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**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

ELIAS MAKERE,

)

Petitioner,

)

)

Case No. 18-0373

vs.

)

2017-01432

)

ALLSTATE CORPORATION,

)

Respondent

)

**PETITIONER’S MOTION FOR OFFICIAL RECOGNITION OF
OF THE EEOC ‘RIGHT TO SUE LETTER’ IN DOAH CASE NO. 01-3464**

Petitioner, ELIAS MAKERE, on this 20th day of February 2019, respectfully moves this Court to recognize the ‘Right to Sue Letter’ that the EEOC (Equal Employment Opportunity Commission) issued in connection with DOAH Case No. 01-3464.

Key Points:

- | | |
|----------------|---|
| A.) Takeaway | The EEOC ‘Right to Sue Letter’ operates the same as an FCHR Notice of Determination |
| B.) Precedence | The DOAH has previously granted similar Motions for Official Recognition |
| C.) Relation | This Motion supports Petitioner’s forthcoming “... <i>Proposed Order</i> ...” |

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Background: The Respondent moved for official recognition of an agency document

Problem: US Law prohibits that document – and its federal equivalent – from being admitted into evidence

Request: The Court officially recognizes the federal equivalent of the document

§120.569(2)(i) | Florida Statutes

“When official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the material.”

§90.202 | Florida Statutes | Matters which may be judicially noticed | (emphasis added)

“A court may take judicial notice of the following matters...

...(5) Official actions of the legislative, executive, and judicial departments of the United States and of any state, territory, or jurisdiction of the United States...

§90.203 | Florida Statutes

“Compulsory judicial notice upon request. – A court shall take judicial notice of any matter in s. 90.202 when a party requests it and: (1) Gives each adverse party timely written notice of the request, proof of which is filed with the court, to enable the adverse party to prepare to meet the request. (2) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.”

Legal Citations

- §120.569(2)(i) - Florida Statutes
- §90.202, §90.203 - Florida Statutes

Precedence

- DOAH Case No. 00-2413 - Case Law (7/10/02)
- DOAH Case No. 02-0340 - Case Law (3/19/02)
- DOAH Case No. 04-1087 - Case Law (6/15/04)
- DOAH Case No. 18-0373 - Case Law (11/7/18)

The DOAH granted similar motions for official recognition of statutes/rules

MOTION

Introduction

1. On July 17, 2001, the EEOC issued its Dismissal and Notice of Rights (hereinafter "Their Letter") to a plaintiff in a separate civil action. Their Letter is commonly known as a 'Right to Sue Letter'. It operates the same as a Notice of Determination (hereinafter "That Document") from the FCHR.
 - a. As evidenced by the FCHR's (a) acknowledgment of it; and (b) initiation of a civil proceeding (Martinez v. Hialeah Gardens, DOAH Case No. 01-3464).
2. On January 19, 2018, the FCHR filed That Document in the instant case (18-0373). About one year later (2/6/19), the Respondent moved this Tribunal to officially recognize another copy of it. Despite the fact that (a) this Tribunal already rejected it from evidence; and (b) §760.11(5) (FS) prohibits it from being admitted into evidence. Hence, the Respondent's actions in this proceeding threaten to confuse the issues (ie, violation of §90.403).

Grounds

3. Their Letter is an official action from a federal agency (ie, '*...official action of the [executive department] of the United States*' – §90.202). A copy of which is attached as **Exhibit A**.
 - a. Please note that the Petitioner selected it because it was a representative sample of many others (which are on the DOAH docket).

Judicial Economy

4. Lastly, Their Letter is important to the instant case because it contextualizes the purpose of That Document in this Tribunal's proceedings. Thus, preventing imbalanced outcomes. As highlighted below, the DOAH should take judicial notice of Their Letter to support judicial economy:

"The interests of judicial economy, the avoidance of unnecessary and repetitious litigation and administrative proceedings, the avoidance of inconsistent judicial results, and the administration of justice will all be served by this Honorable Administrative Law Judge taking judicial notice of the documents which are the subject of this Motion for Official Recognition"

- Terrance Q. Woodward, Esq. (692441) | Motion to Remand | DOAH Case No. 12-1793 | 5/23/12

CONFERRAL

On February 20, 2019, Petitioner asked the Respondent to recognize Their Letter. Afterwards, he followed up with a phone call. Upon receiving no answer he asked the Respondent if it opposed this Motion. The Respondent did not respond.

Nevertheless, Petitioner believes the foregoing presents a sufficient (ie, *executive action* – §90.202) and important reason (ie, *judicial economy*) for official recognition.

CONCLUSION

WHEREFORE, Petitioner respectfully requests that this Court grant *Petitioner's Motion for Official Recognition of the EEOC 'Right to Sue Letter' in DOAH Case No. 01-3464*. A copy of which is attached as **Exhibit A**.

Dated this 20th day of November 2019.

Respectfully submitted,

ELIAS MAKERE, Pro Se
s/ Elias Makere
3709 San Pablo Rd. S # 701
Jacksonville, FL 32224
Tel: (904) 294-0026
E-mail: justice.actuarial@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of November 2019, I electronically filed the foregoing with the Clerk of Courts by using the Florida Courts E-filing Portal which will send a notice of electronic filing to the following:

Liebler, Gonzalez & Portuondo
44 West Flagler Street
Courthouse Tower 25th Floor
Miami, FL 33130
(respondent's lawyer)

on behalf of:
Allstate Corporation
2775 Sanders Road F5
Northbrook, IL 60062
(respondent)

Tammy S. Barton, Agency Clerk
Florida Commission on Human Relations
Room 110
4075 Esplanade Way
Tallahassee, Florida 32399-7020
(agency)

/s/ Elias Makere

EXHIBIT A

'Their Letter'

"Dismissal and Notice of Rights"

DOAH Case No. 01-3464

8/31/2001

Florida

U.S. Equal Employment Opportunity Commission
DISMISSAL AND NOTICE OF RIGHTS

01-3464

To: Mr. Julio J. Martinez
1470 W. 76th Street
Hialeah, FL 33014

Rec'd
7/20 - 7/15

From: Miami District Office
Equal Employment Opportunity Commission
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131-1805

07 AUG 31 AM 8:49
FEDERAL BUREAU OF INVESTIGATION
DIVISION OF INVESTIGATION



On behalf of a person aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

Charge Number

150 A1 1239

EEOC Representative

Lourdes M. Guzman, Investigator

Telephone No.

305-530-6058

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



We cannot investigate your charge because it was not filed within the time limit required by law.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You had 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

-- NOTICE OF SUIT RIGHTS --

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may pursue this matter further by bringing suit in federal or state court against the respondent(s) named in the charge. If you decide to sue, you must sue WITHIN 90 DAYS from your receipt of this Notice. Otherwise your right to sue based on the above-numbered charge will be lost.

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible. (If you file suit, please send a copy of your court complaint to this office.)

On behalf of the Commission

Federico Costales, District Director

cc:

Gary A. Costales ✓
2151 LeJeune Road, Suite 200
Coral Gables, FL 33134

Charles A. Citrin, Esq.
Hialeah Gardens
10001 N.W. 87th Avenue
Hialeah Gardens, FL 33016

JUL 17 2007
(Date Mailed)

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