original order was based on individual's failing health and, once his health improved to the point that he could participate in the hearing and discovery process, the deposition was unnecessary and could prejudice respondents. HO

Snyder v. Museum of Science & Industry, et al., CCHR No. 91-E-72 (Oct. 2, 1998) With respect to a motion to enforce an oral agreement, request for depositions of individual respondent and attorney denied where they would lead to claims of attorney-client privilege about which the parties had already submitted briefs and where a jurisdictional hearing was already scheduled; depositions would not expedite resolution of the issue. HO **See also Privileges/Attorney-Client, below.**

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 11, 1999) Denied request for deposition of two of Respondent's employees as good cause not shown; fact that their testimony at hearing may be a surprise is contemplated by CHR's limited discovery. HO

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

Nimis v. Salvation Army Adult Rehabilitation Center, CCHR No. 10-H-33 (Mar. 8, 2013) Hearing officer denied Respondent motion to depose and subpoena for purpose of assessing claim and preparing defense, as failing to establish both relevance and inability to obtain the information by other means where complainant's position and witness statements are available in investigation file, information on statements of Respondent's employees can be obtained from the employees, and numerous document requests to Complainant have been allowed despite late filing. HO

Document Requests

Case Law

May v. Andriukaitis, CCHR No. 91-FHO-140-5726 (Apr. 9, 1992) Request for all case law which Complainant intends to introduce at hearing is denied; parties are permitted to include a short trial brief in the Pre-Hearing Memorandum regarding legal issues which the Hearing Officer may have to decide. HO

Compiled List

Brown v. Englewood Community Health Organization, CCHR No. 92-E-220 (Oct. 20, 1994) Respondent need not compile data that is not readily available as a response to a document request; it can instead make available the documents which include the requested information. HO

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Where Respondent was compelled to respond to document request for addresses of its affordable housing units, Respondent need not compile list of addresses, but must produce documentation containing all such addresses. HO

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

Belcina v. Jacobs, CCHR No. 91-FHO-16-5601 (June 12, 1991) A party is only required to produce documents in the party's possession or control. HO

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

Portlock and Adkins v. Woodlawn Community Development Corp. et al., CCHR No. 10-E-73/103 (Dec. 10, 2012) Individual Respondent who is manager of business Respondent and also pastor of church at issue in religious discrimination case held to be in possession and control of documents concerning church membership and thus compelled to produce both a list of employees of the business Respondent and a list of church members during relevant period. HO

Reasonable Relation

Belcina v. Jacobs, CCHR No. 91-FHO-16-5601 (June 12, 1991) Request for documents "reasonably related to claim or defense" does not limit request to only documents to be introduced at hearing. HO

May v. Andriukaitis, CCHR No. 91-FHO-140-5725 (Apr. 11, 1992) Net worth of Respondent discoverable because it is relevant to possible award of punitive damages; insurance policy held discoverable because it may cover the cost of attorney's fees assessed in the case. HO

Bouressa v. Ist American Bank, CCHR No. 91-FHO-44-5629 (Sep. 14, 1992) Respondent ordered to produce bank loan records alleged to be reasonably related to the discrimination claim. HO

Brown v. Englewood Community Health Organization, CCHR No. 92-E-220 (Oct. 20, 1994) In national origin case, Complainant's motion to compel granted as to a list of co-workers' national origin but not as to their immigration status or race. HO

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Feb. 24, 1999) Document requests need only be reasonably related to a claim or defense; citing Reg. 240.407. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Feb. 24, 1999) Hearing Officer properly ordered Complainant to turn over complaints he had filed at both CHR and IDHR against the same entity as that was reasonably related to Respondent's defense that Complainant was not credible because he gave different versions of the same events to different agencies; Hearing Officer had not decided if the document were admissible, just discoverable. R

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (May 13, 1999) Documents are discoverable if they are "reasonably related" to a claim or defense, citing Reg. 240.407, including a claim for damages. HO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (May 13, 1999) Request for prior claims of housing discrimination against Respondent was found to be reasonably related to current claims; they may prove pretext or a pattern and practice of discrimination. HO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (May 13, 1999) Requests for certain financial information about Respondent found reasonably related to Complainants' claim for punitive damages. HO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (May 13, 1999) Hearing Officer found certain requests, including the following, not reasonably related to Complainants' claims: general complaints about the operation and management of any of Respondent's properties; information about Respondent's personnel; and identity of all persons inquiring about rental of all units owned by Respondent. HO

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 been arrested; (3) 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 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

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

Portlock and Adkins v. Woodlawn Community Development Corp. et al., CCHR No. 10-E-73/103 (Dec. 10, 2012) After narrowing and definition by Complainants, hearing officer granted their motion to compel discovery responses found reasonably related to issues in religious discrimination case, including (1) identification of respondent efforts to solicit membership, contributions, or participation in individual Respondent's church; (2) identification of business Respondent's employees who were also church members; (3) identification of relatives of employees residing in housing managed by Respondents, because related to Respondents' stated grounds for discharging Complainants; (4) documentation of job performance of similarly-situated employees; and (5) copies of claims of discrimination, harassment, or retaliation made against Respondents by others. Motion to compel denied as to documents found not reasonably related to issues in case, including (1) budgets and funder audits of subsidized apartment complexes managed by Respondents, and (2) training and informational materials about Respondents' property management system. HO

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Mar. 21, 2013) Hearing officer denied motion to compel production of documents about use of other names by transgender Complainant as untimely filed, not reasonably related to claims and defenses in case about incident in CTA station, and unduly burdensome and oppressive with possible chilling effect on exercise of rights. HO

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Complainant's motion to compel response to document request for addresses of Respondents' affordable housing units granted where property addresses deemed relevant to her steering claim to show whether Respondents directed Complainant to different neighborhoods based on her source of income, a Housing Choice Voucher. Respondent need not compile list of addresses, but must produce documents containing all affordable housing addresses. HO

Timing

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Aug. 20, 1992) Pursuant to Reg. 240.110(d), a request for production of documents must be served at least 42 days before the scheduled date of the Pre-Hearing Conference; so one served at the Conference is barred. HO

Amunday v. Obucina & Assocs., CCHR No. 98-E-75 (Aug. 20, 1998) CHR Regulations do not permit parties to engage in discovery before the case enters the administrative hearing phase. CO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 11, 1999) Denied request for subpoena of documents in the control of Respondent's employees where those documents could have been obtained through timely discovery which Complainant failed to do. HO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 11, 1999) Denied request for additional discovery where deadline had long past. HO

Espana v. Midwest Wire Specialty, CCHR No. 99-E-3 (June 9, 1999) CHR Regulations do not permit parties to engage in discovery before the case enters the administrative hearing phase. CO

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

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (May 13, 1999) Respondent did not show that producing the requested, relevant documents was an unreasonable burden as it did not substantiate its objection with specific facts about the nature and the extent of the burden. HO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (May 13, 1999) Where burdensome nature of request was facially apparent -- it required thousands of documents -- and where some of those documents had to be provided under more limited requests, Respondent's objection to the request was sustained. HO

Flynn v. Chicago Police Dept., CCHR No. 97-E-208 (Nov. 24, 1999) Hearing Officer rejected City's claim that a request was overly burdensome because it asked for five years of certain records where the City did not suggest an alternate time-frame and did not make any demonstration of the burden. HO

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Complainant's request for Respondents' "income criteria" deemed vague and potentially overbroad. Request was granted but limited to documents concerning whether Respondents use a rent-to-income ratio to determine tenant eligibility for its affordable housing units. HO

Vagueness

Flynn v. Chicago Police Dept., CCHR No. 97-E-208 (Nov. 24, 1999) The fact that words, such as "communications" or "benefits" may be "subject to differing interpretations" does not make it too vague, especially when the context of the request is clear. HO

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Complainant's request for Respondents' "income criteria" deemed vague and potentially overbroad. Request was granted but limited to documents concerning whether Respondents use a rent-to-income ratio to determine tenant eligibility for its affordable housing units. HO

During Investigation

Amundary v. Obucina & Assocs., CCHR No. 98-E-75 (Aug. 20, 1998) CHR Regulations do not permit parties to engage in discovery before the case enters the administrative hearing phase. CO

Espana v. Midwest Wire Specialty, CCHR No. 99-E-3 (June 9, 1999) (same) CO

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

Adams v. Chicago Fire Dept. et al., CCHR No. 92-E-72 (Mar. 4, 1994) Because Respondents were told of Complainant's expert witnesses late in the discovery period, they were granted leave to file document requests and interrogatories concerning the qualifications of the experts and their treatment of Complainant. HO

Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Feb. 7, 1997) Physicians named in Complainant's preliminary witness list barred from testifying as experts because Complainant did not follow the requirements of CHR's regulation covering expert witnesses. HO

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Aug. 22, 2013) Expert Witness' testimony allowed regarding flight or fight physiological response to perceived violence due to transgender status where expert witness was qualified as an expert by meeting criteria: (1) Expert had knowledge not common to laypersons; (2) Her qualifications allowed her to be viewed as an expert in the field of her testimony; and (3) her testimony assisted the trier of fact in understanding the evidence. HO

Good Cause

McGavock v. Burchett, CCHR No. 95-H-22 (Oct. 16, 1995) Request for depositions denied where the purported "good cause" was that Respondent might be able to undermine credibility of Complainant and her witnesses; found credibility could be addressed through direct and cross-examination. HO

McGavock v. Burchett, CCHR No. 95-H-22 (Oct. 16, 1995) Good cause is viewed in overall procedural context of the regulations which provide for limited discovery. HO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 11, 1999) Denied request for deposition of two of Respondent's employees as good cause not shown; fact that their testimony at hearing may be a surprise is contemplated by CHR's limited discovery. HO

Flynn v. Chicago Police Dept., CCHR No. 97-E-208 (Sep. 8, 1999) Where Complainant's complaint lists several serious incidents of possibly unlawful conduct by some employees of Respondent who are not identified and cannot be uncovered by usual discovery, Hearing Officer granted Respondent's request that Complainant identify the participants in each such incident. HO

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

Portlock and Adkins v. Woodlawn Community Development Corp. et al., CCHR No. 10-E-73/103 (Dec. 10, 2012) CHR anticipates that the discovery process in cases before it will be streamlined. HO

Nimis v. Salvation Army Adult Rehabilitation Center, CCHR No. 10-H-33 (Mar. 8, 2013) Hearing officer denied Respondent motion to depose and subpoena for purpose of assessing claim and preparing defense, as failing to establish both relevance and inability to obtain the information by other means where complainant's position and witness statements are available in investigation file, information on statements of Respondent's employees can be obtained from the employees, and numerous document requests to Complainant have been allowed despite late filing. HO

IDHR Investigative Materials & Investigator

Nadeau et al. v. Family Physician Center, Ltd. et al., CCHR No. 96-E-159/160/161 (Nov. 3, 1997) Hearing Officer denied Respondents' request to admit IDHR's Investigative Report and IDHR's dismissal order from related cases in that they do not bind CHR, contain double hearsay, are prejudicial and are not probative. HO

Nadeau et al. v. Family Physician Center, Ltd. et al., CCHR No. 96-E-159/160/161 (Nov. 3, 1997) Respondents' request to call IDHR's investigator allowed to impeach Complainants with prior inconsistent statements if Respondents can show that the investigator personally spoke to Complainants. HO

Interrogatories

Fulgern v. Pence, CCHR No. 91-H-65 (Apr. 7, 1992) Leave granted to Respondents to propound interrogatories for good cause shown. HO

DiPasquo v. Blue Cross Blue Shield Assoc., CCHR No. 91-E-40 (Sep. 8, 1992) Motion to require Complainant to answer interrogatories denied where Regulations make it clear that interrogatories are not allowed on a merely routine basis. HO

Sohn/Cohen v. Costello/Horwich, CCHR No. 91-PA-19 (Jan. 8, 1993) Leave granted to propound interrogatories where information sought goes to heart of Respondent's case and may not be obtained through the production of documents. HO

Barr v. Blue Cross-Blue Shield, CCHR No. 91-E-54 (Feb. 18, 1993) Interrogatories allowed because of difficulty of proving hidden discriminatory motives. R

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Mar. 4, 1994) Because Respondents were told of Complainant's expert witnesses late in the discovery period, they were granted leave to file document requests and interrogatories concerning the qualifications of the experts and their treatment of Complainant. HO

Sheppard v. Pabon, CCHR No. 94-H-173 (Oct. 2, 1995) Hearing Officer struck section of Respondent's request for written discovery in that it presented interrogatories and so beyond the scope of permitted discovery. HO

McGavock v. Burchett, CCHR No. 95-H-22 (Oct. 16, 1995) Request for interrogatories denied where the purported "good cause" was that Respondent might be able to undermine credibility of Complainant and her witnesses; found credibility could be addressed through direct and cross-examination. HO

Matias v. Zachariah, CCHR No. 95-H-110 (Jan. 22, 1996) Request to serve interrogatories denied where party did not establish good cause; he neither attached the interrogatories nor explained why the information was not available through document requests. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Nov. 11, 1996) Complainant's motion for interrogatories granted where Respondent did not object and where Respondent had not provided any information during investigative stage. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Nov. 20, 1996) Respondent's motion for interrogatories denied where Respondent did not provide any reason for needing them, filed the motion several weeks after the deadline and, because Complainant provided substantial information during the investigation, respondent would not be

prejudiced by the denial. HO

Snyder v. Museum of Science & Industry, CCHR No. 91-E-72 (Feb. 27, 1997) Request for interrogatories denied where request did not present required good cause; they were largely duplicative of information sought by document requests and available through other, permitted discovery. HO

Davidson v. Teninga-Bergstrom Realty, et al., CCHR No. 95-H-118 (Mar. 20, 1997) Request for interrogatories denied where request did not present required good cause and where complainant would have trouble answering as he is unrepresented. HO

Boyd, Monson & Monson v. Tito's Bar, CCHR No. 97-PA-77/78/80 (Oct. 26, 1998) Where case involved almost no documents, Hearing Officer allowed interrogatories which were either not objected to or which the Hearing Officer found to be very limited, focused on the events at issue and not overly burdensome to Respondent. HO

Fischer v. Teachers Academy for Mathematics & Science, CCHR No. 96-E-164 (Dec. 23, 1998) Fear of surprise at hearing is not "good cause" sufficient to allow interrogatories in Commission's scheme of limited discovery. HO

Flynn v. Chicago Police Dept., CCHR No. 97-E-208 (Sep. 8, 1999) Where Complainant's complaint lists several serious incidents of possibly unlawful conduct by some employees of Respondent who are not identified and cannot be uncovered by usual discovery, Hearing Officer granted Respondent's request that Complainant identify the participants in each such incident. HO

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

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

Motions in Limine

Denied

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (Nov. 8, 1999) Respondent's motion in *limine* denied where it was not clear, among other things, exactly what evidence Complainant intended to introduce about the disputed comparative and for what purpose he might want to introduce it. HO

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's motion to exclude evidence regarding her work performance and disciplinary record properly denied given the hearing officer's authority to admit or exclude testimony or other evidence even if inconsistent with strict rules of evidence applicable in other courts, the disfavor with which Commission views motions in *limine*, and that the documents in question were related to Respondent's defenses which Complainant could challenge during the hearing. R

Granted

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Nov. 17, 1995) Due to attorney-client privilege, Complainant may not testify at Hearing about whether a client sought certain advice, whether an attorney told him a client needed certain advice, or whether a client confidence prompted certain memoranda. HO **See Privileges section, below.**

Standard

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (Nov. 8, 1999) Motions in *limine* are to be granted where the evidence sought to be introduced is clearly inadmissible and would result in prejudice to the party against whom it is introduced. HO

Motions to Compel

Bouressa v. 1st American Bank, CCHR No. 91-FHO-44-5629 (Sep. 14, 1992) Respondent ordered to produce bank loan records reasonably related to the discrimination claim; motion to compel certain safeguards for bank and its customers were ordered. HO

McCall v. Cook County Sheriff et al., CCHR No. 92-E-122 (Apr. 25, 1994) Motion to compel granted where discovery was served, no objections were made, but no documents were produced. HO

Brown v. Englewood Community Health Organization, CCHR No. 92-E-220 (Oct. 20, 1994) In national origin case, Complainant's motion to compel granted as to a list of co-workers' national origin but not as to their immigration status or race. HO

Williams v. T.P. Larkin & Associates Plus, CCHR No. 94-H-157 (Sep. 7, 1995) Where Complainant was unable to present any proof of service or other indication that the Document Request was served, her motion to compel was denied. HO

Hoffman v. Pascal Pour Elle, CCHR No. 94-E-159 (Aug. 19, 1996) Where Respondent sought Complainant's medical and psychological records, Respondent entitled to documents related to Complainant's claim for discrimination based on his actual disability, but not that based on a perceived disability (where they would be no records) and also allowed Respondent to obtain psychological records only if Complainant pursued emotional distress damages. HO

Crenshaw v. Harvey, CCHR No. 95-H-82 (Sep. 5, 1996) Where Respondent failed to comply with discovery requests, Hearing Officer denied motion to default but granted motion to compel, noting that Respondent's attorney had been involved in a murder trial, and warned that any future violation would lead to imposition of attorney's fees and negative inference. HO

Figuroa v. Fell, CCHR No. 97-H-5 (Nov. 16, 1997) Hearing Officer granted Complainant's motion to compel Respondent to respond to document requests where Respondent did not respond or object to the subject requests. HO

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) Where represented Complainant had not filed a motion to compel, Hearing Officer ruled that she must meet a high burden to bar Respondent from introducing evidence which it had not provided during discovery. HO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 6, 1999) Where Respondent had not filed a motion to compel, Hearing Officer denied its motion to bar Complainant from presenting all documentary evidence and all witnesses at the hearing as too punitive; the Hearing Officer noted that Complainant had been *pro se* for most of the process, had responded to discovery once represented, and that there was no surprise or prejudice to Respondent with respect to the witnesses or documents which Complainant intended to present. HO

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-31 (May 6, 1999) Respondent's motion to compel granted where Complainant had neither objected nor responded to Respondent's request for documents even by the date he requested which had passed at the time the order was issued. HO

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-31 (May 6, 1999) Complainant's motion to compel denied where it was filed two months after Respondent had filed its response and where Respondent had made a supplementary response which covered the outstanding requests. HO

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

Portlock and Adkins v. Woodlawn Community Development Corp. et al., CCHR No. 10-E-73/103 (Dec. 10, 2012) Complainants' motion to compel granted in part and denied in part in religious discrimination employment case based on assessments of reasonable relation and of possession and control. HO

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Mar. 21, 2013) Hearing officer denied motion to compel production of documents about use of other names by transgender Complainant as untimely filed, not reasonably related to claims and defenses in case about incident in CTA station, and unduly burdensome and oppressive with possible chilling effect on exercise of rights. HO

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Motion to Compel Respondent's disclosure of property addresses granted on review where prior CHR Order granting request to add steering claim constituted a change of circumstances such that request now reasonably related to claim, specifically that addresses of Respondents' affordable housing units would help show whether Respondents directed Complainant to a different community or neighborhood based on her source of income, per the definition of "steering practices." HO

Prejudicial Evidence – See Evidence/Prejudicial Evidence section, below.

Privileges – No new decisions in this volume.

Protective Orders – See also separate Protective Orders section, below.

Santiago v. Soto, CCHR No. 91-H-54 (Jan. 27, 1992) Protective order granted to limit use and disclosure of confidential medical information. HO

May v. Andriukaitis, CCHR No. 91-FHO-140-5725 (May 27, 1992) Respondents' net worth information placed under seal due to potential prejudice in Respondents' divorce case against each other. HO

Bouressa v. 1st American Bank, CCHR No. 91-FHO-44-5629 (Sep. 14, 1992) Denies protective order over bank records and instead orders notice sent to bank customers of the subpoena of their loan records with time for them to object and assurance that the Complainant will not release the records to the Bank's competitors and will not harass the bank customers. HO

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Jan. 28, 2013) Parties' joint motion for protective order granted solely for documents exchanged pursuant to discovery requests. Pursuant to Reg. 240.407, Responses to Requests for Documents must be served on all other parties, but need not be served on the hearing officer or filed with CHR; however, the responding party must serve a copy of the certificate of service to all. The granting of this motion does not automatically prevent documents introduced at the hearing from becoming part of the public record, unless a request to seal the record, filed pursuant to Reg. 240.520, is granted. 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

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (Jan. 15, 1992) Sanctions issued against Respondent for failure to respond to Complainant's document request even after Hearing Officer's order to do so; Respondent was ordered to pay Complainant's attorney's fees associated with motions to compel production. HO

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) CHR drew a negative inference from Respondent's failure to produce ordered discovery and assumed that the evidence sought would have helped the Complainant's case. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Respondent ordered to pay the Complainant's attorney's fees attributable to work which would not have been needed had the Respondent complied

with discovery. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (July 22, 1992) When Respondent failed to turn over witness list as ordered, Hearing Officer ordered exclusion of all Respondent's witnesses except for Respondent himself as had been warned; motion for default based on lack of witness list denied as too harsh. HO

Diaz v. Prairie Builders, CCHR No. 91-E-204 (July 30, 1992) Where Respondent did not provide response to document request in a timely manner and hearing is scheduled only a few days away, Respondent ordered to allow Complainant immediate access to documents. HO

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) Respondents' failure to participate in discovery procedures in good faith resulted in substantial additional time spent by Complainant so Respondents ordered to pay Complainant \$5000 for their lack of compliance. R

Owagboriaye v. First National Bank of Chicago, CCHR No. 94-E-6 (Oct. 30, 1995) Grants Respondent's motion to dismiss complaint for want of prosecution where Complainant's attorney stated that Complainant did not object because he has another case in federal court. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (July 5, 1996) Where Respondent did not respond to discovery and did not object to Complainant's motion for sanctions, Hearing Officer ordered Respondent to submit a complete response by a date certain and stated that, if it did not, Respondent would have to pay Complainant his attorney's fees and Complainant would be entitled to a negative inference that the missing documents help Complainant's case. HO

Hoffman v. Pascal Pour Elle, CCHR No. 94-E-159 (Aug. 20, 1996) Where Complainant failed to provide documents during discovery, Hearing Officer would take a negative inference and bar Complainant from introducing those documents into evidence. HO

Crenshaw v. Harvey, CCHR No. 95-H-82 (Sep. 5, 1996) Where Respondent failed to comply with discovery requests, Hearing Officer denied motion to default but granted motion to compel, noting that Respondent's attorney had been tied up in a murder trial, and warned that any future violation would lead to imposition of attorney's fees and negative inference. HO

Crenshaw v. Harvey, CCHR No. 95-H-82 (Nov. 20, 1996) Complainant's request for negative inference denied where Complainant did not inform Hearing Officer of any non-compliance with out-standing discovery. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Nov. 27, 1996) Where prior order of hearing officer required respondent to answer certain discovery requests and Respondent did not do so, Respondent ordered to respond by date certain or face a negative inference. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Dec. 11, 1996) Respondent's request for discovery denied as untimely where he gave no reason to lateness and where Complainant had provided much information during pre-hearing and investigative stages of case. HO

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Feb. 24, 1999) CHR upheld Hearing Officer's sanction that Complainant could not testify at hearing, finding he was "contumacious" due to his repeated refusal to comply with orders despite several opportunities to correct behavior; Complainant lost case as he was unable to prove *prima facie* case. R

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) Hearing Officer denied Complainant's motion to bar Respondent from introducing evidence about employees similar to Complainant because represented Complainant had not filed a motion to compel and because she found such a sanction too severe for Respondent's incomplete discovery response; order noted that Complainant could make a motion at hearing if withholding certain documents proved to be extremely prejudicial. HO

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) CHR's regulations contemplate increasingly punitive responses for failing to comply with discovery; so the Hearing Officer refused to enter severe sanctions -- barring the introduction of all documents and all witnesses -- when the moving party had not previously sought lesser sanctions. HO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 6, 1999) (same) HO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 6, 1999) Where Respondent had not filed a motion to compel, Hearing Officer denied its motion to bar Complainant from presenting all documentary evidence and all witnesses at the hearing as too punitive; the Hearing Officer noted that Complainant had been *pro se* for most of the process, had responded to discovery once represented, and that there was no surprise or prejudice to Respondent with respect to the witnesses or documents which Complainant intended to present. HO

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. 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

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.**

McGraw 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

Nimis v. Salvation Army Adult Rehabilitation Center, CCHR No. 10-H-33 (Mar. 8, 2013) Complainant motion to strike document request as not served by proper deadline denied but motion for more time to respond granted. HO

Subpoenas – See separate Subpoena section, below.

Witness Lists

Nadeau et al. v. Family Physician Center, Ltd. et al., CCHR No. 96-E-159/160/161 (Nov. 3, 1997) Hearing Officer denied Complainants' request to bar testimony of 16 witnesses Respondents listed in their pre-hearing memo but had not listed in their preliminary witness list because Complainants were not prejudiced in that most of the additional witnesses had been listed in an IDHR report which Complainants had or where any prejudice could otherwise be cured. HO

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Mar. 27, 2013) Motion to bar expert witness denied where intent to call revealed in pre-hearing memorandum filed three weeks before hearing date after

prior discovery responses indicated no expert would be called, but two-week continuance granted to allow Respondents to meet the potential testimony. Respondents ordered to give notice within 14 days if planning to call own expert. HO

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Objection to Respondent's inclusion of Complainant's attorney on witness list denied where attorney deemed "necessary witness" based on his participation in a telephone call that formed basis of the claim but Motion to Disqualify Complainant's attorney also denied where disqualification would create substantial hardship. HO

DISPARATE IMPACT

Burden of Proof

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) Complainant has the burden of proof to establish that the challenged policy actually or predictably results in discrimination. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Complainant has burden of proof to show that a facially neutral policy has a disparate impact on protected class; burden of proof, not production, then shifts to Respondent to show that the policy was justified by a business necessity; then Complainant must show that Respondent had a less restrictive alternative available. R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) Complainant must show that a neutrally phrased policy has a disparate negative impact on, in this case, black men. R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) If complainant carries his burden, respondent must show a business justification for its policy and the lack of different, non-discriminatory practices to achieve the same end. R

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

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) CHR requires respondent to carry the burden of proof that the challenged policy was justified by a business necessity. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Respondent's defense that changing its policy could cost it some money was not itself sufficient to carry its business necessity defense. R

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

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Even if Respondent had carried its business necessity burden, Complainant showed, including by expert witness testimony, that Respondent had less restrictive alternatives to save energy and water use. R

Pregnancy

Torribio v. Budget Rent-A-Car, CCHR No. 93-E-176 (Nov. 21, 1994) A disparate impact analysis is available in pregnancy discrimination cases. CO

Proof

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Complainant carried its burden, including by using expert witness testimony, that Respondent's occupancy policy had a disparate impact on families with children. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Respondent failed to carry its burden that its occupancy policy of allowing only two persons per two-bedroom policy was justified by a business necessity. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Even if Respondent had carried its business necessity burden, Complainant showed, including by expert witness testimony, that Respondent had less restrictive alternatives to save energy and water use. R

Torribio v. Budget Rent-A-Car, CCHR No. 93-E-176 (Nov. 21, 1994) No substantial evidence found in a disparate impact case based on pregnancy, based either on Respondent's employees or on the broader work force,

that pregnant women have more unpredictable, medically necessary absences than other employees. CO

Green v. Alzheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) A random pattern in which employees in a protected group fare no differently than those outside it is not evidence of discrimination. 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 do mandatory drug tests. R

Boyd v. Parkview Management Corp., CCHR No. 10-H-48 (June 7, 2013) No disparate impact on Social Security recipients, based on source of income, in use of income-to-rent ratio as rental qualification where many could meet the standard to rent apartment costing \$495 per month. CO

DISPARATE TREATMENT

Burden of Proof

Employment

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Complainant must prove her case by a preponderance of the evidence. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Complainant must establish failure to accommodate by preponderance of the evidence, then respondent must prove that the accommodation would cause an undue hardship. R

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Complainant must demonstrate, by preponderance of the evidence, that he was treated unfairly due to his source of income (in this case) and that the actions were intentional and purposeful. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Complainant has burden to establish violation either by direct evidence or through shifting burden analysis. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) For sex discrimination claim, Complainant must prove that Respondent treated some people less favorably because they are male, not that all men were treated less favorably. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Fact that employer may have terminated both men and women in arbitrary manner does not preclude a *prima facie* case where Complainant can show he was treated worse than a similarly-situated woman. R

Mahaffey v. University of Chicago Hospitals et al., CCHR No. 93-E-221 (July 22, 1998) Complainant has the burden to show, by a preponderance of the evidence, that the employer treats some people less favorably than others because they belong to a protected class and that the actions were intentional and purposeful. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) For issue involving forced medical examination, complainant has burden to show that he is disabled or is perceived to be, that he is able to perform the job's essential functions and that he was forced to submit to a medical examination; respondent then has burden to show that the medical examination was directly related to the employee's ability to perform the job; pretext is not an issue and McDonnell-Douglas test is not used. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) With respect to discharge claim, Complainant had to prove that he was perceived to be disabled, was able to perform the job's essential functions, and that Respondent terminated him because it perceived him to be disabled; direct statements by Respondent showed perceived disability motivated discharge. R

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

Little v. Tommy Gun's Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) Complainant has burden of proving her race and sex claims by a preponderance of the evidence, using direct or indirect evidence. 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

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Complainant must prove that race was a factor, but not the sole factor, in Respondent's rejecting her as a potential tenant. R

Sheppard v. Pabon, CCHR No. 94-H-173 (Oct. 12, 1995) Complainant must prove a violation of CFHO by preponderance of evidence by showing that she was in a protected class and that respondent refused to show or rent her an apartment or treated her differently from persons of a different race. HO

McGee v. Sims, CCHR No. 94-H-131 (Oct. 18, 1995) Complainant must carry her burden of proof that the person who denied her housing was the person she named as respondent. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Complainant has burden to prove that respondent was motivated to increase her rent due to her parental status -- the addition of two foster children as tenants. R

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) Complainant must not merely show that a respondent's reason is pretextual; he or she must also show that the pretextual reason hides a discriminatory motive.

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Sets forth what a complainant must show to prove a hostile housing environment and states that complainant must prove that by a preponderance of the evidence. R

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

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Complainant has burden of proof to prove, by a preponderance of the evidence, that the respondent discriminated, here, on the basis of race. R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) In a direct evidence case, Complainant must show that the evidence is credible and actionable. 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 Accommodation

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) Burden is on the complainant, at the *prima facie* case stage, to show, by preponderance of the evidence, only that sufficient facts exist to imply discrimination in absence of a credible, non-discriminatory explanation for Respondent's actions. R

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Feb. 21, 1996) Complainant must show that she was denied full use of a public accommodation, then Respondent must show that the accommodation would create an undue hardship. R

Perez v. Kmart Auto Service, et al., CCHR No. 95-PA-19/28 (Nov. 20, 1996) Complainant has burden to establish violation either by direct evidence or through shifting burden analysis. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) Complainant has burden to prove that he was refused entry to restaurant due to race of his companions and that that was intentional. R

Brown v. Emil Denmark Cadillac, CCHR No. 96-PA-76 (Nov. 18, 1998) In public accommodation case, complainant has overall burden to establish, by a preponderance of evidence, that there are sufficient facts to imply discrimination. R

Brown v. Emil Denmark Cadillac, CCHR No. 96-PA-76 (Nov. 18, 1998) Once complainant shows *prima facie* case, burden then shifts to respondent to articulate nondiscriminatory reason; complainant must then prove that respondent's reason is a pretext for discrimination. R

Bell/Parks/Barnes v. 7-Eleven Convenience Store, et al., CCHR No. 97-PA-68/70/72 (July 28, 1999) In general, complainants must prove "by a preponderance of the evidence that sufficient facts exist to imply discrimination in the absence of a credible, non-discriminatory explanation for the Respondent's actions". R

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (Oct. 20, 1999) Sets forth burdens of proof in public accommodation case, including reiterating that the respondent need only articulate a legitimate, non-discriminatory defense and that the complainant has the ultimate burden of proof. 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

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-E-10 (Feb. 19, 2014) Where Respondents filed a motion to strike portions of Complainant's post-hearing brief, the hearing officer did not rule on it because the Commission's regulations do not contemplate responses to post-hearing briefs, nor had the hearing officer allowed it. R

Respondent's Defense— See also separate Pretext section, below.

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Respondent need not persuade fact-finder that it was motivated by proffered reasons so long as its evidence raises a genuine issue of fact in order to shift burden back to Complainant. 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

Burden Shifting

Employment

Mark v. Truman College, CCHR No. 91-E-7 (Aug. 26, 1992) Sets forth shifting burden test in national origin-employment case. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) Sets forth test for a sex discrimination claim and a retaliation claim; also includes discussion of burdens for *quid pro quo* sexual harassment claim. R

Brown v. Chicago Midway Airport Inn, CCHR No. 90-E-137 (Nov. 18, 1992) Sets forth elements in race case involving discharge and terms & conditions of employment. R

Barr v. Blue Cross-Blue Shield, CCHR No. 91-E-54 (Feb. 18, 1993) Sets forth *prima facie* standard in a sexual orientation-termination of employment case. R

Audette v. Simko Provisions, CCHR No. 92-E-39 (June 16, 1993) Sets forth burden shifting test in an age/lay-off case. R

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Elements for indirect and direct evidence cases set forth in sexual orientation/discharge matter. R

Dawson v. YWCA, CCHR No. 93-E-128 (Jan. 19, 1994) Differentiates burden shifting in disability cases where complainant claims a failure to accommodate in that once the complainant establishes a *prima facie* case, the burden of persuasion shifts to employer to show that making the accommodation would cause an undue hardship. CO

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) (same) R

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) In case claiming retaliation in employment, complainant must show that she had engaged in expression or activity protected by the CHRO, that respondent took an adverse action against her, and that there may have been a link between the two; then the burden shifts to the respondent. R

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Sets forth burdens in sex discrimination case for both direct evidence and burden shifting claims. R

Deegan v. Falasz, CCHR No. 93-E-204 (Feb. 22, 1995) Sets forth *prima facie* case and burdens of proof in age discrimination case. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Sets forth shifting burdens, including *prima facie* case, in employment case concerning accommodation of employee with a mental disability. R

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Sets forth shifting burdens in source of income and retaliation employment case. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. CCHR No. 92-E-80 (Feb. 21, 1996) Where case involves direct evidence, CHR does not apply the *McDonnell-Douglas* test and Complainant need not prove each element of that *prima facie* test. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Sets forth standards for race & national origin/employment case. R

Scadron/Zuberbier v. Martini's of Chicago & Jones, CCHR No. 94-E-195/196 (Feb. 19, 1997) Sets forth standards for both hostile environment and *quid pro quo* sexual harassment in employment. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Sets forth burden shifting standards in case involving discharge due to disability; distinguishes standards from cases concerning ability to perform essential functions of job. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Sets forth burdens for sex discrimination and sexual harassment in employment, including with direct evidence. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Ruling sets forth long discussion of different standards for proof of disparate treatment claim -- adverse action due to disability -- versus those for failure-to-accommodate claim in employment/disability case. R

Mahaffey v. University of Chicago Hospitals et al., CCHR No. 93-E-221 (July 22, 1998) Sets forth burden shifting, following McDonnell Douglas, and describes *prima facie* case elements for both age and race discrimination. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) For issue involving forced medical examination, complainant must show that he is disabled or is perceived to be, that he is able to perform the job's essential functions and that he was forced to submit to a medical examination; respondent then has burden to show that the medical examination was directly related to employee's ability to perform the job; McDonnell-Douglas test not used. R

Walton v. Chicago Dept. of Streets & Sanitation, CCHR No. 95-E-271 (May 17, 2000) Sets forth shifting burdens in employment/race discrimination discharge case, including elements of complainant's *prima facie* case. R

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) Sets forth shifting burdens in race

discrimination/failure-to-hire case, including elements of complainant's *prima facie* case. R

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

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) Sets forth shifting burdens in race discrimination/failure-to-promote case, including elements of complainant's *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

Thomas v. Chicago Dept. of Public Health, et al., CCHR No. 97-E-221 (July 18, 2001) Sets forth shifting burdens in race discrimination/failure-to-promote case, including elements of complainant's *prima facie* case. R

Little v. Tommy Gun's Garage, Inc., CCHR No. 99-E-11 (Jan. 23, 2002) Sets forth shifting burdens in race and sex harassment and discharge case. R

Hutt v. Horizons Community Svcs., CCHR No. 01-E-121 (Apr. 10, 2002) Sets forth *prima facie* case in race/ harassment case. CO

Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (July 16, 2003) States and applies shifting burdens in a sexual orientation discharge and hostile environment case. R

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

Ingram v. Got Pizza, CCHR No. 05-E-94 (Oct. 18, 2006) Discusses elements of *prima facie* case in race and age discrimination discharge case. 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

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) Sets forth burden switching test and *prima facie* case for failure to rent/national origin case. R

Ojukwu v. Baum Management, CCHR No. 91-FHO-74-5659 (Nov. 18, 1992) (same) R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) Outlines burden switching test and elements for a *prima facie* case in a race discrimination refusal-to-rent case. R

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) Discusses burden shifting test in parental status/failure to rent case. R

Eltogbi v. Martinez, CCHR No. 91-FHO-15-5600 (Feb. 26, 1992) Outlines elements of *prima facie* case for disparate treatment in terms and conditions case. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) Outlines two variations of elements of *prima facie* case for discriminatory denial of opportunity to purchase property. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Differentiates burden-switching test and *prima facie* case in a disability housing case from non-disability cases. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Outlines burden switching case and *prima facie* case elements in a racial harassment case. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Discusses shifting burden test in failure-to-rent case involving sex, race and marital status, including rebuttal of defenses. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) Sets forth burden-shifting and *prima facie* case in a harassment case based on race and religion. R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Sep. 16, 1992) Discusses burden shifting and *prima facie* case in a failure to rent/race case. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Sets forth standards

in failure to rent/parental status case. R

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Jan. 27, 1993) Sets forth burden shifting and *prima facie* case in failure to rent/race case. R

Johnson v. City Realty & Devel., CCHR No. 91-FHO-165-5750 (Mar. 17, 1993) (same) R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Sets forth burden shifting and *prima facie* case in failure to rent/race case. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Discusses burden shifting and *prima facie* case in a failure to rent/national origin case. R

Harris v. Craddieth, CCHR No. 92-H-179 (Apr. 20, 1994) Sets forth burden shifting for both hostile environment and *quid pro quo* sexual harassment in housing case. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Sets forth burden shifting test in failure to rent/race case. R

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Sets forth burden shifting for both hostile environment and *quid pro quo* sexual harassment in housing case. R

Benitez v. Marquez, CCHR No. 93-H-73 (Nov. 16, 1994) Sets forth burden shifting standard in lease termination/religion case. R

Reid v. F.J. Williams Realty et al., CCHR No. 93-H-42 (Feb. 22, 1995) Sets forth burden shifting standards for *quid pro quo* sexual harassment case in housing context. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Sets forth burden shifting for *quid pro quo* and hostile environment sexual harassment in housing case. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995)0 Sets forth burden shifting in case landlord's refusal to allow tenant to sublet to black person due to race. R

Sheppard v. Pabon, CCHR No. 94-H-173 (Oct. 12, 1995) Sets forth *prima facie* case in failure to rent/race case. HO

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) (same) R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Sets forth burden shifting for hostile environment housing case. R

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Sets forth burden shifting in failure to rent/parental status case. R

Sokoya v. 4343 Clarendon Condominium Assoc., CCHR No. 94-H-180 (Oct. 16, 1996) Sets forth burden shifting in failure to rent/national origin case. R

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Oct. 16, 1996) Sets forth burden shifting for hostile environment housing case. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Sets forth burden shifting test for failure to rent/race case. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Sets forth burden shifting in additional rent/parental status case. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Sets forth burden shifting standards in race/eviction case. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Sets forth burden shifting standards in differential treatment/indirect race discrimination case. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Sets forth what a complainant must show to prove a hostile housing environment, including that the harassment must be severe or pervasive and not isolated or trivial. R

Leadership Council for Metro. Open Comms. v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Sets forth *prima facie* case and burden shifting requirements for disparate treatment-race case. R

Public Accommodation

Jenkins v. Artists' Restaurant, CCHR No. 90-PA-14 (Aug. 14, 1991) Discusses burden shifting test, including intent, in case where Complainant was asked to leave restaurant due to race. R

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Mar. 17, 1993) Burden shifting test set forth in race, sex, and national origin case, including the requirement that Complainant show that she met the non-discriminatory prerequisites for use of the public accommodation. R

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) Sets forth burden shifting test and *prima facie* case requirements in case claiming Respondents discriminated against the Complainants' patients due to their race and source of income. R

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) CHR found that the Respondents carried their burden in establishing that they had a legitimate, nondiscriminatory reason for not renewing the lease of Complainants/dentists, primarily that other tenants had complained for years of problems such as bloody gauze being left in hallways and holes burned in carpet. R

Pryor/Boney v. Echevarria, CCHR No. 92-PA-62/63 (Oct. 19, 1994) Set forth burden shifting test in race/public accommodation case. R

Doering v. Zum Deutschen Eck, CCHR No. 94-PA-35 (Sep. 14, 1995) Sets forth burden shifting test used to determine whether or not there is substantial evidence of discrimination in a disability-public accommodation case. CO

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Feb. 21, 1996) Sets forth burden shifting test used in a disability-public accommodation case. R

Perez v. Kmart Auto Service, et al., CCHR No. 95-PA-19/28 (Nov. 20, 1996) Sets forth burden in national origin-public accommodation case. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Complainant carried his *prima facie* case by showing that he has a disability and that Respondent denied him access to its tournament. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Fact that Complainant, a person who uses a wheelchair, refused Respondent's offer to carry him into an inaccessible tournament does not defeat Complainant's *prima facie* case as Respondent did not provide him with "full use" of the tournament as his access was under different terms than applied to others -- a restricted view and missing a substantial part of the tournament. R

Brown v. Emil Denmark Cadillac, CCHR No. 96-PA-76 (Nov. 18, 1998) Sets forth complainant's required *prima facie* factors in public accommodation/race and sex case. R

Carter v. CV Snack Shop, CCHR No. 98-PA-3 (Nov. 18, 1998) Same, concerning race claim. R

Bell/Parks/Barnes v. 7-Eleven Convenience Store, CCHR No. 97-PA-68/70/72 (July 28, 1999) (same) R

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (Oct. 20, 1999) Same; also notes direct evidence standards. R

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Sets forth standards for both direct evidence and indirect methods of proving race discrimination in public accommodation. R

Blakemore v. General Parking, CCHR No. 99-PA-120 (Feb. 21, 2001) Sets forth *prima facie* case in race discrimination in public accommodation case. R

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

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Respondent need not persuade fact-finder that it was motivated by proffered reasons so long as its evidence raises a genuine issue of fact in order to shift burden back to Complainant. R

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.**

Shipp v. Wagner et al., CCHR No. 12-H-19 (July 16, 2014) Source of income discrimination proved through direct evidence where Complainant presented credible evidence that property owner advertised vacancy online noting "Not Section 8 Approved" and "No Section 8" and told applicant he was not approved to rent to voucher holders. Property owner's explanation that he thought he would have to have inspections and "spend more money," without more, was not a defense. R

Direct Evidence

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Oct. 30, 1992) Where there is direct evidence of discrimination, the shifting burden of proof analysis is not used. CO

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Elements for indirect and direct evidence cases set forth in sexual orientation/discharge from employment matter. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) In direct evidence case involving failure to rent due to parental status of Complainant, issues are whether the direct evidence is credible and whether it resulted in an actionable claim. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) In cases where the discrimination is proved by direct evidence, respondent can limit its damages only if it can prove that, absent the discrimination, it would have made the same decision. R

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Complainant's evidence of comments allegedly showing that sex discrimination caused her not to be promoted found not sufficient to prove case by direct evidence. R

Deegan v. Falasz, CCHR No. 93-E-204 (Feb. 22, 1995) Complainant's evidence of comments allegedly made showing that Respondent fired her due to her age found not sufficient to overcome Respondent's defense that Complainant's lack of computer skills caused her discharge. R

Pryor v. Carbonara, CCHR No. 93-H-29 (May 17, 1995) Where Complainant claims direct evidence of discrimination, CHR must determine whether the direct evidence is credible, and if so, whether it results in an actionable claim. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) (same) R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) (same) R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Where case involves direct evidence, CHR does not apply the *McDonnell-Douglas* test and Complainant need not prove each element of that *prima facie* test. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) (same) R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Where there is direct evidence of discrimination, CHR looks to totality of circumstances to determine whether discrimination played a role in the disputed conduct. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Where Complainant presents direct evidence, there is no need to use the *McDonnell-Douglas* shifting burden test. R

Perez v. Kmart Auto Service, et al., CCHR No. 95-PA-19/28 (Nov. 20, 1996) In public accommodation case, complainant must show s/he is in protected class and respondent intended to discriminate, including by showing direct discriminatory statements. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Where Complainant presents direct evidence, there is no need to use the *McDonnell-Douglas* shifting burden test. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Complainant proved by direct evidence --

statements to neutral apartment broker and testers -- that Respondent refused to rent to him once she learned that he is Black. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Where Complainant presents direct evidence, there is no need to use the *McDonnell-Douglas* shifting burden test. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) (same) R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Statements made by a manager of the respondent which are direct and credible evidence that the adverse employment decision, here discharge, was done due to the complainant's sexual orientation are imputed to the respondent. R

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

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Sets forth standards for both direct evidence and indirect methods of proving race discrimination in public accommodation. R

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. R

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. R

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. R

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. R

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. R

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. R

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

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

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

Rogers/Slomba v. Diaz, 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. R

Rogers/Slomba v. Diaz, 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. R

Hutchison v. Iftekaruddin, 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." 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." Discriminatory discharge was thus proved by both direct and circumstantial evidence of discriminatory animus. R

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

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. R

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) After order of default entered against Respondent, 53 year-old African-American applicant established a direct evidence *prima facie* case that restaurant/bar owner refused to hire her based on her race and age when owner asked her race and age and replied to her responses, “No, no, no,” you are “too old,” and you are “not the right type for the job.” R

Shipp v. Wagner et al., CCHR No. 12-H-19 (July 16, 2014) Source of income discrimination proved through direct evidence where Complainant presented credible evidence that property owner advertised vacancy online noting “Not Section 8 Approved” and “No Section 8” and told applicant he was not approved to rent to voucher holders. Property owner’s explanation that he thought he would have to have inspections and “spend more money,” without more, was not a defense. R

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. 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

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) (same) R

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

Roche-Kelly v. Juvenile Diabetes Research Foundation, CCHR No. 10-E-74 (Feb. 21, 2013) That a decision maker is female and a parent does not itself prove she could not discriminate based on sex or parental status, but it is comparative evidence CHR can properly consider. Also, in finding no substantial evidence of pretext, no error to consider the one-year passage of time between Respondent's knowledge of Complainant's pregnancy and parental status and the decisions leading to her discharge, as the timing of events is a relevant factor. CO

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

Eltogbi v. Martinez, CCHR No. 91-FHO-15-5600 (Feb. 26, 1992) Direct or overt statements of bias can be used to make *prima facie* case as can comparative data. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) Found it to be sufficient in proving a *prima facie* case that Complainant showed that Respondent knew he was not from the United States, even if the Respondent did not know he was specifically from Nigeria. R

Brown v. Chicago Department of Aviation, CCHR No. 90-E-82 (June 17, 1992) Complainant need not show a direct correlation between a manager who made allegedly discriminatory statements and the manager who made the decision at issue. R

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Mar. 17, 1993) Respondent's statement that it wanted a Mexican handicraft store near the front of the flea market did not show discriminatory intent in that there was no indication that the Respondent preferred that the owners of the booth be Hispanic. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) In direct evidence case involving parental status/failure to rent, issues are whether the direct evidence is credible and whether it resulted in an actionable claim. R

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

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 17, 1993) Where Complainant presented a *prima facie* case and Respondent presented evidence of a non-discriminatory reason for its conduct at the Hearing, CHR will not revisit sufficiency of Complainant's *prima facie* case on a Request for Review. R

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

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Pursuant to CHR regulation, in case involving forced medical examination, complainant must show that he is disabled or is perceived to be, that he is able to perform the job's essential functions and that he was forced to submit to a medical examination; respondent then has burden to show that the medical examination was directly related to the

employee's ability to perform the job; pretext is not an issue and McDonnell-Douglas test is not used. 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

DISQUALIFICATION

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

Burden of Proof

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Sep. 10, 1991) Burden of proof is on moving party to show bias, prejudice or partiality of Hearing Officer. HO

Gould v. Eliopoulos, CCHR No. 91-FHO-31-5616 (Oct. 23, 1991) (same) HO

Feliciano v. Brad, CCHR No. 91-FHO-77 (Jan. 09, 1992) (same) HO

Rushing v. Jasinowski, CCHR No. 92-H-127 (June 4, 1993) (same) HO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Dec. 20, 1994) (same) HO

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Jan. 18, 1995) Burden is on moving party to show sufficient appearance of bias, partiality or prejudice to warrant disqualification of Hearing Officer. R

Wehbe v. Contacts & Specs/Schpak, CCHR No. 93-E-232 (Nov. 1, 1995) (same) HO

Green v. Altheimer & Gray, CCHR No. 94-E-57 (May 2, 1996) (same) HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Jan. 29, 1997) (same) R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Oct. 13, 1998) Burden is on the party seeking disqualification. HO

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) Same; held by Board of Commissioners reviewing order of October 13, 1998, above. R

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-31 (May 6, 1999) Burden is on the party seeking disqualification. HO

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) (same) R

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 26, 2000) Burden is on the party seeking disqualification. HO

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

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Mar. 15, 2000) Burden is on the party seeking disqualification. R

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

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (3-29-95) Where Chair of Board of Commissioners had formerly served as a board member of Chicago Area Council of Boy Scouts of America and another scouting group, Chair stated he would continue to recuse himself from all deliberations and decisions about this case to avoid the appearance of conflict. CO

Due Process

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) Denies Complainant's unsupported assertion that not having the hearing officer recused for alleged appearance of bias would violate due process; quotes Seventh Circuit decision stating that the principle of due process "has never rested . . . on something as subjective and transitory as appearance [of partiality]". R

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

Rushing v. Jasinowski, CCHR No. 92-H-127 (June 4, 1993) Where hearing officer is currently co-counsel with an attorney from the same organization as Complainant's counsel, without finding disqualification required, hearing officer disqualified himself in order to avoid questioning of impartiality. HO

Green v. Altheimer & Gray, CCHR No. 94-E-57 (May 2, 1996) Hearing Officer recused herself on her own motion where case had been expedited and delays due to request for review of disqualification decisions would otherwise slow the case. HO

Chow v. Lemen Sun Grocery et al., CCHR No. 97-E-241 (Dec. 10, 1998) Hearing Officer recused himself because he is an attorney on a federal case in which the attorney for Complainant is opposing counsel, finding that circumstance might cause the appearance of partiality. HO

Flynn v. Chicago Police Dept., CCHR No. 97-E-208 (Aug. 27, 1999) Hearing Officer voluntarily stepped down because, in his private practice, he was representing a client suing the Police Department, the respondent in the instant case. HO

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 wheel chair 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

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Sep. 10, 1991) Mere prior association with Complainant's attorney's law firm over 10 years ago insufficient to require disqualification of Hearing Officer. HO

Gould v. Eliopoulos, CCHR No. 91-FHO-31-5616 (Oct. 23, 1991) No personal bias necessarily arises out of the fact that the Hearing Officer and Respondent's attorney represented opposing parties in a previous case. HO

Gould v. Eliopoulos, CCHR No. 91-FHO-31-5616 (Oct. 23, 1991) Holds that a party may not "judge shop" by substituting counsel with a potential conflict with the Hearing Officer six weeks after the Hearing Officer was assigned to the case. HO

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Sep. 10, 1991) Prior employment by Legal Assistance Foundation -- a government-funded organization representing indigent people -- is not itself evidence of bias. HO

Feliciano v. Brad, CCHR No. 91-FHO-77 (Jan. 9, 1992) Fact that Administrative Hearing Officer and Respondent's counsel both serve as independent hearing officers for the Chicago Police Department is not sufficient to show bias. HO

Barr v. Blue Cross/Blue Shield, CCHR No. 91-E-54 (June 5, 1992) Disqualification not required where: no personal bias; Hearing Officer and Respondent/movant's attorney had been partners at the same law firm over 6 years before and neither had worked on this matter during that time; where both the Hearing Officer and the Respondent's attorney owed money by their prior firm. HO

Barr v. Blue Cross/Blue Shield, CCHR No. 91-E-54 (June 5, 1992) Fact that the Hearing Officer's husband currently still works at the law firm where both the Hearing Officer and Respondent's attorney used to work but does not himself represent Respondent [although the firm itself does in other matters] is too remote to rise to the level of a "substantial interest" in the matter. HO

Brainin v. 1120 N. Lake Shore Drive, CCHR No. 92-H-1 (Dec. 14, 1992) No personal bias requiring disqualification where a partner in Hearing Officer's firm provided advice to Complainant's attorney regarding the instant case, but where the Hearing Officer himself had no involvement, did not and will not discuss the case with the involved partner and had no knowledge that the partner was consulted. HO

Rushing v. Jasinowski, CCHR No. 92-H-127 (June 4, 1993) Hearing officer found that he did not have to disqualify himself because he is a member of a legal organization which supports civil rights. HO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Dec. 20, 1994) Hearing Officer found it not necessary to disqualify himself where, in another forum, he had represented a client suing a party for whom one of

Respondent's attorneys had given behind the scenes advice, especially when the Hearing Officer had not been aware of the Respondent's attorney's involvement and where the Hearing Officer ceased representing his client and separated himself from the case. R

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Jan. 18, 1995) Where, in another forum, Hearing Officer represented a party suing a company which was, originally unbeknownst to the Hearing Officer, represented by one of the attorneys who is counsel for Respondent at CHR, Hearing Officer not disqualified where he removed himself from the non-CHR case and where prior arguments between himself and other counsel for company were not unusually heated. R

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Jan. 18, 1995) Where Hearing Officer and other members of Respondents' counsel's firm had argued about discovery in a separate matter, Hearing Officer not disqualified even though he would have discovery disputes to resolve in the CHR case. R

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Jan. 18, 1995) CHR considered fact that it was the action of Respondents in notifying the Hearing Officer of an otherwise unknown, possible conflict which created the alleged basis for the motion to disqualify to be disfavored "bootstrapping". R

Wehbe v. Contacts & Specs/Schpak, CCHR No. 93-E-232 (Nov. 1, 1995) Fact that the hearing officer is Jewish and the case involves alleged comments related to the background of Jewish and Arab persons is not itself sufficient to show that the hearing officer's "impartiality might reasonably be questioned". HO

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Apr. 22, 1996) Where the Hearing Officer's husband's firm handled a case involving Respondent, Hearing Officer denied request to disqualify her because: a) her husband had no direct involvement in the case; b) Hearing Officer herself had no knowledge of it; and c) Hearing Officer did not believe that the existence of the case or resolution of any issue in it would bias her. HO

Green v. Altheimer & Gray, CCHR No. 94-E-57 (May 2, 1996) Fact that Hearing Officer had replaced an attorney from Respondent's law firm as counsel for a class in federal court and took the position that the settlement that prior attorney proposed was insufficient found not to be cause for her to have to be disqualified. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Dec. 11, 1996) Respondent's motion to disqualify hearing officer denied as untimely [see entry below] and where her relationship with Complainant's counsel was over three years before and was not then an active co-counsel relationship. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Dec. 11, 1996) Respondent's motion to disqualify hearing officer denied as without merit [see entry above] and as untimely; was filed two months after agreed date for filing. Notes that party may not wait to decide if it likes discovery decisions before filing disqualification motion. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Jan. 29, 1997) Board ruled that Hearing Officer was correct in not disqualifying herself where the motion to disqualify and the request for review were untimely, where the substance of the request for review was insufficiently specific and where the Hearing Officer had relationships with attorneys for both parties) R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Oct. 13, 1998) Disqualification denied where Complainant merely argued that, at the Pre-Hearing Conference, the Hearing Officer had settlement discussions with the parties and asked a member of CHR's staff to present documents which Respondent had requested from Complainant in discovery; there was no evidence of partiality. HO

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) No reason for disqualification shown by request for review of decision not to disqualify which argued that the Hearing Officer held settlement negotiations with parties and asked a CHR staff member to enter pre-hearing conference to assist moving party to comply with discovery requests to avoid sanctions. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) Mere fact that a party disagrees with a hearing officer's decisions is no reason for disqualification. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) Fact that Hearing Officer and Complainant were different races is no reason for disqualification. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Mere fact that a party disagrees with a hearing officer's decisions is no reason for disqualification. R

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-31 (May 6, 1999) Hearing Officer did not step down where the moving party did not present basis for his allegation of bias against him or his lawyer but merely criticized the Hearing Officer's demeanor and lack of "judiciousness". HO

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) Board denied request for review of Hearing Officer's decision not to disqualify himself, finding no evidence of bias; Complainant's request accused hearing officer of being impatient and professional with his counsel. R

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) Board denied request for review of decision not to disqualify, finding that at least some of the hearing officer's frustration with counsel was

reasonable; that his comments were not highly negative; and that the remarks were based on what occurred during the case and were not from an extra-judicial source. R

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) Board's decision reviews disqualification cases from state and federal court and finds that a judge's negative remarks about an attorney's conduct are almost never sufficient to demonstrate bias. R

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) Fact that hearing officer took a few months to issue order denying motion to disqualify is no evidence of bias. R

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 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

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Dec. 12, 1996) CHR denied Respondent's request for continuance made as part of his request for review of hearing officer's decision not to disqualify herself; face of

request did not indicate bias and Respondent waited 2 months after learning of facts and after he received adverse discovery decisions to file initial motion to disqualify. CO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Dec. 12, 1996) CHR's regulation governing requests for review of disqualification decisions does not require an automatic stay of the hearing. CO

Policy

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Jan. 18, 1995) In reviewing disqualification motions, CHR balances need for confidence in impartiality with not allowing parties to veto the selection of a proper Hearing Officer. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Jan. 29, 1997) (same) R

Chow v. Lemen Sun Grocery et al., CCHR No. 97-E-241 (Dec. 10, 1998) CHR balances its interest in having its proceedings conducted without the appearance of partiality with its concern for forum shopping and its desire to employ knowledgeable, experienced attorneys as hearing officers. HO

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-31 (May 6, 1999) There is a policy against disqualification on "slender" allegations of bias as that would allow parties to veto assignments of hearing officers. HO

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

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Sep. 10, 1991) Look to Ill.Rev.Stat. Ch. 110A, para. 63(c)(1) for guidance in disqualification of Hearing Officer. HO

Feliciano v. Brad, CCHR No. 91-FHO-77 (Jan. 9, 1992) (same) HO

Rushing v. Jasinowski, CCHR No. 92-H-127 (June 4, 1993) (same) HO

Barr v. Blue Cross/Blue Shield, CCHR No. 91-E-54 (June 5, 1992) (same) HO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Dec. 20, 1994) (same) HO

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Jan. 18, 1995) CHR looks to Supreme Court Rule 63(c) for guidance in determining when a Hearing Officer must be disqualified. R

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Jan. 18, 1995) CHR determines whether a Hearing Officer's impartiality "might reasonably be questioned" by deciding whether an objective disinterested observer fully informed of the underlying facts would have significant doubt that justice would be done. R

Wehbe v. Contacts & Specs/Schpak, CCHR No. 93-E-232 (Nov. 1, 1995) CHR looks to Illinois Supreme Court Rule 63(c) for guidance. HO

Wehbe v. Contacts & Specs/Schpak, CCHR No. 93-E-232 (Nov. 1, 1995) Nothing in Rule 63(c) of the CHR regulations mentions considering an hearing officer's religion; the only issue here is whether the general prohibition against personal bias or prejudice is met. HO

Green v. Altheimer & Gray, CCHR No. 94-E-57 (May 2, 1996) CHR looks to Supreme Court Rule 63(c) for guidance in determining when a Hearing Officer's impartiality "might reasonably be questioned" by an objective disinterested observer fully informed of the underlying facts. HO

Green v. Altheimer & Gray, CCHR No. 94-E-57 (May 2, 1996) Where personal bias is alleged, CHR looks for conduct "substantially out of the ordinary". HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Jan. 29, 1997) CHR looks to Supreme Court Rule 63(c) for guidance in determining when a Hearing Officer may need to be disqualified. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Jan. 29, 1997) CHR determines whether a Hearing Officer's impartiality "might reasonably be questioned" by deciding whether an objective disinterested observer fully informed of the underlying facts would have significant doubt that justice would be done. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Oct. 13, 1998) CHR looks to Illinois Supreme Court Rule 63(c) for guidance. HO

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) Same; held by Board of Commissioners reviewing order of October 13, 1998, above. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) 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

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) CHR looks to whether the conduct questioned is "substantially out of the ordinary". R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) CHR notes that a hearing officer is "as much obliged not to recuse himself when it is not called for as he is obliged to when it is". R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) Mere fact that a party disagrees with a hearing officer's decisions is no reason for disqualification; disqualifying prejudice refers to "prejudgment based on information obtained outside the courtroom". R

Chow v. Lemen Sun Grocery et al., CCHR No. 97-E-241 (Dec. 10, 1998) CHR looks to Illinois Supreme Court Rule 63(c) for guidance. HO

Chow v. Lemen Sun Grocery et al., CCHR No. 97-E-241 (Dec. 10, 1998) CHR determines whether a hearing officer's impartiality "might reasonably be questioned" where "an objective, disinterested observer fully informed of the facts . . . would entertain a significant doubt that justice would be served in the case". HO

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-31 (May 6, 1999) CHR looks to Illinois Supreme Court Rule 63(c) which includes determining whether the hearing officer has a personal bias towards a party or a party's attorney. HO

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) (same) R

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) Source of alleged bias must normally be outside the case, not what the hearing officer learned while presiding. R

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) Fact that moving party may be unhappy with a hearing officer's decision does not provide evidence of bias; exercising judgment does not create question of partiality. R

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) (same as prior two entries) 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

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Oct. 13, 1998) Where Complainant's motion to disqualify was based on conduct at the Pre-Hearing Conference, waiting until the day before the Hearing to file the motion, almost three full weeks later, was beyond the required "as soon as the party learns of the alleged reason" for a potential disqualification. HO

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) Board of Commissioners agrees

that waiting almost three full weeks after events which gave rise to the motion to disqualify was too late. R

Who Rules

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Oct. 13, 1998) CHR Regs. 240.210 & 240.220 make clear that the Hearing Officer rules on the initial motion for disqualification, not the Board of Commissioners as Complainant believed. HO

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

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Evidence discovered after the discriminatory decision was made and after litigation began may effect damages but not liability. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Where Respondent would have discovered the disqualifying information during the application process, outside of litigation, had it not discriminated, case found not to be a true after-acquired evidence case. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Evidence discovered after the discriminatory decision was made may effect damages but not liability. R

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) Information which was not actually discovered after Respondents revoked some privileges of doctor/ Complainant but which was the main cause for the revocation found not covered by after-acquired evidence doctrine. CO

Age Discrimination

Audette v. Simko Provisions, CCHR No. 92-E-39 (June 16, 1993) Respondent found to have a non-discriminatory reason for discharge of 57-year-old Complainant where her primary duty was eliminated, where she was not sufficiently qualified to do the remaining duties and where the Respondent had laid off people under 40 as well. R

Deegan v. Falasz, CCHR No. 93-E-204 (Feb. 22, 1995) Respondent found not to have discriminated against Complainant where it was shown she was fired due to her inability and unwillingness to use computers. R

Mahaffey v. University of Chicago Hospitals et al., CCHR No. 93-E-221 (July 22, 1998) Respondents found not liable for age and race discrimination where CHR found they terminated Complainant for not meeting legitimate job expectations and where there was no evidence that similarly situated younger and/or white employees were not terminated. 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

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

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) After order of default entered against Respondent, 53 year-old African-American applicant established a direct evidence *prima facie* case that restaurant/bar owner refused to hire her based on her race and age when owner asked her race and age and replied to her responses, "No, no, no," you are "too old," and you are "not the right type for the job." 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.**

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Complainant must prove her case by a preponderance of the evidence. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Complainant must show that his sexual orientation "played a part" in Respondents' discipline of him. R

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) Complainant has burden to show by preponderance of evidence that she was subjected to sexual harassment. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Complainant has burden to establish violation either by direct evidence or through shifting burden analysis. R

***Burden Shifting* – See *Disparate Treatment* section, above.**

Mark v. Truman College, CCHR No. 91-E-7 (Aug. 26, 1992) Sets forth elements in national origin, employment case. R

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Oct. 30, 1992) Where there is direct evidence of discrimination, need not use the shifting burden of proof analysis. CO

Brown v. Chicago Midway Airport Inn, CCHR No. 90-E-137 (Nov. 18, 1992) Sets forth elements in race/discharge and terms & conditions case. R

Brown v. Chicago Midway Airport Inn, CCHR No. 90-E-137 (Nov. 18, 1992) Complainant presented no evidence to show how discharge was due to her race or that she had worked under different terms and conditions

than other employees) R

Williams v. United Air Lines, CCHR No. 91-E-90 (Feb. 18, 1993) Burden is on Complainant to establish that his employer knew of his sexual orientation or perceived him to be gay where Complainant claims he was disciplined based on his sexual orientation. R

Barr v. Blue Cross-Blue Shield, CCHR No. 91-E-54 (Feb. 18, 1993) Sets forth *prima facie* case for sexual orientation/termination of employment case. R

Audette v. Simko Provisions, CCHR No. 92-E-39 (June 16, 1993) Sets forth burden shifting in age/lay-off case. R

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Elements for indirect and direct evidence cases set forth in sexual orientation/discharge matter. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Complainant produced direct evidence of sexual harassment and Respondents' defenses found unpersuasive; burden shifting test set forth for lost hours and wages. R

Dawson v. YWCA, CCHR No. 93-E-128 (Jan. 19, 1994) Differentiates burden shifting in disability cases where complainant claims a failure to accommodate in that once the complainant establishes a *prima facie* case, the burden of persuasion shifts to employer to show that making the accommodation would cause an undue hardship. CO

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) (same) R

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) In case claiming retaliation in employment, complainant must show that she had engaged in expression or activity protected by the CHRO, that respondent took an adverse action against her, and that there may have been a link between the two; then the burden shifts to the respondent. R

Minor v. Habilitative Systems, et al., 92-E-46 (Aug. 31, 1994) Sets forth burden standard in sex discrimination case for both direct evidence and burden shifting claims. R

Deegan v. Falasz, CCHR No. 93-E-204 (Feb. 22, 1995) Sets forth *prima facie* case and burdens of proof in age discrimination case. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Sets forth shifting burdens, including *prima facie* case, in employment case concerning accommodation of employee with a mental disability. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Where case involves direct evidence, CHR does not apply the *McDonnell-Douglas* test and Complainant need not prove each element of that *prima facie* test. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Sets forth standards for race & national origin/employment case. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Sets forth burden shifting standards in case involving discharge due to disability; distinguishes standards from cases concerning ability to perform essential functions of job. R

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

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Evidence that resignation was a constructive discharge insufficient where acts complained of ended long before resignation. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Complainant found to be constructively discharged after she resigned because her work environment was worsening due to Respondents' continuous sexual harassment. R

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.” 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

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Sep. 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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Constructive discharge claim based on retaliation for filing CHR sexual harassment Complaint not proved where evidence shows that after exhausting her approved leave, Complainant refused to return to work. R

Customer Preference – No new decisions in this volume.

Determination of Employer/Supervisor – See also Employment Relationship subsection, below.

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Economic reality test and other indicia of employer status used to determine if Respondent was Complainant's employer. R

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Where two Respondents jointly operated the program in which Complainant worked, the one not formally her employer could nonetheless be held liable where it had the power and ability to indirectly discriminate against her. R

Horn v. Sullivan, CCHR No. 92-PA-37 (Nov. 10, 1993) Cab company found to have insufficient control over driver in question to be his employer where it neither owned the cab, hired or supervised the driver or had other indicia of control; the owner of the cab was found to be the proper respondent. CO

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) Individual Respondent found to be an agent of company so that company was liable as well as individual; individual was part-owner of the company and had paid and discharged Complainant. R

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) An individual who has no authority to hire, fire, supervise, discipline or schedule employees found not to be a supervisor. R

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) CHRO makes an employer strictly liable for the sexual harassment by its supervisory and managerial employees, but uses more of a negligence standard -- knowledge of harassment and failure to take reasonable corrective action -- for harassment by other employees. CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) By referring to both non-supervisory and non-managerial employees in sexual harassment provision, CHRO suggests that there is difference between supervisors and managers and CHR follows that distinction. CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) In determining who qualifies as a supervisory or managerial employee for purposes of standards for sexual harassment liability, CHR follows decision made under IHRA as its language is virtually identical to the CHRO's; Title VII's agency standards are not applicable to CHRO employer liability standards. CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) Authority to hire, fire, discipline and evaluate is important to determine who is a supervisor or, especially, a manager; however, whether individual is reasonably seen as acting with the employer's imprimatur is also essential; that includes determining whether the individual could tell complainant what to do and how to do it, whether he or she could punish workers, and whether it is insubordination to disobey a directive from that person. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) In sexual harassment cases, CHRO uses the same standard for respondent liability whether the harasser is a non-employee or a non-managerial or non-supervisory employee; therefore, the standard is the same whether or not Respondent was the employer of the alleged harasser, as it was clear that the alleged harasser was not a supervisor or manager in any case. CO

Nelson v. Massachusetts Mutual Blue Chip Co., CCHR No. 98-E-211 (May 19, 1999) CHR found it need not determine whether Complainant and Respondent were in an employment-like relationship because Complainant

alleged failure to hire as well as discharge and failure to hire cases may be brought by individuals who are merely applicants. 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) 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.

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Where case involves direct evidence, CHR does not apply the *McDonnell-Douglas* test and Complainant need not prove each element of that *prima facie* test. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Direct evidence consisting of a few comments not found themselves sufficient to prove Complainant's case, but considered to bolster his circumstantial evidence. R

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

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) After order of default entered against Respondent, 53 year-old African-American applicant established a direct evidence *prime facie* case that restaurant/bar owner refused to hire her based on her race and age when owner asked her race and age and replied to her responses, "No, no, no," you are "too old," and your are "not the right type for the job." R

Disability Discrimination

Baumgartner v. 327 S. LaSalle Building, CCHR No. 91-E-98 (May 6, 1992) Under the facts presented in this case, obesity found not to constitute a disability either under section 2-160-020(c) of the CHRO or under Regulation 100(9). CO

Tibo v. Thermaline, CCHR No. 91-E-29 (June 1, 1992) Motion to dismiss for failure to state a claim of more disability discrimination denied; Complainant provided facts which, if proven, could lead to finding Respondent liable. CO

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (July 27, 1992) Social Security Administration's finding that Complainant was entitled to disability benefits -- and so unable to work -- from date preceding her termination estops Complainant from preceding with her disability claim in that she was not "otherwise qualified" to perform the essential functions of her job. CO [Reversed by next entry]

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (April 19, 1993) Social Security Administration's determination of disability is not, as a matter of law, the same as a finding that a complainant is "otherwise qualified" under CHRO; overrules order of 7-27-93 due to a subsequent Seventh Circuit ruling. CO

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (April 20, 1994) Where the discrimination was found to have occurred prior to the effective date of the current Ordinance, Respondent was not liable because the Ordinance held not to apply retroactively. R

Ilhardt v. Sara Lee Corp., CCHR No. 93-E-257 (July 22, 1994) A normal pregnancy, not accompanied by a disabling condition, is not considered a disability. CO

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Where Complainant's disability was not obvious and where he had not asked for an accommodation, Respondent found not liable when it fired him. R

Alceguiere v. Cook County MIS & Yaeger, CCHR No. 91-E-137 (Mar. 20, 1996) Where Complainant was barred by *res judicata* from proceeding with his race claims and where he refused to proceed with his disability claim, ruling made for Respondents. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) In default case, Respondent company and its owner found liable for physically beating, humiliating as well as discharging complainant who has a mental disability. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Upon judicial remand, CHR found that Respondent did not discriminate against Complainant, a mentally retarded man, as Complainant never sought an accommodation related to sudden outbursts and the need for such accommodation was not evident; also there was no evidence that non-disabled employees were treated better. R

Galligani v. Nabisco, CCHR No. 94-E-238 (Jan. 14, 1998) CHR denied Complainant's Request for Review

where it found that she had not made a request for an accommodation of her disability, where the need for an accommodation was not obvious, where her history of employment gave no indication that the problem which caused her discharge was related to her disability, and where there appeared to be no accommodation possible other than a "second chance". CO **See also Disability/Failure to Accommodate section, above.**

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Where complainant must show that his employer perceived him to be disabled and that he was able to perform the job's essential functions, respondent found liable when it failed to show that the medical examination was directly related to Complainant's ability to perform the job. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Respondent found liable where evidence showed that it discharged Complainant because it perceived him to have a disability, hypertension. R

Vasilovik v. Chicago Park District, CCHR No. 98-E-74 (Oct. 9, 1998) Where Complainant's last doctor's note submitted to Respondent before the hiring decision indicated that Complainant may be able to return to work in time for the job to start, CHR found that Respondent was put on notice that it needed to take part in an "interactive process" to determine whether Complainant was a qualified individual able to perform the essential functions of the available job. CO **See also Disability Discrimination/Qualified Individual section, above.**

Vasilovik v. Chicago Park District, CCHR No. 98-E-74 (Oct. 9, 1998) Where doctor's notes submitted after the start date demonstrate that Complainant was not able to perform the essential functions of the available job, CHR held that Complainant could not proceed with a failure to hire claim, but could proceed with a claim concerning Respondent's failure to take part in an interactive process during hiring. CO **See also Disability Discrimination/Qualified Individual section, above.**

Moore v. Northwestern Memorial Hospital et al., CCHR No. 96-E-224 (Jan. 20, 1999) CHR found that Complainant who was fired for sleeping on the job did not prevail on her disability discrimination claim as she did not show that her alleged sleep apnea was a disability or that Respondent failed to accommodate it. R **See Disability Discrimination section, above.**

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

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

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) CHR construes Illinois laws and cases as well as IHRC case in determining scope of immunity for Hospital and doctor in case concerning revoking certain privileges from doctor/Complainant. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) Following Illinois laws and cases, Hospital found immune from civil damages, but not entirely immune, in case concerning revoking certain privileges from doctor/Complainant. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) CHR denied motion to dismiss doctor who had privileges at Hospital but held that doctor has to show that he and the Hospital had some "employment relationship" not just that the Hospital could affect his employment opportunities; follows *Alexander v. Rush North Shore Medical Center*. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR set forth and evaluated facts to determine whether doctor with privileges at hospital met factors showing he was in an employment-like relationship and so could proceed with his case. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR dismissed case involving doctor who had privileges at Hospital where it found that the doctor and the Hospital did not have an "employment relationship," primarily because Hospital does not control doctor; follows *Alexander v. Rush North Shore Medical Center* -- affecting employment opportunities is not sufficient. CO

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

Mark v. Truman College, CCHR No. 91-E-7 (Aug. 26, 1992) CHR finds Respondent reasonable when it evaluated Complainant as less well qualified than person hired in her place and so found it was not discriminatory. R

Audette v. Simko Provisions, CCHR No. 92-E-39 (June 16, 1993) In age case, Respondent's defense that 57-year-old Complainant was laid off because her primary duty was eliminated and that another employee was better qualified to do the remaining work found credible and un rebutted. R

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 (Sep. 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

Nelson v. Massachusetts Mutual Blue Chip Co., CCHR No. 98-E-211 (5-19-99) CHR found it need not determine whether Complainant and Respondent were in an employment-like relationship because Complainant alleged failure to hire as well as discharge as failure to hire cases may be brought by individuals who are merely applicants. CO

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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Oct. 30, 1992) Denied Respondent's motion to dismiss complaint as insufficient for Complainant's failure to plead that he applied and was rejected for a particular job holding that, because Complainant knew and was told that the Boy Scout had a prohibition against hiring a gay men, he was not required to make a formal application. CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Where Respondent refused to hire gay people, gay Complainant's failure to submit a formal application found not fatal under "futile gesture" theory. R

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 (Sep. 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 (Sep. 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 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

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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) After an Order of Default, Complainant established a prima facie case of race discrimination where liquor store owner harassed and terminated African-American security guard using racially derogatory terms. R

"Independent Contractor" – See also Employment Relationship subsection, above.

