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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

****

****

ELIAS MAKERE, FSA, MAAA
(Plaintiff)

- against -

HON. E. GARY EARLY, ALJ
(Defendant)

****

****

VERIFIED CIVIL COMPLAINT (AMENDED)

****

42 USC §1983; 42 USC §1985
December 31, 2021

JURY TRIAL DEMANDED

⟪ ⟫

Deep in the chambers of a state agency, a man cried foul of a corporation's conduct. With due speed, the agency transmitted both of his fundamental sounds to a nearby hearing officer.

An officer, however, with corrupted hearing. An officer, however, who insisted that only one sound was made; eschewing the second for the echoed, stereotyped tales of his fathers.

His perjurous actions were not sound. For they ran afoul of ***the man*** *– and* ***the grounds*** *that constituted* ***the land*** *which his* ***forefathers found.***

⟪ ⟫

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ABBREVIATIONS

ALJ	Administrative Law Judge
DOAH	Division of Administrative Hearings (Florida)
FCHR	Florida Commission on Human Relations
FS	Florida Statute (2020)
USFLND	US District Court, Florida, Northern District

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA, TALLAHASSEE DIVISION

ELIAS MAKERE, FSA, MAAA	)	
Plaintiff,	)	
	)	
vs.	)	Case No (LT): 4:21-cv-00096
	)	Division: (4) Tallahassee
HON. E. GARY EARLY, ALJ	)	Jury Trial Demanded
Defendant,	)	☒ Yes | ☐ No

AMENDED VERIFIED COMPLAINT

COMES NOW, Plaintiff, Elias Makere on this 31st day of December 2021 and hereby sues Defendant, the Honorable E. Gary Early, and states the following:

I. NATURE OF THE CLAIM

1. This action is brought under 42 USC §1983 (*Ku Klux Klan Act of 1871* ("§1983")) and 42 USC §1985 ("§1985"), to redress Defendant's unlawful conduct towards Plaintiff (also see 28 USC §1331, §1343, and §1367). Unlawful conduct that infringed on Plaintiff's constitutional rights (1st, 5th, and 14th amendments, etc.).

II. JURISDICTION: AMOUNT

2. Pursuant to 28 USC §2201 and §2202, Plaintiff seeks declaratory relief, injunctive relief, and damages in excess of thirty thousand dollars ($30,000) - exclusive of interest, costs, and attorney fees (also see 42 USC §1988, Rule 54 Fed. R. Civ. P.).

III. JURISDICTION: PARTIES

3. At all times material hereto, Plaintiff was a resident of Jacksonville, FL (Duval County).
4. Upon information and belief, Defendant - at all times material hereto – worked and lived in-or-around Tallahassee, FL (Leon County). Furthermore, Defendant was an administrative law judge (see §120.65 FS) for Florida's Division of Administrative Hearings. A state agency for the territory's executive branch of government (§20.22(2)(f) FS).

IV. JURISDICTION: VENUE

5. Some of Defendant's unlawful conduct was committed within the jurisdiction of this Court. Thus, pursuant to 28 USC §1331 FS (and §1391), this venue is correct.

V. STATUTORY PREREQUISITES

6. It appears that no administrative remedies need to be exhausted before initiating this lawsuit. Indeed, DOAH does not have a formal grievance procedure for addressing unlawful conduct of its officers. Thus, the matter before this Honorable Court is ripe for adjudication.

VI. STATEMENT OF THE FACTS

7. Plaintiff fell into Defendant's grasp by virtue of a lawsuit that he filed against a private corporation. A brief review of that case is important for contextualizing Defendant's conduct.

Originating Lawsuit (State Agency, *Makere v Allstate*)

8. On June 30, 2017, Plaintiff filed an employment discrimination complaint with the FCHR. Pursuant to §760.11(1), he alleged that his former employer (Allstate Insurance Company) had violated his civil rights on the basis of race **and** sex (see **Exhibit A**).
9. On September 8, 2017, Allstate denied **both** allegations (see **Exhibit B**). Stating that it fired Plaintiff for a legitimate reason. Specifically, because he had failed an actuarial exam (see **Exhibit C**):

> *"Complainant was terminated solely because he failed his [FSA] exam."*
>
> - Allstate Insurance Company, 9/8/17

10. On December 15, 2017, the FCHR concluded its investigation. Notably affirming that race **and** sex were the basis of Plaintiff's complaint (see **Exhibit D**).
11. On January 19, 2018, Plaintiff filed his Petition for Relief with the FCHR. Just as in his original charge, he listed only race and sex as the protected characteristics for his complaint (see **Exhibit E**). Thus, pursuant to §760.11(7) FS and §120.569 FS, the FCHR transmitted it to DOAH.
12. After a series of irregularities (authority breaches, deposition sit-ins, recusals, etc.), Defendant became the administrative hearing officer over Plaintiff's case (circa November 13, 2018).
13. Despite the procedural incongruities, the facts continued to develop in Plaintiff's favor; heavily. Facts which included – but were not limited to:
    a. Unwanted date requests; racist dolls, racist characterizations;
    b. Cursing at Plaintiff for buying a condolence card;
    c. Death threats; smear campaigns; lethal attacks.
14. Importantly, Allstate made it known that many of its *other* employees had also failed exams. Yet, Allstate never fired any of them. This was the ***'smoking gun'*** for proving that Allstate's reason for terminating Plaintiff's employment was a pretext.

15. Moreover, at the hearing, three other revelations were cementing:
    a. Allstate granted the **work-from-home** privilege to its *other* employees. An accommodation it denied to Plaintiff on countless occasions.
    b. Allstate **made Plaintiff pay $1,025** for an actuarial exam fee; a payment it never required any of its *other* employees to make.
    c. Allstate paid Plaintiff an **annual salary that was significantly lower** than his similarly situated comparators.
16. These core facts rendered Plaintiff's lawsuit (against Allstate) a textbook case of employment discrimination. One which – unfortunately – ran counter to widespread propaganda (as foretold by the Ku Klux Klan itself; and its progenies).
17. Faced with these probative facts, **Defendant went on the attack**.

