



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**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>RENE GUERRA,</b>	)	
	)	<b>Charge No. 2005CF1773</b>
<b>Complainant,</b>	)	<b>EEOC No. 21BA50711</b>
	)	<b>ALS No. 05-314</b>
<b>And</b>	)	
	)	
<b>SUPER BRITE CAR WASH &amp; DETAIL CENTER</b>	)	
	)	
<b>Respondent.</b>	)	

**RECOMMENDED ORDER AND DECISION**

This matter comes before me on a public hearing on damages set for July 25, 2006, after the Commission entered a Default Order against the Respondent on August 24, 2005. Respondent appeared. Complainant, although duly served, failed to appear. Accordingly, this matter is now ready for a decision.

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 August 1, 2005, the Department filed a Petition for Hearing to Determine Damages.
2. On August 24, 2005, 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 Commission served the Default Order on both parties. The order served on Complainant was sent to the address contained in the charge filed with the Department. The order was not returned to the Commission.
4. On November 1, 2005, the Commission entered an order that set this case for a status hearing on February 22, 2006 at the Commission's Chicago office.
5. The Commission served the November 1, 2005 order on both parties. The order served on Complainant was sent to the address contained in the charge filed with the Department. The order was not returned to the Commission.
6. On February 22, 2006, a status hearing took place. Complainant failed to appear. Respondent appeared through counsel. Respondent requested the right to proceed with discovery. The Commission entered an order setting a discovery schedule and the next status hearing on April 19, 2006, at the Commission's Chicago office.
7. Respondent filed a proof of service with the Commission documenting that a copy of the February 22, 2006 order had been served on Complainant on March 3, 2006, at the same address contained in the charge filed with the Department.
8. On April 19, 2006, a status hearing was scheduled. Neither Respondent nor Complainant appeared. The matter was set for another status hearing on June 1, 2006.
9. The Commission served the April 19, 2006 order on both parties. The order served on Complainant was sent to the address contained in the charge filed with the Department. The order was not returned to the Commission.

10. On June 1, 2006, a status hearing took place. Respondent appeared through counsel. Complainant failed to appear. An order was entered setting a public hearing on damages for July 25, 2006 at 9:30 A.M. at the Commission's Chicago office.
11. Respondent filed a proof of service with the Commission documenting that a copy of the June 1, 2006 order had been served on Complainant on June 2, 2006, at the same address contained in the charge filed with the Department.
12. On July 25, 2006, Respondent appeared through counsel at 9:30 A.M. for the public hearing on damages. Complainant failed to appear.
13. The Administrative Law Judge waited until 10:10 A.M. and then called Respondent's counsel into the hearing room. She ruled that since Complainant had failed to appear to present her case on damages, a Recommended Order and Decision would be entered shortly and served by mail on all parties. An order documenting the oral ruling was entered on July 25, 2006.

#### **CONCLUSIONS OF LAW**

1. The Default Order, which was properly served on both parties, is effective and shall remain on the record.
2. Complainant, having failed to appear at the public hearing and present her case on damages, 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. Complainant failed to appear for all status hearings, as well as the public hearing on damages. Respondent appeared through counsel for most status hearings and the public hearing on damages.

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 shall remain on the record, but no award shall be 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 that the Commission:

- (1) affirm the finding of default against Respondent as reflected in the Commission's Default Order dated August 24, 2005;
- (2) award no monetary damages to Complainant; and
- (3) order that Respondent cease and desist from discriminating against anyone on the basis of national origin.

### **HUMAN RIGHTS COMMISSION**

By: \_\_\_\_\_

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

**ENTERED: July 26, 2006**