Putnam v. Four Seasons Hotel, CCHR No. 96-E-54 (Oct. 10, 1996) CHRO language prohibiting discrimination against "any individual" supports finding that independent contractors may have standing to bring claim. CO

Putnam v. Four Seasons Hotel, CCHR No. 96-E-54 (Oct. 10, 1996) CHR uses economic realities and affecting employment opportunities tests in determining whether a complainant may proceed. CO

Putnam v. Four Seasons Hotel, CCHR No. 96-E-54 (Oct. 10, 1996) Where Complainant coordinated and managed Respondent's massage services, motion to dismiss he complaint was denied because, among other things, Respondent was responsible for signing up guests for her services thus controlling her employment opportunities. CO

Fumento v. Links Technology & SMG Marketing Group, CCHR No. 95-E-17 (July 15, 1997) Where Respondent's claim in a motion to dismiss was that Complainant was an independent contractor not covered by CHRO, case assigned to jurisdictional hearing to collect and analyze facts about their relationship. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) CHR denied motion to dismiss doctor who had privileges at Hospital but held that doctor has to show that he and the Hospital had some "employment relationship" not just that the Hospital could affect his employment opportunities; follows *Alexander v. Rush North Shore Medical Center*. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR set forth and evaluated facts to determine whether doctor with privileges at hospital met factors showing he was in an employment-like relationship and so could proceed with his case. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR dismissed case involving doctor who had privileges at Hospital where it found that the doctor and the Hospital did not have an "employment relationship," primarily because Hospital does not control doctor; follows *Alexander v. Rush North Shore Medical Center* -- affecting employment opportunities is not sufficient. CO

Abdi v. Yellow Cab Co., CCHR No. 99-E-33 (Sep. 9, 1999) Where facts show that Respondent does not control its drivers and where there was no other indicia of an employment relationship, CHR dismissed complaint as not in the employment context; order sets forth factors used to determine whether a complainant and a respondent are in an employment relationship. CO

Abdi v. American United Cab Co., CCHR No. 99-E-63 (Sep. 9, 1999) Where facts show that Respondent exerts little control over its drivers and none over the details of their work, CHR dismissed complaint as not in the employment context; order sets forth factors used to determine whether a complainant and a respondent are in an employment relationship. CO

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

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) Where Complainant claims she was fired for hiring a black employee, her claim of indirect race discrimination allowed to proceed. CO

Nuspl v. Marchetti, CCHR No. 98-E-207 (Sep. 18, 2002) Restaurant co-owner not liable for indirect discrimination via disparaging comments about kitchen manager's Mexican-American staff where the manager was not Mexican-American, did not establish personal harm, and offered no evidence to support a damage award. R

Individual Liability – See also separate Individual Liability section, below.

Freeman v. Association Family Shelter, CCHR No. 93-E-145 (Oct. 13, 1993) Individuals may be sued in their personal capacity because the language of the CHRO states that "no person" not "no employer" may discriminate, and because other provisions of the CHRO are limited to "employers". CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) Individuals may be sued in their personal capacity because the language of the CHRO states that "no person" may discriminate, not "no employer," because other provisions of the CHRO are limited to "employers" and because case law construing similar laws allows individuals to be sued personally. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) A supervisor in the Chicago Fire Department cannot be sued in his official capacity because that is the equivalent of suing the City of Chicago which was already named as a respondent. CO

Kalecki v. Jake's Pub/Johnson, CCHR No. 93-E-173 (Jan. 31, 1994) Denied individual respondent's motion to dismiss finding that, even though that respondent was acting only as an agent for the owner of the business in question, he may still be found personally liable for his conduct in terminating the Complainant. HO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) Individuals may be found personally liable under CHRO. CO

Fulton v. Dimeo-Doroba, Inc. et al., CCHR No. 97-E-79 (June 11, 1997) (same) CO

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) As CHR has held in many prior cases, because the CHRO covers "persons" not just employers, individuals may be found liable. CO

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 Communic., 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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) Owner of liquor store found personally liable for his conduct because he is considered a "person" pursuant to Chapter 2-160-030 and is personally liable for his discriminatory conduct. R

Joint Employer

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) CHR need not choose only one of two entities as the proper respondent; CHR considers whether they are "joint employers" -- legally separate entities which jointly handle important employment duties; order reviews federal cases. CO

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) CHR looks at the functions performed by the entity seeking to be dismissed to determine whether it "controls some aspect of the Complainant's compensation, terms, conditions or privileges of employment;" cites federal cases. CO

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) Although the agreement between the potential joint employers deemed one to be the employer, such label is not dispositive. CO

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) Fact that the allegedly discriminatory events occurred at the location of the other Respondent is not important; key is whether the one seeking dismissal sufficiently controlled Complainant. CO

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) CHR denied one Respondent's motion to dismiss, finding that it sufficiently controlled Complainant's work to be in an employment relationship with her; among other things, an employee/director of that Respondent did and was authorized to: interview Complainant; offer her the job; negotiate her salary; determine whether she satisfied her job duties; decide to demote her; and have day-to-day responsibility over her department. CO

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 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 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

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Any time a discriminatory motive has played a part in the in an employment decision, the CHRO is violated. R

National Origin Discrimination

Mark v. Truman College, CCHR No. 91-E-7 (Aug. 26, 1992) Complainant failed to prove that Respondent had discriminated against her in transferring her to a new position or in terminating her when the funding for the position ran out. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Respondents found to have discriminated against Lebanese/Arab Complainant when they fired him 14 months before they fired a Jewish doctor who was at least as culpable. 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

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.

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) Individual Respondent found to be an agent of company so that company was liable as well as individual; individual was part-owner of the company and had paid and discharged Complainant. R

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) Where individual was named as a respondent and the actions she allegedly took were described in the text of complaint, claim for individual liability allowed to proceed. CO

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) An individual who has no authority to hire, fire, supervise, discipline or schedule employees found not to be a supervisor. R

Perez v. SEIU, CCHR No. 95-E-93 (June 3, 1996) Because CHRO forbids discrimination by "persons" not "employers," a labor organization alleged to have discriminated with respect to terms and conditions of Complainant's employment found to be covered by CHRO, for motion to dismiss purposes. CO **See Labor Organization/Pre-Emption section, below.**

Woods v. Ameritech Health Connections et al., CCHR No. 96-E-260 (Oct. 15, 1997) Firm at which temporary employee was placed found covered by CHRO as "person" which affected employee's terms and conditions and which caused the temporary agency to fire him. CO

Jones v. The First National Bank of Chicago et al., CCHR No. 97-E-99 (Nov. 25, 1997) CHR found that business at which temporary employee was placed could not be dismissed as a matter of law because CHRO covers "persons" not just employers. CO

Jones v. The First National Bank of Chicago et al., CCHR No. 97-E-99 (Nov. 25, 1997) CHRO requires some employment relationship between parties; sets forth which factors from "economic realities" test to use to resolve outstanding factual issues concerning the relationship between temporary employee/Complainant and Respondent where he was placed. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) CHR denied motion to dismiss doctor who had privileges at Hospital but held that doctor has to show that he and the Hospital had some "employment relationship" not just that the Hospital could affect his employment opportunities; follows *Alexander v. Rush North Shore Medical Center*. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR set forth and evaluated facts to determine whether doctor with privileges at hospital met factors showing he was in an employment-like relationship and so could proceed with his case. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR dismissed case involving doctor who had privileges at Hospital where it found that the doctor and the Hospital did not have an "employment relationship," primarily because Hospital does not control doctor; follows *Alexander v.*

Rush North Shore Medical Center -- affecting employment opportunities is not sufficient. CO

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) Because CHRO covers "persons" not just employers, CHR determines whether a respondent and complainant are in an "employment relationship" sufficient for coverage by reviewing factors used in independent contractor cases. CO

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) In case involving potential joint employers, CHR looks at the functions performed by the entity seeking to be dismissed to determine whether it "controls some aspect of the Complainant's compensation, terms, conditions or privileges of employment". CO **See Employment/Joint Employers, above.**

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) CHR denied one Respondent's motion to dismiss, finding that it sufficiently controlled Complainant's work to be in an employment relationship with her; among other things, an employee/director of that Respondent did and was authorized to: interview Complainant; offer her the job; negotiate her salary; determine whether she satisfied her job duties; decide to demote her; and have day-to-day responsibility over her department. CO **See Employment/Joint Employers, above.**

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) CHRO makes an employer strictly liable for the sexual harassment by its supervisory and managerial employees, but uses more of a negligence standard [knowledge of harassment and failure to take reasonable corrective action] for harassment by other employees. CO **See Employment/Determination of Employer/ Supervisor, above.**

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) In sexual harassment cases, CHRO uses the same standard for respondent liability whether the harasser is a non-employee or a non-managerial or non-supervisory employee; therefore, the standard is the same whether or not Respondent was the employer of the alleged harasser, as it was clear that the alleged harasser was not a supervisor or manager in any case. CO

Nelson v. Massachusetts Mutual Blue Chip Co., CCHR No. 98-E-211 (May 19, 1999) CHR found it need not determine whether Complainant and Respondent were in an employment-like relationship because Complainant alleged failure to hire as well as discharge and failure to hire cases may be brought by individuals who are merely applicants. 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

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

Ilhardt v. Sara Lee Corp., CCHR No. 93-E-257 (July 22, 1994) Pregnancy discrimination claim allowed to proceed as a matter of sex discrimination but not as a matter of disability discrimination where there was no disabling condition accompanying the pregnancy. CO

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

Brown v. Chicago Department of Aviation, CCHR No. 90-E-82 (June 17, 1992) Complainant failed to prove that Respondent had discriminated or retaliated against her -- a white woman who had associated with black men -- when the department terminated her. R

Brown v. Chicago Midway Airport Inn, CCHR No. 90-E-137 (Nov. 18, 1992) Respondent found not liable for firing Complainant because it reasonably believed that she had been drinking on the job and because there was no evidence that Respondent treated other employees differently regarding either drinking or work assignments. R

Alceguiere v. Cook County MIS & Yaeger, CCHR No. 91-E-137 (Mar. 20, 1996) Where Complainant was barred by *res judicata* from proceeding with his race claims and where he refused to proceed with his disability claim, ruling made for Respondents. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Respondents found to have discriminated against Lebanese/Arab Complainant when they fired him 14 months before they fired a Jewish doctor who was at least as culpable. R

Green v. Alzheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) Black male evening/weekend secretary did not show that Respondent’s lack of a good ID policy had a disparate impact on black men as, among other things, evidence did not show that black men were stopped more often than white or female employees. R

Green v. Alzheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) Black male evening/weekend secretary did

not show that his confrontation with a partner of the firm was due to his race and/or sex. R

Mahaffey v. University of Chicago Hospitals et al., CCHR No. 93-E-221 (July 22, 1998) Respondents found not liable for age and race discrimination where CHR found they terminated Complainant for not meeting legitimate job expectations and where there was no evidence that similarly situated younger and/or white employees were not terminated. R

Moulden v. Frontier Communics., et al., CCHR No. 97-E-156 (Aug. 19, 1998) Defaulted Respondent found liable for not giving Black Complainant commensurate raises and bonuses as a white worker who got similar transfer. 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

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 (Sep. 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 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

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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) After an Order of Default, Complainant established a *prima facie* case of race discrimination where liquor store owner harassed and terminated African-American security guard using racially derogatory terms. R

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) After order of default entered against Respondent, 53 year-old African-American applicant established a direct evidence *prima facie* case that restaurant/bar owner refused to hire her based on her race and age when owner asked her race and age and replied to her responses, "No, no, no," you are "too old," and you are "not the right type for the job." R

Reasonable Corrective Action

Escobedo v. Homak Mfg., CCHR No. 93-E-7 (May 15, 1996) Where Respondent responded to Complainant's 1st complaint of sexual orientation harassment in a manner reasonably calculated to prevent further harassment under the particular facts and circumstances of the case at the time -- by speaking directly to the individuals at issue and posting an anti-harassment policy -- Respondent found not liable for creating alleged hostile environment. R

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

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

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) Respondent found not to have retaliated against Complainant when it suspended her after she filed a complaint with CHR; the City's nondiscriminatory explanation of its treatment of Complainant was supported by the evidence presented. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Respondents found liable for creating a hostile environment for Complainant due to his sexual orientation, including name-calling; found not to have cut his hours due to his sexual orientation or due to retaliation. R

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Respondent found not to have retaliated against Complainant; it had non-discriminatory reasons for suspending Complainant and the persons who suspended him were found not to have knowledge of the complaint at the time they decided to suspend him. R

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

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 (Sep. 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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014). Where hearing officer found that Respondents had clearly terminated Complainant in retaliation for pursuing his claims before CHR, no specific damages related to the effects of retaliatory discharge were awarded because Complainant failed to file a subsequent retaliation claim in addition to his underlying race discrimination claim. R

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's claim that Respondent discharged her in retaliation for filing a sexual harassment complaint with CHR found contrary to evidence showing that after exhausting her approved leave, Complainant refused to return to work. R

Sex Discrimination

Barber v. Chicago Dept. of Buildings, CCHR No. 91-E-35 (Oct. 21, 1992) No liability found where the Respondent's actions were found due to deterioration in Complainant's work and no evidence showed that men were treated differently. R

Ilhardt v. Sara Lee Corp., CCHR No. 93-E-257 (July 22, 1994) Pregnancy discrimination claim allowed to proceed as a matter of sex discrimination. CO

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Employer alleged to have discriminated in terms and conditions and in discharging Complainant found not to be liable as it was found to have legitimate, nondiscriminatory reasons for its actions. R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) Black male evening/weekend secretary did not show that Respondent's lack of a good ID policy had a disparate impact on black men as, among other things, evidence did not show that black men were stopped more often than white or female employees. R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) Black male evening/weekend secretary did not show that his confrontation with a partner of the firm was due to his race and/or sex. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Respondent found liable for sex discrimination

where she made anti-male comments to Complainant and discharged him for work violations but did not discharge female employee with similar violations; sexual harassment not found. R

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 (Sep. 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 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

Sexual Harassment

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Respondents held liable for hostile environment created by physical touching but not by verbal harassment. R

Antonich v. Midwest Building Mgt., CCHR No. 91-E-150 (Oct. 21, 1992) Respondent liable for failure to hire Complainant after she rejected Respondent’s advances. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) Respondent found liable for promising Complainant a raise if she accompanied him to a hotel. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Respondent found liable for repeated and long-term sexual harassment, including inappropriate and unwelcome sexual advances and physical touching, and for constructive discharge, but not for reducing Complainant's hours or pay. R

Barnes v. Page, CCHR No. 92-E-01 (Sep. 23, 1993) Respondent found liable where he harassed Complainant by telling offensive jokes, making comments about Complainant's appearance, her sex life and having sex with her and where Complainant had witnesses to corroborate Respondent's proclivity for inappropriate remarks and conduct. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) Employer and two individuals found liable because they created a hostile environment through comments, gestures and touching and because that environment caused Complainant to transfer and so miss a promotion. R

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) Company and individual respondents found liable for creating a hostile environment, but not for *quid pro quo* harassment, where there were several advances and sexual comments made. R

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) Complainant's testimony found contradictory and incredible so she was found not to have proved sexual harassment or constructive discharge. R

Scadron/Zuberbier v. Martini's of Chicago & Jones, CCHR No. 94-E-195/196 (Feb. 19, 1997) Where Complainants' stories had inconsistencies and Respondent's denials were forthright, Complainants found not to have carried their burden that they were sexually harassed. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Respondent not found liable for sexual harassment where the comments at issue were generally anti-male and not sexual and any sexual comments were not sufficiently pervasive and hostile; sex discrimination was found. R

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) CHR found that Complainant did not prove hostile environment sexual harassment where the incidents described by Complainant were not sexual and where they could not be considered sufficiently severe or pervasive to have altered her housing environment. R

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Nov. 18, 1998) Where circuit court remanded case to CHR to reconsider only expert testimony of psychologist, CHR found that that testimony did not alter finding that Complainant's account of sexual harassment was not credible, including because she claims she freely allowed alleged harasser into her apartment after he had allegedly harassed her to the point where she claimed she barricaded her door. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) In ruling that Complainant did not prove a hostile environment, CHR found that her testimony about the timing of the harassment was not credible and that her examples of the alleged harassment did not show that any sexual conduct was sufficiently severe or pervasive to create a hostile environment. R

Bovino v. Worldwide Tobacco, et al., CCHR No. 98-E-5 (Sep. 15, 1999) Where case turned on credibility and Complainant's story had unreasonable and/or unbelievable aspects, CHR found that she had not carried her burden of proof to show that Respondent forced her to have sex with him and then fired her when she stopped or that he created a sexually hostile environment. 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; 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 (Sep. 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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) No Ordinance violation where employee claimed she was sexually harassed at work and constructively discharged in retaliation for filing Complaint where Complainant's testimony discredited because she contradicted the allegations in her CHR and EEOC Complaint and where she contradicted herself on cross-examination. R

Sexual Orientation Discrimination

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Respondent found liable for firing Complainant due to her sexual orientation. R

Williams v. United Air Lines, CCHR No. 91-E-90 (Feb. 18, 1993) Respondent found not liable in case where gay flight attendant claimed that he was given a 30-day suspension based on his sexual orientation rather than due to his violation of United Air Lines. R

Barr v. Blue Cross-Blue Shield and Tennenbaum, CCHR No. 91-E-54 (Feb. 18, 1993) Respondent found not liable -- Complainant failed to establish that Respondent's legitimate reason for termination -- poor performance -- was a pretext for sexual orientation discrimination. R

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Employer found not to have fired Complainant due to her sexual orientation where Complainant did not show that employees who were not known or perceived to be gay were treated differently. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Respondents found liable for creating a hostile environment for Complainant due to his sexual orientation, including name-calling; found not to have cut his hours due to his sexual orientation or due to retaliation. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Respondent found liable for policy of not hiring gay people where Complainant, acting as a tester, was denied consideration for a job; CHR found Respondent was not exempt as a religious organization and found Respondent's free association and free speech rights not violated. R

Escobedo v. Homak Mfg., CCHR No. 93-E-7 (May 15, 1996) Respondent found not liable where it did not know of some of the alleged harassment and took reasonable corrective action to stop the harassment about which it knew. R

Mally v. Alzheimer's Association, CCHR No. 96-E-41 (Sep. 17, 1997) Respondent found not liable where it took action reasonably calculated to prevent future harassment in response to Complainant's complaint of harassment by a volunteer board member and where it appeared that Complainant did not inform Respondent that the harassment was related to his sexual orientation. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Respondent found

liable for firing gay Complainant explicitly due to her sexual orientation. 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

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

Nuspl v. Marchetti, CCHR No. 98-E-207 (Sep. 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

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) Complainant's allegation that he was harassed because he holds a second job which provides him income states a claim for source of income discrimination. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) It is not necessary that the income about which complainant bases his claim be his "primary" source of income. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Respondent found not liable for discriminating against Complainant due to his second source of income (classical musician); respondent was found to have non-discriminatory reasons for the disputed conduct and any negative animus was found to be directed at classical music, not at earning income from it. R

Greenwood v. Aramark Corp., CCHR No. 99-E-60 (June 30, 1999) Case in which Complainant claimed she was demoted because she could not afford to buy a car to use on the job did not involve "source of income" as that looks to the source of one's money, not its sufficiency. CO

Standing

Check v. Salon de Paris, CCHR No. 93-E-17 (Aug. 6, 1993) Due to the language of the CHRO and court decisions interpreting similar laws, CHR does not rely on the labels of "employee" and "independent contractor" but rather looks at the relationship of complainant and respondent. CO

Ilhardt v. Sara Lee Corp., CCHR No. 93-E-257 (July 22, 1994) Motion to dismiss the complaint of an in-house attorney denied; distinguishes decisions where an attorney was prohibited from bringing a retaliatory discharge claim and finding that attorney-client relationships would not be hampered by allowing such discrimination claims to proceed. CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) CHRO's language that no person may discriminate against "any" person supports finding that "testers" have standing. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Gay Complainant held to have standing as a "tester" injured by Respondent's failure even to consider him for employment, despite the fact that CHR found Complainant was not qualified to have been hired by Respondent. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) In upholding standing for "tester," CHR distinguishes cases concerning pre-1991 Civil Rights Act when emotional distress damages were not available. R

Putnam v. Four Seasons Hotel, CCHR No. 96-E-54 (Oct. 10, 1996) CHRO language prohibiting discrimination against "any individual" supports finding that independent contractors may have standing to bring claim. CO

Putnam v. Four Seasons Hotel, CCHR No. 96-E-54 (Oct. 10, 1996) CHR uses economic realities and affecting employment opportunities tests in determining whether a complainant may proceed. CO

Putnam v. Four Seasons Hotel, CCHR No. 96-E-54 (Oct. 10, 1996) Where Complainant coordinated and managed Respondent's massage services, motion to dismiss he complaint was denied because, among other things, Respondent was responsible for signing up guests for her services thus controlling her employment opportunities. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) CHR denied motion to dismiss doctor who had privileges at Hospital but held that doctor has to show that he and the Hospital had some "employment relationship" not just that the Hospital could affect his employment opportunities; follows *Alexander v. Rush North Shore Medical Center*. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR set forth and evaluated facts to determine whether doctor with privileges at hospital met factors showing he was in an employment-like relationship and so could proceed with his case. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR dismissed case involving doctor who had privileges at Hospital where it found that the doctor and the Hospital did not have an "employment relationship," primarily because Hospital does not control doctor; follows *Alexander v. Rush North Shore Medical Center* -- affecting employment opportunities is not sufficient. CO

Nelson v. Massachusetts Mutual Blue Chip Co., CCHR No. 98-E-211 (May 19, 1999) CHR found it need not determine whether Complainant and Respondent were in an employment-like relationship because Complainant alleged failure to hire as well as discharge and failure to hire cases may be brought by individuals who are merely applicants. CO

Abdi v. Yellow Cab Co., CCHR No. 99-E-33 (Sep. 9, 1999) Where facts show that Respondent does not control its drivers and where there was no other indicia of an employment relationship, CHR dismissed complaint as not in the employment context; order sets forth factors used to determine whether a complainant and a respondent are in an employment relationship. CO

Abdi v. American United Cab Co., CCHR No. 99-E-63 (Sep. 9, 1999) Where facts show that Respondent exerts little control over its drivers and none over the details of their work, CHR dismissed complaint as not in the employment context; order sets forth factors used to determine whether a complainant and a respondent are in an employment relationship. CO

Temporary Employee

Woods v. Ameritech Health Connections et al., CCHR No. 96-E-260 (Oct. 15, 1997) Firm at which temporary employee was placed found covered by CHRO as "person" which affected employee's terms and conditions and which caused the temporary agency to fire him. CO

Jones v. The First National Bank of Chicago et al., CCHR No. 97-E-99 (Nov. 25, 1997) CHR found that business at which temporary employee was placed could not be dismissed as a matter of law because CHRO covers "persons" not just employers.

Jones v. The First National Bank of Chicago et al., CCHR No. 97-E-99 (Nov. 25, 1997) CHRO requires some employment relationship between parties; sets forth which factors from "economic realities" test to use to resolve outstanding factual issues concerning the relationship between temporary employee/Complainant and Respondent where he was placed. CO

Wrong-Doer Recovery

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Fact that Complainant was a wrong-doer (part of a fraud on the business) does not allow Respondents to discriminate against him; Respondents must treat similarly-situated wrong-doers similarly. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Two wrong-doers involved in the same fraud but treated differently may be compared even though they held different positions. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Where Respondents fired Lebanese/Arab Complainant who was involved in fraud 14 months before they fired similarly-situated, Jewish wrong-doer, the difference in treatment was found due to Complainant's national origin and race. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Respondent found liable for sex discrimination where she made anti-male comments to Complainant and discharged him for work violations but did not discharge female employee with similar violations; sexual harassment not found. R

ENFORCEMENT OF FINAL ORDER – See Execution of Decision section, below.

ENFORCEMENT OF SETTLEMENT AGREEMENT

Determination of Violation

Roberts v. Chicago Fire Dept., CCHR No. 92-PA-38 (Aug. 31, 1993) CHR held fact-finding to determine whether the Respondent had violated the settlement agreement and found, based on witness testimony, that it had not. CO

McNamara v. Physicians' Assoc. for AIDS Care, CCHR No. 93-E-214 (Oct. 24, 1994) Respondent found to have violated the agreement when it made payments one and two months late; it was fined \$100 for the violation. CO

Horn v. Burger King, CCHR No. 92-PA-36 (Dec. 20, 1994) Where Complainant alleged and Respondent failed to deny that it had failed to pay three of four agreed-upon installments, CHR found a violation of the agreement, ordered that a fine be paid and sought judicial enforcement of the agreement. CO

Owens v. Jacunski, CCHR No. 92-H-93 (Jan. 13, 1995) Respondent found to have violated the settlement agreement and fined \$500 where she had not paid the sum agreed to for over a year. CO

McNamara v. Physicians' Assoc. for AIDS Care, CCHR No. 93-E-214 (Jan. 19, 1995) Where Respondent was only one day and three days late with two installment payments, CHR found no violation of the settlement agreement requiring a fine. CO

Hochstedler v. Cooper, CCHR No. 95-H-2 (June 26, 1995) Where estate of Respondent claimed the settlement agreement was invalid due to Respondent's lack of capacity, CHR -- which can handle only discrimination cases -- sent matter to state court so a court with authority to adjudicate such issues could hear the dispute. CO

Kemp v. Habitat Co. et al., CCHR No. 94-H-133 (Sep. 14, 1995) Respondent found not to have violated the settlement agreement where it showed that it did not renew Complainant's lease due to her failure to make complete or timely rent payments. CO

Monroe v. Wolin & Levin et al., CCHR No. 96-H-182 (Oct. 11, 1996) No violation found where Respondents showed that they had taken the agreed-upon action and CHR determined that Respondents did not damage Complainant's furniture. CO

Doering v. Zum Deutschen Eck, CCHR No. 94-PA-36 (May 20, 1997) After city bureaucracy lost Respondent's application for construction permit to make the restaurant accessible to people with disabilities, Respondent found not to have acted in good faith to complete its responsibility to acquire permit. However, because fault for original delay in obtaining permit lay with City, not Respondent, CHR ordered only a minimal fine and set a new schedule for compliance with agreement. CO

Doering v. Zum Deutschen Eck, CCHR No. 94-PA-36 (July 18, 1997) Where Respondent did not comply with new schedule set forth in 5/20/97 order [see above entry], Respondent fined \$100 each for two different violations for each day it does not comply; case sent to Corporation Counsel to seek judicial enforcement. CO

Rodriguez v. Candle Corp., CCHR No. 96-E-187 (July 24, 1997) Where Complainant claimed that Respondent no longer accommodated her as it had agreed to, when Respondent did not contest that assertion, CHR found that it violated the agreement and so fined it \$100 per day for each day of non-compliance. CO

Rodriguez v. Candle Corp., CCHR No. 96-E-187 (Aug. 11, 1997) Where Respondent proved that it had submitted a response to Complainant's allegations of an agreement violation -- with a receipt showing timely delivery to CHR -- CHR vacated 7-24-97 order [above] which had found a violation due to no response. CO

Rodriguez v. Candle Corp., CCHR No. 96-E-187 (Sep. 10, 1997) Upon reviewing parties' filings, CHR found that it needs to investigate whether Respondents violated the agreement or whether they accommodated Complainant to the extent possible. CO

MartinHo v. Northside Imports & Abdul, CCHR No. 98-E-61 (Oct. 8, 1998) Where Complainant alleged that Respondents failed to give him notice of next vacancy as agreed and instead hired three other people and Respondents did not contest that allegation, CHR found Respondents violated the agreement; CHR fined Respondents for each of the three violations and sent the agreement for judicial enforcement in state court. CO

Chin v. Town Management & Smith, CCHR No. 97-H-168 (Oct. 8, 1998) After an investigation into each party's claims about performance under the settlement agreement, CHR found that each party had violated the agreement and that Respondent had appropriately withheld some of Complainant's security deposit, but required it to pay back some; because both parties had violated the agreement, CHR did not require payment of any fine CO

MartinHo v. Northside Imports & Abdul, CCHR No. 98-E-61 (Dec. 3, 1998) Where Respondent filed a Request for Review of CHR's 10-8-98 order [above] and showed that it had complied with the Settlement Agreement, and where Complainant did not respond, CHR vacated its finding that Respondent violated the Agreement and so revokes the fine and judicial enforcement. CO

Marshall v. Lee, CCHR No. 98-H-88 (Apr. 22, 1999) Where complainant provided information that

respondent had not lived up to his agreement to accept her as a tenant and where respondent did not respond to that claim, CHR found substantial evidence that respondent had violated the agreement and sent the case for judicial enforcement action. CO

Wyatt v. Washington Inventory Service, CCHR No. 99-E-19 (July 15, 1999) CHR found that Respondent had not violated the agreement; it had removed from Complainant's file the agreed-to documents and it had not violated the way it had agreed to train Complainant for future promotions. CO

Maat v. Housing Resource Center, et al., CCHR No. 95-H-97 (July 29, 1999) Where Respondent admitted that it had not sent certain agreed-to letters in a timely manner, CHR ordered it to provide "make whole" relief to Complainant for that lapse, as Respondent agreed to do. CO

Baxter v. Garfield Garden Apts., CCHR No. 98-H-230 (Aug. 12, 1999) CHR found Respondent violated the settlement agreement where Respondent agreed to rent apartment to Complainant using her section 8 voucher and then raised the rent so that she no longer qualified. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Sep. 9, 1999) CHR denied motion to dismiss which claimed that parties had orally settled case; Complainant denied that they had settled it and Respondent did not produce uncontested facts which demonstrated they had reached such an agreement. CO

Ferguson v. EWS Tailoring & Fashion Academy, et al., CCHR No. 98-E-147 (Oct. 1999) Where Respondent admitted violating the settlement agreement, Hearing Officer ordered it to pay Complainant's attorney's fees for work enforcing the agreement and ordered Respondent to abide by an agreed-to payment plan or risk judicial enforcement of agreement. HO

Ortiz v. Radisson Hotels & Suites, CCHR No. 99-E-22 (Dec. 26, 1999) CHR found Respondent had violated the agreement where it failed to inform the company which handles its workers' compensation claims not to contest Complainant's reapplication for the benefits. CO

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 (Sep. 10, 2009) Motion to enforce settlement agreement denied where Respondent complied with \$50 payment obligation only after the 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

Owens v. Jacunski, CCHR No. 92-H-93 (Aug. 18, 1993) Settlement agreement need not be written to be enforceable so long as it is sufficiently detailed to demonstrate a meeting of the minds and, as here, where there is no condition that the agreement be reduced to writing. CO

Owens v. Jacunski, CCHR No. 92-H-93 (Aug. 18, 1993) Where there was a question as to attorney's authority to settle for his client, hearing was held on that issue and CHR found that the attorney had specific authority to settle for his client and so oral agreement held enforceable. CO

Lawson v. Cole Taylor Bank, CCHR No. 96-E-283 (July 15, 1997) Oral agreements are enforceable at the Commission. CO

Lawson v. Cole Taylor Bank, CCHR No. 96-E-283 (July 15, 1997) Documents provided by parties demonstrate an oral agreement was reached on all terms, but agreement to general release not clear; case assigned to jurisdictional hearing to determine whether or not the parties agreed to that. CO

McGee v. Cichon, CCHR No. 96-H-26 (Sep. 16, 1997) Oral settlements agreements are enforceable at the Commission. HO

McGee v. Cichon, CCHR No. 96-H-26 (Sep. 16, 1997) Fact that Complainant may not have known of the language of the CHR agreement form is not dispositive where there was no evidence that the execution of the agreement was a condition precedent to the settlement; Hearing Officer found the written agreement was a formality. HO

McGee v. Cichon, CCHR No. 96-H-26 (Sep. 16, 1997) Where documents showed there was agreement to all issues but one -- language of the letter of apology -- case was sent to Jurisdictional Hearing to determine whether there was agreement on that issue. HO

McGee v. Cichon, CCHR No. 96-H-26 (Dec. 30, 1997) Based on testimony given at Jurisdictional Hearing, CHR found that parties entered an oral agreement and that Complainant did not require Respondent to admit liability as part of it. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Sep. 9, 1999) If existence of oral agreement is proven, it can bar further proceedings in case. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Sep. 9, 1999) Party seeking to dismiss case based on an oral agreement has burden to prove agreement's existence. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Sep. 9, 1999) Issues such as whether an oral agreement exists and its terms are questions of fact, unless they are undisputed. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Sep. 9, 1999) CHR denied motion to dismiss which claimed that parties had orally settled case; Complainant denied that they had settled it and Respondent did not produce uncontested facts which demonstrated they had reached such an agreement. CO

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

Stevens v. Hollywood Towers Condo. Assn. et al., CCHR No. 10-H-19 (Oct. 24, 2012) Extension of time to submit settlement document granted after parallel case settled in federal court, with caution that it was not for purpose of implementing the terms of settlement. 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

Horn v. Burger King, CCHR No. 92-PA-36 (Oct. 14, 1994) Denied motion to vacate an agreement which was allegedly "procured by fraud" where parties did not agree that a violation of the agreement could lead to reinstatement (only that CHR could enforce its terms) and where there was no evidence of fraud or of any violation other than a short delay in payments. 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

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

Amed v. Roman, CCHR No. 91-FHO-58-5646 (July 23, 1992) CHR finds that Respondent did not comply with settlement agreement and so forwarded the case to Corporation Counsel to obtain judicial enforcement. CO

Bolling v. Jimenez, CCHR No. 92-H-114 (July 1, 1993) CHR finds that the Respondents did not comply with settlement agreement, fined the Respondents \$500 for refusing to comply with the settlement order, awarded \$300 in attorney's fees to Complainant for work done concerning enforcement and sent the case to Corporation Counsel for judicial enforcement. CO

King v. XCEL Laboratories, CCHR No. 92-E-121 (May 10, 1994) CHR found violation where Respondent did not pay Complainant the full \$1500 as specified in the agreement. CO

Scott v. Noble Horse/Coach House Equestrian Center & Sfandire, CCHR No. 92-E-153 (July 20, 1994) CHR found violation where Respondent did not pay Complainant the full \$3500 as specified in the agreement. CO

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

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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

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (July 27, 1992) Social Security Administration's finding that Complainant was entitled to disability benefits -- and so unable to work -- from date preceding her termination estops Complainant from preceding with her disability claim in that she was not "otherwise qualified" to perform the essential functions of her job. CO [reversed by next entry]

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Apr. 19, 1993) Social Security Administration's determination of disability is not, as a matter of law, the same as a finding that a complainant is "otherwise qualified" under CHRO; overrules order of 7-27-93 due to a subsequent Seventh Circuit ruling. CO

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

Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) Complaint found untimely as it was filed more than 180 days from discharge and equitable estoppel found not appropriate as Respondents did not fraudulently conceal information which prevented Complainant from learning of the alleged violation. CO

Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) Where Respondents "concealed" only that Complainant's supervisor was not actually involved in his discharge, CHR did not apply equitable estoppel because Complainant still had more than enough information to notify him that his rights may have been violated at the time of his discharge. CO

Equitable Estoppel Requirements

Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) For equitable estoppel to delay the start of the filing period, respondent must have fraudulently concealed information to negate any basis complainant had for supposing the conduct was discriminatory; relies on *Cada v. Baxter Healthcare Corp.* CO

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

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Apr. 19, 1993) Complainant's claim in a Request for Review that Respondent is subject to "quasi estoppel" held unfounded in that Respondent did not take inconsistent positions in its defense; sets forth quasi-estoppel standards. CO

Requirements

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (July 27, 1992) Sets forth requirements which must be met in order to estop Complainant from bringing a claim contrary to a prior decision at another tribunal. CO

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (Sep. 16, 1992) IDHR's finding of no substantial evidence not preclusive where the IDHR decision was not presented in evidence at the Hearing and where the decision was investigative, not adjudicatory. R

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Apr. 19, 1993) Fact that a prior decision, on which the estoppel claim is based, was made at a "quasi-judicial," not a judicial, proceeding does not itself make estoppel inapplicable, in the facts of this case. CO

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Apr. 19, 1993) Sets forth standards for a successful quasi estoppel claim against Respondent and holds Respondent not estopped from raising a non-inconsistent defense. CO

ETHICS

Commission Employee as Complainant

Littleton v. Chicago Municipal Credit Union, CCHR No. 91-CR-05 (Mar. 5, 1993) Fact that Complainant was an employee of CHR when he filed is not a basis for dismissal because the Complainant/ employee has no decision-making power and because the Complainant and the investigator of his case were ordered not to speak about the case other than as investigator and complainant. CO

Commissioner as Complainant

Doering v. Chicago Park District, CCHR No. 91-PA-10/11 (Oct. 29, 1991) Neither the CHRO nor the Ethics Ordinance prohibit a Commissioner from filing a complaint at the Commission on Human Relations so long as he or she recuses himself or herself from, and refrains from influencing, decisions about the case. CO

EVIDENCE

Administrative Notice

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Apr. 20, 1993) CHR will take administrative [judicial] notice only of those facts which are "indisputable and capable of accurate and ready determination". CO

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

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Evidence discovered after the discriminatory decision was made and after litigation began may effect damages but not liability. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Where Respondent would have discovered the disqualifying information during the application process, outside of litigation, had it not discriminated, case found not to be a true after-acquired evidence case. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Evidence discovered after the discriminatory decision was made may effect damages but not liability. R

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) Information which was not actually discovered after Respondents revoked some privileges of doctor/ Complainant but which was the main cause for the revocation found not covered by after-acquired evidence doctrine. CO

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 8, 1999) In determining whether or not there is substantial evidence of discrimination, CHR does not consider information which Respondent learned only after Complainant filed her complaint. CO

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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (Oct. 7, 2013) Motion to allow telephonic or video testimony denied where Respondent failed to show compelling circumstances warranting a deviation from the general rule requiring live testimony. Live testimony is important for the hearing officer to determine credibility. Remote testimony may be allowed if moving party documents compelling circumstances such as limited financial resources or a witness' inability to physically attend. 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

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Objection to Respondent's inclusion of Complainant's attorney on witness list denied where attorney deemed "necessary witness" based on his participation in a telephone call that formed basis of the claim but Motion to Disqualify Complainant's attorney also denied where disqualification would create substantial hardship. 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

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Circumstantial evidence can be used to establish identity of person not formally identified. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Generally, a person who answers the telephone at a business is presumed to have actual or apparent authority to speak for the business. R

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 circumstances. R

Credibility of Witness

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Testimony found credible so was credited because not impeached or contradicted. R

Sanders v. Onnezi, 93-H-32 (Mar. 16, 1994) Hearing Officer and Board of Commissioners must determine the credibility of witnesses and can disregard the testimony of any witness they find to be incredible. R

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) Hearing Officer and Board of Commissioners must determine credibility and may disregard testimony if they determine the witness was not telling the truth. R

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Decision of whether a statement indicates a discriminatory motive is left with trier of fact. R

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Oct. 16, 1996) Commission will not re-weigh Hearing Officer's recommendation of witness credibility unless it is against the manifest weight of the evidence. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Hearing Officer and Board of Commissioners must determine credibility and may disregard testimony if they determine the witness was not telling the truth. R

McGee v. Cichon, CCHR No. 96-H-26 (Dec. 30, 1997) (same) CO

McGee v. Cichon, CCHR No. 96-H-26 (Dec. 30, 1997) In determining the credibility of witnesses, CHR may consider, among other things, witnesses' interest in the outcome, any bias and their demeanor. CO

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Nov. 18, 1998) Where circuit court remanded case to CHR to reconsider only expert testimony of psychologist, CHR found that that testimony did not alter finding that Complainant's account of sexual harassment was not credible, including because she claims she freely allowed

alleged harasser into her apartment after he had allegedly harassed her to the point where she claimed she barricaded her door. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) The Board of Commissioners may not overturn a hearing officer's factual findings unless they are "contrary to the evidence presented at hearing" and so will not re-weigh credibility or set aside proposed findings of fact merely because another interpretation is plausible. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) In ruling that Complainant did not prove a hostile environment, CHR found that her testimony about the timing of the harassment was not credible and that her examples of the alleged harassment did not show that any sexual conduct was sufficiently severe or pervasive to create a hostile environment. R

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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 that he accusations were uncorroborated and contradicted. R

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Feb. 20, 2002) Ruling describes reasons CHR found Complainant not credible, including felony conviction for tax fraud, disbarment and admission that he would say whatever he felt was advantageous to him. 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 et al., 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 officer also considered Respondents' limited command of English. Factors for evaluating credibility discussed. R

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

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 (Sep. 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 (Sep. 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

Gardner v. Ojo et al., CCHR No. 10-H-50 (Dec. 19, 2012) Reviews prior decisions in finding that evidence of willingness to rent to others in same protected class as Complainant is relevant to credibility and weight of proffered evidence of discriminatory intent in refusal to rent case. That Respondent had destroyed certain documents that might have corroborated his testimony found not relevant to his credibility because he offered an innocent explanation, sanctions were not warranted, and the documents had no relationship to his stated defense. R

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (Oct. 7, 2013) Motion to allow telephonic or video testimony denied where Respondent failed to show compelling circumstances. Live testimony is important for the hearing officer to determine credibility. Remote testimony may be allowed if party documents compelling circumstances such as limited financial resources or a witness' inability to physically attend. HO

Newby v. Chicago Transit Authority et al., CCHR No. 09-E-10 (Feb. 19, 2014) Assessment of a witness's credibility might include factors such as the individual's interest in the outcome, bias, demeanor, plausibility of the story, inconsistencies and contradictions in the testimony, whether the testimony is corroborated by another witness or contemporaneous documents and whether the testimony is details and unprompted. R

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's testimony as to alleged sexual harassment at work discredited where it contradicted the allegations in her CHR and EEOC Complaint and where she contradicted herself on cross-examination. In a sexual harassment case where the parties have conflicting testimony, complainant's credibility is vitally important as the claim typically hinges on complainant's perceived veracity. R

Dead Man's Act

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Where one Respondent had died, CHR allowed testimony from a witness who was not a party in interest about that Respondent's statements. R

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

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) Expert testimony was allowed regarding low-income housing in Chicago and its relationship to occupancy standards; background of witness found sufficient to qualify him as expert. R

White v. Ison, CCHR No. 91-FHO-126-5711 (Feb. 18, 1993) No expert testimony necessary to establish emotional distress damages. R

Barnes v. Page, CCHR No. 92-E-01 (Jan. 21, 1994) Request to increase emotional distress damages denied where expert's testimony concerning Complainant's emotional distress was necessarily based on Complainant's report to her, and to the extent that Complainant's hearing testimony concerning the magnitude of her injuries was discounted, expert's testimony was similarly discounted. R

Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Feb. 7, 1997) Physicians named in Complainant's preliminary witness list barred from testifying as experts because Complainant did not follow the requirements of CHR's regulation covering expert witnesses. HO

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Nov. 18, 1998) Where circuit court remanded case to CHR to reconsider only expert testimony of psychologist, CHR affirmed prior decision, noting that the expert did not treat Complainant but only met with her a week before the hearing and where the expert did not have any independent knowledge concerning the veracity of Complainant's statements to her. R

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Mar. 27, 2013) Motion to bar expert witness denied where intent to call revealed in pre-hearing memorandum filed three weeks before hearing date after prior discovery responses indicated no expert would be called, but two-week continuance granted to allow Respondents to meet the potential testimony. Respondents ordered to give notice within 14 days if planning to call own expert. HO

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Aug. 22, 2013) Expert Witness' testimony allowed regarding flight or fight physiological response to perceived violence due to transgender status where expert witness was qualified as an expert by meeting criteria: (1) Expert had knowledge not common to laypersons; (2) Her qualifications allowed her to be viewed as an expert in the field of her testimony; and (3) her testimony assisted the trier of fact in understanding the evidence. HO

Foundation

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Apr. 20, 1993) Fact that CHR is not bound by strict rules of evidence does not authorize CHR to consider statements unsupported by fact or expertise. CO

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

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) CHR may consider hearsay evidence and give it the weight that the Administrative Hearing Officer deems appropriate when the opposing party does not object to the hearsay during the hearing. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) HUD memo found to be a public record and a business record and so admissible as a hearsay exception. R

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Sep. 27, 1993) Newspaper clipping admitted to show basis of affiant's belief, but not for the truth of the matter asserted therein. CO

McGee v. Sims, CCHR No. 94-H-131 (May 23, 1995) Denied Respondent's motion to exclude witnesses who heard Complainant on a telephone call because CHR proceedings are not bound by strict rules of evidence and because the objections were more to the weight and probity of the evidence than its admissibility. HO

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Aug. 22, 2013) Witness' testimony regarding substance of Complainant's phone conversation admitted as "excited utterance" exception to hearsay rule where hearing officer found the conversation occurred while the startling event was still unfolding; Complainant was panicking and yelling in police car while on her way to possibly identify her assailant. HO

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.

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Dec. 12, 1994) Motions *in limine* are disfavored and so shall not be granted unless it is clear that the evidence at issue is not admissible for any purpose. HO

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Nov. 17, 1995) Due to attorney-client privilege, Complainant may not testify at Hearing about whether a client sought certain advice, whether an attorney told him a client needed certain advice, or whether a client confidence prompted certain memoranda. HO **See Privileges section, below.**

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 (Sep. 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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's motion to exclude evidence regarding her work performance and disciplinary record properly denied given the hearing officer's authority to admit or exclude testimony or other evidence even if inconsistent with strict rules of evidence applicable in other courts, the disfavor with which Commission views motions *in limine*, and that the documents in question were related to Respondent's defenses which Complainant could challenge during the hearing. R

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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Documentary evidence offered in support of undue hardship defense held inadmissible where estimate for automatic door opener was presented by an Apprentice Facility Manager, who never installed an automatic door, instead of vendor who provided estimate. R

Pleadings

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) CHR placed no weight on the fact that Respondent's testimony differed from the answer submitted during the investigation by his attorney. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Inclusion of a matter in the pleadings is not a prerequisite to crediting testimony adduced at trial on that matter. R

Post-Hearing Briefs

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Matters not in evidence at the Hearing may not be relied upon in post-hearing briefs. R

Newby v. Chicago Transit Authority et al., CCHR No. 09-E-10 (Feb. 19, 2014) Where Respondents filed a motion to strike portions of Complainant's post-hearing brief, the hearing officer did not rule on it because the Commission's regulations do not contemplate responses to post-hearing briefs, nor had the hearing officer allowed it. R

Prejudicial Evidence

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Dec. 12, 1994) Motion in limine denied where the prospect that evidence of alleged prior bad acts may be prejudicial is not sufficient to exclude it in a discrimination case where circumstantial evidence is necessary. HO

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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's motion to exclude evidence regarding her work performance and disciplinary record as irrelevant, collateral, and prejudicial properly denied given the hearing officer's authority to admit or exclude testimony or other evidence even if inconsistent with strict rules of evidence applicable in other courts, the disfavor with which Commission views motions in limine, and that the documents in question were related to Respondent's defenses which Complainant could challenge during the hearing. 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

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Dec. 12, 1994) In a sexual harassment case, Respondents' motion in limine denied where evidence of alleged prior bad acts may be used for

purposes other than to show that Respondents may have acted similarly in the past; cites Fed.R.Evid. 404(b). HO

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Dec. 12, 1994) Motion in limine denied where evidence of Respondents' alleged prior bad conduct may help establish Complainant's hostile environment case and may be used to show motive, intent, knowledge or plan. HO

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

Williams v. United Air Lines, CCHR No. 91-E-90 (May 19, 1993) Rebuttal witness may not merely support case-in-chief, particularly where other, proper, testimony did so. R

Relevance

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) No error in refusing to allow Respondent to admit Complainant's credit record where it was shown that Respondent had not had it at the time of his challenged decision and where Respondent had cross examined Complainant about her credit history. R

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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's motion to exclude evidence regarding her work performance and disciplinary record properly denied given the hearing officer's authority to admit or exclude testimony or other evidence even if inconsistent with strict rules of evidence applicable in other courts, the disfavor with which Commission views motions in limine, and that the documents in question were related to Respondent's defenses which Complainant could challenge during the hearing. R

Settlement Offers

Cornelius v. De La Salle Institute, CCHR No. 93-PA-68 & 69 (June 2, 1994) CHR grants Complainants'

motion to strike and so refuses to consider Respondent's argument that Complainants' settlement offer had any bearing on the merits of their claims or on their motives in filing; cites public policy and comparable federal rule of evidence. 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

Statements Made During Discharge

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) In ruling on motion to dismiss, CHR held that harassing comments allegedly made during discharge could be considered even if said after the actual discharge statement. CO

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

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) Test performed by a purported apartment seeker may be relied upon by Administrative Hearing Officer. R

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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Apr. 20, 1993) Affiant who is member of Respondent's local governing body found competent to speak on behalf of the local body but not competent to speak for national organization in which he never held a policy-making position and was never given the authority to speak on its behalf. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Apr. 20, 1993) Where affiant had expertise with local body but not the national organization, his interpretation of national organization's writings accepted only as the interpretation of the local body's opinions about the writings. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Apr. 20, 1993) Affiant's comments regarding beliefs of religious organizations stricken due to his lack of competence; he is neither a theologian nor demographer nor did he have any empirical data supporting his statements. CO

Daniele v. Mitsubishi Trust & Banking Corp., CCHR No. 92-E-23 (Sep. 21, 1993) In determining whether to find substantial evidence, Complainant is a competent witness in her own case and CHR will not find against her merely because Respondent has witnesses to the contrary unless Complainant is inherently incredible. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Sep. 27, 1993) Affidavits submitted by people affiliated with Scouting not stricken but taken as the personal opinion of those people and given weight accordingly. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Sep. 27, 1993) Affidavits of people representing religious organizations not stricken but taken as one view of the beliefs of the religion when issue is whether BSA is a religious institution. CO

Hochstedler v. Cooper, CCHR No. 95-H-2 (June 26, 1995) Burden of proving a person's incapacity rests on

party asserting it. R

Hochstedler v. Cooper, CCHR No. 95-H-2 (June 26, 1995) Incapacity not inferred merely due to physical illness. R

McCutcheon v. Robinson & Barnett, CCHR No. 95-H-84 (Sep. 8, 1987) Where one Respondent claimed to have health problems which prohibited him from assisting his counsel, Hearing Officer issued an order which sought medical information about his condition and which set forth factors to determine whether the Respondent would be able to participate. HO

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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Documentary evidence offered in support of undue hardship defense held inadmissible for purposes of proving the quoted prices was the normal price for such an improvement, where estimate for automatic door opener was presented by restaurant's Apprentice Facility Manager, who never installed an automatic door, instead of vendor who provided estimate. Estimate was admitted solely for the limited purpose that a quote was received. R

EXECUTION OF DECISION

Denied/Stayed

Johnson v. City Realty & Development, CCHR No. 91-H-165 (Nov. 16, 1994) Although Respondent had not complied with the final order for over 30 days in violation of Regulation 220.125, Complainant's motion for enforcement was denied because the final order was on appeal in state court. CO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Aug. 19, 1998) Where Respondent had not complied with the final orders as ordered but had filed a petition for a *writ of certiorari* in state court, CHR denied Complainant's request for enforcement of the orders. CO

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

Sullivan-Lackey v. Godinez, CCHR No. 99-H-89 (Dec. 11, 2001) (same) CO

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Dec. 28, 2001) (same) 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

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 4, 2012) Deadlines for training ordered as injunctive relief for sexual orientation harassment were extended a second time based on agreement of the parties and evidence they were working together to resolve any issues about compliance. CO

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Jan. 24, 2013) Third extension of time

granted to complete training ordered as injunctive relief, based on lack of objection from Complainant, but noting that no further extensions are contemplated. CO

Granted

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Apr. 16, 1992) Pursuant to Regulation 250.125, CHR ordered Respondent to comply with previous ruling to pay a \$6144.00 judgment to Complainant and a \$500 fine to the City. CO

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (June 1, 1992) Motion to enforce judgment granted where Respondent failed to execute CHR's order awarding damages within 31 days pursuant to Regulation 220.125; Respondent fined \$500 for this failure and the matter was referred to the Corporation Counsel's office for enforcement. CO

Eltobgi v. Martinez, CCHR No. 91-FHO-15-5600 (Aug. 10, 1992) Pursuant to Regulation 250.125, CHR ordered Respondent to comply with previous ruling to pay a \$1,175.00 judgment to Complainant, a \$300 fine to the City, and attorney fees of \$2,575.00. CO

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Oct. 28, 1992) CHR will not seek judicial enforcement of a CHR order until 31 days after the Final Order, as specified by Regulations. CO

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Nov. 25, 1992) Respondent ordered to pay Complainant damages and fines to the City from ruling over 31 days old and case referred to Corporation Counsel for judicial enforcement. CO

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Mar. 17, 1993) Due to Respondent's refusal to comply with CHR's order after hearing, Respondent fined \$500, Complainant awarded an additional \$560 in attorney's fees for work incurred due to that refusal, and the case was sent to Corporation Counsel for judicial enforcement. R

Antonich v. Midwest Building Management, CCHR No. 91-E-150 (July 6, 1993) Due to Respondents' failure to comply with liability and attorney's fees rulings after administrative hearing, Respondents fined per each day of violation of orders and the case sent to Corporation Counsel for judicial enforcement. CO

Diaz v. Prairie Builders/Marzec, CCHR No. 91-E-204 (July 20, 1993) (same) CO

White v. Ison, CCHR No. 91-FHO-126-5711 (Oct. 18, 1993) (same) CO

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Dec. 23, 1993) Same; and attorneys fees awarded for preparation of motion seeking enforcement of judgment. CO

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (Nov. 16, 1994) Complainants' motion to enforce final order after administrative hearing granted when, in violation of Regulation 220.125, Respondent had not complied with order for over 30 days. CO

Williams v. Banks, CCHR No. 92-H-169 (Oct. 18, 1995) Complainant's request for judicial enforcement of CHR's final orders on liability and attorney's fees granted where Respondent had not complied with either order and more than 30 days had passed since entry. CO

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Nov. 3, 1995) Complainant's request for enforcement of final ruling on liability granted where Respondents claimed they were "insolvent" but failed to supply any requested proof of that. CO

Hussian v. Decker, CCHR No. 93-H-13 (Aug. 20, 1996) Where Respondent was found liable but did not pay judgment and where he filed a *writ of certiorari* but did not name Complainant, CHR granted Complainant's motion for enforcement of ruling and sent the case to Corporation Counsel. CO

Soria v. Kern, CCHR No. 95-H-13 (Apr. 22, 1997) Complainant's request for judicial enforcement of CHR's final orders on liability and attorney's fees granted where Respondent had not complied with either order and more than 30 days had passed since entry. CO

Matias v. Zachariah, CCHR No. 95-H-110 (May 22, 1997) (same) CO

Collins/Ali v. Magdenovski, CCHR No. 91-H-70 (July 3, 1997) (same) CO

Steward v. Campbell's Cleaning et al., CCHR No. 96-E-170 (Sep. 9, 1997) Complainant's request for judicial enforcement of CHR's final order on liability granted where Respondents had not complied with the order and more than 30 days had passed since its entry. CO

Barnes v. Page, CCHR No. 92-E-1 (Oct. 22, 1997) (same) CO

Wrights v. Mims, CCHR No. 95-H-12 (Nov. 21, 1997) (same) CO

Buckner v. Verbon, CCHR No. 94-H-82 (Jan. 9, 1998) Complainant's request for judicial enforcement of CHR's final orders granted where Respondent had not complied with the orders and more than 30 days had passed since the entry of the last one. CO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Feb. 4, 1998) (same) CO

Novak v. Padlan, CCHR No. 96-H-133 (Feb. 18, 1998) (same) CO

Ross v. Chicago Park District, CCHR No. 93-PA-31 (June 18, 1998) Where Respondent did not pay

damages and fine after it lost its appeal in the circuit and appeals court and where Respondent neither filed a timely motion to reconsider nor an Illinois Supreme Court appeal, CHR found Respondent in violation and ordered Respondent to pay the damages and fine. CO

Ross v. Chicago Park District, CCHR No. 93-PA-31 (June 18, 1998) In addition to the above, CHR found that, contrary to its assertion, Respondent did respond during the attorney's fees portion of the case and had other opportunities to respond which it did not take; therefore, CHR granted Complainant's request to order Respondent to pay the attorney's fees as well. CO **See also separate section for Attorney's Fees, above.**

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (July 8, 1998) Complainant's request for judicial enforcement of CHR's final order granted where Respondent had not complied with the order and more than 30 days had passed since its entry. CO

Ross v. Chicago Park District, CCHR No. 93-PA-31 (July 28, 1998) After appellate court denied Park District's new motion for reconsideration, CHR affirmed its order of June 18, 1998, listed above, and required the Park District to pay the outstanding damages, fine and attorneys' fees. CO

Hall v. Becovic, CCHR No. 94-H-39 (Aug. 24, 1998) Where Respondents did not pay attorney's fees after it lost its appeal in the circuit and appeals courts, CHR found Respondents in violation, fined them, and sent the case for enforcement in state court) CO

Huff v. American Management & Rental Service, CCHR No. 97-H-198 (Oct. 7, 1999) Complainant's request for judicial enforcement of CHR's final attorney's fees order granted where Respondent had not complied with the order and more than 30 days had passed since its entry. CO

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. Borough, 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

Other Agencies

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR did not dismiss case in which Complainant alleged that Respondent mis-handled his cases because of his race and because he had filed prior complaints against them, finding that the Department did not have exclusive jurisdiction to hear his cases and that the instant complaint does not seek review of the Department's decision. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR held that it recognizes that it cannot act as an appeal for individuals unhappy with results of investigations by other agencies and can only determine whether the agency's work was provided in a non-discriminatory and non-retaliatory manner. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR holds that an individual who alleges that an agency's decision-making was discriminatory or retaliatory may not rely on mere conclusory allegations but must supply more information about the basis for his case. CO

EXPEDITE

Confidentiality

Green v. Alzheimer & Gray, et al., CCHR No. 94-E-57 (Mar. 9, 1995) Where Complainant sought to show the required good cause by filing medical documents "*in camera*" and where Respondent did not object, CHR held it would allow such a filing; includes an explanation of later access to files and protective order. CO

Denied

Green v. Alzheimer & Gray, et al., CCHR No. 94-E-57 (Feb. 16, 1995) Where Complainant presented only

a summary reason for his motion to expedite it was denied but he was given leave to refile. CO

Onyeka v. Westtown Training Ctr. et al., CCHR No. 96-E-155 (Sep. 5, 1997) (request to expedite denied where Complainant presented only a speculative and non-compelling reason -- his job search might lead him to a job outside Chicago) CO

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

Thomas v. Johnson Publishing, CCHR No. 91-E-44 (July 22, 1991) Request to expedite granted based on Complainant's extreme financial hardship. CO

Green v. Alzheimer & Gray, et al., CCHR No. 94-E-57 (Feb. 16, 1995) By Regulation, Complainant must present at least "good cause" to support a motion to expedite. CO

Green v. Alzheimer & Gray, et al., CCHR No. 94-E-57 (Mar. 9, 1995) (same) CO

Onyeka v. Westtown Training Ctr. et al., CCHR No. 96-E-155 (Sep. 5, 1997) (same) CO

Onyeka v. Westtown Training Ctr. et al., CCHR No. 96-E-155 (Sep. 5, 1997) Read in light of Ordinance's provision that allows expediting when a complainant is "likely to die," complainant's "good cause" must be quite compelling. CO

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

Green v. Alzheimer & Gray, et al., CCHR No. 94-E-57 (July 28, 1995) Complainant's submission of doctor's note and medical documentation found to provide the needed "good cause" to have the case expedited. CO

Proof

Green v. Alzheimer & Gray, et al., CCHR No. 94-E-57 (June 12, 1995) Documentation of medical tests which is not explained and is not comprehensible to the Commission was found insufficient to show good cause. CO

Green v. Alzheimer & Gray, et al., CCHR No. 94-E-57 (July 28, 1995) Complainant's submission of doctor's note and medical documentation found to provide the needed "good cause" to have the case expedited. CO

EXPERT TESTIMONY – See Evidence/Expert Witnesses section, above.

EXTENSION OF TIME AND CONTINUANCE – See Attorney Appearance/Extension of Time and Continuance, Attorney's Fees/Extension of Time, Default Judgment/Extension of Time, Disqualification/No Continuance, Hearing Procedures/Extension of Time, Hearing Procedures/Continuance, Motions/Extension of Time & Continuance, and Requests for Review/Extension of Time to File.

EXTRAORDINARY CIRCUMSTANCES – See Good Cause and Extraordinary Circumstances, below.

FAILURE TO COOPERATE

Attorney Neglect

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

Case Dismissed

Houston v. Mims, CCHR No. 94-H-18 (Apr. 12, 1995) Where Complainant failed to attend Pre-Hearing Conference and Hearing, her case was dismissed for failure to cooperate as had been warned. CO

Bowen v. McCleton, CCHR No. 94-H-105 (Apr. 12, 1995) Where Complainant did not attend three Conciliation Conferences, her case was dismissed for failure to cooperate as had been warned. CO

Stokes v. Jordan, CCHR No. 93-H-44 (July 24, 1995) Where Complainant failed to attend the administrative hearing and had not communicated with her attorney for weeks, her complaint was dismissed pursuant to Regulation 240.110(o). HO

Owagboriaye v. First National Bank of Chicago, CCHR No. 94-E-6 (Oct. 30, 1995) Grants Respondent's motion to dismiss complaint for want of prosecution during hearing procedures where Complainant's attorney stated that Complainant did not object because he has another case in federal court. HO

Scott v. Lind, CCHR No. 95-H-156 (Feb. 28, 1996) Where Complainant failed to attend two Conciliation Conferences, her complaint was dismissed as had been warned. CO

Chenault v. Gooley-Wilson & Will, CCHR No. 94-H-169 (May 29, 1996) Complaint dismissed when Complainant failed to attend Conciliation Conference and then did not contact CHR or provide good cause as ordered. CO

White v. Guernsey Dell, CCHR No. 95-E-213 (Jan. 29, 1997) Where Complainant did not attend pre-hearing conference and apparently moved without providing new address, case dismissed. HO

Thomas v. Rodriguez, CCHR No. 97-H-8 (Aug. 6, 1997) Complainant's case dismissed where she did not file a pre-hearing memorandum, did not attend the pre-hearing conference, and then failed to respond to a dismissal warning seeking good cause for those failures. HO

Miller-Holt v. Klein Builders, CCHR No. 97-E-197 (Oct. 8, 1998) Where Complainant did not respond to two orders seeking explanation for his failure to participate in the Hearing process, case dismissed for failure to cooperate. HO

Chmelar v. DiCristofaro, CCHR No. 98-H-55 (Nov. 3, 1998) Where Complainant did not respond to several orders in the hearing process, including final one which warned of dismissal, case dismissed for failure to cooperate. HO

Smith v. Pitts, CCHR No. 98-H-173 (May 6, 1999) Where Complainant missed the scheduled Conciliation Conference without good cause, her case was dismissed. CO

Fleming v. Pitts, CCHR No. 98-H-137 (Oct. 21, 1999) Complainant's case was dismissed where she did not attend the Pre-Hearing Conference, did not follow regulations concerning pre-hearing procedures, and did not respond to the Hearing Officer's order seeking an explanation for those failures. HO

Powell v. Planned Property Mgt., CCHR No. 98-H-31 (Nov. 4, 1999) Where Complainant missed a scheduled Conciliation Conference, her case was dismissed.

