

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JOHANNA BAYLEY,

Petitioner,

vs.

INTERSTATE MANAGEMENT
COMPANY, LLC,

Case No. 08-1214
2007-01751

Respondent.

**RESPONDENT'S MOTION FOR LEAVE TO FILE REPLY
IN SUPPORT OF MOTION FOR SUMMARY FINAL ORDER**

Respondent, Interstate Management Company, LLC ("Interstate"), hereby files this Motion for Leave to File Reply in Support of its Motion for Summary Final Order, and states as follows:

On June 17, 2008, Respondent filed a Motion for Summary Final Order, explaining why there is no factual or legal merit to Petitioner's claims of sexual harassment and retaliation, and thus, that the Petition for Relief should be dismissed. On June 23, 2008, Petitioner filed an Opposition to Respondent's Motion. In the Opposition, Petitioner claims that Respondent has "mischaracterized" her allegations. She alleges, for the very first time in these proceedings, that, in addition to her claims of retaliation and sexual harassment, she is also pursuing a claim of gender discrimination. This incredulous assertion is contrary to numerous undisputed items, including Petitioner's Charge of Discrimination, the FHCR's determination, her Petition for Relief, and even her own clear and unequivocal deposition testimony.

Given that Petitioner has *never* raised a claim of gender discrimination before in these proceedings, Respondent did not address such a claim in its Motion. Respondent would like to file a very brief Reply to explain that: (1) Petitioner's argument that her claims have been "mischaracterized" is false; (2) even if it was her intent all along to pursue such a claim, she has

waived her right to do so in this proceeding; and (3) even if she is allowed to proceed with such a claim at this point, it is without factual or legal merit (just like her claim of retaliation). The reply memorandum that Respondent desires to file is merely four pages in length. A copy is attached as Exhibit 1.

WHEREFORE, Respondent respectfully requests permission to file a Reply in Support of Its Motion for Summary Final Order. If permission is granted, Respondent will file the attached Reply in a separate docket filing.¹

DATED this 27th day of June 2008.

Respectfully submitted,

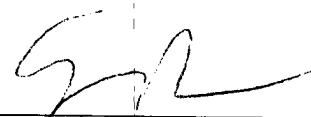
LITTLER MENDELSON, P.C.
Counsel for Respondent
One Biscayne Tower, Suite 1500
2 South Biscayne Boulevard
Miami, Florida 33131-1804
Telephone: (305) 400-7500
Facsimile: (305) 603-2552

By: 

Aaron Reed
Florida Bar No. 557153
Gaye L. Huxoll
Florida Bar No. 149497

CERTIFICATE OF SERVICE

I certify that a copy hereof was served via U.S. Mail and Facsimile, on this 27th day of June 2008, to: Geralyn F. Noonan, Esq., Law Office of Geralyn F. Noonan, *Counsel for Petitioner*, 8250 College Parkway, Suite 202-B, P.O. Box 07338, Fort Myers, Florida 33919.



Aaron Reed

¹ Respondent's counsel contacted Petitioner's counsel in an attempt to discuss the relief requested herein. However, no response was received. Respondent's counsel has had extreme difficulty receiving a response on any and all matters related to this case.

EXHIBIT 1

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JOHANNA BAYLEY,

Petitioner,

vs.

INTERSTATE MANAGEMENT
COMPANY, LLC,

Respondent.

Case No. 08-1214
2007-01751

RESPONDENT'S REPLY IN SUPPORT OF MOTION FOR SUMMARY FINAL ORDER

Respondent, Interstate Management Company, LLC ("Interstate"), hereby files this Reply in Support of its Motion for Summary Final Order, and states as follows:

In Petitioner's Opposition to Respondent's Motion for Summary Final Order, she claims that Respondent has "mischaracterized the nature of and allegations" that she makes against Respondent. She claims that it is improper to state that she is pursuing claims of retaliation and sexual harassment, because, in fact, she is pursuing claims of retaliation and sex discrimination, consisting of harassment *and* gender discrimination. This claim is incredulous. The following evidentiary items establish that Petitioner has not previously pursued a claim of gender discrimination, and that she cannot pursue such a claim at this point in the proceedings:

