	This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 09/21/06

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
ROBERT DAVIS,	)	
	)	**Charge No. 2005CP2984**
Complainant,	)	**EEOC No. N/A**
	)	**ALS No. 06-161**
and	)	
	)	
CIRILOS, INC. d/b/a McDONALD'S,	)	
	)	
Respondent.	)	

RECOMMENDED ORDER AND DECISION

This matter comes before me from the Commission's Default Order entered on May 24, 2006. Pursuant to such Default Order, an order was entered on June 12, 2006 requiring the parties to appear on August 16, 2006 for a status hearing. On August 16, 2006 neither Complainant nor Respondent appeared for the status hearing. On August 17, 2006, the Commission entered an order setting another status hearing on October 5, 2006. On October 5, 2006, neither Complainant nor Respondent appeared for the status hearing. The Default Order, the June 12, 2006 Order, and the August 17, 2006 Order sent to the Complainant via U.S. Mail have been returned to the Commission. Accordingly, this matter is now ready for disposition.

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. On April 25, 2006, the Department filed a Petition for Hearing to Determine Damages.
2. On May 24, 2006, the Commission entered a Default Order granting the Department's Petition and referred the case to the Commission's Administrative Law Section for a hearing on damages.
3. The May 24, 2006 Default Order sent to Complainant via U.S. Mail at his last known address was returned to the Commission.
4. On June 12, 2006, the Commission entered an order that set this case for a status on August 16, 2006 at the Illinois Human Rights Commission's Chicago office.
5. The June 12, 2006 Order sent to Complainant via U.S. Mail at his last known address was returned to the Commission.
6. Neither Complainant nor Respondent appeared for the August 16, 2006 status hearing.
7. On August 17, 2006, the Commission entered an order scheduling this case for a status hearing on October 5, 2006 at the Illinois Human Rights Commission's Chicago office.
8. The August 17, 2006 Order sent to Complainant via U.S. Mail at his last known address was returned to the Commission.
9. Neither Complainant nor Respondent appeared for the October 5, 2006 status hearing.
10. Complainant failed to file a written appearance, failed to provide written notice of a change of address with the Commission, and otherwise failed to take any action to prosecute his claim.

CONCLUSIONS OF LAW

1. Because the Complainant has failed to properly notify the Commission of a change of address so that orders and other papers may be served on him, he is deemed to have failed to prosecute his case.
2. Although it has not been served on the Complainant because no proper address is known, the Default Order entered by the Commission is effective.
3. Complainant, having failed to prosecute his claim, shall not be entitled to any monetary damages.

DISCUSSION

A fundamental principle governing practice before the Commission is that complainants must diligently pursue their cases once they are docketed with the Commission. Several attempts have been made to serve orders on the Complainant using his last known address in the Commission's files. Complainant has failed to provide the Commission with written notice of change of address. Mail sent to the Complainant has been returned to the Commission. Accordingly, Complainant has failed to prosecute his claim.

In **Magraff and Alexopolis***, ___ Ill. HRC Rep. ___, (1990CN0209, Nov. 8, 1993*), the Commission declared that in cases of default where the complainant has failed to participate in the damages hearing, the order of default will remain on the record, but no award is made to the complainant for his or her damages. This enables the Commission, in furtherance of the public interest, to order a respondent to cease and desist from any further discrimination.

RECOMMENDATION

Based on the principles set forth in **Magraff***,* I recommend the Commission:

(1) affirm the finding of default against Respondent as reflected in the Commission's Default Order dated May 24, 2006;

(2) make no monetary award to Complainant because he has failed to prosecute his claim; and

(3) order Respondent to cease and desist from discriminating against anyone on the basis of race discrimination and retaliation.

HUMAN RIGHTS COMMISSION

By: _____

REVA S. BAUCH
DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: October 13, 2006