Defendant's Unlawful Conduct: (A) Spoliation of Evidence

18. On November 30, 2018, during the moments in which the payment disparity was being revealed (see ¶15b, *supra*), Defendant ordered Plaintiff to cease questioning.
19. After the hearing – around January 9, 2019 - Plaintiff asked Defendant for a redress of the cessation order (citing due process). He further detailed the importance of the requested testimony/revelation.
20. Two days later (January 11, 2019), Plaintiff received a copy of the hearing transcript. It was missing one page (and one page only). That crucial page was the one that contained testimony on the payment disparity (¶15b) - and Defendant's cessation order.
    a. It is important to note that prior to this date, Plaintiff had never requested a hearing transcript on his case.
        i. Plaintiff suspects that Defendant knew this, and was preying on Plaintiff's novice (Plaintiff was *pro se*).
21. Given these circumstances – and upon Plaintiff's information/belief - **Defendant willfully and knowingly hid material evidence.**

Defendant's Unlawful Conduct: (B) Perjury

22. Defendant took it one step further, though, by making a wholesale removal of Plaintiff's sex discrimination charge.

23. On April 19, 2019, Defendant entered his Recommended Order ("RO").

24. The first page of the document had a section titled "*Statement of the Issue*". Where Defendant excluded Plaintiff's sex discrimination charge (see **Exhibit F**).

25. The second page had a section titled "*Preliminary Statement*". Where Defendant continued to exclude Plaintiff's sex discrimination charge. This time, however, Defendant made the fateful declaration that Defendant never complained of sex discrimination prior to the DOAH proceedings (see ¶11, *supra*) (see **Exhibit G**).

> *"[Plaintiff], also for the first identifiable time, alleged that Allstate, and in particular [Plaintiff's manager], engaged in sexually provocative and inappropriate behaviors, which [Plaintiff] alleged to be "sexual harassment and discrimination""*
>
> - The Honorable E. Gary Early, ALJ | 4/18/19 | Florida

26. Defendant repeated that highlighted line (ie, "*for the first identifiable time*") several more times throughout his authored RO.

27. **The statement, of course, was false.**

28. Plaintiff *did* charge Allstate with sex discrimination.

    a. He did so in his original charge (6/30/17, see ¶8);

    b. Allstate acknowledged the sex basis (9/8/17, ¶9); and

    c. The FCHR explicitly ruled on the basis of sex (12/15/17, ¶10)

29. Nevertheless, the force and effect of Defendant's statement made the FCHR change its tune – and obstruct justice.

30. On June 27, 2019, the FCHR issued its Final Order ("FO"). In which it listed race as the only protected characteristic in Plaintiff's complaint (see **Exhibit H**); and adopted Defendant's ruling.

31. Defendant's lie had its intended effect.

32. Now, it is important to recognize that Defendant knew he was lying.

Defendant's Knowledge of the Truth

33. Prior to authoring his RO, Defendant deliberately acknowledged that the sex discrimination charge was in Plaintiff's originating complaint.

34. On February 6, 2019, Allstate moved Defendant to take official recognition of the FCHR's Determination (under §90.201 FS).[1/]

35. That state-issued Determination letter read, in pertinent part, as follows (highlights added):

> *"Complainant worked for Respondent as an Actuary. Complainant alleged that Respondent discriminated against him based on his race and sex."*
>
> - The FCHR | 12/15/17 | Florida

36. On February 18, 2019, Defendant granted the motion. Thereby cementing – unequivocally – that he **knew** that Plaintiff charged Allstate with sex discrimination. He said the following (highlights added).

> *"[Allstate's] Motion for Official Recognition requests that official recognition be taken of the Notice of Determination: No Reasonable Cause, and of the Determination: No Reasonable Cause, both of which were issued by the Florida Commission on Human Relations on December 15, 2017. Those documents provided the point of entry to [Plaintiff] for this proceeding."*
>
> - The Honorable E. Gary Early, ALJ | February 18, 2019 | Florida

37. Thus, Defendant's repeated "statements" to the contrary were a known lie (a massive lie – in fact).

38. A lie that impacted the outcome of Plaintiff's lawsuit against Allstate. A case which sought monetary damages (among other things). A case which – due to Defendant's

misconduct – continues to this day (in federal court: 3:20-cv-00905 USFLMD).

Defendant's Corruption and Conspiratorial Bane

39. Defendant enlisted others to help effectuate his illegalities. He did this in two ways (bribing state officials; bribing federal officials).

40. First, Defendant took advantage of state infirmities by bequeathing the FCHR in exchange for violating Plaintiff's constitutional rights.