(1) **Petitioner's Charge of Discrimination**

Throughout her Charge, Petitioner *repeatedly* refers to allegations of sexual harassment, and she does not offer a single fact or allegation of disparate treatment based upon gender. See Exhibit 1 (Petitioner's Charge of Discrimination). The fact that she concludes her Charge by stating that she was subjected to "sex discrimination and retaliation" does not alter the nature of her allegations. As Petitioner concedes in her Opposition, "sexual harassment is a form of sex discrimination." Gupta v. Fla. Bd. Of Regents, 212 F.3d 571, 582 (11th Cir. 2000). The fact that

she properly characterized her harassment claim as sex discrimination at the end of her Charge does not alter the obvious nature of her allegations.¹

(2) **The FCHR December 21, 2007 Investigative Memorandum**

In the FCHR's December 21, 2007 Investigative Memorandum, the FCHR stated that Petitioner's Charge "alleg[es] she was sexually harassed and retaliated against in her layoff because of her objections to the harassment." See Exhibit 2 (FCHR's 12/21/07 Investigative Memorandum). There is no mention by the FCHR whatsoever of any claim of gender discrimination by Petitioner. That is because she never asserted such a claim.

(3) **Petition for Relief**

The scope of these proceedings is limited by the issues as framed by Petitioner in her Petition for Relief. Petitioner's February 16, 2008 Petition for Relief says absolutely nothing about a claim of gender discrimination. See Exhibit 3 (2/16/08 Petition for Relief). In fact, in section (4) of the Petition ("disputed issues of material fact"), Petitioner only references her retaliation claim. If Petitioner was truly pursuing a gender discrimination claim, she would have mentioned it in the Petition for Relief. This is particularly true given that the FCHR did not discuss or address any gender discrimination claim in the investigative memorandum. If Petitioner was truly pursuing a gender discrimination claim, then she would have certainly believed that the FCHR made an error in its investigative memorandum, and she *should* have mentioned it in the Petition for Relief. Her failure to do so means that she waived her right to pursue such a claim in this proceeding.

(4) **Petitioner's Own Deposition Testimony**

During Petitioner's May 22, 2008 deposition, she provided the following testimony:

¹ The fact that Petitioner did not state "harassment, sex discrimination, and retaliation" also establishes that her present claim is entirely disingenuous. If she truly believed that she was pursuing all three such claims, then she would have said so in her Charge.

Q: You claim that you were subjected to sexual harassment and retaliation by Interstate and by LXR; correct?

A: Correct.

Q: Are you making any other claims against LXR or Interstate other than sexual harassment and retaliation?

A: No.

See Exhibit 4 (Petitioner's deposition transcript at 63:14-64:21). This testimony cannot be any more clear and unequivocal.

The above record evidence establishes the lack of merit to Petitioner's assertion that Respondent mischaracterized the nature of her claims and allegations. The fact that she has *never* raised this issue until now only serves to underscore the incredibly disingenuous nature of the argument. It would be improper to allow Petitioner to proceed with a gender discrimination claim at this point, in light of the nature of her Charge and the FCHR's investigative memorandum, her failure to mention such a claim in her Petition for Relief, and *her own undisputed testimony*.

Notwithstanding the above, even if Petitioner is allowed to pursue a claim of gender discrimination (and she should not be), such a claim has no merit whatsoever. Petitioner offers no evidence that a similarly situated non-female employee was treated more favorably than her. It is undisputed that Interstate laid off males and females as a result of the decisions made by LXR. It appears that Petitioner points to *Earl Quenzel* as the person who was treated more favorably. Respondent does not even understand this argument. Mr. Quenzel was *terminated* (in September 2005) as a result of the investigation of Petitioner's harassment allegations. Petitioner alleges that, after his termination, he came to a property once in October 2005 (to retrieve his belongings) and once in July 2006 (to take a sailing class with his wife). This is not "more favorable treatment." Aside from which, *he was not an employee at that point*, and the standard requires that Petitioner show more favorable treatment of another employee.

