This Recommended Order and Decision became the Order and Decision of the Illinois Human Rights Commission on 12/28/06

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	**)**
	)
ILDA V. QUINTANA,	**)**
Complainant,	**) Charge No: 2005CF 0391**
	) EEOC: 21BA42898
and	**)`ALS No: 05-544**
	)
MUJERES LATINAS EN ACCION,	**)**
Respondent.	

RECOMMENDED ORDER AND DECISION

This matter is before me on Respondent's motion to dismiss the Complaint, filed October 3, 2006. Complainant failed to file an objection to the motion, although given time in which to do so. This matter is ready for a decision.

The record indicates the motion has been served upon all parties and the Illinois Department of Human Rights. 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

1. Complainant filed a Charge of Discrimination with the Illinois Department of Human Rights (Department) on August 2, 2004.
2. Complainant, on her own behalf, filed a Complaint with the Illinois Human Rights Commission (Commission) on December 30, 2005, alleging that Respondent discriminated against her on the basis of handicap in violation of the Illinois Human Rights Act (Act), 775 ILCS 5/1-101 *et seq*.
3. Respondent filed a verified answer to the Complaint on March 14, 2006.
4. On May 24, 2006, Respondent appeared through counsel; Complainant appeared *pro se*. Complainant indicated that she was contemplating voluntarily dismissing this case. An order was entered setting a status date for June 28,

2006 in order to allow Complainant time to decide whether she would voluntarily dismiss the matter or obtain counsel and proceed to litigate this case.

5. On May 31, 2006, Respondent filed a proof of service that it had propounded discovery on Complainant on April 14, 2006.

6. On June 28, 2006, Respondent appeared through counsel; Complainant appeared *pro se*. Complainant represented that she was in the process of seeking counsel to represent her in this action and that she had secured an appointment the following day to meet with a prospective attorney. The matter was continued until July 11, 2006 to allow Complainant additional time to retain counsel. The order indicated that if Complainant did not secure representation by July 11, 2006, she would begin to complete her discovery responses.

7. On July 11, 2006 Respondent appeared through counsel; Complainant appeared *pro se*. Complainant had not secured counsel. An order was entered ordering Complainant to respond to Respondent's discovery no later than August 16, 2006. Complainant was furthered ordered to propound her own discovery on Respondent no later than July 21, 2006. A status was set for August 23, 2006.

8. On August 17, 2006, Respondent filed a motion for extension of time to respond to Complainant's discovery. On August 23, 2006, Respondent appeared through counsel; Complainant appeared *pro se*. An order was entered granting Respondent an extension until September 18, 2006 to respond to Complainant's discovery and granting Complainant an extension until September 18, 2006 to respond to Respondent's discovery. A status date was set for September 27, 2006.

9. On September 27, 2006, Respondent appeared through counsel; Complainant did not appear. Respondent represented that Complainant had yet to respond to its discovery. An order was entered ordering Respondent to file a motion to

dismiss no later than October 3, 2006 and further ordering Complainant to file a response to the motion no later than October 20, 2006. A hearing on the motion was set for October 25, 2006.

10. The record shows that Respondent filed a proof of service that the September 27, 2006 order was mailed to Complainant at her address of record on September 28, 2006.

11. Respondent filed a motion to dismiss the Complaint on October 3, 2006. Complainant filed no response. On October 25, 2006, Respondent appeared for hearing on the motion; Complainant did not appear. I granted the motion.

DETERMINATION

This case warrants dismissal due to Complainant's failure to comply with the Commission order to file responses to discovery and for Complainant's failure to appear at the September 27, 2006 scheduled status hearing and the October 25, 2006 scheduled hearing on Respondent's motion to dismiss.

CONCLUSION

Complainant's conduct in ignoring Commission orders to answer discovery and in failing to appear for scheduled hearings has resulted in unreasonable delay of this matter.

DISCUSSION

Respondent argues in its motion to dismiss that this Complaint should be dismissed for Complainant's failure to file responses to its discovery requests, although first ordered to do so no later than August 16, 2006 and then being allowed an extension to do so no later than September 18, 2006. During the hearing on this motion, Respondent pointed to Complainant's failure to appear to voice any opposition to the motion and to Complainant's previous failure to appear for the September 27, 2006 scheduled status hearing in violation of Commission orders.

The record shows that Complainant has filed no response to Respondent's discovery, although ordered to do so no later than September 18, 2006, and that Complainant failed to appear for the September 27, 2006 scheduled status hearing. Further, Complainant failed to file a response to Respondent's motion to dismiss and failed to appear for hearing to oppose the motion.

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 Illinois Human Rights 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 failure to comply with Commission orders ordering her to file responses to discovery and to file a response to Respondent's motion to dismiss and Complainant's failure to appear for two consecutively scheduled hearings, including the October 25, 2006 hearing on Respondent's motion to dismiss, have resulted in unreasonable delay of this matter, justifying dismissal.

RECOMMENDATION

Accordingly, 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: November 13, 2006