41. §760.06(4) FS empowers the FCHR to accept gifts and bequests to "help finance its activities". In September 2019, Plaintiff asked the FCHR whether it could accept a respondent's gifts/bequests during an active case. The agency answered with an "emphatic yes" (highlights added) (**Exhibit I**):

> *"the [FCHR] has the power to accept gifts, bequests, grants, or other payments, public or private, to help finance its activities... There are no limitations in the text of the statute... There is no applicable case law suggesting that the Commission cannot accept bequests during the investigation of a claim ... Given that the answer to Petitioner's question of law on whether the Commission can accept gifts during the investigation phase of a claim is such an emphatic yes, there is no doubt to resolve"*
>
> – FCHR | Order 19-065 | 12/10/19

42. Plus, in past Annual Reports (§760.06(11) FS), the FCHR has labeled these public/private sources of bribery as "stakeholders".
    a. Upon information & belief, Defendant is one such stakeholder.
    b. More directly – based upon information & belief – Defendant gave the FCHR (a Tallahassee-based agency) something of value in exchange for violating Plaintiff's constitutional rights.
43. Secondly, Defendant furthered his assault on Plaintiff's constitutional rights by bribing federal officials.
    a. Defendant has exhibited a devotion to the unconstitutional rituals of the Ku Klux Klan. Namely, the Klan's practice of subverting the constitutional rights of black people (and black men in particular). In the instant case, Defendant accomplished that by: (a) **destroying evidence** (¶18-21); (b) **committing perjury** (¶22-38); and (c) **bribing state officers** (¶39-42).
44. To be federally specific - and based upon information/belief - Defendant gave Magistrate Judge Martin Fitzpatrick (another Tallahassee judge) something of value in exchange for alienating Plaintiff's 1st Amendment Rights. In April 2021, Mr. Fitzpatrick followed

through by *sua sponte* dismissing this case; doing so without the requisite authority. Fitzpatrick, however, was not the only person that Defendant infected with invidious discrimination.

45. Defendant also bequested Chief Judge Mark Walker (another Tallahassee judge) with something of value in exchange for violating Plaintiff's 1st Amendment Rights – based upon information & belief. In April 2021, Mr. Walker followed suit by rubber-stamping Mr. Fitzpatrick's unauthorized dismissal.

46. Yesterday, on December 30, 2021, the 11th Circuit vacated the dismissal. Doing so because Fitzpatrick/Walker lacked authority.

47. The constant thread between all of these corrupted acts is: (a) Defendant himself; (b) anti-black devotion; (c) illegality; (d) subversion of the constitution; and (e) breaches of authority.

VII. ULTIMATE FACTS

48. Defendant broke the law in his quest to deny Plaintiff relief. Defendant:

    a. **hid evidence** (see ¶18-21);

    b. **committed perjury** (see ¶22-38); and

    c. bequested/**bribed others** to further his crimes (¶39-47).

49. Defendant was not performing a judicial function when he scanned/photocopied the case's transcript.

50. Defendant did not have authority to determine whether Plaintiff charged Allstate with race/sex discrimination; only the FCHR had such subject matter jurisdiction.

    a. Dating back to 1999 (at least), none of DOAH's judges (ie, Defendant's peers) have ever said that they had power to change the basis of an FCHR complaint. Instead, they have repeatedly said the opposite: that they have no jurisdiction over the basis of a civil rights complaint (ie, only the FCHR does).

51. Thereafter, Defendant rallied his companions-of-the-cloth to ratify his lies & obstructions. Altogether, Defendant violated Plaintiff's 1st, 5th, 7th, and 14th amendment rights (plus their Florida equivalents).[2/] His companions, among others, were Martin Fitzpatrick (another Tallahassee judge) and Mark Walker (another Tallahassee-based judge).

VIII. LEGAL APPLICATION

COUNT I: 1ST AMENDMENT RIGHT TO LEGAL PROTECTION | 42 USC §1983

52. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VII (Paragraphs 7 through 47).

53. Defendant's unlawful actions (individually and in total) abridged Plaintiff's right to petition the State of Florida for a redress of his grievances against Allstate Insurance Company.

54. While acting under the color of state law (§120.569 FS, §120.65 FS), Defendant denied Plaintiff access to the state's court system (see §760.11(7) FS). An act that violated Plaintiff's First Amendment right (1st Amendment – *access to courts*).

55. Defendant did so via **evidence destruction** (§843 FS, §918 FS), **perjury** (§837.06 FS), and **bribery** (¶838 FS).

COUNT II: 5TH AMENDMENT RIGHT TO DUE PROCESS | 42 USC §1983

56. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VII (Paragraphs 7 through 47).

57. Defendant's unlawful actions (individually and in total) abridged Plaintiff's right to due process. It is well settled that a violation of due process occurs when an

agency excludes/removes a legal basis from a claimant's discrimination charge.

58. Thus, while acting as a state hearing officer (§120.569 FS, §120.65), Defendant violated Plaintiff's constitutional rights (5th Amendment US Constitution) by criminally removing the sex discrimination basis from his complaint.

COUNT III: 7TH AMENDMENT RIGHT TO TRIAL-BY-JURY | 42 USC §1983

59. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VII (Paragraphs 7 through 47).

60. Defendant's unlawful actions (individually and in total) abridged Plaintiff's right to a trial-by-jury on the matters litigated.

61. While acting as the administrative law judge on Plaintiff's underlying discrimination case (ie, under the '*color of state law*' – §120.569 FS, §120.65 FS) – Defendant prevented Plaintiff from receiving a trial by jury.

    a. Such a trial is guaranteed by the US Constitution (7th Amendment) as well as the FL Constitution (Art. I §22).

62. Pursuant to §760.11(7), Plaintiff had a statutory avenue to a jury trial in Florida. *But for* Defendant's illegalities (¶18-47), Plaintiff would have enjoyed that constitutional guarantee.

COUNT IV: FOURTEENTH AMENDMENT RIGHT TO EQUAL PROTECTION | 42 USC §1983

63. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VII (Paragraphs 7 through 47).
64. Defendant's unlawful actions (individually and in total) abridged Plaintiff's right to a fair trial on the matters litigated.
65. While acting as the administrative law judge on Plaintiff's case (ie, under the '*color of state law*' – §120.569 FS, §120.65 FS) – Defendant discriminatorily prevented Plaintiff from attaining the legal protections that Florida afforded other similarly-situated people.
66. Defendant did so when he (a) **suppressed crucial evidence** (¶18-21); (b) **perjured himself** (¶22-38); and (c) **bribed officials** (¶39-47).
67. As such, Defendant violated Plaintiff's constitutional rights to the "equal protection of [§760.11 FS]" (14th Amendment US Constitution).