Even if she could establish a *prima facie* case of sex discrimination (and she cannot), for the same reasons already discussed in Respondent's Motion, Petitioner was laid off for a legitimate, non-discriminatory reason, and for the same reasons already discussed, there is no evidence that the layoff decision was a pretext for discrimination.² Petitioner's gender discrimination fails as a matter of fact and law, just like her claim of retaliation.

DATED this 27th day of June 2008.

Respectfully submitted,

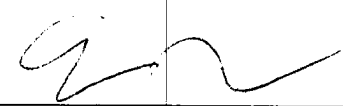
LITTLER MENDELSON, P.C.
Counsel for Respondent
One Biscayne Tower, Suite 1500
2 South Biscayne Boulevard
Miami, Florida 33131-1804
Telephone: (305) 400-7500
Facsimile: (305) 603-2552

By: 

Aaron Reed
Florida Bar No. 557153
Gaye L. Huxoll
Florida Bar No. 149497

CERTIFICATE OF SERVICE

I certify that a copy hereof was served via U.S. Mail and Facsimile, on this 27th day of June 2008, to: Geralyn F. Noonan, Esq., Law Office of Geralyn F. Noonan, *Counsel for Petitioner*, 8250 College Parkway, Suite 202-B, P.O. Box 07338, Fort Myers, Florida 33919.



Aaron Reed

Firmwide:85698082.1 019369.1082

² Petitioner argues that Respondent's claim that LXR made the decision to terminate Petitioner's employment is "untested." This is a bizarre attempt to mischaracterize the standards relevant to a dispositive motion. Respondent submitted *evidence*, in the form of affidavits, to establish that LXR made the decision not to retain Petitioner's employment, and that Interstate personnel were not involved. In her opposition, Petitioner does not offer *any* evidence to rebut this claim. As a result, the proper way to characterize Respondent's assertion is *undisputed*.

EXHIBIT 1

FLORIDA COMMISSION ON HUMAN RELATIONS
2009 Apalachee Parkway, Suite 100
Tallahassee, Florida 32301

Date Stamp (FCHR Use Only)

2007 JUN -4 PM 2:36

FCHR No. 200701757

CHARGE OF DISCRIMINATION		FCHR No. 200701757	
Name (Indicate Mr. Ms. Or Mrs.)		Social Security #	Date of Birth
Johanna Bayley, c/o Geralyn F. Noonan, Esquire		016-68-3216	11/02/71
Street Address		Home Telephone Number (area code)	
P.O. Box 07338		(239) 694-7070	
City, State and Zip Code		Work (if possible to call you there)	
Fort Myers, FL 33919		(239) 694-7070	
List the employer, labor organization, employment agency, apprenticeship committee, government agency, or other person who discriminated against you.			
Name	Number of Employees	Telephone Number	
Interstate Hotels and Resorts, Inc. "LXR" d/b/a South Seas	15+	(305) 400-7500	
Street Address	City, State and Zip Code	County	
c/o Littler Mendelson, Aaron Reed, Esquire One Biscayne Tower, 2 South Biscayne Blvd., Suite 1500	Miami, FL 33131	Lee	
CAUSE OF DISCRIMINATION BASED ON - Check appropriate box(es)		DATE MOST RECENT OR CONTINUOUS DISCRIMINATION TOOK PLACE (month, day, year)	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> DISABILITY <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> AGE <input type="checkbox"/> MARITAL STATUS <input checked="" type="checkbox"/> RETALIATION		August 8, 2006	

I. Personal Harm: I. I am female. I was employed by Interstate Hotels and Resorts, Inc. "LXR" d/b/a South Seas in 2002, and promoted more than once to my final post as Senior Sales and Marketing Manager. I reported to Ted Davis, LXR Area Director, and Frank Cavella, LXR Area Director. I was formerly supervised by Earl Quenzel, until South Seas terminated his employment in September 2005. Robin Ford, Bob Mascio and Donna Chung are/were Human Resources Directors who also had some supervisory authority concerning me. I am well-qualified for my former position, experienced, and my work performance exceeded my employer's reasonable expectations.

