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Background: Defendant has injected materially false information
Problem: The false information is prejudicial and unconstitutional
Request: Court excludes the materially false information

Rule 402 | Fed. R. Evid. | General Admissibility... | (highlights added)

"Relevant evidence is admissible unless any of the following provides otherwise:

- the United States Constitution; ..."*

Rule 403 | Fed. R. Evid. | Excluding... | (highlights added)

"The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence."

Rule 1.140(a)(1) | Fla. R. Civ. P. | Defenses | (highlights added)

"Unless a different time is prescribed in a statute of Florida, a defendant must serve an answer within 20 days after service of original process and the initial pleading on the defendant, or not later than the date fixed in a notice by publication."

Precedence

- | | |
|-------------------------|---------------------|
| • 8:19-cv-01731-VMC-SPF | - USFLMD (5/27/21) |
| • 3:19-cv-00351-MMH-JBT | - USFLMD (5/26/21) |
| • 8:19-cv-01618-KKM-JSS | - USFLMD (5/7/21) |
| • 2:19-cv-00442-JES-MRM | - USFLMD (3/31/21) |
| • 2:19-cv-00229-JES-NPM | - USFLMD (2/1/21) |
| • 2:18-cv-00784-SPC-MRM | - USFLMD (12/10/20) |
| • 2:13-cv-00036-JES-NPM | - USFLMD (12/4/20) |
| • 2:16-cv-00841-SPC-MRM | - USFLMD (11/27/20) |
| • 8:19-cv-02750-VMC-CPT | - USFLMD (11/23/20) |
| • 2:19-cv-00072-SPC-NPM | - USFLMD (9/4/20) |

USFLMD recently granted motions in limine

Abbreviations

- | | |
|--------|---|
| DOAH | - Florida's Division of Administrative Hearings |
| FCHR | - Florida Commission on Human Relations |
| USFLMD | - US District Court, Florida, Middle District |
| USGAMD | - US District Court, Georgia, Middle District |

MOTION**I. Relevant History**

1. On April 10, 2019, Plaintiff dual-filed his Charge of Discrimination with the EEOC and the FCHR. In it, he charged Defendant with employment discrimination on the basis of color, race, retaliation, and sex. The FCHR received it the same day, and blessed it with a 2:35PM timestamp. Pursuant to the Workshare Agreement (29 CFR §1626.10), the FCHR took the lead.
2. On April 18, 2019, the Hon. E. Gary Early, ALJ (hereinafter "That Officer"), entered the RO in DOAH Case No. 18-0373 ("That Case"). That Case was an administrative law action between Plaintiff and Defendant.
 - a) That Case was the progression of an FCHR complaint that Plaintiff filed against Defendant on the basis of race **and** sex.
 - b) The RO **excluded** Plaintiff's sex discrimination charge.
3. On August 12, 2020, Plaintiff initiated this lawsuit; suing Defendant under both federal and state law (42 USC §1981, §760 FS). On March 1, 2021, Plaintiff fulfilled a Court order by amending his complaint.^{1/} Eight days later, he added a duplicate complaint for the express purpose of attaching his Title VII charges (see ¶1).^{2/}
4. At various times throughout this proceeding, Defendant has appended the RO to its motions and responses (see Doc No 4, 53).
5. Running separate to these actions was a lawsuit that Plaintiff filed against That Officer. The complaint detailed the harm that That Officer's perjury inflicted on Plaintiff's constitutional rights.
6. On June 1, 2021, a state process server served the referenced complaint (please see **Exhibit A**).

II. Analysis

7. Plaintiff's initiating complaint (Doc No 1) never mentioned the RO.

8. Defendant was the one who introduced it into these proceedings.

9. More importantly, the RO was based on **That Officer's perjury**.

Perjury from a State Officer (Hon. E. Gary Early, ALJ)

10. The first page of the document had a section titled "*Statement of the Issues*". Where That Officer excluded Plaintiff's original sex discrimination charge (§2b *supra*, see **Exhibit B**).