COUNT V: SUPREMACY CLAUSE | 42 USC §1983

68. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VII (Paragraphs 7 through 47).

69. Defendant's unlawful actions (individually and in total) breached Article VI Section 2 of the US Constitution (ie, the "Supremacy Clause"). He did so when he usurped the federal government's power to protect Plaintiff from 1st, 5th, 7th, and 14th amendment violations.

COUNT VI: PERJURY

70. Plaintiff hereby restates and realleges paragraphs 22 through 38.

71. Defendant – infused with the power bestowed upon him by statute – broke the law (§837.06 FS) **by making a false statement of material fact**. He sold his falsehood to another state agency – which was acting in its official capacity (¶22-32).

72. That agency (the FCHR) bought his lie; and thereby cemented Defendant's violation of Plaintiff's constitutional rights (1st Amendment – *access to the court*; 5th Amendment – *due process*; 7th Amendment – *jury trials*; 14th Amendment – *equal protection*; Art. VI §2 – *supremacy clause*).

COUNT VII: DEPRIVATION OF RIGHTS | §1985

73. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 7 through 47).

74. Defendant unleashed his repertoire when he deprived Plaintiff of a full & fair opportunity to litigate his underlying case in Florida. Conduct which included – among other things – **evidence destruction** (¶18-21), **perjury** (¶22-38), and **bribery** (§39-47).

75. In his illegal trek, Defendant has enlisted state officials (¶40-42) as well as federal ones (ie, Mr. Fitzpatrick and Mr. Walker) (§43-47) to further his bidding. Bidding which has (a) obstructed the legal process (¶48-51); and (b) violated constitutional law (¶51).

JUDICIAL IMMUNITY

76. The Doctrine of Judicial Immunity does not attach to this case for several fundamental reasons.

77. First, Defendant was not performing a judicial act. The evidence destruction that he committed while scanning the trial transcript was an administrative task which DOAH's clerical employees could have done. In fact, Florida statutorily prescribes transcript management to be conducted by non-judges (§27.0061 FS, §28.13 FS, §120.65 FS, 28-106.104(3) FAC, 28-106.214(1) FAC).

78. Secondly, the matters that Defendant forced himself onto were outside of his jurisdiction. It is well-settled that the FCHR has sole jurisdiction over determining the subject matter of a discrimination complaint (ie, whether a complaint alleges, race, sex, etc.).

79. Third, and perhaps most importantly, Defendant broke the law (§843/§918 FS – *obstruction*; §837.06 FS – *perjury*; §838 FS - *bribery*). Judicial Immunity does not cover legal violations.[3/]

INDIVIDUAL CAPACITY

80. Defendant is being sued in his individual capacity only. His misconduct & illegalities do not compute back to the state. This is the case because Florida expressly prohibited his actions (ie, evidence destruction, perjury, bribery).

81. It has been well-established: no one sitting in Defendant's proverbial seat would have been authorized to commit such acts.

82. It must also be stressed: the public never relied on Defendant to commit the acts for which he is being sued.

    a. The people of Florida never conferred special power upon Defendant to manage trial transcripts (§18-21). Moreover, the people prohibited him from **destroying evidence** (§843/§918 FS).

b. The people of Florida never conferred special power upon Defendant to decide what the basis of a discrimination charge is (§22-38). Moreover, the people prohibited him from **committing perjury** (§837.06 FS).

c. Lastly, the people of Florida never conferred special power upon Defendant to bribe federal officials (¶43-47). Moreover, the people prohibited him from **committing bribery** altogether (§838 FS).

83. Since the people never granted Defendant the power to commit such acts, the people cannot be held responsible for resolving them.

DAMAGES

84. As a direct and proximate result of said acts, Plaintiff has suffered – and continues to suffer – financial loss and loss of earning capacity. Plus, he has suffered (and continues to suffer) mental anguish, distress, pain, great expense, inconvenience, professional damage and other pecuniary and nonpecuniary losses.

85. As a further result of Defendant's constitutional breaches, Plaintiff has incurred legal fees and will continue to incur legal fees.

RESERVATION OF RIGHTS

86. Defendant's unlawful acts and discriminatory patterns demonstrate a disdain for Plaintiff's rights; thereby justifying an award of punitive damages at trial. Upon an evidentiary showing and hearing, Plaintiff reserves the right to amend his pleadings to assert a claim for punitive damages against Defendant (as well as to add other defendants - ¶44, ¶45).

87. Plaintiff may retain attorneys to represent him in prosecuting this action and if so will be obligated to pay them a reasonable fee for their services.

    a. Pursuant to 42 USC §1988, Plaintiff is entitled to request that the Court allow him to recover his reasonable attorney's fees incurred in successfully prosecuting this cause, should he retain an attorney.

REQUEST FOR JURY TRIAL

88. Pursuant to the 7th Amendment of the US Constitution (also see Rule 38(b) Fed. R. Civ. P., Rule 81(c) Fed. R. Civ. P.), Plaintiff respectfully asks that this Court grant him a trial by jury on all issues so triable.

REQUEST FOR RELIEF

89. WHEREFORE Plaintiff respectfully requests that this Court enter judgment in favor of Plaintiff and against Defendant on all claims herein, and enter an Order providing the following relief:

b. Declaring that Defendant violated §1983;

c. Declaring that Defendant violated §1985;

d. Enjoining Defendant from committing further violations of §1983;

e. Enjoining Defendant from committing further violations of §1985;

f. Awarding Plaintiff compensatory damages (back pay, front pay, including interest, lost fringe benefits, etc.) which Defendant's unlawful acts precluded him from obtaining.

g. Awarding Plaintiff the cost of this action, together with reasonable attorney's fees (if any).

h. Awarding Plaintiff pre-judgment interest.