II. Earl Quenzel subjected me to sexual harassment, and was dismissed after I reported the same. Mr. Mascio advised me when Mr. Quenzel was fired only that he was no longer permitted on company property, that he was prohibited from contacting company employees at work, and that he was prohibited from future employment at South Seas. I requested clarification from Ms. Chung and other supervisors more than once regarding why Mr. Quenzel was present on company property following his termination. I was disciplined for requesting the clarification. I explained to Ms. Chung and Bill Waichulis, General Manager of Operations, that the resort previously investigated my *quid pro quo* sexual harassment allegations concerning Mr. Quenzel, substantiated them, and terminated his employment. I did this on July 11, 2006 during a meeting after Mr. Waichulis mischaracterized the Quenzel matter as "a romance gone bad."

LXR acquired South Seas on February 24, 2006. Company officials expressly and specifically assured me that my employment would continue uninterrupted after LXR purchased South Seas. All other call center employees and those similarly situated to them were pre-identified for lay-off, afforded advance notice and paid a cash bonus. I was not among any of these employees. Mr. Davis included my name on the company organizational chart after July 31, 2006, and assigned me specific tasks after this date. South Seas then abruptly terminated my employment on July 31, 2006, indicating that I was "laid off." I was presented with a settlement agreement and release when I was fired, containing a comprehensive release of all of my civil rights claims. I advised South Seas that I could not accept their proposal, but would negotiate with the company on August 8, 2006. South Seas declined to respond at first, and ultimately declined negotiation for a final time on December 6, 2006.

III. Discrimination Statement: III. The dismissal was wholly unexpected, and came on the heels of my obtaining and serving a Court injunction against Mr. Quenzel for repeat violence. In the period preceding my dismissal, I grew concerned for my personal safety after Mr. Quenzel repeatedly visited South Seas property. I was subjected to sex discrimination and retaliated against in contravention of Title VII of the Civil Rights Act of 1964, and the Florida Human Rights Act, both as amended

I REQUEST TO BE AFFORDED FULL RELIEF TO WHICH I AM ENTITLED UNDER THE LAW(S).

I will advise the agency if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

Under penalties of perjury, I declare that I have read the foregoing charge of discrimination and that the facts stated in it are true.

SIGNATURE OF COMPLAINANT

DATE

Analys F. Brown, Esquire for Johanna Bayley June 1, 2007

EXHIBIT 2

INVESTIGATIVE MEMORANDUM

FCHR NO. 200701751
EEOC NO.

Date: December 21, 2007
To: Office of Executive Director
From: Michael Harper
Investigation Specialist
Office of Employment Investigations

COMPLAINANT

Johanna Bayley
c/o Geralyn F. Noonan, Esquire
Geralyn F. Noonan, Attorney at Law
Post Office Box 07338
Fort Myers, FL 33919

v.

RESPONDENT

Interstate Management Company, LLC
c/o Ms. Gaye L. Huxoll, Esquire
Littler Mendelson
1 Biscayne Tower Suite 1500
2 South Biscayne Blvd.
Miami, FL 33131

DECLARATION OF JURISDICTION

Respondent is an employer within the meaning of one or more of the following laws: (a) the Florida Civil Rights Act of 1992, as amended (Chapter 760, Florida Statutes); (b) Title VII of the Civil Rights Act of 1964, as amended; (c) the Age Discrimination in Employment Act (ADEA); and/or (d) the Americans with Disabilities Act (ADA), and all jurisdictional requirements for coverage have been met.

FOCUS OF THE COMPLAINT

Complainant filed this charge of discrimination against Respondent alleging she was sexually harassed and retaliated against in her lay off because of her objections to the harassment.

RESPONDENT'S POSITION

Respondent denies that Complainant was discriminated against. Instead, it contends that Complainant was involved in a consensual relationship with a manager who was allowed to resign for violating its policy against such relationships and terminated pursuant to the end of a management contract.