Powell v. Planned Property Mgt., CCHR No. 98-H-31 (Nov. 4, 1999) Complainant's claim that she was absent from a Conciliation Conference because she had a hard time contacting her attorney was found not to be good cause when she knew that there was an upcoming Conference but did not simply call CHR to obtain the date. CO

Powell v. Planned Property Mgt., CCHR No. 98-H-31 (Nov. 4, 1999) CHR notes that Illinois courts hold that even when failure to comply with a deadline is due to an attorney's negligence, that does not constitute "good cause" for the client. CO

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

McGraw 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

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 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. AMC-GCT, Inc., CCHR No. 03-P-146 (Apr. 21, 2005) Case dismissed where 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

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

Barren-Johnson v. Mahmood, 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

Mariduenas/Sutton/Reed v. Cervantes, CCHR No. 95-H-21/23/28 (Feb. 22, 1996) Where two complainants failed to attend the first Conciliation Conference because their attorney failed to tell them of it but where they attended the second Conference, CHR denied Respondent's motion to dismiss their complaints. CO

Casas-Cordero v. Ingegno, CCHR No. 95-H-119 (May 21, 1997) Where Complainant had submitted a doctor's note which explained her illness and so her failure to participate, Hearing Officer did not dismiss her case but required an explanation as to when she will be able to participate. HO

Duvergel v. Zivkovic, CCHR No. 97-H-63 (Jan. 14, 1998) Although Complainant did not report her new address to CHR, CHR did not dismiss her case for failing to attend a Conciliation Conference because it appeared that she did not receive notice of it; she responded promptly to a notice of potential dismissal that CHR sent once it learned her new address. CO

Smith v. Wilmette Real Estate & Mgt., CCHR No. 95-H-159 (Aug. 13, 1998) Where Complainant did not attend Conciliation Conference because CHR mis-sent first notice and where the later one was misrouted, and where Complainant explained his absence as soon as he learned of it, CHR did not dismiss Complainant's case for failure to cooperate. CO

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (June 30, 1999) Where Complainant's failure to attend the Conciliation Conference was caused a medical emergency where she used great effort to attend nonetheless, CHR found that she demonstrated good cause and so did not dismiss her case for failure to cooperate. CO

Wortham v. Wright Property Mgt. et al., CCHR No. 96-E-141 (June 30, 1999) Where Complainant explained that he did not attend Conciliation Conference because he did not receive notice of it and described his general problems with his mail, and where he responded as soon as he received the notice of potential dismissal, CHR found that he demonstrated good cause and so did not dismiss his case for failure to cooperate. CO

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

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

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

Jacobs v White Cap, Inc., CCHR No. 96-E-239 (July 29, 1999) CHR denied request to re-open case where it had attempted to reach Complainant for five months but Complainant did not provide his current address or return

call. 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

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 to 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

Walker v. Adeicola, CCHR No. 96-H-83 (May 29, 1997) Where Commission mistakenly sent warning letter and Notice of Potential Dismissal to Complainant's old address, the dismissal was reversed. CO

Jackson v. Jimmy & Tai's Wrigleyville Tap & Chic. Police Dept., CCHR No. 96-PA-56 (Jan. 28, 1998) CHR granted Complainant's Request for Review of order dismissing case for failure to cooperate finding that CHR Regulations do not permit such a dismissal for a complainant's failure to make a written reply to a verified response. CO

Bashara v. Goldflies, CCHR No. 95-E-143 (Sep. 10, 1998) CHR granted Complainant's Request for Review finding that CHR had sent the Notice of Potential Dismissal to the wrong address although Complainant had given CHR the correct one. CO

FEE WAIVER

Denied

Austin v. Harrington, CCHR No. 94-E-237 (Jan. 10, 1997) Complainant's request for waiver of fee for copy of transcript denied -- CHR cannot waive payment to court reporter but does allow parties to review CHR copy of transcript without fee. HO

Granted

Toldeo v. Brancato, CCHR No. 95-H-122 (Feb. 20, 1997) Fees waived where, pursuant to Reg. 270.600, Complainant filed affidavit showing that she cannot afford fees. HO

FINES

After Administrative Hearing

Employment

Huezo v. St. James Properties, CCHR No. 91-E-44 (July 11, 1991) Maximum fine of \$500 appropriate where retaliation by Respondent was knowing and willful. CO

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Employer fined \$500 for firing Complainant due, in part, to sexual orientation discrimination. R

Antonich v. Midwest Building Mgt., CCHR No. 91-E-150 (Oct. 21, 1992) Employer fined \$500 in failure to hire/sexual harassment case. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) Maximum of \$500 for flagrant sexual harassment. R

Ordon v. Al-Rahman Animal Hospital & Rahman, CCHR No. 92-E-139 (July 22, 1993) Respondents fined \$500 for repeated and long term sexual harassment of Complainant. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Respondent fined \$500 for sexual harassment of employee. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) Each individual Respondent fined \$2000 -- \$500 for each one's four most egregious incidents of sexual harassment. R

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) Respondents found liable for creating a sexually hostile environment fined \$500 for each of 3 incidents for a \$1500 fine; maximum fine awarded in part due to Respondents' failure to take the sexual harassment seriously as evidenced by smirking during the hearing. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Respondents each ordered to pay a fine of \$100 for creating a hostile environment due to Complainant's sexual orientation. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Respondent fined \$100 for having an anti-gay hiring policy despite claim of religious organization exemption and constitutional defenses. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Respondents who fired Lebanese/Arab wrong-doer 14 months before similarly-situated Jewish wrong-doer fined \$500. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Defaulted Respondents who beat up, humiliated and discharged disabled Complainant each fined \$500. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Respondent who fired Complainant due to his sex but who was found not to have sexually harassed him fined \$100. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Where Respondent was found liable for improperly forcing Complainant to take a medical examination and then discharging him due to his perceived disability, Respondent fined \$500. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Respondent who fired Complainant due to her sexual orientation fined \$500. R

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 (Sep. 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

Brooks v. Hyde Park Realty Co., Inc., CCHR No. 02-E-116 (Dec. 17, 2003) \$500 fine imposed for age discriminatory discharge. 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 (Sep. 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

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). Fines of \$500 each imposed against corporate and two individual Respondents for workplace harassment based on perceived sexual orientation. 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

Shores v. Nelson d/b/a Blackhawk Plumbing, CCHR No. 07-E-87 (Feb. 17, 2010) \$500 fine against defaulted Respondent for sexual harassment of employee. 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 severally 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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) Maximum \$1,000 fine against both defaulted Respondents for harassment and termination of security guard based on race. R

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) Maximum fine of \$1,000 imposed where restaurant/bar owner refused to hire applicant based on her race and age when owner asked her race and age and replied to her responses, "No, no, no," you are "too old," and you are "not the right type for the job." R

Housing

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) \$500 fine levied where landlord refused to rent to Complainant because of her race. R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) In national origin/housing case, \$500 per day fine found appropriate where there is a flagrant violation. R

Eltobgi v. Martinez, CCHR No. 91-FHO-15-5600 (Feb. 26, 1992) \$300 fine levied where landlord charged Complainant a surcharge because Complainant had children and directed ethnic slurs at Complainant's children. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) In national origin/housing case, maximum fine of \$500 found appropriate where there is a flagrant violation of the Ordinance. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) \$400 fine levied in racial harassment housing case. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Landlord fined \$500 for unreasonable failure to accommodate tenant with a disability. R

Garcia v. Vazquez, CCHR No. 91-FHO-61-5646 (June 17, 1992) Landlord fined \$500 for sexually harassing tenant. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Landlord fined \$300 for refusal to rent based on race. R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Sep. 16, 1992) Landlord fined \$500 in race/refusal to rent case. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) Landlords fined \$4,500 for a number of flagrant violations based on tenants' race and religion. R

White v. Ison, CCHR No. 91-FHO-126 (Dec. 16, 1992) Landlord fined \$500 where he sexually harassed tenant. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Landlord fined \$500 for occupancy policy which excluded families with children. R

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Jan. 27, 1993) Landlord fined \$250 for failure to rent to black woman where no racial epithets were used. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) \$300 fine levied in parental status case where Respondent's restrictive terms for Complainants' children forced them to move elsewhere. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) \$250 fine levied where landlord created a sexually hostile housing environment. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Maximum fine of \$500 awarded where landlord sexually harassed Complainant and evicted her after she rejected his advances. R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Respondent fined \$500 for not allowing black Complainant to view apartment. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Respondent fined \$500 for not allowing Complainant with teenage children to view apartment. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Respondent fined \$500 for not allowing Complainant to rent apartment due to his national origin. R

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Where landlord did not rent to an unmarried couple in contravention of marital status discrimination prohibition, but where the refusal was based on the landlord's religious beliefs, Respondent fined \$1. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) In race discrimination/failure to rent case, Respondent fined \$500 due both to the violation and Respondent's disregard of CHR procedure. R

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Landlord fined \$1000, \$500 each, for two incidents; the maximum fine was awarded due to the outrageousness of his conduct and his disregard for Commission procedures and the rule of law. R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Respondent fined \$500 for failing to rent to Complainant's potential roommates due to their race and color. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Respondent fined the maximum \$500 where he was found to have discriminated against female tenant due to her sex where he hit her and nailed her back door shut. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Landlord fined \$500 where he was found liable for not allowing tenant to sublet to a black Complainant. R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) Where landlord refused to waive no-pet rule for blind person with seeing eye dog, Respondent fined \$250. R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) Respondents fined \$500 for refusing to rent to African-American Complainant. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Landlord fined \$300 for sex-based harassment of Complainants. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Landlord fined \$500 for failing to rent a sufficiently large apartment to Complainant due to the number of children Complainant had. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Respondent fined \$500 for creating a sexually hostile housing environment. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) Respondent fined \$500 for refusing to rent to Complainant due to her race, including making explicit racist comments to her and a tester. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Respondents fined \$250 for failing to rent to Hispanic tenant due to fear of neighbors' reactions. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Defaulted Respondent fined \$500 for failing to rent to Complainant due to her parental status. R

Collins/Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Apr. 16, 1997) Where state appeals court upheld liability decision but found that one of nine incidents could not be basis for that decision and so remanded case, CHR decreased Respondent's fine from \$4,500 to \$4,000. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Landlord who refused to rent to Complainant, on eve of his move-in, once she learned that he was Black fined \$500. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) Defaulted Respondent fined \$500 for posting sign which discriminated due to parental status and for disregarding CHR proceedings. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) Defaulted Respondents ordered to pay fine of \$500 where they did not make repairs to Complainant's apartment for years due to her sex. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Landlords fined \$500 in case where they evicted tenants/nuns once they learned the new one was Black. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Respondent fined \$250 for creating differential terms and conditions for white tenant due to her Black boyfriend. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Defaulted landlord ordered to pay fine of \$500 in case where he deliberately refused to rent to Complainant due to his parental status. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Respondent broker, defaulted for discovery and related abuses, fined \$500 for violating CFHO where he did not pursue Complainant's offer to purchase property for full price because one source of her income was public aid. R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) Landlord found liable for harassment of Complainant, a Hispanic tenant, which created a hostile, intimidating and offensive environment and was fined \$500; his pattern of oral and written slurs was considered to be one violation because they together created a CFHO violation. R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) Defaulted Respondent which did not rent to Complainant due to her source of income ordered to pay a fine of \$500. R

Puryear v. Hank, CCHR No. 98-H-139 (Sep. 15, 1999) Defaulted respondent fined \$500 for not renting available apartment to Complainant due to Complainant's race, African-American. R

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

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) CHR fined Respondents \$500 for blocking sale of condominium unit because Complainant/buyers had a child. 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 a fine of \$250. R

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)] R

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. R

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. R

Sellers v. Outland, CCHR No. 02-H-37 (Oct. 15, 2003) Fine of \$500 for egregious sexual harassment of vulnerable tenant by landlord. R

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Refusal to show advertised apartment to Social Security Disability recipient, inquiring into the nature of her disability and repeatedly telling her that she had to be employed to rent an apartment, held sufficiently egregious to justify maximum fine of \$500. R

Fox v. Hinajosa, CCHR No. 99-H-116 (June 16, 2004) Fine of \$400 for each of three discriminatory actions by landlord: two incidents of disparaging comments to tenant about being gay plus telling his mother she did not want him in the building because he is gay; fine of \$500 each for telling his family he is gay when he had not informed them and for issuing a discriminatory termination notice. R

Edwards v. Larkin, CCHR No. 01-H-35 (Feb. 16, 2005) Maximum fine of \$500 where Respondent violated CFHO and refused to cooperate with CHR proceedings. R

Torres v. Gonzales, CCHR No. 01-H-46 (Jan. 18, 2006) Landlord fined \$500 for directly refusing to rent to Section 8 voucher holder and "giving runaround" after accepting security deposit and signing moving papers, then failing to respond to CHR orders. R

Marshall v. Borouch, CCHR No. 05-H-39 (Aug. 16, 2006) Defaulted Respondent landlord who refused to return security deposit to former tenant based on race and failed to respond to Commission orders fined \$500. R

Draft v. Jercich, CCHR No. 05-H-20 (July 16, 2008) \$500 fine against property owners who told prospective tenant they would not rent to her as a Section 8 voucher holder and then ignored Commission proceedings. R

Sercye v. Reppen and Wilson, CCHR No. 08-H-42 (Oct. 21, 2009) \$500 fine each against building owner and real estate agent where agent told Complainant the owner did not accept Section 8 vouchers. R

Diaz v. Wykurz et al., CCHR No. 07-H-28 (Dec. 16, 2009) \$250 fine for refusal to rent to tenant with Section 8 voucher where Respondent's conduct was not egregious and she made diligent efforts to follow CHR procedures. R

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. R

Rankin v. 6954 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. R

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. R

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. R

Montelongo v. Azarpira, 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. R

Shipp v. Wagner et al., CCHR No. 12-H-19 (July 16, 2014) \$500 fine imposed against property owner who refused to rent to voucher holder based on her source of income. R

Public Accommodation

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Respondent fined \$1000 in public accommodation case where Complainant was sexually harassed by a park manager and another employee. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Fine of \$100 awarded where one of Respondent's employees called Complainant a "faggot" but Respondent did not know of or ratify the act. R

Macklin v. F & R Concrete et al., CCHR No. 95-PA-35 (Nov. 20, 1996) Respondents fined \$500 in default case for their failure to work for black Complainant. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) Respondent who refused entry to Complainant who had Black companions fined \$500. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) Defaulted Respondents ordered to pay a fine of \$500 for calling Complainant racist names during the provision of services. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Respondent ordered to pay a fine of \$500 for holding a tournament which was not accessible to Complainant, a person who uses a wheelchair. R

Carter v. CV Snack Shop, CCHR No. 98-PA-3 (Nov. 18, 1998) Defaulted Respondent fined \$500 for not serving African-American Complainant due to his race. R

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Defaulted Respondents fined \$500 for using racial epithets and refusing to serve African-American Complainant. R

Winter v. Chicago Park Dist., CCHR No. 97-PA-55 (Oct. 18, 2000) Respondent fined \$500 for not have an accessible washroom for wheelchair-using Complainant who suffered severe public humiliation due to that lack. R

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. R

Trujillo v. Cuauhtemoc Rest., CCHR No. 01-PA-52 (May 15, 2002) (same) R

Jordan v. Nat'l Railroad Passenger Corp. (AMTRAK), CCHR No. 99-P-34 (Feb. 19, 2003) \$500 fine 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

Maat v. El Novillo Steak House, CCHR No. 05-P-31 (Aug. 16, 2006) (same) 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

Cotten v. Eat-A-Pita, CCHR No. 07-P-108 (May 20, 2009) Imposed a fine of \$500. 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 repeatedly 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 (Sep. 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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) \$500 fine imposed where restaurant was inaccessible to wheelchair user because of weight of door and Respondent failed to properly document undue hardship. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) Maximum fine of \$1,000 imposed against respondent restaurant where respondent failed to make its restaurant wheelchair accessible, failed to participate in the administrative hearing process and present evidence of mitigating circumstances or efforts to comply with CHRO. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) Minimal fine of \$100 imposed against Respondent restaurant where Respondent testified that inaccessibility was a problem at his restaurant and that he was taking steps to rectify it. R

Cotten v. Ochoa Sporting Goods, CCHR No. 14-P-15 (Dec. 17, 2014) \$1,000 fine imposed on store that was inaccessible to wheelchair user and Respondent ignored Commission procedures. R

Failure to Attend CHR-Ordered Conference/Hearing

Riney v. McDonald's, CCHR No. 91-FHO-43-5628 (Jan. 7, 1992) Case dismissed and fines issued pursuant to Regulation 230.100(b) for Complainant's unexcused failure to attend two Conciliations Conferences. CO

Johnson v. Tran, CCHR No. 91-FHO-165-5750 (Apr. 6, 1992) Respondent fined cost of Conciliator's fees, \$50, pursuant to Reg. 230.100(b) for unexcused failure to attend Conciliation Conference. CO

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Apr. 15, 1992) (same) CO

Garcia v. Vazquez, CCHR No. 91-FHO-61-5646 (Apr. 20, 1992) Complainant fined \$50 for failure to attend Hearing and Respondent fined \$100 for failure to attend Pre-Hearing Conference. CO

Garcia v. Vazquez, CCHR No. 91-FHO-61-5646 (June 17, 1992) Respondent fined an additional \$200 for missing Hearing. R

White v. Ison, CCHR No. 91-FHO-126 (Dec. 16, 1992) Respondent fined \$50 for failure to attend conciliation conference and \$100 for failure to attend Administrative Hearing. R

Hyman v. Ponderosa Restaurant, CCHR No. 92-E-142 (June 8, 1993) Respondent fined \$50 for failure to attend conciliation conference. CO

Scott v. Noble Horse Equestrian Center, CCHR No. 92-E-153 (June 17, 1993) (same) CO

Starrett v. Duda/Sorice, CCHR No. 93-E-6 (Aug. 19, 1993) Default entered pursuant to Regulation 230.100(b) where Respondents failed to attend several scheduled Conciliation Conferences. CO

Scott v. Noble Horse, CCHR No. 92-E-153 (Sep. 22, 1993) Respondent fined \$150 for failure to attend pre-hearing conference. HO

Hallom v. Wendler, CCHR No. 92-H-141 (Sep. 23, 1993) Where Complainant chose not to proceed with the Administrative Hearing and her decision was not communicated until the day of the Hearing itself, she was ordered to pay a fine of \$440 as costs for court reporter and hearing officer. R

Stewart v. Walgreen's, CCHR No. 93-PA-28 (Oct. 14, 1993) Respondent fined \$50 for failure to attend conciliation conference. CO

Starrett v. Duda/Sorice, CCHR No. 93-H-6 (Apr. 20, 1994) Complainant fined \$300 for failing to appear at Hearing to cover cost of Hearing Officer and court reporter for the time spent waiting for Complainant to appear. R

McCall v. Cook County Sheriff et al, CCHR No. 92-E-122 (Mar. 11, 1994) Individual Respondents fined

\$50, cost of Conciliator, where they failed to appear. CO

McCall v. Cook County Sheriff et al, CCHR No. 92-E-122 (Apr. 25, 1994) Upheld fine of individual Respondents who failed to attend Conciliation Conference even where the County's attorney appeared. HO

Noosbond v. Mogen David Social Club & Kayne, CCHR No. 94-PA-46 (Apr. 7, 1995) When Respondents failed to respond to CHR order regarding Respondents' motion to dismiss which raised an affirmation defense, CHR held the motion was waived until the case proceeds to an Administrative Hearing, if any, and Respondents fined cost of conciliator's fee for failing to attend Fact-Finding Conference. CO

Mariduena/Sutton/Reed v. Cervantes, CCHR No. 95-H-21/23/28 (Feb. 22, 1996) Where Complainants' attorney did not tell clients of the Conciliation Conference so a second Conference was needed, attorney fined the cost of Conciliator for the first Conference but complaints not dismissed. CO

Cruz v. Fonseca, CCHR No. 94-H-141 (Feb. 2, 1996) Where Respondent failed to attend two Conciliation Conferences, he was fined the cost of the Conciliator and defaulted. CO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Aug. 20, 1996) Where Respondent did not inform CHR or Complainant that he would request a continuance of the Hearing before the Hearing started, Respondent ordered to pay costs of Complainant, Complainant's witnesses and attorney and the Hearing Officer. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) CHR approves prior orders for attorney's fees and fines imposed due to Respondent's violations of hearing procedures. R

Lawrence v. Multicorp Co., CCHR No. 97-PA-65 (Jan. 22, 1998) Where neither party attended Pre-Hearing Conference, Hearing Officer fined each party and warned that failure to attend the Hearing would lead to dismissal or default. HO

Morris v. ARAMARK Educational Group, CCHR No. 97-E-131 (Sep. 1, 1998) Where Respondent attended the Conciliation Conference but did not bring anyone with authority to settle and where Respondent subsequently did not provide good cause for that failure as ordered, CHR fined Respondent for the cost of the Conciliator's attendance at the Conference. CO

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. 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

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. 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

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

Cotten v. Casa Azatlan, CCHR No. 11-P-63 (Oct. 4, 2012) Respondent fined \$70 for arriving 35 minutes late to scheduled proceeding; no default because the tardiness was negligent but not in willful disregard of CHR procedures. CO

Chrzanowski v. Alexandra Foods, CCHR No. 11-E-56 (Oct. 18, 2012) Complainant fined \$70 for failure to fully comply with instructions in notice of potential sanctions for failure to attend settlement conference. CO

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) Maximum fine of \$1,000 imposed against respondent restaurant where respondent failed to make its restaurant wheelchair accessible, failed to participate in the administrative hearing process and present evidence of mitigating circumstances or efforts to comply with CHRO. R

Failure to Comply with Commission Order or Regulation

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (June 1, 1992) Respondent fined \$500 for its failure to execute the judgment within 31 days as required by the Commission's regulations; this is in addition to the fine for the underlying violation. CO

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (May 28, 1993) Respondent fined \$200 for failure to comply with discovery order which caused CHR inconvenience and expense. HO

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Respondent fined \$300 for not complying with discovery order for three days. R

McNamara v. Physicians' Assoc. for AIDS Care, CCHR No. 93-E-214 (Oct. 24, 1994) Respondent fined \$100 for failing to comply with order approving a settlement agreement where it made payments one and two months late. CO

Horn v. Burger King, CCHR No. 92-PA-36 (Dec. 20, 1994) Where Complainant alleged and Respondent failed to deny that it had failed to pay three of four agreed-upon installments, CHR found a violation of the agreement, ordered that a fine of \$300 be paid and sought judicial enforcement of the agreement. CO

Owens v. Jacunski, CCHR No. 92-H-93 (Jan. 13, 1995) Respondent found to have violated the settlement agreement and fined \$500 where she had not paid the sum agreed to for over a year. CO

Doering v. Zum Deutschen Eck, CCHR No. 94-PA-36 (July 18, 1997) Where Respondent did not comply with new schedule set forth in 5/20/97 order [see above entry], Respondent fined \$100 each for two different violations for each day it does not comply; case sent to Corporation Counsel to seek judicial enforcement. CO

Rodriguez v. Candle Corp., CCHR No. 96-E-187 (July 24, 1997) Where Complainant claimed that Respondent no longer accommodated her as it had agreed to, when Respondent did not contest that assertion, CHR found that it violated the agreement and so fined it \$100 per day for each day of non-compliance. CO

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

McGraw 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. 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; 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. R

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. CO

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. CO

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. 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

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

Flores v. A Taste of Heaven et al., CCHR No. 06-E-32 (Jan. 29, 2009) Respondents' counsel fined \$250 under new Regs. 210.410, 210.420, and 235.440 for misrepresentations to CHR and opposing counsel in connection with the proceeding. 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) \$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. R

Pierce and Parker v. New Jerusalem Christian Development Corp. et al., CCHR No. 07-H-12/13 (Feb. 16, 2011) \$500 fine imposed on Respondent who failed to comply with four Commission orders. R

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. CO

Frivolous Pleadings/Representations – See Sanctions/Frivolous Pleadings-Representations, below.

FRIVOLOUS PLEADINGS/REPRESENTATIONS – See Sanctions/Frivolous Pleadings-Representations, below.

GENDER IDENTITY DISCRIMINATION

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. CO

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. R

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

Disability Discrimination

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) CHRO's definition of "disability" requiring that a condition be "determinable" covers claim for discrimination based on gender dysphoria, in motion to dismiss context. In motion to dismiss context, CHR allowed to proceed Complainant's claims that a) she was not accommodated in wearing long hair after she told employer of gender dysphoria and provided a doctor's note and b) she was fired due to the gender dysphoria.³ 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

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) Transsexualism is not protected by CHRO's prohibition of sexual orientation discrimination because it is not homosexuality, heterosexuality or bisexuality.⁴ CO

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-E-10 (Feb. 19, 2014) No gender identity discrimination found against transgender woman, where there was no evidence that Respondent had treated others who were not transgender differently and better and no credible evidence was offered to show that Respondent had referred to Complainant as a man during an incident at a public train station. Even if proved, that mistaken impression by itself is insufficient to constitute direct evidence of discriminatory animus. Referring to Complainant as a male would have been belittling if Respondent was aware that Complainant was transgender and was using the term "man" or "male" in a derogatory manner. R

Sexual Orientation Discrimination

Kilbert v. Pacific Garden Mission, CCHR No. 96-PA-68 (Nov. 22, 1996) Male Complainant who claims only that he "looks female" and so was perceived to be gay is not considered to be a transsexual, as argued by Respondent; his sexual orientation claim allowed to proceed. CO

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.

³ The *Evans* decision was decided prior to "gender identity," which is inclusive of transsexualism, being added as a protected classification in November 2002.

⁴ The *Evans* decision was decided prior to "gender identity," which is inclusive of transsexualism, being added as a protected classification in November 2002.

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

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR found that Illinois law provides immunity only when public officers performed their duties in good faith and so it did not dismiss Complainant's claim that the officials took inappropriate actions in his cases because of his race and because he had filed prior complaints against the Department. CO

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

Municipal Transit Authority

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Mar. 20, 2013) Sec. 27 of Municipal Transit Authority Act does not immunize CTA from discrimination claims, which are not torts, but only from tort claims. 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

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR found that it did not have before it sufficient facts to determine whether Consumer Services' investigation process met Illinois court standards for it to be considered an immune "quasi-judicial" tribunal. 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

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

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) After considering state and federal cases construing Illinois' Tort Immunity Act, CHR found that it normally applies to tort actions and not to statutory-based ones such as the instant one brought under the CHRO. CO

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

HEARING PROCEDURES

Administrative Hearing Officer Authority

Alceguere v. Cook County MIS et al., CCHR No. 91-E-137 (May 5, 1995) Ordinance and Regulations give Administrative Hearing Officers "full authority" to conduct hearings, including deciding motions to stay a hearing on certain claims. CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No.92-E-80 (May 30, 1996) Denies Complainant's motion to compel production of certain documents concerning time spent by Respondents' attorneys in order to justify own time; although hearing officer finds that he has inherent power to allow discovery about fees, he found it was not warranted by good cause in this case. HO

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Oct. 16, 1996) CHR rejects objections that the Hearing Officer's recommendation concerning reasonableness of Complainant's conduct was wrong because Hearing Officer is a man and Complainant is a woman claiming sexual harassment. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Nov. 20, 1997) Denies request of Respondent for certain documents and information concerning time spent by Complainant's attorneys; although hearing officer finds that she has inherent power to allow discovery about fees, she finds that no good cause was shown and many requests were irrelevant to reasonableness of the requested fees. HO

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) Hearing Officer held that she may have the authority, under Reg. 240.463, to bar Respondent from introducing certain evidence at hearing, but that represented Complainant had not previously filed a motion to compel or met a high burden to permit such a sanction. HO

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., CCHR No. 01-H-18/27 (Sep. 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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (Oct. 7, 2013) Where CHR has no rule that specifically allows evidence to be presented at hearing by any means other than live witness testimony, pursuant to Reg. 240.314, hearing officer determines admissibility of testimony from remote locations by looking to see whether moving party has established "compelling circumstances" to deviate from this general rule. HO

Newby v. Chicago Transit Authority et al., CCHR No. 09-E-10 (Feb. 19, 2014) Whether a statement evidences a discriminatory motive is an issue of fact to be decided by the hearing officer who has the opportunity to observe the testimony and demeanor of a witness. R

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) The hearing officer, and not the Board of Commissioners, is often in the best position to assess witness credibility by, among other things, assessing a witness' demeanor during her testimony, choosing among conflicting factual inferences and weighing the evidence. The mere fact that another interpretation is possible does not mean that the Board will re-weigh credibility or set aside a proposed finding of fact made by the hearing officer. R

Amendment to Conform to Evidence at Hearing-- See also Amendment of Complaint section, above.

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR denied Complainant's motion to amend her complaint to "conform" to the evidence at hearing in that the proposed amendments were not consistent with the evidence, the respondent would therefore be prejudiced if the amendments were allowed, and the request to amend was not timely -- it was not made until after the Hearing Officer had issued his first recommended decision. R

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (May 28, 1999) Where question of certain individual's ownership of Respondent bar was not tried at hearing by "express or implied consent of parties," motion to amend complaint concerning that ownership denied; issue also found to be moot because motion to add that individual as an additional respondent was denied [see **Amendment of Complaint/Additional Respondents subpart, above**]. HO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (Sep. 15, 1999) Hearing Officer rejects Respondents' motion to add new respondents, this time due to testimony presented at hearing, pursuant to Regulation 210.160(b)(2) which states that a complainant must show that the information which forms the basis of the motion is first learned at the Hearing and could not have been learned beforehand, including during discovery. HO

Amicus Curiae Brief

Sheppard v. Jacobs, CCHR No. 94-H-162 (Apr. 22, 1997) Amicus curiae brief not allowed to be filed during hearing process because Commission regulations do not allow them and the regulations discuss only the participation of parties. HO

Sheppard v. Jacobs, CCHR No. 94-H-162 (Apr. 22, 1997) Proposed amicus brief which addresses amount of recommended damages and standard for awarding punitive damages found not to present novel legal question or any issue that CHR had not previously considered so request to file it denied. HO

Bankrupt Respondent – See Bankruptcy section, above.

Board of Commissioners' Authority

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) In making the final ruling in a case, City Ordinance gives Board of Commissioners authority to "adopt, reject or modify" the hearing officer's recommendations; it is to adopt factual findings unless they are "contrary to evidence presented". R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) The Board of Commissioners may not overturn a hearing officer's factual findings unless they are "contrary to the evidence presented at hearing" and so will not re-weigh credibility or set aside proposed findings of fact merely because another interpretation is plausible. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Board rejected hearing officer's recommendation to find defaulted respondent liable as contrary to evidence presented at hearing; it held that where one respondent is defaulted but the other one is not, it cannot ignore evidence and findings that demonstrate that the alleged sexual harassment did not occur and so found that neither respondent violated the CFHO; decision

expressly limited to situation where one respondent is not defaulted and so is allowed to address merits of complainant's case. R

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) The hearing officer, and not the Board of Commissioners, is often in the best position to assess witness credibility by, among other things, assessing a witness' demeanor during her testimony, choosing among conflicting factual inferences and weighing the evidence. The mere fact that another interpretation is possible does not mean that the Board will re-weigh credibility or set aside a proposed finding of fact made by the hearing officer. R

CCHR Employee as Witness – See also Discovery/CCHR Investigative Materials & Investigator, above.

Campbell v. Brown/Dearborn Parkway, CCHR No. 91-FHO-18-5630 (June 11, 1992) CHR employee allowed to testify pursuant to Regulation 240.110(j) as to information which could not be obtained from another source. HO

McGee v. Sims, CCHR No. 94-H-131 (May 23, 1995) Allows CHR employee to be called as witness where his testimony about Respondent's statements during the investigation would constitute admissions against interest and where they cannot be obtained through another source, pursuant to CHR regulation. HO

Sheppard v. Jacobs, CCHR No. 94-H-162 (Feb. 13, 1996) Complainant allowed to call CHR employee as witness where Respondent failed to produce documents, where information sought is not otherwise available, and where CCHR employee may be needed for impeachment purposes. HO

Matias v. Zachariah, CCHR No. 95-H-110 (Mar. 8, 1996) Complainant allowed to call CHR employee to testify that the Respondent's defense is different from the one given during the investigation; such testimony could not be obtained from another source. HO

Mahaffey v. University of Chicago Hospital, CCHR No. 93-E-221 (Oct. 20, 1997) Complainant not allowed to subpoena CHR investigator to testify about documents collected in investigation as they were available to Complainant through other means as per Reg. 240.370. HO

Duvergel v. Zivkovic, CCHR No. 97-H-63 (May 20, 1998) Complainant's motion to call CCHR employee as witness granted where Complainant claimed that Respondent made a statement to that employee which could be considered an admission against interest and which could not be obtained other than through the employee's testimony. HO

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Aug. 7, 1998) Hearing Officer held that Complainant could call a CHR investigator at the upcoming hearing only if it was for impeachment purposes, citing CHR regulation 240.370. HO

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) (same) 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

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Aug. 22, 2013) Where Complainant failed to show that the information she sought was not available by other means, CHR investigative material barred with one exception. Investigator summary of witness testimony in investigative summary allowed for impeachment of one inconsistent witness statement. HO

Commencement of a Hearing

Ratkovich v. Illinois Bell, CCHR No. 91-E-50 (Oct. 30, 1992) Upon parties' request to delay commencement of hearing beyond the required 90 days from substantial evidence finding, CHR ruled it would so delay the commencement if the parties each waived their right to proceed in 90 days in writing. CO

Reed v. Strange, CCHR No. 92-H-39 (June 27, 1995) After the Board of Commissioners has ruled on liability, and where appropriate, has ruled on attorney's fees, CHR no longer has jurisdiction; parties must proceed by filing a writ of certiorari in state court) R

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Mar. 7, 1996) After Board has issued its final ruling, a party's only recourse is to go to state court; Request for Review procedures are not available at the Commission at that stage) CO

Wehbe v. Contacts & Specs and Schpak, CCHR No. 93-E-232 (Jan. 22, 1997) Where Board had issued

Final Ruling in favor of Complainant and Complainant chose not to seek attorney's fees, nothing was pending before CHR so Complainant's request to withdraw case was denied as unnecessary. CO

Continuance

Scott v. Noble Horse, CCHR No. 92-E-153 (Sep. 22, 1993) Hearing continued to allow Complainant to find an attorney where he had been diligent in seeking counsel. HO

Mitchell v. Kocan, CCHR No. 93-H-108 (Dec. 8, 1994) Motion for continuance denied where Respondent delayed in notifying CHR and Complainant of the withdrawal of one attorney thus making it too difficult to change a key witness' travel plans and where Respondent had already received the addresses and discovery he had claimed he needed. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Dec. 12, 1996) CHR denied Respondent's request for continuance made as part of his request for review of hearing officer's decision not to disqualify herself; face of request did not indicate bias and Respondent waited 2 months after learning of facts and after he received adverse discovery decisions to file initial motion to disqualify. CO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Dec. 12, 1996) CHR's regulation governing requests for review of disqualification decisions does not require an automatic stay of the hearing. CO

Nadeau et al. v. Suson and Family Physicians Center, CCHR No. 96-E-159/160/161 (Apr. 14, 1997) Where Respondents provided medical documentation that individual respondent/owner of business had undergone brain surgery, Hearing Officer postponed hearing but allowed certain discovery to proceed. HO

Nadeau et al. v. Family Physicians Center et al., CCHR No. 96-E-159/160/161 (Mar. 21, 1998) Hearing officer denied motion for sanctions for Respondent's failure to seek continuance of administrative hearing in a timely manner; after taking testimony concerning Respondent's health, including from his doctor, hearing officer determined that respondent's failure to notify others of need for continuance was not due to bad faith and was not intentional disregard for procedures; his neglect was primarily due to his diminished mental faculties caused by his brain tumor and the treatment for it. HO **See also separate Sanctions section, below.**

Harris v. Jenny Craig International, CCHR No. 93-E-88 (Apr. 9, 1998) Respondent's motion to continue hearing denied where lack of availability not shown and where requisite showing of due diligence in discovery under Reg. 270.130(b) was not met. HO

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) Where Respondent stated only that she might seek an attorney and did not exhibit diligence in seeking one, Hearing Officer denied continuance but stated that he would grant a continuance if Respondent actually obtained an attorney. R

Ferguson v. EWS Tailoring & Fashion Academy et al., CCHR No. 98-E-147 (June 3, 1999) Hearing Officer denied motion for extension to file pre-hearing memorandum and to continue the hearing which was filed less than seven days before the memorandum was due, finding that "extraordinary circumstances" were not shown and that counsel's inability to devote sufficient effort to the case does not constitute good cause to delay the hearing. HO

Griffiths v. DePaul University, CCHR No. 95-E-224 (Sep. 22, 1999) Hearing Officer denied Complainant's request for continuance because the number of documents Respondent turned over late was small and because Complainant's attorney had not tried to contact most witnesses before seeking the continuance. HO

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Mar. 27, 2013) Motion to bar expert witness denied where intent to call revealed in pre-hearing memorandum three weeks before hearing date after prior discovery responses indicated no expert would be called, but two-week continuance granted to allow Respondents to meet the potential testimony. Respondents ordered to give notice within 14 days if planning to call own expert. HO

Discovery – See separate Discovery section, above.

Expunge Records

Green v. Altheimer & Gray, CCHR No. 94-E-57 (May 22, 1996) Respondent's motion to expunge order concerning Hearing Officer's recusal denied because nothing in CHR Regulations allows it. Order in question not sent to 2nd Hearing Officer or Board of Commissioners -- the ultimate decision-makers -- whom Respondent feared might be "prejudiced" by the order. CO

Extension of Time

King v. Houston/Taylor, CCHR No. 92-H-162 (Aug. 31, 1994) Complainant's attorney allowed to file attorney's fees petition two days late where, due only to inadvertence, he had received the ruling ordering the petition on the day it was due to be filed; Respondent found not to be prejudiced by the delay. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Dec. 14, 1995) Complainant allowed to file petition for attorney's fees after deadline for it passed where Complainant filed a motion for extension of time only two days after the deadline and did not know that his attorney had failed to file the petition before then. HO

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 7, 1996) In case where Respondent had been defaulted, Hearing Officer denied "emergency motion" to file objections one month late to 1st recommendation after hearing as Respondent had been in town at the time of the recommendation and the two months afterwards. HO

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Same; Board of Commissioners adopts Hearing Officer's order. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Feb. 24, 1999) Board upheld Hearing Officer's denial of Complainant's request for a continuance of the hearing as Complainant did not make the request until the day of the hearing, as he had not shown due diligence to find an attorney, and as sanctions already imposed meant having an attorney would not have been meaningful. R

Ferguson v. EWS Tailoring & Fashion Academy et al., CCHR No. 98-E-147 (June 3, 1999) Hearing officer denied motion for extension to file pre-hearing memorandum and to continue the hearing which was filed less than seven days before the memorandum was due finding that "extraordinary circumstances" were not shown and that counsel's inability to devote sufficient effort to the case does not constitute good cause. 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

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

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.

Garcia v. Vazquez, CCHR No. 91-FHO-61-5646 (Apr. 20, 1992) Complainant fined \$50 for failure to attend Hearing and Respondent fined \$100 for failure to attend Pre-Hearing Conference. CO

White v. Ison, CCHR No. 91-FHO-126 (Dec. 16, 1992) Respondent fined \$100 for failure to attend Administrative Hearing. R

Garcia v. Vazquez, CCHR No. 91-FHO-61-5646 (June 17, 1992) Default judgment entered against Respondent pursuant to Regulation 240.110(o). R

Antonich v. Midwest Building Mgt., CCHR No. 91-E-150 (Oct. 21, 1992) (same) R

Scott v. Noble Horse, CCHR No. 92-E-153 (Sep. 22, 1993) Respondent fined \$150 for failure to attend pre-hearing conference. HO

Hallom v. Wendler, CCHR No. 92-H-141 (Sep. 23, 1993) Where Complainant chose not to proceed with the Administrative Hearing and her decision was not communicated until the day of the Hearing itself, she was ordered to pay Respondent's attorney's fees and \$440 to CHR as costs for court reporter and hearing officer. R

Starrett v. Duda/Sorice, CCHR No. 93-H-6 (Apr. 20, 1994) Complainant fined \$300 for failing to appear at Hearing to cover cost of Hearing Officer and court reporter for the time spent waiting for Complainant to appear. R

Houston v. Mims, CCHR No. 94-H-18 (April 12, 1995) Where Complainant failed to attend Pre-Hearing Conference and Hearing, her case was dismissed for failure to cooperate as had been warned. CO

Stokes v. Jordan, CCHR No. 93-H-44 (July 24, 1995) Where Complainant failed to attend the administrative hearing and had not communicated with her attorney for weeks, her complaint was dismissed pursuant to Regulation 240.110(o). HO

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Where Respondent failed to attend hearing without notifying anyone, she was ordered to pay Complainant \$344.25 in sanctions as his reasonable costs for attending that hearing from New York. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Aug. 20, 1996) Where Respondent did not inform CHR or Complainant that he would request a continuance of the Hearing before the Hearing started, Respondent ordered to pay costs of Complainant, Complainant's witnesses and attorney and the Hearing Officer. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Oct. 8, 1996) Hearing Officer calculates the costs Respondent must pay Complainant for failing to attend Hearing with our notice at \$1,305; see order noted above. HO

White v. Guernsey Dell, CCHR No. 95-E-213 (Jan. 29, 1997) Where Complainant did not attend pre-hearing conference and apparently moved without providing new address, case dismissed. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) CHR approves prior orders for attorney's fees and fines imposed due to Respondent's violations of hearing procedures. R

Lawrence v. Multicorp Co., CCHR No. 97-PA-65 (Jan. 22, 1998) Where neither party attended Pre-Hearing Conference, Hearing Officer fined each party and warned that failure to attend the Hearing would lead to dismissal or default. HO

Houck v. Inner City Horticultural Fdn., CCHR No. 97-E-93 (Mar. 17, 1998) Where Respondent failed to attend pre-hearing conference, hearing officer ordered it to pay cost of hearing officer's fees for attending the conference. HO

Nadeau et al. v. Family Physicians Center et al., CCHR No. 96-E-159/160/161 (Mar. 21, 1998) Hearing officer denied motion for sanctions for Respondent's failure to seek continuance of administrative hearing in a timely manner; after taking testimony concerning Respondent's health, including from his doctor, hearing officer determined that respondent's failure to notify others of need for continuance was not due to bad faith and was not intentional disregard for procedures; his neglect was primarily due to his diminished mental faculties caused by his brain tumor and the treatment for it. HO **See also separate Sanctions section, below.**

Nadeau et al. v. Family Physicians Center et al., CCHR No. 96-E-159/160/161 (Mar. 21, 1998) Although motion for sanctions was denied, see entry above, hearing officer held that, if complainants prevail after a hearing, they will be entitled to seek attorney's fees for attendance at the hearing which had to be postponed. HO

Miller-Holt v. Klein Builders, CCHR No. 97-E-197 (Oct. 8, 1998) Where Complainant did not respond to two orders seeking explanation for his failure to participate in the Hearing process, case dismissed for failure to cooperate. HO

Fleming v. Pitts, CCHR No. 98-H-137 (Oct. 21, 1999) Complainant's case was dismissed where she did not attend the Pre-Hearing Conference, did not follow regulations concerning pre-hearing procedures, and did not respond to the Hearing Officer's order seeking an explanation for those failures. HO

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 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

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. 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

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Feb. 24, 1999) CHR upheld Hearing Officer's sanction that Complainant could not testify at hearing, finding he was "contumacious" due to his repeated refusal to comply with orders despite several opportunities to correct behavior; Complainant lost case as he was unable to prove *prima facie* case. R

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

Austin v. Harrington, CCHR No. 94-E-237 (Jan. 10, 1997) Complainant's request for waiver of fee for copy of transcript denied -- CHR cannot waive payment to court reporter but does allow parties to review CHR copy of transcript without fee. HO

Toledo v. Brancato, CCHR No. 95-H-122 (Feb. 20, 1997) Fees waived where, pursuant to Reg. 270.600, Complainant filed affidavit showing that she cannot afford fees. HO

Interlocutory Orders

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 5, 1995) Requests for reviews of interlocutory orders issued during the hearing process cannot be reviewed by the Board of Commissioners until the Regulations allow -- as part of objections to the First Recommended Decision on Liability. CO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 23, 1995) Hearing Officer denied another motion for reconsideration of stay of certain claims, again holding that the proper procedure for seeking review of an interlocutory order is as part of objections to the First Recommended Decision on Liability. HO

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Complainant's request for review of prior discovery ruling denying document request deemed a proper interlocutory

order where a change of circumstances was created by prior CHR Order granting Complainant's request to assert new steering claim and the requested documents deemed relevant to new claim. HO

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's motion to exclude evidence regarding her work performance and disciplinary record properly denied given the hearing officer's authority to admit or exclude testimony or other evidence even if inconsistent with strict rules of evidence applicable in other courts, the disfavor with which Commission views motions in limine, and that the documents in question were related to Respondent's defenses which Complainant could challenge during the hearing. R

Motion for Reconsideration

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (June 23, 1994) CHR refused to consider a Motion for Reconsideration filed after the Board of Commissioners made its final ruling after Hearing because no Commission regulation allows for a second review by the Board and the Regulations specify that a party's recourse is to seek a *writ of certiorari* in state court after a final ruling. CO

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Jan. 5, 1996) Request for reconsideration of Hearing Officer's final recommendation denied because CHR regulations do not permit them. HO

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 in Limine [See also Discover/Motions in Limine and Evidence/Motions in Limine sections above]

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's motion to exclude evidence regarding her work performance and disciplinary record properly denied given the hearing officer's authority to admit or exclude testimony or other evidence even if inconsistent with strict rules of evidence applicable in other courts, the disfavor with which Commission views motions in limine, and that the documents in question were related to Respondent's defenses which Complainant could challenge during the hearing. R

Motion to Compel

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) Where represented Complainant had not filed a motion to compel, Hearing Officer ruled that she must meet a high burden to bar Respondent from introducing evidence which it had not provided during discovery. HO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 6, 1999) Where Respondent had not filed a motion to compel, Hearing Officer denied its motion to bar Complainant from presenting all documentary evidence and all witnesses at the hearing as too punitive; the Hearing Officer noted that Complainant had been *pro se* for most of the process, had responded to discovery once represented, and that there was no surprise or prejudice to Respondent with respect to the witnesses or documents which Complainant intended to present. HO

Objections to First Recommendation-- See Objections section, below.

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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Objections rejected where hearings officer's finds of fact not contrary to evidence, Complainant merely argued another interpretation of the evidence but it is the hearing officer's role to determine which facts are pertinent, and hearing officer carefully explained the reasons for the credibility determinations. R

Post-Hearing Briefs/Discovery

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Matters not in evidence at the Hearing may not be relied upon in post-hearing briefs. R

Johnson v. City Realty & Development Co., CCHR No. 91-FHO-165-5750 (July 22, 1993) Nothing in the Regulations requires filing a post-hearing brief in order to file a Request for Review so Respondent's failure to file its brief does not preclude it from filing its Request for Review. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (May 30, 1996) Denies Complainant's motion to compel production of certain documents concerning time spent by Respondents' attorneys in order to justify own time; although hearing officer finds that he has inherent power to allow discovery about fees, he found it was not warranted by good cause in this case. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Nov. 20, 1997) Denies request of Respondent for certain documents and information concerning time spent by Complainant's attorneys; although hearing officer finds that she has inherent power to allow discovery about fees, she finds that no good cause was shown and many requests were irrelevant to reasonableness of the requested fees. 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

Pre-Hearing Conference

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Mar. 4, 1994) Due to the informal nature of the Pre-Hearing Conference, and the fact that settlement negotiations may take place there, the Respondents' court reporter was not allowed to transcribe the proceedings and allowed to record no more than a summation of the issues and orders on them. HO

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

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Apr. 30, 1992) Requirements of pre-hearing memorandum outlined in detail. HO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Mar. 4, 1994) There is no requirement that a party's description of witnesses' testimony in the Pre-Hearing Memorandum reveal the witnesses' competence, source of knowledge or details or their knowledge; a brief description of their anticipated testimony is sufficient. 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

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. CO

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

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

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Mar. 27, 2013) Motion to bar expert witness denied where intent to call revealed in pre-hearing memorandum filed three weeks before hearing date after prior discovery responses indicated no expert would be called, but two-week continuance granted to allow Respondents to meet the potential testimony. Respondents ordered to give notice within 14 days if planning to call own expert. HO

Record of Hearing – See also Protective Orders section, below.

Stay of Proceedings

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (Mar.30, 1995) Where the where Cook County Human Rights Commission had already held a hearing on two claims pending at CHR, CHR granted a motion to stay CHR proceedings on those claims, holding it is likely that the final decision by Cook County would bar a different decision by CHR. HO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 5, 1995) CHR denied as untimely and without basis Complainant's motion for reconsideration of order staying two claims which had been heard at Cook County's Commission. CO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 23, 1995) Same; ruling on another motion for reconsideration. HO

Simpson v. Montgomery Ward et al., CCHR No. 93-E-99 (Aug. 22, 1995) CHR hearing procedures stayed where Complainant was proceeding with a complaint against Respondents in federal court concerning the same allegations, where Complainant did not object to the stay and where there is a likelihood that the federal outcome would have a preclusive effect on the CHR case. HO

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (Aug. 30, 1995) Where Respondents moved to stay CHR's attorney's fees proceedings (after a liability ruling against them) because the first recommendation on liability did not state whether or not fees should be awarded, stay denied because such silence about fees is not a recommendation against them, because fees are routinely awarded when complainants win, and

because the CHR Board has the authority to differ from a hearing officer's recommendation. HO

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (Aug. 30, 1995) Mere fact that Respondents filed a petition for review in state court does not divest CHR of jurisdiction to complete its work on the attorney's fees petition. HO

Buckner v. Verbon, CCHR No. 94-H-82 (Sep. 13, 1996) Hearing Officer denied ambiguous request to postpone hearing where Respondent sent to Hearing Officer (but not to Complainant or Commission) a doctor's note without more. HO

Collins v. Bockwinkel, CCHR No. 98-E-191 (July 20, 1999) CHR denied Respondent's motion for a stay which he had sought because Complainant had a similar case at the IHRC and had recently received a right-to-sue letter; CHR held that it is not permitted to stay or defer its work merely because a case is proceeding elsewhere. CO

Collins v. Bockwinkel, CCHR No. 98-E-191 (July 20, 1999) CHR held that this case was not like the only one in which CHR had deferred its work, where the County Commission had completed a full hearing on a parallel case and only the final decision remained; in the instant case, the IHRC process had only just begun and Complainant had not yet filed in federal court. CO

Prewitt v. John O. Butler Co., CCHR No. 97-E-42 (Oct. 13, 1999) Hearing Officer denied Respondent's motion for a stay which was sought because Complainant had a similar case at the IHRC for which a hearing was pending [without a date] but not held; applies same analysis as in Collins case above, where a prior CHR case agreeing to defer is distinguished. HO

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 Subpoena section, below.

Supplement Record

Austin v. Harrington, CCHR No. 94-E-237 (July 15, 1997) Where, in its objections to the first recommendation, Respondent for the first time raised a defense concerning CHR authority to award back pay against an individual, Hearing Officer found that issue necessary to resolve but not addressed at Hearing; he allows parties to supplement record with documents and affidavits. HO

Gonzalez v. Ardeljan, CCHR No. 95-H-73 (Aug. 8, 1997) Hearing re-opened for evidence of ownership of building in question so CHR can issue enforceable order where complaint named "owner" as respondent, where respondents who had cooperated throughout failed to attend Hearing so unrepresented complainant had not known to introduce the ownership evidence. HO

Timeliness of Motions

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) CHR's regulation requires pre-hearing motions to be filed no later than 3 days before the Pre-Hearing Conference and Respondent was notified of that several times. Because the motions in question were not filed until long after that, they were found untimely. HO

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

Williams v. Twin Towers LLC and The Habitat Company LLC, CCHR No. 11-H-40 (May 28, 2013) Motion to Disqualify Complainant's attorney who was necessary witness at upcoming administrative hearing six weeks shy of the administrative hearing date denied where Respondent could have filed the motion sooner and the delay in filing greatly exacerbated hardship to Complainant whose counsel would have limited time before the hearing to prepare. HO

Transcripts

Austin v. Harrington, CCHR No. 94-E-237 (Jan. 10, 1997) Complainant's request for waiver of fee for copy of transcript denied -- CHR cannot waive payment to court reporter but does allow parties to review CHR copy

of transcript without fee. HO

Waiver of Objections

Reed v. Strange, CCHR No. 92-H-39 (June 27, 1995) Objections not raised at hearing deemed waived. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Argument not raised deemed waived. R

HOSPITAL COVERAGE

Immunity

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) CHR construes Illinois laws and cases as well as IHRC case in determining scope of immunity for Hospital and doctor in case concerning revoking certain privileges from doctor/Complainant. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) Following Illinois laws and cases, Hospital found immune from civil damages, but not entirely immune, in case concerning revoking certain privileges from doctor/Complainant. CO

HOUSING DISCRIMINATION

Actions Covered

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) In denying a motion to dismiss, CFHO held to cover not just sales, rentals and leases but also denial or withholding of a housing accommodation and discrimination in occupancy of the housing. HO

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) Under §5-08-030(B) of the CFHO, it is illegal to display a sign expressing a limitation on the right to rent due to parental status. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Respondent found liable for creating different terms and conditions for white tenant/Complainant who had a Black boyfriend by, among other things, not allowing her to entertain him without intrusive questioning and by not allowing her to add him to her lease, in contrast to his treatment of non-Black guests. R

Chilton v. Cedar Hotel & Inn-Town Hotel, CCHR No. 97-H-203 (Feb. 20, 1998) CFHO prohibits discrimination in "terms, conditions and privileges" relating to a person's occupancy, not just in rental or eviction, so CHR denies Respondents' motion to dismiss claim concerning Respondents' removal of Complainant's belongings from his dwelling. CO

Chilton v. Cedar Hotel & Inn-Town Hotel, CCHR No. 97-H-203 (Feb. 20, 1998) Complainant's allegations about Respondents' removal of his belongings from his unit found to state a claim for discriminatory eviction and/or constructive eviction. CO

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. Gowlovech, CCHR No. 07-H-36 (Sep. 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

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Respondent found liable where there was direct evidence that they refused to rent to Hispanic tenant due to their fear of neighbors' reaction, not due to habitability of apartment as they claimed at the hearing. R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) Landlord found liable for harassing Complainant, a Hispanic tenant, which created a hostile, intimidating and offensive environment, including by calling her an "f---ing Puerto Rican" and suggesting that she move to Humboldt Park. 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

Burden Shifting – See Disparate Treatment/Burden Shifting section, above.

Condominium Associations

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) CHR finds that the CFHO covers individual members of the condominium association's board of directors as agents; they admit that they are agents and otherwise appear to be agents. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) CFHO covers several levels of agents, including those who are agents of agents; therefore even if the condominium association itself is merely an agent of the owners, the individual members of the condominium association's board of directors are covered as agents of association's board. 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

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. (Apr. 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 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 Complainant 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

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) In parental status case, Respondent's additional terms restricting Complainants' children were so limiting that Complainant was found to have reasonably refused to move in. R

Customer Preference-- See separate entry, above.

Disability Discrimination

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) No violation found where housing complex refused to rent to Complainant and her 6 children due to its reasonable interpretation of HUD occupancy standards as prohibiting rental of a 3-bedroom apartment to more than 6 people. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Landlord found to have violated §5-8-030A and Reg. 420.180(b) by unreasonably failing to modify its no-pet rule so as to permit Complainant -- who has a severe psychiatric condition -- to keep a dog as part of his doctor-recommended therapy. R

Nash v. Lutheran Social Services, CCHR No. 91-FHO-161-5746 (July 29, 1992) No disability discrimination found where Complainant uses crutches and Respondent's housing facility gives preferences to persons using wheelchairs to rent apartments specifically designed for persons with severe mobility impairments. CO

Nash v. Lutheran Social Services, CCHR No. 91-FHO-161-5746 (July 29, 1992) Respondent not liable for creating housing to serve needs of people who use wheelchairs, and not for people using crutches, in that it does not discriminate based on having a disability and its program is similar to *bona fide* affirmative action programs. CO

Gilun v. Tomasinski, CCHR No. 91-FHO-85-5670 (July 29, 1992) Found for Respondent when no evidence presented that the allegedly discriminatory remark was actually said and evidence showed that the woman who allegedly said it speaks almost no English. R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) Landlord found liable for not waiving no-pet rule for blind person with seeing eye dog. R

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) Where sister of woman with disability claims that she was injured because Respondents allegedly would not provide them services due to her sister's disability, that states a claim for indirect disability discrimination. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Where issue is whether or not there is substantial evidence, not whether or not there is liability, CHR found the disputed issues concerning respondent's ability to make housing accessible to person using wheelchair -- such as undue costs and excessive problems to building's heating system -- did not overcome the "scintilla of relevant evidence" that there was substantial evidence and so found the issues should be resolved in hearing process. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Because CFHO requires that housing be "fully" accessible so, at the substantial evidence determination stage, Respondent's argument that it has improved doors other than at front entrance which make the building accessible to Complainant who uses wheelchair is not enough until Respondent shows that full, front-door, accessibility is an undue hardship. CO

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

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) Although Respondent/landlord was found liable for creating a hostile environment based on Complainant's Hispanic ancestry, his written note telling her that she should move to Humboldt Park was not the type of discriminatory communication prohibited by CFHO, §5-08-030(B). R

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

Moreno v. Apartment Guys et al., CCHR No. 09-H-27 (Nov. 19, 2012) Same as *Hoskins v. Linton*, above; prohibition of discriminatory communication does not apply to private communications. CO

Dwelling Defined

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Basement apartment in question, even if converted without City approval, was "designed and intended" by Respondents for occupancy and so qualifies as a covered dwelling. R

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

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Respondents found liable for race discrimination where, once they learned that the new co-tenant with their long-standing white tenant/nun was a nun who was Black, they evicted them; their defenses found pretextual. R

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

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) A subsequent rental to person of similar color and national origin as Complainant is not relevant. R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) The fact that the Respondents employ individuals of the same color and national origin as Complainant is not relevant in a housing discrimination case. R

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) Complainant need not prove that discrimination was the sole factor in the Respondents' decision not to rent to him. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Respondent's defenses found unworthy of credence and/or were rebutted and so CHR can presume that the real reason for the actions was discrimination. R

Gilun v. Tomasinski, CCHR No. 91-FHO-85-5670 (July 29, 1992) No evidence presented at hearing regarding race claim and, regarding the sexual orientation and disability claims, no evidence presented that the allegedly discriminatory remark was actually said and evidence showed that the woman who allegedly said it speaks almost no English. R

Johnson v. City Realty & Devel., CCHR No. 91-FHO-165-5750 (Mar. 17, 1993) Respondent's treatment of a white woman similar to Black Complainant other than her race demonstrated that Respondent showed Complainant low-quality apartments due to her race. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Complainant's claim of sexual harassment indirectly supported by testimony of another female tenant whom Respondent had "asked out" as well. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) In default case, landlord found liable for not renting to black Complainants; evidence included testimony of white tester. R

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

Gardner v. Ojo et al., CCHR No. 10-H-50 (Dec. 19, 2012) Reviews prior decisions in finding that evidence of willingness to rent to others in same protected class as Complainant is relevant to credibility and weight of proffered evidence of discriminatory intent in refusal to rent case. R

Failure to Rent

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) Respondent found liable for failure to rent due to Complainant's national origin. R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) Respondent found liable for not renting to Black Complainant due to race discrimination. R

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) Respondent found not liable for parental status discrimination where its decision reasonably relied on its interpretation of HUD standards. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Respondent found liable for race discrimination, but not for sex or marital status discrimination. R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Sep. 16, 1992) Respondent found liable for failing to rent due to race discrimination. R

Ojukwu v. Baum Management, CCHR No. 91-FHO-74-5659 (Nov. 18, 1992) Respondent found not liable for national origin discrimination. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Respondent found liable for parental status discrimination; defenses found pretextual and policies found intended to exclude families with children. R

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Jan. 27, 1993) Respondent found liable for not renting due to race discrimination. R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Respondent found liable for refusing to rent due to race discrimination. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Respondent found liable for parental status discrimination where it refused to rent to Complainant with teenaged children. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Respondent found liable for not renting to Complainant because of his national origin, Assyrian, and because he perceived Complainant to be a gypsy. R

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Landlord found liable for discriminating due to marital status when it failed to rent to an unmarried couple; defense based on religious beliefs found not to prevail. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) In default case, landlord found liable for not renting to black Complainants; evidence included testimony of white tester. R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Landlord found liable for refusing to rent to Complainant's potential roommates due to their race and color. R

Reid v. F.J. Williams Realty et al., CCHR No. 93-H-42 CHR found that Respondents did not fail to rent to Complainant because she rejected sexual advances but because she had post-dated a security deposit check. R

Pryor v. Carbonara, CCHR No. 93-H-29 (May 17, 1995) CHR found Complainant did not show that the landlord declined to rent to him due to his marital status, single. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Landlord found liable for not allowing tenant to sublet to a black Complainant, with respect to both the tenant and the prospective subtenant. R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) Landlord found liable where they refused to waive no-pet rule for a blind person with a seeing eye dog. R

Mitchell v. Kocan, CCHR No. 93-H-108 (10-18-95) Respondents found liable for not renting to African-American Complainant. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Respondent found liable for not renting a sufficiently large apartment to Complainant because Complainant has five children. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) Defaulted Respondent who made racial comments to Complainant and a tester found liable for not renting to African-American prospective tenant. R

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Respondents found not liable for failing to rent to Complainant who was to live with a 1-year-old child where the apartment in question was already rented and where Respondents rent to people with children. R

Matias v. Zachariah, CCHR No. 95-H-110 (Dep. 18, 1996) Respondent found liable where there was direct evidence that they refused to rent to Hispanic tenant due to their fear of neighbors' reaction, not due to habitability of apartment as they claimed at the hearing. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Defaulted Respondent ordered to pay rent differential, emotional distress damages and punitive damages to Complainant to whom he did not rent due to her

parental status. R

Sokoya v. 4343 Clarendon Condominium Assoc., CCHR No. 94-H-180 (Oct. 16, 1996) Respondent found to have legitimate, non-discriminatory reasons -- violation of rules and bad credit -- not to rent a new apartment to Nigerian tenant. R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Defaulted respondent ordered to pay out-of-pocket, emotional distress and punitive damages where he failed to rent to complainant once he learned that complainant's foster, teenage grandchild was to live with her. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Respondent who refused to rent to Complainant on eve of move-in once she learned he was Black found to have violated CFHO; decision rested on testimony of neutral apartment broker to whom explicit racist comments were made. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Complainant proved by direct evidence -- statements to neutral apartment broker and testers -- that Respondent refused to rent to him once she learned that he is Black. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Where Complainant's original allegations proved untrue and where landlord charged additional fee for additional occupants whether child or adult, Respondent found not to have discriminated concerning parental status when she asked for \$25 more per month for Complainant's foster children who moved in. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Fact that landlord did not have Complainant pay \$25 more for her mother who was only visiting and who was very ill did not show parental status discrimination when landlord later charged \$25 for Complainant's foster children; no pretext shown because visiting, sick mother was not similarly situated to foster children. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Defaulted landlord found liable for parental status discrimination when he told Complainant that he was refusing to rent to him because of the number of children in his family -- four. R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) Defaulted Respondent found liable for not renting to Complainant due to her source of income, a section 8 voucher. R

Puryear v. Hank, CCHR No. 98-H-139 (Sep. 15, 1999) Defaulted respondent found liable for not renting available apartment to Complainant due to Complainant's race, African-American. 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

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

Leadership Council for Metropolitan Open Communities. v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Respondent found liable for treating African-American applicants and testers differently from white ones; defenses found pretextual. 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) 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

Gardner v. Ojo et al., CCHR No. 10-H-50 (Dec. 19, 2012) Submission of an application is an element of a *prima facie* case of failure to rent where there is evidence an application was a necessary precondition to rent, unless complainant can show that it would have been a futile gesture to apply. R

Boyd v. Parkview Management Corp., CCHR No. 10-H-48 (June 7, 2013) No source of income discrimination in rejection of potential tenant claiming monthly income of \$672 from Social Security and “public aid” which was 73% of the stated rent of \$495. Income-to-rent ratio as rental qualification did not create disparate impact on Social Security recipients where many could meet the standard. Application of disparate income analysis in some Section 8 Housing Choice Voucher cases held distinguishable. CO

Failure to Sell

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Respondent broker, defaulted for discovery and related abuses, found to have violated CFHO where he did not pursue Complainant’s offer to purchase property for full price because one source of her income was public aid. R

Weinmann v. Bridgeview Garden Condominium Assoc. et al., CCHR No. 99-H-53 (June 28, 1999) CHR denied motion to dismiss finding that the CFHO “specifically and necessarily” covers prospective buyers, such as the complainant in this case. 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

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

Cooper & Ashmon v. Parkview Realty, CCHR No. 91-FHO-48-5633 (Aug. 26, 1992) Complainants failed to prove that their failure to apply for an apartment was due to Respondent's indicating that to do so would be a futile gesture. R

Marshall v. Getsla, CCHR No. 98-H-167 (Jan. 27, 1999) CCHR notes that, in certain circumstances, the "futile gesture" theory can excuse a failure to apply for a vacancy; motion to dismiss denied as it turned on disputed facts, including whether Complainant reasonably believed that Respondent had a discriminatory policy which would have excluded her. CO

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

Cooper v. Park Mgmt. and Investment, Ltd. et al., CCHR 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

Jones v. Shaheed, CCHR No. 00-H-82 (Mar. 17, 2004) Where landlord repeatedly told Social Security 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

Gardner v. Ojo et al., CCHR No. 10-H-50 (Dec. 19, 2012) Submission of application is element of *prima facie* case of failure to rent if there is evidence application was necessary precondition to rent, unless shown to have been a futile gesture. CHR has applied futile gesture doctrine only where respondents unambiguously communicated their discriminatory policies to complainants. Doctrine thus held inapplicable due to lack of proof Respondents had policy of rejecting applicants using Housing Choice Vouchers to pay rent or would have refused to rent to Complainant had she applied. Futile gesture finding cannot be based only on belief of Complainant, especially when communicated by third party and not Respondents themselves. R

Harassment

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) Landlord found liable for harassing Complainant, a Hispanic tenant, which created a hostile, intimidating and offensive environment, including by calling her an "f---ing Puerto Rican" and suggesting that she move to Humboldt Park. R

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 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

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

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/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 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

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) *Prima facie* case of harassment due to sexual 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

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Where a tenant holds over after expiration of a lease without a new agreement, landlord may treat tenant under same terms as original lease. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) When tenants remained in the apartment and paid rent after the lease expired, with leave of landlords, their tenancy became month-to-month. R

Indirect Discrimination

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) Claim of indirect disability discrimination may be brought under CFHO. CO

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) Where sister of woman with disability claims that she was injured because Respondents allegedly would not provide them services due to her sister's disability, that states a claim for indirect disability discrimination. CO

McGavock v. Burchett, CCHR No. 95-H-22 (Feb. 13, 1996) Complainant allowed to proceed with an indirect parental status claim under CFHO where she alleged that she was not rented an apartment because her roommate had a child. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Respondent found liable for creating different terms and conditions for white tenant/Complainant who had a Black boyfriend by, among other things, not allowing her to entertain him without intrusive questioning and by not allowing her to add him to her lease, in contrast to his treatment of non-Black guests. R

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

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) Ability to speak Spanish is not a *bona fide* qualification to rent an apartment. R

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

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Landlord found liable for discriminating due to marital status when it failed to rent to an unmarried couple; defense based on religious beliefs found not to prevail. R

Pryor v. Carbonara, CCHR No. 93-H-29 (May 17, 1995) CHR found Complainant did not show that the landlord declined to rent to him due to his marital status, single. R

Mixed Motives

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Respondent must show more than that it was motivated only in part by a legitimate, nondiscriminatory reason at the time of the decision -- it must show it would have made the same decision if it had not considered the discriminatory reason. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) To hold Respondent liable, discrimination need not be the only reason for the challenged action so long as it played a part. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Even if landlord was motivated only in part by a discriminatory intent in implementing a policy that excluded families with children, such mixed motivation could reduce the damage award but landlord would still be found to have violated the Ordinance. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Landlord found not liable for evicting Complainant because CHR determined that the landlord would have evicted her for failure to pay rent even absent the alleged impermissible motive -- Complainant's rejection of the landlord's sexual advances. R

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

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1992) Violation of §5-8-030 found for refusal to rent to Complainant because of his national origin. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) §5-8-030 violated where condominium association denied Complainant the opportunity to purchase the condo he had been renting because of his national origin when the association exercised its right of first refusal to block the sale. R

Eltobgi v. Martinez, CCHR No. 91-FHO-15-5600 (Feb. 26, 1992) §5-8-030 violated where Complainant was subject to ethnic slurs and where he was forced to pay additional rent because he had children. R

Ojukwu v. Baum Management, CCHR No. 91-FHO-74-5659 (Nov. 18, 1992) Complainant failed to prove that he was rejected as a tenant because he is Nigerian. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Respondent found liable for not renting to Complainant because of his national origin, Assyrian, and because Complainant was perceived to be a gypsy. R

Sokoya v. 4343 Clarendon Condominium Assoc., CCHR No. 94-H-180 (Oct. 16, 1996) Respondent found to have legitimate, non-discriminatory reasons -- violation of rules and bad credit -- not to rent a new apartment to Nigerian tenant. R

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-- See also Occupancy Standards section separately, below.

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) To determine whether occupancy standards violate the CFHO, the test is whether the occupancy standard adversely impacts upon people because of their parental status (in this case) and, if so, whether the standard is necessary to Respondent's business; no per se reasonable test is used. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Landlord liable, under both disparate treatment and disparate impact theories, for policy limiting two-bedroom apartments to two people where evidence showed it was implemented in order to exclude families with children and where Respondent did not show that the policy was necessitated by the building's condition. R

Campbell v. Dearborn Parkway Realty, CCHR No. 92-FHO-18-5630 (Apr. 21, 1993) CHR will not adopt internal HUD guidelines as an industry standard for occupancy in parental status cases. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Respondent's 2-persons-per-bedroom policy found presumptively invalid when it discriminates against persons with children. R

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

Eltobgi v. Martinez, CCHR No. 91-FHO-15-5600 (Feb. 26, 1992) Respondent found to have violated §5-8-030 where he forced Complainant to pay additional rent because he had children, and also where he subjected Complainant to ethnic slurs. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Landlord found liable under both disparate treatment and disparate impact analyses where landlord did not prove the two-person-per-two-bedroom apartment policy was necessitated by the building's condition and where CHR found it was implemented to exclude families with children. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) §§5-08-030(A) & (C) violated where Respondent added such restrictive terms to Complainants' lease due to Complainants' parental status that Complainants reasonably refused to rent from Respondent. R

Campbell v. Dearborn Parkway Realty, CCHR No. 92-FHO-18-5630 (Apr. 21, 1993) CHR will not adopt internal HUD guidelines as an industry standard for occupancy in parental status cases. R

Campbell v. Dearborn Parkway Realty, CCHR No. 92-FHO-18-5630 (Apr. 21, 1993) Limiting occupancy of a 2-bedroom apartment to 2 persons is suspect particularly when accompanied by other indicia of discriminatory purpose. R

Hunter v. Goldston/Rogers, CCHR No. 92-H-154 (May 6, 1993) Where Complainant had been primary

caretaker for his nephew with the consent of the nephew's mother, CHR interpreted the CFHO to find Complainant covered by definition of parental status. CO

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Landlord who refused to rent to complainant with teenage sons found liable, notwithstanding his allegations that he would have rented to children of other ages. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Owner's statement that it would not rent to persons with children itself violates the CFHO. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Landlord may determine if an individual child is likely to cause problems, but cannot make such a determination based on stereotypes or generalizations. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Landlord's prior history of renting to children did not constitute a defense to a claim of parental status discrimination where evidence showed that he had had a bad experience with last tenants with children. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (Jan. 23, 1996) Without deciding, CHR notes that the fact the children at issue were foster children does not cause CHR to lose jurisdiction of the parental status issue. CO

Crenshaw v. Harvey, CCHR No. 95-H-82 (Jan. 23, 1996) CHR denied motion to dismiss which alleged that Respondent was allowed to change Complainant's lease terms because Complainant changed them first, finding that argument to be only a defense to the claim. CO

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Respondent found liable for not renting a sufficiently large apartment to Complainant because Complainant has five children. R

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Respondents found not liable for failing to rent to Complainant who was to live with a 1-year-old child where the apartment in question was already rented and where Respondents rent to people with children. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Defaulted Respondent ordered to pay rent differential, emotional distress damages and punitive damages to Complainant to whom he did not rent due to her parental status. R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Defaulted respondent ordered to pay out-of-pocket, emotional distress and punitive damages where he failed to rent to complainant once he learned that complainant's foster, teenage grandchild was to live with her. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Where Complainant's original allegations proved untrue and where landlord charged additional fee for additional occupants whether child or adult, Respondent found not to have discriminated concerning parental status when she asked for \$25 more per month for Complainant's foster children who moved in. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Fact that landlord did not have Complainant pay \$25 more for her mother who was only visiting and who was very ill did not show parental status discrimination when landlord later charged \$25 for Complainant's foster children; no pretext shown because visiting, sick mother was not similarly situated to foster children. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) In default case, landlord who posted sign limiting tenants to "adults only" found to discriminate based on parental status. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Defaulted landlord found liable for parental status discrimination when he told Complainant that he was refusing to rent to him because of the number of children in his family – four. 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

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

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Wife who was joint owner of the property before her husband's death and sole owner after it may be held liable for racial harassment committed by husband as co-owner or as his agent. R

Metropolitan Tenants' Org. v. Bridgeport News, CCHR No. 92-H-54 (July 28, 1992) Complaint against respondent newspaper dismissed in that, under §5-8-030(B) and Regulations 410(4)(b) & 420.120(a), the newspaper does not "sell, rent, lease or sublease" and it is not an "agent" of an owner. CO

Metropolitan Tenants' Org. v. Sun Times, CCHR No. 92-H-96 (Sep. 29, 1992) (same) CO

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Jan. 27, 1993) Landlord liable for discriminatory acts of agent even where agent acts in violation of landlord's policy; landlord has nondelegable duty to prevent discrimination. R

Campbell v. Dearborn Parkway Realty, CCHR No. 92-FHO-18-5630 (Apr. 21, 1993) CHR applies same standard to real estate developers as to any other landlord. R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Owner of building found liable for acts of her agent in not renting to black applicant. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Brother of owner who merely placed the advertisement which Complainant answered not found liable for discriminatory acts of owner. R

Lewis v. A.M.J. Management, CCHR No. 94-H-80 (Sep. 16, 1994) Complaint dismissed where company which Complainant named as Respondent neither owned nor managed the building in which she lived. CO

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) In denying a motion to dismiss, CFHO held to cover Respondents who run a shelter, finding that they "rent or lease" it and that a shelter is a dwelling. HO

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) FHO cannot be read to prohibit conduct -- discrimination in occupancy of housing -- but not cover the persons responsible for the conduct. HO

Frazier v. San Miguel Apartments, et al., CCHR No. 94-H-124 (May 5, 1995) CHR dismissed one Respondent who was a co-tenant of Complainant and who did not have the right to "sell, rent, lease or sublease" the housing accommodation as required by Ordinance. CO

McGee v. Sims, CCHR No. 94-H-131 (May 23, 1995) Denied Respondent's motion to dismiss where he is an owner of the property in question and so subject to the Ordinance. HO

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) Landlord liable for acts of agent authorized to show apartments; landlord's duty not to discriminate is non-delegable. R

Tizes v. North State Astor Lake Shore Drive Assoc. et al., CCHR No. 95-H-17 (Aug. 30, 1995) CHR dismissed case against homeowners association and various neighbors whom Complainant claimed harassed him because he is Jewish; CHR found that the Fair Housing Ordinance does not cover persons who have no connection to the property at issue. CO

Tizes v. North State Astor Lake Shore Drive Assoc. et al., CCHR No. 95-H-17 (Aug. 30, 1995) For a person to be a proper respondent, he or she must have an interest in the property in question, not just be an owner or lessee of some other property. CO

Tizes v. North State Astor Lake Shore Drive Assoc. et al., CCHR No. 95-H-17 (Aug. 30, 1995) 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

Thomas v. America's Best Mortgage Co. et al., CCHR No. 93-H-64 (Sep. 14, 1995) (same) CO

Thomas v. America's Best Mortgage Co. et al., CCHR No. 93-H-64 (Sep. 14, 1995) CHR dismissed housing case against mortgage company finding that the CFHO does not cover entities with no connection to the property (as an owner or lessee has); complainant had also sued the mortgage company under the CHRO credit provisions. CO

Thomas v. America's Best Mortgage Co. et al., CCHR No. 93-H-64 (Sep. 14, 1995) CFHO states that a proper respondent is an owner, lessee, sublessee, assignee, or managing agent of a housing accommodation or a

person, firm or corporation who has the right to sell, rent or lease a housing accommodation in Chicago. CO

McGee v. Sims, CCHR No. 94-H-131 (Oct. 18, 1995) Respondent who is the owner of the house for rent is covered by the CFHO even if he is not in the business of selling or renting dwellings. R

Toledo v. Brancato, CCHR No. 95-H-122 (Mar. 14, 1997) Where two of three CFHO provisions concerning coverage and prohibited discrimination list "agents," CFHO read to cover agents as respondents; case assigned to jurisdictional hearing to determine whether facts show that this Respondent is covered by CFHO. CO

Heller v. A&B Garage et al., CCHR No. 95-H-26 & 27 (May 12, 1997) Individuals may be found personally liable under CFHO. CO

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) Respondent who was an electrician for the management company found not to be an agent and not a person with right to sell, rent or lease and so not covered by CFHO. CO

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) To be an agent under CFHO, person must be controlled by alleged principal and be able to affect the principal's legal relationships; electrician found not to be an agent. CO **See separate Agency section, above.**

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) To be an "other person" under CFHO, the person must have right to sell, rent or lease the housing accommodation; having some connection, such as being electrician there -- is not enough. CO

Toledo v. Brancato, CCHR No. 95-H-122 (Oct. 22, 1997) To be an agent under CFHO, person must be controlled by alleged principal and be able to affect the principal's legal relationships; electrician found not to be an agent; order denying Request for Review of July 9, 1997 order, above. CO **See separate Agency section, above.**

Toledo v. Brancato, CCHR No. 95-H-122 (Oct. 22, 1997) To be an "other person" under CFHO, the person must have the right to sell, rent or lease the housing accommodation; having some connection, such as being electrician there, is not enough; order denies Request for Review of July 9, 1997 order, above. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Apr. 9, 1998) Motion to dismiss of organization respondent denied where it raised issues of fact concerning whether it, or another, related organization, was the employer or principal of the individual who allegedly took the discriminatory actions against Complainant. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Apr. 9, 1998) In order denying motion to dismiss due to outstanding questions of facts, CHR notes that the CFHO covers both direct and indirect agents; so if the chain of command over the individual who is accused of discriminating includes the organization respondent, even if several "levels" up, it may still be liable. CO

Leadership Council for Metro. Open Communities v. Carstea & Berzava, CCHR No. 98-H-76 (Aug. 19, 1998) Landlord's duty not to discriminate is non-delegable; CHR denied motion to dismiss landlord whose agent may have discriminated. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR rejected business respondent's argument that it should be dismissed as not responsible for a custodian's alleged sexual harassment of tenant/Complainant in that facts presented at the hearing suggested that the custodian was employed by or an agent of the business respondent; CHR did not determine whether business was vicariously liable as complainant did not prove that the underlying harassment took place. R

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) CHR finds that individual members of the condominium association's board of directors are covered as agents under the CFHO; they admit that they are agents and otherwise appear to be agents. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) CFHO covers several levels of agents, including those who are agents of agents; therefore even if the condominium association itself is merely an agent of the owners, the individual members of the condominium association's board of directors are covered as agents of association's board. CO

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) Complaint 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

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) Landlord violated §§5-8-020 & 5-8-030 of the CFHO when he refused to rent to a woman because she is black. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Landlord found liable for constructive eviction of tenant based on racial harassment. R

Gilun v. Tomasinski, CCHR No. 91-FHO-85-5670 (July 29, 1992) No evidence presented at regarding race claim so CHR found for Respondent. R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Sep. 16, 1992) Landlord found liable for refusal to rent to Complainant due to her race. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) Landlords found liable for harassing Complainants, including physical intimidation and criminal action, due to Complainant's race and religion. R

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Jan. 27, 1993) Landlord found liable for refusal to rent to Complainant due to her race. R

Johnson v. City Realty & Devel., CCHR No. 91-FHO-165-5750 (Mar. 17, 1993) (same) R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Landlord found liable for refusing to rent to Complainant due to her race. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) In default case, landlord found liable for not renting to black Complainants; evidence included testimony of white tester. R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Landlord found liable for refusing to rent to Complainant's potential roommates due to their race and color. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Landlord found liable for not allowing tenant to sublet to a black Complainant, with respect to both the tenant and the prospective subtenant. R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) Respondents found liable for not renting to African-American Complainant. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) Defaulted Respondent who made racial comments to Complainant and a tester found liable for not renting to African-American prospective tenant. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Respondent who refused to rent to Complainant on eve of move-in once she learned he was Black found to have violated CFHO; decision rested on testimony of neutral apartment broker to whom explicit racist comments were made. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Complainant proved by direct evidence --

statements to neutral apartment broker and testers -- that Respondent refused to rent to him once she learned that he is Black. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Respondents found liable for race discrimination where, once they learned that the new co-tenant with their long-standing white tenant/nun was a nun who was Black, they evicted them; their defenses found pretextual. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Respondent found liable for creating different terms and conditions for white tenant/Complainant who had a Black boyfriend by, among other things, not allowing her to entertain him without intrusive questioning and by not allowing her to add him to her lease, in contrast to his treatment of non-Black guests. R

Puryear v. Hank, CCHR No. 98-H-139 (Sep. 15, 1999) Defaulted respondent found liable for not renting available apartment to Complainant due to Complainant's race, African-American. 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

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Respondent found liable for treating African-American applicants and testers differently from white ones; defenses found pretextual. 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

Marshall v. Borough, CCHR No. 05-H-39 (Aug. 16, 2006) *Prima facie* case of race discrimination established where landlord failed to return security deposit and during tenancy addressed African-American tenant and daughter as "you people," accused them of bringing bugs into building, and returned security deposits of Caucasian tenants. 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

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 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

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) Landlords found liable for harassing Complainants due to their race and religion including physical intimidation and criminal actions. R

Benitez v. Marquez, CCHR No. 93-H-73 (Nov. 16, 1994) Landlord found not to have discriminated against Complainant due to her religion when he terminated her lease. R

Retaliation

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) CFHO does not prohibit retaliation. CO

Jackson v. Midland Mgt. et al., CCHR No. 95-H-49 (Jan. 29, 1997) (same) R

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 (Sep. 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.

