STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)		
	)		
CHARLES BARRY THOMAS,	)		
	)		
	)		
Complainant,	)	CHARGE NO(S):	2006CF3648
	)	EEOC NO(S):	21BA62267
and	)	ALS NO(S):	07-952
	)		
RIVERSIDE HOTEL PARTNERS, LLC, d/b/a	)		
HILTON GARDEN INN AND CONFERENCE	)		
CENTER,	)		
	)		
	)		
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

_____

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)
	)
CHARLES BARRY THOMAS,	)
Complainant,	) **Charge No: 2006CF3648**
	) **EEOC No:21BA62267**
	) **ALS No: 07- 952**
	)
and	)
	)
RIVERSIDE HOTEL PARTNERS, LLC,	)
d/b/a HILTON GARDEN INN AND CONFERENCE	)
CENTER,	)
Respondent.	

RECOMMENDED ORDER AND DECISION

This matter is before me on Respondent's motion to dismiss this matter for want of prosecution, filed December 5, 2008. Complainant failed to file a response, although allowed time to do so. Respondent appeared for hearing on the motion; Complainant did not appear. 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. Complainant filed a Charge of Discrimination with the Illinois Department of Human Rights (Department) on August 16, 2006. The Department, on behalf of Complainant, filed a Complaint with the Illinois Human Rights Commission (Commission) on December 31, 2007, alleging that Respondent subjected Complainant to race discrimination in violation of the Illinois Human Rights Act (Act), 775 ILCS 5/1-101 *et seq*. Respondent filed a verified answer to the Complaint on February 19, 2008.

2. On May 8, 2008, Respondent appeared through counsel; Complainant appeared *pro se*. A discovery scheduling order was entered ordering the parties to serve initial discovery by June 6, 2008 and setting a discovery status for July 23, 2008.

3. Respondent served interrogatories and production requests on Complainant on May 27, 2008 On July 23, 2008, Respondent appeared through counsel; Complainant did not appear. An order was entered ordering Complainant to serve answers to Respondent's discovery requests no later than August 15, 2008. A discovery status was set for August 27, 2008. Complainant served answers to discovery on August 15, 2008.

4. On August 27, 2008, Respondent appeared through counsel; Complainant appeared *pro se*. Respondent filed a motion to compel and bar requesting that an order issue compelling Complainant to provide adequate responses to discovery and further requesting that Complainant be barred from propounding discovery. The parties presented oral argument on the motion. Complainant's discovery answers were determined to be facially inadequate. An order was entered granting the motion and ordering Complainant to file adequate answers to discovery by September 30, 2008 A status was set for October 14, 2008. On October 14, 2008, Complainant appeared *pro se*. Respondent did not appear. The matter was set for status on October 29, 2008.

5. Respondent filed its motion to strike Complainant's discovery requests on October 3, 2008 and its second motion to bar Complainant's discovery answers on October 9, 2008. The motions argued that although Complainant's supplemental discovery answers were served on Respondent on September 30, 2008, the answers remained inadequate as they were incomplete, non-responsive and/or incomprehensible. Respondent further pointed out that Complainant had served a document that appeared to be a discovery request. Respondent requested that the document be stricken because Complainant had not sought leave of tribunal to propound discovery beyond the June 6, 2008 deadline as set in the scheduling order.

6. On October 29, 2008, Complainant appeared *pro se*; Respondent appeared through counsel. An order was issued striking Complainant's discovery requests as being untimely. The order continued Respondent's second motion to bar Complainant's discovery answers until November 12, 2008, based on Complainant's representation

that he had secured legal counsel, who would appear on Complainant's behalf at the next hearing. On November 12, 2008, Respondent appeared through counsel; Complainant appeared *pro se* and represented that he still had not retained counsel. An order was entered ordering Complainant to file a response to Respondent's second motion to bar no later than November 26, 2008. A status on a decision on the motion was set for December 2, 2008.

7. On December 2, 2008, Respondent appeared through counsel; Complainant did not appear. The record showed that Complainant failed to file a response to Respondent's second motion to bar. Respondent made an oral motion to dismiss the Complaint. An order was entered granting Respondent's second motion to bar Complainant's discovery answers. Respondent was allowed to file a written motion to dismiss by December 5, 2008. Complainant was ordered to file a response no later than December 19, 2008. Hearing on the motion to dismiss was set for December 22, 2008.

