



This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 6/24/05.

**STATE OF ILLINOIS**

**HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF:** )  
 )  
**GORDON R. JOHNSON,** )  
 )  
 **Complainant,** )  
 )  
**AND** )  
 )  
**EXXON MOBIL CORPORATION,** )  
 )  
 **Respondent.** )

**Charge No. 2002CA2620  
ALS No. 12083**

**RECOMMENDED ORDER AND DECISION**

This matter is before this tribunal on Respondent’s motion entitled *Motion for Summary Decision Pursuant to 775 ILCS 5/8-106.1*, which was filed on June 9<sup>th</sup>, 2004. That motion alleges that all claims found in Complainant’s *Complaint of Civil Rights Violation* filed on May 5<sup>th</sup>, 2003 have been resolved in federal court, and that therefore the complaint should be dismissed with prejudice. On June 10<sup>th</sup>, 2004, this tribunal entered an order ordering Complainant Johnson to file a response to Respondent’s motion on or before June 24<sup>th</sup>, 2004. As of today’s date, April 28, 2005, no such response has been filed. The matter is now ripe for decision.

**FINDINGS OF FACT**

1. On April 5<sup>th</sup>, 2002, Complainant filed Charge No. 2002CA2620 with the Illinois Department of Human Rights. On this date, Complainant’s charge was dual filed with the Chicago District office of the Equal Employment Opportunity Commission.

2. On June 27<sup>th</sup>, 2002, the Equal Employment Opportunity Commission issued to Complainant a *Notice of Right to Sue*, indicating that Complainant had ninety (90) days to file suit in federal court.
3. On July 15, 2002, Complainant filed a complaint in the United States District Court for the Northern District of Illinois, Eastern Division.
4. On May 5<sup>th</sup>, 2003, Complainant's attorney filed a *Complaint of Civil Rights Violation* with the Illinois Human Rights Commission.
5. On May 21<sup>st</sup>, 2003, Respondent's attorney filed a *Motion to Stay Complaint of Civil Rights Violation* with the Human Rights Commission. That motion was granted by Administrative Law Judge Nelson E. Perez on July 9<sup>th</sup>, 2003.
6. On February 2<sup>nd</sup>, 2004, the United States District Court granted Respondent's motion for summary judgment and dismissed all of Complainant's claims.
7. On June 9<sup>th</sup>, 2004, Respondent filed a motion with the Human Rights Commission entitled *Motion for Summary Decision Pursuant to 5/8-106.1*.
8. Although Respondent's *Motion for Summary Decision Pursuant to 5/8-106.1* was properly served upon Complainant's attorneys, as of the date of this Recommended Order and Decision, no response to that motion has been filed.

#### **CONCLUSIONS OF LAW**

1. This Commission has jurisdiction over the subject matter of the *Complaint of Civil Rights Violation*, ALS No. 12083 and the parties to this action.
2. The doctrine of *res judicata* bars the relitigation of the same claims that a court of competent jurisdiction has decided on the merits in an earlier proceeding.

3. Because the parties have already had a full and fair opportunity to litigate this matter in an earlier proceeding in federal court, this matter should be dismissed with prejudice under the doctrine of *res judicata*.
4. This tribunal is under no obligation or duty to search the record to find reasons to deny a motion. If a motion appears valid on its face, and if the opposing party cannot tell this tribunal why the motion should not be granted, the motion may be granted.

### **DISCUSSION**

Although Respondent has entitled its motion, *Motion for Summary Decision Pursuant to 775 ILCS 5/8-106.1*, based on the facts alleged in the motion, this tribunal will construe it as a motion to dismiss based on the doctrine of *res judicata*.

On February 2<sup>nd</sup>, 2004, the United States District Court for the Northern District of Illinois, Eastern Division, granted Respondent Exxon's motion for summary judgment with regard to Complainant Johnson's claim under the Age Discrimination in Employment Act (ADEA). Prior to this, the court had granted summary judgment in favor of Respondent with regard to Complainant's claim under the Americans with Disabilities Act (ADA). *Johnson v. Exxon Mobil Corporation*, 2004 WL 419897 (N.D. Ill.). Complainant's action in federal court sought relief for the same alleged civil rights violations as set forth in the *Complaint of Civil Rights Violation* filed with the Commission on May 5<sup>th</sup>, 2003.

Under the doctrine of *res judicata*, a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action. *Allen v. McMurray*, 449 U.S. 90, 94 (1980). Thus, for the doctrine of *res judicata* to apply, three requirements must be shown: (1) there was a final judgment on the merits rendered by a court of competent jurisdiction, (2) there is an identity of cause of action, and (3) there is an identity of parties or their privies. *River*

*Park, Inc. v. City of Highland Park*, 703 N.E.2d 883, 889, 234 Ill. Dec 783, 789 (1998).

The Commission has recognized that the doctrine of *res judicata* applies to the Illinois Human Rights Act. *Hatch and Pate, Ragland and IDOC*, 1999 WL 33252976, Charge No. 1993SP0482, ALS No. S-7765 (October 4, 1999), *citing, Blissitt and City of Chicago*, Charge No. 1987CF1454 (January 13, 1995). From this tribunal's review of Respondent's motion, along with the attached exhibits, (A) through (F), it is clear that the doctrine of *res judicata* does apply in the instant case.

In addition, it is significant that Complainant has not filed a response to Respondent Exxon's motion as of the date of this Recommended Order and Decision. The Commission has held that it "*will not search the record to find reasons to deny a motion. If a motion appears valid on its face, and if the other side cannot tell us why the motion should not be granted, we will grant the motion.*" *Jones and Burlington Northern Railroad*, 25 Ill. HRC Rep. 101, 102 (1986). In this case, Complainant has failed to provide this tribunal with any reason not to grant Respondent's motion.

#### **RECOMMENDATION**

Based on the foregoing, I recommend that Respondent's motion be granted and that the instant complaint, ALS No. 12083, along with the underlying charge of discrimination, Charge No. 2002CA2620, be dismissed with prejudice.

**ENTERED: April 28<sup>th</sup>, 2005**

**HUMAN RIGHTS COMMISSION**

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**MARIETTE LINDT  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION**