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Intimidation and hostility against a woman tenant because she is a woman, such as hitting her and nailing her back door shut, held to constitute sex discrimination. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Respondent was found liable for sex discrimination due to physical, not sexual, intimidation, including hitting Complainant; Complainant did not present a case of *quid pro quo* sexual harassment and her testimony on sexually hostile housing environment found not credible. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Sex discrimination in form of hostile housing environment may result from landlord's intimidation and harassment against female tenant due to her sex. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Landlord found liable for creating atmosphere of intimidation due to tenant's sex, including by making some sexual comments and entering her apartment against her will; not found liable for sexual harassment. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) In default case, landlords found liable for failing to make repairs to Complainant's apartment over several years due to her sex. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR finds that CFHO's prohibition of sex discrimination forbids sexual harassment, despite its lack of a specific reference to sexual harassment. 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 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.

Garcia v. Vazquez, CCHR No. 91-FHO-61-5646 (June 17, 1992) Landlord found liable for sexually harassing tenant including propositions and attempting to kiss and fondle her. R

White v. Ison, CCHR No. 91-FHO-126 (Dec. 16, 1992) Landlord found liable for sexually harassing tenant where he made unwelcome sexual propositions and physically touched her. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Respondent liable for repeated instances

of inappropriate and unwelcome sexual demands which created a hostile, intimidating and offensive housing environment. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Complainant failed to prove *quid pro quo* sexual harassment in that she did not show that the landlord evicted her because she rejected his advances and not because she failed to pay her rent. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Landlord found liable for acts of verbal and physical sexual harassment of Complainant and for evicting her after she rejected his advances. R

Harris v. Craddieth, CCHR No. 92-H-179 (Apr. 20, 1994) Landlord found not liable where he was found not to have pursued or continued to "harass" Complainant after she rebuffed his request for a social relationship. R

Starrett v. Duda/Sorice, CCHR No. 93-H-6 (Apr. 20, 1994) Female landlord found liable for sexually harassing male Complainant including Respondents' admission regarding an attempted unauthorized eviction in which they put some of Complainant's belongings on the street. R

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Landlord found liable for *quid pro quo* harassment, but not hostile environment, where he harassed Complainant after she rejected his advances. R

Reid v. F.J. Williams Realty et al., CCHR No. 93-H-42 Respondents found not to have sexually harassed Complainant and found to have rejected her tenancy because she post-dated a security deposit check. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Complainant did not present a case of *quid pro quo* harassment and her testimony on sexually hostile housing environment found not credible; Respondent was found liable for sex discrimination due to physical, not sexual, intimidation. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Landlord not found liable for sexual harassment; he was found liable for creating atmosphere of intimidation due to tenant's sex, such as making some sexual comments and entering her apartment against her will. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Where Complainant presented evidence of only two comments that were sexual in nature, hostile environment sexual harassment not proved; Respondent was found liable for sex discrimination. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Landlord found to have sexually harassed Complainant, including by looking at her in the shower and making lewd comments and generally using sexually charged means of expressing his hostility. R

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Oct. 16, 1996) Where, due to credibility of witnesses, Complainant did not carry her burden to show that the conduct which allegedly created the hostile housing environment occurred, Respondents found not liable. R

Jackson v. Midland Mgt. et al., CCHR No. 95-H-49 (Jan. 29, 1997) Respondents found not liable where one incident found not sexual and where Complainant did not carry her burden with respect to the second. R

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Respondent's claim that the CFHO does not prohibit sexual harassment in the "private sector" denied as without merit. CO

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Complaint found to allege sufficient facts for claims of both *quid pro quo* and hostile environment sexual harassment where, for example, it states that Respondent stared at her, touched her, made sexual advances, and, when she refused, evicted her; also found sufficient to claim hostile environment due to her sex. CO

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) CHR found that Complainant did not prove either hostile environment or *quid pro quo* sexual harassment where the incidents described by Complainant were not sexual and where there was no evidence that any housing services were withheld due to any rejection of advances. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR ruled in favor of both respondents, including defaulted individual, where Complainant failed to carry her burden to prove that she was sexually harassed. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR finds that CFHO's prohibition of sex discrimination forbids sexual harassment, despite its lack of a specific reference to sexual harassment. R

Washington v. Smith & Robinson, CCHR No. 99-H-9 (May 6, 1999) CHR denied motion to dismiss where complaint alleged that the Respondent sexually harassed Complainant "every day" after she rejected his advances and then forced her to move; even though the date she rejected the advances was more than 180 days before she filed, the harassment and constructive eviction occurred within that time and so the complaint was timely. 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

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

Gilun v. Tomasinski, CCHR No. 91-FHO-85-5670 (July 29, 1992) No evidence presented regarding race claim at all; regarding the sexual orientation and disability claims, no evidence presented that the allegedly discriminatory remark was actually said and evidence showed that the woman who allegedly said it speaks almost no English. R

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

Brennan v. Zeman, 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

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

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) A free shelter is held to be a dwelling covered by CFHO. HO

Source of Income Discrimination-- See also Source of Income section, below.

Cooper & Ashmon v. Parkview Realty, CCHR No. 91-FHO-48-5633 (Aug. 26, 1992) Complainants failed to prove a *prima facie* case that they were denied the opportunity to apply for an apartment due to the fact that they receive public aid. R

McGee v. Sims, CCHR No. 94-H-131 (Oct. 18, 1995) Where Complainant did not carry her burden to show that it was Respondent who denied her rental, Respondent found not liable for discrimination. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Respondent broker, defaulted for discovery and related abuses, found to have violated CFHO where he did not pursue Complainant's offer to purchase property for full price because one source of her income was public aid. R

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR found that Section 8 vouchers and certificates are "sources of income" as defined by the CFHO -- a lawful manner by which an individual supports him- or herself. CO See also Source of Income/Section 8, below.

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) The fact that the Illinois Fair Housing Act does not prohibit source of income discrimination does not preempt the City of Chicago, a home rule unit, from doing so. CO

Jackson v. Wilmette Realty et al., CCHR No. 99-H-32 (Sep. 27, 1999) Where Complainant's complaint stated that she was rejected as a tenant due to the amount of her income, not its source, CHR dismissed complaint as not related to the "source" of her income. CO

Jackson v. Wilmette Realty et al., CCHR No. 99-H-32 (Sep. 27, 1999) Facts showed that Complainant's income did not meet Respondent's reasonable required rent-to-income ratio so CHR dismissed her case as involving the amount, not the source, of her income. CO

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 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. 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

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

Moreno v. Apartment Guys et al., CCHR No. 09-H-27 (Nov. 19, 2012) In context where rental agent could not find an available unit that met Complainant’s requirements of allowing her dog and being able to take occupancy within three weeks, statement to Complainant that she could not find a housing provider “set up” to accept a Section 8 voucher did not provide substantial evidence of source of income discrimination. Also, CFHO prohibition of discriminatory communications does not apply to private communications but to advertisements to a wider public. CO

Gardner v. Ojo et al., CCHR No. 10-H-50 (Dec. 19, 2012) “Section 8” Housing Choice Voucher holder failed to prove that condominium unit owner and her listing agent prevented the voucher holder from applying to rent the unit based on source of income. R

Boyd v. Parkview Management Corp., CCHR No. 10-H-48 (June 7, 2013) No source of income discrimination in rejection of potential tenant claiming monthly income of \$672 from Social Security and “public aid” which was 73% of the stated rent of \$495. Income-to-rent ratio as rental qualification did not create disparate impact on Social Security recipients where many could meet the standard. Application of disparate income analysis in some Section 8 Housing Choice Voucher cases held distinguishable. CO

Shipp v. Wagner et al., CCHR No. 12-H-19 (July 16, 2014) Source of income discrimination proved through direct evidence where Complainant presented credible evidence that property owner advertised vacancy online noting “Not Section 8 Approved” and “No Section 8” and told applicant he was not approved to rent to voucher holders. Property owner’s explanation that he thought he would have to have inspections and “spend more money,” without more, was not a defense. R

Standing

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) Fact that Complainant claims to be an “aggrieved person” is not sufficient unless she is aggrieved by “any violation of” the CFHO. CO

Weinmann v. Bridgeview Garden Condominium Assoc. et al., CCHR No. 99-H-53 (June 28, 1999) CHR denied motion to dismiss finding that the CFHO “specifically and necessarily” covers prospective buyers, such as the complainant in this case. CO

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

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Sets forth burden shifting standards in differential treatment/indirect race discrimination case. R

Claim Allowed

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 8, 1992) Denied Respondents' motion to dismiss finding that Complainants may bring a public accommodations claim based on allegations of discrimination due to the race and source of income of their clients. CO

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) Sets forth elements of *prima facie* case of indirect discrimination in public accommodation case. R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Landlord found liable for refusing to rent to Complainant's potential roommates due to their race and color, though he had rented to Complainant. R

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) Claim of indirect disability discrimination may be brought under CFHO. CO

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) Where sister of woman with disability claims that she was injured because Respondents allegedly would not provide them services due to her sister's disability, that states a claim for indirect disability discrimination. CO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) Indirect discrimination claim allowed under CHRO. CO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) Where Complainant claims she was fired for hiring a black employee, her claim of indirect race discrimination allowed to proceed. CO

McGavock v. Burchett, CCHR No. 95-H-22 (Feb. 13, 1996) Complainant allowed to proceed with an indirect parental status claim under CFHO where she alleged that she was not rented an apartment because her roommate had a child. HO

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Complainant found to be member of those protected by parental status provision due to indirect discrimination where her roommate was the parent of a one-year-old which allegedly caused the Respondents not to rent to them. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) White Complainant states a claim for indirect race discrimination in that he claimed he was refused entry because his companions were Black. R

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

French v. Peoples Gas Light & Coke Co., CCHR No. 95-E-123 (8-1-96) Although indirect claims may be allowed, CHR dismissed Complainant's claim as the type of discrimination allegedly involved is not itself prohibited by CHRO. CO

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)]R

Indirect Discrimination Found

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Landlord found liable for refusing to rent to Complainant's potential roommates due to their race and color, though he had rented to Complainant. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Landlord found liable for not allowing tenant to sublet to black Complainant, with respect to both the tenant and the prospective subtenant. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) Restaurant found liable for not allowing Complainant to enter because he had Black companions; defense of violation of dress code found pretextual due to direct evidence and credibility of witnesses. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Respondent found liable for creating different terms and conditions for white tenant/Complainant who had a Black boyfriend by, among other things, not allowing her to entertain him without intrusive questioning and by not allowing her to add him to her lease, in contrast to his treatment of non-Black guests. 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

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

Montelongo v. Azarpira, 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

Deransburg v. Chicago Reader, CCHR No. 93-PA-32 (Mar. 3, 1995) Where Respondent agreed to publish Complainant's personal ad seeking bisexual women but in a different column from the one Complainant wanted, claim dismissed in that Respondent's action would not prevent Complainant from associating with or seeking associations with bisexual women and would not necessarily harm his ability to get responses to his ad. 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

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

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Individual respondent, who was Executive Director of agency at which Complainant worked and who was the only respondent, ordered to pay Complainant back pay/out-of-pocket damages; decision based on language of CHRO covering "persons" not just employers. R

Indemnification Agreement

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) The fact that the by-laws for the condominium association states that the association will indemnify individual members of the condominium association's board of directors does not mean that the individuals may not be found liable. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) An indemnification clause does not bar suit against the persons to be indemnified; it does not bind either CHR or the complainant; and, in fact, its existence suggests that the individuals might be found liable. CO

Nature of Claim

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) In order to determine whether an individual respondent was named in his official or personal capacity where the complaint is unclear, CHR looks to the manner in which the parties have treated the case. CO

Heller v. A&B Garage et al., CCHR No. 95-PA-26 & 27 (May 12, 1997) (same) CO

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

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) A supervisor in the Chicago Fire Department cannot be sued in his official capacity because that is the equivalent of suing the City of Chicago which was already named as a respondent. CO

Heller v. A&B Garage et al., CCHR No. 95-PA-26 & 27 (May 12, 1997) Where complaints say little about individual and do not accuse him of having taken any action, directly or indirectly, against Complainants, and where no action can be imputed to him personally, he was found to have been sued in his official capacity -- president of condominium association's board of directors. CO

Heller v. A&B Garage et al., CCHR No. 95-PA-26 & 27 (May 12, 1997) Individual who was named in his official capacity as president of condominium association's board of directors dismissed as there was no longer a respondent entity for him to represent because the board was previously dismissed from case. CO

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

Freeman v. Association Family Shelter, CCHR No. 93-E-145 (Oct. 13, 1993) Individuals may be sued in their personal capacity because the language of the Chicago Human Rights Ordinance states that "no person" may discriminate, not "no employer," and because other provisions of the CHRO are limited to "employers". CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) Individuals may be sued in their personal capacity because the language of the Chicago Human Rights Ordinance states that "no person" may discriminate, not "no employer," because other provisions of the CHRO are limited to "employers" and because case law construing similar laws allows individuals to be sued personally. CO

Kalecki v. Jake's Pub/Johnson, CCHR No. 93-E-173 (Jan. 31, 1994) Denied individual respondent's motion to dismiss finding that, even though that respondent was acting only as an agent for the owner of the business in

question, he may still be found personally liable for his conduct terminating Complainant. HO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) Individuals may be found personally liable under CHRO. CO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) Where individual was named as a respondent and the actions she allegedly took were described in the text of complaint, claim for individual liability allowed to proceed. CO

Heller v. A&B Garage et al., CCHR No. 95-PA-26 & 27 (May 12, 1997) Individuals may be found personally liable under CFHO. CO

Fulton v. Dimeo-Doroba, Inc. et al., CCHR No. 97-E-79 (June 11, 1997) Individuals may be found personally liable under CHRO. CO

Chimpoulis/Richardson v. J & O Corp., CCHR No. 97-E-123/127 (June 15, 1998) Whether individual who was owner of Respondent corporation can be added as a new respondent depends on meeting Regulation factors; it does not depend on whether Complainant can "pierce the corporate veil" as individuals can be held liable for their own actions, not just those of the corporation. HO

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) As CHR has held in many prior cases, because the CHRO covers "persons" not just employers, individuals may be named as respondents and found liable. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) Individuals may be held liable under the CFHO so long as they fit into one of the enumerated classes. CO

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 Complaint 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 Complaint 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

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Dec. 2, 1991) Without reaching question of whether CHR has the power to seek TROs, CHR set forth standards a complainant would have to meet and found that complainant here did not meet them because she had an adequate remedy at law, had not suffered an irreparable harm, and her claim was inherently speculative. CO

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Dec. 2, 1991) Insufficiency of savings, difficulty in obtaining immediate employment and possibility of becoming homeless do not constitute irreparable harm for purposes of seeking a TRO. CO

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

Throw v. State Farm, CCHR No. 90-PA-15 (July 19, 1991) State insurance law preempts CHRO so that CHR has no jurisdiction over claim of discrimination about insurance policy. CO

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

Reed v. Strange, CCHR No. 92-H-39 (June 27, 1995) After the Board of Commissioners has ruled on liability, and where appropriate, has ruled on attorney's fees, CHR no longer has jurisdiction; parties must proceed by filing a *writ of certiorari* in state court. R

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.

Hardin v. Columbus Maryville Academy, CCHR No. 92-E-88 (Nov. 6, 1992) Doctrine of "prior jurisdiction" does not require dismissal of CHR complaint where identical complaint was previously filed with IDHR. CO

Hardin v. Columbus Maryville Academy, CCHR No. 92-E-88 (Nov. 6, 1992) CHR may not refer cases to IDHR due to lack of agreement between the agencies allowing a transfer. CO

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Feb. 5, 1993) CHR will not dismiss a complaint because Complainant filed an identical charge with IDHR. HO

Johnson v. M&M/Mars, CCHR No. 93-E-38 (Apr. 14, 1993) Fact that Complainant filed a prior complaint at EEOC does not require dismissal of complaint at CHR. CO

Johnson v. M&M/Mars, CCHR No. 93-E-38 (Apr. 14, 1993) Ill.Rev.Stat. Ch. 110, §2-619(a)(3), allowing a state court to dismiss a case where an identical action is pending in another court in the same system, does not bind CHR where the identical complaint is filed at the EEOC. CO

Johnson v. M&M/Mars, CCHR No. 93-E-38 (Apr. 14, 1993) CHRO and its regulations contemplate concurrent jurisdiction. CO

Barnes-Thornton v. Computer Learning Center, CCHR No. 92-E-197 (Aug. 12, 1994) CHR may not dismiss a case or defer its investigation because Complainant has a related case pending in federal court. CO

Swanson v. Fashion Bed Group et al., CCHR No. 92-E-85 (Dec. 1, 1995) CHR may not dismiss a case or stay investigation of it because the Complainant has the same or a similar case pending in federal court. CO

Heller v. 3950 N. Lake Shore Drive Condo. Assoc. et al., CCHR No. 95-H-26/27 (Feb. 8, 1996) (same) CO

Thompson et al. v. GES Exposition Services, Inc. et al., CCHR No. 96-E-94/100/101/102/103/105/ 151/152 (Feb. 24, 1998) CHR not authorized to stay proceedings in a case because complainant has a same claims pending in federal court case. CO

Thompson et al. v. GES Exposition Services Inc. et al., CCHR No. 96-E-94/100/101/102/103/105 & 98-E-

29/30/31/32/33 (Apr. 10, 1998) When the federal court handling the related federal claims entered an order staying CHR's proceedings for 30 days, CHR agreed to defer its work. CO

Thompson et al. v. GES Exposition Services, Inc. et al., CCHR No. 96-E-94/100/101/102/103/105 & 98-E-29/30/31/32/33 (June 26, 1998) (same) CO

Thompson et al. v. GES Exposition Services, Inc. et al., CCHR No. 96-E-94/100/101/102/103/105 & 98-E-29/30/31/32/33 (Aug. 12, 1998) (same) CO

Thompson et al. v. GES Exposition Services Inc. et al., CCHR No. 96-E-94/100/101/102/103/105 & 98-E-29/30/31/32/33 (Sep. 21, 1998) When the federal court handling the related federal claims entered an order staying CHR's proceedings indefinitely, CHR agreed to defer its work; CHR also ordered status reports from parties. CO

Monegain v. Levy Food Services Ltd. Partnership, CCHR No. 98-E-196 (Dec. 15, 1998) Fact that Complainant filed essentially the same complaint at IDHR does not allow CHR to defer its work on the case. CO

Monegain v. Levy Food Services Ltd. Partnership, CCHR No. 98-E-196 (Dec. 15, 1998) Nothing in CHR's governing ordinances allows CHR to dismiss or defer work on a case because a related complaint is filed elsewhere. CO

Bond v. N&S Partnership et al., CCHR No. 99-PA-3 (Apr. 5, 1999) Denies motion to dismiss which asked CHR to dismiss the case because complainant filed a similar complaint at IDHR; cites prior CHR orders. CO

Collins v. Bockwinkel, CCHR No. 98-E-191 (July 20, 1999) CHR denied Respondent's motion for a stay which he had sought because Complainant had a similar case at the IHRC and had recently received a right-to-sue letter; CHR held that it is not permitted to stay or defer its work merely because a case is proceeding elsewhere. CO

Collins v. Bockwinkel, CCHR No. 98-E-191 (July 20, 1999) CHR held that this case was not like the only one in which CHR had deferred its work, where the County Commission had completed a full hearing on a parallel case and only the final decision remained; in the instant case, the IHRC process had only just begun and Complainant had not yet filed in federal court. CO

Prewitt v. John O. Butler Co., CCHR No. 97-E-42 (Oct. 13, 1999) Hearing Officer denied Respondent's motion for a stay which was sought because Complainant had a similar case at the IHRC for which a hearing was pending [without a date] but not held; applies same analysis as in *Collins* case above, where a prior CHR case agreeing to defer is distinguished. HO

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 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

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 (Sep. 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.

Olinger v. Midway Airlines, CCHR No. 91-E-79 (Oct. 16, 1991) Request by Respondent for automatic stay under the United States Bankruptcy Code denied due to 11 U.S.C. sect. 362(b)(4) and cases thereunder which allow government agencies to proceed to enforce their regulatory powers, including enforcing equal employment laws. CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (Mar. 28, 1997) CHR finds that the automatic stay of the federal bankruptcy laws acts to stay a CHR hearing against a bankrupt respondent. CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (Mar. 28, 1997) CHR finds that a hearing at CHR is not an action "by" a governmental unit, so, although the action is in the public interest, the governmental unit exemption to the automatic stay does not apply. CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (Mar. 28, 1997) The hearing scheduled

against an individual respondent was also stayed as CHR found it inseparable from the case against the bankrupt business. CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (Mar. 28, 1997) CHR did not overturn its prior decision that it may proceed with an investigation of a case despite a respondent's bankruptcy; it stayed only the hearing stage of the case. CO

Insurance

Throw v. State Farm, CCHR No. 90-PA-15 (July 19, 1991) State insurance law preempts CHRO; Commission has no jurisdiction over claim of discrimination in insurance policy. CO

Religious Organizations – No new decisions in this volume.

Governmental Agencies

Board of Education

Andros v. Board of Education, CCHR No. 90-E-36 (Nov. 30, 1992) CHR has jurisdiction over Board of Education; no statute, ordinance or case law exempts it from CHR jurisdiction. CO

Hennein v. Board of Education, CCHR No. 91-E-183 (Nov. 30, 1992) (same) CO

Michael v. Board of Education, CCHR No. 91-E-184 (Nov. 30, 1992) (same) CO

Patterson v. Board of Education, CCHR No. 91-PA-24 (Nov. 30, 1992) (same) CO

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 Park District

Zennerson v. Chicago Park District, CCHR No. 91-E-66 (June 20, 1991) CHR has jurisdiction over Park District. CO

Turner v. Chicago Park District, CCHR No. 91-E-69 (Nov. 30, 1992) CHR has jurisdiction; no statute, ordinance or case law exempts it from CHR jurisdiction. CO

Gearing v. Chicago Park District, CCHR No. 91-E-87 (same) CO

Chicago Transit Authority

Moody v. Chicago Transit Authority, CCHR No. 90-E-43 (June 13, 1991) CHR finds that it has jurisdiction over CTA. CO

Wyatt v. Chicago Transit Authority, CCHR No. 91-PA-33 (Aug. 28, 1992) CHR has jurisdiction over CTA; no statute, ordinance or case law exempts CTA from CHR jurisdiction. CO

Kennedy v. Chicago Transit Authority, CCHR No. 91-PA-14 (July 26, 1993) CHR held that no provision in the Illinois Human Rights Act, the Chicago Human Rights Ordinance or CTA's enabling statute exempted the Chicago Transit Authority from CHR's jurisdiction. CO

Berman v. Chicago Transit Authority, CCHR No. 91-PA-45 (July 26, 1993) (same) CO

Tories v. Chicago Transit Authority, CCHR No. 92-PA-50 (July 26, 1993) (same) CO

Sewall v. Chicago Transit Authority, CCHR No. 99-E-67 (Oct. 14, 1999) Where CTA filed a letter stating its continued objections to CHR's jurisdiction over it, CHR would not default CTA as Complainant requested. CO

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Mar. 20, 2013) Sec. 27 of Municipal Transit Authority Act does not immunize CTA from discrimination claims, which are not torts, but only from tort claims. 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

These cases were decided before Cook County's Human Rights Ordinance was passed:

Abassi v. Cook County Hospital, CCHR No. 91-E-33 (Nov. 30, 1992) No statute, ordinance or case law exempts Cook County from CHR jurisdiction so CHR may proceed with case against Cook County Hospital. CO

Alceguiere v. Cook County MIS, CCHR No. 91-E-55 (Nov. 30, 1992) (same) CO

Alceguiere v. Cook County MIS, CCHR No. 91-E-137 (Nov. 30, 1992) (same) CO

Hicks v. Cook County Bd. of Appeals, CCHR No. 92-E-219 (July 9, 1993) (same) CO

These cases were decided after Cook County's Human Rights Ordinance was passed:

Singh Gamadia v. Housing Authority of Cook County, CCHR No. 96-E-206 (Mar. 31, 1999) Pursuant to CHR's 1993 policy, it does not accept jurisdiction over Cook County government; the Cook County Commission on Human Rights is to proceed in such cases. CO

Singh Gamadia v. Housing Authority of Cook County, CCHR No. 96-E-206 (Mar. 31, 1999) CHR found that it could not conclude whether Respondent was part of Cook County government as it did not present many facts about its connection to Cook County government; order lists factors CHR may consider in determining whether an agency is or is not part of Cook County government. CO

Singh Gamadia v. Housing Authority of Cook County, CCHR No. 96-E-206 (Mar. 31, 1999) Although CHR found that it could not conclusively determine whether Respondent was part of Cook County government so that dismissal was appropriate, because the Cook County Commission had accepted jurisdiction over and completed its investigation of Complainant's identical case, CHR closed its case as a matter of comity and deference. CO

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

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 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

Elder v. V.A. Westside Medical Center, CCHR No. 91-E-206 (Apr. 23, 1992) CHR has no jurisdiction over Federal entity because 42 U.S.C. §2000-16 provides that federal employees' exclusive remedy for discrimination is filing a complaint at EEOC. CO

Thurber v. U.S. EPA & GSA, CCHR No. 92-E-45 (Aug. 28, 1992) (same) CO

Watt v. Federal Reserve Board, CCHR No. 90-E-38 (Mar. 9, 1993) Federal Reserve Board held to be an "executive agency" so that Complainant's exclusive remedy for a discrimination claim is through the federal system and CHR has no jurisdiction. CO

Donato v. Railroad Retirement Board, CCHR No. 95-E-127 (May 8, 1996) Complaint dismissed for no jurisdiction where the federal act governing claims about Respondent's decisions -- such as the one at issue here -- limits such claims only to federal court. CO

Coley v. AMTRAK, CCHR No. 96-PA-16 (Mar. 7, 1997) Public accommodation complaint against AMTRAK dismissed because federal Rail Passenger Service Act pre-empts local laws [such as CHRO] from applying to passenger claims about service. CO

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

Hicks v. Cook County Bd. of Appeals, CCHR No. 92-E-219 (July 9, 1993) CHRO language prohibiting a "person" from discriminating covers units of government. CO

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

Hudson v. METRA, CCHR No. 90-E-96 (Aug. 28, 1992) CHR has jurisdiction over METRA; no statute, ordinance or case law exempts METRA from CHR's jurisdiction. CO

Metropolitan Water Reclamation District – No new decisions in this volume.

Johnson v. Metropolitan Water Reclamation District, CCHR No. 94-E-53 (Dec. 28, 1994) CHR denied Respondent's motion to dismiss finding that it had jurisdiction over Respondent; no statute, ordinance or case law provided a reason to find that the CHRO did not cover Respondent. CO

State of Illinois Departments/Agencies/Universities

Onyeka v. Illinois Dept. of Rehabilitation Services, CCHR No. 91-E-165 (Aug. 20, 1992) CHR has jurisdiction over respondent; the Illinois Human Rights Act neither exempts this department from CHR's jurisdiction nor requires the IHRA to be the exclusive remedy for claims against this department, and its enabling statute does

not require claims to be brought only under IHRA. CO **But see following cases:**

Goldberg v. Illinois Dept. of Children & Family Services, CCHR No. 92-E-14 (July 23, 1993) Dismissed for lack of jurisdiction because CHR cannot exercise jurisdiction over any state agency or instrumentality entitled to assert the defense of sovereign immunity under the State Lawsuit Immunity Act. CO

Onyeka v. Illinois Dept. of Rehabilitative Services, CCHR No. 91-E-165 (July 23, 1993) (same) [overrules order of 8/20/92] CO

Glowacz v. Northeastern Illinois University, CCHR No. 91-E-220 (July 29, 1993) NIU is subject to CHR jurisdiction because, although it is a state agency, it cannot claim sovereign immunity. CO

Saunders v. University of Illinois Hospital, CCHR No. 93-E-211 (Feb. 15, 1994) CHR denied University's motion to dismiss because CHR found it has jurisdiction over state entities, like the University, which have expressly waived sovereign immunity through legislation. CO

Bolden v. University of Illinois Hospital, CCHR No. 93-E-212 (Feb. 15, 1994) (same) CO

Santiago v. Illinois Dept. of Human Services, et al., CCHR No. 99-E-73 (Aug. 31, 1999) Pursuant to sovereign immunity and subsequent CHR policy, CHR dismissed case brought against two state departments. CO

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

Harris v. Lake Vista Apartments & Lumpkin, CCHR No. 96-H-33/34 (June 12, 1996) Where Complainants were benefitted, not harmed, by being placed on the apartment's waiting list, the Commission did not have jurisdiction as there could be no violation of the FHO. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) Complainant cannot recover for alleged sexual harassment of a co-worker which Complainant did not contend affected her. CO

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 alleged 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

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) CHR has jurisdiction over Respondents who run a shelter, finding, under the CFHO, that they "rent or lease" housing and that a shelter is a dwelling. HO

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) CFHO cannot be read to prohibit conduct -- discrimination in occupancy of housing -- but not cover the persons responsible for the conduct. HO

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 (Sep. 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

Crossley v. Illinois Central Railroad, CCHR No. 91-E-92 (Sep. 20, 1991) To determine the location of injury or discriminatory act, CHR looks to where the last event necessary to render the actor liable occurred. CO

Yu v. Swiss Bank Corp., CCHR No. 94-E-235 (Aug. 21, 1995) CHR looks to where the last event necessary to make respondent liable occurred; the alleged injury must have occurred in Chicago. CO

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Feb. 21, 1996) Fact that Respondent had "contacts" with City found insufficient to create jurisdiction where the injury itself occurred outside of Chicago. CO

Williams v. Zeneca Specialty Inks, CCHR No. 95-E-169 (May 9, 1996) Although Respondent's mailing address refers to Chicago, its tax bill shows that it is actually located in Stickney Township, an unincorporated part of Cook County. CO

Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Sep. 25, 1996) CHR looks to where the last event necessary to make respondent liable occurred; alleged injury must have occurred in Chicago. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Institute, CCHR No. 95-E-21 (Apr. 28, 1997) (same) CO

Arellano v. Commonwealth Edison, CCHR No. 98-E-23 (Apr. 20, 1998) CHR does not have jurisdiction merely because respondent has its headquarters in Chicago; the injury must occur in Chicago. CO

Arellano v. Commonwealth Edison, CCHR No. 98-E-23 (Apr. 20, 1998) CHR looks to where the last event necessary to make respondent liable occurred; that includes determining where the decision at issue was made. CO

Arrelano v. Commonwealth Edison, CCHR No. 98-E-23 (June 16, 1998) Re-affirms that standard for location is where the discriminatory injury took place; here, the question was where the decision at issue was made, not where Complainant worked; reviews prior CHR cases and CHRO language. CO

Arrelano v. Commonwealth Edison, CCHR No. 98-E-23 (June 16, 1998) Order notes that the issue is not where a respondent's home office is located, but where the discrimination [the disputed decision] took place. CO

Villa v. First National Bank of Chicago, CCHR No. 96-E-205 (July 29, 1998) To determine whether injury took place in Chicago, CHR looks to where the allegedly discriminatory decision was made, not merely to location of home office or where Complainant worked. CO

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

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

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

Injury Inside Chicago

Yu v. Swiss Bank Corp., CCHR No. 94-E-235 (Aug. 21, 1995) Taking Complainant's allegations as true, where Complainant worked outside Chicago but alleges that her discharge occurred in Chicago, CHR has jurisdiction to investigate the case. CO

Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Sep. 25, 1996) Although the main acts of harassment occurred outside of Chicago, Respondent's disputed conduct concerning Complainant's complaints about the harassment occurred in Chicago and were the "last acts necessary" on which jurisdiction depends. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) In ruling on a motion to dismiss, CHR kept jurisdiction over discharge and allegedly sexual harassing conduct which occurred in Chicago or about which location was unclear so that it could investigate those locations. CO

Arrelano v. Commonwealth Edison, CCHR No. 98-E-23 (June 16, 1998) Where decision not to transfer Complainant was made in Chicago, CHR found it has jurisdiction to investigate even though Complainant worked outside Chicago. CO

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

Crossley v. Illinois Central Railroad, CCHR No. 91-E-92 (Sep. 20, 1991) No jurisdiction where Complainant's employment and firing were outside of Chicago even though Respondent's central office is within Chicago. CO

Pitre v. O'Connor Ford et al., CCHR No. 92-E-106 (Sep. 29, 1992) No jurisdiction over two of three Respondents which were located outside of Chicago and which were not related to the actions which did occur in Chicago. CO

Hall v. Computer Horizons Corp., CCHR No. 92-E-216 (Apr. 12, 1993) Although Complainant was assigned to work in Schaumburg by an office in Chicago, the alleged discriminatory conduct occurred in Schaumburg, not Chicago, so that CHR does not have jurisdiction. CO

Barrages v. Automobile Mechanics Local #701, CCHR No. 93-E-265 (Jan. 28, 1994) No jurisdiction found where the incidents complained of occurred outside of Chicago, even though the Respondent union has an office in the City. CO

Barrages v. City International, CCHR No. 93-E-266 (Jan. 28, 1994) No jurisdiction found where the Respondent is located outside of Chicago and all the incidents complained of occurred there. CO

Alexander v. Levy Restaurant Corp., CCHR No. 93-E-108 (Apr. 25, 1994) No jurisdiction where the decision not to hire Complainant was made, and the policy on which the decision was based was established, by a restaurant outside of Chicago, even though Respondent's home office was in Chicago. CO

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Feb. 21, 1996) Where allegedly discriminatory call was made from a suburb to Respondent in another suburb, injury found to be outside Chicago so CHR had no jurisdiction. R

Williams v. Zeneca Specialty Inks, CCHR No. 95-E-169 (May 9, 1996) CHR has no jurisdiction where the alleged injury occurred in a business not located in Chicago. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) As an agency of a home rule municipality, CHR has no jurisdiction to consider events which occurred outside of Chicago. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) In ruling on a motion to dismiss, CHR dismissed the allegedly sexual harassing incidents which occurred outside of Chicago. CO

Villa v. First National Bank of Chicago, CCHR No. 96-E-205 (July 29, 1998) Where Complainant worked outside of Chicago and where the decision to discharge her was made outside of Chicago, CHR dismissed case for

lack of jurisdiction. CO

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

Metropolitan Tenants' Org. v. Bridgeport News, CCHR No. 92-H-54 (July 28, 1992) Complaint against respondent newspaper dismissed in that, under CFHO §5-8-030(B) and Rags 410(4)(b) & 420.120(a), it does not "sell, rent, lease or sublease" and it is not an "agent" of an owner. CO

Metropolitan Tenants' Org. v. Sun Times, CCHR No. 92-H-96 (Sep. 29, 1992) (same) CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHRO's definition of public accommodation covers the newspaper's publication of death notices -- it is a service available to any member of the public who wishes to have one published. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHR dismissed case involving how the Tribune refers to homosexual partners in death notices; CHR held it could not regulate the content of the Tribune's death notices, finding that they are news items and so expressive, not mere commercial speech. CO **See separate sections for Constitutional Issue -- First Amendment/ Free Speech, above.**

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR finds the facts that the death notices Complainant wanted to regulate are purchased, are not editorial, are mechanically laid out, sometimes seek memorial contributions, and are printed below the obituaries are not sufficient to make the notices regulable when they do not seek a commercial transaction or otherwise have a commercial message. CO **See separate sections for Constitutional Issue -- First Amendment/ Free Speech, above.**

Chrzanowski v. Dziennik Zwaikowy, CCHR No. 11-E-67 (Sep. 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

Definition of Child

Hunter v. Goldston/Rogers, CCHR No. 92-H-154 (5-6-93) Where Complainant had been primary caretaker for his nephew with the consent of the nephew's mother, CFHO deemed to cover Complainant's parental status claim. CO

Public Accommodations – See separate Public Accommodations Discrimination section, below.

Sovereign Immunity – See Jurisdiction/Governmental Agencies/Immunity subsection, above, and Governmental Immunity section, above.

Goldberg v. Illinois Dept. of Children & Family Services, CCHR No. 92-E-14 (July 23m 1993) Dismissed for lack of jurisdiction because CHR cannot exercise jurisdiction over any state agency or instrumentality entitled to assert the defense of sovereign immunity under the State Lawsuit Immunity Act. CO

Onyeka v. Illinois Dept. of Rehabilitative. Services, CCHR No. 91-E-165 (July 23, 1993) (same) [overrules prior order of 8/20/92 in this case] CO

Glowacz v. Northeastern Illinois University, CCHR No. 91-E-220 (July 29, 1993) NIU waives any claim to sovereign immunity because its governing statute includes a "sue and be sued" clause. CO

Saunders v. University of Illinois Hospital, CCHR No. 93-E-211 (Feb. 15, 1994) CHR denied University's motion to dismiss finding that the inclusion of a "sue-and-be-sued" clause in the University's enabling legislation waived any claim to sovereign immunity. CO

Bolden v. University of Illinois Hospital, CCHR No. 93-E-212 (Feb. 15, 1994) (same) CO

Time for Filing Complaint

180th Day

Collins v. Bockwinkel, CCHR No. 98-E-191 (Feb. 19, 1999) Pursuant to Chicago Muni. Code, §2-120-510(e), and Regs. 210.120(a) & 270.110, a complaint filed on the 180th day is timely. CO

Amended Complaint

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) CHR denied Complainant's request to

add discharge claim to complaint finding it was untimely because omission of that claim was not a "technical defect or omission" but a wholesale addition and so had to have been added within 180 days of the discharge. CO **See Jurisdiction/Time for Filing section, below.**

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Dec. 19, 1997) if a complaint seeks to amend complaint to add an incident not covered by the original complaint, it must be added within 180 days of the incident. 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

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

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

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996) To determine whether several acts constitute a continuing violation, CHR looks to their relatedness, frequency and permanence. CO **See Tolling/Continuing Violation section, below.**

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) To determine whether several acts constitute a continuing violation so CHR may consider otherwise untimely events, CHR looks to the acts' subject matter, frequency and permanence; CHR evaluates each element in decision. CO **See Tolling/Continuing Violation section, below.**

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) To determine whether several acts constitute a continuing violation so CHR may consider otherwise untimely events, CHR looks to their relatedness, frequency and permanence. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) (same) CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) (same) CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) (incident found not to be part of a continuing violation where it was sufficiently permanent to have alerted Complainant to file a complaint at the time it occurred and where it was separated by long time from and involved different people than those involved in the later events. CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) Incident found to be part of a continuing violation where it involved the same people as the timely incident, involved the same sort of alleged discrimination, where it was not so permanent as to have caused complainant to file a complaint at the time and where it was, in essence, the incident which began the sequence of events which led to his discharge several months later. CO

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

Scarce 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

Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) For equitable estoppel to delay the start of the filing period, respondent must have fraudulently concealed information to negate any basis complainant had for supposing the conduct was discriminatory; relies on *Cada v. Baxter Healthcare Corp.* CO

Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) Complaint found untimely as it was filed more than 180 days from discharge and equitable estoppel found not appropriate as Respondents did not fraudulently conceal information which prevented Complainant from learning of the alleged violation. CO

Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) Where Respondents "concealed" only that Complainant's supervisor was not actually involved in his discharge, CHR did not apply equitable estoppel because Complainant still had more than enough information to notify him that his rights may have been violated at the time of his discharge. CO

Implication of Late, but Timely, Filing

Cornelius v. De La Salle Institute, CCHR No. 93-PA-68 & 69 (June 2, 1994) CHR finds that the fact that Complainants waited until late in the 180-day filing period to file their complaints has no bearing on the legitimacy of their claims. CO

Notice of Action

Perdue v. Winchester/Hood Co-op, CCHR No. 94-H-152 (Dec. 7, 1995) The 180-day filing period begins to run when the allegedly discriminatory decision is communicated to the Complainant. CO

Volino v. WTTW, CCHR No. 94-E-203 (Feb. 7, 1996) (same) CO

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996) Complaint found untimely where it was filed more than 180 days from date of injury; a later request to remedy the injury not considered a separate event. CO

Spurlock v. Chicago House & Social Service Agency, CCHR No. 94-E-177/194 (May 24, 1996) CHR denied Complainant's request to vacate its order denying his Request for Review because CHR found that Complainant did not file his complaint within 180 days of when he knew or should have known his employment had ended and because nothing in Regulations allows it. CO

Harris v. Lake Vista Apartments & Lumpkin, CCHR No. 96-H-33/34 (June 12, 1996) The 180-day filing

period begins to run when the alleged violation is communicated to complainant. CO

Samson v. M & J Wilkow & Wilkow, CCHR No. 94-E-197 (June 18, 1996) (same) CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) The 180-day filing period begins to run when the alleged violation is unambiguously communicated to complainant. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Fact that notice of lay-off was oral not written does not make it ambiguous, especially where Complainant admits the oral notice informed her of the lay-off. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) Filing period begins to run on notice of the decision, not on its effective date. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) Filing period begins to run when the alleged violation is communicated to the complainant. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) Where Respondents' first purported notice of withdrawal of some of Complainant's privileges appeared ineffective -- Complainant was able to continue exercising them -- notice of that withdrawal deemed not unambiguous notice of possible violation of his rights. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) Fact that there was a long delay from Complainant's application for privileges and the Hospital's response did not mean that Complainant had a duty to inquire to the status, thus beginning the filing period, as it was Hospital not him who was changing the status quo and as there is no date at which such a purported duty could be deemed to begin. CO

Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) Filing period begins to run when the alleged violation is communicated to the complainant. CO

Lopez v. Commonwealth Edison, CCHR No. 98-E-7 (Mar. 18, 1998) The 180-day filing period begins to run when the allegedly discriminatory decision is communicated to complainant, not when it goes into effect. CO

Lopez v. Commonwealth Edison, CCHR No. 98-E-7 (Apr. 29, 1998) Same; denying request for review of 3-18-98 order listed above. CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) 180-day filing period begins to run when the allegedly discriminatory decision is communicated to complainant, not when it goes into effect. CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) To begin the filing period, the notice must be unambiguous. CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) CHR found ambiguous a notice which informed complainant that he would be fired unless he found a different position within the company by a date certain and so not sufficient to start the filing period; order reviews federal cases and also notes that the Ordinance's direction to read its provisions liberally compel it to find such notices not definite enough. CO

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

Hackett v. Robert Morris Coll. et al., CCHR No. 99-E-188 (Dec. 13, 2000) Fact that employment relationship might be deemed to have continued after Complainant received notice of the injury does not toll the filing period. 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

Moriarty 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 became 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

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

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

Swenson 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

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996) Complaint found untimely where it was filed more than 180 days from date of injury; a later request to remedy the injury not considered a separate event. CO

Perdue v. Winchester/Hood Co-op, CCHR No. 94-H-152 (Dec. 7, 1995) Request for reconsideration of the

decision in question does not toll the 180-day filing period. CO **See also Tolling section, below.**

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) Request for reconsideration of discharge via union grievance process does not toll the 180-day filing period. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) Where first purported notice of withdrawal of privileges was not effective, Complainant's later request to continue those privileges deemed not to be a mere request for reconsideration as his privileges had not actually been revoked. CO

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

Washington v. Smith & Robinson, CCHR No. 99-H-9 (May 6, 1999) CHR denied motion to dismiss where complaint alleged that the Respondent sexually harassed Complainant "every day" after she rejected his advances and then forced her to move; even though the date she rejected the advances was more than 180 days before she filed, the harassment and constructive eviction occurred within that time and so the complaint was timely. CO

Washington v. Smith & Robinson, CCHR No. 99-H-9 (May 6, 1999) Allegations that Respondent took non-sexual but injurious action against Complainant because she rejected his sexual advances states a claim for *quid pro quo* sexual harassment and so it is proper to use the date of the non-sexual action as the date of the alleged CFHO violation. CO

Statute of Limitations

Tomko v. St. Joseph's Hospital, CCHR No. 91-PA-5 (Jan. 17, 1992) The 180-day filing period is not a jurisdictional requirement but is like a statute of limitations which can be tolled. CO

White v. Southlawn Palms, CCHR No. 92-E-207 (Aug. 27, 1993) (same) CO

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) The 180-day complaint filing deadline is not jurisdictional, but like a statute of limitations which can be tolled for equitable reasons. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) (same) CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) (same) CO

Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) (same) CO

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

Kuzniar v. Mayer, Brown & Platt, CCHR No. 91-E-34 (July 16, 1991) 180-day period begins at notice of termination, not its effective date. CO

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 found not to start filing period as Respondent allowed Complainant to seek assignments from it 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 --See also separate Tolling section, below.

Tomko v. St. Joseph's Hospital, CCHR No. 91-PA-5 (Jan. 17, 1992) 180-day period equitably tolled where CHR did not inform Complainant how to preserve his rights under the CHRO, unintentionally misled Complainant into filing late, and where there was no prejudice to Respondent. Also, Complainant had tendered a written statement to CHR within the 180-day period and believed that that was sufficient to initiate the complaint process and CHR did not correct his misunderstanding until after the 180-day period had run. CO

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) Equitable tolling is available when CHR misleads an individual or makes errors which frustrates his or her attempt to file a complaint. CO

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) Sets forth factors CCHR considers when deciding whether it committed an error or misled an individual to allow tolling of filing period. CO

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) CHR denies request for tolling finding it made no error and did not mislead the person who sought to file; the intake person told the person accurate and complete information about filing a complaint. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Filing period may be tolled when CHR misleads an individual or makes errors which frustrate an attempt to file a complaint. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Claim for tolling based on agency error denied where Complainant's claim provided insufficient information -- that on an uncertain date she spoke to an unidentified CHR representative -- so that CHR could not determine what occurred or whether it had erred. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Complainants who claim agency error should toll the filing period must know information such as the date he or she called or to whom they spoke when they alleged misinformation was provided. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) Agency found not to have misled complainant and so tolling not appropriate where: the original complaint addressed suspension not discharge, complainant claims discharge was omitted when he "inundated" the intake person, the intake person told him of the omission and told him to amend the complaint within 180 days, and complainant did not amend while waiting for completion of the union grievance process. CO

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--See also separate Tolling section, below.

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) In certain circumstances, a complainant's disability could toll the filing period. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) CHR reviews cases which address tolling a filing period due to disability and notes, among other standards, that the disability must have prevented the sufferer from filing. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Holds that, whatever standard is used, Complainant did not show that her alleged disability was sufficient to toll the filing period. CO

Tolling – Discovery of Injury--See also separate Tolling section, below.

White v. Southlawn Palms, CCHR No. 92-E-207 (Aug. 27, 1993) Discusses three doctrines which are available to excuse a failure to comply with the filing deadline. CO

White v. Southlawn Palms, CCHR No. 92-E-207 (Aug. 27, 1993) Applied the "discovery rule" to toll filing deadline with the particular facts where Complainant did not discover, and could not have discovered, that she may have been paid less than a male co-worker until years later and where Respondent not unduly prejudiced by the delay. 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

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--See also separate Tolling section, below.

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Where Respondent concealed that a March 1990 layoff of Complainant was intended to be permanent and not temporary, Complainant was allowed to file within 180 days of receiving an April 1991 letter informing him that his layoff was permanent. R

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Where Respondent was found to have "embarked on a continuous course of conduct" of refusing to accommodate Complainant, Complainant allowed to raise incidents which occurred more than 180 days before he filed his Complaint under the doctrine of continuing violation. R

Untimely Filing

Swims v. Northern Trust Bank, CCHR No. 93-E-255 (Jan. 25, 1996) CHR dismissed case where only alleged violation occurred more than 180 days from filing of complaint. CO

Volino v. WTTW, CCHR No. 94-E-203 (Feb. 7, 1996) Complaint found to be untimely where it was filed more than 180 days from date Respondent communicated discharge decision, despite the fact that they negotiated terms of severance package afterwards. CO

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996)

Complaint found untimely where it was filed more than 180 days from date of injury; a later request to remedy the injury not considered a separate event. CO

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996) The fact that the effects of a past violation may continue to the present cannot form the basis of a complaint filed beyond 180 days of the past violation. CO

Harris v. Lake Vista Apartments & Lumpkin, CCHR No. 96-H-33/34 (June 12, 1996) (same) CO

Harris v. Lake Vista Apartments & Lumpkin, CCHR No. 96-H-33/34 (June 12, 1996) Complaints found untimely where they were filed 10 months after they were notified of their rejection. CO

Samson v. M & J Wilkow & Wilkow, CCHR No. 94-E-197 (June 18, 1996) CHR has no jurisdiction where Complainant did not file his complaint within 180 days from when the discharge decision was communicated to him. CO

Abadi v. Saks Fifth Avenue, CCHR No. 95-E-18 (Aug. 2, 1996) Complaint found untimely when it was filed more than 180 days from the date Complainant was told he would not be hired and he provided no reason to toll the running of the filing period. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) CHR able to consider incidents which occurred more than 180 days from filing of complaint due to application of continuing violation theory. CO **See Tolling/Continuing Violation section, below.**

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Complaint filed over 180 days from notice of lay-off found untimely; CHR found her claims for tolling due to agency error and due to a purported disability both insufficient. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) Complainant not allowed to add discharge claim to complaint because it was untimely where: the original complaint addressed suspension not discharge, complainant claims discharge was omitted when he "inundated" the intake person, the intake person told him of the omission and told him to amend the complaint within 180 days, and complainant did not amend while waiting for completion of the union grievance process. CO

Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) Complaint found untimely as it was filed more than 180 days from discharge and equitable estoppel found not appropriate as Respondents did not fraudulently conceal information which prevented Complainant from learning of the alleged violation. CO

Lopez v. Commonwealth Edison, CCHR No. 98-E-7 (Mar. 18, 1998) CHR dismissed complaint filed more than 180 days from notice of the allegedly discriminatory action. CO

Lopez v. Commonwealth Edison, CCHR No. 98-E-7 (Apr. 29, 1998) Same; denying request for review of 3-18-98 order listed above. CO

Lilly v. Cosmopolitan Bank & Trust, CCHR No. 96-E-76 (July 27, 1998) Where a series of allegations concerned events which occurred more than 180 days before Complainant filed her complaint, CHR cannot consider those allegations as separate claims for relief but can use them as background information. CO

Johnson v. Chicago Dept. of Health, CCHR No. 99-PA-104 (Dec. 20, 1999) CHR dismissed Complainant's complaint as untimely where he did not sign it, and so did not file it, until the 181st day).CO

Johnson v. Chicago Dept. of Health, CCHR No. 99-PA-104 (Dec. 20, 1999) CHR's regulations do not allow it to waive the requirement that a complainant sign the complaint so the fact that he had started the complaint drafting process on the 180th day was not sufficient where he left the office without explanation and without reviewing or signing the complaint until he returned the next day. CO

Johnson v. Chicago Dept. of Health, CCHR No. 99-PA-104 (Dec. 20, 1999) CHR found that filing a complaint after 180 days is not a "technical defect" of the complaint which would allow the Complainant to "amend" his complaint to have it be deemed timely. CO

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-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 of 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 (Sep. 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

Ennajari v. 4626 N. Kenmore Condo. Assn. et al., CCHR No. 07-H-33 (Nov. 4, 2008) In housing 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

Toledo v. Brancato, CCHR No. 95-H-122 (Mar. 14, 1997) Where two of three CFHO provisions concerning coverage and prohibited discrimination list "agents," CFHO read to cover agents as respondents; case assigned to jurisdictional hearing to determine whether facts show that this Respondent is covered by CFHO. CO

Lawson v. Cole Taylor Bank, CCHR No. 96-E-283 (July 15, 1997) Documents provided by parties demonstrate an oral agreement was reached on all terms, but agreement to general release not clear; case assigned to jurisdictional hearing to determine whether or not the parties agreed to that. CO

Fumento v. Links Technology & SMG Marketing Group, CCHR No. 95-E-17 (July 15, 1997) Where Respondent's claim in a motion to dismiss was that Complainant was an independent contractor not covered by CHRO, case assigned to jurisdictional hearing to collect and analyze facts about their relationship. CO

McGee v. Cichon, CCHR No. 96-H-26 (Sep. 16, 1997) Where documents showed there was agreement to all issues but one -- language of the letter of apology -- case was sent to Jurisdictional Hearing to determine whether there was agreement on that issue. HO

Jones v. The First National Bank of Chicago et al., CCHR No. 97-E-99 (Nov. 25, 1997) Jurisdictional hearing scheduled to resolve outstanding factual issues concerning whether there was a sufficient relationship between temporary employee/Complainant and Respondent at which he was placed for CHRO coverage. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) CHR ordered a jurisdictional hearing to determine whether the alleged sexual harasser qualifies as a supervisor. CO **See Sexual Harassment section, below.**

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

Nelson v. Massachusetts Mutual Blue Chip Co., CCHR No. 98-E-211 (May 19, 1999) CHR found it need not hold a jurisdictional hearing to determine whether Complainant and Respondent were in an employment-like relationship because Complainant alleged failure to hire as well as discharge and failure to hire cases may be brought by individuals who are merely applicants. CO

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

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) Although issue of CFHO coverage was raised in motion to dismiss, once jurisdictional hearing is held, CHR relies on evidence introduced at that hearing and need not take complaint's allegations and inferences as true. CO

Fumento v. Links Technology & SMG Marketing Group, CCHR No. 95-E-17 (July 15, 1997) (same) CO

JURY DEMAND

Denied

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) Dismissed Respondent's assertion that he was entitled to a jury trial, looking to contrary case law. R

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Mar. 1, 1996) No right to jury trial at CHR because the only claim at issue is one unknown at common law. HO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Mar. 1, 1996) Fact that CHR can award damages

for emotional distress does not create a right to a jury under Illinois constitution; such damages are not awarded due to a tort known at common law. HO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Mar. 1, 1996) Right to jury under the Illinois constitution is not the same as that under the federal constitution. HO

Collins v. Bockwinkel, CCHR No. 98-E-191 (July 20, 1999) CHR refused to defer its work on a case in which Complainant had received a right-to-sue letter from the EEOC; it dismissed Respondent's argument that proceeding would harm any right to a jury in federal court, finding that speculative -- Complainant had not yet filed in court -- and noting that CHR's proceedings were unlikely to have preclusive effect in federal court. CO

Federal Jury Right

Collins v. Bockwinkel, CCHR No. 98-E-191 (July 20, 1999) CHR refused to defer its work on a case in which Complainant had received a right-to-sue letter from the EEOC; it dismissed Respondent's argument that proceeding would harm any right to a jury in federal court, finding that speculative -- Complainant had not yet filed in court -- and noting that CHR's proceedings were unlikely to have preclusive effect in federal court. CO

LABOR ORGANIZATION

Preemption by LMRA

Woods v. Federal Marine Terminal, et al., CCHR No. 98-E-131/132/133 (July 7, 1999) CHR found Complainant's cases preempted by the LMRA because he contended that collective bargaining agreements between his union and two potential employers discriminated against him due to his age; his cases would have required CHR to construe, and perhaps invalidate, a provision of the agreements. CO

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

Perez v. SEIU, CCHR No. 95-E-93 (Aug. 16, 1996) Complainant's claim that her union failed to represent her due to her national origin found preempted by NLRA and so dismissed. CO

Perez v. SEIU, CCHR No. 95-E-93 (Aug. 16, 1996) Because Complainant's claim of breach of duty of fair representation is so central to NLRA, no exception to preemption applies. CO

Respondent in Employment Case

Perez v. SEIU, CCHR No. 95-E-93 (June 3, 1996) Because CHRO forbids discrimination by "persons" not "employers," a labor organization alleged to have discriminated with respect to terms and conditions of Complainant's employment found to be covered by CHRO, for motion to dismiss purposes. CO **But see entries above.**

LOCATION OF INJURY – See Jurisdiction/Location of Injury subsection, above.

MARITAL STATUS DISCRIMINATION

Liability Found

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Landlord found liable for discriminating due to marital status when it failed to rent to an unmarried couple. R

Liability Not Found

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Respondent proved that it had not discriminated against Complainant due to marital status or sex but found liable for race discrimination; Respondent had rented to single women before. R

Pryor v. Carbonara, CCHR No. 93-H-29 (May 17, 1995) CHR found Complainant did not show that the landlord declined to rent to him due to his marital status, single. R

Scope of Coverage

Alfaro v. St. James Properties, CCHR No. 90-E-66 (Aug. 7, 1992) Marital status discrimination encompasses discrimination based on the identity of the spouse not merely upon the status of being married, single, divorced or widowed. CO

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Fair Housing Ordinance's prohibition of discrimination based on marital status held to make unlawful a landlord's refusal to rent to an unmarried couple; distinguishes state law case. R

French v. Peoples Gas Light & Coke Co., CCHR No. 95-E-123 (Aug. 1, 1996) CHR follows Illinois Supreme Court decision which construed language identical to CHRO's language and holds that "marital status" protects people allegedly harmed due to their status and does not look to the identity of complainant's spouse; overturns *Alfaro v. St. James Property* [above]. CO

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

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Respondent must show more than that it was motivated only in part by a legitimate, nondiscriminatory reason at the time of the decision -- it must show it would have made the same decision if it had not considered the discriminatory reason. R

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Respondent bears the burden of proving that it would have taken the disputed action even absent the discriminatory motive. R

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

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) When Complainant was found to be discharged illegally in a mixed motive case, Respondent can reduce the amount of damages owed by proving Complainant would have been discharged at the same or later time for non-discriminatory reasons. R

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

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) To hold Respondent liable,

discrimination need not be the only reason for the challenged action, so long as it played a part. R

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Any time a discriminatory motive has played a part in an employment decision, the CHRO is violated. R

Barr v. Blue Cross-Blue Shield, CCHR No. 91-E-54 (Feb. 18, 1993) Complainant failed to establish that his sexual orientation "played a part" in his employer's decision to terminate him. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Even if landlord was motivated only in part by a discriminatory intent in implementing a policy that excluded families with children, such mixed motivation could reduce the damage award but landlord would still be found to have violated the CFHO. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Landlord found not liable for evicting Complainant because CHR determined that the landlord would have evicted her for failure to pay rent even absent the alleged impermissible motive -- Complainant's rejection of the landlord's sexual advances. R

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

Tadin v. City of Chicago, Typographical Union, Local 16, CCHR No. 93-E-8 (Apr. 8, 1994) Case dismissed as moot where the Respondents changed the policy at issue and where Complainant had not claimed she had been injured by the prior, allegedly discriminatory version of it. CO

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.

Extension of Time/Continuance – See Also Attorney Appearance/Extension of Time and Continuance, Attorney's Fees/Extension of Time, Default Judgment/Extension of Time, Disqualification/No Continuance, Hearing Procedures/Extension of Time, Hearing Procedures/Continuance, and Requests for Review/Extension of Time to File.

Jackson v. Jimmy & Tai's Wrigleyville Tap et al., CCHR No. 96-PA-56 (Dec. 22, 1998) CHR denied Complainant's request for an extension of time to file Request for Review where he did not present good cause and just stated that he had not "fully conferred" with his attorney. CO

Denton v. Siegel, Moss, Schoenstadt, Webster & Hoff et al., CCHR No. 96-E-288 (Feb. 24, 1999) CHR

denied Complainant's request for an extension of time to file where it was filed after the deadline and did not show the required extraordinary circumstances for the extension. CO

Vasilovik v. Chicago Park Dist., CCHR No. 94-E-120 (Aug. 12, 1999) CHR denied Complainant's request for another extension, this time to file her Request for Review reply, finding that just starting to look for an attorney did not show good cause at such a late juncture in the case. 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

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. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. 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

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

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

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

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

Aponte 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 conciliation 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 briefing order. CO

Syed v. Solaka, CCHR No. 01-H-51 (Mar. 13, 2006) 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

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 he had not received relevant notice due to inconsistent mail delivery after moving his office. HO

Luna v. SLA Uno Inc. et al., CCHR No. 02-PA-70 (Dec. 4, 2006) 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

Hernandez v. Colonial Med. Ctr. et al., CCHR No. 05-E-14 (Dec. 29, 2006) That party now resides out of state not good cause for continuance of Conciliation Conference or waiver of personal attendance. 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

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

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

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 on

their own and notify CHR if they determine no agreement is possible. CO

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

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

Cotten v. The Denim Lounge, CCHR No. 08-P-6 (June 17, 2008) 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

Augustus v. Chicago Police Department et al., CCHR No. 06-E-85 (Sep. 22, 2008) Extension of time to file Request for Review denied; needing time to hire an attorney not sufficient grounds absent extraordinary circumstances. 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. 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 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. R

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. CO

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. CO

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

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. 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 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. HO

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

Stevens v. Hollywood Towers Condo. Assn. et al., CCHR No. 10-H-19 (Oct. 24, 2012) Unopposed motion for six week extension of time to submit settlement document granted based on inability of a respondent to review it due to ill health, noting that it was not for purpose of implementing the terms of settlement. CO

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Jan. 24, 2013) Third extension of time granted to complete training ordered as injunctive relief, based on lack of objection from Complainant, but noting that no further extensions are contemplated. CO

Filing Requirements

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Feb. 5, 1993) Improperly filed motion -- unsigned, undated and no certificate of service -- considered adequately filed where Complainant actually received notice and responded. HO

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. 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 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

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. CO

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. CO

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

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Mar. 21, 2013) Hearing officer denied motion to compel production of documents by Complainant as untimely filed (and for other reasons) where filing deadline is seven days from failure to comply and Respondent waited over two months before filing motion. HO

Newby v. Chicago Transit Authority et al., CCHR No. 09-E-10 (Feb. 19, 2014) Where Respondents filed a motion to strike portions of Complainant's post-hearing brief, the hearing officer did not rule on it because the Commission's regulations do not contemplate responses to post-hearing briefs, nor had the hearing officer allowed it. R

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

Roth v. University of Illinois & Illinois Masonic Medical Center, CCHR No. 92-PA-30 (Apr. 21, 1995) Service is not complete until mailed document is received; however, because the Order sent to the parties was ambiguous and because Complainant was not prejudiced by receiving the reply 4 days late, his motion to strike the reply was denied. CO

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. CO

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

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

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Although CHR may review uncontested facts in addressing a motion to dismiss, it shall not consider facts which go to the merits of the underlying claim as summary judgment motions are prohibited by regulation; it shall consider uncontested facts only when the issue raised in the motion goes to the Commission's jurisdiction to proceed as a legal matter. CO **See also Motions to Dismiss section, below.**

Abdi v. American United Cab Co., CCHR No. 99-E-63 (Sep. 9, 1999) CHR does not consider an argument which goes to the underlying merits of the case as it is not subject to disposition on a motion to dismiss. 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

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

Marshall v. Getsla, CCHR No. 98-H-167 (Jan. 27, 1999) Where complaint included legal conclusions, CHR did not take them as true for purposes of ruling on the motion to dismiss; however, it did not strike those allegations for purposes of the investigation as they were part of what was intended to put the respondent on notice of the claim against it. CO

Marshall v. Getsla, CCHR No. 98-H-167 (Jan. 27, 1999) Allegations that respondent acted reluctantly and the complainant felt discouraged from applying for an apartment based on respondent's conduct were not stricken; that complainant had those perceptions was taken as true and they were part of background of possible futile gesture issue. CO

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

Olic v. Edgewater Plaza Condo Assoc. et al., CCHR No. 99-H-4 (May 5, 1999) In response to the motion to dismiss, Complainant filed an amended complaint which replaced the original complaint, the motion to dismiss was moot as dismissing the original complaint would not have any impact on the case. CO

Effect of Substantial Evidence Finding

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Mar. 29, 1995) CHR's finding of substantial evidence does not preclude a motion to dismiss. HO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 5, 1995) CHR's finding of substantial evidence does not prohibit the granting of dispositive motions during the hearing process. 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

Factual Dispute

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) Where both Complainants' race claims and one Complainant's disability claim turned on disputed facts, motion to dismiss denied; where one Complainant's claimed disability was a contusion, motion granted as that found to be insubstantial and temporary. CO **See Disability/Insubstantial and Temporary section, below.**

Schlack v. Chicago East Apts. et al., CCHR No. 97-E-168 (Aug. 13, 1997) Where Respondent and Complainant disagreed about whether an offer of employment was made, CHR denied motion to dismiss due to those outstanding questions of fact. CO

Chow v. Lemen Sun Grocery et al., CCHR No. 97-E-241 (Nov. 4, 1997) Where the "motion to dismiss" merely disputes the complaint's allegations but does not present any legal argument about why CHR does not have jurisdiction to proceed, motion denied. CO

Chilton v. Cedar Hotel & Inn-Town Hotel, CCHR No. 97-H-203 (Feb. 20, 1998) Where part of motion to dismiss rests on disputed facts which relate to merit of complaint, not CHR's jurisdiction over it, CHR denied motion. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Apr. 9, 1998) Motion to dismiss concerning whether organizational respondent or a related organization was employer of individual who allegedly took the discriminatory action turned on disputed facts and so was denied. CO

Smith v. Wright Property, CCHR No. 98-H-110 (Nov. 20, 1998) Motion to dismiss about who, at the time of the alleged discrimination, owned the building and who was responsible for the person who allegedly discriminated turns on factual issues and so CHR denied motion. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) Where motion to dismiss turned on contested facts, such as whether Respondent's response to alleged sexual harassment constituted reasonable corrective action and whether Respondent was employer of alleged harasser, CHR denied the motion. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) Where parties disputed whether Respondent's response to alleged harassment was effective, CHR could not dismiss case on a motion to dismiss as showing reasonable corrective action. CO

Marshall v. Getsla, CCHR No. 98-H-167 (Jan. 27, 1999) CHR denied motion to dismiss because, among other things, there was a factual dispute about whether Complainant's failure to apply for Respondent's apartment was due to a reasonable belief that Respondent had a discriminatory policy which would have excluded her. CO

Biondi, Rafferty & Silvey v. Trotter Inn et al., CCHR No. 98-PA-67/68/75 (Feb. 8, 1999) CHR denied motion to dismiss where resolution of motion -- about whether Respondents' actions were legally required -- turned on disputed versions of the underlying facts. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) Where amended complaint had different allegation than original complaint with respect to end date of harassment, CHR did not strike either allegation, but kept both as a factual dispute to be investigated; cites Illinois court cases and CHR regulations. CO

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Where motion contended that Complainant's race claim was not supported by the facts, CHR denied that contention, in part because there was a dispute about the underlying facts. CO

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

Sims-Kendrick v. Stringer, CCHR No. 02-PA-15 (Mar. 29, 2002) (same) 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

Shein 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 inappropriate 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

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

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 CHR, 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

Enmajari 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

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Sep. 9, 1999) Complainant’s bald denial that he settled the case with Respondent -- the basis for the motion to dismiss -- is sufficient as a response to the motion; order distinguishes state rule of civil procedure which requires affidavit. CO

Standard

Tibo v. Thermaline, CCHR No. 91-E-29 (June 1, 1992) In reviewing motion to dismiss, CHR takes allegations of complaint as true, and views them, together with reasonable inferences, in light most favorable to complainant: also CHR may not weigh credibility in a motion to dismiss context. CO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (June 10, 1992) (same) CO

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 8, 1992) (same) CO

Ploch v. Chicago National League Ball Club, CCHR No. 92-PA-46 (Apr. 20, 1993) (same) CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Mar. 4, 1994) Respondents’ renewed motion to dismiss denied in that CHR’s prior ruling on the sufficiency of the Complaint was the law of the case and in that it was premature to address the sufficiency of the evidence when the Administrative Hearing had not been held and the motion could only address the allegations already found adequate. HO

Cornelius v. De La Salle Institute, CCHR No. 93-PA-68 & 69 (June 2, 1994) CHR must take a complainant’s allegations as true and view them, together with reasonable inferences to be drawn from them, in the light most favorable to the complainant. CO

Cornelius v. De La Salle Institute, CCHR No. 93-PA-68 & 69 (June 2, 1994) In ruling upon a motion to dismiss, CHR decides only whether a complainant’s allegations state a claim upon which relief may be granted; it does not then determine whether the allegations are true. CO

Vasilovik v. Chicago Park District, CCHR No. 94-E-120 (Sep. 13, 1994) A complaint should not be dismissed unless it appears beyond doubt that the complainant can prove no set of facts in support of his or her claim which would entitle him or her to relief. CO

Vasilovik v. Chicago Park District, CCHR No. 94-E-120 (Sep. 13, 1994) CHR must take a complainant’s allegations as true and view them, together with reasonable inferences to be drawn from them, in the light most favorable to the complainant. CO

Brown v. Compass Health Care Plans, CCHR No. 94-PA-19 (Oct. 26, 1994) (same) CO

Thompson v. Ross & Hardies, CCHR No. 94-E-88 (Oct. 27, 1994) (same) CO

Noosbond v. Mogen David Social Club & Kayne, CCHR No. 94-PA-46 (Feb. 16, 1995) A complaint should not be dismissed unless it appears beyond doubt that the complainant can prove no set of facts in support of his or her claim which would entitle him or her to relief. CO

Noosbond v. Mogen David Social Club & Kayne, CCHR No. 94-PA-46 (Feb. 16, 1995) CHR must take a complainant’s allegations as true and view them, together with reasonable inferences to be drawn from them, in the light most favorable to the complainant. CO

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb. 27, 1995) (same) CO

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Mar. 29, 1995) (same) HO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (Mar. 30, 1995) (same) HO

Roth v. University of Illinois & Illinois Masonic Med. Ctr., CCHR No. 92-PA-30 (Apr. 21, 1995) (same)

CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) (same) CO

Frazier v. San Miguel Apartments, et al., CCHR No. 94-H-124 (May 5, 1995) (same) CO

