

10-31-03

STATE OF FLORIDA  
COMMISSION ON HUMAN RELATIONS

FILED  
04 FEB 26 AM 9:26  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

EVELYN MARTINEZ,

EEOC Case No. NONE

Petitioner,

AT

FCHR Case No. 21-02223

v.

DOAH Case No. 03-1277

EHP-CLOS

BOCA DINER,

FCHR Order No. 04-019

Respondent.

**FINAL ORDER AWARDING AFFIRMATIVE RELIEF  
FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Petitioner Evelyn Martinez filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (1999), alleging that Respondent Boca Diner committed unlawful employment practices on the basis of Petitioner's sex (female) and national origin (Hispanic), and on the basis of retaliation, in circumstances surrounding the alleged sexual harassment of Petitioner and the alleged retaliation against Petitioner, eventually leading to termination, which resulted from Petitioner's complaining about sexual harassment.

The allegations set forth in the complaint were investigated, and, on March 10, 2003, the Executive Director issued his determination finding that there was reasonable cause to believe that unlawful discrimination had occurred.

Petitioner filed a Petition for Relief and the case was transmitted to the Division of Administrative Hearings for the conduct of a formal proceeding.

An evidentiary hearing was held on July 23, 2003, in Boca Raton, Florida, before Administrative Law Judge Errol H. Powell.

Judge Powell issued a Recommended Order on October 31, 2003, recommending that the Commission enter a final order finding that Respondent unlawfully discriminated against Petitioner on the basis of retaliation, and recommending affirmative relief.

The Commission panel designated below considered the record of this matter and determined the action to be taken on the Recommended Order.

Findings of Fact

A transcript of the proceeding before the Administrative Law Judge was not filed with the Commission.

We adopt the Administrative Law Judge's findings of fact.

Conclusions of Law

We find the Administrative Law Judge's application of the law to the facts to result in a correct disposition of the matter.

We adopt the Administrative Law Judge's conclusions of law.

Exceptions

Neither party filed exceptions to the Administrative Law Judge's Recommended Order.

Affirmative Relief

Through our adoption of the Administrative Law Judge's findings of fact and conclusions of law, as set out above, we find that unlawful discrimination has occurred in this matter and have adopted the Administrative Law Judge's recommendations for the remedy of the discrimination.

Respondent is hereby ORDERED:

(1) to cease and desist from discriminating further in the manner it has been found to have unlawfully discriminated against Petitioner, as recommended by the Administrative Law Judge in the Recommended Order;

(2) to remit to Petitioner \$4,033.25 in affirmative relief in the manner recommended by the Administrative Law Judge in the Recommended Order; and

(3) to pay Petitioner statutorily established interest rates on the amount awarded Petitioner in (2), above, for the period subsequent to July 15, 2000, until said amount, with interest, is paid to Petitioner.

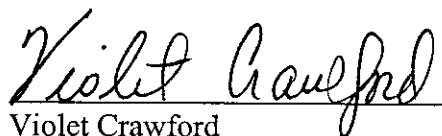
The Commission reserves jurisdiction over the determination of precise amounts of interest owed Petitioner, as well as over the amounts of attorney's fees and costs owed Petitioner should they be incurred by Petitioner in the enforcement of this Order.

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 <sup>25<sup>th</sup></sup> day of February, 2004.  
FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS:

Commissioner Donna Elam, Panel Chairperson;  
Commissioner John Corbett; and  
Commissioner Roosevelt Paige

FILED this 25<sup>th</sup> day of February, 2004,  
in Tallahassee, Florida.



Violet Crawford  
Clerk, Commission on Human Relations  
2009 Apalachee Parkway, Suite 100  
Tallahassee, FL 32301  
(850) 488-7082

Copies furnished to:

Evelyn Martinez  
2901 Clint Moore Rd., # 132  
Boca Raton, FL 33496

Boca Diner  
c/o Dean J. Tantalos, Esq.  
2255 Wilton Drive  
Wilton Manors, FL 33305

Errol H. Powell, Administrative Law Judge, DOAH

James Mallue, Legal Advisor for Commission Panel

I HEREBY CERTIFY that a copy of the foregoing has been mailed to the above listed addressees this 25<sup>th</sup> day of February, 2004.

By:   
Clerk of the Commission