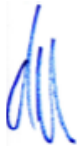
i. Awarding Plaintiff punitive damages; and

j. Awarding such other and further relief as is just, equitable, proper, and sound.

⟨⟨ ⟩⟩

Dated this 31st day of December 2021.

Respectfully submitted,



/s/ Elias Makere

ELIAS MAKERE, FSA, MAAA,
Plaintiff
3709 San Pablo Rd. S # 701
Jacksonville, FL 32224
P: (904) 294-0026
E: justice.actuarial@gmail.com
W: TextBookDiscrimination.com
Get ***Booked Up*** on Justice!

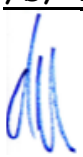
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of December 2021, I filed the foregoing with the Clerk of Courts by mailing it (via FedEx) to United States Courthouse; 111 N. Adams St, Ste 322; Tallahassee, FL; 32301.

CERTIFICATE OF GOOD FAITH

I HEREBY CERTIFY that pursuant to Rule 11 Fed. R. Civ. P. the foregoing: (1) has been submitted in good faith; (2) is supported by existing law; (3) is supported by indisputable evidence (and will likely be compounded with further evidence); and (4) the complaint otherwise complies with the requirements of Rule 11.

/s/ Elias Makere

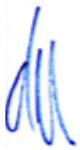


Verification Under Oath Pursuant to 28 USC §1746

I declare under penalty of perjury that the foregoing is true and correct. Moreover, the ultimate, material facts laid out above come from publicly available sources. Thus, they are not subject to dispute because *"they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned"*. Some of the other facts are based on information and belief. These two elements come from my own personal observation, knowledge, and experience – coupled with circumstantial evidence of the matter.

Executed on this 31st day of December 2021.

UNITED STATES OF AMERICA



12/31/2021

Elias Makere, Plaintiff/Affiant

Endnotes:

[1/] in the administrative realm, "official recognition" = "judicial notice"

[2/] please see Art. I §5 (1st), Art. I §9 (5th), Art. I §22 (7th), and Art. I. §9 (14th), respectively

[3/] additional note: judicial immunity does not confer on declaratory relief (¶2) (see Genentech v Eli Lilly, 998 F. 2d at 936)

Electronic Copy (text-searchable, hyperlinked):
TextBookDiscrimination.com/Files/USFLND/20000096_AAC_20211231_123954.pdf
TextBookDiscrimination.com/Info/Misc/ALJPerjury/Complaint-Amended

Video:
https://youtu.be/LkfFHLyqg_g

EXHIBIT A

Charge of Discrimination

From: Plaintiff
To: State Agency (FCHR)
6/30/2017

[marked]

(first page only)

RACIAL DISCRIMINATION | ALLSTATE CORPORATION | FLORIDA | 6/30/2017

2017014432

Elias Makere, ASA
3709 San Pablo Rd S, 701
Jacksonville, FL. 32224

Phone 904.294.0026
Fax
Email Inquiry.allstate@gmail.com

Allstate

EMPLOYEMENT DISCRIMINATION

Racial Discrimination, Sex Discrimination

This document introduces the racial discrimination of a former Allstate employee. The discrimination involved racist dolls, epithets, hostility, ostracism, discrimination of terms/conditions/compensation, and termination. I am looking for justice, an examination of the facts, and an eradication of Allstate's racial discrimination.