Algarin v. Sanchez Mgt./Sanchez, CCHR No. 95-H-36 (June 29, 1995) (same) CO
Yu v. Swiss Bank Corp., CCHR No. 94 E-235 (Aug. 21, 1995) (same) CO
Tizes v. North State Astor Lake Shore Drive Assoc. et al., CCHR No. 95-H-17 (Aug. 30, 1995) (same) CO
Sheppard v. Pabon, CCHR No. 94-H-173 (Oct. 12, 1995) (same) HO
Sheppard v. Pabon, CCHR No. 94-H-173 (Oct. 12, 1995) Complaint need not set forth proof or evidence of *prima facie* case so long as it sets forth scope of case so no party is prejudiced. HO
Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) CHR must take a complainant's allegations as true and view them, together with reasonable inferences to be drawn from them, in the light most favorable to the complainant. CO
Crenshaw v. Harvey, CCHR No. 95-H-82 (Jan. 23, 1996) (same) CO
Crenshaw v. Harvey, CCHR No. 95-H-82 (Jan. 23, 1996) Complaint need not allege every fact or all evidence so long as it "substantially appraises" respondent of the basis. CO
Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) (same) CO
Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) CHR must take a complainant's allegations as true and view them, together with reasonable inferences to be drawn from them, in the light most favorable to the complainant. CO
Volino v. WTTW, CCHR No. 94-E-203 (Feb. 7, 1996) (same) CO
Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Feb. 21, 1996) (same) R
McGavock v. Burchett, CCHR No. 95-H-22 (Feb. 13, 1996) (same) HO
Voci v. National Kitchen & Bath Assoc. et al., CCHR No. 94-PA-27/29 (Mar. 13, 1996) (same) CO
Vasilatos v. Chic. Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996) (same) CO
Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) (same) HO
Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) (same) CO
Perez v. SEIU, CCHR No. 95-E-93 (June 3, 1996) (same) CO
French v. Peoples Gas Light & Coke Co., CCHR No. 95-E-123 (Aug. 1, 1996) (same) CO
Abadi v. Saks Fifth Avenue, CCHR No. 95-E-18 (Aug. 2, 1996) (same) CO
Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Sep. 25, 1996) (same) CO
Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Oct. 18, 1996) (same) CO
Putnam v. Four Seasons Hotel, CCHR No. 96-E-54 (Oct. 10, 1996) (same) CO
Kilbert v. Pacific Garden Mission, CCHR No. 96-PA-68 (Nov. 22, 1996) (same) CO
Toledo v. Brancato, CCHR No. 95-H-122 (Mar. 14, 1997) (same) CO
Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Institute, CCHR No. 95-E-21 (Apr. 28, 1997) (same) CO
Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) (same) CO
Schlack v. Chicago East Apts. et al., CCHR No. 97-E-168 (Aug. 13, 1997) (same) CO
Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) (same) CO
Diaz v. Metropolitan Pier & Exposition Authority, CCHR No. 95-PA-168 (Oct. 2, 1997) (same) CO
Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) (same) CO
Woods v. Ameritech Health Connections et al., CCHR No. 96-E-260 (Oct. 15, 1997) (same) CO
Jones v. The First National Bank of Chicago et al., CCHR No. 97-E-99 (Nov. 25, 1997) (same) CO
Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) (same) CO
Haigley v. Jewish Children's Bureau & Bloom, CCHR No. 97-E-188 (Dec. 23, 1997) (same) CO
Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) 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
Chilton v. Cedar Hotel & Inn-Town Hotel, CCHR No. 97-H-203 (Feb. 20, 1998) (same) CO
Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Apr. 9, 1998) (same) CO
Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) (same) CO
Villa v. First National Bank of Chicago, CCHR No. 96-E-205 (July 29, 1998) (same) CO
Leadership Council for Metro. Open Communities v. Carstea & Berzava, CCHR No. 98-H-76 (Aug. 19, 1998) (same) CO
Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) (same) CO
Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) (same) CO
Vasilovik v. Chicago Park District, CCHR No. 98-E-74 (Oct. 9, 1998) (same) CO
Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) (same) CO
Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) (same) CO
Marshall v. Getsla, CCHR No. 98-H-167 (Jan. 27, 1999) Same; also notes that CHR is not bound by a complaint's legal conclusions. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) 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

Biondi, Rafferty & Silvey v. Trotter Inn et al., CCHR No. 98-PA-67/68/75 (Feb. 8, 1999) (same) CO

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Same; also notes that CHR is not bound by a complainant's legal conclusions. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) 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

Williams v. Chicago Police Dept. et al., CCHR No. 98-PA-59 (Apr. 26, 1999) (same) CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) (same) CO

Washington v. Smith & Robinson, CCHR No. 99-H-9 (May 6, 1999) (same) CO

Coats v. Chicago Housing Authority, CCHR No. 98-H-241 (May 6, 1999) (same) CO

Nelson v. Massachusetts Mutual Blue Chip Co., CCHR No. 98-E-211 (May 19, 1999) (same) CO

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) (same) CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) (same) CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-9/12/20 (Aug. 3, 1999) (same)

CO

Shepard v. IBM Corp., Chicago Dept. of Revenue, et al., CCHR No. 98-PA-73 (Aug. 17, 1999) (same) CO

Steele v. American Youth Soccer Org., CCHR No. 98-PA-54 (Aug. 25, 1999) (same) CO

Abdi v. Yellow Cab Co., CCHR No. 99-E-33 (Sep. 9, 1999) (same) CO

Abdi v. American United Cab Co., CCHR No. 99-E-63 (Sep. 9, 1999) (same) CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Sep. 9, 1999) (same) CO

Jackson v. Wilmette Realty et al., CCHR No. 99-H-32 (Sep. 27, 1999) (same) CO

Blakemore v. Kinko's and BT Office Products, CCHR No. 99-PA-71 (Nov. 10, 1999) (same) CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) (same) CO

Jordan v. AMTRAK, CCHR No. 99-PA-34 (Dec. 28, 1999) (same) CO

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

Aljazi v. Owners of 4831 N. Drake, et al., CCHR No. 99-H-77 (Apr. 27, 2000) (same) CO

Woods v. Law Offices of Michael Rovell et al., CCHR No. 00-E-49 (Aug. 23, 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) 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

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Mar. 22, 2001) (same) 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 (May 23, 2001) (same) CO

Moriarty 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
Sims-Kendrick v. Stringer, CCHR No. 02-PA-15 (Mar. 29, 2002) (same) CO
Johnson v. Peoples Energy et al., CCHR No. 01-PA-96 (Apr. 5, 2002) (same) 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. (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
Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Mar. 22, 2001) (same) 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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) CHR does not accept summary judgment motions so it will not consider affidavits attached to the motion to dismiss or the responses except those containing uncontested facts. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) In reviewing a motion to dismiss, Commission may consider uncontested facts contained in the pleadings and exhibits. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) CHR may consider uncontested facts, such as those provided from part of interrogatory answers in a parallel case. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) CHR considers supporting documentation only to the extent that it provides uncontested facts. CO

Arrelano v. Commonwealth Edison, CCHR No. 98-E-23 (June 16, 1998) 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

Tigue v. Life Care Svcs., Montgomery Place, et al., CCHR No. 97-E-271 (Sep. 8, 1998) (same) CO

Vasilovik v. Chicago Park District, CCHR No. 98-E-74 (Oct. 9, 1998) (same) CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) (same) CO

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Same; however, CHR shall not consider facts which go to the merits of the underlying claim as summary judgment motions are prohibited; it shall consider uncontested facts only when the issue raised in the motion goes to the Commission's jurisdiction to proceed as a legal matter. CO

Abdi v. Yellow Cab Co., CCHR No. 99-E-33 (Sep. 9, 1999) In reviewing a motion to dismiss, CHR may consider uncontested facts contained in pleadings or in documentation filed as part of the motion to dismiss briefing. CO

Abdi v. American United Cab Co., CCHR No. 99-E-63 (Sep. 9, 1999) (same) CO

Blakemore v. Kinko's and BT Office Products, CCHR No. 99-PA-71 (Nov. 10, 1999) (same) CO

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

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Mar. 22, 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

Noosbond v. Mogen David Social Club & Kayne, CCHR No. 94-PA-46 (Apr. 7, 1995) When Respondents failed to respond to CHR order regarding Respondents' motion to dismiss which raised an affirmation defense, CHR held the motion was waived until the case proceeds to an Administrative Hearing, if any. CO

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

Smith v. Wright Property, CCHR No. 98-H-110 (Nov. 20, 1998) CHR denied motion to dismiss filed by a person who is not a party to the case finding she was not proper person to file motion. 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

NATIONAL ORIGIN DISCRIMINATION

Covered Backgrounds

Khoshaba v. Kontalonis, CCHR No.92-H-171 (Mar. 16, 1994) Gypsies held to be covered by national origin protection. R

Liability Found

Eltobgi v. Martinez, CCHR No. 91-FHO-15-5600 (Feb. 26, 1992) Landlord found to have violated CFHO where he subjected Complainant's family to ethnic slurs. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No 91-FHO-7-5595 (Mar. 25, 1992) Found it to be sufficient in proving a *prima facie* case that Complainant showed that Respondent knew he was not from the United States, even if the Respondent did not know he was specifically from Nigeria. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Respondent found liable for not renting to Complainant because of his national origin, Assyrian, and because Respondent perceived him to be a gypsy. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Respondents found to have

discriminated against Lebanese/Arab Complainant when they fired him 14 months before they fired a Jewish doctor who was at least as culpable. R

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

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

Mark v. Truman College, CCHR No. 91-E-7 (Aug. 26, 1992) Complainant failed to prove that Respondent had discriminated against her in transferring her to a new position or in terminating her when the funding for the position ran out. R

Ojukwu v. Baum Management, CCHR No. 91-FHO-74-5659 (Nov. 18, 1992) Complainant failed to prove that he was rejected as a tenant because he is Nigerian. R

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Mar. 17, 1993) Complainant did not show that she was treated differently due to her race, national origin or sex when she was not allowed to sell food concessions at a flea market and where she did not show that she had met the non-discriminatory prerequisites for use of the accommodation. R

Sokoya v. 4343 Clarendon Condominium Assoc., CCHR No. 94-H-180 (Oct. 16, 1996) Respondent found to have legitimate, non-discriminatory reasons -- violation of rules and bad credit -- not to rent a new apartment to Nigerian tenant. R

Perez v. Kmart Auto Service, et al., CCHR No. 95-PA-19/28 (Nov. 20, 1996) CHR ruled for Respondents where dispute between Complainants and Respondents found to be a consumer issue not discrimination, based in part on Complainants' lack of credibility. R

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

Jimenez v. Garage Bar & Restaurant et al., CCHR No. 96-E-232 (July 29, 1998) Where, after several requests and warnings, Respondents did not turn over documents which they claimed supported their defense, CHR issued an order stating that it presumed that Respondents had no such document and held that Respondent could not try to admit such document into evidence at any hearing without both showing good cause for these past failures and presenting evidence of the document's genuineness. CO

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 Entered

Roche-Kelly v. Juvenile Diabetes Research Foundation, CCHR No. 10-E-74 (Feb. 21, 2013) Failure of party to produce witness at investigation stage does not create mandatory presumption that the witness is hiding information favorable to the opposing party, nor does it require an administrative hearing to obtain the testimony. CO

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

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHR dismissed case involving the manner which the Tribune refers to homosexual partners in death notices; CHR held it could not regulate the content of the Tribune's death notices, finding that they are news items and so expressive, not mere commercial speech. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) Neither the fact that people pay the Tribune to have a death notice placed nor the fact that death notices are mechanically laid out make them commercial speech; the key is whether the content is expressive. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) Fact that it was the Tribune, not Complainant, who wanted to add a modifier to the reference to Complainant's partner in a death notice does not deprive the Tribune of First Amendment protection. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR applies First Amendment standards concerning commercial speech; it cites Supreme Court and federal court cases which explain that, for speech to be regulated, it must fall into a First Amendment exception, such as commercial speech -- that which proposes a commercial transaction. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR finds the facts that the death notices Complainant wanted to regulate are purchased, are not editorial, are mechanically laid out, sometimes seek memorial contributions, and are printed below the obituaries are not sufficient to make the notices regulable when they do not seek a commercial transaction or otherwise have a commercial message. CO

See separate entries for Constitutional Claim, First Amendment/ Free Speech, above.

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

Metropolitan Tenants' Org. v. Bridgeport News, CCHR No. 92-H-54 (July 28, 1992) Complaint against respondent newspaper dismissed in that, under CFHO §5-8-030(B) and Regs. 410(4)(b) & 420.120(a), it does not "sell, rent, lease or sublease" and it is not an "agent" of an owner. CO

Metropolitan Tenants' Org. v. Sun Times, CCHR No. 92-H-96 (Sep. 29, 1992) (same) CO

Chrzanowski v. Dziennik Zwaikowy, CCHR No. 11-E-67 (Sep. 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

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHRO's definition of public accommodation covers the newspaper's publication of death notices -- it is a service available to any member of the public who wishes to have one published. CO

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) CHR dismissed case brought by City Colleges against union in whose newspaper an anti-affirmative action column had been written: CHR found that the "college environment," the purported public accommodation affected by the column, was not open to the general public and so not protected by the CHRO. CO

NOTARIZATION

Thomas v. Johnson Publishing, CCHR No. 91-E-44 (June 18, 1992) Respondent's claim that notarization of Complainant's signature on only the first page of a two-page complaint made allegations on the second page subject to dismissal denied as frivolous. CO

OBJECTIONS TO RECOMMENDED DECISION – See Hearing Procedures/Objections to First Recommendation section, above.

Evidence/Argument Not Presented at Hearing

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Respondent not allowed to introduce arguments not presented at hearing; he did not argue that the arguments were not available at the hearing. R

Pryor v. Carbonara, CCHR No. 93-H-29 (May 17, 1995) Complainant not allowed to present new evidence in his objections, particularly where he had been asked to provide the type of information he noted at the time he testified. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Argument not raised deemed waived. R

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Oct. 16, 1996) Evidence not presented in Hearing not considered. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Nov. 20, 1996) Additional itemization of costs submitted as part of objections to first recommendation not considered where the information should have been provided as part of fee petition. R

Perez v. Kmart Auto Service, et al., CCHR No. 95-PA-19/28 (Nov. 20, 1996) Evidence not presented in Hearing not considered. R

Exclusive Method to Object

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR regulations permit parties to file objections to a hearing officer's first recommendation and CHR shall not allow a party to circumvent CHR procedures or to add new ones; thus CHR refused to consider Complainant's "Request for In-Depth Review" which she had sent to CHR's chair. R

Extension of Time

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 7, 1996) In case where Respondent had been defaulted, Hearing Officer denied "emergency motion" to file objections to 1st recommendation after hearing one month late as Respondent had been in town at the time of the recommendation and the two months afterwards. HO

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) (same; Board of Commissioners adopts Hearing Officer's 10/7/96 order) R

Final Recommendation

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Jan. 5, 1996) Objections to Hearing Officer's final recommendation denied because CHR regulations do not permit them. HO

No New Evidence/Arguments

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (Jun. 15, 1994) In reviewing a party's objections to the Hearing Officer's First Recommended Decision, CHR shall not simply reweigh the credibility of witnesses or other evidence unless the recommendation is against the manifest weight of the evidence. R

Reid v. F.J. Williams Realty et al., CCHR No. 93-H-42 (Feb. 22, 1995) In reviewing party's objections to Hearing Officer's first recommended decision, CHR will not simply re-weigh credibility of witnesses unless the

recommendation is against the manifest weight of the evidence. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr.19, 1995) Objections are generally not granted when no new arguments are raised. R

Pryor v. Carbonara, CCHR No. 93-H-29 (May17, 1995) Complainant's reiteration of the testimony presented at hearing does not cause a change from the First Recommended Decision. R

Hall v. Becovic, 9CCHR No. 94-H-39 (Jun. 21, 1995) CHR will not sustain objections which merely reargue what was presented at hearing, unless it finds the recommended decision contrary to manifest weight of evidence. R

Mahaffey v. University of Chicago Hospitals et al., CCHR No. 93-E-221 (Jul. 22, 1998) In reviewing a party's objections to a first recommended decision, CHR will not simply re-weigh credibility of witnesses; the Commission will not set aside proposed findings of fact merely because another interpretation of the facts is plausible. R

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Objections rejected where hearings officer's finds of fact not contrary to evidence, Complainant merely argued another interpretation of the evidence but it is the hearing officer's role to determine which facts are pertinent, and hearing officer carefully explained the reasons for the credibility determinations. R

Proof

Hussian v. Decker, CCHR No. 93-H-13 (Nov.15, 1995) Objections which consist largely of unsupported invective and arguments contrary to evidence presented found to be meritless. R

Standard

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr.19, 1995) Objections will not cause a change in recommended order unless new and material facts are asserted, clearly erroneous findings of fact are made, errors of law are made, or conflicts between CHR precedent exist. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar.17, 1999) The Board of Commissioners may not overturn a hearing officer's factual findings unless they are "contrary to the evidence presented at hearing" and so will not re-weigh credibility or set aside proposed findings of fact merely because another interpretation is plausible. R

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Objections rejected where hearings officer's finds of fact not contrary to evidence, Complainant merely argued another interpretation of the evidence but it is the hearing officer's role to determine which facts are pertinent, and hearing officer carefully explained the reasons for the credibility determinations. R

Supplement Record

Austin v. Harrington, CCHR No. 94-E-237 (Jul.15,1997) In its objections to the first recommendation, Respondent for the first time raised a defense concerning CHR authority to award back pay against an individual, Hearing Officer found that issue necessary to resolve but not addressed at Hearing; he allows parties to supplement record with documents and affidavits. HO

OCCUPANCY STANDARDS

Liability Found

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Landlord liable, under both disparate treatment and disparate impact theories, for policy limiting two-bedroom apartments to two people where evidence showed it was implemented in order to exclude families with children and where Respondent did not show that the policy was necessitated by the building's condition. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Respondent's 2-persons-per-bedroom policy found presumptively invalid when it discriminates against persons with children. R

Liability Not Found

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) Rejected Complainant's argument that Respondent's reliance on HUD's occupancy guidelines was pretext; found that Respondent reasonably believed that, as a HUD-subsidized complex, it was required to adopt the HUD guidelines and that the guidelines set forth mandatory occupancy limits. R

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) Rejected Complainant's argument that Respondent's reliance on its occupancy standards was pretextual because the standards were more restrictive than the City's standards; found that the City standards are maximum not minimum levels related to health and safety. R

Standard

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) To determine whether occupancy standards violate the Fair Housing Ordinance, the test is whether the occupancy standard adversely impacts upon people because of their parental status (in this case) and, if so, whether the standard is necessary to Respondent's business; no *per se* reasonable test is used. R

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) In dicta, stated that an arbitrary standard imposed without consideration of factors such as size of bedrooms and age of children would presumptively violate the CFHO if it resulted in the exclusion of parents with children. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Landlord found liable, under both disparate treatment and disparate impact analyses, where landlord did not prove the two-person-per-two-bedroom apartment policy was necessitated by the building's condition and found the policy was implemented to exclude families with children. R

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

Eltobgi v. Martinez, CCHR No. 91-FHO-15-5600 (Feb. 26, 1992) Respondent found to violate CFHO where it forced Complainant to pay additional rent because he had children. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Where Complainant's original allegations proved untrue and where landlord charged additional fee for additional occupants whether child or adult, Respondent found not to have discriminated concerning parental status when she asked for \$25 more per month for Complainant's foster children who moved in. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Fact that landlord did not have Complainant pay \$25 more for her mother who was only visiting and who was very ill did not show parental status discrimination when landlord later charged \$25 for Complainant's foster children; no pretext shown because visiting, sick mother was not similarly situated to foster children. R

Age of Children

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Landlord's refusal to rent to Complainant with teenage sons, as opposed to younger sons or teenage daughters, found liable for parental status discrimination. R

Constructive Eviction

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) In parental status case, Respondent's additional terms restricting Complainants' children were so limiting that Complainant was found to have reasonably refused to move in; includes a discussion of the unreasonableness of the terms. R

Definition of Child

Hunter v. Goldston/Rogers, CCHR No. 92-H-154 (May 6, 1993) Where Complainant had been primary caretaker for his nephew with the consent of the nephew's mother, CFHO deemed to encompass Complainant's parental status claim. CO

Crenshaw v. Harvey, CCHR No. 95-H-82 (Jan. 23, 1996) Without deciding, CHR notes that the fact the children at issue were foster children does not cause CHR to lose jurisdiction of the parental status issue. CO

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Fact that the two children who moved in later in Complainant's tenancy were foster children is immaterial; Complainant is within protected class as living with one or more minor dependent children. R

Definition of Parental Status

Voci v. National Kitchen & Bath Assoc., et al., CCHR No. 94-PA-27/29 (June 6, 1996) CHRO's definition of parental status found to turn on parents who live with children, not on children *per se*. CO

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Complainant found to be member of those protected by parental status provision due to indirect discrimination where her roommate was the parent of a one-year-old which allegedly caused the Respondents not to rent to them. R

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

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) No violation found where housing complex refused to rent to Complainant and her six children due to its interpretation of HUD occupancy standards as prohibiting rental of a 3-bedroom apartment to more than six people. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Landlord found liable under both disparate treatment and disparate impact analyses where landlord did not prove the two-person-per-two-bedroom apartment policy was necessitated by the building's condition and found it was implemented to exclude families with children. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) CFHO §§5-08-030(A) & (C) violated where Respondent added such restrictive terms to Complainants' lease due to Complainants' parental status that they reasonably refused to rent from Respondent. R

Hunter v. Goldston/Rogers, CCHR No. 92-H-154 (May 6, 1993) Where Complainant had been primary caretaker for his nephew with the consent of the nephew's mother, CFHO deemed to encompass Complainant's parental status claim. CO

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Landlord's refusal to rent to Complainant with teenage sons, as opposed to younger sons or teenage daughters, found liable. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Landlord may determine if an individual child is likely to cause problems, but cannot make such a determination based on stereotypes or generalizations. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Landlord's history of renting to children did not constitute a defense to a claim of parental status discrimination where evidence showed that he had had a bad experience with last tenants with children. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Respondent found liable for not renting a sufficiently large apartment to Complainant because Complainant has five children. R

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Respondents found not liable for failing to rent to Complainant who was to live with a 1-year-old child where the apartment in question was already rented and where Respondents rent to people with children. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Defaulted Respondent ordered to pay rent differential, emotional distress damages and punitive damages to Complainant to whom he did not rent due to her parental status. R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Defaulted respondent ordered to pay out-of-pocket, emotional distress and punitive damages where he failed to rent to complainant once he learned that complainant's foster, teenage grandchild was to live with her. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Where Complainant's original allegations proved untrue and where landlord charged additional fee for additional occupants whether child or adult, Respondent found not to have discriminated concerning parental status when she asked for \$25 more per month for Complainant's foster children who moved in. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Fact that landlord did not have Complainant pay \$25 more for her mother who was only visiting and who was very ill did not show parental status discrimination when landlord later charged \$25 for Complainant's foster children; no pretext shown because visiting, sick mother was not similarly situated to foster children. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) In default case, landlord who posted sign limiting tenants to "adults only" found to discriminate based on parental status. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Defaulted landlord found liable for parental status

discrimination when he told Complainant that he was refusing to rent to him because of the number of children in his family – four. 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

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

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Complainant found to be member of those protected by parental status provision due to indirect discrimination where her roommate was the parent of a one-year-old which allegedly caused the Respondents not to rent to them. R

Liability Found

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Respondent found liable for not renting a sufficiently large apartment to Complainant because Complainant has five children. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Defaulted Respondent ordered to pay rent differential, emotional distress damages and punitive damages to Complainant to whom he did not rent due to her parental status. R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Defaulted respondent ordered to pay out-of-pocket, emotional distress and punitive damages where he failed to rent to complainant once he learned that complainant's foster, teenage grandchild was to live with her. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) In default case, landlord who posted sign limiting tenants to "adults only" found to discriminate based on parental status. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Defaulted landlord found liable for parental status discrimination when he told Complainant that he was refusing to rent to him because of the number of children in his family – four. 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

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

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Respondents found not liable for failing to rent to Complainant who was to live with a 1-year-old child where the apartment in question was already rented and where Respondents rent to people with children. R

McGavock v. Burchett, CCHR No. 95-H-22 (July 17, 1996) Standing alone, an inquiry as to whether a prospective tenant has children is not a violation; here, landlords rented to people with children. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Where Complainant's original allegations proved untrue and where landlord charged additional fee for additional occupants whether child or adult, Respondent found not to have discriminated concerning parental status when she asked for \$25 more per month for Complainant's foster children who moved in. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Fact that landlord did not have Complainant pay

\$25 more for her mother who was only visiting and who was very ill did not show parental status discrimination when landlord later charged \$25 for Complainant's foster children; no pretext shown because visiting, sick mother was not similarly situated to foster children. R

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

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) Prohibition against parental status discrimination includes prohibition against action directed at Complainant due to the number of children that she has, not just due to the fact that she has children. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Landlord found liable under both disparate treatment and disparate impact analyses where landlord did not prove the two-person-per-two-bedroom apartment policy was necessitated by the building's condition and found it was implemented to exclude families with children. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Respondent found liable for not renting a sufficiently large apartment to Complainant because Complainant has five children. R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) CFHO prohibits landlords from discriminating against parents due to the number of children they have. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) (same) R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Defaulted landlord found liable for parental status discrimination when he told Complainant that he was refusing to rent to him because of the number of children in his family – four. R

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– See also separate Occupancy Standards section, above.

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Respondent's two-persons-per-bedroom policy found presumptively invalid when it discriminates against persons with children. R

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

Voci v. National Kitchen & Bath Assoc. et al., CCHR No. 94-PA-27/29 (Mar. 13, 1996) CHR found a policy not allowing children under 16 to enter a show not to constitute parental status discrimination; the Complainants were not denied admission because they were parents, but because they brought children with them. CO

Voci v. National Kitchen & Bath Assoc., et al., CCHR No. 94-PA-27/29 (June 6, 1996) CHR denied Request for Review where Complainants' arguments regarding definition of parental status found contrary to CHRO and where some assertions were not supported by reasoning, analysis or case citation. CO

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

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) All CHR decisions have precedential value, citing Reg. 240.620(d), and so CHR cannot freely disregard its prior decisions. CO

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

Boyd v. Parkview Management Corp., CCHR No. 10-H-48 (June 7, 2013) Reaffirms prior decisions and Reg. 270.510 that determinations as to substantial evidence in investigation summaries may not be cited as precedential. CO

Other Laws

Jenkins v. Artists' Restaurant, CCHR No. 90-PA-14 (Aug. 14, 1991) CHR uses federal and state laws for guidance, they are not binding. R

Metropolitan Tenants' Org. v. Bridgeport News, CCHR No. 92-H-54 (July 28, 1992) Distinguishes cases decided under other laws because of particular different statutory language. CO

Nash v. Lutheran Social Services, CCHR No. 91-FHO-161-5746 (July 29, 1992) Neither §504 of the federal Rehabilitation Act nor cases decided under the federal Fair Housing Act insulates Respondent from liability where Respondent gives preferences to people who use wheelchairs but Complainant uses crutches; complaint dismissed on other grounds. CO

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) In finding that CFHO's prohibition of discrimination based on marital status makes it unlawful for a landlord to refuse to rent to an unmarried couple, CHR distinguishes state law case. R

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) CHR looks to decisions interpreting other laws for guidance when neither the applicable ordinance nor prior CHR orders have resolved an issue. HO

Alm v. Metra & Chicago and Northwestern Railroad, CCHR No. 94-PA-51 (Mar. 2, 1995) CHR looks to other laws and decisions interpreting them in deciding issues of first impression; here reviewed ADA. CO

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Cases interpreting other laws are not binding, but are used as guidance. R

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Aug. 1, 1995) CHR looks to Illinois law for guidance in determining scope of attorney-client and work-product privileges. HO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) CHR looks to cases construing other laws for guidance, but only when those laws have language sufficiently similar to CHRO. CO

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) Standards that must be met to show a disability under CHRO are very different from those under the Americans with Disabilities Act or the Rehabilitation Act. CO

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Following federal Fair Housing Act, definition of "dwelling" read broadly; found to cover a basement apartment which Respondents intended for occupancy. R

Toledo v. Brancato, CCHR No. 95-H-122 (Mar. 14, 1997) Where issue is one of first impression, CHR looks for guidance to decisions interpreting other laws where those laws have sufficiently similar language. CO

Fulton v. Dimeo-Doroba, Inc. et al., CCHR No. 97-E-79 (June 11, 1997) CHR looks for guidance to decisions interpreting other laws only where issue is one of first impression and where those laws have sufficiently similar language; otherwise it uses its own precedent. CO

Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) Where there is no CHR precedent and where language of CFHO does not define "agent," CHR looks to definition in Illinois case law. CO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) Where there is no CHR precedent, here about coverage of insubstantial injuries as "disabilities," CHR adopts standards from IHRA due to similarity of its definition of "disability". CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHR looks to cases construing laws with similar language for guidance; because CHRO's language defining "public accommodation" is significantly different from definitions in other laws, precedent construing those dissimilar laws is not helpful to CHR. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) (same) CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) CHR looks to cases construing laws with similar language for guidance but, in determining who qualifies as a supervisory or managerial employee, CHR does not follow decisions made under labor laws as such laws have different purposes and the parties have different positions than they do when determining what standards are used to determine liability for sexual harassment. CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) In determining who qualifies as a supervisory or managerial employee for purposes of standards for sexual harassment liability, CHR follows decision made under IHRA as its language is virtually identical to the CHRO's; Title VII's agency standards are not applicable to CHRO employer liability standards. CO

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Notes that CHRO's definition of disability is like that in the IHRA and not like that in the ADA; however, under both of those laws, temporary and transitory conditions are not considered disabilities. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR shall look to decisions interpreting other laws for guidance where the language of those laws is not significantly different from that in the ordinance at issue before CHR. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) In evaluating whether Section 8 is a covered "source of income," CHR reviewed cases from other jurisdictions and distinguished the CFHO definition from that in other laws. CO

Coats v. Chicago Housing Authority, CCHR No. 98-H-241 (May 6, 1999) CHRO's definition of disability is like that in the IHRA, not the ADA, and so it looks to decisions interpreting the IHRA for guidance; laws which contain a specific exemption for substance abuse are not helpful as the CHRO does not include such an exemption. CO

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 "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. Thorndale 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 (Sep. 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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (July 15, 1993) Denied Complainant's motion to strike portions of the Respondent's brief which cite unreported California cases because CHR is not bound by any decisions of the California courts, reported or unreported, and because both parties in this case had access to these decisions. CO

Withdrawal of Commission Order

Turek v. Carl Sandburg Village Condo. Assoc. et al., CCHR No. 97-H-16 (Mar. 20, 1998) Where parties had settled case before Commission entered order but did not inform Commission and where the settlement stated that withdrawal of the case was important consideration, the Commission withdrew its order. CO

Turek v. Carl Sandburg Village Condo. Assoc. et al., CCHR No. 97-H-16 (Mar. 20, 1998) Commission stated that, in reviewing requests to withdraw its orders, policy of promoting settlements conflicted with the public interest in precedential orders and it noted that it would withdraw the order in question only due to factors noted in entry above. CO

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

Jordan v. AMTRAK, CCHR No. 99-PA-34 (Dec. 28, 1999) CHR finds that a case concerning an assault by AMTRAK guards is not a case which "relates to" an AMTRAK "service" and so is not preempted by the federal law chartering AMTRAK; the order discusses federal and state decisions, including Supreme Court cases, interpreting an analogous airlines statute. CO

Coley v. AMTRAK, CCHR No. 96-PA-16 (Mar. 7, 1997) Public accommodation complaint against AMTRAK dismissed because federal Rail Passenger Service Act pre-empts local laws [such as CHRO] from applying to passenger claims about service. CO

Jordan v. AMTRAK, CCHR No. 99-PA-34 (Dec. 28, 1999) CHR overruled its prior *Coley* decision [above], finding that a case concerning an assault by AMTRAK guards is not a case which "relates to" an AMTRAK "service" and so is not preempted by the federal law chartering AMTRAK; the order discusses federal and state decisions, including Supreme Court cases, interpreting an analogous airlines statute. CO

Chicago Landlord and Tenant Ordinance

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

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

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) The fact that the Illinois Fair Housing Act does not prohibit source of income discrimination does not preempt the City of Chicago, a home rule unit, from doing so. CO **See also Source of Income/Section 8, below.**

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) When the state does not expressly preempt home rule units from taking certain actions, then they may exercise any function pertaining to their government and affairs, including regulating for the protection of public health, safety, morals and welfare as with the CFHO. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) It is the City's constitutional home rule authority, not a state law, which authorizes the City to pass the CFHO. CO

Illinois Forcible Entry & Detainer Act

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

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

Woods v. Federal Marine Terminal, et al., CCHR No. 98-E-131/132/133 (July 7, 1999) CHR found Complainant's cases preempted by the LMRA because he contended that collective bargaining agreements between his union and two potential employers discriminated against him due to his age; his cases would have required CHR to construe, and perhaps invalidate, a provision of the agreements. CO

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

Berman/Torres et al. v. Chicago Transit Authority, CCHR No. 91-PA-45 et al. (Jan. 17, 2002) No provision of the "MTAA" exempts the CTA from regulation by Chicago or preempts Chicago from enforcing its anti-discrimination ordinances against the CTA. CO

National Labor Relations Act

Perez v. SEIU, CCHR No. 95-E-93 (Aug. 16, 1996) Complainant's claim that her union failed to represent her due to her national origin found preempted by NLRA and so dismissed. CO

Perez v. SEIU, CCHR No. 95-E-93 (Aug. 16, 1996) Because Complainant's claim of breach of duty of fair representation is so central to NLRA, no exception to preemption applies. CO

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

Rail Passenger Service Act

Coley v. AMTRAK, CCHR No. 96-PA-16 (Mar. 7, 1997) Public accommodation complaint against AMTRAK dismissed because federal Rail Passenger Service Act pre-empts local laws [such as CHRO] from applying to passenger claims about service. CO

Railroad Unemployment Insurance Act

Donato v. Railroad Retirement Board, CCHR No. 95-E-127 (May 8, 1996) Complaint dismissed for no jurisdiction where the federal act governing claims about Respondent's decisions -- such as the one at issue here -- limits such claims only to federal court. CO

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 (Apr. 13, 1999) CHR found that federal law did not preempt the CFHO's inclusion of Section 8 as a source of income even though that reading of the CFHO compels Respondent to accept Section 8 while federal law made accepting it voluntary. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR rejects Respondent's argument that Congress created a "federal right" to refuse Section 8; the statutory language and recent actions of Congress show that the goal is actually to provide affordable, decent housing for low-income people, not to create a system focused on landlord voluntariness. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) Reading the CFHO to include Section 8 is not an obstacle to fulfilling the goals and purposes of Section 8; it helps further the provision of affordable and decent housing to low-income people who often cannot find such housing. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) The mere fact that Congress struck a particular balance -- making acceptance of Section 8 voluntary -- is not enough to show that local governments may not regulate differently. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) The federal law which created Section 8 neither expressly preempted local law nor preempted the field; the CFHO is a proper exercise of police power and it applies to a traditionally local area of concern. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) The fact that the Illinois Fair Housing Act does not prohibit source of income discrimination does not preempt the City of Chicago, a home rule unit, from doing so. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) The state fair housing law did expressly preempt home rule units from certain actions, but it did not forbid them from regulating types of discrimination that the state law does not cover. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) When the state does not expressly preempt home rule units from taking certain actions, then they may exercise any function pertaining to their government and

affairs, including regulating for the protection of public health, safety, morals and welfare as with the CFHO. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) It is the City's home rule authority, not a state law, which authorizes the City to pass the CFHO. CO

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

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) There is a presumption that state and local laws are not preempted unless that was the clear and manifest purpose of Congress. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) State and local laws can be preempted in three circumstances -- express preemption, field preemption and conflict preemption; only conflict preemption was at issue in this case. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) For a state or local law to be preempted due to a conflict, there must be an actual conflict such as where compliance with both laws is a physical impossibility or where compliance with local law prevents abiding by federal law. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) The fact that a local law is more stringent than the federal law or the fact that a local law creates liability over that authorized by federal law does not mean that there is an actual conflict. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) Unless Congress has a clear and manifest intent to preempt, the fact that a local law which was passed pursuant to a police power imposes burdens, duties or liabilities that exceed those of the federal law is immaterial. CO

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

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) The state General Assembly may preempt action by home rule units, in an area regulated by the state, only if it specifically provides for the exclusive exercise of the state. CO

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

Torribio v. Budget Rent-A-Car, CCHR No. 93-E-176 (Nov. 21, 1994) Respondent not required to allow

pregnant employees to be absent more than it allows other employees to be if, as in this case, it penalizes all employees for absences due to illness. CO

Disability Discrimination

Ilhardt v. Sara Lee Corp., CCHR No. 93-E-257 (July 22, 1994) A normal pregnancy, not accompanied by a disabling condition, is not considered a disability. CO

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

Torribio v. Budget Rent-A-Car, CCHR No. 93-E-176 (Nov. 21, 1994) A disparate impact analysis is available in pregnancy discrimination cases. CO

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

Ilhardt v. Sara Lee Corp., CCHR No. 93-E-257 (July 22, 1994) Pregnancy discrimination claim allowed to proceed as a matter of sex discrimination. CO

Torribio v. Budget Rent-A-Car, CCHR No. 93-E-176 (Nov. 21, 1994) Discrimination claim based on pregnancy is sex discrimination. CO

Griffiths v. DePaul Univ., CCHR No. 95-E-224 (Apr. 19, 2000) CHR regulations specifies that excluding applicants due to their pregnancy is prohibited sex discrimination; Reg. 335.100. R

PRETEXT/DEFENSE REBUTTAL

Burden of Proof

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) Complainant must not merely show that a respondent’s reason is pretextual; he or she must also show that the pretextual reason hides a discriminatory motive. R

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

Prewitt v. John O. Butler Co. et al., CCHR No. 97-E-42 (Dec. 6, 2000) (same) R

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (Jan. 17, 2001) (same) R

Thomas v. Chicago Dept. of Public Health, et al., CCHR No. 97-E-221 (July 18, 2001) (same) 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

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Feb. 26, 1992) Rejected Complainant's argument that Respondent's reliance on HUD's occupancy guidelines was pretext; found that Respondent reasonably believed that, as a HUD-subsidized complex, it was required to adopt the HUD guidelines and that the guidelines set forth mandatory occupancy limits. R

Mark v. Truman College, CCHR No. 91-E-7 (Aug. 26, 1992) Fact that Respondent may have been motivated by favoritism is not enough to overcome its legitimate defense when the favoritism is not shown to be due to discrimination. R

Ojukwu v. Baum Management, CCHR No. 91-FHO-74-5659 (Nov. 18, 1992) Complainant failed to establish that landlord's requirement that he provide tax returns was a pretext for national origin discrimination where Complainant submitted insufficient information about his income. R

Audette v. Simko Provisions, CCHR No. 92-E-39 (June 16, 1993) In age case, Complainant did not rebut or prove incredible Respondent's defense that her primary duty was eliminated and that another employee was better qualified to do the remaining work. R

Audette v. Simko Provisions, CCHR No. 92-E-39 (June 16, 1993) Evidence that Respondent may not have followed sound business practices is not proof of pretext in the absence of evidence of discrimination. R

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Pretext not shown where decision to discharge based on incorrect information where no proof was presented showing that: a) discrimination caused the information to be incorrect, b) the decision-maker was unreasonable in believing the information, and c) the decision was made wholly or in part due to discrimination. R

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Complainant did not rebut or prove incredible the decision-maker's defense that it fired Complainant due to a perceived severe rules infraction. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) No liability found for *quid pro quo* sexual harassment claim where Complainant claimed that Respondent fired her when she refused to endure his treatment silently because CHR found he had fired her for legitimate reasons as he claimed. R

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) CHR found that Complainants/ dentists did not show that Respondents' defense for not renewing their lease -- other tenants complained about bloody gauze being left in the hallways, holes burned in the carpet and other problems with the dentists' patients -- was pretextual; Complainant claimed their lease was not renewed due to the race and source of

income of their patients. R

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) Complainant did not show that Respondent's proffered defense was a pretext for retaliation; Respondent presented evidence explaining both the length of Complainant's suspension and the delay in implementing it. R

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Complainant did not show that Respondent's proffered defenses for its actions, including discharging Complainant, were a pretext for sex discrimination or not worthy of credence. R

Benitez v. Marquez, CCHR No. 93-H-73 (Nov. 16, 1994) Complainant found not to have made a *prima facie* case where Respondents showed they terminated Complainant's lease to make major repairs and where no evidence of religion discrimination was presented. R

Deegan v. Falasz, CCHR No. 93-E-204 (Feb. 22, 1995) Complainant's evidence of comments allegedly made showing that Respondent fired her due to her age found not sufficient to overcome Respondent's defense that Complainant's lack of computer skills caused her discharge. R

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Respondent found not liable for source of income discrimination where the comments Complainant introduced went to Complainant's activities and lifestyle as a classical musician, but not to the fact that he was earning money at it and where the respondent provided non-discriminatory reasons for its conduct. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Complainant failed to show that Respondent's defense -- that she charges an additional fee for all additional occupants, child or adult -- was pretextual. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Fact that landlord did not have Complainant pay \$25 more for her mother who was only visiting and who was very ill did not show parental status discrimination when landlord later charged \$25 for Complainant's foster children; no pretext shown because visiting, sick mother was not similarly situated to foster children. R

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) Although it appeared that Respondents' reasons for evicting Complainant were untrue, Complainant did not show that the reasons were pretext for discrimination; it appeared more likely that Respondents evicted Complainant after she had made building code complaints about them, an action not prohibited by the CFHO. R

Bell/Parks/Barnes v. 7-Eleven Convenience Store, et al., CCHR No. 97-PA-68/70/72 (July 28, 1999) Complainants did not show that Respondent's reasons for calling security on them were pretextual, including that the clerk believed that they were acting suspiciously and that Respondent calls security numerous times per night regarding all types of people. R

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 shifting 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

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) "Customer preference" held not to be a legitimate defense. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Respondent's defenses found unworthy of credence and/or rebutted and so CHR can presume that the real reason for the actions was discrimination. R

Campbell v. Brown/Dearborn Parkway, CCHR No. 92-FHO-18-5630 (Dec. 16, 1992) Evidence presented showed that real reason for landlord's occupancy policy which restricted two-bedroom apartments to two people, was to exclude families with children so they were found liable for parental status discrimination. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Landlord's defense that he evicted Complainant, not because she rejected his sexual advances, but because he had to do major repairs on the apartment was rebutted when it was shown that the repairs had not been done as of the date of the Hearing -- almost six months after the eviction. R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) The totality of facts, including testimony of white tester, showed that Respondent had used race as a factor not to show Complainant the apartment at issue. R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Inference of race discrimination raised where white person treated differently than black person and respondent offers no credible reason for the difference. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Landlord's reason for not allowing tenant to sublet to Black person found incredible; landlord had treated white applicants more leniently than the Black Complainant and had created a scheme to try to deceive CHR during the investigation. R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) Respondents' reasons for not renting to African-American Complainant found to be incredible or contrary to other evidence. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Argument that Complainants filed their complaints as "retaliation" for eviction proceedings found contrary to evidence including that Complainants had complained about the harassment before the eviction began. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Respondents' defense that they did not rent to Complainant because the apartment was uninhabitable shown to be contrary to their actions at the time and their later statements. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) CHR found Respondents' reasons for treating Complainant worse than similarly-situated wrong-doer did not actually motivate Respondents -- due to credibility and Complainant disproving some reasons -- so CHR found Respondents to have acted due to race and national origin discrimination. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Respondent's defenses found incredible and contradicted by credible testimony of Complainant's witnesses concerning Respondent's racist conduct and statements to neutral apartment broker and testers. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) Restaurant found liable for not allowing Complainant to enter because he had Black companions; defense of violation of dress code found pretextual due to direct evidence and credibility of witnesses. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) In case where Respondents evicted nuns once they learned the new one was Black, Respondents defenses found incredible; contrary to their claims, brother-in-law found not to want to move into the apartment and Respondents found to have explicitly waived screening the new tenant. R

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

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) CHR declined to rule on the question of whether a finding of pretext necessarily means that Respondent had a discriminatory motive. R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Respondent need not persuade fact-finder that it was motivated by proffered reasons so long as its evidence raises a genuine issue of fact in order to shift burden back to Complainant. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) If respondent's proffered

legitimate reason is found to be false, the trier of fact may find the respondent was motivated by the discriminatory reason. R

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) Complainant has burden to show that respondent's defense is pretextual either by directly proving that a discriminatory intent motivated respondent or by indirectly showing that the defense is unworthy of credence. 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

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

Roche-Kelly v. Juvenile Diabetes Research Foundation, CCHR No. 10-E-74 (Feb. 21, 2013) In finding no substantial evidence of pretext, no error to consider the one-year passage of time between Respondent's knowledge of Complainant's pregnancy and parental status and the decisions leading to her discharge, as the timing of events is a relevant factor. CO

PRIMA FACIE CASE – See Disparate Treatment/Shifting Burden section, above.

PRIVILEGES

Attorney-Client Privilege

Covered Communication

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Nov. 17, 1995) Communications from an attorney to a client are privileged insofar as they tend to reveal client confidences (including the type of legal advice the client seeks) whether the client asked for the advice or the attorney offered it. HO

Snyder v. Museum of Science & Industry, et al., CCHR No. 91-E-72 (Sep. 14, 1998) Attorney's status as a potential witness does not defeat the claim of attorney-client privilege covering communications between him and his client with respect to the upcoming hearing and so request for protective order granted; order does not preclude

questioning into areas which are not privileged. HO

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

Snyder v. Museum of Science & Industry, et al., CCHR No. 91-E-72 (Oct. 2, 1998) With respect to a motion to enforce an oral agreement, request for depositions of individual respondent and attorney denied where they would lead to claims of attorney-client privilege about which the parties had already submitted briefs and where a jurisdictional hearing was already scheduled; depositions would not expedite resolution of the issue. HO

In Camera Inspection

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Aug. 1, 1995) Where the parties dispute whether respondent law firm was acting for itself or for a client with respect to certain documents, hearing officer shall inspect those documents to determine whether or not they are privileged. HO

Motion in Limine

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Nov. 17, 1995) Due to attorney-client privilege, Complainant may not testify at Hearing about whether a client sought certain advice, whether an attorney told him a client needed certain advice, or whether a client confidence prompted certain memoranda. HO

Standard

Snyder v. Museum of Science & Industry, et al., CCHR No. 91-E-72 (Sep. 14, 1998) Sets forth standards to determine whether communications between an attorney and client are privileged, including whether attorney is providing advice or making statements as a potential witness. HO

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

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Nov. 17, 1995) Only the client, not the attorney, may waive the attorney-client privilege. HO

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Nov. 17, 1995) Where the attorney submitted a document to CHR during the investigation and there is no indication that the client intentionally or knowingly waived the privilege, waiver not found. HO

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

Standard

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Aug. 1, 1995) CHR looks to Illinois case law which protects materials that reveal theories, mental impressions or litigation plans of a party's attorney. HO

Substantial Need

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Aug. 1, 1995) Although opposing party may gain access to non-opinion work-product if it shows a substantial need, mere fact that CHR procedures do not allow for interrogatories as a matter of right does not satisfy that showing. HO

Waiver

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Aug. 1, 1995) Under Illinois law, where statements by a potential witness concerning the facts of a case are sent to or received from a third party without promise of secrecy, any privilege is waived. HO

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Aug. 1, 1995) Also under federal law, waiver occurs where work-product material is made available to a third party in a way that increases the likelihood that the opposing party will gain access to them. HO

Witness Statements

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Aug. 1, 1995) Affidavits or drafts that "purport to state the facts as recited by a potential witness are 'evidentiary material' and not privileged". HO

PRO SE PARTIES

Attorney's Fees

Austin v. Harrington, CCHR No. 94-E-237 (Mar. 18, 1998) *Pro se* complainant found not entitled to attorney's fees for his own legal work as he did not incur any out-of-pocket expenses payable to someone acting as his legal representative; he was allowed costs for certain work -- see separate Costs section, above. R

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

Kelley v. Walker, CCHR No. 01-H-22 (Aug. 2, 2004) Parties not represented by counsel nevertheless expected to follow CHR procedures. CO

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

Snyder v. Museum of Science & Industry, et al., CCHR No. 91-E-72 (Sep. 14, 1998) Attorney's status as a potential witness does not defeat the claim of attorney-client privilege covering communications between him and his client with respect to the upcoming hearing and so request for protective order granted; order does not preclude questioning into areas which are not privileged. HO

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 in prior cases 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 Gowder 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

Feinstein v. Premiere Connections et al., CCHR No. 02-E-215 (Nov. 1, 2012) Motion to seal identity of Complainant in sexual harassment case denied. CHR will not generally withhold identity of complainants alleging sexual harassment or any other form of discrimination. That public information is now more readily found on the internet or may cause people to form unfavorable opinions about an individual or business is insufficient to support sealing of record. CO

Portlock and Adkins v. Woodlawn Community Development Corp. et al., CCHR No. 10-E-73/103 (Dec. 10, 2012) No need for protective order preventing public disclosure of discovery responses because Reg. 240.407 requires only the certificate of service to be filed on public record. No protective order granted to prevent disclosure to Complainants' witness with other pending litigation against Respondents, because possible use by witness in unrelated litigation is not valid basis for protective order and no other basis established under Reg. 240.307(c). HO

During Investigation

Alvarez v. Doyen & Associates, et al., CCHR No. 94-E-117 (Sep. 29, 1994) CHR entered a protective order during the investigative stage to limit use of information concerning Respondent's employees. CO

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 it 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

Alvarez v. Doyen & Associates, et al., CCHR No. 94-E-117 (Sep. 29, 1994) CHR found good cause to enter a protective order where the persons who could be harmed by disclosure were employees of respondent, who were not themselves parties, and whose evaluations had been turned over. CO

Alvarez v. Doyen & Associates, et al., CCHR No. 94-E-117 (Sep. 29, 1994) CHR prohibited Complainant from divulging outside of CHR's procedures only that information which would identify the persons whose evaluations he received. CO

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Oct. 16, 1995) Where Respondent is a private corporation whose stock is closely held, protective order entered covering documents to be introduced at administrative hearing which would reveal its finances; Complainant did not object to the protective order. HO

Snyder v. Museum of Science & Industry, et al., CCHR No. 91-E-72 (Sep. 14, 1998) Attorney's status as a potential witness does not defeat the claim of attorney-client privilege covering communications between him and his client with respect to the upcoming hearing and so request for protective order granted; order does not preclude questioning into areas which are not privileged. HO

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

Portlock and Adkins v. Woodlawn Community Development Corp. et al., CCHR No. 10-E-73/103 (Dec. 10, 2012) Complainants, their counsel, and witnesses ordered not to disclose certain information Respondents submit in discovery except as appropriate to litigating religious discrimination case. Protection limited to documents revealing job performance or religious status of employees not party to case; such documents to be returned to Respondents at conclusion of case. HO

Newby v. Chicago Transit Authority et al., CCHR No. 09-P-10 (Jan. 28, 2013) Parties' joint motion for protective order granted solely for documents exchanged pursuant to discovery requests. Pursuant to Reg. 240.407, Responses to Requests for Documents must be served on all other parties, but need not be served on the hearing officer or filed with CHR; however, the responding party must serve a copy of the certificate of service to all. The granting of this motion does not automatically prevent documents introduced at the hearing from becoming part of the public record, unless a request to seal the record, filed pursuant to Reg. 240.520, is granted. HO

PUBLIC ACCOMMODATIONS DISCRIMINATION

Access/Entry to Facility

Head v. St. Joseph's Hospital, CCHR No. 93-PA-13 (Sep. 8, 1993) CHR denied Respondent's motion to dismiss, holding that an alleged failure to offer Complainant services on the same terms and conditions as offered to others may constitute a CHRO violation even where there is no total denial of access. CO

Ploch v. Chicago National League Ball Club, CCHR No. 92-PA-46 (Oct. 4, 1993) There is no requirement that Complainant have been denied total access to a facility in order to state a claim; an allegation that Respondent failed to have the premises available to Complainant on the same basis as it is available to others is sufficient to survive a motion to dismiss. CO

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) Where disabled student Complainant alleged that some of Respondent's facilities were not accessible to her, CHR found Respondent to be a public accommodation to the extent that those facilities were open to the public. CO

Doering v. City of Chicago Mayor's Office of Special Events, CCHR No. 92-PA-12 (Apr. 26, 1995) Where area to which Complainant was invited was not open to the general public, CHR dismissed complaint for lack of jurisdiction. CO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) Restaurant found liable for not allowing

Complainant to enter because he had Black companions; defense of violation of dress code found pretextual due to direct evidence and credibility of witnesses. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Respondent found liable for holding tournament which was not accessible to Complainant, a person who uses wheelchair. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Fact that Complainant, a person who uses a wheelchair, refused Respondent's offer to carry him into an inaccessible tournament does not defeat Complainant's *prima facie* case as Respondent did not provide him with "full use" of the tournament as his access was under different terms than applied to others -- a restricted view and missing a substantial part of the tournament. R

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 (Sep. 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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Disability discrimination found where force of door prevented wheelchair user from opening restaurant entrance door independently and Respondent failed to plead and prove undue hardship to be fully accessible. Requiring Complainant to rely on the help of other patrons or employees to access restaurant does not constitute the provision of "full use" of its restaurant. Respondent also failed to prove that it had provided a reasonable accommodation when its witnesses testified only about ad hoc situations involving other customers but failed to prove that it had offered such services to Complainant. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) After order of default, *prima facie*

case of disability discrimination where wheelchair user sought to enter a restaurant but could not due to steps at entrance. R

Adverse Action – See separate Adverse Action section, above.

Age Discrimination

Anguiano v. Abdi, CCHR No. 07-P-30 (Sep. 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

Williams v. Chicago Police Dept. et al., CCHR No. 98-PA-59 (Apr. 26, 1999) CHR found that Complainant's complaint that Respondents exonerated the police officers he had accused in his OPS complaint due to Complainant's membership in several protected classes stated a claim for discrimination in the full use of OPS' services. CO

Williams v. Chicago Police Dept. et al., CCHR No. 98-PA-59 (Apr. 26, 1999) CHR required an individual who alleges that an agency's decision-making was discriminatory to supply more information about the basis for his case and did not allow him to rely on mere conclusory allegations. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR held that it recognizes that it cannot act as an appeal for individuals unhappy with results of investigations by other agencies and can only determine whether the agency's work was provided in a non-discriminatory and non-retaliatory manner. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR holds that an individual who alleges that an agency's decision-making was non-discriminatory or retaliatory may not rely on mere conclusory allegations but must supply more information about the basis for his case. 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 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

Coley v. AMTRAK, CCHR No. 96-PA-16 (Mar. 7, 1997) Public accommodation complaint against AMTRAK dismissed because federal Rail Passenger Service Act pre-empts local laws [such as CHRO] from applying to passenger claims about service. CO

Jordan v. AMTRAK, CCHR No. 99-PA-34 (Dec. 28, 1999) CHR overruled its prior Coley decision [above], finding that a case concerning an assault by AMTRAK guards is not a case which “relates to” an AMTRAK “service” and so is not preempted by the federal law chartering AMTRAK; the order discusses federal and state decisions, including Supreme Court cases, interpreting an analogous airlines statute. CO

Arrests & Similar Conduct

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) With respect to a person who was arrested, stopped or cited, the police's conduct is not a public accommodation as being arrested (or stopped or cited) is not a service offered to the general public and the person arrested (or stopped or cited) is not using or seeking to use a public service. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) With respect to a person seeking police protection, the police's conduct in response to that request is a public accommodation as seeking protection is a service offered to the general public and the person is seeking to use a public service. 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. Chicago Police Dept., CCHR No. 00-PA-60 (July 19, 2001) Where Complaint 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

Wilkins v. Little Village Mall, CCHR No. 91-E-82 (Sep. 10, 1992) CHR has jurisdiction over a business establishment which leases booths to vendors and which allegedly discriminated in the manner it leased to Complainant due to her national origin. HO

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 8, 1992) Office building found to be a public accommodation vis-a-vis Complainants who had rented office space there. CO

Bond v. N&S Partnership et al., CCHR No. 99-PA-3 (Apr. 5, 1999) Denies motion to dismiss which asked CHR to dismiss the case because it concerns a commercial lease; cites earlier orders finding that commercial lease transactions may be considered public accommodations. CO

"Control" of Public Accommodation

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) Fact that the police have the authority to make an arrest in a public place is not enough for them to be deemed to "control" the location as the CHRO requires. CO

Shepard v. IBM Corporation, Chicago Dept. of Revenue, et al., CCHR No. 98-PA-73 (Oct. 25, 1999)

Where City showed that it did not take part in the bid process at issue, CHR held that it would not investigate City as a Respondent but declined to outright dismiss it due to outstanding factual and legal issues. CO

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 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

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

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

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHRO's definition of public accommodation, unlike that of other laws, is not limited to "places" but includes business establishments and agencies. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHRO's definition of public accommodation covers the newspaper's publication of death notices -- it is a service available to any member of the public who wishes to have one published. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) Where the alleged discrimination concerned teaching, CHR held that was not a function available to the general public and so it denied the Request for Review seeking to reopen the case. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) With respect to an arrested person, the police's conduct in the arrest is not a public accommodation as being arrested is not a service offered to the general public; it is an action taken against the person. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) With respect to a person seeking police protection, the police's conduct in response to that request is a public accommodation as seeking protection is a service offered to the general public. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) Fact that an arrest occurs in a public place does not itself give CHR jurisdiction; §2-160-070 prohibits discrimination only by a person who "owns, leases, rents, operates or in any manner controls a public accommodation . . . concerning the full use" of it. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) The CHRO's language defining "public accommodation" is significantly different from definitions in other laws and so precedent construing those other laws are often not helpful. CO

Bond v. N&S Partnership et al., CCHR No. 99-PA-3 (Apr. 5, 1999) Denies motion to dismiss which asked CHR to dismiss the case because it concerns a commercial lease; cites earlier orders finding that commercial lease transactions may be considered public accommodations. CO

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) CHR dismissed case brought by City Colleges against union in whose newspaper an anti-affirmative action column had been written: CHR found that the "college environment," the purported public accommodation affected by the column, was not open to the general public and so not protected by the CHRO. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-9/12/20 (Aug. 3, 1999) Where it was not clear whether meeting with the head of the Respondent department was a service offered to the "general public," CHR asked the parties to submit documentation and information about that issue. CO

Shepard v. IBM Corporation, Chicago Dept. of Revenue, et al., CCHR No. 98-PA-73 (Aug. 17, 1999) 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. CO

Shepard v. IBM Corporation, Chicago Dept. of Revenue, et al., CCHR No. 98-PA-73 (Aug. 17, 1999) Where it was not clear whether the bid process in question was a service offered to the "general public," CHR asked the parties to submit documentation and information about that issue. CO

Blakemore v. Kinko's and BT Office Products, CCHR No. 99-PA-71 (Nov. 10, 1999) 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. CO

Blakemore v. Kinko's and BT Office Products, CCHR No. 99-PA-71 (Nov. 10, 1999) Finds that Respondent BT does not, as a general matter, offer any services or facilities to the public and finds that the activity of its employee at issue -- restocking shelves at Kinko's -- is not a service available to the "general public" and so CHR dismissed case. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-9/12/20 (Nov. 29, 1999) 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. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-9/12/20 (Nov. 29, 1999) CHR dismissed cases, finding that meeting with the Commissioner in person -- what Complainant contends he was denied -- is not a service offered to the general public and so not a covered public accommodation. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR found that Complainant's allegation that Respondents mis-handled his cases because of his race and the fact that he filed a prior complaint against them stated a claim involving his use of a service available to the general public. CO
See also Public Accommodation/Agency Decision-Making subsection, below.

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

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 **See School/ University section, below.**

Saadah v. Chicago Depts. 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. 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

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

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 Complaint 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 CHR 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

Alm v. Metra & Chicago and Northwestern Railroad, CCHR No. 94-PA-51 (Mar. 2, 1995) Although Complainant's disability caused him to be so fatigued that he needs assistance walking, Respondents were found not obligated to provide him a wheelchair where Complainant had not alleged that any of Respondents' facilities were inaccessible, finding the wheelchair to be a personal use item. CO

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Feb. 21, 1996) Where complaint used a guide dog and was given a shared ride at a shared ride price, Respondent found not liable for disability discrimination; second claim found to have occurred outside of City so dismissed for no jurisdiction. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Respondent found liable for holding tournament which was not accessible to Complainant, a person who uses wheelchair. R

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 (Sep. 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

Mahmoud v. Chipotle Mexican Grill Service Co., LLC d/b/a Chipotle Mexican Grill, CCHR No. 12-P-25 (June 18, 2014) Disability discrimination found where force of door prevented wheelchair user from opening restaurant entrance door independently and Respondent failed to plead and prove undue hardship to be fully accessible. Requiring Complainant to rely on the help of other patrons or employees to access restaurant does not constitute the provision of "full use" of its restaurant. Respondent also failed to prove that it had provided a

reasonable accommodation when its witnesses testified only about ad hoc situations involving other customers but failed to prove that it had offered such services to Complainant. R

Hamilton and Hamilton v. Café Descartes CCHR No. 13-P-05/06 (June 18, 2014) After an order of default, *prima facie* case of disability discrimination where customer with service animal initially denied entry to café, then full use and enjoyment curtailed. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) After order of default, *prima facie* case of disability discrimination where wheelchair user sought to enter a restaurant but could not due to steps at entrance. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) \$500 in emotional distress damages because of Complainant's minimal testimony that he was embarrassed and felt like a second class citizen, lack of personal contact with Respondent's personnel, and the brief duration of the discriminatory encounter. R

Cotten v. Ochoa Sporting Goods, CCHR No. 14-P-15 (Dec. 17, 2014) After Order of Default, *prima facie* case of disability discrimination established where wheelchair user sought to enter a store but could not due to steps at entrance. R

Employer/Owner Liability

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Restaurant found liable for violating CHRO where gay Complainant called "faggot" by one of Respondent's employees. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) To determine whether the employer may be liable for conduct of employee to a customer, CHR looks to standards used in housing discrimination cases, not those in employment discrimination or tort cases. R

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

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) Where Respondent's employee made a racial comment to the complainant but the complainant was not a customer or a prospective customer [was a stranger to the employee and business], defaulted Respondent found not to have discriminated with respect to "full use of a public accommodation" and so held not liable. R

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) In finding Respondent not liable [see entry above], CHR distinguishes this case from others where the complainant was discriminated against when using or seeking to use the respondent's services. R

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) In order to state a public discrimination claim, a person must have been using or seeking the full use of a public accommodation -- CHRO, §2-160-070. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) A person arrested by the police is not using or seeking to use a public service. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) A person seeking

police protection is seeking to use a public service. CO

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Fact that Complainant, a person who uses a wheelchair, refused Respondent's offer to carry him into an inaccessible tournament does not defeat Complainant's *prima facie* case as Respondent did not provide him with "full use" of the tournament as his access was under different terms than applied to others -- a restricted view and missing a substantial part of the tournament. R

Williams v. Chicago Police Dept. et al., CCHR No 98-PA-59 (Apr. 26, 1999) CHR found that complainant's complaint that respondents exonerated the police officers he had accused in his OPS complaint due to complainant's membership in several protected classes stated a claim for discrimination in the full use of OPS' services. CO **See also Agency Decision-Making sub-section, above.**

Williams v. Chicago Police Dept. et al., CCHR No. 98-PA-59 (Apr. 26, 1999) CHR found that the fact that OPS had taken and investigated Complainant's OPS complaint did not show that Complainant received full use of its services; a complete denial of service is not the only possible violation as OPS could still be found to have discriminated in his full use if facts showed that its determination was based on his protected class status. CO **See also Public Accommodation/Agency Decision-Making subsection, below.**

Shepard v. IBM Corporation, Chicago Dept. of Revenue, et al., CCHR No. 98-PA-73 (Aug. 17, 1999) CHR denied motion to dismiss finding that "full use;" CHRO forbids limiting and discriminating in service, not just complete denial of service, and considering fact that City had reviewed Complainant's bid for a contract did not mean that he had necessarily received a bid without using allegedly impermissible racial factors is inherent to the bid process. CO

Blakemore v. Kinko's and BT Office Products, CCHR No. 99-PA-71 (Nov. 10, 1999) As in Lawrence, above, where an employee of Respondent BT allegedly made a racial comment to Complainant but Complainant was not an actual or a prospective customer of BT, and where the comment was not even made at BT's facility, any discrimination did not occur in Complainant's attempted "full use" of BT's services or facility and so CHR dismissed case. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) CHR found that Complainant's allegation that Respondents mis-handled his cases because of his race and the fact that he filed a prior complaint against them stated a claim involving his use of a service available to the general public. CO **See also Agency Decision-Making sub-section, above.**

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

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. 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. 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. R

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

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. CO

Murza 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." 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. CO

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 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. CO

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. R

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. CO

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. 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. 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. CO

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. 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 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

Newby v. Chicago Transit Authority et al., CCHR No. 09-E-10 (Feb. 19, 2014) No gender identity discrimination found against transgender female, arising out of incidents in a train station. Based on credibility determinations by hearing officer as to conflicting testimony, Board found Complainant did not prove security officer referred to her as a man. Even if proved, that mistaken impression by itself is insufficient to constitute direct evidence of discriminatory animus. Referring to Complainant as a male would have been belittling if Respondent was aware that Complainant was transgender and was using the term "man" or "male" in a derogatory manner. R

Harassment

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Unlike in employment cases, a single incident of harassment in a public accommodation may be sufficient to establish discrimination. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) To determine whether an incident of harassment is sufficient to establish discrimination, CHR looks at nature and context of the comments, particularly whether the comment was separating and belittling. R

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) Where Respondent's employee made a racial comment to the complainant but the complainant was not a customer or a prospective customer, defaulted Respondent found not to have discriminated with respect to "full use of a public accommodation" and so

held not liable; harassment not related to use of a public accommodation does not violate the CHRO. R

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 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) 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 (Sep. 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

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 8, 1992) Denied Respondents’ motion to dismiss finding that Complainants may bring a public accommodation claim based on allegations of discrimination due to the race and source of income of their clients. CO

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) Sets forth elements of *prima facie* case of indirect discrimination in public accommodation case. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) White Complainant states a claim for indirect race discrimination in that he claimed he was refused entry because his companions were Black. R

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

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Mar. 17, 1993) Complainant did not show that she was treated differently due to her race, national origin or sex when she was not allowed to sell food concessions at a flea market because she did not show that she had met the non-discriminatory prerequisites for use of the accommodation. R

Perez v. Kmart Auto Service, et al., CCHR No. 95-PA-19/28 (Nov. 20, 1996) CHR ruled for Respondents where dispute between Complainants and Respondents found to be a consumer issue not discrimination, based in part on Complainants’ lack of credibility. R

Newspapers

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHRO’s definition of public

accommodation, unlike that of other laws, is not limited to "places" but includes business establishments and agencies. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHRO's definition of public accommodation covers the newspaper's publication of death notices -- it is a service available to any member of the public who wishes to have one published. CO

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) CHR dismissed case brought by City Colleges against union in whose newspaper an anti-affirmative action column had been written: CHR found that the "college environment," the purported public accommodation affected by the column, was not open to the general public and so not protected by the CHRO. CO

Parental Status Discrimination

Voci v. National Kitchen & Bath Assoc. et al., CCHR No. 94-PA-27/29 (Mar. 13, 1996) CHR found a policy not allowing children under 16 to enter a show not to constitute parental status discrimination; the Complainants were not denied admission because they were parents, but because they brought children with them. CO

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

Brown v. Compass Health Care Plans, CCHR No. 94-PA-19 (Oct. 26, 1994) A state medical malpractice act does not exempt from the CHRO a doctor who may discriminate. CO

Brown v. Compass Health Care Plans, CCHR No. 94-PA-19 (Oct. 26, 1994) CHR denied the HMO's motion to dismiss an allegation that a doctor refused to see complainant due to her age where respondent had not submitted any information or evidence that the doctor's practice was actually "primarily pediatric". 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; not CHRO's role to evaluate individualized professional judgments as they are not offered to general public. CO

Private Club

Noosbond v. Mogen David Social Club & Kayne, CCHR No. 94-PA-46 (Feb. 16, 1995) Respondent social club's motion to dismiss denied in that it did not show that it qualified as a private club exempt from coverage as a public accommodation. CO

Noosbond v. Mogen David Social Club & Kayne, CCHR No. 94-PA-46 (Feb. 16, 1995) Order denying motion to dismiss sets forth factors to determine when an entity is deemed to be a private club including, but not limited to, selectivity and exclusivity of membership. 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

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 dating service limited to heterosexuals was exempt private club where the service offered prescreening to general public and contacted Complainant through telemarketing. CO

Race Discrimination

Jenkins v. Artists Restaurant, CCHR No. 90-PA-14 (Aug. 14, 1991) Respondent found liable for discriminating against Black Complainant when they asked him to leave restaurant. R

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Mar. 17, 1993) Complainant did not show that she was treated differently due to her race, national origin or sex when she was not allowed to sell food concessions at a flea market because she did not show that she had met the non-discriminatory prerequisites for use of the accommodation. R

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) CHR found Respondents not liable where Complainant-dentists did not show that their lease in a commercial building was not renewed based on the race (African American) and source of income (public aid) of their clients. R

Pryor/Boney v. Echevarria, CCHR No. 92-PA-62/63 (Oct. 19, 1994) Store owner who told Complainants that he did not want "niggers" in his store and forced them to leave found liable for race discrimination. R

Macklin v. F & R Concrete et al., CCHR No. 95-PA-35 (Nov. 20, 1996) In default case, Respondents found liable for not doing work for black Complainant. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) Restaurant found liable for not allowing Complainant to enter because he had Black companions; defense of violation of dress code found pretextual due to direct evidence and credibility of witnesses. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) Defaulted Respondents found liable for calling client/customer explicit racist name in course of providing services. R

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) Where Respondent's employee made a racial comment to the complainant but the complainant was not a customer or a prospective customer [was a stranger to the employee and business], defaulted Respondent found not to have discriminated with respect to "full use of a public accommodation" and so held not liable. R

Brown v. Emil Denmark Cadillac, CCHR No. 96-PA-76 (Nov. 18, 1998) No liability found where Respondent showed that bad service provided to African-American Complainant/customer, as compared to white customers, was caused by different quality salespeople, not race or sex of customers. R

Carter v. CV Snack Shop, CCHR No. 98-PA-3 (Nov. 18, 1998) Defaulted Respondent found liable for not serving African-American Complainant due to his race. R

Bell/Parks/Barnes v. 7-Eleven Convenience Store, et al., CCHR No. 97-PA-68/70/72 (July 28, 1999) Respondent not found liable as Complainants did not prove that Respondent called security about them because they were African-American; they further did not show Respondent's defenses were pretextual -- that they believed Complainants were acting suspiciously and that Respondent calls security numerous times per night regarding all types of people. R

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (Oct. 20, 1999) Where Complainant did not show that white customers were treated differently, that Respondent's employees were responsible for injuring Complainant and that, even if its employees were involved, that they were motivated by race, CHR ruled in favor of Respondent. R

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Defaulted Respondents found liable for using racial epithets and refusing to serve African-American Complainant. R

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-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. 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 (Sep. 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 (Sep. 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 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

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.