11. The second page had a section titled "*Preliminary Statement*". Where That Officer continued to exclude Plaintiff's sex discrimination charge. This time, however, That Officer made the fateful declaration that Plaintiff never complained of sex discrimination prior to the DOAH proceedings (see **Exhibit C**) (highlights added).

"[Plaintiff], also *for the first identifiable time*, alleged that Allstate, and in particular [Plaintiff's manager], engaged in sexually provocative and inappropriate behaviors, which [Plaintiff] alleged to be "sexual harassment and discrimination"

- The Honorable E. Gary Early, ALJ | 4/18/19 | Florida

12. That Officer repeated that highlighted line (ie, "*for the first identifiable time*") several more times throughout the RO.

13. The problem, of course, is that those two statements were lies.

"Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083."

- §837.06 Florida Statutes | 2019

14. Plaintiff's originating employment discrimination complaint - from June 30, 2017 (§2a supra) - was on the basis of race and sex (Exhibit D).

15. On December 15, 2017, the FCHR concluded its investigation. Notably affirming that race and sex were the basis of Plaintiff's complaint (see Exhibit E).

16. That Officer was uniquely aware of this. Prior to authoring his RO, he deliberately acknowledged that the sex discrimination charge was in Plaintiff's originating complaint.

17. On February 18, 2019, That Officer entered an order of official recognition of the FCHR's investigative determination (§15, supra).^{3/} He wrote the following (highlights added):

"[Allstate's] Motion for Official Recognition requests that official recognition be taken of the Notice of Determination: No Reasonable Cause, and of the Determination: No Reasonable Cause, both of which were issued by the Florida Commission on Human Relations on December 15, 2017. Those documents provided the point of entry to [Plaintiff] for this proceeding."

- The Honorable E. Gary Early, ALJ | 2/18/19 | Florida

18. Thus, it is indisputable government record that **That Officer knew** that Plaintiff charged Defendant with sex discrimination. In other words, **The Honorable E. Gary Early committed perjury on April 18, 2019.**

19. Despite being legally notified (§7), he has yet to answer.

20. Now, here – in the instant case – Defendant is aiming to inject manifest injustice into the proceedings by proffering that RO. An RO based in perjury, filled with discriminatory slander, and prejudicial to a fair trial.

III. Argument in Support of Excluding That Officer's RO

21. Motions in Limine get marshalled in by a combination of case law and rules of evidence:

"Although the Federal Rules of Evidence do not explicitly authorize in limine rulings, the practice has developed pursuant to the district court's inherent authority to manage the course of trials."

- Luce v United States, 469 US 38 (1984)

22. The Second Circuit says that the goal is to streamline trial:

"The purpose of an in limine motion is "to aid the trial process by enabling the Court to rule in advance of trial on the relevance of certain forecasted evidence, as to issues that are definitely set for trial, without lengthy argument at, or interruption of, the trial." Banque Hypothecaire Du Canton De Geneve v. Union Mines, 652 F.Supp. 1400, 1401 (D.Md.1987)."

- Palmieri v. Defaria, 88 F.3d 136 (2d Cir. 1996)

23. This holding echoes the provisions of Rule 403 Fed. R. Evid. (highlights added) :

"The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence."

- Rule 403 Fed. R. Evid.

24. Rule 402 identifies the "relevant evidence" that is inadmissible:

"Relevant evidence is admissible unless any of the following provides otherwise:

- the United States Constitution;..."*

- Rule 402 Fed. R. Evid.

25. Further guidance is provided by this Court's opinion in Burkhart v RJ Reynolds, 3:09-cv-10727-WGY-HTS (highlights added):

"Judges have broad discretion when ruling on motions in limine. See Jenkins v. Chrysler Motors Corp., 316 F.3d 663, 664 (7th Cir. 2002). However, a motion in limine should not be used to resolve factual disputes or weigh evidence."

- Burkhart v RJ Reynolds, 3:09-cv-10727-WGY-HTS (4/30/14)

26. In McGinnis v Am. Home Mortg., 5:11-cv-00284, USGAMD further warned against allowing *in limine* motions to replace cross-examination. This Honorable Court has applied the same; most recently on February 1st:

"Since an in limine motion is not intended to take the place of cross examination, the motion is DENIED."

