

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)

MAURICIO MARTINEZ,)

Complainant,)

and)

ALHAMBRA PALACE RESTAURANT, LLC,)

Respondent.)

CHARGE NO(S): 2008CF1404
EEOC NO(S): 21BA80547
ALS NO(S): 09-0619

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 16th day of June 2011

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
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MAURICIO MARTINEZ,)	
)	
Complainant,)	Charge No.: 2008CF1404
)	EEOC No.: 21BA80547
and)	ALS No.: 09-0619
)	
ALHAMBRA PALACE RESTAURANT, LLC,)	Judge Lester G. Bovia, Jr.
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

This matter has come to be heard on my own motion, *sua sponte*, to dismiss the complaint in this matter for want of prosecution. The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record.

FINDINGS OF FACT

The following facts were derived from the record file in this matter:

1. The Department filed a complaint on Complainant's behalf on October 29, 2009, alleging that Respondent discharged Complainant due to his Hispanic ancestry and in retaliation for his opposition to unlawful discrimination. Respondent denies Complainant's allegations.
2. Pursuant to the Commission's Notice of Public Hearing dated October 30, 2009, which was duly served upon both parties, an initial status hearing was scheduled for January 26, 2010. Respondent appeared at the January 26 status hearing through counsel. Complainant did not appear, either personally or through counsel.
3. The next status hearing was scheduled for February 23, 2010. Respondent appeared at the February 23 status hearing through counsel. Complainant did not appear, either personally or through counsel. However, because Respondent's counsel did not produce proof that he

served Complainant with due notice of the February 23 status hearing, this matter was scheduled for another status hearing on May 25, 2010.

4. Respondent appeared at the May 25 status hearing through counsel. Though duly served with notice of the May 25 status hearing, Complainant did not appear, either personally or through counsel. Accordingly, this matter was scheduled for yet another status hearing on July 27, 2010.

5. Respondent's counsel appeared at the July 27 status hearing for the sole purpose of presenting his motion to withdraw from this matter. Though duly served with notice of the July 27 status hearing and the motion to withdraw, no representative from Respondent appeared. Thus, Respondent's counsel was granted leave to withdraw.

6. Though duly served with notice of the July 27 status hearing, Complainant also did not appear, either personally or through counsel. Accordingly, this matter was scheduled for one more status hearing on September 28, 2010. Both parties were advised that they faced dismissal or default if they failed to appear.

7. Though duly served with notice of the September 28 status hearing, neither Respondent nor Complainant appeared, either through counsel or otherwise.

8. Complainant has provided no explanation whatsoever for his failure to appear at any of the status hearings in this matter.

CONCLUSIONS OF LAW

1. Complainant has failed to prosecute his case, which has unreasonably delayed the proceedings in this matter.

2. As a result of Complainant's failure to prosecute his case, this case should be dismissed with prejudice.

DISCUSSION

Complainant has not appeared at any of the status hearings in this matter despite having received due notice of at least four of them. Also, Complainant was warned that he faced

dismissal of his case for his repeated failures to appear. Moreover, Complainant has provided no explanation whatsoever for his conduct. It appears that Complainant simply has abandoned his claim.

The Commission routinely dismisses abandoned claims. See, e.g., Diaz and Sun Steel, IHRC, ALS No. 07-688, March 17, 2009 and Leonard and Solid Matter, Inc., IHRC, ALS No. 4942, August 25, 1992. The Commission also dismisses cases where complainants fail to appear at dates scheduled for hearing or status, as a complainant's failure to appear unreasonably delays proceedings before the Commission. See, e.g., Stewart and SBC Midwest, IHRC, ALS No. 04-227, March 22, 2006 and Jackson and Chicago Firefighters Union Local No. 2, IHRC, ALS No. 8193, September 29, 1997.

Complainant's failure to prosecute his case has unreasonably delayed the proceedings in this matter. Therefore, this case should be dismissed.

RECOMMENDATION

Based on the foregoing, it is recommended that the complaint in this matter be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____

**LESTER G. BOVIA, JR.
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION**

ENTERED: October 1, 2010