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) School held to be a public accommodation to the extent that the challenged function or facility is open to the general public. CO

Futch v. St. Benedict High School, CCHR No. 95-PA-40 (Dec. 15, 1995) Where the function at issue was not open to the general public, it is not a public accommodation under the CHRO. CO

Brown v. St. Scholastica, CCHR No. 94-PA-78 (Apr. 1, 1996) (same) CO

Miller v. Disciples Divinity House of University of Chicago, CCHR No. 95-PA-32 (May 10, 1996) Independent foundation which serves only students who are already admitted to the University’s Divinity School and who are members of the Christian Church found not open to general public and so not a public accommodation over which CHR has jurisdiction. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHR re-affirmed its holding in prior cases finding that, for a school to be covered as a public accommodation, the function or facility at issue must be offered to the general public; cites CHR precedent. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) Where the alleged discrimination concerned teaching, CHR held that is not a function available to the general public and so it denied the Request for Review seeking to reopen the case. CO

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) CHR dismissed case brought by City Colleges against union in whose newspaper an anti-affirmative action column had been written: CHR found that the “college environment,” the purported public accommodation affected by the column, was not open to the general public and so not protected by the CHRO. CO

Sex Discrimination

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Mar. 17, 1993) Complainant did not show that she was treated differently due to her race, national origin or sex when she was not allowed to sell food concessions at a flea market because she did not show that she had met the non-discriminatory prerequisites for use of the accommodation. R

Brown v. Emil Denmark Cadillac, CCHR No. 96-PA-76 (Nov. 18, 1998) No liability found where Respondent showed that bad service provided to African-American Complainant/customer, as compared to white customers, was caused by different quality salespeople, not race or sex of customers. R

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

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) Fact that CHRO specifically prohibits sexual harassment in employment does not mean that sexual harassment in public accommodations is not banned; the prohibition of sex discrimination in public accommodations also proscribes sexual harassment. HO

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Respondent found liable for creating a hostile environment in Complainant's use of park facilities, but found not to be liable for restricting her use of the park after her rejection of the advances. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) The CHRO's prohibition of sex discrimination in public accommodations is read to prohibit sexual harassment as well R

Sexual Orientation Discrimination

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Restaurant found liable for violating CHRO where gay Complainant called "faggot" by one of Respondent's employees. 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

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

Shelters

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) A free shelter held to be a covered public accommodation. HO

Source of Income

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) CHR ruled for Respondents where Complainant-dentists did not show that their lease in a commercial building was not renewed based on race (African American) and source of income (public aid) of their clients. R

Standard to Determine Public Accommodation

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHR re-affirmed its holding in prior cases finding that, for a school to be covered as a public accommodation, the function or facility at issue must be offered to the general public; if it is available only to students, the school is not a covered public accommodation in that case. CO

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) School held to be a public accommodation to the extent that the challenged function or facility is open to the general public. CO

Futch v. St. Benedict High School, CCHR No. 95-PA-40 (Dec. 15, 1995) Where the function at issue was not open to the general public, it is not a public accommodation under the CHRO. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) 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. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-9/12/20 (Aug. 3, 1999) 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. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) (same) CO

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

Jefferson v. Columbia College, et al., CCHR No. 99-PA-133 (Jan. 4, 2001) (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

Oliva v. Simmons Corp., CCHR No. 01-PA-32 (July 17, 2001) (same) CO

Scarse v. Chicago Dept. of Streets & San., CCHR No. 01-PA-2 (Aug. 9, 2001) (same) CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-60 (Sep. 20, 2001) (same) 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

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 01-PA-78 (Nov. 30, 2001) To determine whether respondent is 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

Anderson v. Malcolm X College, CCHR No. 00-PA-68 (Jan. 18, 2002) (same; discussing school cases) 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

Spanjer v. White Hen Pantry & Chicago Police, CCHR No. 00-PA-33 et al. (Mar. 5, 2002) (same) CO

Blakemore v. Water Reclam. Dist. of Chicago, CCHR No. 01-PA-105 (Mar. 18, 2002) (same) CO

Saadah v. Chicago Dept. of Consumer Services et al., CCHR No. 02-PA-20 (Mar. 19, 2002) (same; relies on Jan. 30, 2002 order, above) 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 Bd. of Education, CCHR No. 01-PA-115 (May 17, 2002) (same; discussing school cases) 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) Having one's car towed not public

accommodation under CHRO. 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. City of Chicago Dept. of Admin. Hearings et al., CCHR No. 03-P-13 (Feb. 18, 2003) Decision-making of administrative hearing officer in law enforcement action not public accommodation under CHRO. CO

Maggio v. City of Chicago, Chicago Police Dept. et al., CCHR No. 03-P-22 (Apr. 2, 2003) Civil citation or civil process as part of prosecutorial or law enforcement function, and decision-making of administrative agency in law enforcement process not public accommodations under CHRO. 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

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. CO

Murad v. Legal Assistance Found. of Chicago, CCHR No. 00-P-11 (Nov. 22, 2004) Whether services or functions of 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. Similarly, whether grievance processes including meetings with Respondent's Office Manager, Executive Director, and Board of Directors involved a public accommodation turned on whether available to general public or only established clients. CO

Barnes v. Jackson Park Hosp. et al., CCHR No. 05-P-73 (Apr. 13, 2005) 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 re-enrollment 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

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) \$5000 of punitive damages awarded where landlord failed to rent to Complainant due to his color and national origin; behavior found motivated by ill will and was blatant. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) \$7000 of punitive damages awarded where Respondent's national origin discrimination prevented Complainant from buying unit and where it tried to conceal its actions. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) \$5000 awarded to each Complainant in race-religion case where the landlords committed numerous acts of harassment against Complainants, including physical intimidation and theft. R

White v. Ison, CCHR No. 91-FHO-126-5711 (Feb. 18, 1993) Complainant awarded \$2,400 where landlord sexually harassed her including locking her out of her apartment but where little information about punitives was presented. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Complainant who was sexually harassed and evicted after rejecting landlord's advances awarded punitive damages of \$2,500 where there was no evidence of landlord's income and assets. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) \$10,000 awarded to Complainant for Respondents' repeated and long term sexual harassment. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) \$1000 awarded against Respondent who created a sexual hostile environment; CHR found compensatory damages punished the Respondent sufficiently. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Because of Respondent's blatant refusal to rent to Complainant due to his national origin, her use of an ethnic slur, and her lack of remorse at the Hearing, Respondent ordered to pay Complainant \$2,500 in punitive damages. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Award of \$5000 paid to would-be tenants where Respondent did not rent to them due to race and ignored the Commission procedures. R

Pryor/Boney v. Echevarria, CCHR No. 92-PA-62/63 (Oct. 19, 1994) Each Complainant awarded \$1000 where Respondent had them leave his store, called them "niggers" and ignored Commission procedures. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) Sexual harassment by Respondents involved reckless and callous indifference to Complainant's rights, thus Complainant awarded \$9,000 from one individual and \$6,000 from the other, both joint and several with the County. R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Complainant awarded \$7500 where landlord refused to allow Complainant to have black roommates or visitors and where Respondent failed to appear at any CHR proceedings, thus showing his contempt for them. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Complainant awarded \$2,000 where landlord found to have discriminated against her due to her sex where he hit her, among other things. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Where landlord refused to allow Complainant tenant to sublet to Black person (second Complainant), where landlord had not previously rented to a black person and where landlord had tried to deceive CHR in its investigation, \$35,000 of punitive damages awarded to the two Complainants. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Punitive damages awarded to Complainant tenant who had not been allowed to rent to Black person (second Complainant) divided in proportion

to emotional distress damages each was awarded. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Manager who created a hostile environment due to Complainant's sexual orientation ordered to pay \$3,000 in punitive damages and the restaurant corporation ordered to pay \$8,000. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) \$3,500 awarded to Complainant where Respondent created a sexually hostile housing environment. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) Complainant awarded \$10,000 where defaulted Respondent refused to rent to her due to her race, made explicit racial comments to her and a tester and completely disregarded CHR procedures. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) Defaulted Respondent ordered to pay Complainant \$4,500 where he did not rent to her due to her parental status. R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) Complainant awarded \$5,000 in punitive damages in case where defaulted Respondent did not rent to her once he learned her foster, teenage granddaughter was going to live with her and where there was no information on Respondent's financial condition. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) Where state appeals court remanded case for determination of damages after it found one of nine incidents may not be a basis for discrimination finding but upheld liability finding, CHR left punitive damage award intact as the original amount [\$10,000] was based on panoply of conduct and ignoring the one event did not alter the totality. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) In case where landlord and her companion made direct racial comments to neutral apartment broker and to testers and refused to rent to Complainant once learning he is Black, Complainant awarded \$10,000 in punitive damages. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) In case where Complainant was beaten up, humiliated and discharged due to his mental disability, he was awarded \$10,000 in punitive damages, \$5,000 from each of the business and its owner. R

Metropolitan Tenants' Organization v. Looney, CCHR No. 96-H-16 (June 18, 1997) \$500 awarded in case where defaulted Respondent had posted a sign which discriminated due to parental status and refused to participate in CHR proceedings. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Complainant awarded \$4,500 in punitive damages where defaulted landlord deliberately refused to rent to Complainant due to his parental status and where there was no evidence of Respondent's worth. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) Complainant awarded \$2,500 in punitive damages where defaulted Respondents called him explicit, racist name while providing services and did not participate in CHR proceedings; Respondents did not present evidence of their worth. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) In case where Respondent was found liable for holding a tournament which was not accessible to Complainant, a person who uses a wheelchair, where Respondent was notified of its lack of accessibility the year prior, where Respondent had the ability to make the tournament accessible and where Respondent disregarded CHR's procedures, \$5,000 of punitive damages ordered. R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) \$35,000 in punitive damages awarded where Respondent explicitly and persistently created a hostile housing environment based on Complainant's Hispanic ancestry, where Respondent and his attorney exhibited extreme disrespect and disregard for the judicial process, and where a sizable award was needed to deter Respondent from future violations. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Respondent who explicitly discharged Complainant due to her sexual orientation ordered to pay \$1,000 in punitive damages; amount affected by Respondent's small size. R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) Complainant awarded \$1,000 in punitive damages where Respondent refused to rent to her due to her source of income several times and did not participate in the Commission's proceedings; small amount due to fact that hearing officer had not recommended punitive damages and so Respondent had not had the opportunity to respond to such a recommendation. R

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. Souchet, 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 (Sep. 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 wilful 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 wilful 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, Sep. 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 (Sep. 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 1-20-0797 (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

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. Azarpira, 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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) \$541,461 in punitive damages where defaulted store owner’s level and duration of harassment was found shocking and out of the ordinary. R

Hamilton and Hamilton v. Café Descartes CCHR No. 13-P-05/06 (June 18, 2014) \$6,000 in punitive damages where restaurant initially denied entry to customer with service animal and her mother, then curtailed her full use and enjoyment. R

Shipp v. Wagner et al., CCHR No. 12-H-19 (July 16, 2014) \$2,500 in punitive damages where property owner refused to rent to voucher holder and testified that when he attempted to place an advertisement stating, “No Section 8,” the newspaper did not accept it, at which point he should have been on notice that the policy of refusing to rent to housing choice voucher holders was illegal; nevertheless he minimally altered the language of the ad, “Not Section 8 Approved,” while maintaining the discriminatory policy. A higher punitive damages award was not warranted where no evidence showing a history of discriminatory conduct by Respondent was introduced. R

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) \$500 in punitive damages where respondent restaurant’s employees disregarded the rights of wheelchair-bound complainant by failing to make any attempts to provide services to complainant, and respondent subsequently failed to participate in any CHR proceedings. R

Cotten v. Pizzeria Milan Restaurant, CCHR No. 13-P-70 (Dec. 17, 2014) \$100 in punitive damages awarded where Respondent’s representative credibly testified that he ignored the Notices of Potential Default based on legal advice from his attorney although he subsequently cooperated with the administrative hearing procedures and he admitted that inaccessibility was a problem and was taking steps to rectify the problem. R

Discovery Related to

May v. Andriukaitis, CCHR No. 91-FHO-140-5725 (Apr. 11, 1992) Net worth of Respondent discoverable because relevant to possible award of punitive damages. HO

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.

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) Cook County found not to be immune from paying punitive damages because the Local Government Tort Immunity Act does not apply to deprivations of an individual's civil rights. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) Cook County found to be liable for punitive damages not due to *respondeat superior* but because the individual Respondents acted on behalf of the County. 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

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

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) Punitive damages denied because landlord's actions not sufficiently extraordinary or malicious. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) In housing/parental status case, where Respondent's restrictive terms forced the Complainants to move, Respondents found not to have acted with malice or with ill will to Complainants. R

Campbell v. Dearborn Parkway Realty, CCHR No. 92-FHO-18-5630 (Apr. 21, 1993) Punitive damages denied where no willful, wanton or malicious behavior found. R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) (same) R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) (same) R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) Where landlord refused to waive no-pet rule for blind person with seeing eye dog, punitive damages not awarded; actions were not deemed willful, wanton or in reckless disregard of Complainant's rights. R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) Respondents' defenses at hearing not found to be frivolous, malicious or misleading to warrant punitive damages. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Where Park District investigated Complainant's reports of sexual harassment and where one of the harassers was a manager of the park facility but not in upper management of Park District, punitive damages not awarded. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Where Respondent did not know of or ratify an employee's discriminatory act, punitive damages found not appropriate. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Where woman who owned restaurant at time of incident had sold it, no deterrence would come of awarding punitive damages. R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) Neither Respondents' failure to rent to Complainant due to his race nor their lack of responsiveness during discovery warranted punitive damages. R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) Although punitive damages may be appropriate where a party disregards discovery procedures, Respondents were not uncooperative or disruptive, merely inconsistent. R **See also Sanctions section, below.**

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) Where landlord did not prohibit all children from his building but refused to rent to Complainant due to the number of children he had, punitive damages not awarded. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Where Respondent's anti-gay hiring policy was a national policy legal in most areas and where Respondent believed it was

outside of CHRO's coverage as a religious organization and due to constitutional protection, punitive damages not awarded. R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) Respondents' refusal to rent to Complainant due to their fear of neighbor's reaction did not warrant punitive damages, despite their false testimony under oath. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Landlords who evicted two nun-tenants once they learned the new one was Black not found liable for punitive damages; there were no racial statements, no serious disregard of CHR procedures, and no evidence that the violation of CFHO was egregious or aggravated. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Not every violation of CFHO warrants punitive damages; fact that complainant suffers emotionally from the discrimination is addressed by emotional distress damages. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Respondent's conduct in treating white tenant/Complainant differently due to the race of her boyfriend by intrusively questioning her about the boyfriend and not allowing her to add him to her lease, found not sufficiently egregious to warrant punitive damages. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) In case where Complainant made anti-male comments and fired Complainant due to his sex, but did not sexually harass him, not ordered to pay punitive damages as her conduct was not willful, wanton or reckless and where punitive damages would not serve to deter Respondent from future violations. R

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Where Respondent failed to process Complainant's offer to buy home due to Complainant's source of income was found to be more due to ignorance than bigotry, CHR declined to award punitive damages. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) CHR found punitive damages not appropriate where Respondent was found liable for improperly forcing Complainant to take a medical examination and then discharging him due to his perceived disability; Respondent's actions were not wanton or malicious; it did not involve no epithets and there was no evidence of prior discriminatory conduct. R

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

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) (same) 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)]R

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 (Sep. 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

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) No punitive damages awarded where bar/restaurant refused to hire applicant based on her race and age. Action found not willful, wanton, or in reckless disregard of applicant's rights; instead, Respondent's actions deemed to be primarily a result of confusion over a language barrier. Damages and fine found sufficient to punish and deter discriminatory conduct. R

Purpose of

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) Purposes of punitive damages are deterrence and punishment. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Punitive damages are to serve the purposes of punishment and deterrence. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Punitive damages awarded to punish and deter Respondent. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) (same) R

Pryor/Boney v. Echevarria, CCHR No. 92-PA-62/63 (Oct. 19, 1994) (same) R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) Purpose of punitive damages is to "send a message to Respondents and the public that certain conduct will not be tolerated in the work place," especially when one Respondent is a high-ranking official in the County Department of Corrections. R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Purpose of punitive damages is to deter the person responsible from similar actions in the future. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Punitive damages are to deter and punish respondents who acted willfully, wantonly or with reckless disregard for complainant's rights. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) (same) R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) (same) R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) (same) R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) (same) R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) (same) R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Same; noting that punitive damages may be particularly necessary in housing cases where actual damages may be low and so punitive damages are needed to be a meaningful deterrent. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) Purpose of punitive damages is to punish the violator and deter him or her from taking similar, discriminatory actions in the future; CHR notes that punitive damages may be especially necessary when actual damages are low. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) The purpose of punitive damages is to punish respondent for outrageous conduct and to deter it and others from similar conduct. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) Same; also noting that punitive damages may be especially important as a deterrent when actual damages are low. R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) Purpose of punitive damages is to deter and punish respondents. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) (same) R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) Same; noting that punitive damages may be especially important as a deterrent when other damages are low. R

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

Barnett v. T.E.M.R. Realty & Jackson, CCHR No. 97-H-31 (Dec. 6, 2000) (same) R

Pudelek/Weinmann v. Bridgeview Garden Condo. Assoc., CCHR No. 99-H-39/53 (Apr. 18, 2001) (same) R

Rogers/Slomba 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

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) Factors used to determine amount of punitive damage award include: size, profitability of Respondents, and prior discriminatory acts. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) Amount of punitive damages determined by Respondent's size, profitability, and whether it has engaged in similar discrimination before. R

White v. Ison, CCHR No. 91-FHO-126-5711 (Feb. 18, 1993) Only \$2,400 awarded as punitive damages where no evidence of Respondent's size or profitability was presented. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 17, 1993) Denied Respondent's request to decrease punitive damages based on its limited net worth in that Respondent failed to carry their burden to present evidence of net worth. R

Johnson v. City Realty & Devel., CCHR No. 91-FHO-165-5750 (Mar. 17, 1993) \$3,000 awarded after considering size and profitability of Respondent and whether it had engaged in similar practices in the past. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Complainant who was sexually harassed and evicted after rejecting landlord's advances awarded punitive damages of \$2,500 where there was no evidence of landlord's income and assets. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Complainant is to present evidence of Respondent's income and assets as well as prior discriminatory acts. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Due to Respondents' size and profitability, \$10,000 awarded for long term and repeated sexual harassment. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Complainant does not have burden of proving Respondents' net worth. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Amount of punitive damages to award is within the Commission's discretion. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Profitability and size of Respondent

reviewed in determining amount of punitive damage award. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Amount of punitive damages depends on size, profitability and whether the Respondent engaged in similar conduct in the past. R

Pryor/Boney v. Echevarria, CCHR No. 92-PA-62/63 (Oct. 19, 1994) (same) R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Where Respondent was defaulted due to failure to attend CHR proceedings and did not appear at the Hearing, CHR relied on Complainant's showing that Respondent owned the building in question without mortgage in awarding punitive damages of \$7,500.

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) CHR reviews a respondent's income, assets and proof of similar, prior conduct. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Look to respondent's size and profitability, standing and reputation in the community, and whether he or she has done similar acts in the past. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Because the evidence rests with respondent, if he or she fails to produce credible financial evidence mitigating against an award of punitive damages, they may be imposed without consideration of financial circumstances. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) CHR looks to respondent's income and assets, history of prior discrimination, and nature of the discrimination itself. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) CHR looks to income and assets of Respondent, among other things, but where Respondent fails to produce mitigating financial evidence, punitive damages may be awarded without considering financial circumstances. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) CHR looks to respondent's income and assets, history of prior discrimination, and nature of the discriminatory conduct. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Where Respondent fails to produce mitigating financial evidence, punitive damages may be awarded without considering her financial circumstances. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) CHR looks to income and assets of Respondents but where Respondents did not appear and Complainant's evidence indicated that the assets were small, business and owner each required to pay \$5,000 in punitive damages. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) Where Respondent fails to produce mitigating financial evidence, CHR may award punitive damages without considering his financial circumstances. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) In awarding punitive damages, CHR looks to income and assets of respondents, but where these Respondents did not appear and so did not meet their burden to produce that evidence, CHR awarded these damages without regard to their financial circumstances. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) Where the hearing officer's recommendation did not address punitive damages and the Board of Commissioners awarded them based on its power to modify decisions, it awarded only \$2,500, in part because Respondents did not have the opportunity to respond to a recommended award of punitive damages. R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) In awarding punitive damages, CHR looks to income and assets of respondents, but where these Respondents did not appear and so did not meet their burden to produce that evidence, CHR shall award damages without regard to their financial circumstances. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Same; however, because Respondent is a not-for-profit organization which serves children, CHR kept amount of punitive damages low so not to punish the children. R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) CHR looks to respondent's income and assets, history of prior discrimination, nature of the discriminatory behavior and respondent's attitude towards CHR and its proceedings. R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) In awarding punitive damages, CHR looks to income and assets of respondents, but where these Respondents did not appear and so did not meet their burden to produce that evidence, CHR shall award damages without regard to their financial circumstances. R

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) (same) 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), 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). 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

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (Dec. 18, 1991) Punitive damages may be awarded where the Respondent acted willfully or wantonly or where actions were motivated by ill will or malice. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) The purpose of punitive damages as deterrence and punishment are met where Respondent acted in reckless disregard for

Complainant's protected rights. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) Punitive damages are recoverable although not explicitly set forth in the Ordinance; similar to 42 U.S.C. §1982. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (Mar. 25, 1992) Punitive damages particularly warranted where Respondent attempted to conceal discrimination from CHR by covering up relevant information. R

Akangbe v. 1428 W. Fargo Condominium Assoc., CCHR No. 91-FHO-7-5595 (July 29, 1992) Upheld award of punitive damages on request for review; applies CHR precedent. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) Punitive damages awarded to punish Respondents for their outrageous conduct, including physical intimidation and criminal actions. R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Jan. 27, 1993) Punitive damages denied on Request for Review applying "willful and wanton" standard. R

Johnson v. City Realty & Devel., CCHR No. 91-FHO-165-5750 (Mar. 17, 1993) Held that it is appropriate to award punitive damages where there was credible evidence that Respondent had a practice of racial discrimination. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Apr. 22, 1993) In housing/parental status case, punitive damages held available only where Respondent acted wantonly and wilfully or was motivated by ill will, malice, or desire to injure Complainants. R

Campbell v. Dearborn Parkway Realty, CCHR No. 92-FHO-18-5630 (Apr. 21, 1993) Whether punitive damages are appropriate is determined by the facts of each case. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Punitive damages awarded where Respondent's behavior was found to be malicious, willful and long-lasting in sexual harassment case. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Awarded where Respondents sexual harassment was "notorious, deplorable and continuous". R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Punitive damages not awarded where there is no showing of wanton or malicious behavior, no epithets or pattern of discrimination. R

King v. Houston/Taylor, CCHR No. 92-H-162 (Mar. 16, 1994) Punitive damages not awarded where there was no evidence of evil motives of deliberate indifference to Complainant's rights. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Punitive damages appropriate where Respondent's conduct showed a reckless disregard for the rights CHRO is meant to protect. R

Khoshaba v. Kontalonis, CCHR No. 92-H-171 (Mar. 16, 1994) Award of punitive damages can be based, in part, on respondent's conduct at the hearing which showed a lack of remorse, a cynical attitude toward the judicial process, and a likelihood of future violations. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) Awarded where Respondent acted wantonly and wilfully and where Respondent ignored Commission procedures. R

Pryor/Boney v. Echevarria, CCHR No. 92-PA-62/63 (Oct. 19, 1994) (same) R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Punitive damages are awarded where respondent's actions are wilful, wanton, malicious or recklessly disregard the rights of the complainant. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) (same) R

Nash/Demby v. Sallas Realty & Sallas, 92-H-128 (May 17, 1995) (same) R

Hall v. Becovic, CCHR No. 94-H-39 (June 21, 1995) (same) R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) (same) R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) (same) R

Tate v. Briciu, CCHR No. 94-H-46 (Jan. 10, 1996) (same) R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) (same) R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Respondent's malice and ill will, disregard of complainant's right to enjoy her home and contempt of CHR procedures and for the CFHO warrants award of punitive damages. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) (same) R

Matias v. Zachariah, CCHR No. 95-H-110 (Sep. 18, 1996) CHR looks to respondent's evil motives, reckless indifference to complainant's rights, history of discrimination, attempts to cover up, and attitude towards judicial process. R

Cruz v. Fonseca, CCHR No. 94-H-141 (Oct. 16, 1996) (same) R

Wright v. Mims, CCHR No. 95-H-12 (Mar. 19, 1997) (same) R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) CHR awards punitive damages where respondent's actions were willful, wanton or in reckless disregard of complainant's rights. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Punitive damages found appropriate even though respondent was *pro se*; that does not excuse her flagrant violations of CFHO. R

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) CHR awards punitive damages where respondent's actions were willful, wanton or in reckless disregard of complainant's rights. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) (same) R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) (same) R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Fact that Respondent did not fully cooperate in discovery was not enough, in this case, to constitute "callous indifference" to justify punitive damages. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) CHR awards punitive damages when respondent's actions were willful, wanton or in reckless disregard of complainant's rights. R

Novak v. Padlan, CCHR No. 96-H-133 (Nov. 19, 1997) (same) R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) CHR awards punitive damages when a respondent's actions are wilful, wanton or taken in reckless disregard of the complainant's rights; CHR also looks to a respondent's history of discrimination, any attempts to cover up and its attitude towards the judicial process at the Commission. R

Blacher v. Eugene Washington Youth & Family Svcs., CCHR No. 95-E-261 (Aug. 19, 1998) (same) R

Hanson v. Association of Volleyball Professionals, CCHR No. 97-PA-62 (Oct. 21, 1998) (same) R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) (same) R

Figueroa v. Fell, CCHR No. 97-H-5 (Oct. 21, 1998) Among other factors, CHR holds that, in determining whether to award punitive damages, it is appropriate to consider the disrespect exhibited by Respondent and his attorney during the hearing; attorney's conduct is, and must be, imputed to his client. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Punitive damages are appropriate when the respondent's action is motivated by evil motives or intent or involves a reckless or callous indifference to protected rights. R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) CHR awards punitive damages when a respondent's actions are wilful, wanton or taken in reckless disregard of the complainant's rights; CHR also looks to a respondent's history of discrimination, any attempts to cover up and its attitude towards the judicial process at the Commission. R

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

Pudelek/Weinmann v. Bridgeview Garden Condo. Assn. et al., CCHR No. 99-H-39/53 (Apr. 18, 2001) (same) 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 procedures 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

Cotten v. Taj Mahal Restaurant, CCHR No. 13-P-82 (Oct. 15, 2014) Punitive damages awarded where respondent manifests a level of contempt for the process, namely where respondent restaurant failed to participate in CHR proceedings even after receiving a copy of the complaint. 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

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 8, 1992) Denied Respondents' motion to dismiss finding that Complainants-dentists may bring a public accommodation claim based on allegations of discrimination due to the race and source of income of their clients. CO

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Landlord found liable for refusing to rent to Complainant's potential roommates due to their race and color. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Respondent found liable for creating different terms and conditions for white tenant/Complainant who had a Black boyfriend by, among other things, not allowing her to entertain him without intrusive questioning and by not allowing her to add him to her lease, in contrast to his treatment of non-Black guests. 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

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

Jenkins v. Artists' Restaurant, CCHR No. 90-PA-14 (Aug. 14, 1991) Restaurant found liable for asking a Black man to leave restaurant. R

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) Landlord found liable for refusing Black Complainant the opportunity to rent apartment. R

Jones v. Zvizdic, CCHR No. 91-FHO-78-5663 (May 26, 1992) Landlord found liable for forcing tenant to move out due to racial harassment. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Landlord liable for failure to rent because of race, but not liable for marital status or sex discrimination. R

Fulgern v. Pence, CCHR No. 91-FHO-65-5650 (Sep. 16, 1992) Landlord found liable for refusal to rent to

Complainant due to her race. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) Landlords found liable for harassing Complainants due to their race and religion, including physical intimidation and criminal actions. R

Blake v. Bosnjakovski, CCHR No. 91-FHO-149-5734 (Jan. 27, 1993) Landlord found liable for refusal to rent to Complainant due to her race. R

Johnson v. City Realty & Devel., CCHR No. 91-FHO-165-5750 (Mar. 17, 1993) (same) R

Sanders v. Onnezi, CCHR No. 93-H-32 (Mar. 16, 1994) Landlord found liable for refusal to rent to Complainant due to race. R

Walters/Leadership Council for Metropolitan Open Communities v. Koumbis, CCHR No. 93-H-25 (May 18, 1994) In default judgment case, landlord found liable for not renting to black Complainants; evidence included testimony of white tester. R

Pryor/Boney v. Echevarria, CCHR No. 92-PA-62/63 (Oct. 19, 1994) Store owner who told Complainants that he did not want "niggers" in his store and forced them to leave found liable for race discrimination. R

Janicke v. Badrov, CCHR No. 93-H-46 (Jan. 18, 1995) Landlord found liable for refusing to rent to Complainant's potential roommates due to their race and color. R

Nash/Demby v. Sallas Realty & Sallas, CCHR No. 92-H-128 (May 17, 1995) Landlord found liable for not allowing tenant to sublet to a black person, with respect to both the tenant and the prospective subtenant. R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) Respondents found liable for not renting to African-American Complainant. R

Soria v. Kern, CCHR No. 95-H-13 (July 17, 1996) Defaulted Respondent who made racial comments to Complainant and a tester found liable for not renting to African-American prospective tenant. R

Macklin v. F & R Concrete et al., CCHR No. 95-PA-35 (Nov. 20, 1996) In default case, Respondents found liable for not doing work for black Complainant. R

Wehbe v. Contacts & Specs et al., CCHR No. 93-E-232 (Nov. 20, 1996) Respondents found to have discriminated against Lebanese/Arab Complainant when they fired him 14 months before they fired a Jewish doctor who was at least as culpable. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Respondent who refused to rent to Complainant on eve of move-in once she learned he was Black found to have violated CFHO; decision rested on testimony of neutral apartment broker to whom explicit racist comments were made. R

Buckner v. Verbon, CCHR No. 94-H-82 (May 21, 1997) Complainant proved by direct evidence -- statements to neutral apartment broker and testers -- that Respondent refused to rent to him once she learned that he is Black. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) Restaurant found liable for not allowing Complainant to enter because he had Black companions; defense of violation of dress code found pretextual due to direct evidence and credibility of witnesses. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (July 16, 1997) Respondents found liable for race discrimination where, once they learned that the new co-tenant with their long-standing white tenant/nun was a nun who was Black, they evicted them; their defenses found pretextual. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Sep. 17, 1997) Respondent found liable for creating different terms and conditions for white tenant/Complainant who had a Black boyfriend by, among other things, not allowing her to entertain him without intrusive questioning and by not allowing her to add him to her lease, in contrast to his treatment of non-Black guests. R

Miller v. Drain Experts & Derkits, CCHR No. 97-PA-29 (Apr. 15, 1998) Defaulted Respondents found liable for calling client/customer explicit racist name in course of providing services. R

Moulden v. Frontier Communics., et al., CCHR No. 97-E-156 (Aug. 19, 1998) Defaulted Respondent found liable for not giving Black Complainant commensurate raises and bonuses as a white worker who got similar transfer. R

Carter v. CV Snack Shop, CCHR No. 98-PA-3 (Nov. 18, 1998) Defaulted Respondent found liable for not serving African-American Complainant due to his race. R

Puryear v. Hank, CCHR No. 98-H-139 (Sep. 15, 1999) Defaulted respondent found liable for not renting available apartment to Complainant due to Complainant's race, African-American. R

Horn v. A-Aero 24 Hour Locksmith et al., CCHR No. 99-PA-32 (July 19, 2000) Defaulted Respondents found liable for using racial epithets and refusing to serve African-American Complainant. R

Leadership Council for Metropolitan Open Communities v. Souchet, CCHR No. 98-H-107 (Jan. 17, 2001) Respondent found liable for treating African-American applicants and testers differently from white ones; defenses

found pretextual. R

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 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

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

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

Marshall v. Boroush, CCHR No. 05-H-39 (Aug. 16, 2006) *Prima facie* case of race discrimination established where landlord failed to return security deposit and during tenancy addressed African-American tenant and daughter as “you people,” accused them of bringing bugs into building, and returned security deposits of Caucasian tenants. 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 (Sep. 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

Collins v. Five Star Certified, Inc. d/b/a Five Star Food & Liquor and Mustafa CCHR No. 11-E-68 (Jan. 15, 2014) After an Order of Default, Complainant established a *prima facie* case of race discrimination where liquor store owner harassed and terminated African-American security guard using racially derogatory terms. R

Wallace v. Tong Tong Bae Bar and Grill, CCHR No. 12-E-04 (March 19, 2014) After order of default entered against Respondent, 53 year-old African-American applicant established a direct evidence *prime facie* case that restaurant/bar owner refused to hire her based on her race and age when owner asked her race and age and replied to her responses, “No, no, no,” you are “too old,” and your are “not the right type for the job.” R

Liability Not Found

Brown v. Chicago Department of Aviation, CCHR No. 90-E-82 (June 17, 1992) Complainant failed to prove that Respondent had discriminated or retaliated against her, a white woman who had associated with black men, when it terminated her. R

Gilun v. Tomasinski, CCHR No. 91-FHO-85-5670 (July 29, 1992) Finding for Respondent where no evidence presented regarding race claim. R

Brown v. Chicago Midway Airport Inn, CCHR No. 90-E-137 (Nov. 18, 1992) Respondent found not liable for firing Complainant because they reasonable believed that she had been drinking on the job, and because there was no evidence that Respondent treated other employees differently regarding either drinking or regarding work assignments. R

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Mar. 17, 1993) Complainant did not show that she was treated differently due to her race, national origin or sex when she was not allowed to sell food concessions at a flea market and where she did not show that she had met the non-discriminatory prerequisites for use of the accommodation. R

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) Respondents/landlords found not liable where Complainant/dentists did not show that their lease in a commercial building was not renewed based on the race (African American) and source of income (public aid) of their clients. R

Alceguiere v. Cook County MIS & Yaeger, CCHR No. 91-E-137 (Mar. 20, 1996) Where Complainant was barred by *res judicata* from proceeding with his race claims and where he refused to proceed with his disability claim, ruling made for Respondents. R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) Black male evening/weekend secretary did not show that Respondent's lack of a good ID policy had a disparate impact on black men as, among other things, evidence did not show that black men were stopped more often than white or female employees. R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) Black male evening/weekend secretary did not show that his confrontation with a partner of the firm was due to his race and/or sex. R

Mahaffey v. University of Chicago Hospitals et al., CCHR No. 93-E-221 (July 22, 1998) Respondents found not liable for age and race discrimination where CHR found they terminated Complainant for not meeting legitimate job expectations and where there was no evidence that similarly situated younger and/or white employees were not terminated. R

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) Where Respondent's employee made a racial comment to the complainant but the complainant was not a customer or a prospective customer [was a stranger to the employee and business], defaulted Respondent found not to have discriminated with respect to "full use of a public accommodation" and so held not liable) R

Brown v. Emil Denemark Cadillac, CCHR No. 96-PA-76 (Nov. 18, 1998) No liability found where Respondent showed that bad service provided to African-American Complainant/customer as compared to white customer was caused by different quality salespeople, not race or sex of customers. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Feb. 24, 1999) CHR upheld Hearing Officer's sanction that Complainant could not testify at hearing, finding he was "contumacious" due to his repeated refusal to comply with orders despite several opportunities to correct behavior; Complainant lost case as he was unable to prove *prima facie* case. R

Bell/Parks/Barnes v. 7-Eleven Convenience Store, et al., CCHR No. 97-PA-68/70/72 (July 28, 1999) Respondent not found liable as Complainants did not prove that Respondent called security about them because they were African-American; they further did not show Respondent's defense was pretextual -- that they believed Complainants were acting suspiciously and that Respondent calls security numerous times per night regarding all types of people. R

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (Oct. 20, 1999) Where Complainant did not show that white customers were treated differently, that Respondent's employees were responsible for injuring Complainant and that, even if its employees were involved, that they were motivated by race, CHR ruled in favor of Respondent. 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

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 **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

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

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

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

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. 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

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 (Sep. 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 (Sep. 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 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

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

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (Jan. 15, 1995) Lack of Ordinance and regulations coverage itself does not mandate that a request for certain proceedings be denied. R

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (Jan. 15, 1995) Where neither the Ordinance nor the regulations address availability of requested procedures, CHR determines whether granting request would be contrary to Ordinance or regulations, whether Ordinance or regulations already address the issue although in a different manner and whether granting the request falls within a liberal reading of the Ordinance and regulations. CO

Sheppard v. Jacobs, CCHR No. 94-H-162 (Apr. 22, 1997) Amicus curiae brief not allowed during hearing process; CHR regulations are silent about amicus briefs but otherwise discuss only participation of parties in hearings; a party's ability to proceed with its case not harmed as was true in *Seyferth*, above. HO

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

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) CHR has the authority to promulgate rules which do not exceed or alter its statutory power to carry out the powers conferred on it. R

Metropolitan Tenants' Org. v. Bridgeport News, CCHR No. 92-H-54 (July 28, 1992) CHR will not follow Complainant's reading of regulations [to cover newspaper as respondent] which would be more broad than powers conferred by the Fair Housing Ordinance. CO

Bosh v. CNA, et al., CCHR No. 92-E-83 (July 29, 1994) CHR regulations cannot limit the scope of the CHRO. R

Bosh v. CNA, et al., CCHR No. 92-E-83 (July 29, 1994) Where definition of disability in the Commission's regulation led to recommendation that Complainant did not have a disability, and he would have been found to have one under the CHRO, the regulation is considered of no effect; case remanded for reconsideration without regard to regulation. R

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) To the extent that the Regulations may conflict with the CFHO, the CFHO controls. HO

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) Regulation listing prohibited housing actions is illustrative, not exhaustive, and does not limit the CFHO. HO

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) Regulation interpreting CHRO is followed unless it conflicts with CHRO. CO

Diaz v. Metropolitan Pier & Exposition Authority, CCHR No. 95-PA-168 (Oct. 2, 1997) CHR regulations cannot be read to limit coverage of CHRO. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHR regulation cannot be read to

limit coverage of CHRO; therefore, if regulation about definition of public accommodation could be read more narrowly than CHRO itself, it would be void. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) Same; in this case, CHR found the regulation conformed to the CHRO. CO

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

Diaz v. Metropolitan Pier & Exposition Authority, CCHR No. 95-PA-168 (Oct. 2, 1997) Regulation language cannot be read alone but as part of statutory scheme in entirety. CO

Retroactivity

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Commission regulations presumed to be retroactive -- no language or legislative history to indicate otherwise. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Amended regulations effective 1-1-92 -- after the filing of the Complaint -- appropriately applied in a hearing after effective date because the violation was continuing and there was no burden placed on the Respondent not otherwise placed on it by the CFHO. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (Sep. 16, 1992) On Request for Review, CHR reaffirms its 5-26-92 ruling finding 1992 Regulations applicable to case, citing additional legal authority. R

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

Billings v. Bank of America, et al., CCHR No. 95-E-283 (Dec. 11, 1996) Complainant not deemed to have waived claims about re-hiring where facts are not clear whether the event at issue occurred before or after Complainant signed the release. CO

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

Billings v. Bank of America, et al., CCHR No. 95-E-283 (Dec. 11, 1996) Complainant deemed to have waived claims about several events which occurred before he signed the release and of which he was aware. CO

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

Billings v. Bank of America, et al., CCHR No. 95-E-283 (Dec. 11, 1996) CHR looks to language of release to determine parties intent. CO

Billings v. Bank of America, et al., CCHR No. 95-E-283 (Dec. 11, 1996) A general release does not cover unknown claims. CO

Billings v. Bank of America, et al., CCHR No. 95-E-283 (Dec. 11, 1996) A release which specifically states that unknown, existing claims are waived may be upheld. CO

Billings v. Bank of America, et al., CCHR No. 95-E-283 (Dec.11,1996) CHR distinguishes between unknown, existing claims which are waivable and prospective – not existing or contemplated ones -- which are not. CO

Billings v. Bank of America, et al., CCHR No. 95-E-283 (Dec. 11, 1996) Claim is not "unknown" if it could have been discovered upon reasonable inquiry. CO

Garza v. Hoey, Farina & Downes, CCHR No. 00-E-124 (Mar. 14, 2001) Standards for evaluating scope and ambiguity of release language discussed. CO

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

Garza v. Hoey, Farina & Downes, CCHR No. 00-E-124 (Mar. 14, 2001) Order sets forth standards for evaluating claims of duress and unconscionability. 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

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Sep. 16, 1992) Landlords found liable for harassing Complainants due to their race and religion including physical intimidation and criminal actions. 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

Liability Not Found

Benitez v. Marquez, CCHR No. 93-H-73 (Nov. 16, 1994) Landlord found not to have discriminated against Complainant due to her religion when he terminated her lease. R

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

Benitez v. Marquez, CCHR No. 93-H-73 (Nov. 16, 1994) Complainant found not to have established a *prima facie* case where she presented no evidence of religion discrimination, only her supposition as to the Respondents' motive. R

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

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb. 27, 1995) Respondent bears the burden of proving that it is an exempt religious organization. CO

Clergy Position

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) If the position for which Complainant applied is clergy or clergy-like, Respondent's decision about it is exempt under religious exemption. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) In its motion to dismiss, Respondent did not show that the position for which Complainant applied is clergy or clergy-like, so procedures set forth to make that factual determination. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) Sets forth factors to be reviewed in determining if a position is clergy or clergy-like. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) CHR may review whether a position is clergy or clergy-like so long as that review does not require entanglement in religious doctrine. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Oct. 25, 1995) Respondent, a religious organization, can show the necessary effect on its mission, practices or beliefs either by proving its decision not to hire Complainant was due to a sincerely-held religious belief or that the position was clergy or clergy-like. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Oct. 25, 1995) Respondent's executive director position found to be clergy-like in that only ordained ministers were considered, it is involved in church governance, advises the Bishop and is the public voice of the Diocese in supporting Respondent's functions. CO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Jan. 10, 1996) Sets forth factors used to determine

if position is clergy or clergy-like. R

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Jan. 10, 1996) Complainant found not to hold a clergy or clergy-like position so Respondent was not exempt from CHRO. HO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Jan. 10, 1996) Complainant's position found to be cantorial soloist not cantor because she did not meet religious qualifications. HO

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

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (June 10, 1992) Respondent's argument that the First Amendment of the U. S. Constitution precludes the Commission from reviewing the religious organization's employment decisions concerning its clergy is denied at motion to dismiss stage because there was a factual dispute as to whether Complainant was clergy and factual disputes are resolved in favor of complainants at this stage. CO

Peterson v. St. Nicholai United Church of Christ, CCHR No. 92-E-167 (Dec. 21, 1993) CHR dismissed Complaint of minister -- a member of the clergy -- who sued Respondent for failing to hire him, allegedly due to his sexual orientation, because proceeding with the case would excessively entangle the Commission with religion in violation of the First Amendment's establishment clause. CO

Rushing v. Jasniowski, CCHR No. 92-H-127 (May 18, 1994) Although Respondent business itself does not have a religious purpose, the business was essentially its owner's "personal business organized in a corporate form" and so had standing to raise a First Amendment-establishment clause defense. R

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb. 27, 1995) CHRO provides religious organizations at least as much protection as the U.S. Constitution does. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) (same) CO

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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Sets forth factors to determine whether an entity claiming to be a religious organization is one: either because one of its primary purposes is religious or because it is closely tied to a religious organization. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Fact that an organization requires members to believe in God is not itself sufficient. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) A non-denominational organization may nevertheless be a religious one if one of its primary purposes is religious. CO

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb. 27, 1995) Respondent must establish by a preponderance of the evidence that one of its primary purposes is religious or that it is closely tied to a religious organization. It must then articulate a sincerely-held belief that the challenged practice affects the "definition, promulgating or advancement of [its] mission, practices or beliefs" as required by the CHRO. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) (same) CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) Sets forth factors considered in deciding if a respondent is a religious organization. CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) (same)R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Respondent must show that one of its primary purposes is religious or that it is closely tied to a religious organization. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) A non-denominational organization may be a religious organization. R

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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Once a party shows that it is a religious organization, it need only articulate a sincerely-held belief that the allegedly discriminatory practice affects the "definition, promulgating or advancement of [the organization's] mission, practices or beliefs;" the Commission's inquiry may not unnecessarily entangle it in religious doctrine. CO

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb. 27, 1995) Found MBI's refusal to admit the Catholic Complainant as a student tied to its mission to further Protestant Evangelism and so exempt from CHRO. CO

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb. 27, 1995) Once a party has shown it is a religious organization, it need only articulate a sincerely-held belief that the allegedly discriminatory practice affects the "definition, promulgating or advancement of [the organization's] mission, practices or beliefs;" CHR's inquiry may not unnecessarily entangle it in religious doctrine. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) Respondent can show that the challenged decision -- not to hire Complainant as its executive director -- had an effect on the "definition, promulgating or advancement of [the organization's] mission, practices or beliefs" either by articulating a sincerely-held religious belief for its decision or by showing that the position was clergy or clergy-like. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) Where Respondent provided no reason in its motion to dismiss for failing to hire Complainant, it was held not to have articulated a sincerely-held belief; further proceedings set forth to address that issue CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Apr. 25, 1995) CHR may review employment decisions of a religious organization so long as that review does not require entanglement in religious doctrine. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Oct. 25, 1995) Once respondent shows it is a religious organization, it must show that the challenged decision had an effect on the "definition, promulgating or advancement" of its "mission, practices or beliefs". CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Oct. 25, 1995) Respondent, a religious organization, can show the necessary effect on its mission, practices or beliefs either by proving its decision not to hire Complainant was due to a sincerely-held religious belief or that the position was clergy or clergy-like. CO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Jan. 10, 1996) Respondent can show that there was a sufficient effect on its mission, practice or beliefs by articulating a sincerely-held belief or by showing that Complainant's position was clergy or clergy-like. HO

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

Marsh v. United Synagogues of America, CCHR No. 91-PA-40 (Mar. 4, 1992) Religious organization with a mission of providing religious education for Jewish adults ages 23-40 allowed to exclude persons over 40 as exempt from the CHRO as a "decision of a religious . . . organization . . . affecting the . . . advancement of its mission" within the meaning of §2-160-080. CO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (June 10, 1992) Holds religious organization exemption in CHRO §2-160-080 not applicable where temple fired female cantorial soloist because of her sex. CO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (June 10, 1992) The decision of a religious organization must be "rooted in religious doctrine" to be exempt from coverage; §2-160-080 not intended to permit

religious organization to violate the CHRO for non-religious reasons. CO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (June 10, 1992) Incidental effect on religious organization's mission or practices not sufficient to fall under exemption in §2-160-080.

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (June 10, 1992) §2-160-080 does not apply to serve secular "customer preferences" of congregants. CO

Ghoston v. Mercy Hospital, CCHR No. 91-E-219 (Dec. 30, 1992) Respondent found not exempt under §2-160-080 as a religious organization in that it did not meet factors indicating either that its primary purpose is religious or that it is closely tied to a religious institution. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) CHR denied motion to dismiss which argued that the Boy Scouts are exempt as a religious organization due to outstanding factual issues. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Because the CHRO is to be construed liberally, this exemption, like all exemptions, is to be construed narrowly. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) The party claiming an exemption has the burden of proof. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) The party claiming an exemption must initially show either that it is closely tied to a religious organization or that one of its primary purposes is religious; if it does so, then it need only articulate a sincerely-held belief that the challenged practice or policy affects the "definition, promulgating or advancement of [the organization's] mission, practices or beliefs". CO

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb. 27, 1995) MBI found to be an exempt religious organization vis-a-vis a Catholic applicant who claimed that religious discrimination caused his rejection. CO

Filec v. The Moody Bible Instit., CCHR No. 94-PA-62 (Feb. 27, 1995) MBI showed that it is an exempt religious organization in that it is dedicated to teaching about and promoting Protestant Evangelism so that admission as a student requires not only a specific religious affiliation but also adherence to specific beliefs. CO

Steen v. Episcopal Charities & Community Services, CCHR No. 94-E-96 (Oct. 25, 1995) Decision not to hire Complainant as executive director found exempt as Respondent is closely tied to a religious organization and the position was found to be clergy-like. CO

Diamond v. Congregation Kol Ami, CCHR No. 91-E-80 (Jan. 10, 1996) Complainant found not to hold a clergy or clergy-like position so Respondent was not exempt from CHRO. HO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Respondent found not to be an exempt religious organization; found neither to have a primary purpose that is religious nor to be closely tied to a religious organization. R

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

Damages

White v. Ison, CCHR No. 91-FHO-126-5711 (Dec. 16, 1992) Emotional distress portion of Hearing Officer's recommended ruling remanded to Hearing Officer by Board for reconsideration of awarding more damages and consideration of punitive damages. R

White v. Ison, CCHR No. 91-FHO-126-5711 (Feb. 18, 1993) Emotional distress damages increased from \$1,000 to \$1,500 and punitive damages awarded after remand. R

Friday v. Dykes, CCHR No. 92-FHO-23-5773 (Jan. 18, 1995) On remand from state court, \$3500 and \$3000 in emotional distress damages awarded to complainant wife and husband, respectively, based on testimony of distress suffered when landlord would not rent them the promised apartment. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) Where state appeals court remanded case for determination of damages after it found one of nine incidents may not be a basis for discrimination finding but upheld liability finding, CHR decreased damages to one Complainant by \$500 but did not change damages awarded to other as she did not rely on that event for her claim for original damages. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 19, 1997) Where state appeals court remanded case for determination of damages after it found one of nine incidents may not be a basis for discrimination finding but upheld liability finding, CHR left punitive damage award intact as the original amount was based on panoply of conduct and ignoring the one event did not alter the totality. R

Liability

Reed v. Strange, CCHR No. 92-H-139 (Mar. 16, 1994) Case remanded for further proceedings where the Board of Commissioners found it not to be clear whether the Hearing Officer had taken Complainant's allegations to be true in this default case and whether he had considered all factors in his analysis of sexual harassment. R

Bosh v. CNA et al., CCHR No. 92-E-83 (July 29, 1994) Where definition of disability in the Commission's regulation led to recommendation that Complainant did not have a disability, when he would have been found to have one under the CHRO, the regulation held to be of no effect; case remanded to Hearing Officer for reconsideration without regard to regulation. R

Reid v. F.J. Williams Realty, et al., CCHR No. 94-H-42 (Sep. 1, 1994) Case remanded for reconsideration where the Hearing Officer had used the standard for sex discrimination instead of that for a *quid pro quo* sexual harassment case. R

Parker v. American Airport Limousine, CCHR No. 93-PA-36 (July 19, 1995) Disability case remanded by board to hearing officer for further proceedings before the hearing officer concerning whether making the requested accommodation would cause an undue hardship for Respondent. R

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Upon judicial remand, CHR found that Respondent did not discriminate against Complainant, a mentally retarded man, as Complainant never sought an accommodation related to sudden outbursts and the need for such accommodation was not evident; also there was no evidence that non-disabled employees were treated better. R

Standard of Review

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) Upon judicial remand, CHR did not review case *de novo* but left in place those findings unchanged by court's remand order, based on language of that remand order. R

Waiver of New Claim

Bosh v. CNA et al., CCHR No. 92-E-83 (Oct. 22, 1997) A new theory of liability, not raised either in original hearing or before state court cannot be raised for first time after state court remand to CHR. R

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

Ayers v. Marigold Bowl/Fagenholz, CCHR No. 92-PA-34 (Apr. 12, 1995) CHR found sufficient grounds to re-open case where CHR inadvertently caused some of the confusion which created the failure to respond to a prior order in a timely fashion. CO

Walker v. Adeicola, CCHR No. 96-H-83 (May 29, 1997) Where Commission mistakenly sent warning letter and Notice of Potential Dismissal to Complainant's old address, the dismissal was reversed. CO

Rodriguez v. Candle Corp., CCHR No. 96-E-187 (Aug. 11, 1997) Where Respondent proved that it had submitted a response to Complainant's allegations of an agreement violation -- with a receipt showing timely delivery to CHR -- CHR vacated 7-24-97 order [see Enforcement of Settlement Agreement above] which had found a violation due to no response. CO

Jackson v. Jimmy & Tai's Wrigleyville Tap & Chic. Police Dept., CCHR No. 96-PA-56 (Jan. 28, 1998) CHR granted Request for Review of failure to cooperate dismissal finding that CHR Regulations do not permit such a dismissal for a complainant's failure to reply to a verified response. CO

Fumento v. Links Technology & SMG Marketing Group, CCHR No. 95-E-137 (June 24, 1998) CHR denied Request for Review of order dismissing case for failure to cooperate; Complainant stated that he did not receive all relevant documents; however, Complainant did know that a jurisdictional hearing was scheduled in his case and he did not monitor his case after his attorney withdrew. CO

Bashara v. Goldflies, CCHR No. 95-E-143 (Sep. 10, 1998) CHR granted Complainant's Request for Review finding that CHR had sent the Notice of Potential Dismissal to the wrong address although Complainant had

given CHR the correct one. CO

Jacobs v. White Cap, Inc., CCHR No. 96-E-239 (July 29, 1999) CHR denied request to re-open case where it had attempted to reach Complainant for five months but Complainant did not provide his current address or return call. CO

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 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

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 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 complainants 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

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

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

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (5-31-96) CHR denied Request for Review of case which was dismissed as untimely on where Complainants rely upon events not covered by complaints and which occurred after the filing of complaints and after the order of dismissal was entered. CO

Voci v. National Kitchen & Bath Assoc., et al., CCHR No. 94-PA-27/29 (June 6, 1996) CHR denied Request for Review where Complainants' arguments regarding definition of parental status found contrary to CHRO

and where some assertions were not supported by reasoning, analysis or case citation. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (Aug. 15, 1997) Where "Request for Review" presented no arguments or evidence at all but merely stated that Complainant would later file such substance, and did not provide any reason for needing more time, CHR denied it as insufficient both as a Request for Review and as a request for an extension of time. CO

Toledo v. Brancato, CCHR No. 95-H-122 (Oct. 22, 1997) CHR will not grant request for review of a no jurisdiction determination where complainant presents no new evidence or arguments or where the arguments are contrary to governing ordinance. CO

Lopez v. Commonwealth Edison, CCHR No. 98-E-7 (Apr. 29, 1998) Request for Review denied where it did not provide information which showed that the complaint was not untimely, as the dismissal order held. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (June 11, 1998) Request for Review denied because it was untimely -- filed more than 30 days after dismissal was mailed -- and because the substance of the Request for Review did not meet requirements to re-open case. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review of February 13, 1998 order described above, CHR finds the facts that the death notices Complainant wanted to regulate are purchased, are not editorial, are mechanically laid out, sometimes seek memorial contributions, and are printed below the obituaries are not sufficient to make the notices regulable when they do not seek a commercial transaction or otherwise have a commercial message. CO **See separate Constitutional Issues, First Amendment/ Free Speech section, above.**

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHR re-affirmed its holding in prior cases finding that, for a school to be covered as a public accommodation, the function or facility at issue must be offered to the general public; where the alleged discrimination concerned teaching, CHR held that is not a function available to the general public and so it denied the Request for Review. CO **See separate section for Schools/Universities, below.**

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-21/44/48 (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

Cosby v. CMS Realty/Wilson, CCHR No. 96-H-2 (Nov. 5, 1997) Where Complainant demonstrated that part of her sexual harassment case depended on credibility and where Complainant argued that Respondent's repair documents did not represent work done on her apartment, CHR granted the Request for Review, reversed its prior dismissal and found substantial evidence. CO

Lacy v. Karr & Assocs. and Karr, CCHR No. 97-E-91 (Jan. 14, 1998) CHR granted Complainant's Request for Review where CHR found that it had impermissibly made credibility determinations when it originally dismissed the case for lack of substantial evidence. CO

Galligani v. Nabisco, CCHR No. 94-E-238 (Jan. 14, 1998) CHR denied Complainant's Request for Review where it found that she had not made a request for an accommodation of her disability, where the need for an accommodation was not obvious, where her history of employment gave no indication that the problem which caused her discharge was related to her disability, and where there was no accommodation possible other than a "second chance". CO **See also Disability section, above.**

Fischer v. Teachers Academy for Mathematics & Science, CCHR No. 96-E-164 (Sep. 10, 1998) Complainant's Request for Review granted where CHR found that, when it originally dismissed the case for lack of substantial evidence, it had impermissibly made credibility determinations. CO

Duvergel v. Group Building Mgt. et al., CCHR No. 97-H-87 (Sep. 25, 1998) Where the complaint listed the wrong respondents and the wrong address at which Complainant was allegedly denied housing, CHR denied the Request for Review in that there was no substantial evidence of discrimination by the respondents she had named and Complainant knew those facts well within time to amend her complaint but took no action. CO

Gordon v. Sheridan Flowers, CCHR No. 97-PA-90 (Dec. 17, 1998) Complainant's Request for Review granted where CHR found that, when it originally dismissed the case for lack of substantial evidence, it had impermissibly made credibility determinations. CO

Vasilovik v. Chicago Park Dist., CCHR No. 94-E-120 (Aug. 12, 1999) CHR denied request for review finding that Complainant did not present information which was not available at time of the no substantial determination and did not counter evidence that, among other things, the employer had hired people in Complainant's protected class. CO

Williams v. Harris Trust & Savings Bank, CCHR No. 97-E-102 (Aug. 25, 1999) CHR denied request for review finding that it properly did not show Complainant certain information during the course of the investigation and did address all his allegations. CO

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 8, 1999) Where Complainant claimed that Respondent refused to accept her Section 8 voucher to pay her rent for the remainder of her existing lease and where Respondent had not mentioned the alleged lease violations prior to the refusal, CHR granted the Request for Review and found substantial evidence. CO

Duvergel v. Van Mai, CCHR No. 99-H-17 (Oct. 21, 1999) Where case turned on whether person to whom Complainant spoke had authority to handle rental issues and whether he told Complainant that there were no available apartments, CHR granted Request for Review and found substantial evidence as the case depended on credibility. CO

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

Mabry 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 gender identity or evidence that stated reasons for Complainant’s discharge were so unreasonable or incredible to suggest pretext. 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 where CHR could not identify any material information not available and considered at time of investigation and determination. 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

Moreno v. Apartment Guys et al., CCHR No. 09-H-27 (Nov. 19, 2012) In context where rental agent could not find an available unit that met Complainant’s requirements of allowing her dog and being able to take occupancy within three weeks, statement to Complainant that she could not find a housing provider “set up” to accept a Section 8 voucher did not provide substantial evidence of source of income discrimination. Also, CFHO prohibition of discriminatory communications does not apply to private communications but to advertisements to a wider public. CO

Roche-Kelly v. Juvenile Diabetes Research Foundation, CCHR No. 10-E-74 (Feb. 21, 2013) Request for review granted to interview two witnesses associated with Respondent's decision to discharge Complainant, where no Respondent witnesses provided interviews or written statements in the investigation. No error for CHR not to interview other witnesses not involved in the decisions at issue, and no impermissible credibility determinations found. CO

Boyd v. Parkview Management Corp., CCHR No. 10-H-48 (June 7, 2013) No source of income discrimination in rejection of potential tenant claiming monthly income of \$672 from Social Security and "public aid" which was 73% of the stated rent of \$495. Income-to-rent ratio as rental qualification did not create disparate impact on Social Security recipients where many could meet the standard. Application of disparate income analysis in some Section 8 Housing Choice Voucher cases held distinguishable. CO

Amendment of Complaint at Hearing

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (June 17, 1992) Request for review denied where Respondent failed to convince CHR that it was prejudiced by the Hearing Officer's decision to allow Complainant to amend the complaint at the Hearing to conform to the evidence pursuant to Regulation 210.140(c). R

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

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Oct. 21, 1992) CHR increased attorney's fees awarded based in part on prior CHR awards and on legal research done into appropriate precedent for which recovery was previously not allowed. R

Fulgern v. Pence, CCHR No. 91-FHO-65 (Apr. 21, 1993) CHR will not decrease attorney's fees award based on a formula created by Respondent which compared damages sought to damages won. R

Fulgern v. Pence, CCHR No. 91-FHO-65 (Apr. 21, 1993) CHR will not decrease attorney's fees award where Complainant was successful on the only claim brought. R

Sheppard v. Jacobs, CCHR No. 94-H-162 (Mar. 25, 1998) On request for review, CHR upheld decision not to award disbarred attorney her attorney's fees because she did not notify the Commission of her disbarment as required by Supreme Court Rule 764. CO

Board Resolution

Blakemore v. CHR, CCHR No. 98-PA-10/49/50 (Jan. 14, 1999) Order denied Request for Review of cases which were dismissed pursuant to Board of Commissioners' resolution against CHR handling cases against CHR because CHR staff did not have authority to overturn, modify or uphold the Board resolution. CO

Damages

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 17, 1993) Where no medical testimony is offered, a complainant must "reasonably and sufficiently explain the circumstance of the injury" so, on Request for Review, CHR overturned damage award for impotence where the nexus to the injury was not sufficiently made. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) Fact that Complainant received unemployment compensation after leaving Respondent's employ does not necessarily lead to the deduction of her damage award; she may have to reimburse the state, but not the Respondent. R

Barnes v. Page, CCHR No. 92-E-1 (Jan. 21, 1994) CHR denied the request to increase emotional distress damages where the original award covered not only Complainant's distress suffered during the sexual harassment but also any ongoing distress due to the harassment. R

Disqualification – See also separate Disqualification section, above.

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Jan. 18, 1995) Pursuant to CHR regulation, upon request of a party, the Board of Commissioners may review the decision of an Administrative Hearing Officer concerning a motion to disqualify, even though that decision is technically an interlocutory one. R

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Jan. 18, 1995) Where, in another forum,

Hearing Officer represented a party suing a company which was, originally unbeknownst to the Hearing Officer, represented by one of the attorneys who is counsel for Respondent at CHR, Hearing Officer not disqualified where he removed himself from the non-CHR case and where prior arguments between himself and other counsel for company were not unusually heated. R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (May 22, 1996) Respondent's motion to expunge order concerning Hearing Officer's recusal (handled as a Request for Review) denied because nothing in CHR Regulations allows it. Order in question not sent to 2nd Hearing Officer or Board of Commissioners -- the ultimate decision-makers -- whom Respondent feared might be "prejudiced" by the order. CO

Green v. Altheimer & Gray, CCHR No. 94-E-57 (May 22, 1996) Where Respondent feared the decision-makers might be "prejudiced" by a Hearing Officer's recusal order, the Board of Commissioners delegated its power to review the order to the Commission's staff which has no power over the ultimate decision in the case. CO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Jan. 29, 1997) Pursuant to CHR regulation, upon request of a party, the Board of Commissioners may review the decision of an Administrative Hearing Officer concerning a motion to disqualify, even though that decision is technically an interlocutory one. R

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Jan. 29, 1997) Board ruled that Hearing Officer was correct in not disqualifying herself where the motion to disqualify and the request for review were untimely, where the substance of the request for review was insufficiently specific and where the Hearing Officer had relationships with attorneys for both parties. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Nov. 18, 1998) No reason for disqualification shown by request for review of decision not to disqualify which argued that the Hearing Officer held settlement negotiations with parties and asked a CHR staff member to enter pre-hearing conference to assist moving party to comply with discovery requests to avoid sanctions. R

Nichols v. Chicago Dept. of Sewers, CCHR No. 96-E-131 (June 16, 1999) Board denied request for review of Hearing Officer's decision not to disqualify himself, finding no evidence of bias; Complainant's request accused hearing officer of being impatient and professorial with his counsel. R

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

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (May 4, 1992) CHR will not consider evidence on review which was available at the time of the Hearing but not presented; it is not "new evidence". R

Akangbe v. 1428 W. Fargo Condominiums, CCHR No. 91-FHO-7-5595 (July 29, 1992) (same) R

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Aug. 26, 1992) Legal argument not presented at Hearing deemed waived. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (Sep. 16, 1992) Denied Request for Review based in part on some evidence that was available but not presented at the time of the Hearing and in part on evidence contrary to evidence presented at the Hearing. R

Barber v. Chicago Dept. of Buildings, CCHR No. 91-E-35 (May 19, 1993) Respondent cannot have CHR accept an affidavit into evidence where it a) did not show that it could not have discovered the evidence at the time of the hearing, b) did not explain why the evidence was not presented earlier, or c) did not establish that the evidence, if accepted, would change CHR's ruling. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) (same) R

Reed v. Strange, CCHR No. 92-H-39 (June 27, 1995) Objections not raised at hearing deemed waived. R

Extension of Time to File

Watt v. Federal Reserve Bank, CCHR No. 90-E-38 (July 25, 1991) Granted request after 30 days for filing passed because Complainant was pro se and due to constructive filing. CO

Barber v. Chicago Dept. of Buildings, CCHR No. 91-E-35 (Dec. 14, 1992) Request for extension of time to file granted where Complainant proved that she did not receive or have knowledge of the final order until after the

Request for Review filing time had passed, through no fault of her own. HO

Barber v. Chicago Dept. of Buildings, CCHR No. 91-E-35 (Mar. 8, 1993) Denied Respondent's motion to vacate order granting an extension of time to file her Request for Review and considered opponent's interest in finality against Complainant's interest in raising the merits as well as case law concerning both the opening of "final" judgments and when an attorney's conduct can be imputed to his/her client. HO

Roney v. Chicago Hilton & Towers, CCHR No. 93-E-118 (Apr. 4, 1995) Complainant's statement that he would file a complete Request for Review a week later -- after the filing period -- found to be an insufficient request for an extension as it did not state any good cause for needing the extension, as the Regulations require. CO

Moore v. Chicago Dept. of Aviation, CCHR No. 94-E-16 (Jan. 23, 1996) A party may not avoid the 30-day filing deadline by attempting to "reserve its right" to file later. CO

Walker v. Adeicola, CCHR No. 96-H-83 (May 29, 1997) Where Commission mistakenly sent warning letter, Notice of Potential Dismissal and order of dismissal to Complainant's old address, Complainant allowed to file her request for review after receiving notice of the dismissal. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (Aug. 15, 1997) A party cannot reserve its right to file a Request for Review at a date after the deadline by filing a general, unspecified and unsubstantiated objection or by filing a request for an extension which does not provide good cause. CO

Jackson v. Jimmy & Tai's Wrigleyville Tap et al., CCHR No. 96-PA-56 (Dec. 22, 1998) CHR denied Complainant's request for an extension of time to file Request for Review where he did not present good cause and just stated that he had not "fully conferred" with his attorney. CO

Denton v. Siegel, Moss, Schoenstadt, Webster & Hoff et al., CCHR No. 96-E-288 (Feb. 24, 1999) CHR denied Complainant's request for an extension of time to file where it was filed after the deadline and did not show the required extraordinary circumstances for the extension. CO

Vasilovik v. Chicago Park Dist., CCHR No. 94-E-120 (Aug. 12, 1999) CHR denied Complainant's request for another extension, this time to file her reply, finding that just starting to look for an attorney did not show good cause at such a late juncture in the case. CO

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 (Sep. 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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's motion to exclude evidence regarding her work performance and disciplinary record properly denied given the hearing officer's authority to admit or exclude testimony or other evidence even if inconsistent with strict rules of evidence applicable in other courts, the disfavor with which Commission views motions in limine, and that the documents in question were related to Respondent's defenses which Complainant could challenge during the hearing. R

No New Evidence/Arguments

After Dismissal for No Jurisdiction

Coley v. Catholic Charities, CCHR No. 96-E-285 (Aug. 15, 1997) Where "Request for Review" presented no arguments or evidence at all but merely stated that Complainant would later file such substance, and did not provide any reason for needing more time, CHR denied it as insufficient both as a Request for Review and as a request for an extension of time. CO

Toledo v. Brancato, CCHR No. 95-H-122 (Oct. 22, 1997) Request for Review denied where it raised arguments previously made by Complainant and rejected by CHR. 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 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

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (June 17, 1992) Request for review on attorney's fees denied when Respondent made no arguments different from original ones. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (Sep. 16, 1992) Request for review denied when Respondent presented no new arguments regarding applicability of 1992 Regulations to this case. R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Mar. 17, 1993) Respondent's request to decrease awarded rate of attorney's fees from \$140/hour denied due to failure to provide any basis for the request. R

Williams v. United Air Lines, CCHR No. 91-E-90 (May 19, 1993) Request for Review denied where Complainant did not present any new material and made only generalized conclusions about alleged errors. R

Barber v. Chicago Dept. of Buildings, CCHR No. 91-E-35 (May 19, 1993) Complainant failed to present new evidence which she could not have discovered by the time of Administrative Hearing and, in fact, the evidence she relied upon as new in the Request for Review had been offered at the Hearing. R

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

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Apr. 19, 1993) In considering a Request for Review after a no substantial evidence determination, the Commission will not merely reconsider the same facts and arguments originally raised. CO

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Apr. 19, 1993) Complainant's mere request to change a no substantial evidence decision, without provision of a basis for the request, is not sufficient. CO

Galley-Leeming v. Art Institute of Chicago, CCHR No. 92-E-205 (Oct. 28, 1993) In considering a Request for Review after a no substantial evidence determination, CHR will not merely reconsider the same facts and arguments originally raised. CO

Galley-Leeming v. Art Institute of Chicago, CCHR No. 92-E-205 (Oct. 28, 1993) Complainant's evidence that Respondent may have made a bad business decision, although not necessarily a discriminatory one, is not sufficient for the CHR to find substantial evidence, or to reverse a no substantial evidence determination. CO

Plochl v. Chicago National League Ball Club, CCHR No. 92-PA-46 (Aug. 10, 1994) CHR will not reconsider its no substantial evidence determination when no new evidence or arguments are presented. CO

Palmer v. United Airlines, CCHR No. 93-E-156 (Nov. 18, 1994) Complainant provided no new arguments to cause CHR to reverse its no substantial evidence finding that employers need not have identical dress codes for men and women, so long as they are equal. CO

Moore v. Chicago Dept. of Aviation, CCHR No. 94-E-16 (Jan. 23, 1996) CHR will not reconsider a no substantial evidence finding when no new evidence or arguments are presented. CO

Jones v. 4128 N. Clarendon Bldg. Assn. et al., CCHR No. 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

Not Previously Unavailable

Duvergel v. Group Building Mgt. et al., CCHR No. 97-H-87 (Sep. 25, 1998) CHR denied Complainant's Request for Review which relied on newly submitted photographs as Complainant had those photographs not only before her case was closed, but also before she even filed her complaint; fact that the photographs pointed to involvement of a person she did not name as a respondent means that she knew she needed to amend her complaint well before she filed her Request. CO

Occurrence Not in Complaint

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (May 31, 1996) CHR denied Request for Review of case which was dismissed as untimely on where Complainants rely upon events not covered by complaints and which occurred after the filing of complaints and after the order of dismissal was entered. CO

Duvergel v. Group Building Mgt. et al., CCHR No. 97-H-87 (Sep. 25, 1998) Where the complaint listed the wrong respondents and the wrong address at which Complainant was allegedly denied housing, CHR denied the Request for Review in that there was no substantial evidence of discrimination by the respondents she had named and Complainant knew those facts well within time to amend her complaint but took no action. CO

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

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Oct. 21, 1992) Respondent ordered to provide bases for claims in request for review such as case law and/or specific cites to record; mere statements of general objections not sufficient. HO

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 17, 1993) Respondent's generalized conclusions, without other support, are not sufficient to grant Request for Review. R

Roney v. Chicago Hilton & Towers, CCHR No. 93-E-118 (Apr. 4, 1995) Request for Review denied where Complainant provided no grounds for the Request but claimed that complete grounds would be filed later -- beyond the filing period -- and none were. CO

Roney v. Chicago Hilton & Towers, CCHR No. 93-E-118 (Apr. 4, 1995) CHR Regulations do not allow parties to reserve their right to file a Request for Review at some later date; the grounds for the Request must be submitted within the 30-day filing period. CO

Moore v. Chicago Dept. of Aviation, CCHR No. 94-E-16 (Jan. 23, 1996) A request for review must state its grounds with specificity. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (Aug. 15, 1997) (same) CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (Aug. 15, 1997) A party cannot reserve its right to file a Request for Review at a date after the filing period by filing a general, unspecified and unsubstantiated objection or by filing a request for an extension of time which does not provide good cause. 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

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

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

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

Johnson v. City Realty & Development Co., CCHR No. 91-FHO-165-5750 (July 22, 1993) Nothing in the Regulations requires filing a post-hearing brief in order to file a Request for Review so Respondent's failure to file its brief does not preclude it from filing its Request for Review. R

Prima Facie Case

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 17, 1993) Where Complainant presented a *prima facie* case and Respondent presented evidence of a non-discriminatory reason for its conduct at the Hearing, CHR will not revisit sufficiency of Complainant's *prima facie* case on a Request for Review. R

Review of Final Order in Case

Spurlock v. Chicago House & Social Service Agency, CCHR No. 94-E-177/194 (May 24, 1996) CHR denied Complainant's request to vacate its order denying his Request for Review as nothing in Regulations allows CHR to review order on Request for Review and because CHR found that Complainant did not file his complaint within 180 days of the incident in question. CO

Sheppard v. Jacobs, CCHR No. 94-H-162 (Mar. 25, 1998) Where the hearing officer entered an order denying attorney's fees to disbarred attorney, where the parties settled the attorney's fees otherwise, and where that order was the final order in the case, the appropriate mechanism for reconsideration of that order was by request for review. CO

Williams v. Harris Trust & Savings Bank, CCHR No. 97-E-102 (Oct. 14, 1999) After CHR dismissed case for lack of substantial evidence and then denied Complainant's Request for Review, it refused to review yet another appeal from Complainant, directing him to state court. CO

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

Williams v. Chicago Comm. on Human Relations, et al., CCHR No. 00-PA-38 (Sep. 15, 2000) After CHR had dismissed case for lack of substantial evidence and had 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. "City of Chicago Government and Administrative Boards, Commissions and Committees", CCHR No. 01-PA-10 (Feb. 20, 2001) To the extent that this new complaint is an attempt to seek yet another unauthorized review of CHR's dismissal of Complainant's prior cases [noted above], CHR dismissed the complaint

and noted that Complainant had already filed his appeal of the prior cases in state court. CO

Williams v. "City of Chicago Government and Administrative Boards, Commissions and Committees", CCHR No. 01-PA-10 (Apr. 30, 2001) After CHR dismissed case for lack of jurisdiction 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. City of Chicago "Government & Administrations, Boards, Commissions and Committees; Departments and Agencies", CCHR No. 01-PA-103 (Nov. 1, 2001) To the extent that this new complaint is an attempt to seek yet another unauthorized review of CHR's dismissal of Complainant's prior cases [noted above], CHR dismissed the complaint and noted that Complainant had already filed his appeal of the prior cases in state court. CO

Williams v. City of Chicago "Government & Administrations, Boards, Commissions and Committees; Departments and Agencies", CCHR No. 01-PA-103 (Jan. 7, 2002) After CHR dismissed case for lack of jurisdiction 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. "City of Chicago Government and Administration(s), Boards, Commissions and Committees; Departments and Agencies," CCHR No. 02-PA-33 (July 10, 2002) (same) (CO)

Reweighting of Evidence/Credibility

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (May 4, 1992) CHR will not reevaluate credibility of witnesses or reweigh evidence on review; fact that CHR rules in favor of one side over another does not itself give reason to overturn decision. R

Akangbe v. 1428 W. Fargo Condominiums, CCHR No. 91-FHO-7-5595 (July 29, 1992) (same) R

McClinton v. Antioch Haven Homes, CCHR No. 91-FHO-42-5627 (Aug. 26, 1992) (same) R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) (same) R

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (Nov. 18, 1992) The original ruling's findings of fact are not to be overturned upon a Request for Review unless contrary to the weight of the evidence. R

Collins & Ali v. Magdenovski, CCHR No. 91-FHO-70-5655 (Mar. 17, 1993) CHR will not reevaluate evidence or credibility on a Request for Review. R

Campbell v. Dearborn Parkway Realty, CCHR No. 92-FHO-18-5630 (Apr. 21, 1993) CHR will not reweigh evidence presented at hearing. R

Williams v. United Air Lines, CCHR No. 91-E-90 (May 19, 1993) The original ruling addressed witness credibility and will not be overturned, particularly because the Hearing Officer is in the best position to determine credibility. R

Williams v. United Air Lines, CCHR No. 91-E-90 (May 19, 1993) In order to have credibility reviewed, the party requesting review must identify supporting citations in the record. R

Johnson v. City Realty & Development Co., CCHR No. 91-FHO-165-5750 (July 22, 1993) CHR will not reevaluate the credibility of witnesses or reweigh evidence on review. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) (same) R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) CHR will not reevaluate the case merely because the moving party can show that there is another plausible interpretation of the evidence or that the record includes some evidence which supports another decision. R

Ruling After Administrative Hearing

Reed v. Strange, CCHR No. 92-H-39 (June 27, 1995) After the Board of Commissioners has ruled on liability, and where appropriate, has ruled on attorney's fees, CHR no longer has jurisdiction; parties must proceed by filing a *writ of certiorari* in state court. R

Parker v. American Airport Limousine Corp., CCHR No. 93-PA-36 (Mar. 7, 1996) After Board has issued its final ruling, a party's only recourse is to go to state court; Request for Review procedures are not available at the Commission at that stage. CO

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

Settlement Agreement Violation

Rodriguez v. Candle Corp., CCHR No. 96-E-187 (Aug. 11, 1997) Where Respondent proved that it had submitted a response to Complainant's allegations of an agreement violation -- with a receipt showing timely delivery to CHR -- CHR vacated 7-24-97 order [see Enforcement of Settlement Agreement section above] which had found a violation due to no response. CO

MartinHo v. Northside Imports & Abdul, CCHR No. 98-E-61 (Dec. 3, 1998) Where Respondent filed a Request for Review of CHR's order finding that Respondent violated the Settlement Agreement and showed that it had complied with the Agreement, and where Complainant did not respond, CHR vacated its finding that Respondent violated the Agreement and so revokes the fine and judicial enforcement. CO

Standard

Johnson v. City Realty & Development Co., CCHR No. 91-FHO-165-5750 (July 22, 1993) Request for Review denied where none of following shown: new & material facts not available at the time of the public hearing; clearly erroneous findings of fact; errors of law not previously decided in the underlying opinion; or conflicts of law between different decisions of the Commission. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) Request for Review after Hearing concerning facts of the case will be granted only in exceptional standards such as when the moving party can show either clearly erroneous findings of fact or material facts not available at Hearing. R

Walker v. Adeicola, CCHR No. 96-H-83 (May 29, 1997) In a request for review of an order dismissing the case for failure to cooperate, complainant must provide good cause for her prior failure; Complainant found to have done so here where Commission had sent her notices to a prior address. CO

Toledo v. Brancato, CCHR No. 95-H-122 (Oct. 22, 1997) CHR will not grant request for review of a no jurisdiction determination where complainant presents no new evidence or arguments or where the arguments are contrary to governing ordinance. CO

Cosby v. CMS Realty/Wilson, CCHR No. 96-H-2 (Nov. 5, 1997) In reviewing a request for review filed after a finding of no substantial evidence, CHR looks to see whether Complainant presented relevant evidence which is newly discovered or a material misrepresentation, misstatement or omission which was a basis for the order in question. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) In denying Complainant's request for review, CHR sets forth standard complainant must meet to have CHR re-open case or alter prior decision -- newly discovered evidence or legal authority not available at time of original determination or a material misrepresentation, misstatement or omission which was the basis for the original order. CO

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 8, 1999) In granting Complainant's request for review, CHR sets forth standard complainant must meet to have CHR re-open case or alter prior decision -- newly discovered evidence or legal authority not available at time of original determination or a material misrepresentation, misstatement or omission which was the basis for the original order. CO

Dixon v. LaSalle National Bank ABN AMRO, et al., CCHR No. 98-E-175 (Mar. 10, 2000) In reviewing a request for review filed after a finding of no substantial evidence, CHR looks to see whether Complainant presented relevant evidence which is newly discovered or a material misrepresentation, misstatement or omission which was a basis for the order in question. CO

Johnson v. Chicago Dept. of Health, CCHR No. 99-PA-104 (Mar. 10, 2000) Same; with respect to request for review of dismissal for lack of jurisdiction. CO

Nyah v. DuSable Museum of African-American History, CCHR No. 95-PA-33 (June 28, 2000) (same) CO

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

Grzanecki v. Nelson Court Apts., et al., CCHR No. 98-H-168 (Oct. 4, 2001) (same) 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

Castro v. Georgeopoulos, CCHR No. 91-FHO-6-5591 (June 17, 1992) Respondent's Request for Review denied as untimely pursuant to Regulation 250.100; a party may not avoid the 30-day deadline by "reserving its right" to file at a later date. R

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 5, 1995) Requests for reviews of interlocutory orders issued during the hearing process cannot be reviewed by the Board of Commissioners until the Regulations allow -- as part of objections to the First Recommended Decision on Liability. CO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 23, 1995) Denied another motion for reconsideration of stay of certain claims, again holding that the proper procedure for seeking review of an interlocutory order is as part of objections to the First Recommended Decision on Liability. HO

Reed v. Strange, CCHR No. 92-H-39 (June 27, 1995) After the Board of Commissioners has ruled on liability, and where appropriate, has ruled on attorney's fees, CHR no longer has jurisdiction; parties must proceed by filing a *writ of certiorari* in state court. R

Samson v. M&J Wilkow & Wilkow, CCHR No. 94-E-197 (Aug. 27, 1996) After CHR denied one Request for Review, Complainant's next step is to go to state court; CHR will not address another Request for Review. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (June 11, 1998) Request for Review denied because it was untimely -- filed more than 30 days after dismissal was mailed -- and because the substance of the Request for Review did not meet requirements to re-open case. CO

Duvergel v. Group Building Mgt. et al., CCHR No. 97-H-87 (Sep. 25, 1998) CHR did not rely on fact that Request for Review was filed well after deadline because Complainant had not received the order closing the case and it was not clear whether she had provided her new address to CHR before that order was sent; CHR dismissed Request on its merits -- see After Dismissal for No Substantial Evidence subsection, above. CO

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 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 (Sep. 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

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) *res judicata* is not precluded from being applied at CHR by the case of *University of Tennessee v. Elliot* which relied on Title VII legislative history not applicable to the CHRO. R

Collateral Estoppel – See separate Collateral Estoppel section, above.

