STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)		
	)		
DANIELLE YVONNE KNOBLE,	)		
	)		
	)		
Complainant,	)	CHARGE NO(S):	2006CN2234
	)	EEOC NO(S):	N/A
and	)	ALS NO(S):	07-553
	)		
MARK WASSERMAN,	)		
	)		
	)		
Respondent.	)		

NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS)
HUMAN RIGHTS COMMISSION) Entered this 17th day of March 2009

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

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MARK WASSERMAN,	)
Respondent.	

RECOMMENDED ORDER AND DECISION

This matter is before me on my own motion, sua sponte, to dismiss this case for failure of the parties to appear to prosecute this matter. The Illinois Department of Human Rights is an additional statutory agency that has issued state actions in this matter. It is, therefore, named herein as an additional party of record.

FINDINGS OF FACT

The following findings of fact were made from the record:

1. The Complainant filed a Complaint with the Illinois Human Rights Commission (Commission) on July 19, 2007, alleging that Respondent subjected Complainant to sexual harassment in violation of the Illinois Human Rights Act (Act), 775 ILCS 5/1-101 *et seq.*

2. Complainant was served with a copy of the Complaint and notice of hearing in this matter by certified mail on August 6, 2007. The record shows that the Commission attempted certified mail service of the Complaint and notice of hearing on Respondent at his address of record and the certified mail notice was returned as *refused* by the U.S. postal service on August 14, 2007.

3. The matter was set for initial hearing on October 9, 2007. Neither party appeared on that date. An order was issued continuing the matter to October 23, 2007.

4. An order issued on November 9, 2007 rescheduling the October 23, 2007 hearing to February 27, 2008. The order required all parties to appear in person for the hearing. On February 27, 2008, neither party appeared. An order was entered continuing the matter to June 10, 2008.

5. The record shows that Complainant filed a motion to continue on February 27, 2008, which did not come to my attention until after the scheduled hearing on that date. The motion was not accompanied by a Notice of Hearing indicating a date and time in which the motion was to be presented, as required by Commission rules at Section 5300.730(d).

6. On June 10, 2008, neither party appeared. An order was entered setting a status for August 27, 2008. The order noted that neither party had ever appeared for any of the scheduled hearings in this matter, including hearings on October 9, 2007 and February 27, 2008. The order ordered both parties to appear for the August 27, 2008 hearing and warned the parties that failure to appear may result in dismissal or default of this matter.

7. On August 27, 2008, neither party appeared. An order was issued setting a status for December 9, 2008. The order ordered both parties to appear and warned that this was the last time a hearing would be scheduled and that failure to appear would result in dismissal or default of this case.

8. On September 3, 2008, Complainant filed a motion for default. The motion was not accompanied by a Notice of Hearing indicating a date and time in which the motion was to be presented, as required by Commission rules at Section 5300.730(d).

9. On December 9, 2008, neither party appeared.

CONCLUSION OF LAW

The conduct of both parties in failing to appear for scheduled hearings in this matter has resulted in unreasonable delay of this matter.

DETERMINATION

This case should be dismissed for the parties' failure to appear for scheduled hearings.

DISCUSSION

775 ILCS 5/8A-102(I)(6) of the Act authorizes a recommended order of dismissal, with prejudice, or of default as a sanction for a party's failure to prosecute his case, appear at a hearing, or otherwise comply with this Act, the rules of the Commission, or a previous Order of the Administrative Law Judge. Similarly, Section 5300.750(e) of the procedural rules of the Illinois Human Rights Commission authorizes a recommendation for dismissal with prejudice where a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance, or unreasonably refuses to comply with any Order entered, or otherwise engages in conduct which unreasonably delays or protracts the proceedings.

The Complainant filed a Complaint with the Illinois Human Rights Commission (Commission) on July 19, 2007, alleging that Respondent subjected Complainant to sexual harassment in violation of the Illinois Human Rights Act (Act), 775 ILCS 5/1-101 *et seq.* Complainant was served with a copy of the Complaint and notice of hearing in this matter by certified mail on August 6, 2007. The record shows that the Commission attempted certified mail service of the Complaint and notice of hearing on Respondent at his address of record and that the certified mail was returned as *refused* by the U.S. postal service on August 14, 2007.

The matter was originally set for hearing on October 9, 2007. Neither party appeared on that date. An order was issued continuing this matter to October 23, 2007. An order issued on November 9, 2007 rescheduling the October 23, 2007 hearing to February 27, 2008. The order required all parties to appear in person for the hearing. On February 27, 2008, neither party appeared. An order was entered continuing the matter to June 10, 2008.

The record shows that Complainant filed a motion to continue on February 27, 2008, which did not come to my attention until after the scheduled hearing on that date. The motion was not accompanied by a Notice of Hearing indicating a date and time in which the motion was to be presented, as required by Commission rules at Section 5300.730(d).

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This matter has been scheduled for five status hearings on October 9, 2007, February 27, 2008, June 10, 2008, August 27, 2008 and December 9, 2008. Neither party has ever appeared for any of the scheduled hearings in this matter. The failure of the parties to appear to litigate this case has resulted in unreasonable delay of this matter, justifying dismissal of this case.

RECOMMENDATION

Therefore, I recommend that this Complaint and the underlying Charge be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY:

ENTERED: December 10, 2008

SABRINA M. PATCH
Administrative Law Judge
Administrative Law Section