SUMMARY OF INVESTIGATIVE FINDINGS

1. Complainant began her employment with Respondent on November 29, 2002. Her final position with Respondent was Senior Sales and Marketing Manager.
2. Respondent is a hotel management company responsible for managing day-to-day operations of different properties, such as South Seas Resorts where Complainant worked. Respondent employed persons at the properties to provide lodging, food and beverage, and spa services to the public.
3. Complainant was employed at the Vacation Planning Center.
4. Complainant was supervised by Earl Quenzel during a portion of her employment.
5. Respondent contends that in August 2005, Complainant reported to Human Resources that she had been "romantically involved" with Mr. Quenzel. Respondent maintains that Complainant stated that she was not having any problems with Mr. Quenzel or doing her job.
6. Respondent alleges that Complainant subsequently complained about the way that Mr. Quenzel began treating her after she ended their relationship.
7. Respondent contends that it investigated the matter and concluded that Mr. Quenzel had violated Respondent's Consensual Relationships policy. Respondent maintains that Mr. Quenzel resigned rather than allow himself to be terminated.
8. Complainant alleges that Mr. Quenzel subjected her to sexual harassment and was dismissed in September 2005 after she reported it.
9. Complainant contends that Mr. Quenzel was no longer permitted on company property, prohibited from contacting company employees at work, and prohibited from future employment.
10. Complainant provided an email dated January 26, 2006 from Bob Mascio, Vice President of Human Resources, which indicated that Respondent's policy against sexual harassment and consensual relationships had been violated.
11. The stated purpose of the above email was to report to Complainant the investigation of her allegations of inappropriate conduct and sexual harassment raised in August 2005.
12. On February 24, 2006, the South Seas property was acquired by an affiliate of the Blackstone Group, doing business as LXR Luxury Resorts and Hotels.

After LXR took over, Respondent was informed that LXR would be assuming managerial operations of the properties and would be terminating Respondent's management services effective July 31, 2006.

13. On June 15, 2006, LXR alleges that it made the decision to eliminate most of the sales and marketing positions at the Vacation Planning Center, which was separate from the resort. Complainant worked at that physical location.
14. An email from Mark Komine, Executive Vice President Sales and Marketing of LXR, was provided in support of this contention. It is important to note that, in the email, those employees listed for termination were notified of this via email on the date of the email. Complainant was not notified.
15. Complainant maintains that during this period, Mr. Quenzel visited South Seas Resort's property and contacted employees, which she thought was a violation of the terms of his termination.
16. Complainant does not allege that Mr. Quenzel sexually harassed her during this time period. As such, her sexual harassment claims are time barred.
17. In her petition for a restraining order, Complainant cited an instance when Mr. Quenzel called her house and left threatening messages in March 2006. She called the Sheriff's department. In this same petition, Complainant cited Mr. Quenzel's termination as the reason for the hostility. She also expressed concern that this violence would happen if Mr. Quenzel's visited South Seas Resorts.
18. Complainant does contend that Mr. Quenzel called her home and cell phone threatening Complainant, her family, and her boyfriend. Mr. Quenzel stated that they will settle things tonight during these phone calls.
19. On July 11, 2006, Complainant objected to Mr. Quenzel being on company property, while she was giving a tour, to Donnal Chung, Human Resources Area Director for both Respondent and LXR at South Seas Resorts. Ms. Chung responded that she needed a restraining order to prevent Mr. Quenzel from being on Respondent's property.
20. On July 12, 2006, Complainant obtained a temporary restraining order against Mr. Quenzel. A copy of this temporary restraining order was provided by Complainant.
21. On July 19, 2006, Complainant was granted a permanent restraining order against Mr. Quenzel for repeated violence. Complainant provided a copy of the restraining order.
22. Ms. Chung stated, via email, that she would need advance notice of when Complainant would visit the various properties so that Respondent could comply with the order.
23. Complainant provided numerous emails that were sent on the subject, in support.

24. Complainant provided an email from Marta Lautin (email:MLautin@luxuryresorts.com) telling her that she needed to discuss Peter Fishel's visit to South Seas Resorts. The email indicated that John Tolbert, President of Sales and Marketing, had tried to send it to her at a luxuryresorts.com email address and indicated that Complainant still had the ihrco.com address.
25. The domain, luxuryresorts.com, is used for LXR employees' email addresses.
26. On July 21, 2006, Complainant was provided with an enrollment package for the LXR Benefit Program. The enrollment package had Complainant's name and address on it. It also listed her as a new hire. Complainant alleges that this was given to her by Ms. Chung. This enrollment package was provided by Complainant in support.
27. Respondent terminated all remaining personnel of South Seas Resorts as of July 31, 2006.
28. Complainant was terminated by Ms. Chung on the above date.