- SFR v Lexington, 2:19-cv-00229-JES-NPM (2/1/14)

27. These last two points are wrapped up nicely in this more general principle from the 11th Circuit:

"As the ultimate fact-finder, it is the jury that must determine, finally, where the truth in any case lies, and the district judge as gatekeeper may not usurp this function."

- USA v Frazier, 387 F.3d 1244 (11th Cir. 2004)

28. Altogether, in showing that the RO is **unfairly prejudicial** and **unconstitutional**, Plaintiff must guard against stepping in the **jury booth**.

Unfairly Prejudicial

29. For starters, the RO would prejudice Plaintiff's case. This is so because it began with a **massive lie**, and it devolved into a stereotyped slander (please see Affidavit).

30. In USA v Nill, 518 F.2d 802, the US Supreme Court held that personal degradation is rife with bias and harmful error:

"Nevertheless, our reading of this record convinces us that the cross examination of Nill was allowed to degenerate into a personal attack, calculated to appeal to bias on the part of the jury."

- USA v Nill, 518 F. 2d 802

The Supreme Court went on to describe how such *unceremonious flogging* amounts to prejudice:

"Without any showing that Nill's acquisitions were criminal the plain impact of the above interrogation was to plant the idea in the minds of the jury that the defendant... needed to be given his comeuppance. If a defendant had been subjected to such an irrelevant, derogatory attack [to the contrary], no court would tolerate it. The rule works both ways, [everyone is] entitled to the same fair treatment."

- USA v Nill, 518 F. 2d 802

Likewise, had Defendant been attacked with *its* hands behind its back no Court would tolerate it. Yet, that is what That Officer's contradictory conduct did to Plaintiff. This slander amounted to unfair prejudice:

"We cannot regard this interrogation as either relevant or free of prejudice."

- USA v Nill, 518 F. 2d 802

31. Since That Officer's massive lie is concrete and undisputed, the jury should not be poisoned with his RO.

a) The massive lie is concrete because the truth has long-been established by government record (see ¶15-18, *supra*).

b) Plus, it is undisputed because - to this day - That Officer has neither filed an answer nor indicated he will (see **Affidavit**). Pursuant to Rule 1.140 Fla. R. Civ. P., That Officer's deadline to do so is Tuesday, June 22, 2021 (ie, next week).

32. Such poison would be grounds for a **mistrial**:

"government misconduct that deprives a defendant of a fair trial is grounds for a new trial."

- USA v Casas, 425 F.3d 23 (1st Cir. 2005)

Mistrial, of course, is an **avoidable outcome** (highlights added):

"[a Motion in Limine is] a motion used to exclude reference to anticipated evidence claimed to be objectionable until the admissibility of the questionable evidence can be determined either before or during the trial by presenting the court, out of the presence of the jury, offers and objections to the evidence. The motion seeks to avoid injection into trial of irrelevant, inadmissible, or prejudicial evidence at any point, including the voir dire examinations, opening statements, and direct and cross-examinations, and therefore prevents mistrials based on evidentiary irregularities."

- *Barron's Dictionary of Legal Terms*, 5th Edition

Unconstitutional

33. Secondly, this Honorable Court should exclude the RO because the item was unconstitutional.

34. In McDonnell-Douglas v Green, 411 US 792 (1973) ("The Seminal Case"), the US Supreme Court held that excluding a charged basis of discrimination equates to a violation of due process (**14th Amendment, US Constitution**).

35. Like Plaintiff in the instant case, Green charged his employer with multiple counts of employment discrimination (race, retaliation):

"On September 14, 1965, Green filed a formal complaint with the Equal Employment Opportunity Commission (EEOC), alleging that McDonnell had discriminated against him "because of [his] race and because of [his] persistent involvement in the Civil Rights Movement."

