

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
01 AUG -3 AM 8:16  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

Barbara J. Morgan

Petitioner,

EEOC Case No: 15D970233

FCHR Case No: 97-0211

DOAH Case No: 00-1133 *asm*

FCHR Order No: 01-036 *closed*

LA Amistad R.T.C.

Respondent.

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FINAL ORDER REMANDING REQUEST FOR  
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Petitioner filed a complaint of discrimination claiming she was discriminated against because she was unable to aid a patient because of Petitioner's obesity. The Judge entered a Recommended Order of Dismissal based on an Order To Show Cause because Petitioner's request for an administrative hearing was filed more than 35 days after the time prescribed in Section 760.11(3) for a determination of reasonable cause by the Florida Commission on Human Relations. No exceptions were filed by either party.

The Judge's recommendation was improper because the Florida Supreme Court has overruled Milano v. Moldmaster, 703 So. 2d 1093(Fla. 4th DCA 1997), by its decision in Joshua v. City of Gainesville, 768 So. 2d 432( Fla. Supreme Ct. 2000), and the Commission has consistently held that where the Commission never issues a finding of reasonable cause or no reasonable cause, a request for an administrative hearing can be made at any time. See Lori Wilson, Petitioner v. Scotty's, Inc. Respondent.

FALR, FCHR Order No. 98-032(1998).

## Remand

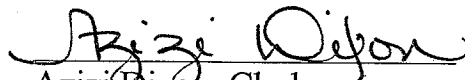
The Petition for Relief is hereby **Remanded** to the Judge for further proceedings consistent with this Order. The parties have the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED THIS 1 DAY OF August, 2001, FOR  
THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commission Panel Chairperson,  
Roosevelt Paige  
Commissioner: Donna Elam  
and  
Commissioner: Aristides Sosa

Filed this 1 day of Aug 2001

In Tallahassee, Florida.

  
Azizi Dixon, Clerk

Florida Commission on Human Relations  
325 John Knox Road, Bldg. F. Suite 240  
Tallahassee, FL 32303-4149  
(850) 488-7082

NOTICE TO COMPLAINANT/ PETITIONER

As your complaint was filed under Title VII of the Civil rights Act of 1964, which is enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request EEOC to review this Commission's final agency action. To secure a "substantial weight review" by EEOC, you must request it in writing within 15 days of your receipt of this Order. Send your request to Miami District Office (EEOC), One Biscayne Tower, 2 South Biscayne Blvd., Suite 2700, 27th Floor, Miami, FL 33131.

Copies Furnished:

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Daniel Manry, Administrative Law Judge