CONCLUSION

1. The required elements for a prima facie case of retaliation are: (1) Complainant was engaged in statutorily protected activity; (2) Employer was aware of Complainant's activity; (3) Complainant was subjected to an adverse action; and (4) there was a causal link between the protected activity and the adverse action.
2. Complainant *was not* able to establish a prima facie case of retaliation because:
 - a. Complainant *was* engaged in protected activity. Complainant objected to sexual harassment.
 - b. Employer *was* aware of Complainant's activity. Respondent investigated the claims.
 - c. Complainant *did* suffer an adverse action. Complainant was laid off.
 - d. There *was not* a causal link between the protected activity and the adverse action. Complainant alleged that Mr. Quenzel was terminated in September 2005. Complainant was laid off on July 31, 2006. The delay between the complaint and her termination was approximately 10 months and as such the temporal proximity is too remote to find a causal connection. Even if there were a close temporal proximity between the complaint and termination, Respondent laid off all employees that were not retained by LXR and would not have treated her any differently than those employees not retained.
3. Accordingly, there *is not* reasonable cause to believe that Respondent unlawfully retaliated against Complainant.

EXHIBIT 3

Florida Commission on Human Relations

Johanna Bayley
Petitioner

FCHR No. 200701751

Interstate Management, LLC
Respondent

Petition for Relief

Petitioner files this Petition for Relief from an Unlawful Employment Practice, a Housing Discriminatory Practice, or a Public Accommodation Discriminatory Practice, and says:

This is a Petition for Relief from (check the applicable one):

- Unlawful Employment Practice
- Housing Discriminatory Practice
- Public Accommodation Discriminatory Practice

08 MAR - 7 PM 3-11-17

1. PETITIONER'S NAME, ADDRESS AND TELEPHONE NUMBER ARE AS FOLLOWS:

Name Johanna Bayley
c/o Gerahyn F. Norman, Esq.

Street or P.O. Box P.O. Box 07338

City Fort Myers, State FL, Zip 33919

Area Code & Phone Number (239) 694-7070

2. RESPONDENT'S NAME, ADDRESS AND TELEPHONE NUMBER ARE AS FOLLOWS:

Name: Interstate Management Company, LLC
c/o Ms. Gaye L. Huxoll, Esquire, Littler Mendelson

Street or P.O. Box 1 Biscayne Tower, Suite 1500, 2 South Biscayne Blvd.

City Miami, State FL, Zip 33131

Area Code & Phone Number (305) 400-7500

3.

RESPONDENT HAS VIOLATED THE (Check One)

- Florida Civil Rights Act of 1992, As Amended
- Florida Fair Housing Act, As Amended, OR

IN THE MANNER SPECIFICALLY DESCRIBED BELOW:

please see attached. Also, we wish to have
 the Complainant's entire FCHR case file
 considered.

F1 08/16/08
 08 FCHR - 7 PM 3:14

4.

THE DISPUTED ISSUES OF MATERIAL FACT, IF ANY, ARE AS LISTED BELOW:

- ① There was a causal connection between the protected activity and the adverse employment action
- ② There is reasonable cause to believe that the Respondent unlawfully retaliated against Complainant.
- ③ The Complainant was retaliated against when she was presented with a settlement proposal containing a full release of civil rights claims at termination, attached, violating EEOC Policy*

5.

THE ULTIMATE FACTS ALLEGED & ENTITLEMENT TO RELIEF ARE AS LISTED BELOW:

please see attached

*Note that (59) additional pages have been initialed, dated, and attached

WHEREFORE, Petitioner prays that the Florida Commission on Human Relations enter its order prohibiting the discriminatory practice and granting such affirmative relief as may be just and equitable in this cause.

2/16/08
 Date

Qualya S. Jordan, Esquire for
Johnna Bayley
 Petitioner

* notice number 915.002, date 4/10/97, also attached.