- McDonnell-Douglas v Green, 463 F.2d at 338 (8th Cir. 1970)

Similarly, the hearing officers in Green excluded one of the charges:

"On May 8, 1967, the EEOC determined that reasonable cause existed to believe that McDonnell had [retaliated against Green] by refusing to employ Green "because of his involvement in civil rights activities." It made no determination on the allegation of racial bias."

- McDonnell-Douglas v Green, 463 F.2d at 338 (8th Cir. 1970)

Upon seeing this, Green's appellate court established that removal of a discrimination charge amounts to a **violation of due process**:

"We cannot accept McDonnell's suggestion that it should prevail on an issue that Green was not privileged to present. We cannot say that the district court's action in striking the racial discrimination claim did not hamper the preparation and presentation of Green's case"

- McDonnell-Douglas v Green, 463 F.2d at 338 (8th Cir. 1970)

Later, the US Supreme Court affirmed that this was a constitutional violation even though the hearing officers in Green had unceremoniously listened to testimony on the removed charge:

"[Employer] argues, as it did below, that [employee] sustained no prejudice from the trial court's erroneous ruling, because, in fact, the issue of racial discrimination in the refusal to reemploy "was tried thoroughly" in a trial lasting four days, with "at least 80%" of the questions relating to the issue of "race."

- McDonnell-Douglas v Green, 411 US 792 (1973)

"We cannot agree that the dismissal of [Green's race] claim was harmless error"

"..."

"[Green] should have been accorded the right to prepare his case and plan the strategy of trial with the knowledge that the [race] cause of action was properly before the [Lower Tribunal]. Accordingly, we remand the case for trial of [Green]'s claim of racial discrimination consistent with the views set forth below."

- McDonnell-Douglas v Green, 411 US 792 (1973)

36. Thus, The Seminal Case provides **precise guidance** for the instant matter.

37. Notwithstanding, Plaintiff hereby offers more Supreme Court instruction (by way of the 1st Circuit) (highlights added).

"In Mooney v. Holohan, 294 U.S. 103, 55 S.Ct. 340, 79 L.Ed. 791 (1935) (per curiam), the Supreme Court explained that due process is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured."

"..."

"The following term, the Court reaffirmed that the Due Process Clause forbids convictions predicated on deliberate deceptions."

- Limone v. Condon, 372 F.3d 39 (1st Cir. 2004)

Given the fact that That Officer perjured himself in order to violate Plaintiff's due process rights (14th Amendment), the foregoing compels this Honorable Court to grant Plaintiff the requested relief.

IV. Nature of Relief Sought

38. Plaintiff seeks the removal of That Officer's RO from (a) all *voir dire* examinations, (b) all oral/written motions, (c) all direct examinations, (d) all cross-examinations, (e) all re-direct examinations (etc.), (f) and all evidence submissions.

V. Additional Notes

39. As an added note, Rules 10(c) and 12(f) Fed. R. Civ. P. combine to strike wayward exhibits (§7-8, *supra*):

"Written exhibits to pleadings are made a part thereof, Fed.R.Civ.P. 10(c); however, the record of Monroe's hearing was merely made an exhibit to the defendant's brief in opposition to the plaintiff's motion for partial summary judgment. It is not made part of a 'pleading' by rule 10(c)."

- Monroe v. Board of Education, 65 FRD 641 (D. Conn. 1975)

40. Plus, a jury will be confused by Defendant's pre-destined lie.

a) A lie that will start off with Defendant saying "Plaintiff never charged us with sex discrimination. Disregard the fact that we acknowledged that he did."

- b) A lie that will continue with "Please also disregard the fact that the FCHR confirmed that he did. Now, focus on the fact that the Hon. E. Gary Early [lied when he] said Plaintiff didn't charge us with sex discrimination."
- c) A lie that will conclude with "Plaintiff previously got to *fully & fairly* litigate his sex discrimination charge against us. Just disregard the fact that the FCHR's final order excluded it. Therefore, you - the jury - must ignore it."

CONFERRAL

On June 16, 2021, Defendant told Plaintiff (via email) that it will oppose this motion. Plaintiff followed up (citing Local Rule 3.01(g) USFLMD); stating that he was willing to rescind this motion for good cause. Defendant replied that the RO was important for its motion to dismiss.