RECEIVED
FLORIDA COMMISSION ON
HUMAN RELATIONS
2017 JUN 30 PM 12:32

EXHIBIT B

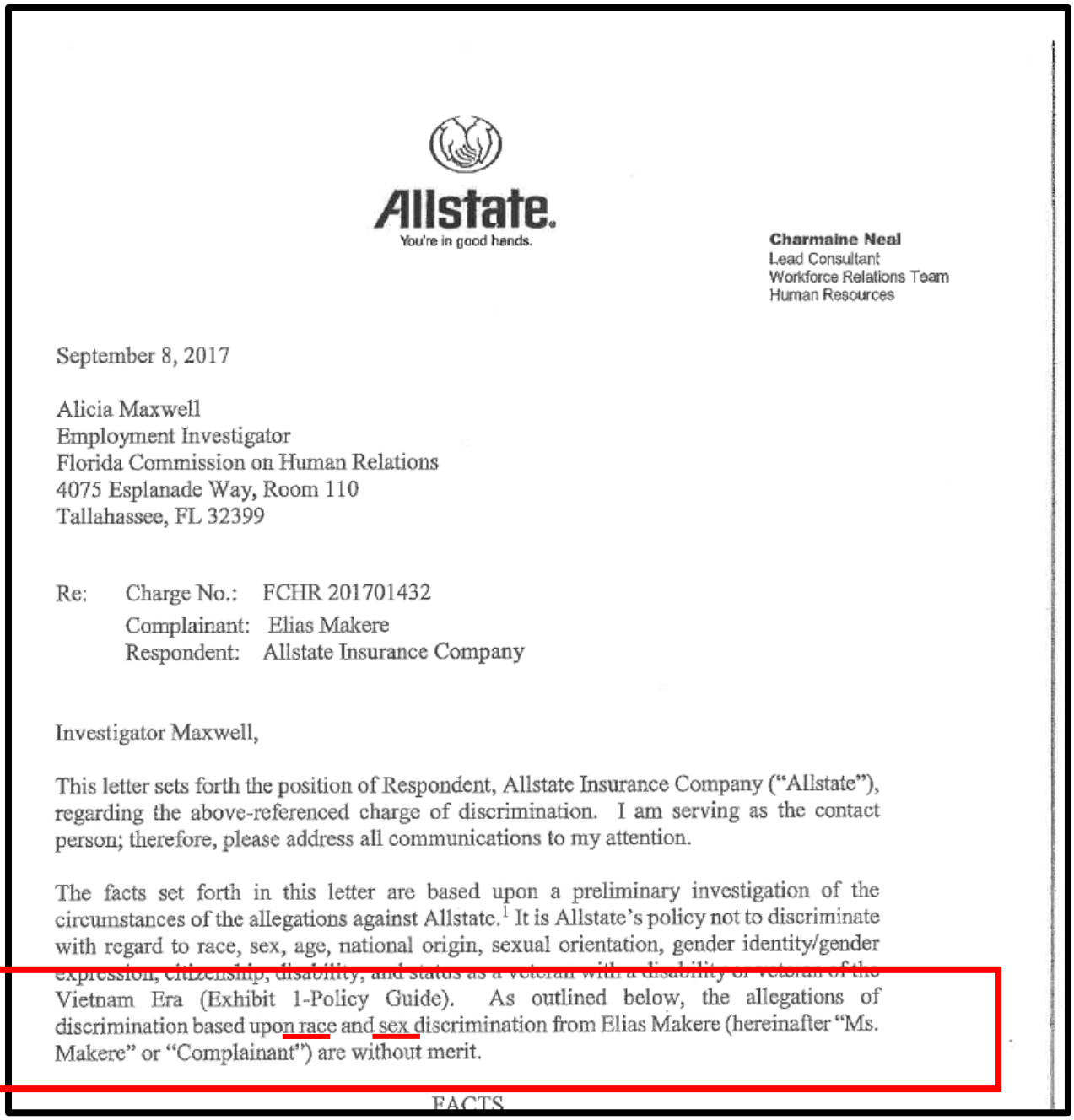
Position Statement

From: Allstate
To: State Agency (FCHR)
9/8/2017

(note: Allstate = Plaintiff's former employer)

[marked]

(first page only)



Allstate.
You're in good hands.

Charmaine Neal
Lead Consultant
Workforce Relations Team
Human Resources

September 8, 2017

Alicia Maxwell
Employment Investigator
Florida Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

Re: Charge No.: FCHR 201701432
Complainant: Elias Makere
Respondent: Allstate Insurance Company

Investigator Maxwell,

This letter sets forth the position of Respondent, Allstate Insurance Company ("Allstate"), regarding the above-referenced charge of discrimination. I am serving as the contact person; therefore, please address all communications to my attention.

The facts set forth in this letter are based upon a preliminary investigation of the circumstances of the allegations against Allstate.[1] It is Allstate's policy not to discriminate with regard to race, sex, age, national origin, sexual orientation, gender identity/gender expression, citizenship, disability, and status as a veteran with a disability or veteran of the Vietnam Era (Exhibit 1-Policy Guide). As outlined below, the allegations of discrimination based upon race and sex discrimination from Elias Makere (hereinafter "Ms. Makere" or "Complainant") are without merit.

FACTS

EXHIBIT C

Allstate's Termination Rationale
(ie, Allstate fired Plaintiff "solely" for failing an exam)

From: Defendant
To: State Agency (FCHR)
9/8/17

[marked]

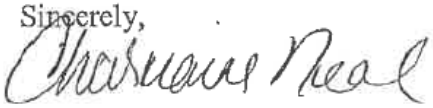
Complainant was terminated solely because he failed to pass his ASA exam and as a result, he became ineligible to maintain his status in the Allstate Financial Actuarial Career Program (ACP).

Lastly, Complainant's allegation that more African-American actuarial employees were involuntarily terminated is without merit. Complainant was the only employee that Respondent terminated in his department between 2014 and 2016.

CONCLUSION

Complainant's charge of discrimination based upon race without merit. Accordingly, Respondent requests that this Charge be dismissed in its entirety. Should you have any additional questions, please do not hesitate to contact me at (847) 402-7367.

Sincerely,



Charmaine Neal
Human Resources Lead Consultant

Attachments

EXHIBIT D

Notice of Determination

From: State Agency (FCHR)
To: Plaintiff/Allstate/Defendant's Agency
12/15/2017

[marked]

State of Florida
Florida Commission on Human Relations

An Equal Opportunity Employer • Affirmative Action Employer

Rick Scott
Governor

4075 Esplanade Way • Room 110 • Tallahassee, Florida 32399-7020
(850) 488-7082 / FAX: (850) 487-1007
http://fchr.state.fl.us
United in One Goal: Equal Opportunity and Mutual Respect

Rebecca Steele
Chair
Michelle Wilson
Executive Director

FCHR No. 201701432

Mr. Elias Makere
3709 San Pable Road S., #701
Jacksonville, FL 32224

COMPLAINANT

Allstate Corporation
c/o Ms. Charmaine Neal, HR-Workforce Relations Lead Consultant
2775 Sanders Rd. F5
Northbrook, IL 60062

RESPONDENT

DETERMINATION: NO REASONABLE CAUSE

Complainant filed a complaint of discrimination alleging that Respondent violated the Florida Civil Rights Act of 1992. The Florida Commission on Human Relations has completed its investigation of this matter.

Complainant worked for Respondent as an Actuary. Complainant alleged that Respondent discriminated against him based on his race and sex. However, the investigation did not support Complainant's allegations. The investigation did not reveal enough evidence to establish that Complainant reported discriminatory harassment to Respondent. Complainant alleged that Respondent graded his required exams so that he would fail as an excuse to terminate him based on his race. However, the investigation revealed that the required exams were administered and graded anonymously by "The Society of Actuaries" and not Respondent. Therefore, the Respondent could not have been responsible for Complainant failing his exams. Complainant was terminated for failing his exam and not securing a non-actuarial position. The investigation did not reveal evidence of discrimination.