8. Complainant filed its motion to dismiss on December 5, 2008. Complainant did not file a response. On December 22, 2008, Respondent appeared through counsel; Complainant did not appear.

CONCLUSION OF LAW

Complainant's conduct in failing to provide adequate discovery responses, failing to file any response in opposition to the motion to dismiss and failing to appear for the December 2, 2008 and December 22, 2008 scheduled hearings, has resulted in unreasonable delay of these proceedings, justifying dismissal of this matter.

DETERMINATION

Complainant's conduct has resulted in unreasonable delay of this matter, justifying dismissal of this case.

DISCUSSION

Complainant filed a Charge of Discrimination with the Illinois Department of Human Rights (Department) on August 16, 2006. The Department, on behalf of Complainant, filed a

Complaint with the Illinois Human Rights Commission (Commission) on December 31, 2007, alleging that Respondent subjected Complainant to race discrimination in violation of the Illinois Human Rights Act (Act), 775 ILCS 5/1-101 *et seq*. Respondent filed a verified answer to the Complaint on February 19, 2008.

On May 8, 2008, Respondent appeared through counsel and Complainant appeared *pro se*. A discovery scheduling order was entered ordering the parties to serve initial discovery by June 6, 2008 and to appear for a discovery status on July 23, 2008.

Respondent served interrogatories and production requests on Complainant on May 27, 2008. On July 23, 2008, Respondent appeared through counsel; Complainant did not appear. An order was entered ordering Complainant to serve answers to Respondent's discovery requests no later than August 15, 2008. A discovery status was set for August 27, 2008. Complainant served discovery responses on Respondent on August 15, 2008.

On August 27, 2008, Respondent appeared through counsel; Complainant appeared *pro se*. Respondent filed a motion to compel and bar requesting that an order issue compelling Complainant to provide adequate responses to discovery and further requesting that Complainant be barred from propounding discovery. The parties presented oral argument on the motion. Complainant's discovery answers were determined to be facially inadequate. An order was entered granting the motion and ordering Complainant to file adequate answers to discovery by September 30, 2008 A status was set for October 14, 2008. On October 14, 2008, Complainant appeared *pro se*. Respondent did not appear. The matter was set for status on October 29, 2008.

Respondent filed its motion to strike Complainant's discovery requests on October 3, 2008 and its second motion to bar Complainant's discovery answers on October 9, 2008. The motions argued that although Complainant's supplemental discovery answers were served on Respondent on September 30, 2008, the answers remained inadequate as they were incomplete, non-responsive and/or incomprehensible. Respondent further pointed out that Complainant had served a document that appeared to be a discovery request. Respondent

requested that the document be stricken because Complainant had not sought leave of tribunal to propound discovery beyond the June 6, 2008 deadline as set in the scheduling order.

On October 29, 2008, Complainant appeared *pro se*; Respondent appeared through counsel. An order was issued striking Complainant's discovery requests as being untimely. The order continued Respondent's second motion to bar Complainant's discovery answers until November 12, 2008, based on Complainant's representation that he had secured legal counsel, who would appear on Complainant's behalf at the next hearing. On November 12, 2008, Respondent appeared through counsel; Complainant appeared *pro se* and represented that he had still not retained counsel. An order was entered ordering Complainant to file a response to Respondent's second motion to bar no later than November 26, 2008. A status on a decision on the motion was set for December 2, 2008.

On December 2, 2008, Respondent appeared through counsel; Complainant did not appear. The record showed that Complainant failed to file a response to Respondent's second motion to bar. Respondent made an oral motion to dismiss the Complaint. An order was entered granting Respondent's second motion to bar Complainant's discovery answers. The order allowed Respondent to file a written motion to dismiss by December 5, 2008. Complainant was ordered to file a response by December 19, 2008, and hearing on the motion to dismiss was set for December 22, 2008. Respondent filed its motion to dismiss on December 5, 2008. Complainant did not file a response. On December 22, 2008, Respondent appeared through counsel; Complainant did not appear.

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 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.

Complainant's conduct in failing to provide adequate discovery responses, failing to file any response in opposition to the motion to dismiss, and failing to appear for the December 2, 2008 and December 22, 2008 scheduled hearings, has resulted in unreasonable delay of these proceedings, justifying dismissal of this matter.

RECOMMENDATION

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

HUMAN RIGHTS COMMISSION

BY: _____
SABRINA M. PATCH
Administrative Law Judge
Administrative Law Section

ENTERED: December 29, 2008