Commission Expertise

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) The Commission relied on its expertise in reviewing discrimination and retaliation claims and in construing the CHRO, as well as on its charge to monitor City Departments' compliance with the CHRO, in refusing to apply *res judicata* to the decision of the City's Personnel Board. R

Cook County Proceedings

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (Mar. 30, 1995) Where the where Cook County Human Rights Commission had already held a hearing on two claims pending at CHR, CHR granted a motion to stay CHR proceedings on those claims, holding it is likely that the final decision by Cook County would bar a different decision by CHR. HO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 5, 1995) CHR denied as untimely and without basis Complainant's motion for reconsideration of order staying two claims which had been heard at Cook County's Commission. CO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 23, 1995) Denies another motion for reconsideration of stay of two claims which had been heard at Cook County; relies on reasoning of prior orders. HO

Alceguiere v. Cook County MIS & Yaeger, CCHR No. 91-E-137 (Mar. 20, 1996) Where the Cook County Commission made a final determination on the identical claims as the race claims pending at CHR and the parties in both actions were identical or privities, Complainant barred from proceeding with his race claims at CHR. R

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 Svcs., 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 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

Thompson et al. v. GES Exposition Svcs., 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

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Distinguishes *res judicata* from collateral estoppel; collateral estoppel looks to resolved issues, *res judicata* looks to resolved claims. CO

Denied

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) *res judicata* not applied against Complainant who lost a forcible entry and detainer action in state court as no evidence of sexual harassment -- the issue at CHR -- was allowed in the state court proceeding. CO

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Where a complainant seeks damages, not possession, it is not relevant to a forcible entry and detainer action and so must be raised in a separate suit; therefore, CHR could proceed with discrimination case despite ruling for respondent in state court. CO

Cross v. City of Chicago, CCHR No. 93-E-21 (Oct. 27, 1997) Where the circuit court decision in favor of Respondent was reversed and remanded by the state appeals court the circuit court decision could not be the basis for *res judicata* as it was not a final ruling. CO

Coats v. Chicago Housing Authority, CCHR No. 98-H-241 (May 6, 1999) Where Complainant alleged that Respondent evicted him after the entry of a court order but does not evict non-disabled tenants after such orders, *res judicata* was not applicable as whether Respondent normally implements such orders was not, and could not have been, before the state court which entered the order; Complainant did not claim that having the eviction order entered itself was discriminatory. CO

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 (Sep. 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 (Sep. 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

Fernandez v. Michael Reese Hospital, CCHR No. 95-E-105 (Oct. 24, 1997) Where federal court granted summary judgment in favor of Respondent regarding Complainant's age claim, CHR dismissed Complainant's identical CHR case. CO

Simpson v. Montgomery Ward & Co. et al., CCHR No. 93-E-99 (May 6, 1998) Where the federal court granted summary judgment in favor of Respondent company, CHR dismissed Complainant's identical CHR case, including against two individual respondents he could have sued in his federal §1981 action. CO

Dunn v. WGCI AM/FM Radio, CCHR No. 94-E-202 (June 10, 1998) Where Complainant filed a motion for reconsideration of the federal court's dismissal of a case similar to the one she filed at CHR, the federal order was not "final" for purposes of determining its *res judicata* effect and so CHR decided to hold case in abeyance until conclusion of federal proceedings. CO

Lilly v. Cosmopolitan Bank & Trust, CCHR No. 96-E-76 (July 27, 1998) Where federal court dismissed case for failure to state a claim and where the federal case concerned the same cause of action although not the same details as Complainant's CHR case, Complainant was barred from proceeding with CHR case; second federal case dismissed for want of prosecution also discussed. CO

Briscoe v. Malaysia Airlines, CCHR No. 96-E-295 (May 26, 1999) Where the federal court granted summary judgment in favor of Respondent and where cause of action was same in both cases, CHR dismissed its case as *res judicata*. CO

Grayson v. Linnco Futures Group et al., CCHR No. 97-E-201 (Aug. 31, 1999) Where federal court granted motion for summary judgment against Complainant in her sexual harassment case, CHR dismissed its case for *res judicata*, finding Complainant's sexual harassment and racial harassment claims barred as identical or a claim which could have been brought in federal court. CO

Bruce v. Chicago Dept. of Sewers, CCHR No. 95-E-250 (Dec. 29, 1999) Where federal court granted a motion for summary judgment against Complainant in a race discrimination case against the respondent Department, CHR dismissed its case for *res judicata*, finding his race and sex claims barred as identical or as a claim which could have been brought in federal court; CHR also dismissed individual respondents who Complainant had not sued in federal court as the federal decision necessarily meant that the individuals did not discriminate. CO

Swanigan v. Horsehead Resource Devel. Co., Inc., CCHR No. 97-E-280 (Feb. 15, 2000) Where federal court granted motion for summary judgment against Complainant in his disability termination claim, CHR dismissed its case for *res judicata*, finding Complainant's disability and race claims barred. CO

Thompson et al. v. GES Exposition Svcs., 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

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) *Res judicata* not applied against Complainant who lost a forcible entry and detainer action in state court as no evidence of sexual harassment -- the issue at CHR -- was allowed in the state court proceeding. CO

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Where a complainant seeks damages not possession it is not germane to a forcible entry and detainer action and so must be raised in a separate suit; therefore, CHR could proceed with discrimination case despite ruling for respondent in state court. CO

Coats v. Chicago Housing Authority, CCHR No. 98-H-241 (May 6, 1999) Where Complainant alleged that Respondent evicted him after the entry of a court order but does not evict non-disabled tenants after such orders, *res judicata* was not applicable as whether Respondent normally implements such orders was not, and could not have been, before the state court which entered the order; Complainant did not claim that having the eviction order entered itself was discriminatory. 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

Granted

Fernandez v. Michael Reese Hospital, CCHR No. 95-E-105 (Oct. 24, 1997) Where federal court granted summary judgment in favor of Respondent regarding Complainant's age claim, CHR dismissed Complainant's identical CHR case. CO

Simpson v. Montgomery Ward & Co. et al., CCHR No. 93-E-99 (May 6, 1998) Where the federal court granted summary judgment in favor of Respondent company, CHR dismissed Complainant's identical CHR case, including against two individual respondents he could have sued in his federal §1981 action. CO

Simpson v. Montgomery Ward & Co. et al., CCHR No. 93-E-99 (May 6, 1998) Under Illinois law, if the prior action adjudicates the master not liable where a judgment to the contrary could only have resulted from a finding that the servant committed an actionable wrong against the complainant, it is considered a judgment that the servant is not liable; therefore, individual respondents not sued in federal court were dismissed in CHR case as the federal decision necessarily meant the individuals did not discriminate; collateral estoppel also discussed. CO

Lilly v. Cosmopolitan Bank & Trust, CCHR No. 96-E-76 (July 27, 1998) Where federal court entered an order dismissing related case for failure to state a claim and where that federal case was found to concern the same cause of action, although not the same details, as Complainant's CHR case, Complainant barred from proceeding with CHR case; second federal case dismissed for want of prosecution also discussed. CO

Briscoe v. Malaysia Airlines, CCHR No. 96-E-295 (May 26, 1999) Where the federal court granted summary judgment in favor of Respondent and where cause of action was same in both cases, CHR dismissed its case as *res judicata*. CO

Grayson v. Linnco Futures Group et al., CCHR No. 97-E-201 (Aug. 31, 1999) Where federal court granted motion for summary judgment against Complainant in her sexual harassment case, CHR dismissed its case for *res judicata*, finding Complainant's sexual harassment and racial harassment claims barred as identical or a claim which could have been brought in federal court. CO

Bruce v. Chicago Dept. of Sewers, CCHR No. 95-E-250 (Dec. 29, 1999) Where federal court granted a motion for summary judgment against Complainant in a race discrimination case against the respondent Department, CHR dismissed its case for *res judicata*, finding his race and sex claims barred as identical or as a claim which could have been brought in federal court; CHR also dismissed individual respondents who Complainant had not sued in federal court as the federal decision necessarily meant that the individuals did not discriminate. CO

Swanigan v. Horsehead Resource Devel. Co., Inc., CCHR No. 97-E-280 (Feb. 15, 2000) Where federal court granted motion for summary judgment against Complainant in his disability termination claim, CHR dismissed its case for *res judicata*, finding Complainant's disability and race claims barred. CO

Thompson et al. v. GES Exposition Svcs., 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 Svcs., 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 Svcs., 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 Svcs., 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

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) In case where the Respondent's Personnel Board found Complainant had been suspended for cause, *res judicata* not applied where the Personnel Board did not review her retaliation claim, where City Council gave the Commission special authority for monitoring City departments, and where the Commission has special expertise, which the Personnel Board does not have, in reviewing discrimination and retaliation claims. R

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) The Personnel Board's finding that Complainant had been suspended for cause did not preclude a finding that the CHRO was violated. R

Prior Administrative Decisions

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) Unreviewed administrative decisions can be the basis of *res judicata* R

Alceguiere v. Cook County MIS & Yaeger, CCHR No. 91-E-137 (Mar. 20, 1996) *Res judicata* may apply where the determinations of an agency are made in a process that is adjudicatory, judicial or quasi-judicial. R

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

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) In case where the Respondent's Personnel Board found Complainant had been suspended for cause, *res judicata* not applied where the Personnel Board did not review her retaliation claim, where City Council gave CHR special authority for monitoring City departments and where CHR has special expertise, which the Personnel Board does not have, in reviewing discrimination and retaliation claims. R

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) The Personnel Board's finding that Complainant had been suspended for cause did not preclude a finding that the CHRO was violated. R

Privity of Parties

Thompson et al. v. GES Exposition Svcs., 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 Svcs., 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 Svcs., 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

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) To invoke *res judicata*, there must be: identity of parties; identity of causes in prior and current cases; a final judgment on the merits in the prior case; and a full and fair opportunity to litigate the claims and defenses in the prior action. R

Alceguiere v. Cook County MIS & Yaeger, CCHR No. 91-E-137 (Mar. 20, 1996) *Res judicata* required dismissal of claim where: a) parties in both actions are identical or privities; b) there is identity in cause of action; c) there is a final judgment of the merits; and d) the administrative agency which made the ruling was judicial or quasi-judicial. R

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) *Res judicata* applies only if "party against whom it is invoked had a full and fair opportunity to litigate the claim [in question] in the prior action" as well as identity of parties and of cause of action and a final judgment on merits in the prior case. CO

Fernandez v. Michael Reese Hospital, CCHR No. 95-E-105 (Oct. 24, 1997) Sets forth standards to apply *res judicata* -- the parties in the two actions are identical; there is identity of causes of action; and there is a final judgment on the merits. CO

Cross v. City of Chicago, CCHR No. 93-E-21 (Oct. 27, 1997) (same) CO

Simpson v. Montgomery Ward & Co. et al., CCHR No. 93-E-99 (May 6, 1998) *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

Simpson v. Montgomery Ward & Co. et al., CCHR No. 93-E-99 (May 6, 1998) Under Illinois law, if the prior action adjudicates the master not liable where a judgment to the contrary could only have resulted from a finding that the servant committed an actionable wrong against the complainant, it is considered a judgment that the servant is not liable; therefore, individual respondents not sued in federal court were dismissed in CHR case as the federal decision necessarily meant the individuals did not discriminate; collateral estoppel also discussed. CO

Lilly v. Cosmopolitan Bank & Trust, CCHR No. 96-E-76 (July 27, 1998) *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

Lilly v. Cosmopolitan Bank & Trust, CCHR No. 96-E-76 (July 27, 1998) Where first case was in federal court, federal law is used to determine whether that first resolution bars second case from proceeding; Illinois standards also discussed. CO

Lilly v. Cosmopolitan Bank & Trust, CCHR No. 96-E-76 (July 27, 1998) Discusses what constitutes same "core of operative facts" to have an identity of cause of action; holds that the fact that the details of the federal and CHR complaints are not the same is not dispositive; identity found because both complaints alleged that Complainant was constructively discharged due to her race. CO

Lilly v. Cosmopolitan Bank & Trust, CCHR No. 96-E-76 (July 27, 1998) Fact that a second, related federal case was dismissed for want of prosecution discussed; CHR found that such a dismissal is deemed to be a final judgment on the merits under federal, and here controlling, law, but might not be under state law; preclusive effect of other federal dismissal [discussed above] made this dismissal not dispositive. CO

Briscoe v. Malaysia Airlines, CCHR No. 96-E-295 (May 26, 1999) *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

Briscoe v. Malaysia Airlines, CCHR No. 96-E-295 (May 26, 1999) Where first case was in federal court, federal law is used to determine whether that first resolution bars second case from proceeding; Illinois standards also discussed. CO

Briscoe v. Malaysia Airlines, CCHR No. 96-E-295 (May 26, 1999) Discusses what constitutes same cause of action and finds that Complainant's federal and CHR cases concerned virtually identical claims. CO

Grayson v. Lincco Futures Group et al., CCHR No. 97-E-201 (Aug. 31, 1999) *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

Grayson v. Lincco Futures Group et al., CCHR No. 97-E-201 (Aug. 31, 1999) Specifically discusses that *res judicata* bars claims which could have been brought in the first case as well as those which actually were. CO

Grayson v. Lincco Futures Group et al., CCHR No. 97-E-201 (Aug. 31, 1999) Where federal court dismisses case against company, CHR may apply *res judicata* to bar proceeding against individual respondents whose actions were the basis for the complaint. CO

Bruce v. Chicago Dept. of Sewers, CCHR No. 95-E-250 (Dec. 29, 1999) *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

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Bruce v. Chicago Dept. of Sewers, CCHR No. 95-E-250 (Dec. 29, 1999) Where federal court dismisses case against company, CHR may apply *res judicata* to bar proceeding against individual respondents whose actions were the basis for the complaint. CO

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) Discusses what constitutes same cause of action, finds Complainant's federal and CHR cases concerned virtually identical claims. 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 Svcs., 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 Svcs., 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 Svcs., 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

Cross v. City of Chicago, CCHR No. 93-E-21 (Oct. 27, 1997) Where the circuit court decision in favor of Respondent was reversed and remanded by the state appeals court the circuit court decision could not be the basis for *res judicata* as it was not a final ruling. CO

RETALIATION

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

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) CFHO does not prohibit retaliation. CO

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) CFHO does not prohibit retaliation. R

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

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Employer's threats of possible retaliation by supervisory employee deemed sufficient to state a claim for retaliation. R

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Complainant may claim retaliation where Respondent fired her husband allegedly to retaliation for Complainant filing a discrimination complaint with CHR. R

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 (Sep. 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

Brown v. Chicago Department of Aviation, CCHR No. 90-E-82 (June 17, 1992) Complainant, a white woman who had associated with black men, failed to prove that Respondent had discriminated or retaliated against her when it terminated her. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) Complainant offered almost no evidence regarding this retaliation claim and so no liability found. R

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) Respondent found not to have retaliated against Complainant when it suspended her after she filed a complaint with CHR; the City's nondiscriminatory explanation of its treatment of Complainant was supported by the evidence presented. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Respondents found not to have cut Complainant's hours due to retaliation or due to his sexual orientation but were found liable for creating a hostile environment for Complainant due to his sexual orientation, including name-calling. R

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Respondent found not to have retaliated against Complainant; it had non-discriminatory reasons for suspending Complainant and the persons who suspended him were found not to have knowledge of the complaint at the time they decided to suspend him. R

Opposition to Discrimination

Heller v. 3950 N. Lake Shore Drive Condominium Assoc. et al., CCHR No. 95-H-27 (Nov. 22, 1995) In dicta, CHR notes that an allegation that retaliation is due to a person's opposition of discrimination is not covered by CHRO's definition of retaliation while an allegation that the retaliation was due to participation in administrative proceedings is covered. CO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) CHRO's prohibition of retaliation covers only people who participated in CHR's process not those who opposed discrimination elsewhere. CO

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) CHRO's prohibition of retaliation covers only people who participated in CHR's process, not those who opposed discrimination elsewhere, including on the job. CO

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) CHR distinguishes *quid pro quo* sexual harassment from retaliation; finds that action allegedly taken because a complainant rejected sexual advances is covered under *quid pro quo* theory, even if it is not actionable as retaliation as defined by CHRO. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) CHRO's prohibition of retaliation covers only people who participated in CHR's process, not those who opposed discrimination elsewhere, including on the job. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) CHR distinguishes *quid pro quo* sexual harassment from retaliation; finds that action allegedly taken because a complainant rejected sexual advances is covered under *quid pro quo* theory, even if it is not actionable as retaliation as defined by CHRO. CO

Ordinance Coverage

Thomas v. Cook County State's Attorney's Office, CCHR No. 94-PA-18 (Mar. 3, 1994) CHRO prohibits only retaliation which allegedly occurs as a result of an individual's participation in proceedings under the CHRO and so did not cover Complainant's claim that he was retaliated against because he had filed a criminal action against Respondent. CO

Harris v. Craddieth, CCHR No. 92-H-179 (Apr. 20, 1994) The CFHO does not prohibit retaliation against a person who filed a complaint with CHR. R

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) CHRO's prohibition of retaliation covers only people who participated in CHR's process, not those who opposed discrimination elsewhere, including on the job. CO

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) CFHO does not prohibit retaliation. R

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) CHRO's prohibition of retaliation covers only people who participated in CHR's process, not those who opposed discrimination elsewhere, including on the job. CO

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 Svcs., 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

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) CHR distinguishes *quid pro quo* sexual harassment from retaliation; finds that action allegedly taken because a complainant rejected sexual advances is covered under *quid pro quo* theory, even if it is not actionable as retaliation as defined by CHRO. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) (same) CO

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

Huezo v. St. James Properties, CCHR No. 90-E-44 (Dec. 11, 1991) CHR adopts a subjective and objective standard to evaluate retaliation claims and so looks at whether Complainant actually felt threatened and at whether a reasonable person in his/ her position would have felt threatened. CO

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) Complainant must show that she engaged in expression protected by the Ordinance, that her employer took an adverse action against her, and that there is a link between the two. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) Timing, without more, found not sufficiently

proximate in this case to establish nexus between termination and complaint. R

Flax-Jeter v. Chicago Dept. of Aviation, CCHR No. 91-E-146 (June 15, 1994) In case claiming retaliation in employment, complainant must show that she had engaged in expression or activity protected by the CHRO, that respondent took an adverse action against her, and that there may have been a link between the two; then the burden shifts to the respondent. R

Threats

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Threats and constant surveillance deemed sufficient to state a claim for retaliation. R

Huezo v. St. James Properties, CCHR No. 90-E-44 (Dec. 11, 1991) Threats of future retaliation may be considered "adverse employment actions" sufficient to state a claim for retaliation. CO

RETROACTIVITY

Ordinance

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Current CHRO does not retroactively apply to acts which occurred before its effective date because it includes enforcement procedures and civil damages not included in the prior one. R

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Where there would be a substantial burden placed on a party, the CHRO cannot be retroactively applied. R

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) Current CHRO does not retroactively apply to acts which occurred before its effective date and so Complainant cannot recover for any harassment which may have occurred before May 6, 1990. CO

Regulations

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Commission regulations presumed to be retroactive -- no language or legislative history to indicate otherwise. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (May 26, 1992) Amended regulations effective 1-1-92 -- after the filing of the Complaint -- appropriately applied in a hearing after effective date because the violation was continuing and there was no burden placed on the Respondent not otherwise placed on it by the CFHO. R

Santiago v. Bickerdike Apts. et al., CCHR No. 91-FHO-54-5639 (Sep. 16, 1992) CHR reaffirms its 5-26-92 ruling finding 1992 Regulations applicable to case, citing additional legal authority. R

SANCTIONS

Abuse of Process

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Where Respondent failed to attend hearing without notifying anyone, she was ordered to pay Complainant \$344.25 in sanctions as his reasonable costs for attending that hearing from New York. R

Mitchell v. Kocan, CCHR No. 93-H-108 (Oct. 18, 1995) Respondents' failure to participate in discovery procedures in good faith resulted in substantial additional time spent by Complainant so Respondents ordered to pay Complainant \$5000 for their lack of compliance. R

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (July 5, 1996) Where Respondent did not respond to discovery and did not object to Complainant's motion for sanctions, Hearing Officer ordered Respondent to submit a complete response by a date certain and stated that, if it did not, Respondent would have to pay Complainant his attorney's fees and Complainant would be entitled to a negative inference that the missing documents help Complainant's case. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Aug. 20, 1996) Where Respondent did not inform CHR or Complainant that he would request a continuance of the Hearing before the Hearing started, Respondent ordered to pay costs of Complainant, Complainant's witnesses and attorney and the Hearing Officer. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Oct. 8, 1996) Respondent ordered to pay Complainant \$1,305 for Complainant's and witnesses' costs for failing to proceed at 1st Hearing without notice; see 8-20-96 order above. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Nov. 19, 1996) Respondent ordered to pay Complainant's attorney's fees and costs of \$1,246.80 for its failure to proceed at 1st Hearing without notice; see 8-20-96 order above. HO

White v. Guernsey Dell, CCHR No. 95-E-213 (Jan. 29, 1997) Where Complainant did not attend pre-

hearing conference and apparently moved without providing new address, case dismissed. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (May 21, 1997) CHR approves prior orders for attorney's fees and fines imposed due to Respondent's violations of hearing procedures. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Aug. 7, 1998) Where Complainant refused to comply with the Hearing Officer's order about discovery compliance, Hearing Officer held that Complainant would be unable to testify at the Hearing on his own behalf unless he gave the outstanding documents to Respondent by a specified date. HO

Morris v. ARAMARK Educational Group, CCHR No. 97-E-131 (Sep. 1, 1998) Where Respondent attended the Conciliation Conference but did not bring anyone with authority to settle and where Respondent subsequently did not provide good cause for that failure as ordered, CHR fined Respondent for the cost of the Conciliator's attendance at the Conference. CO

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Feb. 24, 1999) CHR upheld Hearing Officer's sanction that Complainant could not testify at hearing, finding he was "contumacious" due to his repeated refusal to comply with orders despite several opportunities to correct behavior; Complainant lost case as he was unable to prove *prima facie* case. R

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

McGraw 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

Nadeau et al. v. Family Physicians Center et al., CCHR No. 96-E-159/160/161 (Mar. 21, 1998) In considering Complainants' motion for sanctions for Respondent's failure to seek continuance of administrative hearing in a timely manner, Complainants had burden to demonstrate that Respondent's action demonstrated intentional or reckless disregard for Commission's process. HO

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) Where represented Complainant had not filed a motion to compel, Hearing Officer ruled that she must meet a high burden to bar Respondent from introducing evidence which it had not provided during discovery. HO

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

Chrzanowski v. Alexandra Foods, CCHR No. 11-E-56 (Oct. 18, 2012) Complainant fined \$70 for failure to fully comply with instructions in notice of potential sanctions for failure to attend settlement conference, but no dismissal or award of costs to Respondent where this was first procedural violation and Respondent not prejudiced because its attendance was ordered and the conference would not be rescheduled. CO

Discovery – See Discovery/Sanctions section, above.

Failure to Attend CHR-Ordered Conference/Hearing

Mariduena/Sutton/Reed v. Cervantes, CCHR No. 95-H-21/23/28 (Feb. 22, 1996) Where Complainants' attorney did not tell clients of the Conciliation Conference so a second Conference was needed, attorney fined cost of the Conciliator for the first Conference but complaints not dismissed. CO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Aug. 20, 1996) Where Respondent did not inform CHR or Complainant that he would request a continuance of the Hearing before the Hearing started, Respondent ordered to pay costs of Complainant, Complainant's witnesses and attorney and the Hearing Officer. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Oct. 8, 1996) Respondent ordered to pay Complainant \$1,305 for Complainant's and witnesses' costs for failing to proceed at 1st Hearing without notice; see 8-20-96 order above. HO

Efstathiou v. Cafe Kallisto, CCHR No. 95-PA-1 (Nov. 19, 1996) Respondent ordered to pay Complainant's attorney's fees and costs of \$1,246.80 for its failure to proceed at 1st Hearing without notice; see 8-20-96 order above. HO

Lawrence v. Multicorp Co., CCHR No. 97-PA-65 (Jan. 22, 1998) Where neither party attended Pre-Hearing Conference, Hearing Officer fined each party and warned that failure to attend the Hearing would lead to dismissal or default. HO

Houck v. Inner City Horticultural Fdn., CCHR No. 97-E-93 (Mar. 17, 1998) Where Respondent failed to attend pre-hearing conference, hearing officer ordered it to pay cost of hearing officer's fees for attending the conference. HO

Morris v. ARAMARK Educational Group, CCHR No. 97-E-131 (Sep. 1, 1998) Where Respondent attended the Conciliation Conference but did not bring anyone with authority to settle and where Respondent subsequently did not provide good cause for that failure as ordered, CHR fined Respondent for the cost of the Conciliator's attendance at the Conference. CO

Smith v. Pitts, CCHR No. 98-H-173 (May 6, 1999) Where Complainant missed the scheduled Conciliation Conference without good cause, her case was dismissed for failure to cooperate. CO **See also Conciliation Conference and Failure to Cooperate sections, above.**

Fleming v. Pitts, CCHR No. 98-H-137 (Oct. 21, 1999) Complainant's case was dismissed where she did not attend the Pre-Hearing Conference, did not follow regulations concerning pre-hearing procedures, and did not respond to the Hearing Officer's order seeking an explanation for those failures. HO

Powell v. Planned Property Mgt., CCHR No. 98-H-31 (Nov. 4, 1999) Where Complainant missed a scheduled Conciliation Conference, her case was dismissed.

Powell v. Planned Property Mgt., CCHR No. 98-H-31 (Nov. 4, 1999) Complainant's claim that she was absent from a Conciliation Conference because she had a hard time contacting her attorney was found not to be good cause when she knew that there was an upcoming Conference but did not simply call CHR to obtain the date. CO **See also Failure to Cooperate/Case Dismissed, above.**

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. 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. HO

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 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

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 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, motion to vacate was not served on the hearing officer nor was proof of service on Complainant provided. 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 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

Cotten v. Casa Azatlan, CCHR No. 11-P-63 (Oct. 4, 2012) Respondent fined \$70 for arriving 35 minutes late to scheduled proceeding; no default because the tardiness was negligent but not in willful disregard of CHR procedures. CO

Chrzanowski v. Alexandra Foods, CCHR No. 11-E-56 (Oct. 18, 2012) Complainant fined \$70 for failure to fully comply with instructions in notice of potential sanctions for failure to attend settlement conference, but no dismissal or award of costs to Respondent where this was first procedural violation and Respondent not prejudiced because its attendance was ordered and the conference would not be rescheduled. 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 conduct 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

Molden v. Dunkin Donuts, CCHR No. 12-P-55 (Mar. 21, 2013) CHR imposed \$500 fine and costs on Complainant for false statements in Complaint, the third such offense. Complainant alleged he was denied service based on race, but video surveillance recording showed Complainant completed his food purchase. CO

Molden v. Dunkin Donuts, CCHR No. 12-P-55 (Apr 18, 2013) Motion to vacate sanctions denied. Explanation that Complainant received coupons and apology did not provide good cause under Reg. 235.150 for false statements to CHR about the incident complained of. CO

Negative Inference Order – See separate Negative Inference Order section, above.

Sanctions Denied/Declined

Duvergel v. Zivkovic, CCHR No. 97-H-63 (Jan. 14, 1998) Although Complainant did not report her new address to CHR, CHR did not dismiss her case for failing to attend a Conciliation Conference because it appeared that she did not receive notice of it; she responded promptly to a notice of potential dismissal that CHR sent once it learned her new address. CO

Nadeau et al. v. Family Physicians Center et al., CCHR No. 96-E-159/160/161 (Mar. 21, 1998) Hearing officer denied motion for sanctions for Respondent's failure to seek continuance of administrative hearing in a timely manner; after taking testimony concerning Respondent's health, including from his doctor, hearing officer determined that respondent's failure to notify others of need for continuance was not due to bad faith and was not intentional disregard for procedures; his neglect was primarily due to his diminished mental faculties caused by his brain tumor and the treatment for it. HO

Nadeau et al. v. Family Physicians Center et al., CCHR No. 96-E-159/160/161 (Mar. 21, 1998) Although motion for sanctions was denied, see entry above, hearing officer held that, if complainants prevail after a hearing, they will be entitled to seek attorney's fees for attendance at the hearing which had to be postponed. HO

Smith v. Wilmette Real Estate & Mgt., CCHR No. 95-H-159 (Aug. 13, 1998) Where Complainant did not attend Conciliation Conference because CHR mis-sent first notice and where the later one was misrouted, and where Complainant explained his absence as soon as he learned of it, CHR did not dismiss Complainant's case for failure to cooperate. CO

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) Hearing Officer denied Complainant's motion to bar Respondent from introducing evidence about employees similar to Complainant because represented Complainant had not filed a motion to compel and because she found such a sanction too severe for Respondent's incomplete discovery response; order noted that Complainant could make a motion at hearing if withholding certain documents proved to be extremely prejudicial. HO

Fischer v. Teachers Acad. for Mathematics and Science, CCHR No. 96-E-164 (Mar. 18, 1999) CHR's regulations contemplate increasingly punitive responses for failing to comply with discovery; thus the Hearing Officer refused to enter severe sanctions -- barring the introduction of all documents and all witnesses -- when the moving party had not previously sought lesser sanctions. HO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 6, 1999) (same) HO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 6, 1999) Where Respondent had not filed a motion to compel, Hearing Officer denied its motion to bar Complainant from presenting all documentary evidence and all witnesses at the hearing as too punitive; the Hearing Officer noted that Complainant had been *pro se* for most of the process, had responded to discovery once represented, and that there was no surprise or prejudice to Respondent with respect to the witnesses or documents which Complainant intended to present. HO

Matthews v. Hinckley & Schmitt, CCHR No. 98-E-206 (June 30, 1999) Where Complainant's failure to attend the Conciliation Conference was caused a medical emergency where she used great effort to attend nonetheless, CHR found that she demonstrated good cause and so did not dismiss her case for failure to cooperate. CO **See also Conciliation Conference and Failure to Cooperate sections, above.**

Wortham v. Wright Property Mgt. et al., CCHR No. 96-E-141 (June 30, 1999) Where Complainant

explained that he did not attend Conciliation Conference because he did not receive notice of it and described his general problems with his mail, and where he responded as soon as he received the notice of potential dismissal, CHR found that he demonstrated good cause and so did not dismiss his case for failure to cooperate. CO **See also Conciliation Conference and Failure to Cooperate sections, above.**

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

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

Roche-Kelly v. Juvenile Diabetes Research Foundation, CCHR No. 10-E-74 (Feb. 21, 2013) Failure of party to produce witness at investigation stage does not create mandatory presumption that the witness is hiding information favorable to the opposing party, nor does it require an administrative hearing to obtain the testimony. CO

Nimis v. Salvation Army Adult Rehabilitation Center, CCHR No. 10-H-33 (Mar. 8, 2013) Complainant

motion to strike document request as not served by proper deadline denied but motion for more time to respond granted. HO

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

Chrzanowski v. Alexandra Foods, CCHR No. 11-E-56 (Oct. 18, 2012) Complainant fined \$70 for failure to fully comply with instructions in notice of potential sanctions for failure to attend settlement conference, but no dismissal or award of costs to Respondent where this was first procedural violation and Respondent not prejudiced because its attendance was ordered and the conference would not be rescheduled. CO

Molden v. Dunkin Donuts, CCHR No. 12-P-55 (Mar. 21, 2013) CHR imposed \$500 fine and costs on Complainant for false statements in Complaint, the third such offense. Complainant alleged he was denied service based on race, but video surveillance recording showed Complainant completed his food purchase. CO

Molden v. Dunkin Donuts, CCHR No. 12-P-55 (Apr 18, 2013) Motion to vacate sanctions denied. Explanation that Complainant received coupons and apology did not provide good cause under Reg. 235.150 for false statements to CHR about the incident complained of. CO

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

Raimondi v. University of Illinois, CCHR No. 94-PA-11 (Apr. 18, 1995) Where student Complainant alleged discrimination or harassment by a teacher or administrator, CHR found school is not a public accommodation because teaching is not a function provided to the general public. CO

McMiller v. Chicago Public Schools, et al., CCHR No. 94-PA-15 (Apr. 18, 1995) (same) CO

Hammer v. University of Illinois, et al., CCHR No. 94-PA-25 (Apr. 18, 1995) (same) CO

Sreenan v. Chicago School of Massage Therapy, CCHR No. 94-PA-37 (Apr. 18, 1995) (same) CO

Adamson v. Loyola University, et al., CCHR No. 94-PA-44 (Apr. 18, 1995) (same) CO

Chism v. University of Illinois, CCHR No. 94-PA-68 (Apr. 18, 1995) (same) CO

Cornelius v. De La Salle Institute, CCHR No. 93-PA-68 & 69 (Apr. 19, 1995) (same) CO

Roth v. University of Illinois & Illinois Masonic Medical Center, CCHR No. 92-PA-30 (Apr. 21, 1995) Where medical student who had a disability alleged discrimination by a doctor who supervised and graded his performance in a required hospital rotation, neither the medical school nor the hospital were found to be public accommodations as supervising and grading medical students were functions not open to the general public. CO

Futch v. St. Benedict High School, CCHR No. 95-PA-40 (Dec. 15, 1995) Where student Complainant alleged discrimination by the school administration, CHR found school is not a public accommodation because discipline of students is not a function provided to the general public. CO

Brown v. St. Scholastica, CCHR No. 94-PA-78 (Apr. 1, 1996) (same) CO

Miller v. Disciples Divinity House of University of Chicago, CCHR No. 95-PA-32 (May 10, 1996) Independent foundation which serves only students who are already admitted to the University's Divinity School and who are members of the Christian Church found not open to general public and so not a public accommodation over which CHR has jurisdiction. CO

Henry v. Gordon Technical High School, CCHR No. 95-PA-18 (June 11, 1996) Where student Complainant challenged his receipt of failing grades and his transfer/expulsion, CHR found that the school is not a public accommodation because grading is not a function provided to the general public. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHR re-affirmed its holding in prior cases finding that, for a school to be covered as a public accommodation, the function or facility at issue must be offered to the general public; cites Commission precedent. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) Where the alleged discrimination concerned teaching, CHR held that is not a function available to the general public and so it denied the Request for Review seeking to reopen the case. CO

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) CHR dismissed case brought by City Colleges against union in whose newspaper an anti-affirmative action column had been written: CHR found that the college's educational environment, the purported public accommodation affected by the column, was not open to the general public and so not protected by the CHRO. CO

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) Fact that the article had an impact on faculty and staff as well as on students does not make the college's educational environment open to the "general public" as required by the CHRO. CO

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 students 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

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) Where student Complainant who has a disability alleged that some of Respondent's facilities were not accessible to her, CHR found Respondent to be a public accommodation to the extent that those facilities were open to the public. CO

Standard

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) School held to be a public accommodation to the extent that the challenged function or facility is open to the general public. CO

Raimondi v. University of Illinois, CCHR No. 94-PA-11 (Apr. 18, 1995) (same) CO

McMiller v. Chicago Public Schools, et al., CCHR No. 94-PA-15 (Apr. 18, 1995) (same) CO

Hammer v. University of Illinois, et al., CCHR No. 94-PA-25 (Apr. 18, 1995) (same) CO

Sreenan v. Chicago School of Massage Therapy, CCHR No. 94-PA-37 (Apr. 18, 1995) (same) CO

Adamson v. Loyola University, et al., CCHR No. 94-PA-44 (Apr. 18, 1995) (same) CO

Chism v. University of Illinois, CCHR No. 94-PA-68 (Apr. 18, 1995) (same) CO

Cornelius v. De La Salle Institute, CCHR No. 93-PA-68 & 69 (Apr. 19, 1995) (same) CO

Roth v. Univ. of Illinois & Illinois Masonic Medical Center, CCHR No. 92-PA-30 (Apr. 21, 1995) (same)

CO

Futch v. St. Benedict High School, CCHR No. 95-PA-40 (Dec. 15, 1995) (same) CO

Brown v. St. Scholastica, CCHR No. 94-PA-78 (Apr. 1, 1996) Schools generally do not operate as public accommodations with respect to a student who challenges as discriminatory a decision made by a school representative. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHR re-affirmed its prior holdings that, for a school to be covered as a public accommodation, the function or facility at issue must be offered to the general public; cites Commission precedent. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) The CHRO's exemption for schools concerning the enrollment of students of one sex suggests that schools may be covered as public accommodations when they meet the full definition, but it does not suggest that teaching should be found to be available to the general public. CO

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) CHR followed its prior decisions in which it held that, for a school or university to be covered as a public accommodation, the function or facility at issue must be offered to the general public. CO

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

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

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

SETTLEMENT AGREEMENTS

Agreements Made Elsewhere

Heller v. 3950 N. Lake Shore Drive et al., CCHR No. 95-H-26/27 (Aug. 12, 1996) Where Complainant entered a settlement agreement in federal court with one respondent but not others, the one respondent dismissed from CHR, as Complainant agreed, but the others not dismissed. CO

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

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

Stevens v. Hollywood Towers Condo. Assn. et al., CCHR No. 10-H-19 (Oct. 24, 2012) Extension of time to submit settlement document granted after parallel case settled in federal court, with caution that it was not for purpose of implementing the terms of settlement. 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 Kmiecik 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

Cornelius v. De La Salle Institute, CCHR No. 93-PA-68 & 69 (June 2, 1994) CHR grants Complainants' motion to strike and so refuses to consider Respondent's argument that Complainants' settlement offer had any bearing on the merits of their claims or on their motives in filing; cites public policy and comparable federal rule of evidence. CO

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

Cotten v. Casa Aztlan, CCHR No. 11-P-63 (Oct. 4, 2012) Respondent fined \$70 for arriving 35 minutes late to scheduled proceeding; no default because the tardiness was negligent but not in willful disregard of CHR procedures. CO

Chrzanowski v. Alexandra Foods, CCHR No. 11-E-56 (Oct. 18, 2012) Complainant fined \$70 for failure to fully comply with instructions in notice of potential sanctions for failure to attend settlement conference, but no dismissal or award of costs to Respondent where this was first procedural violation and Respondent not prejudiced because its attendance was ordered and the conference would not be rescheduled. 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

Mahmoud v. Chipotle Mexican Grill Service Co. LLC, CCHR No. 12-P-25 (Apr. 11, 2013) Motion to conduct settlement conference with independent mediator by telephone denied, finding this method generally unproductive. Conference cancelled and case forwarded to hearing where Respondent and its attorney were located in Denver and unable to secure a local representative to appear, and telephone talks with Complainant had not produced agreement. CO

SEX DISCRIMINATION

Affirmative Action Plan

Brown et al v. Metropolitan Pier et al., CCHR No. 91-E-127 (Sep. 11, 1992) Respondents' affirmative action plan promoting women upheld against sex discrimination challenge when they showed it was justified by a manifest imbalance, did not unnecessarily trammel the rights of other workers, and was temporary. CO

Athletics

Steele v. American Youth Soccer Org., CCHR No. 98-PA-54 (Aug. 25, 1999) CHR finds substantial evidence concerning AYSO's separation of teams by sex where Complainant could not play on the team of her choice and alleged that her assigned team was not sufficiently competitive. CO

Steele v. American Youth Soccer Org., CCHR No. 98-PA-54 (Aug. 25, 1999) Order discusses constitutional and Title IX standards to describe legal questions which will have to be resolved in the case, including open questions about what burden of proof each party may have; what constitutes an injury in this context; and what defenses may be available to AYSO. 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) 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

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Sets forth burden shifting in sex discrimination/employment case. R

Dress Codes

Palmer v. United Airlines, CCHR No. 93-E-156 (Nov. 18, 1994) CHR denied request for review of prior no substantial evidence finding and held that dress codes for men and women need not be identical, so long as they are equal. CO

Exemption

Kilbert v. Pacific Garden Mission, CCHR No. 96-PA-68 (Nov. 22, 1996) Under CHRO exemption for "distinctly private" facilities, homeless shelter not required to allow male Complainant to stay in women's dormitory. CO

Grooming Standards

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) To state a claim for sex discrimination, a grooming policy's general standards, not just its particulars, must be different for men and women and the differences must be based on stereotypes about the sexes. CO

Liability Found

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Intimidation and hostility against a woman tenant because she is a woman, such as hitting her and nailing her back door shut, held to constitute sex discrimination. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Respondent was found liable for sex discrimination due to physical, not sexual, intimidation, including hitting Complainant; Complainant did not present a case of *quid pro quo* sexual harassment and her testimony on sexually hostile housing environment found not credible. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Sex discrimination in form of a hostile housing environment may result from landlord's intimidation and harassment against a female tenant due to her sex. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Landlord found liable for creating atmosphere of intimidation due to tenant's sex, including by making some sexual comments and entering her apartment against her will; not found liable for sexual harassment. R

Williams v. O'Neal, CCHR No. 96-H-73 (June 18, 1997) In default case, landlords found liable for failing to make repairs to Complainant's apartment over several years due to her sex. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Respondent found liable for sex discrimination where she made anti-male comments to Complainant and discharged him for work violations but did not discharge female employee with similar violations; sexual harassment not found. R

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 (Sep. 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

Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al., CCHR No. 10-E-40 (Dec. 19, 2012) Restaurant owner sexually harassed and constructively discharged employee through unwelcome sexual comments and gestures such as kissing and appearing with clothing unfastened. R

Liability Not Found

Lawrence v. Atkins, CCHR No. 91-FHO-17-5602 (July 29, 1992) Respondent proved that it had not discriminated against Complainant due to marital status or sex but was found liable for race discrimination. R

Barber v. Chicago Dept. of Buildings, CCHR No. 91-E-35 (Oct. 21, 1992) No liability found where the Respondent's actions were found due to deterioration in Complainant's work and no evidence showed that men were treated differently. R

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Mar. 17, 1993) Complainant did not show that she was treated differently due to her race, national origin or sex when she was not allowed to sell food concessions at a flea market and where she did not show that she had met the non-discriminatory prerequisites for use of the accommodation. R

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Employer alleged to have discriminated due to sex in terms and conditions and in discharge of Complainant found not liable as it was found to have legitimate, nondiscriminatory reasons for its actions. R

Palmer v. United Airlines, CCHR No. 93-E-156 (Nov. 18, 1994) Complainant provided no new arguments to cause CHR to reverse its no substantial evidence finding that employers need not have identical dress codes for men and women, so long as they are equal. CO

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) Black male evening/weekend secretary did not show that Respondent's lack of a good ID policy had a disparate impact on black men as, among other things, evidence did not show that black men were stopped more often than white or female employees. R

Green v. Altheimer & Gray, CCHR No. 94-E-57 (Jan. 29, 1997) Black male evening/weekend secretary did not show that his confrontation with a partner of the firm was due to his race and/or sex. R

Brown v. Emil Denmark Cadillac, CCHR No. 96-PA-76 (Nov. 18, 1998) No liability found where Respondent showed that bad service provided to African-American Complainant/customer as compared to white customer was caused by different quality salespeople, not race or sex of customers. R

Blakemore v. Starbucks Coffee Co., CCHR No. 97-PA-60 (Feb. 24, 1999) CHR upheld Hearing Officer's sanction that Complainant could not testify at hearing, finding he was "contumacious" due to his repeated refusal to comply with orders despite several opportunities to correct behavior; Complainant lost case as he was unable to prove *prima facie* case. 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

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

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

Physical Intimidation

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Landlord's physical intimidation of a tenant, even where not overtly sexual, found to be sex discrimination due to hostile housing environment when it was sufficiently pervasive and done because the tenant is a woman. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) (same) R

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Complaint found to allege sufficient facts for claims of both *quid pro quo* and hostile environment sexual harassment where, for example, it states that Respondent stared at her, touched her, made sexual advances, and, when she refused, evicted her; also found sufficient to claim hostile environment due to her sex. CO

Pregnancy Discrimination – See separate Pregnancy Discrimination section, above.

Proof

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) For sex discrimination claim, Complainant must prove that Respondent treated some people less favorably because they are male, not that all men were treated less favorably. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Fact that employer may have terminated both men and women in arbitrary manner does not preclude a *prima facie* case where Complainant can show he was treated worse than a similarly-situated woman. 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

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., CCHR No. 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

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) In a sex discrimination case based on landlord's physical intimidation of female tenant, CHR uses the reasonable woman standard to evaluate whether the landlord's conduct created a hostile housing environment. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) (same) R

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

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) CHRO's prohibition of sex discrimination also proscribes sexual harassment. HO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR finds that CFHO's prohibition of sex discrimination forbids sexual harassment, despite its lack of a specific reference to sexual harassment. 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

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

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

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sep. 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

Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al., CCHR No. 10-E-40 (Dec. 19, 2012) Restaurant owner sexually harassed and constructively discharged employee through unwelcome sexual comments and gestures such as kissing and appearing with clothing unfastened. R

SEXUAL HARASSMENT

Burden of Proof

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Burden shifting set forth in sexual harassment, housing matter. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) sets forth *prima facie* case and burden shifting in case involving sexual harassment and eviction after rejection of landlord's advances. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Complainant must prove her case by a preponderance of the evidence. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Sets forth *prima facie* case for hostile environment sexual harassment. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (Nov. 17, 1993) Complainant must establish her case by a preponderance of the evidence and where there is no corroborating evidence, credibility of the accuser and the accused will be key. R

Harris v. Craddieth, CCHR No. 92-H-179 (Apr. 20, 1994) Sets forth burden shifting for both hostile environment and *quid pro quo* harassment in housing case. R

Reid v. F.J. Williams Realty, et al., CCHR No. 94-H-42 (Sep. 1, 1994) Sets forth standard for *quid pro quo* harassment in housing case. R

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Sets forth *prima facie* case standard in housing sexual harassment case. R

Harper v. Cambridge Systematics, Inc. et al., CCHR No. 04-E-86 (Feb. 17, 2010) Complainant failed to establish by preponderance of evidence sufficient facts to imply harassment in absence of a credible, non-discriminatory explanation for Respondent's actions. R

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June, 2014) In the absence of a credible, non-discriminatory explanation for Respondent's actions, Complainant failed to establish by a preponderance of the evidence that 1) she was subjected to unwelcome conduct of a sexual nature and 2) the conduct was pervasive enough to render her working environment intimidating, hostile or offensive. R

Burden Shifting

Reid v. F.J. Williams Realty et al., CCHR No. 93-H-42 (Feb. 22, 1995) Sets forth burden shifting standards for *quid pro quo* sexual harassment case in housing context. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Sets forth burden shifting for *quid pro quo* and hostile environment sexual harassment in housing case. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Sets forth burden shifting for *quid pro quo* and hostile environment sexual harassment in public accommodation case. R

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) Sets forth burden shifting for hostile environment employment case. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Sets forth burden shifting for hostile environment housing case. R

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Oct. 16, 1996) Sets forth burden shifting for hostile environment housing case. R

Scadron/Zuberbier v. Martini's of Chicago & Jones, CCHR No. 94-E-195/196 (Feb. 19, 1997) Sets forth standards for both hostile environment and *quid pro quo* sexual harassment in employment. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Sets forth what a complainant must show to prove a hostile housing environment, including that the harassment must be severe or pervasive and not isolated or trivial; also states that a complainant must prove that by a preponderance of the evidence. R

Constructive Discharge

Gapinski v. Crown Books, CCHR No. 93-E-149 (Nov. 1, 1993) A finding of substantial evidence of sexual harassment does not mandate a finding of constructive discharge or else the two doctrines would be duplicative. CO

Gapinski v. Crown Books, CCHR No. 93-E-149 (Nov. 1, 1993) Complainant cannot maintain that his work conditions were intolerable due to sexual harassment when he was given a *bona fide* offer to work in a neutral, non-hostile environment and when he failed even to try to correct the problem through the company's internal grievance procedure; CHR differentiates this from the standard to determine whether an employer took reasonable corrective actions to address sexual harassment. CO

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) Where Complainant did not prove underlying sexual harassment, she was found not to have proved her resignation was constructive discharge. CO

Scadron/Zuberbier v. Martini's of Chicago & Jones, CCHR No. 94-E-195/196 (Feb. 19, 1997) Where Complainants found not to have proved sexual harassment, one's claim of constructive discharge failed. R

Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al., CCHR No. 10-E-40 (Dec. 19, 2012) Restaurant owner sexually harassed and constructively discharged employee through unwelcome sexual comments and gestures during three week employment period, such as kissing and appearing with clothing unfastened. R

Continuing Violation

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) CHR able to consider incidents which occurred more than 180 days from filing of complaint due to application of continuing violation theory. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) Taking complainant's allegations and reasonable inferences as true, CHR found she stated a claim for continuing violation so that her otherwise untimely allegations were not dismissed. CO

Co-Worker Conduct

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) Where complainant alleges she was harassed by a co-worker, she must not only prove that the conduct occurred, but also that the employer knew of it and failed to take reasonable corrective action. R

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) In sexual harassment cases, CHRO uses the same standard for respondent liability whether the harasser is a non-employee or a non-managerial or non-supervisory employee; therefore, the standard is the same whether or not Respondent was the employer of the alleged harasser, as it was clear that the alleged harasser was not a supervisor or manager in any case. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) CHRO states that, if Respondent took reasonable corrective action once it learned of alleged sexual harassment by a non-employee or a non-managerial or non-supervisory employee, then it would not be found liable. CO

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

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Respondent found liability due to physical touching but not verbal harassment. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Respondent liable for repeated instances of inappropriate and unwelcome sexual demands which created a hostile, intimidating and offensive housing environment. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Respondent liable for repeated and long term sexual harassment. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Liability found where incidents "taken as a whole" were found to be sufficiently pervasive to have created a hostile environment even though, taken alone, some of the incidents would not rise to the level of sexual harassment. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Respondent found liable where he harassed Complainant by telling offensive jokes, making comments about Complainant's appearance, her sex life and having sex with her and where Complainant had witnesses to corroborate Respondent's proclivity for inappropriate remarks and conduct. R

Harris v. Craddieth, CCHR No. 92-H-179 (Apr. 20, 1994) Landlord's rejected request for relationship with Complainant, without additional actions, found insufficient to create hostile environment. R

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Two incidents which were outside limitations period and one sexual incident within it found not to state a case of hostile environment harassment. R

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Dec. 12, 1994) Motion in limine denied finding that a woman need not have contemporaneous knowledge of harassment of other women for evidence of that other harassment to be admitted to show creation of a hostile environment. HO

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Dec. 12, 1994) In denying motion in limine, found that Complainant may have to show intent of Respondents if they are shown to have done the sexual harassing acts but dispute that the acts were intended or taken as harassment. HO

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) To determine sexual harassment hostile environment, CHR looks at the frequency of the conduct, its severity, whether it is physically threatening or humiliating and whether it usually interferes with the employee's job performance. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) To create a hostile environment, conduct need not interfere with work performance if it creates an intimidating, hostile or offensive environment; test is not what a reasonable woman can endure. R

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) Employee showed that employer created a hostile environment through his touching her, his propositions and his other sexual comments. R

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) Although there were only three incidents, they were sufficiently offensive and pervasive to constitute a hostile environment in that they occurred within one month, were each amply severe and she had objected after each one. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Respondent found liable for creating a hostile environment in Complainant's use of park facilities due to nine months of sexual comments and physical touching by a manager and another employee. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) In determining whether the conduct complained of had the purpose or effect of substantially interfering with complainant's use of park facilities, CHR reviews the record as a whole and the totality of the circumstances. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Where Complainant presented evidence of only two comments that were sexual in nature, hostile environment sexual harassment not proved; Respondent was found liable for sex discrimination. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Landlord found liable for creating a hostile environment where much, but not all, of his offensive conduct was sexual and sufficient to intimidate, offend and cause the Complainant fear and anguish. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Non-sexual hostility alone does not create a

hostile environment. R

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Oct. 16, 1996) Where, due to credibility of witnesses, Complainant did not carry her burden to show that the conduct which allegedly created the hostile housing environment occurred, Respondents found not liable. R

Scadron/Zuberbier v. Martini's of Chicago & Jones, CCHR No. 94-E-195/196 (Feb. 19, 1997) Where Complainants' stories had inconsistencies and Respondent's denials were forthright, Complainants found not to have carried their burden that they were sexually harassed. R

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Complaint found to allege sufficient facts for claims of both *quid pro quo* and hostile environment sexual harassment where, for example, it states that Respondent stared at her, touched her, made sexual advances, and, when she refused, evicted her; also found sufficient to claim hostile environment due to her sex. CO

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) To constitute hostile environment, conduct must be sufficiently severe or pervasive to alter complainant's work conditions and must create an abusive environment; use both subjective and objective standards. R

Lacy v. Karr & Assocs. and Karr, CCHR No. 97-E-91 (Jan. 14, 1998) Without deciding, CHR notes that, in certain cases, consensual relationships of supervisor with a complainant's co-workers may allow the complainant to make a claim for hostile environment sexual harassment. CO

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) To make a hostile environment claim, the conduct must be "sufficiently severe or pervasive to alter the conditions of [the victim's] employment and create an abusive working environment". CO

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) Where Complainant listed only two incidents of sexual harassment, one of which was untimely, CHR found she did not state a claim for hostile environment sexual harassment but did state a claim for *quid pro quo* harassment. CO

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) CHR found that Complainant did not prove hostile environment sexual harassment where the incidents described by Complainant were not sexual and where they could not be considered sufficiently severe or pervasive to have altered her housing environment. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Sets forth what Complainant must show to prove a sexually hostile housing environment, including that the harassment must be severe or pervasive and not isolated or trivial. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) In ruling that Complainant did not prove a hostile environment, CHR found that her testimony about the timing of the harassment was not credible and that her examples of the alleged harassment did not show that any sexual conduct was sufficiently severe or pervasive to create a hostile environment. R

Bovino v. Worldwide Tobacco, et al., CCHR No. 98-E-5 (Sep. 15, 1999) Complainant's claim that Respondent attempted to kiss her was not enough to show hostile environment where her testimony about other episodes was not credited and where she did not know of similar attempts to kiss other employees. R

Bovino v. Worldwide Tobacco, et al., CCHR No. 98-E-5 (Sep. 15, 1999) CHR considers the totality of the circumstances to determine whether the challenged conduct was sufficiently offensive and pervasive to have created a hostile environment. 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; analogizes to sexual harassment/hostile environment cases. CO

Carnithan & Lencioni v. Chicago Park Dist., et al., CCHR No. 00-E-147/148 (May 24, 2001) Even if Respondents 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 created an intimidating, hostile or offensive work environment. 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 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 alleged harasser 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 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

Manning v. AQ Pizza LLC, d/b/a Pizza Time, et al., CCHR No. 06-E-17 (Sep. 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

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Liable for hostile environment created by physical touching but not by verbal harassment. R

Garcia v. Vazquez, CCHR No. 91-FHO-61-5646 (June 17, 1992) Landlord found liable for sexually harassing tenant. R

Antonich v. Midwest Building Mgt., CCHR No. 91-E-150 (Oct. 21, 1992) Respondent liable for failure to hire Complainant after she rejected Respondent's advances. R

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) Respondent's statement that he would give Complainant a raise if she accompanied him to a hotel was sufficient to prove *quid pro quo* harassment. R

White v. Ison, CCHR No. 91-FHO-126 (Dec. 16, 1992) Landlord found liable for sexually harassing tenant where he made unwelcome sexual propositions and physically touched her. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Respondent liable for repeated instances of inappropriate and unwelcome sexual demands which created a hostile, intimidating and offensive housing environment. R

Boyd v. Williams, CCHR No. 92-H-72 (June 16, 1993) Landlord found liable for acts of verbal and physical sexual harassment of Complainant and for evicting her after she rejected his advances. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Respondent found liable for repeated and long-term sexual harassment, including inappropriate and unwelcome sexual advances and physical touching, and for constructive discharge, but not for reducing Complainant's hours or pay. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Respondent found liable where he harassed Complainant by telling offensive jokes, making comments about Complainant's appearance, her sex life and having sex with her and where Complainant had witnesses to corroborate Respondent's proclivity for inappropriate remarks and conduct. R

Starrett v. Duda/Sorice, CCHR No. 93-H-6 (Apr. 20, 1994) Female landlord found liable for sexually harassing male Complainant including Respondents' admission regarding an attempted unauthorized eviction in which they put some of Complainant's belongings on the street. R

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Landlord found liable for *quid pro quo* harassment, but not hostile environment, where he harassed Complainant after she rejected his advances. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) Employer and two individuals found liable because they created a hostile environment through comments, gestures and touching and because that environment caused Complainant to transfer and so miss a promotion. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) CHR found the frequency, severity and humiliation of the conduct by Respondents sufficient to create an environment which the Complainant did find, and a reasonable woman would have found, sexually hostile. R

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) Company and individual respondents found liable for creating a hostile environment, but not for *quid pro quo* harassment, where there were several advances and sexual comments made. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Respondent found liable for creating a hostile environment in Complainant's use of park facilities, but found not to be liable for decreasing her use of the park after her rejection of the advances. R

Rottman v. Spanola, CCHR No. 93-H-21 (Mar. 20, 1996) Landlord found to have sexually harassed Complainant, including by looking at her in the shower and making lewd comments and generally using sexually charged means of expressing his hostility. 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

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 (Sep. 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. 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

Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al., CCHR No. 10-E-40 (Dec. 19, 2012) Restaurant owner sexually harassed and constructively discharged employee through unwelcome sexual comments and gestures such as kissing and appearing with clothing unfastened. R

Liability Not Found

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Complainant failed to prove *quid pro quo* sexual harassment in that she did not show that the landlord evicted her because she rejected his advances and not because she failed to pay her rent. R

Harris v. Craddieth, CCHR No. 92-H-179 (Apr. 20, 1994) Landlord found not liable where he was found not to have pursued or continued to "harass" Complainant after she rebuffed his request for a social relationship. R

Reid v. F.J. Williams Realty et al., CCHR No. 93-H-42 (Feb. 22, 1995) Respondents found not to have sexually harassed Complainant and found to have rejected her tenancy because she post-dated a security deposit check. R

Williams v. Banks, CCHR No. 92-H-169 (Mar. 15, 1995) Complainant did not present a case of *quid pro quo* harassment and her testimony on sexually hostile housing environment found not credible; Respondent was found liable for sex discrimination due to physical, not sexual, intimidation. R

Hussian v. Decker, CCHR No. 93-H-13 (Nov. 15, 1995) Where Complainant presented evidence of only two comments that were sexual in nature, hostile environment sexual harassment not proved; Respondent was found liable for sex discrimination. R

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) Complainant's testimony found contradictory and incredible so she was found not to have proved sexual harassment or constructive discharge. R

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Oct. 16, 1996) Where, due to credibility of witnesses, Complainant did not carry her burden to show that the conduct which allegedly created the hostile housing environment occurred, Respondents found not liable. R

Jackson v. Midland Mgt. et al., CCHR No. 95-H-49 (Jan. 29, 1997) Respondents found not liable where one incident found not sexual and where Complainant did not carry her burden with respect to the second. R

Scadron/Zuberbier v. Martini's of Chicago & Jones, CCHR No. 94-E-195/196 (Feb. 19, 1997) Where Complainants' stories had inconsistencies and Respondent's denials were forthright, Complainants found not to have carried their burden that they were sexually harassed. R

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 22, 1997) Respondent not found liable for sexual harassment where the comments at issue were generally anti-male and not sexual and any sexual comments were not sufficiently pervasive and hostile; sex discrimination was found. R

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) CHR found that Complainant did not prove either hostile environment or *quid pro quo* sexual harassment where the incidents described by Complainant were not sexual and where there was no evidence that any housing services were withheld due to any rejection of advances. R

Stovall v. Metroplex et al., CCHR No. 94-H-87 (Nov. 18, 1998) Where circuit court remanded case to CHR to reconsider only expert testimony of psychologist, CHR found that that testimony did not alter finding that Complainant's account of sexual harassment was not credible, including because she claims she freely allowed alleged harasser into her apartment after he had allegedly harassed her to the point where she claimed she barricaded her door. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR ruled in favor of both respondents, including defaulted individual, where Complainant failed to carry her burden to prove that she was sexually harassed. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) In ruling that Complainant did not prove a hostile environment, CHR found that her testimony about the timing of the harassment was not credible and that her examples of the alleged harassment did not show that any sexual conduct was sufficiently severe or pervasive to create a hostile environment. R

Bovino v. Worldwide Tobacco, et al., CCHR No. 98-E-5 (Sep. 15, 1999) Where case turned on credibility and Complainant's story had unreasonable and/or inconsistent aspects, CHR found that she had not carried her burden of proof to show that Respondent forced her to have sex with him and then fired her when she stopped or that he created a sexually hostile environment. 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

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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) No Ordinance violation where employee claimed she was sexually harassed at work and constructively discharged in retaliation for filing Complaint where Complainant's testimony discredited because she contradicted her CHR and EEOC Complaint allegations and where she contradicted herself on cross-examination. R

Quid Pro Quo

Diaz v. Prairie Builders, CCHR No. 91-E-204 (Oct. 21, 1992) Timing of rejection of sexual advances before adverse job action by itself does not provide requisite nexus to support an inference of *quid pro quo* sexual harassment. R

McDuffy v. Jarrett, CCHR No. 92-FHO-28-5778 (May 19, 1993) Complainant failed to prove *quid pro quo* sexual harassment in that she did not show that the landlord evicted her because she rejected his advances and not because she failed to pay her rent. R

Ordon v. Al-Rahman Animal Hospital, CCHR No. 92-E-139 (July 22, 1993) Although Respondents found liable for creating a hostile environment, CHR found Complainant did not prove that her hours and pay were decreased due to her rejection of the advances. R

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) No liability found where Complainant claimed that Respondent fired her when she refused to endure his treatment silently because CHR found he had fired her for legitimate reasons. R

Harris v. Craddieth, CCHR No. 92-H-179 (Apr. 20, 1994) Landlord's demand that Complainant give him, or his mother, a key to her apartment found not to be casually connected to Complainant rejection of the landlord's request for a relationship with her. R

Reed v. Strange, CCHR No. 92-H-139 (Oct. 19, 1994) Landlord found liable for his non-sexual, but harassing, behavior where it was shown to be a "punitive response" to Complainant's rejection of his advances. R

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) Employee did not prove that employer cut her hours because she rejected his advances; employer showed that she was only a part-time employee when hired. R

Reid v. F.J. Williams Realty et al., CCHR No. 93-H-42 (Feb. 22, 1995) Sets forth *prima facie* case for *quid pro quo* sexual harassment in housing. R

Reid v. F.J. Williams Realty et al., CCHR No. 93-H-42 (Feb. 22, 1995) Respondents found not to have sexually harassed Complainant and found to have rejected her tenancy because she post-dated a security deposit check. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Complainant did not prove that her use of park facilities were restricted due to her rejection of sexual advances by park employees; Respondent presented legitimate, non-discriminatory reason for its action. R

Jackson v. Midland Mgt. et al., CCHR No. 95-H-49 (Jan. 29, 1997) Respondents found not liable where Complainant did not carry her burden to show that she was subjected to sexual incidents at all and where one Respondent did not condition making repairs to her apartment on her allowing his sexual advances. R

Scadron/Zuberbier v. Martini's of Chicago & Jones, CCHR No. 94-E-195/196 (Feb. 19, 1997) Where Complainants' stories had inconsistencies and Respondent's denials were forthright, Complainants found not to have carried their burden that they were sexually harassed. R

Dillard v. Zeka Apts. et al., CCHR No. 97-H-73 (Oct. 8, 1997) Complaint found to allege sufficient facts for claims of both *quid pro quo* and hostile environment sexual harassment where, for example, it states that Respondent stared at her, touched her, made sexual advances, and, when she refused, evicted her; also found sufficient to claim hostile environment due to her sex. CO

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) Complainant's allegations that Respondent made work uncomfortable and then fired her because she rejected sexual advances stated a claim for *quid pro quo* sexual harassment, but not for retaliation or hostile environment. See also entries for Sexual Harassment/Hostile Environment, above and Retaliation, above. CO

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) CHR distinguishes *quid pro quo* sexual harassment from retaliation; finds that action allegedly taken because a complainant rejected sexual advances is covered under *quid pro quo* theory, even if it is not actionable as retaliation as defined by CHRO. See also entries for Sexual Harassment/Hostile Environment, above and Retaliation, above. CO

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) Non-sexual action allegedly done because Complainant rejected Respondent's sexual advances states a claim for *quid pro quo* sexual harassment, even though

not for hostile environment. See also entries for Sexual Harassment/Hostile Environment, above. CO

Smith v. Nikolic, Nikolic & Chavez, CCHR No. 95-H-130 (Apr. 15, 1998) CHR found that Complainant did not prove either hostile environment or *quid pro quo* sexual harassment where the incidents described by Complainant were not sexual and where there was no evidence that any housing services were withheld due to any rejection of advances. R

Washington v. Smith & Robinson, CCHR No. 99-H-9 (May 6, 1999) Allegations that Respondent took non-sexual but injurious action against Complainant because she rejected his sexual advances states a claim for *quid pro quo* sexual harassment. CO

Washington v. Smith & Robinson, CCHR No. 99-H-9 (May 6, 1999) CHR denied motion to dismiss where complaint alleged that the Respondent sexually harassed Complainant "every day" after she rejected his advances and then forced her to move; even though the date she rejected the advances was more than 180 days before she filed, the harassment and constructive eviction occurred within that time and so the complaint was timely. CO

Bovino v. Worldwide Tobacco, et al., CCHR No. 98-E-5 (Sep. 15, 1999) Where case turned on credibility and Complainant's story had unreasonable and/or unbelievable aspects, CHR found that she had not carried her burden of proof to show that Respondent forced her to have sex with him at all or that he fired her after her subsequent refusals. R

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 (Sep. 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

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) CHRO states that, if Respondent took reasonable corrective action once it learned of alleged sexual harassment by a non-employee or a non-managerial or non-supervisory employee, then it would not be found liable. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) Law does not require that Respondent's response to harassment be a final solution, but whether it was reasonable under the circumstances as then existed. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) Where parties disputed whether Respondent's response to alleged harassment was effective, CHR could not dismiss case on a motion to dismiss as showing reasonable corrective action. CO

