

FLORIDA COMMISSION ON HUMAN RELATIONS

CASE NO.: 98-0713

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FLORIDA COMMISSION ON  
HUMAN RELATIONS  
1998 JAN -7 AM 9:27

MICHELLE C. PHILLIPS

Complainant,

vs.

ORANGE LAKE COUNTRY CLUB  
REALTY, INC.,

Respondent.

00-1794

00 APR 27 PM 3:22  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS  
FILED

COMPLAINT

COMES NOW the Complainant, Michelle C. Phillips, who files this her complaint against Respondent, Orange Lake Country Club Realty, Inc., for handicap discrimination under Florida Civil Rights Act of 1992, Fla. Stat. 760.01 et seq. and alleges:

COUNT I

1. This is an action for declaratory, injunctive relief and damages against Defendant, Orange Lake Country Club Realty, Inc., brought pursuant to the Florida Civil Rights Act of 1992, Fla. Stat. 760.01 et seq.
2. Injunctive and declaratory relief, as well as damages, are authorized pursuant to Fla. Stat. 760.11.
3. The Respondent is a Florida corporation.
4. Complainant, Michelle C. Phillips, is a resident of Lake County, Florida and became employed with Respondent in June, 1993 as a sales representative.
5. Complainant has been diagnosed as of December 24, 1992 with Hepatitis C and was diagnosed on January 31, 1996 with

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rheumatoid arthritis.

6. In September of 1996, Complainant asked Respondent's sales manager for a reasonable accommodation, i.e., working part-time, three days of work - two days off, because of her medical problems relating to her back and the chronic active Hepatitis C. At the time of this request, Complainant submitted approximately 50 pages of tests, diagnosis, and other supporting evidence to explain the nature of Complainant's medical conditions. Several weeks later, Complainant's sales manager stated Complainant's paperwork was too complicated and too voluminous for a decision to be made and requested that the Complainant obtain a doctor's note. Complainant's next scheduled doctor's appointment was with a Dr. Martha Hurst on November 13, 1996. This doctor's note, which is in essence a treatment plan, stated, "limit work to 4 hours per day, no more than 3 day working in a row". This note dated November 13, 1996, which supplied a diagnosis of chronic hepatitis, and rheumatoid arthritis is attached as Exhibit "A".

7. The note from the doctor, which is attached as Exhibit A, was delivered to Complainant's sales manager on November 14, 1996. Complainant was terminated on November 18, 1996 without explanation. After Complainant complained of her termination she was re-hired on November 21, 1996.

8. Complainant developed flu symptoms on December 24, 1996, however went to work. Complainant missed December 26 through December 29 having gone to the emergency room on December 28,

1996. Complainant went to work, although had to leave early on December 30, 1996; January 1 and 2, 1997; was scheduled off January 3 - 4, 1997; and missed January 5, 6 and 7, 1997 due to this illness. On January 8, 1997, Complainant's manager contacted the Complainant at home and terminated her without explanation.

9. Complainant had received excellent performance evaluations during her tenure with the Respondent; and was a top closer on sales from the period November 29, 1996 - December 19, 1996.

10. The termination of the Complainant on January 8, 1997 by Respondent, through its lawful agents and employees, was motivated by the disability of the Complainant which is evident by the fact the termination was without cause; Complainant's performance was excellent and she was the top closer for the 30 day period prior to her termination; Respondent had previously terminated the Complainant on November 18, 1996 upon the delivery of a medical statement which required a reasonable accommodation to place the Complainant on a part-time status due to her diagnosis of chronic hepatitis and rheumatoid arthritis; and the termination was based on false perceptions of Respondent's representatives that Complainant had an impairment which prevented her from performing her job.

11. Complainant is a qualified individual pursuant to Fla. Stat. Section 760.01, et seq. Plaintiff's disability of having chronic hepatitis and rheumatoid arthritis would not impair her

ability to perform the essential job functions; further, Complainant had requested and had been denied a reasonable accommodation to reduce working hours. This request by Complainant was not indicative of any inability of the Complainant to perform, but were solely to assure Respondent that Complainant could handle continued employment.

12. The act of terminating Complainant without good cause on both November 18, 1996 and January 8, 1997; when she was qualified in spite of her handicap and able to perform her job functions in spite of her handicap; indicate a violation of The Florida Civil Rights Act of 1992.