On the basis of the report from the Commission's Office of Employment Investigations and recommendation from the Commission's Office of General Counsel, pursuant to the authority delegated to me as Executive Director of the Florida Commission on Human Relations, I have determined that no reasonable cause exists to believe that an unlawful practice occurred.

Michelle Wilson

Dated: Dec. 15, 2017

EXHIBIT E

Petition for Relief

From: Plaintiff
To: State Agencies (FCHR/DOAH)
1/19/2018

[marked]

(first page only)

Elias Makere, ASA
3709 San Pablo Rd S, 701
Jacksonville, FL. 32224

Phone 904.294.0026
Fax
Email Inquiry.allstate@gmail.com

Allstate

PETITION SUPPLEMENT

Employment Discrimination (Race, Sex)

Here is the supplement to the Petition for Relief form. This document will begin with a description of the items in dispute. From there, the remaining pages exist to familiarize you with the case (legal elements, timeline, events, people, secured evidence, and requested evidence).

Petitioner:	Elias Makere, Former Allstate Employee
Dates:	April 2014 – October 2016
Race:	Black
Sex:	Male
Existence of Retaliation?	Yes

EXHIBIT F

Recommended Order

From: Defendant
To: State Agency (FCHR)
4/19/2019

[marked]

(Pages 1 and 2 only)

{Defendant's removal of sex discrimination charge}

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ELIAS MAKERE,

Petitioner,

vs. Case No. 18-0373

ALLSTATE INSURANCE COMPANY,

Respondent.
_____/

RECOMMENDED ORDER

Pursuant to notice, this case was heard in Jacksonville, Florida, on July 31, 2018, before Lawrence P. Stevenson, and on November 28 through 30, 2018, and January 29, 2019, before E. Gary Early, designated Administrative Law Judges of the Division of Administrative Hearings ("DOAH").

APPEARANCES

For Petitioner: Elias Makere, pro se
No. 701
3709 San Pablo Road South
Jacksonville, Florida 32224

For Respondent: Carmen Rodriguez, Esquire
Law Offices of Carmen Rodriguez, P.A.
Suite 411
15715 South Dixie Highway
Miami, Florida 33157

STATEMENT OF THE ISSUE

Whether Petitioner, Elias Makere, was subject to an unlawful employment practice by Respondent, Allstate Insurance

Company ("Respondent" or "Allstate"), on account of his race or due to retaliation for his opposition to an unlawful employment practice in violation of section 760.10, Florida Statutes.

PRELIMINARY STATEMENT

On June 30, 2017, Petitioner filed an eight-page complaint of discrimination ("Complaint of Discrimination") with the Florida Commission on Human Relations ("FCHR") which alleged that Respondent violated section 760.10 of the Florida Civil Rights Act of 1992 ("FCRA"), by discriminating against him on the basis of his race or as retaliation.

On December 15, 2017, the FCHR issued a Determination: No Cause, and a Notice of Determination: No Cause, by which the FCHR determined that reasonable cause did not exist to believe that an unlawful employment practice occurred.

On January 19, 2018, Petitioner filed a 231-page Petition for Relief (the "Petition") with the FCHR. The Petition included allegations of racial discrimination for which there is no evidence of their having been presented to FCHR or having been part of the FCHR investigation. The Petition also, for the first identifiable time, alleged that Allstate, and in particular Lisa Henry, engaged in sexually provocative and inappropriate behaviors, which Petitioner alleged to be "sexual harassment and discrimination." He alleged that "[t]he FCHR ignored these events."

EXHIBIT G

Recommended Order

From: Defendant
To: State Agency (FCHR)
4/19/2019

[marked]

(2nd page only)

{defendant's perjury}

Company ("Respondent" or "Allstate"), on account of his race or due to retaliation for his opposition to an unlawful employment practice in violation of section 760.10, Florida Statutes.

PRELIMINARY STATEMENT

On June 30, 2017, Petitioner filed an eight-page complaint of discrimination ("Complaint of Discrimination") with the Florida Commission on Human Relations ("FCHR") which alleged that Respondent violated section 760.10 of the Florida Civil Rights Act of 1992 ("FCRA"), by discriminating against him on the basis of his race or as retaliation.

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On January 19, 2018, Petitioner filed a 231-page Petition for Relief (the "Petition") with the FCHR. The Petition included allegations of racial discrimination for which there is no evidence of their having been presented to FCHR or having been part of the FCHR investigation. The Petition also, for the first identifiable time, alleged that Allstate, and in particular Lisa Henry, engaged in sexually provocative and inappropriate behaviors, which Petitioner alleged to be "sexual harassment and discrimination." He alleged that "[t]he FCHR ignored these events."

EXHIBIT H

FCHR Final Order
Exclusion of Sex Discrimination Complaint

From: State Agency (FCHR)
To: Defendant/Plaintiff/Allstate
6/27/2019

[marked]

(first page only)

{end result of Defendant's 'big lie'}

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

ELIAS MAKERE,

Petitioner,

v.

ALLSTATE INSURANCE COMPANY

Respondent.
_____/

EEOC Case No. None

FCHR Case No. 2017-01432

DOAH Case No. 18-0373

FCHR Order No. 19-044

FINAL ORDER DISMISSING PETITION FOR RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE

Preliminary Matters

Petitioner Elias Makere filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2016), alleging that Respondent, Allstate Insurance Company, committed unlawful employment practices by harassing and terminating Petitioner on the basis of Petitioner's race (Black). Petitioner also alleged that Respondent unlawfully retaliated against Petitioner.