Reasonable Woman Standard

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Harassment claims are to be viewed from the perspective of a reasonable woman. R

McCall v. Cook County Sheriff's Office, et al., CCHR No. 92-E-122 (Dec. 21, 1994) CHR evaluates hostile environment claims from both an objective and subjective viewpoint -- it looks at the actual complainant and at the effect the conduct would have on a reasonable woman. R

Hackett v. Judeh Brothers, Inc. et al., CCHR No. 93-E-111 (Jan. 18, 1995) CHR assess the impact of alleged sexual harassment from the perspective of the reasonable woman. R

Bovino v. Worldwide Tobacco, et al., CCHR No. 98-E-5 (Sep. 15, 1999) CHR reviews the alleged harassing conduct from the perspective of a reasonable woman. R

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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) CHR reviews the nature of the alleged sexual advances, conduct or statements and the context in which the alleged incidents occurred from the perspective of a reasonable woman. R

Retaliation

Harris v. Buddy Products, CCHR No. 96-E-117 (Apr. 14, 1998) CHR distinguishes *quid pro quo* sexual harassment from retaliation; finds that action allegedly taken because a complainant rejected sexual advances is covered under *quid pro quo* theory, even if it is not actionable as retaliation as defined by CHRO. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) (same) CO

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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Complainant's claim that Respondent discharged her in retaliation for filing a sexual harassment complaint with CHR found contrary to evidence showing that after exhausting her approved leave, Complainant refused to return to work. R

Sex Discrimination

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) CHRO's prohibition of sex discrimination also proscribes sexual harassment. HO

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) The CHRO's prohibition of sex discrimination in public accommodations is read to prohibit sexual harassment as well. R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR finds that CFHO's prohibition of sex discrimination forbids sexual harassment, despite its lack of a specific reference to sexual harassment. 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

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

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Employer liable for acts of its supervisory employees. R

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Dec. 12, 1994) In denying motion in limine, held that, if corporate Respondents are later found to need specific knowledge of harassment to be liable, then evidence that sexual harassment may have been widespread would be admissible to show that knowledge. HO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) In denying a motion to dismiss, CHR held that complainant is not required to have complained about the alleged harassment to the supervisor/owner who was alleged to be the harasser in order to state a claim. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) An employer is liable for its own acts as well as for those of its supervisory employees even if it is not told of the alleged harassment; citing Reg. 345.120. CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) CHRO makes an employer strictly liable for the sexual harassment by its supervisory and managerial employees, but uses more of a negligence standard [knowledge of harassment and failure to take reasonable corrective action] for harassment by other employees. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR rejected business respondent's argument that it should be dismissed as not responsible for a custodian's alleged sexual harassment of tenant/Complainant in that facts presented at the hearing suggested that the custodian was employed by or an agent of the business respondent; CHR did not determine whether business was vicariously liable as complainant did not prove that the underlying harassment took place. R

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

DeHoyos v. La Rabida Children's Hospital and Caldwell, CCHR No. 10-E-102 (June 18, 2014) Employer is liable for sexual harassment committed by supervisory employees, regardless of whether it authorized or prohibited the specific alleged acts or whether the employer knew or should have known about their occurrence. R

Supervisory Personnel

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Discusses factors used to determine who is a supervisory employee. R

Ross v. Chicago Park District, CCHR No. 93-PA-31 (Sep. 20, 1995) Park District is strictly liable for sexual harassment by its managerial employee and liable for acts of other employee where Complainant complained about the harassment to the manager who failed to take reasonable corrective action. R

Bray v. Sandpiper Too et al., CCHR No. 94-E-43 (Jan. 10, 1996) An individual who has no authority to hire, fire, supervise, discipline or schedule employees found not to be a supervisor. R

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) In denying a motion to dismiss, CHR held that complainant is not required to have complained about the alleged harassment to the supervisor/owner who was alleged to be the harasser in order to state a claim. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) An employer is liable for its own acts as well as for those of its supervisory employees even if it does not know of the alleged harassment; citing Reg. 345.120. CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) By referring to both non-supervisory and non-managerial employees in sexual harassment provision, CHRO suggests that there is difference between supervisors and managers and CHR follows that distinction. CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) In determining who qualifies as a supervisory or managerial employee for purposes of standards for sexual harassment liability, CHR follows decision made under IHRA as its language is virtually identical to the CHRO's; Title VII's agency standards are not applicable to CHRO employer liability standards. CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) Authority to hire, fire, discipline and evaluate is important to determine who is a supervisor or, especially, a manager; however, whether individual is reasonably seen as acting with the employer's imprimatur is also essential; that includes determining whether the individual could tell complainant what to do and how to do it, whether he or she could punish workers, and whether it is insubordination to disobey a directive from that person. 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 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

Barnes v. Page, CCHR No. 92-E-1 (Sep. 23, 1993) Certain comments are so offensive that Respondent should know they are unwelcome even if Complainant does not say so. R

SEXUAL ORIENTATION DISCRIMINATION

Bona Fide Occupational Qualification

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) CHRO's prohibition of sexual orientation discrimination has no exceptions, does not assume heterosexuality is a BFOQ for some jobs, and does not exempt gay men and lesbians who are open. R

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) BSA's claimed BFOQ that homosexual individuals cannot be employees because they are not "morally straight" or "clean" found to be based on assumptions and myths and so denied as a matter of law. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) BSA's claimed BFOQ that homosexual individuals cannot be employees because they are not "morally straight" or "clean" found not based on privacy concerns but on "customer preference" and so denied as a matter of law. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Due to outstanding issues of fact, CHR denied BSA's motion to dismiss in which it alleged that, if it were forced to hire Complainant, a gay man, its right to associate to express certain philosophies would be undermined thus making not hiring gay people a BFOQ. CO

Burden of Proof

Barr v. Blue Cross-Blue Shield, CCHR No. 91-E-54 (Feb. 18, 1993) Sets forth *prima facie* case standards for sexual orientation: termination of employment case. R

Hostile Environment

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Complainant showed that the harassment he suffered adversely affected his working conditions and was sufficiently severe to make his work environment abusive. R

Escobedo v. Homak Mfg., CCHR No. 93-E-7 (May 15, 1996) CHR recognizes that an intimidating, hostile or offensive working environment exists only if the challenged conduct is sufficiently severe or pervasive to alter the conditions of the complainant's employment and create an abusive environment. R

Escobedo v. Homak Mfg., CCHR No. 93-E-7 (May 15, 1996) Conduct alleged -- including name-calling, throwing out Complainant's lunch, spraying him with paint -- was sufficient to create a hostile environment due to his sexual orientation. 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

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

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 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. Zeman, 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

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) *Prima facie* case of harassment due to sexual 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

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

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) Respondent found liable for firing Complainant due to her sexual orientation. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Respondents found liable for creating a hostile environment for Complainant due to his sexual orientation, including name-calling; found not to have cut his hours due to his sexual orientation or due to retaliation. R

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Oct. 18, 1995) Restaurant found liable for violating CHRO where gay Complainant called "faggot" by one of Respondent's employees. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Respondent found liable for policy of not hiring pay people where Complainant, acting as a tester, was denied consideration for a job; CHR found Respondent was not exempt as a religious organization and found Respondent's free association and free speech rights not violated. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Respondent found liable for firing gay Complainant explicitly due to her sexual orientation. R

Nuspl v. Marchetti, CCHR No. 98-E-207 (Sep. 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

Fox v. Hinojosa, CCHR No. 99-H-116 (June 16, 2004) *Prima facie* case of harassment and attempted 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

Williams v. United Air Lines, CCHR No. 91-E-90 (Feb. 18, 1993) Respondent found not liable for gay flight attendant's claim that he was given a 30-day suspension based on his sexual orientation rather than due to his violation of United Air Lines rules. R

Barr v. Blue Cross-Blue Shield, CCHR No. 91-E-54 (Feb. 18, 1993) Respondent found not liable; Complainant failed to establish that Respondent's reason for termination -- poor performance -- was a pretext for sexual orientation discrimination. R

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Employer found not to have fired Complainant due to her sexual orientation where Complainant did not show that employees who were not known or perceived to be gay were treated differently. R

Escobedo v. Homak Mfg., CCHR No. 93-E-7 (May 15, 1996) Respondent found not liable where it did not know of some of the alleged harassment and took reasonable corrective action to stop the harassment about which it

knew. R

Mally v. Alzheimer's Association, CCHR No. 96-E-41 (Sep. 17, 1997) Respondent found not liable where it took action reasonably calculated to prevent future harassment in response to Complainant's complaint of harassment by a volunteer board member and where it appeared that Complainant did not inform Respondent that the harassment was related to his sexual orientation. R

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 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 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

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

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 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). 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

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) CHR dismissed case involving how the Tribune refers to homosexual partners in death notices; CHR held it could not regulate the content of the Tribune's death notices, finding that they are news items and so expressive, not mere commercial speech. CO **See separate entries for Constitutional Claim, First Amendment/Free Speech, above.**

Ordinance Coverage

Pearson v. NJW Personnel, CCHR No. 91-E-126 (Sep. 16, 1992) CHRO's prohibition of sexual orientation discrimination has no exceptions, does not assume heterosexuality is for some jobs, and does not exempt gay men and lesbians who are open. R

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) CHRO protects "known and avowed" homosexual persons as well as others. 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 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

Williams v. United Air Lines, CCHR No. 91-E-90 (Feb. 18, 1993) Complainant failed to establish that his employer perceived him to be gay. CO

Klimek v. Haymarket/Maryville, CCHR No. 91-E-117 (June 16, 1993) Respondent cannot exonerate itself by claiming it had no actual knowledge of Complainant's sexual orientation if it perceived her to be a lesbian. R

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Mar. 29, 1995) Complainant need not establish that his employer knew his sexual orientation with certainty; its perception that Complainant is possibly gay is covered. HO

Kilbert v. Pacific Garden Mission, CCHR No. 96-PA-68 (Nov. 22, 1996) CHRO protects those "perceived" to be gay from discrimination. CO

Kilbert v. Pacific Garden Mission, CCHR No. 96-PA-68 (Nov. 22, 1996) Where Complainant alleged that he was not admitted to the shelter because he was perceived to be gay while his cousin was admitted because he was not seen as gay, complaint survives motion to dismiss. CO

Kilbert v. Pacific Garden Mission, CCHR No. 96-PA-68 (Nov. 22, 1996) Male Complainant who claims only that he "looks female" and so was perceived to be gay is not considered to be a transsexual, as argued by Respondent; his sexual orientation claim allowed to proceed. CO

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

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. 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

Roe v. Chicago Transit Authority et al., CCHR No. 05-E-115 (Oct. 20, 2010) Supervisor's perception that employee is homosexual established by evidence of slurs, references to homosexuality, and stereotypical gestures. R

Proof of Discrimination

Gilun v. Tomaszynski, CCHR No. 91-FHO-85-5670 (July 29, 1992) No evidence presented that the allegedly discriminatory remark was actually said and evidence was presented that the woman who allegedly said it speaks almost no English. R

Williams v. United Air Lines, CCHR No. 91-E-90 (Feb. 18, 1993) Burden is on Complainant to establish

that his employer knew of his sexual orientation or perceived him to be gay where Complainant claims he was disciplined based on his sexual orientation. R

Barr v. Blue Cross-Blue Shield, CCHR No. 91-E-54 (Feb. 18, 1993) Complainant proved his case by using comparison between treatment of himself before and after his employer's knowledge of his sexual orientation. R

Osswald v. Yvette Wintergarden Rest./Grossman, CCHR No. 93-E-93 (July 19, 1995) Complainant presented evidence that the manager called him derogatory names due to his sexual orientation and did not treat heterosexual employees the same way. R

Houck v. Inner City Horticultural Foundation, CCHR No. 97-E-93 (Oct. 21, 1998) Statements made by a manager of the respondent which are direct and credible evidence that the adverse employment decision, here discharge, was done due to the complainant's sexual orientation are imputed to the respondent. 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

Bahena v. Adjustable Clamp Co., CCHR No. 99-E-111 (July 16, 2003) States and applies shifting burdens in a sexual orientation discharge and hostile environment case. 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 discriminatory animus. R

Reasonable Corrective Action

Escobedo v. Homak Mfg., CCHR No. 93-E-7 (May 15, 1996) Where Respondent responded to Complainant's 1st complaint of sexual orientation harassment in a manner reasonably calculated to prevent further harassment under the particular facts and circumstances of the case at the time -- by speaking directly to the individuals at issue and posting an anti-harassment policy -- Respondent found not liable for creating alleged hostile environment. R

Mally v. Alzheimer's Association, CCHR No. 96-E-41 (Sep. 17, 1997) Respondent found not liable where it took action reasonably calculated to prevent future harassment in response to Complainant's complaint of harassment by a volunteer board member -- it ensured the board member would no longer work with staff and had her rotate off the Board -- and where it appeared that Complainant did not inform Respondent that the harassment related to his sexual orientation. R

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

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Affirmative defense that homosexual individuals cannot be employees because they are not good role models was not shown to be based upon a link between homosexuality and a specific goal of the organization so denied as a matter of law. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) BSA's claimed BFOQ that homosexual individuals cannot be employees because they are not good role models denied as a matter of law as based on generalizations concerning status not on any improper conduct by Complainant. CO

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

SOURCE OF INCOME DISCRIMINATION

Failure to Sell

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Respondent broker, defaulted for discovery and related abuses, found to have violated CFHO where he did not pursue Complainant's offer to purchase property for full price because one source of her income was public aid. 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

Indirect Discrimination

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 8, 1992) Denied Respondents' motion to dismiss finding that Complainants-dentists may bring a public accommodation claim based on allegations of discrimination due to the race and source of income of their clients. CO

Lawfulness

Plochl v. Chicago National League Ball Club, CCHR No. 92-PA-46 (Apr. 20, 1993) Respondent's motion to dismiss which argued that Complainant's occupation as ticket broker is unlawful, and so not protected under CHRO, denied in that Complainant alleges that he does follow the state law guidelines for his brokering. CO

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

McCutchen v. Robinson, CCHR No. 95-H-84 (May 20, 1998) Respondent broker, defaulted for discovery and related abuses, found to have violated CFHO where he did not pursue Complainant's offer to purchase property for full price because one source of her income was public aid. R

Huff v. American Management and Rental Svc., CCHR No. 97-H-187 (Jan. 20, 1999) Defaulted Respondent found liable for not renting to Complainant due to her source of income, a section 8 voucher. 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) 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 should 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

Shipp v. Wagner et al., CCHR No. 12-H-19 (July 16, 2014) Source of income discrimination proved through direct evidence where Complainant presented credible evidence that property owner advertised vacancy online noting “Not Section 8 Approved” and “No Section 8” and told applicant he was not approved to rent to voucher holders. Property owner’s explanation that he thought he would have to have inspections and “spend more money,” without more, was not a defense. R

Liability Not Found

Cooper & Ashmon v. Parkview Realty, CCHR No. 91-FHO-48-5633 (Aug. 26, 1992) Complainants failed to prove a *prima facie* case that they were denied the opportunity to apply for an apartment due to the fact that they receive public aid. R

Sohn & Cohen v. Costello & Horwich, CCHR No. 91-PA-19 (Oct. 20, 1993) Respondents not found liable where Complainant-dentists did not show that their lease in a commercial building was not renewed based on race (African American) and source of income (public aid) of their clients. R

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Respondent found not liable for discriminating against Complainant due to his second source of income (classical musician); respondent was found to have non-discriminatory reasons for the disputed conduct and any negative animus was found to be directed at classical music, not at earning income from it. R

McGee v. Sims, CCHR No. 94-H-131 (Oct. 18, 1995) Where Complainant did not carry her burden to show that it was Respondent who denied her rental, Respondent found not liable for discrimination. R

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, not every refusal of a voucher is 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

Gardner v. Ojo et al., CCHR No. 10-H-50 (Dec. 19, 2012) "Section 8" Housing Choice Voucher holder failed to prove that condominium unit owner and her listing agent prevented the voucher holder from applying to rent the unit based on source of income. No direct evidence presented and the circumstantial evidence was insufficient to show discriminatory intent. Credibility of conflicting testimony about communications between listing agent and voucher holder's agent resolved in favor of listing agent. 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

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) Complainant's allegation that he was harassed because he holds a second job which provides him income states a claim for source of income discrimination. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) It is not necessary that the income about which complainant bases his claim be his "primary" source of income. CO

Vasilovik v. Chicago Park District, CCHR No. 94-E-120 (Sep. 13, 1994) Source of income may be alleged in the employment context and a complainant may state a claim by alleging she was discriminated against due to income from another job. CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Sep. 20, 1995) Respondent found not liable for source of income discrimination where the comments Complainant introduced at Hearing concerned Complainant's activities and lifestyle as a classical musician, but not to the fact that he was earning money at it. R

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR found that Section 8 vouchers and certificates are "sources of income" as defined by the CFHO -- a lawful manner by which an individual supports him- or herself. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) (same) CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) The fact that the Illinois Fair Housing Act does not prohibit source of income discrimination does not preempt the City of Chicago, a home rule unit, from doing so. CO

Greenwood v. Aramark Corp., CCHR No. 99-E-60 (June 30, 1999) Case in which Complainant claimed she was demoted because she could not afford to buy a car to use on the job did not involve "source of income" as that looks to the source of one's money, not its sufficiency. CO

Jackson v. Wilmette Realty et al., CCHR No. 99-H-32 (Sep. 27, 1999) Where Complainant's complaint stated that she was rejected as a tenant due to the amount of her income, not its source, CHR dismissed complaint as not related to the "source" of her income. CO

Jackson v. Wilmette Realty et al., CCHR No. 99-H-32 (Sep. 27, 1999) Facts showed that Complainant's income did not meet Respondent's reasonable required rent-to-income ratio so CHR dismissed her case as involving the amount, not the source, of her income. CO

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-44/63 (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) 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-44/63 (Apr. 13, 1999) CHR found that Section 8 vouchers and certificates are "sources of income" as defined by the CFHO -- a lawful manner by which an individual supports him- or herself. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR rejected Respondent's argument that Section 8 vouchers and certificates are not "sources of income" Section 8 is not "earned;" CHR held that such a reading was not supported by the language of the CFHO and that accepting that definition would exclude alimony and trust fund payments from coverage. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) In evaluating whether Section 8 is a covered "source of income," CHR reviewed cases from other jurisdictions and distinguished the CFHO definition from that in other laws. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR found that federal law did not preempt the CFHO's inclusion of Section 8 as a source of income even though that reading of the CFHO compels Respondent to accept Section 8 while federal law made accepting it voluntary. CO **See Preemption/Section 8, above.**

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR found that Respondent was not deprived of procedural due process because CHR read "source of income" to include Section 8 even if there may be interference with Respondent's right to contract with whomever it pleases; civil rights laws have long been upheld as a proper exercise of police power. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR held that its ruling that "source of income" includes Section 8 does not violate the takings clause of the

Fifth Amendment; the argument was premature as CHR had not yet made a determination of Respondent's potential liability and, more importantly, land use restrictions are not takings if, as here, they substantially advance a legitimate state interest. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR held that Respondent's freedom to contract was not impermissibly restricted by its reading that the CFHO includes Section 8 as a source of income even though that reading compels Respondent to accept Section 8; there is, in essence, a long-standing exception to the freedom of contract for proper anti-discrimination laws such as the CFHO. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) Finds that "source of income" includes Section 8, adopting the reasoning of *Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co.*, 95-H-159 & 98-H-44/63 (Apr.13, 1999). CO

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 8, 1999) Where Complainant claimed that Respondent refused to accept her Section 8 voucher to pay her rent for the remainder of her existing lease and where Respondent had not mentioned the alleged lease violations prior to the refusal, CHR granted the Request for Review and found substantial evidence. CO

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) 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

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

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. 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

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

Moreno v. Apartment Guys et al., CCHR No. 09-H-27 (Nov. 19, 2012) In context where rental agent could not find an available unit that met Complainant’s requirements of allowing her dog and being able to take occupancy within three weeks, statement to Complainant that she could not find a housing provider “set up” to accept a Section 8 voucher did not provide substantial evidence of source of income discrimination. Also, CFHO prohibition of discriminatory communications does not apply to private communications but to advertisements to a wider public. CO

Gardner v. Ojo et al., CCHR No. 10-H-50 (Dec. 19, 2012) “Section 8” Housing Choice Voucher holder failed to prove that condominium unit owner and her listing agent prevented the voucher holder from applying to rent the unit based on source of income. No direct evidence presented and the circumstantial evidence was insufficient to show discriminatory intent. Credibility of conflicting testimony about communications between listing agent and voucher holder’s agent resolved in favor of the listing agent. R

Boyd v. Parkview Management Corp., CCHR No. 10-H-48 (June 7, 2013) No source of income discrimination in rejection of potential tenant claiming monthly income of \$672 from Social Security and “public aid” which was 73% of the stated rent of \$495. Income-to-rent ratio as rental qualification did not create disparate impact on Social Security recipients where many could meet the standard. Application of disparate income analysis in some Section 8 Housing Choice Voucher cases held distinguishable. CO

Shipp v. Wagner et al., CCHR No. 12-H-19 (July 16, 2014) Source of income discrimination proved through direct evidence where Complainant presented credible evidence that property owner advertised vacancy online noting “Not Section 8 Approved” and “No Section 8” and told applicant he was not approved to rent to voucher holders. Property owner’s explanation that he thought he would have to have inspections and “spend more money,” without more, was not a defense. 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

Gould v. Rozdilsky, CCHR No. 91-FHO-25-5610 (Jan. 15, 1992) Ability to speak Spanish is not a *bona fide* qualification to rent an apartment. R

STANDING

Attorneys as Complainants

Ilhardt v. Sara Lee Corp., CCHR No. 93-E-257 (July 22, 1994) Motion to dismiss the complaint of an in-house attorney denied; distinguishes decisions where an attorney was prohibited from bringing a retaliatory discharge claim and finds that attorney-client relationships would not be hampered by allowing such claims to proceed. CO

Business Complainant

Ploch v. Chicago National League Ball Club, CCHR No. 92-PA-46 (Oct. 4, 1993) Complainant has standing even where the interest he claims was injured by the discrimination is a business interest, not a personal one. CO

Ploch v. Chicago National League Ball Club, CCHR No. 92-PA-46 (Oct. 4, 1993) If Complainant filed "as a business" not an individual, it has standing so long as its interests suffered an injury, economic or otherwise, which is in the zone of those protected by the CHRO. CO

Shepard v. IBM Corporation, Chicago Dept. of Revenue, et al., CCHR No. 98-PA-73 (Aug. 17, 1999) The fact that this case pertains to the business interest of the Complainant, not his personal interest, does not cause CHR to dismiss it. CO

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

Nelson v. Massachusetts Mutual Blue Chip Co., CCHR No. 98-E-211 (May 19, 1999) CHR found it need not determine whether Complainant and Respondent were in an employment-like relationship because Complainant alleged failure to hire as well as discharge and failure to hire cases may be brought by individuals who are merely applicants. 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

Futile Gesture

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Oct. 30, 1992) Complainant need not plead that he applied for a particular position in face of an alleged blanket prohibition against hiring gay men at all. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Oct. 30, 1992) Complainant had a sufficient stake in the outcome of the proceedings to assure the necessary adversariness in that he alleged a distinct injury which was allegedly causally connected to Respondent's policy. CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Where Respondent refused to hire gay people, gay Complainant's failure to submit a formal application found not fatal under "futile gesture" theory. R

Marshall v. Getsla, CCHR No. 98-H-167 (Jan. 27, 1999) CHR notes that, in certain circumstances, the "futile gesture" theory can excuse a complainant's failure to apply for a vacancy; motion to dismiss denied as it turned on disputed facts, including whether Complainant reasonably believed that Respondent had a discriminatory policy which would have excluded her. CO

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

Gardner v. Ojo et al., CCHR No. 10-H-50 (Dec. 19, 2012) Submission of application is element of *prima facie* case of failure to rent if there is evidence application was necessary precondition to rent, unless shown to have been a futile gesture. CHR has applied futile gesture doctrine only where respondents unambiguously communicated

their discriminatory policies to complainants. Doctrine thus held inapplicable due to lack of proof Respondents had policy of rejecting applicants using Housing Choice Vouchers to pay rent or would have refused to rent to Complainant had she applied. Futile gesture finding cannot be based only on belief of Complainant, especially when communicated by third party and not Respondents themselves. R

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"

Check v. Salon de Paris, CCHR No. 93-E-17 (Aug. 6, 1993) Due to the language of the CHRO and court decisions interpreting similar laws, CHR does not rely on the labels of "employee" and "independent contractor" but instead looks at the relationship of the complainant and the respondent. CO

Putnam v. Four Seasons Hotel, CCHR No. 96-E-54 (Oct. 10, 1996) CHRO language prohibiting discrimination against "any individual" supports finding that independent contractors may have standing to bring claim. CO

Fumento v. Links Technology & SMG Marketing Group, CCHR No. 95-E-17 (July 15, 1997) Due to its language covering individuals not employees, CHRO may cover individuals who are not employees; CHR looks to respondent's control of complainant's terms and conditions of employment. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (Dec. 18, 1997) CHR denied motion to dismiss doctor who had privileges at Hospital but held that doctor has to show that he and the Hospital had some "employment relationship" not just that the Hospital could affect his employment opportunities; follows *Alexander v. Rush North Shore Medical Center*. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR set forth and evaluated facts to determine whether doctor with privileges at hospital met factors showing he was in an employment-like relationship and so could proceed with his case. CO

Naguib v. Columbus Hospital Medical Ctr. & Connolly, CCHR No. 96-E-227 (May 11, 1998) CHR dismissed case involving doctor who had privileges at Hospital where it found that the doctor and the Hospital did not have an "employment relationship," primarily because Hospital does not control doctor; follows *Alexander v. Rush North Shore Medical Center* -- affecting employment opportunities is not sufficient. CO

Abdi v. Yellow Cab Co., CCHR No. 99-E-33 (Sep. 9, 1999) Where facts show that Respondent does not control its drivers and where there was no other indicia of an employment relationship, CHR dismissed complaint as not in the employment context; order sets forth factors used to determine whether a complainant and a respondent are in an employment relationship. CO

Abdi v. American United Cab Co., CCHR No. 99-E-63 (Sep. 9, 1999) Where facts show that Respondent exerts little control over its drivers and none over the details of their work, CHR dismissed complaint as not in the employment context; order sets forth factors used to determine whether a complainant and a respondent are in an employment relationship. CO

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

Tomko v. St. Joseph’s Hospital, CCHR No. 91-PA-5 (Jan. 17, 1992) The 180-day filing period is not a jurisdictional requirement but is like a statute of limitations which can be tolled. CO

Minor v. Habilitative Systems, et al., CCHR No. 92-E-46 (Aug. 31, 1994) Because the CHRO’s 180-day filing deadline has been held not to be jurisdictional, failure to file a claim within that time does not affect subject matter jurisdiction. R

STATUTORY CONSTRUCTION

Absence of Provisions

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (Jan. 15, 1995) Lack of Ordinance and regulations coverage itself does not mandate that a request for certain proceedings be denied. R

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (Jan. 15, 1995) Where neither the Ordinance nor the regulations address availability of requested procedures, CHR determines whether granting request would be contrary to Ordinance or regulations, whether Ordinance or regulations already address the issue although in a different manner and whether granting the request falls within a liberal reading of the Ordinance and regulations. 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

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

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) 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 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

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 its August order [above] did not create an “irrebuttable presumption” that City Council was rational in passing 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

Constitutional Limits

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (Feb. 13, 1998) The CHRO provides at least as much protection as the Constitution does so CHR shall not read the CHRO to violate the Constitution. CO

Marback v. Chicago Tribune Co., CCHR No. 97-PA-10 (June 24, 1998) (same) CO

Damages

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) Complainant may seek damages for housing discrimination as such relief is specified at length in the ordinance empowering CHR; although CFHO refers only to fines for violations, it states that complainants may pursue other legal and equitable relief. HO

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) In upholding Complainant's ability to seek damages, notes that CHR routinely awards damages and the Circuit Court has enforced them. HO

Steward v. Campbell's Cleaning Svcs. & Campbell, CCHR No. 96-E-170 (June 18, 1997) Front pay award authorized by "make whole" language in Municipal Code which is same as that in Illinois Act which has been read to allow front pay. R

Disability Discrimination

Hruban v. William Wrigley Co., CCHR No. 91-E-63 Even without Regulations which explicitly require an employer to reasonably accommodate an employee, the CHRO's prohibition of discrimination against people with disabilities implies within it the duty to reasonably accommodate. R

Evans v. Hamburger Hamlet & Forncrook, CCHR No. 93-E-177 (May 8, 1996) Because gender dysphoria is listed as a psychiatric disorder with specific symptoms, it is sufficient to be a determinable disability to survive a motion to dismiss.⁵ CO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) CHR adopts standards used under Illinois law which defines disability not to include conditions which are insubstantial, transitory or not

⁵ The *Evans* decision was decided prior to “gender identity,” which is inclusive of transsexualism, being added as a protected classification in November 2002.

significantly debilitating or disfiguring. CO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) ADA's definition of disability is very different from CHRO's so CHR does not rely on it and instead looks to construction of handicap under Illinois Human Rights Act which has virtually identical language to CHRO's. CO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) In addition to similarity of CHRO's definition of disability to IHRA's, use of term "characteristic" suggests that a condition must be more than insubstantial or transitory to be a protected disability. CO

Diaz v. Metropolitan Pier & Exposition Authority, CCHR No. 95-PA-168 (Oct. 2, 1997) Due to language of both CHRO and Commission regulations which prohibit indirect discrimination and due to CHR precedent, CHR allows indirect disability claim to proceed. CO

Exemptions

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Because the CHRO is to be construed liberally, exemptions are to be construed narrowly. CO

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

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) CFHO held to cover persons who operate a "free" shelter – and so do not charge rent -- and allegedly discriminate concerning occupancy of that shelter. HO

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) Fact that Respondent would be exempt under Illinois Human Rights Act because of size of her building does not require that she be exempt under the FHO. HO

Hutchcraft

Buckner v. Verbon, CCHR No. 94-H-82 (May 17, 1996) Illinois General Assembly, in response to *Hutchcraft v. Urbana Human Relations Commission*, specifically authorizes municipalities to legislate more broadly than prohibitions in Illinois Human Rights Act. HO

Individual Liability

Freeman v. Association Family Shelter, CCHR No. 93-E-145 (Oct. 13, 1993) Individuals may be sued in their personal capacity because the language of the CHRO states that "no person" may discriminate, not "no employer," and because other provisions of the CHRO are limited to "employers". CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) Individuals may be sued in their personal capacity because the language of the CHRO states that "no person" may discriminate, not "no employer," because other provisions of the CHRO are limited to "employers" and because cases construing similar laws allows individuals to be sued personally. CO

Liberal Construction

Tomko v. St. Joseph's Hospital, CCHR No. 91-PA-5 (Jan. 17, 1992) Anti-discrimination ordinances, such as CHRO, are to be liberally construed. CO

Ploch v. Chicago National League Ball Club, CCHR No. 92-PA-46 (Oct. 4, 1993) (same) CO

Adams v. Chicago Fire Dept., CCHR No. 92-E-72 (Oct. 14, 1993) (same) CO

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) CFHO is to be read in light of City Council's stated purpose of assuring all city residents full and equal opportunity to obtain housing. HO

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (Jan. 15, 1995) Ordinance and regulations are to be read in light of City Council's stated purpose of assuring that all City residents are protected in their civil rights. CO

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) As a remedial statute, Human Rights Ordinance is to be liberally construed to effectuate its purpose. CO

Tizes v. North State Astor Lake Shore Drive Assoc. et al., CCHR No. 95-H-17 (Aug. 30, 1995) As a remedial statute, Fair Housing Ordinance is to be liberally construed. CO

Thomas v. America's Best Mortgage Co. et al., CCHR No. 93-H-64 (Sep. 14, 1995) (same) CO

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) CHRO is to be liberally construed. R

Toledo v. Brancato, CCHR No. 95-H-122 (Mar. 14, 1997) As a remedial statute, Fair Housing Ordinance is to be liberally construed. CO

Crenshaw v. Harvey, CCHR No. 95-H-82 (May 21, 1997) (same) R

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Apr. 9, 1998) CFHO, a remedial statute, must be construed liberally. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) Reading the CHRO "liberally" does not allow CHR to ignore its limiting terms, such as that a function must be available to the "general public" to be a covered public accommodation. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) (same) CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) (same) CO

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) As an administrative agency, CHR has only those powers conferred by its governing ordinances; reading the CHRO "liberally" does not allow CHR to ignore its limiting terms. CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) Fact that the Ordinance directs CHR to read its provisions liberally was one factor which compelled CHR to find equivocal a notice which hinged discharge on complainant's ability to find another position in the company and so not definite enough to start the filing period. CO **See Jurisdiction/Time to File, above.**

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.

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) As an administrative agency, CHR has only those powers conferred by its governing ordinances; reading the CHRO "liberally" does not allow CHR to ignore its limiting terms. CO

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Toledo v. Brancato, CCHR No. 95-H-122 (July 9, 1997) As an administrative agency, CHR's power is limited by the ordinances which govern its work. CO

Diaz v. Metropolitan Pier & Exposition Authority, CCHR No. 95-PA-168 (Oct. 2, 1997) CHR regulations cannot be read to limit coverage of CHRO. CO

Lawrence v. Multicorp Company, CCHR No. 97-PA-65 (July 22, 1998) CHR's authority is defined by its governing ordinances and so it cannot impose liability for a racial statement unless there is evidence that the statement violates the CHRO -- here, that it occurred with respect to use of a public accommodation. R

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHR is an administrative agency and so has only those powers conferred by its governing ordinances; nothing in the CHRO requires CHR to read the CHRO

as coterminous with any other law. CO

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHRO's provision stating that nothing in the CHRO should be read to "limit rights granted" under other laws does not mean that CHRO must be read with the same breadth or limitations of those other laws [some of which have language very different from the CHRO]; it just means that the CHRO does not limit individuals' ability to file under other laws. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) CHR is an administrative agency and so has only those powers conferred by its governing ordinances. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) Although CHR default regulation states that a defaulted respondent may not challenge sufficiency of complainant's allegations, CHR, as an administrative agency, has its an independent obligation to ensure that it assesses liability and damages only when the record demonstrates an ordinance violation. R

Board of Trustees of Community College Dist. No. 508 v. Cook County Teachers Union Local 1600, AFT, AFL-CIO, CCHR No. 97-PA-84 (June 11, 1999) As an administrative agency, CHR has only those powers conferred by its governing ordinances; reading the CHRO "liberally" does not allow CHR to ignore its limiting terms. CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 99-PA-9/12/20 (Aug. 3, 1999) As an administrative agency, CHR has only those powers conferred by its governing ordinances. CO

Shepard v. IBM Corp., Chicago Dept. of Revenue, et al., CCHR No. 98-PA-73 (Aug. 17, 1999) (same) CO

Steele v. American Youth Soccer Org., CCHR No. 98-PA-54 (Aug. 25, 1999) (same) CO

Blakemore v. Kinko's and BT Office Products, CCHR No. 99-PA-71 (Nov. 10, 1999) (same) CO

Blakemore v. Chicago Dept. of Consumer Services, et al., CCHR No. 98-PA-42 (Dec. 22, 1999) (same) CO

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) 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

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

Winter v. Roosevelt University, CCHR No. 94-PA-72 (Apr. 18, 1995) Human Rights Ordinance is to be read so that no provision is rendered superfluous or meaningless. CO

Tizes v. North State Astor Lake Shore Drive Assoc. et al., CCHR No. 95-H-17 (Aug. 30, 1995) Fair Housing Ordinance is to be read so that no provision is rendered superfluous or meaningless. CO

Thomas v. America's Best Mortgage Co. et al., CCHR No. 93-H-64 (Sep. 14, 1995) (same) CO

Other Laws

Solar v. City Colleges, et al., CCHR No. 95-PA-16 (Sep. 25, 1998) CHR looks to cases construing laws

with similar language for guidance; and, because CHRO's language defining "public accommodation" is significantly different from definitions in other laws, precedent construing those dissimilar laws is not helpful. CO

Holloway et al. v. Chicago Police Dept. et al., CCHR No. 97-PA-15 et al. (Sep. 30, 1998) (same) CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) In determining who qualifies as a supervisory or managerial employee for purposes of standards for sexual harassment liability, CHR follows decision made under IHRA as its language is virtually identical to the CHRO's; Title VII's agency standards are not applicable to CHRO employer liability standards. CO

Morris v. Chicago Dept. of Law, et al., CCHR No. 98-E-212 (Mar. 19, 1999) Notes that CHRO's definition of disability is like that in the IHRA and not like that in the ADA; however, under both of those laws, temporary and transitory conditions are not considered disabilities. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR shall look to decisions interpreting other laws for guidance where the language of those laws is not significantly different from that in the ordinance at issue before CHR. CO

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 "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

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

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. Thorndale 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

Police Power

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) The CFHO is proper exercise of the City's police power. CO

Smith v. Goodchild, CCHR No. 98-H-177 (Apr. 13, 1999) (same) CO

Preemption – See separate Preemption section, above.

Retroactivity

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Current CHRO does not retroactively apply to acts which occurred before its effective date because it includes enforcement procedures and civil damages not included in the prior one. R

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Where there would be a substantial burden placed on a party, the CHRO cannot be retroactively applied. R

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) Current CHRO does not retroactively apply to acts which occurred before its effective date and so Complainant cannot recover for any harassment which may have occurred before May 6, 1990. CO

Sexual Harassment

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Oct. 7, 1994) Fact that CHRO specifically prohibits sexual harassment in employment does not mean that sexual harassment in public accommodations is not banned; the prohibition of sex discrimination in public accommodations also proscribes

sexual harassment. HO

Tizes v. North State Astor Lake Shore Drive Assoc. et al., CCHR No. 95-H-17 (Aug. 30, 1995) In construing Fair Housing Ordinance, CHR must look to its language first, giving words their popular, ordinary and plain meaning unless otherwise defined. CO

Thomas v. America's Best Mortgage Co. et al., CCHR No. 93-H-64 (Sep. 14, 1995) (same) CO

Workman v. First National Bank of Chicago, CCHR No. 95-E-106 (Jan. 4, 1996) Statutory construction begins with language of the Ordinance. CO

Toledo v. Brancato, CCHR No. 95-H-122 (Mar. 14, 1997) (same) CO

Toledo v. Brancato, CCHR No. 95-H-122 (Mar. 14, 1997) A statute must be reviewed in its entirety and determination of its purpose shall be based on its reason and necessity. CO

Jacobs v. White Cap, Inc. et al., CCHR No. 96-E-238/239 (July 29, 1997) Statutory construction begins with language of the Ordinance. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR finds that CFHO's prohibition of sex discrimination forbids sexual harassment, despite its lack of a specific reference to sexual harassment. R

Standards

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) In construing the CFHO, CHR first looks to its language, giving words their popular, ordinary and plain meaning unless otherwise defined. CO

Doe v. 12345 Condominium Assoc. et al., CCHR No. 98-H-190 (Apr. 30, 1999) (same) CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Apr. 13, 1999) CHR cannot read into an ordinance a restriction which was not intended by its drafters. CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) The primary purpose of statutory construction is to give effect to the intent of the legislature and the "most reliable indicator of legislative intent is the language of the statute itself". CO

Smith, Torres & Walker v. Wilmette Real Estate & Mgt. Co., CCHR No. 95-H-159 & 98-H-44/63 (Oct. 6, 2000) Rules which govern construction of statutes are also applied for municipal ordinances. CO

Minch, Graf & Cosentino v. Chicago Fire Dept. & Police Dept., CCHR No. 01-E-21/44/48 (Aug. 24, 2001) (same) 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, 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. CO

Brown v. Hirsch Mgt., et al., CCHR No. 01-H-39 (Sep. 24, 2001) Language of relevant ordinance is starting place of analysis of its meaning. CO

Day v. Breakthrough Urban Ministries, et al., CCHR No. 01-H-12 (Sep. 26, 2001) In giving effect to intent of legislature, CHR looks to language of statute and gives words their "popular ordinary and plain meanings". 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 its August order [above] did not create an "irrebuttable 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

Leadership Council for Metropolitan Open Communities. v. Chicago Tribune, CCHR No. 02-H-19 (Apr. 11, 2002) CHR looks to language of statute itself and gives words their "popular ordinary and plain meanings" unless otherwise defined; primary purpose is to give effect to intent of legislature. CO

STRICT LIABILITY

Non-Delegable Duty Not to Discriminate

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

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

Supervisory Personnel

Huezo v. St. James Properties, CCHR No. 90-E-44 (July 11, 1991) Employer liable for sexual harassment by its supervisory employees. R

Greene v. New Life Outreach Ministries, et al., CCHR No. 93-H-119 (Dec. 12, 1994) In denying motion in limine, held that, if corporate Respondents are later found to need specific knowledge of harassment to be liable, then evidence that sexual harassment may have been widespread would be admissible to show that knowledge. HO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) In denying a motion to dismiss, CHR held that complainant is not required to have complained about the alleged harassment to the supervisor/owner who was alleged to be the harasser in order to state a claim. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) An employer is liable for its own acts as well as for those of its supervisory employees even if it is not told of the alleged harassment; citing Reg. 345.120. CO

Arrington v. Levy Restaurants, et al., CCHR No. 97-E-189 (Dec. 4, 1998) CHRO makes an employer strictly liable for the sexual harassment by its supervisory and managerial employees, but uses more of a negligence standard [knowledge of harassment and failure to take reasonable corrective action] for harassment by other employees. CO

Wiles v. The Woodlawn Org. & McNeal, CCHR No. 96-H-1 (Mar. 17, 1999) CHR rejected business respondent's argument that it should be dismissed as not responsible for a custodian's alleged sexual harassment of tenant/Complainant in that facts presented at the hearing suggested that the custodian was employed by or an agent of the business respondent; CHR did not determine whether business was vicariously liable as complainant did not prove that the underlying harassment took place. R

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

Feliciano v. Brad, CCHR No. 91-FHO-77-5662 (Jan. 7, 1992) CHR will not issue a subpoena against itself for the appearance of one of its staff at an Administrative Hearing. CO

Mahaffey v. University of Chicago Hospital, CCHR No. 93-E-221 (Oct. 20, 1997) Complainant not allowed to subpoena CHR investigator to testify about documents collected in investigation as they were available to Complainant through other means as per Reg. 240.370. HO

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

Kennedy v. Chicago Transit Authority, CCHR No. 91-PA-14 (July 26, 1993) Respondent's motions to quash were denied because respondent was subject to Commission's jurisdiction and Commission did not lose any of its jurisdiction over respondent for failure to complete its investigation in 180 days because it was respondent's conduct which made it impossible for Commission to complete its investigation. CO

Berman v. Chicago Transit Authority, CCHR No. 91-PA-45 (July 26, 1993) (same) CO

Tories v. Chicago Transit Authority, CCHR No. 92-PA-50 (July 26, 1993) (same) CO

Necessity

Barr v. Blue Cross Blue Shield Assoc., CCHR No. 91-E-54 (Sep. 25, 1992) Subpoena of a foundation witness found to be unnecessary where testimony showed that the document in question was an admission of Respondent concerning discharged employees. HO

McCall v. Cook County Sheriff et al., CCHR No. 92-E-122 (June 3, 1994) Complainant's emergency motion for subpoenas granted where witnesses who previously agreed to appear voluntarily at the Hearing later requested to be subpoenaed for fear of retaliation from their employers. HO

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Mar. 23, 1995) Request for subpoena denied where Complainant did not explain his failure to seek certain records through discovery and did not state reasons the records were relevant. HO

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

Wilkins v. Little Village Discount Mall, CCHR No. 91-E-82 (Oct. 3, 1992) Complainant may not use subpoena to obtain documents which Hearing Officer had previously ruled could not be obtained by Complainant's document request. HO

Nadeau et al. v. Family Physician Center, Ltd. et al., CCHR No. 96-E-159/160/161 (Nov. 7, 1997) Subpoenas which Respondents issued without requesting them first and without getting the required signatures quashed as unauthorized and in violation of CHR regulations; Respondents ordered to notify subpoenaed persons that subpoenas were not valid. HO

Request Denied

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Mar. 23, 1995) Request for subpoena of a witness denied as without justification where Complainant did not provide his reason for the request saying he did not want to reveal his strategy. HO

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Mar. 21, 1995) Respondents' subpoena request denied where the information sought from Complainant's current employer is available through discovery of Complainant himself. HO

Austin v. Harrington, CCHR No. 94-E-237 (Oct. 23, 1996) Request denied where Complainant issued his own summons to witnesses instead of following CHR procedures; Hearing Officer treated summons as requests for subpoenas. HO

Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Jan. 31, 1997) Hearing Officer denied request for subpoenas of out-of-state witnesses where Complainant did not show that CHR has authority to issue such subpoenas. HO

Mally v. Alzheimer's Assoc., CCHR No. 96-E-41 (Jan. 31, 1997) Request for certain subpoenas denied where it did not list witnesses' addresses and so Hearing Officer could not determine whether they live in or out of state. HO

Toledo v. Brancato, CCHR No. 95-H-122 (Mar. 5, 1997) Where respondent did not explain reasons he needed the information he wished to subpoena, requests denied except for one obvious request -- for his personnel file from third-party company. HO

Toledo v. Brancato, CCHR No. 95-H-122 (Apr. 23, 1997) Respondent's tardy request for subpoenas denied where, although he received the order setting deadlines late, he still waited several weeks before making his request. HO

Toledo v. Brancato, CCHR No. 95-H-122 (Apr. 23, 1997) The date for production must be no less than seven days from the issuance of the subpoenas; Respondent's request was filed too late to meet that unwaivable deadline. HO

Nadeau et al. v. Family Physician Center, Ltd. et al., CCHR No. 96-E-159/160/161 (Nov. 7, 1997) Respondents' request to issue subpoenas denied where the requests were made after the deadline and where Respondents knew of the witnesses before that deadline. HO

Harris v. Jenny Craig International, CCHR No. 93-E-88 (June 26, 1998) Request for subpoenas of out-of-state witnesses denied because the Commission's jurisdiction to compel the production of witnesses cannot exceed that of the Illinois state courts. HO

Chow v. Lemen Sun Grocery & Lau, CCHR No. 97-E-241 (Feb. 5, 1999) Hearing Officer denied Respondents' request for subpoena of credit card company for records finding Respondents' claim that Complainant abused a credit card was too remote to the issues in the case. HO

Chow v. Lemen Sun Grocery & Lau, CCHR No. 97-E-241 (Feb. 9, 1999) Hearing Officer denied Complainant's request for subpoena to determine whether a separate entity was related to Respondents and denied request for subpoena of parties as those documents are available through usual discovery. HO

Robinson v. Crazy Horse Too, CCHR No. 97-PA-89 (May 11, 1999) Hearing Officer denied request for subpoena of documents in the control of Respondent's employees where those documents could have been obtained through timely discovery which Complainant failed to do. HO

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

Nimis v. Salvation Army Adult Rehabilitation Center, CCHR No. 10-H-33 (Mar. 8, 2013) Hearing officer denied Respondent motion to subpoena third party records for purpose of assessing claim and preparing defense, as failing to establish both relevance and inability to obtain the information by other means where complainant's position and witness statements are available in investigation file, information on statements of Respondent's employees can be obtained from the employees, and document requests to Complainant have been allowed despite late filing. HO

Request Granted

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Mar. 23, 1995) Complainant's requests for subpoenas granted for two witnesses whose testimony is relevant to a claim or defense and for a third who had talked to Respondents but not Complainant. HO

Richardson v. Boy Scouts of America, et al., CCHR No. 92-E-80 (Mar. 23, 1995) Granted Complainant's request for subpoena of testimony and documents from organization similar to Boy Scouts but held such information was for rebuttal purposes and so its admissibility would depend on certain prior showings at hearing. HO

Shontz v. Milosavljevic, CCHR No. 94-H-1 (Nov. 27, 1996) Where Complainant showed that the people to be subpoenaed have relevant information and Respondent did not object, request for subpoenas granted. HO

Chow v. Lemen Sun Grocery & Lau, CCHR No. 97-E-241 (Feb. 9, 1999) Hearing Officer granted Complainant's request for subpoena of Respondents tax records, including those covering payments for employees. HO

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

Lacy v. Karr & Assocs. and Karr, CCHR No. 97-E-91 (Jan. 14, 1998) When deciding whether or not there is substantial evidence, CHR cannot make credibility determinations; that means that when a case depends on testimony, CHR cannot just disbelieve the complainant and so must find substantial evidence. CO

Pierce/Haug v. Chicago Public Library, CCHR No. 94-PA-8/84 (July 29, 1998) In determining whether or

not there is substantial evidence, CHR does not make credibility decisions; it cannot disbelieve a complainant merely because the respondent disagrees. CO

Fischer v. Teachers Academy for Mathematics & Science, CCHR No. 96-E-164 (Sep. 10, 1998) (same) CO

Gordon v. Sheridan Flowers, CCHR No. 97-PA-90 (Dec. 17, 1998) (same) CO

Duvergell v. Van Mai, CCHR No. 99-H-17 (Oct. 21, 1999) (same) 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, 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 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) 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

Roche-Kelly v. Juvenile Diabetes Research Foundation, CCHR No. 10-E-74 (Feb. 21, 2013) Characterizations of what occurred and inferences from facts presented in testimony do not involve credibility determinations, nor does application of shifting-burden analysis of evidence. No impermissible credibility determinations found in analysis of evidence concerning time proximity, discriminatory animus, appropriate comparators, and fairness of decisions regarding Complainant’s performance, where Complainant’s testimony was taken as true. CO

Effect on Consolidation

Craig v. New Crystal Restaurant, CCHR No. 92-PA-40 (Jan. 10, 1995) Consolidation denied where one case was at the Hearing stage [after a substantial evidence finding] and the other was still being investigated [before a substantial evidence determination] and where consolidation would unduly delay the case in hearing. HO

Effect on Motions to Dismiss

Ingram v. Rosenberg & Liebenritt et al., CCHR No. 93-E-141 (Mar. 29, 1995) CHR's finding of substantial evidence does not preclude a motion to dismiss. HO

Alceguiere v. Cook County MIS et al., CCHR No. 91-E-137 (May 5, 1995) CHR's finding of substantial evidence does not prohibit the granting of dispositive motions during the hearing process. CO

Findings

No Substantial Evidence

Daniele v. Mitsubishi Trust & Banking Corp., CCHR No. 92-E-23 (Sep. 21, 1993) CHR found no substantial evidence of a claim of constructive discharge where the conditions about which Complainant complained were not so bad that a reasonable person would feel compelled to resign. CO

Daniele v. Mitsubishi Trust & Banking Corp., CCHR No. 92-E-23 (Sep. 21, 1993) Due to facts presented at fact-finding conference, CHR found no substantial evidence of claims of unequal benefits given due to sex. CO

Torribio v. Budget Rent-A-Car, CCHR No. 93-E-176 (Nov. 21, 1994) No substantial evidence found where woman claimed that Respondent's no-fault attendance policy discriminated against pregnant women; there was no evidence that the policy had a disparate impact on pregnant women and most of Complainant's attendance problems pre-dated her pregnancy. 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

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

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

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. 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) 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

Daniele v. Mitsubishi Trust & Banking Corp., CCHR No. 92-E-23 (Sep. 21, 1993) CHR found substantial evidence concerning claim that Complainant was not promoted due to her sex because of conflict in witness testimony which would turn on credibility. CO

Dawson v. YWCA, CCHR No. 93-E-128 (Jan. 19, 1994) CHR found substantial evidence in disability employment case where Respondent had not shown that accommodating Complainant would have caused it an undue hardship. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) Where the open question was the scope of and the legality of, not the existence of, the BSA's policy of not hiring gay individuals, substantial evidence found. CO

Doering v. Zum Deutschen Eck, CCHR No. 94-PA-35 (Sep. 14, 1995) Where Complainant showed that she has a disability and the respondent is not fully accessible and where respondent did not provide evidence of undue hardship, CHR found substantial evidence of violation. CO

Pierce/Haug v. Chicago Public Library, CCHR No. 94-PA-8/84 (July 29, 1998) After holding a Disability Evidentiary Conference, CHR determined that there was substantial evidence that the Library did not provide "full use" of its facilities to people with sight disabilities as alleged. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) Where issue is whether or not there is substantial evidence, not whether or not there is liability, CHR found the disputed issues concerning respondent's ability to make building accessible to person using wheelchair -- such as undue costs and excessive problems to building's heating system -- did not overcome the "scintilla of relevant evidence" that there was substantial evidence and so found the issues should be resolved in hearing process. CO

Winter v. Chicago Park District et al., CCHR No. 97-PA-35 (Jan. 28, 1999) After holding a Disability Evidentiary Conference, CHR found that, where Park District presented no evidence that proposed accommodations constituted an undue hardship, there was substantial evidence that certain Park District facilities were not accessible to Complainant who used wheelchair. CO

Steele v. American Youth Soccer Org., CCHR No. 98-PA-54 (Aug. 25, 1999) CHR finds substantial evidence concerning AYSO's separation of teams by sex where Complainant could not play on the team of her choice and alleged that her assigned team was not sufficiently competitive. CO

Steele v. American Youth Soccer Org., CCHR No. 98-PA-54 (Aug. 25, 1999) Order discusses constitutional and Title IX standards to describe legal questions which will have to be resolved in the case, including open questions about what burden of proof each party may have; what constitutes an injury in this context; and what defenses may be available to AYSO. Order also describes a series of open legal questions which will have to be resolved. CO

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 8, 1999) Where Complainant claimed that Respondent refused to accept her Section 8 voucher to pay her rent for the remainder of her existing lease and where Respondent had not mentioned the alleged lease violations prior to the refusal, CHR granted the Request for Review and found substantial evidence. CO

Duvergel v. Van Mai, CCHR No. 99-H-17 (Oct. 21, 1999) Where case turned on whether person to whom Complainant spoke had authority to handle rental issues and whether he told Complainant that there were no available apartments, CHR granted Request for Review and found substantial evidence as the case depended on credibility. CO

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

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

Roche-Kelly v. Juvenile Diabetes Research Foundation, CCHR No. 10-E-74 (Feb. 21, 2013) CHR granted request for review to interview two Respondent witnesses likely to have knowledge of reasons for Complainant's discharge, where no Respondent witnesses were interviewed or provided written statements. No error found in not interviewing witnesses not involved in the decisions at issue. CO

Requests for Review

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Apr. 19, 1993) In considering a Request for Review after a no substantial evidence determination, CHR will not merely reconsider the same facts and arguments originally raised. CO

Thomas v. Johnson Publishing Co., CCHR No. 91-E-44 (Apr. 19, 1993) Complainant's mere request to change a no substantial evidence decision, without provision of a basis for the request, is not sufficient. CO

Galley-Leeming v. Art Institute of Chicago, CCHR No. 92-E-205 (Oct. 28, 1993) In considering a Request for Review after a no substantial evidence determination, CHR will not merely reconsider the same facts and arguments originally raised. CO

Galley-Leeming v. Art Institute of Chicago, CCHR No. 92-E-205 (Oct. 28, 1993) Complainant's evidence that Respondent may have made a bad business decision, although not necessarily a discriminatory one, is not sufficient for CHR to find substantial evidence, or to reverse a no substantial evidence determination. CO

Palmer v. United Airlines, CCHR No. 93-E-156 (Nov. 18, 1994) Complainant provided no new arguments to cause CHR to reverse its no substantial evidence finding that employers need not have identical dress codes for men and women, so long as they are equal. CO

Hall v. Goldstick & Assocs., CCHR No. 93-E-241 (Feb. 26, 1997) In determining whether or not there is substantial evidence, CHR looks not just to response to complaint but also to information gathered in investigation and so denies request for review which focused on the response. CO

Standard

Daniele v. Mitsubishi Trust & Banking Corp., CCHR No. 92-E-23 (Sep. 21, 1993) CHR adopts standard for finding substantial evidence in cases where "more than a mere scintilla of relevant evidence exists such that a reasonable mind might find it sufficient to support a conclusion". CO

Daniele v. Mitsubishi Trust & Banking Corp., CCHR No. 92-E-23 (Sep. 21, 1993) Complainant need not prove case by a preponderance of evidence in order for CHR to find substantial evidence. CO

Daniele v. Mitsubishi Trust & Banking Corp., CCHR No. 92-E-23 (Sep. 21, 1993) Complainant is a competent witness in her own case and CHR will not find against her merely because Respondent has witnesses to the contrary unless Complainant is inherently incredible. CO

Galley-Leeming v. Art Institute of Chicago, CCHR No. 92-E-205 (Oct. 28, 1993) More than a mere scintilla of relevant evidence must exist such that a reasonable mind might find it sufficient to support a substantial evidence determination. CO

Galley-Leeming v. Art Institute of Chicago, CCHR No. 92-E-205 (Oct. 28, 1993) Complainant's evidence that Respondent may have made a bad business decision, although not necessarily a discriminatory one, is not sufficient for CHR to find substantial evidence, or to reverse a no substantial evidence determination. CO

Dawson v. YWCA, CCHR No. 93-E-128 (Jan. 19, 1994) There must be more than a mere scintilla of relevant evidence which exists such that a reasonable mind might find it sufficient to support a substantial evidence determination. CO

Richardson v. Boy Scouts of America, CCHR No. 92-E-80 (Aug. 8, 1994) (same) CO

Doering v. Zum Deutschen Eck, CCHR No. 94-PA-35 (Sep. 14, 1995) To find substantial evidence, more than a mere scintilla of relevant evidence such that a reasonable mind might find it sufficient to support such a conclusion must exist. CO

Hall v. Goldstick & Assocs., CCHR No. 93-E-241 (Feb. 26, 1997) In determining whether or not there is substantial evidence, CHR looks not just to response to complaint but also to information gathered in investigation and so denies request for review which focused on the response. CO

Cosby v. CMS Realty/Wilson, CCHR No. 96-H-2 (Nov. 5, 1997) When determining whether or not there is substantial evidence, CHR cannot make credibility determinations; therefore, absent something "concrete," CHR cannot disbelieve a complainant merely because the respondent disputes his/her story. CO

Lacy v. Karr & Assocs. and Karr, CCHR No. 97-E-91 (Jan. 14, 1998) When deciding whether or not there is substantial evidence, CHR cannot make credibility determinations; that means that when a case depends on testimony, CHR cannot just disbelieve the complainant and so must find substantial evidence. CO

Pierce/Haug v. Chicago Public Library, CCHR No. 94-PA-8/84 (July 29, 1998) In determining whether or not there is substantial evidence of a violation, CHR decides whether or not 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

Fischer v. Teachers Academy for Mathematics & Science, CCHR No. 96-E-164 (Sep. 10, 1998) When deciding whether or not there is substantial evidence, CHR cannot make credibility determinations; that means that when a case turns on testimony, CHR cannot just disbelieve the complainant and so must find substantial evidence. CO

Belcastro v. 860 N. Lake Shore Drive Trust, CCHR No. 95-H-160 (Nov. 5, 1998) In determining whether or not there is substantial evidence, CHR determines whether there is a "scintilla of relevant evidence such that a reasonable mind might find it sufficient to support such a conclusion". CO

Gordon v. Sheridan Flowers, CCHR No. 97-PA-90 (Dec. 17, 1998) When deciding whether or not there is substantial evidence, CHR cannot make credibility determinations; that means that when a case depends on testimony, CHR cannot just disbelieve the complainant and so must find substantial evidence. CO

Winter v. Chicago Park District et al., CCHR No. 97-PA-35 (Jan. 28, 1999) (same) CO

Steele v. American Youth Soccer Org., CCHR No. 98-PA-54 (Aug. 25, 1999) (same) CO

Lopez v. Arias, CCHR No. 99-H-12 (Sep. 8, 1999) In determining whether or not there is substantial evidence of discrimination, CHR does not consider information which Respondent learned only after Complainant filed her complaint. CO

Duvergel v. Van Mai, CCHR No. 99-H-17 (Oct. 21, 1999) When deciding whether or not there is substantial evidence, CHR cannot make credibility determinations; that means that when a case turns on testimony, CHR cannot just disbelieve the complainant and so must find substantial evidence. CO

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

Harboe/Dimm v. Realty & Mortg. Co., et al., CCHR No. 98-H-140 & 00-H-115 (May 9, 2001) (same) 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

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (Jan. 15, 1995) In case where Complainant was expected to die within days, his attorney was allowed to take his deposition during the investigation stage to preserve his testimony. CO

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 (Sep. 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

Lee v. Barnes Enterprises, CCHR No. 93-E-198 (Apr. 8, 1994) Complainant's claim of discrimination found to survive his death and his sister, an heir, was allowed to be substituted for him. CO

Ayers v. Marigold Bowl, CCHR No. 92-PA-34 (Dec. 7, 1994) A legal successor may be substituted for a deceased Complainant. CO

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (Jan. 15, 1995) A legal successor may be substituted for a deceased complainant. CO

Seyferth v. Peco, Inc. et al., CCHR No. 94-E-186 (June 7, 1995) Where Complainant died and no successor stepped forward to take his place, his case was dismissed. R

Cruz v. Melrose Optical & Reil, CCHR No. 95-E-61 (May 3, 1996) After individual Respondent died, Complainant allowed to amend complaint to substitute Respondent's wife, the administrator of his estate, as the Respondent. CO

Thompson et al. v. GES Exposition Services, Inc. et al., CCHR No. 96-E-94/100/101/102/103/105/ 151/152 (Feb. 24, 1998) A legal successor may be substituted for a deceased complainant; motion to dismiss deceased complainant's case denied. CO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (July 8, 1999) There is no question that an employment discrimination action to recover damages, such as the instant one, survives the death of a complainant. HO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (July 8, 1999) CHR regulation permits a "legal successor" to be substituted for a deceased party; however, a Complainant's purported "common law" wife could not automatically be substituted as she did not appear to be an heir and "common law" marriages are not recognized in Illinois. HO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (July 8, 1999) Order not allowing "common law" wife to be automatically substituted for deceased Complainant granted her time to go into state court

to be appointed the equivalent of a special administrator as CHR does not itself have that authority. HO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (July 26, 1999) Individual who a state court judge appointed to be a special administrator allowed to be substituted for deceased Complainant; Respondent's objections that the state court order was improper could not be addressed by the Commission. HO

Chimpoulis/Richardson v. Cove Lounge, CCHR No. 97-E-123/127 (July 26, 1999) CHR's regulation concerning substitution for deceased complainants does not require the legal successor to be within the complainant's table of descent and so fact that the "special administrator" may not be an heir is not material. HO

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. Godínez, 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 of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) CHRO's language that no person may discriminate against "any" person supports finding that "testers" have standing. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) Gay Complainant held to have standing as a "tester" injured by Respondent's failure even to consider him for employment, despite the fact that CHR found Complainant was not qualified to have been hired by Respondent. R

Richardson v. Chicago Area Council of Boy Scouts of America, CCHR No. 92-E-80 (Feb. 21, 1996) In upholding standing for "tester," CHR distinguishes cases concerning pre-1991 Civil Rights Act when emotional distress damages were not available. 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

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

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) CHR held that equitable tolling is available when an agency misleads an individual or makes errors which frustrates his or her attempt to file a complaint. CO

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) Sets forth factors CHR considered when deciding whether it committed an error or misled an individual to allow tolling of filing period. CO

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) CHR denies request for tolling finding it made no error and did not mislead the person who sought to file; the intake person told the person accurate and complete information about filing a complaint. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Filing period may be tolled when CHR misleads an individual or makes errors which frustrate an attempt to file a complaint. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Claim for tolling based on agency error denied where Complainant's claim provided insufficient information -- that on an uncertain date she spoke to an unidentified CHR representative -- so that CHR could not determine what occurred or whether it had erred. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Complainants who claim agency error should toll the filing period must know information such as the date he or she called or to whom they spoke when they alleged misinformation was provided. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) Agency found not to have misled complainant and so tolling not appropriate where: the original complaint addressed suspension not discharge, complainant claims discharge was omitted when he "inundated" the intake person, the intake person told him of the omission and told him to amend the complaint within 180 days, and complainant did not amend while waiting for completion of the union grievance process. CO

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

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Party who seeks tolling has burden to prove that it is appropriate. CO

Continuing Violation

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Where Respondent was found to have "embarked on a continuous course of conduct" in refusing to accommodate Complainant, Complainant allowed to raise incidents which occurred more than 180 days before he filed his Complaint under the doctrine of continuing violation. R

Thompson v. Ross & Hardies, CCHR No. 94-E-88 (Oct. 27, 1994) To determine if allegations may be deemed a continuing violation, CHR looks at their relatedness, frequency and impermanence. CO

Thompson v. Ross & Hardies, CCHR No. 94-E-88 (Oct. 27, 1994) Several events found unrelated to others and to the one timely event held not to be part of a continuing violation. CO

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996) To determine whether several acts constitute a continuing violation, CHR looks to their relatedness, frequency and permanence. CO

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996) Issuance of parking tickets, entry of default judgments against Complainants and Respondents' refusal to reimburse fine to Complainants found not sufficiently recurring or impermanent to create a continuing violation. CO

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996) Where the only possibly timely event does not constitute a separate occurrence -- a request to remedy a prior decision -- that event cannot be used to make the prior events deemed to be timely. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) To determine whether several acts constitute a continuing violation so CHR may consider otherwise untimely events, CHR looks to the acts' subject matter, frequency and permanence; CHR evaluates each element in decision. CO

Leahy v. Tcheupdjian and Liposuction & Cosmetic Surgery Instit., CCHR No. 95-E-21 (Apr. 28, 1997) In 13 months, approximately six incidents involving alleged sexual harassment and the same alleged harasser as well as complainant's discharge found sufficiently related, frequent and impermanent to constitute a continuing violation. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) To determine whether several acts constitute a continuing violation so CHR may consider otherwise untimely events, CHR looks to their relatedness, frequency and permanence. CO

Harris v. Chicago Bd. of Education, CCHR No. 98-E-95 (Dec. 22, 1998) Where facts about relatedness, frequency and permanence were not before CHR, CHR did not rule on whether Complainant could show a continuing violation, but declined to dismiss the case for lack of timeliness at motion to dismiss stage. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) To determine whether several acts constitute a continuing violation so CHR may consider otherwise untimely events, CHR looks to their relatedness, frequency and permanence. CO

Stokfisz v. Spring Air Mattress et al., CCHR No. 97-E-105 (Feb. 11, 1999) Taking complainant's allegations and reasonable inferences as true, CHR found she stated a claim for continuing violation so that her otherwise untimely allegations were not dismissed. CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) To determine whether several acts constitute a continuing violation so CHR may consider otherwise untimely events, CHR looks to their relatedness, frequency and permanence. CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) Incident found not to be part of a continuing violation where it was sufficiently permanent to have alerted complainant to file a complaint at the time it occurred and where it was separated by long time from and involved different people than in the later events. CO

Doe v. The Northern Trust, CCHR No. 99-E-23 (July 29, 1999) Incident found to be part of a continuing violation where it involved the same people as the timely incident, involved the same sort of alleged discrimination, where it was not so permanent as to have caused complainant to file a complaint at the time and where it was, in essence, the incident which began the sequence of events which led to his discharge several months later. CO

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

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) In certain circumstances, a complainant's disability could toll the filing period. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) CHR reviews cases which address tolling a filing period due to disability and notes, among other standards, that the disability must have prevented the sufferer from filing. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) Holds that, whatever standard is used, Complainant did not show that her alleged disability was sufficient to toll the filing period. CO

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 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

Equitable Estoppel – See Jurisdiction/Time for Filing/Equitable Estoppel and Estoppel/ Equitable Estoppel, both above.

Filing Deadline

Kuzniar v. Mayer, Brown & Platt, CCHR No. 91-E-34 (July 16, 1991) Request for reconsideration of termination does not toll 180-day period. CO

Tomko v. St. Joseph's Hospital, CCHR No. 91-PA-5 (Jan. 17, 1992) The 180-day filing period is not a jurisdictional requirement but is like a statute of limitations which can be tolled. CO

Tomko v. St. Joseph's Hospital, CCHR No. 91-PA-5 (Jan. 17, 1992) 180-day period equitably tolled where CHR did not inform Complainant how to preserve his rights under the CHRO, unintentionally misled Complainant into filing late, and where there was no prejudice to the Respondent. Also, Complainant had tendered a written statement to CHR within the 180-day period and believed that it was sufficient to initiate the complaint process and CHR did not correct his misunderstanding until after the 180-day period had run. CO

White v. Southlawn Palms, CCHR No. 92-E-207 (Aug. 27, 1993) Defines three doctrines which are available to excuse a failure to comply with the filing deadline. CO

White v. Southlawn Palms, CCHR No. 92-E-207 (Aug. 27, 1993) Applied the "discovery rule" to toll filing deadline with the particular facts where Complainant did not discover, and could not have discovered, that she may have been paid less than a male co-worker until years later and where Respondent not unduly prejudiced by the delay. CO

Hruban v. William Wrigley Co., CCHR No. 91-E-63 (Apr. 20, 1994) Where Respondent concealed that a March 1990 layoff of Complainant was intended to be permanent and not temporary, Complainant was allowed to file within 180 days of receiving an April 1991 letter informing him that his layoff was permanent. R

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

Littleton v. Chicago Municipal Credit Union, CCHR No. 91-CR-5 (Mar. 5, 1993) Denies motion to dismiss based on fact that CHR did not complete its investigation within 180 days of filing; the CHRO does not require CHR to complete its investigation in 180 days in all circumstances and case law holds that a) the Complainant has a property interest in CHR proceedings and b) the 180-day investigative period is not jurisdictional. CO

Kennedy v. Chicago Transit Authority, CCHR No. 91-PA-14 (July 26, 1993) CHR did not lose jurisdiction when its investigation exceeded 180 days, citing Littleton (above) and noting that Respondent's failure to cooperate made it impractical, even impossible, for CHR to complete its investigation within 180 days. CO

Berman v. Chicago Transit Authority, CCHR No. 91-PA-45 (July 26, 1993) (same) CO

Tories v. Chicago Transit Authority, CCHR No. 92-PA-50 (July 26, 1993) (same) CO

Request for Reconsideration

Perdue v. Winchester/Hood Co-op, CCHR No. 94-H-152 (Dec. 7, 1995) Request for reconsideration of the decision in question does not toll the 180-day filing period. CO

Vasilatos v. Chicago Bureau of Parking & Dept. of Law, CCHR No. 95-PA-60/61 (Apr. 26, 1996) Where the only possibly timely event does not constitute a separate occurrence -- a request to remedy a prior decision -- that event cannot be used to make the prior events deemed to be timely. CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) Request for reconsideration of discharge via union grievance process does not toll the 180-day filing period. CO

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

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) Soldiers & Sailors Relief Act tolls the filing period while a person is in military service; it covers persons in the reserves while on active duty. CO

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) Even allowing for the tolling while Moshiri was on active duty, he tried to file his complaint several months too late. CO

Statute of Limitations

Moshiri v. Chicago Police Dept., CCHR No. 95-E-00 (July 10, 1995) The 180-day complaint filing deadline found not to be jurisdictional, but like statute of limitations which can be tolled for equitable reasons. CO

Coley v. Catholic Charities, CCHR No. 96-E-285 (July 8, 1997) (same) CO

Barnes v. Ameritech & Muniz, CCHR No. 96-E-70 (Aug. 1, 1997) (same) CO

TRANSEXUALISM – See Gender Identity Discrimination, above.

VERIFIED RESPONSE

Default for Lack of – See Default section, above.

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. HO

Position Statement

Bosh v. CNA et al., CCHR No. 92-E-83 (Apr. 19, 1995) Respondent's position statement not considered a formal answer so could not be used to impeach a witness as it was authored by attorney. R

Requirements

Houck v. Inner City Horticultural Fdn., CCHR No. 97-E-93 (Aug. 20, 1997) Regs. 210.240 & 210.250 provide requirements for content and verification of verified response. CO

Lapa v. Polish Army Veterans Assn. et al., CCHR No. 02-PA-27 (Dec. 31, 2002) Pursuant to Reg. 210.240, 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

Houck v. Inner City Horticultural Fdn., CCHR No. 97-E-93 (Aug. 20, 1997) Fact that verified response was drafted by an attorney was not reason to strike verified response where it was verified by a proper representative of Respondent. CO

Houck v. Inner City Horticultural Fdn., CCHR No. 97-E-93 (Aug. 20, 1997) Fact that verification stated that Respondent certified statements made on information and belief to be true, not just believed to be true, was no reason to strike response; it was a higher standard than CHR required. CO

Houck v. Inner City Horticultural Fdn., CCHR No. 97-E-93 (Aug. 20, 1997) Mere fact that verified response omitted address of Respondent was not reason to strike response. CO

Houck v. Inner City Horticultural Fdn., CCHR No. 97-E-93 (Aug. 20, 1997) While not waiving compliance with regulations, CHR recognizes that default is a severe sanction and is not meant to be punitive so it did not strike response, and so default Respondent, where only defect of response is failure to provide Respondent's address. CO **See Default section, above.**

WITHDRAWAL OF ATTORNEY – See Attorney Appearance/Leave to Withdraw, above.

WITHDRAWAL OF COMPLAINT – See Complaints/Withdrawal Of section, above.