EXHIBIT 4

IN THE CIRCUIT OF THE TWENTIETH JUDICIAL CIRCUIT IN AND
FOR COLLIER COUNTY, FLORIDA CIVIL ACTION

JOHANNA BAYLEY,

Petitioner,

vs.

Case No. 08-1214-2007-01751

INTERSTATE MANAGEMENT
COMPANY, LLC,

Respondent.

/

DEPOSITION OF: JOHANNA BAYLEY

DATE: May 22, 2008

TIME: 10:38 a.m. to 5:17 p.m.

LOCATION: Holden Reporting Service, Inc.
The Atrium
8695 College Parkway, #350
Fort Myers, FL 33919

TAKEN BY: Counsel for Respondent

REPORTER: Pamela Holden, FPR
Notary Public
State of Florida at Large

ORIGINAL

1 and I'll state it again at the end to discuss --
2 potentially discuss documents produced in response
3 to Interstate's request for production.

4 Some documents were produced last evening,
5 and those documents have not been reviewed in 11:53AM
6 their entirety yet, and so those documents as well
7 as any others that may be required by followup
8 might be questioned about in a later deposition.

9 This is No. 2.

10 (Respondent's Exhibit No. 2, Copy of Charge 11:53AM
11 of Discrimination, was marked for identification
12 and the deposition proceeded as follows:)

13 BY MR. REED:

14 Q Ms. Bayley, I've handed you what's been
15 marked as Exhibit No. 2 to your deposition. Do you 11:54AM
16 recognize this document?

17 A I recognize the information in it, and I know
18 it was executed on my behalf by my attorney.

19 Q First of all, this is a copy of a charge of
20 discrimination submitted to the Florida Commission on 11:54AM
21 Human Relations --

22 A Uh-huh.

23 Q -- against Interstate on your behalf by your
24 counsel; correct?

25 A Correct. 11:55AM

1 Q And that's your counsel's -- to the best of
2 your knowledge, that's your counsel's signature on your
3 behalf on the second page?

4 A Correct.

5 Q You authorized her to file a charge on your 11:55AM
6 behalf, I assume?

7 A Yes.

8 Q Did you review this document before it was
9 submitted?

10 A I don't recall. 11:55AM

11 Q Is there anything inaccurate in this
12 document?

13 A No.

14 Q You claim that you were subjected to sexual
15 harassment and retaliation by Interstate and by LXR; 11:55AM
16 correct?

17 A Correct.

18 Q Are you making any other claims against LXR
19 or Interstate other than sexual harassment and
20 retaliation? 11:55AM

21 A No.

22 MR. REED: Here's No. 3.

23 (Respondent's Exhibit No. 3, Complainant

24 Johanna Bayley's Responses to Interrogatories

25 Propounded by the Florida Commission on Human 11:56AM

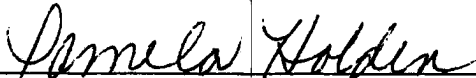
CERTIFICATE OF OATH

STATE OF FLORIDA)

COUNTY OF COLLIER)

I, Pamela Holden, Florida Professional Reporter and Notary Public, State of Florida at large, certify that JOHANNA BAYLEY appeared before me and was duly sworn.

WITNESS my hand and official seal in the State of Florida, County of Collier, this 31st day of May 2008.

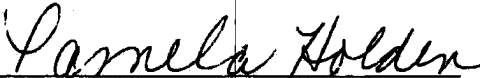

Pamela Holden, FPR
Notary Public
State of Florida at Large

CERTIFICATE

STATE OF FLORIDA)
COUNTY OF COLLIER)

I, PAMELA HOLDEN, Florida Professional Reporter, do hereby certify that, pursuant to notice in the above-titled cause, said deponent was examined and testified as is hereinabove shown, and the testimony of said witness was reduced to print by means of computer-assisted transcription under my personal supervision and that the said deposition constitutes a true record of the testimony given by the witness.

I further certify that the said deposition was taken at the time and place specified hereinabove and that I am neither of counsel nor solicitor to either party in said suit nor interested in the event of the cause.


Pamela Holden, FPR