EXHIBIT I

FCHR Final Order
19-065
In Re: Makere
12/10/2019
Florida

Corrupt Allowance of Bequests During Active Investigations

[marked]

(pages 1 through 3 only)

Electronic Copies:
HTML: TextBookDiscrimination.com/Info/Misc/FCHRBribery/FirstDecision
PDF: TextBookDiscrimination.com/Files/FCHR/FO_19065.pdf

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

IN RE:

SEPTEMBER 11, 2019 PETITION FOR
DECLARATORY STATEMENT

ELIAS MAKERE, FCHR Order No. 19-065

Petitioner

_____/

FINAL ORDER DENYING PETITION FOR DECLARATORY STATEMENT

Preliminary Matters

On September 11, 2019, Petitioner Elias Makere filed a Petition for Declaratory Statement with the Florida Commission on Human Relations ("Commission"). Notice of the Petition was published in the *Florida Administrative Register*, Volume 45, Number 179, September 13, 2019. The Commission has not received a petition to intervene in this action from any other person. The Commission did not receive any comments on the matter. No hearing on the Petition was requested and none was held.

The Commission undertook action to resolve the Petition for Declaratory Statement at a duly noticed public hearing on December 10, 2019.

Petitioner states that he has "well-founded uncertainty" as to whether the Florida Commission on Human Relations can accept gifts/bequests during the investigative phase of his case under Florida Statutes 760.06(4). This scenario – where someone questions a statutory right – is precisely the scenario that the declaratory statement process is designed to cure. See Rosekrantz v. Feit, 81 So. 3d 526 (Fla. 3rd DCA 2012). "*The purpose of a declaratory statement is to resolve a controversy or answer questions concerning the applicability of statutes which an administrative agency enforces, adopts, or enters*". Citizens of the State ex rel. Office of Public Counsel v. Florida Public Service Commission, 164 So.3d 58, 59 (Fla. 1st DCA 2015).

Petitioner concludes his September 11, 2019 petition, stating,

> "Petitioner respectfully requests a declaration on whether the applicable section of Florida Statutes – 760.06(4) – allows Respondent in his case to give the Agency (FCHR) gifts/bequests/etc. during the investigative phase of Petitioner's (his) complaint."

Comments

The Commission has not received any comments subsequent to the filing of the Notice of Petition in the Florida Administrative Register.

Conclusions of Law

The Florida Administrative Procedure Act states, "any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances." Section 120.565(1), Florida Statutes (2019). It also states, "the petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances." Section 120.565(2), Florida Statutes (2019). When acting on the petition, the agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. See Florida Administrative Code, R. 28-105.003.

A declaratory statement is a device for resolving controversies, questions, or doubts regarding the applicability of statutes, rules, and orders within the agency's authority to a petitioner's circumstances. See Florida Administrative Code, R. 28-105.001. Use of this device, however, is for a particular purpose and is to be used for that limited purpose.

To grant a declaratory statement petition, there need be a live case or controversy on the interpretation of a statute to meet the requirements for standing. There must be applicable law in doubt – doubt which is not present in this petition. Under the Florida Civil Rights Act of 1992, the Commission has the power to accept gifts, bequests, grants, or other payments, public or private, to help finance its activities. Section 760.06(4), Florida Statutes (2019). There are no limitations in the text of the statute, nor is there cabining language in other applicable areas of law suggesting alternative interpretations aside from the plain text. Acceptance of funding for the agency from public and private sources was not a driving force for the Florida legislature crafting this statute; therefore, there was not robust debate within the legislative history on the Commission's powers suggesting possible limitations on receiving gifts. Under standard theories of statutory interpretation, the Commission is to assume that the legislature intended to exclude language creating time-based exceptions.

Additionally, Petitioner claims uncertainty as to the motivations of the investigative branch of this agency. Petitioner questions the permissibility of bequest submissions, which could create the appearance of impropriety for receiving financial support from Petitioner or Respondent in his case. Assuming that such bequests were received at any point – although the Commission has no knowledge that any bequests were received during the investigation of this case – Petitioner would still lack the statutory support suggesting doubt over when the Commission can accept gifts. There is no applicable case law suggesting that the Commission cannot accept bequests during the investigation of a claim, nor is there any textual support that such a hypothetical scenario would be barred by the governing statute.

Declaratory statements are not to be issued addressing hypothetical questions lacking a fact-specific case or controversy. Federation of Mobile Home Owners v. Dep't of Business Regulation, et. al., 479 So. 2d 252, 253 (Fla. 2nd DCA 1985). There need be a showing beyond that of curiosity to suggest there be an actual present practical need for a declaratory statement. Id. at 254. Although the Administrative Procedure Act broadens public access to agency activities, there still need be a fact-specific inquiry addressing ambiguity over interpretation of an existing statute for Petitioner to meet the standing requirements to grant a declaratory statement petition. Fla. Home Builders Assoc. v. Dep't of Labor & Employment Sec., 412 So. 2d 351, 352 (1982). Given that the answer to Petitioner's question of law on whether the Commission can accept gifts during the investigation phase of a claim is such an emphatic yes, there is no doubt to resolve, no controversy to address. Absent such ambiguity, accordingly, the Commission must deny the petition for declaratory statement.

Denial of Petition

The Petition for Declaratory Statement is DENIED, because Petitioner does not meet the prerequisite requirements of standing. For the Commission to rule on a petition for declaratory statement, there must be a 'live case or controversy' in the specific question of law seeking relief. The statute in question and its accompanying relevant case law do not indicate more than one interpretation of the provision in question; therefore, Petitioner lacks standing to bring such declaratory statement given this lack of legal ambiguity to be resolved. Accordingly, the Petition for Declaratory Statement on the question of the Commission accepting gifts/bequests during an investigation is DENIED.

Petitioner has 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 10, day of December, 2019 FOR THE FLORIDA COMMISSION ON HUMAN RELATIONS

Commissioner Tony Jenkins, Panel Chairperson;
Commissioner Mario Garza; and
Commissioner Rebecca Steele