13. As a direct result of these actions by the lawful representatives of Respondent which were within the full course and scope of authority of said individual's employment with Respondent results in Respondent being liable for all of the actions which were adverse to Complainant.

14. As a direct result of these discriminatory actions, Complainant has suffered damages by the loss of income that she would have received had she not been terminated. Complainant is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Respondent's purposeful discriminatory practices unless and until this Commission grants relief. The monetary damages include the loss of salary; loss of benefits including a retirement plan, medical and dental benefits; disability and life insurance, and other benefits. Further, this Commission should consider front pay in the event

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that it is impractical or impossible to reinstate Complainant to her former position.

15. As a result of the aforesaid discrimination, Complainant has suffered emotional pain, suffering, inconvenience mental anguish, loss of enjoyment of life and other non-pecuniary losses.

16. The actions of Respondent which violate rights guaranteed to the Complainant through federal law were done with malice or reckless indifference to the other statutory protected rights of Plaintiff. Therefore, punitive damages should be assessed against the Respondent.

WHEREFORE, Complainant respectfully requests that this Commission enter a judgment declaring that the acts and practices complained herein are in violation of Florida Civil Rights Act of 1992 and enjoin and permanently restrain these violations of the Florida Civil Rights Act of 1992; direct Respondent to take such affirmative steps as are necessary to ensure that the effects of these unlawful practices are eliminated and do not continue to effect Complainant's employment opportunities; direct Respondent to reinstate Complainant, placing her in a position she would have occupied but for Respondent's discriminatory treatment, by transfer, if necessary; making her whole for all earnings she would have received but for Respondent's discriminatory treatment including, but not limited to, wages, bonuses, pension, and loss of benefits; award Complainant front pay in the event that reinstatement is impractical or impossible; award Complainant

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compensatory damages as a result of her emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses; award punitive damages; award Complainant the costs of this action together with reasonable attorney's fees, as provided by Fla. Stat. Section 760.11, and granting such other and further relief as this Commission deems necessary and proper.

Edward R. Gay  
EDWARD R. GAY, ESQUIRE  
Fla. Bar No. 342084  
1516 E. Concord Street  
Orlando, Florida 32803  
(407) 898-1871  
TRIAL COUNSEL FOR PLAINTIFF

Michelle C. Phillips  
MICHELLE C. PHILLIPS, Plaintiff

STATE OF FLORIDA  
COUNTY OF ORANGE

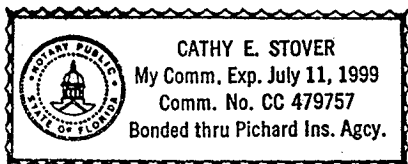
BEFORE ME, the undersigned officer, duly authorized to administer oaths and take acknowledgments, personally appeared MICHELLE C. PHILLIPS,

- who is personally known;
- who is not known to me but who produced a \_\_\_\_\_ as identification;
- who did take an oath;
- who did not take an oath;

who after being sworn by me, deposes and says that he has read the contents and they are true and correct.

SWORN TO AND SUBSCRIBED before me this 6<sup>th</sup> day of January, 1997.

Cathy E. Stover  
Notary Public  
My Commission Expires:



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FLORIDA COMMISSION ON  
HUMAN RELATIONS

March 13, 2000

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State of Florida  
Florida Commission on Human Relations  
Clerk of the Commission  
325 John Knox Road, Bldg. F, Suite 240  
Tallahassee, FL 32302-4149

RE: FCHR No. 98-0713

Phillips v Orange Lake Country Club

To Whom it May Concern:

Enclosed herewith is my completed "Petition for Relief." While it is a few days late, please be advised that I have had complications from a Cholecystectomy; moreover eight days ago my father unwent open-heart surgery.

I have been patient with the State of Florida, inasmuch as my attorney filed the intitial Complaint over two (2) years ago.

Thank you for your cooperation.

Sincerely,



MICHELLE C. PHILLIPS  
702 W. Rosewood Lane  
Tavares, FL 32778  
352-343-7757

cc: Edward R. Gay, Esquire  
Attorney for Complainant  
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Orlando, FL 32803-5959

Kathleen L. Maloney, Esquiress  
Attorney for Respondent  
P.O. Box 2193  
Orlando, FL 32802-2193