Thus, Plaintiff believes the foregoing presents a compelling (ie, Supreme Court mandates) and important reason (ie, unfair prejudice; unconstitutional) to exclude That Officer's perjured RO.

CONCLUSION

WHEREFORE, Plaintiff respectfully asks this Honorable Court to exclude the Recommended Order in DOAH Case No. 18-0373 from evidence.

Dated this 16th day of June 2021.

Respectfully submitted,
/s/ Elias Makere
ELIAS MAKERE, FSA, MAAA, Plaintiff
3709 San Pablo Rd. S # 701
Jacksonville, FL 32224
P: (904) 294-0026
E: justice.actuarial@gmail.com
W: TextBookDiscrimination.com
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CERTIFICATE OF COMPLIANCE

I certify that the size and style of type used in this document is Times New Roman 14-point Font (caption) and Courier New 12-point Font (contents); thus complying with the font requirements of Local Rule 1.05(a).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of June 2021, I electronically filed the foregoing with the Clerk of Courts by using its online filing page. A notice - via CM/ECF - will be sent to the attached service list.

/s/ Elias Makere

Endnotes:

^{1/} the referenced complaint - filed at 8:08 am 3/1/21 - was the proofread version of the timely amended complaint (filed the preceding business day at 11:59pm). They were virtually identical (no substantive changes whatsoever).

^{2/} please read the "*Plaintiff's Memorandum of Law Regarding Equitable Tolling on Plaintiff's Verified Complaint*" (3:21-cv-00242-MMH-JBT; ~ 3/9/21) to see why the Title VII charges were delayed.

^{3/} in the administrative realm, "official recognition" = "judicial notice" (§90.201 FS).

SERVICE LIST

Kimberly J. Doud, Esquire (0523771)
Heather A. Johnson, Esquire (*pro hac vice*)
Michele A. Ramos, Esquire (1008119)

E: kdoud@littler.com
E: hajohnson@littler.com
E: mramos@littler.com
P: 407.393.2900
F: 407.393.2929

Littler Mendleson, PC
111 North Orange Avenue, Suite 1750
Orlando, FL 32801-2366

(*defendant's trial lawyers*)

EXHIBIT A

Return of Service

Florida

In the Circuit Court, 4th Judicial Circuit, Duval County

MA-2021-CA-002763-XXXX-16

Makere v Early

§768 FS, 42 USC §1983

RETURN OF SERVICE

SHERIFF NUMBER: 21005020

PARTY TO BE SERVED
HON. E GARY EARLY
1230 APALACHEE PARKWAY
TALLAHASSEE, FL

ATTORNEY / PETITIONER

PLAINTIFF: ELIAS MAKERE
-VS-
DEFENDANT: HON. E GARY EARLY

TYPE OF WRIT: SUMMONS, COMPLAINT

COURT: CIRCUIT / DUVAL
CASE #: 2021-CA-002763-XXXX

COURT DATE:
COURT TIME:

Received the above-named writ on May 28, 2021, at 12:42 PM, and SERVED the same on the 1st day of June 2021, at 10:40 AM. Service was completed at 1230 APALACHEE PARKWAY TALLAHASSEE, FL in LEON County, Florida, as follows:

GOVERNMENTAL AGENCY / OFFICIAL / ASSOCIATION / CORPORATION

By delivering a true copy of this writ together with a copy of the initial pleadings, if any, with the date and hour of service endorsed thereon by me to Kaleed Abiola Security Guard as Registered Agent of the within named Defendant to-wit: HON. E GARY EARLY .

SERVICE COST: \$0.00
Y.W., CIVIL CLERK

WALT MCNEIL, SHERIFF
LEON COUNTY, FLORIDA

COURT:

DUVAL COUNTY CLERK OF COURT
SUITE 2338
JACKSONVILLE, FL 32202

BY: TB 1501
Process Server Tracie Baker, Badge # 1501

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA

Plaintiff,

vs.

HON. E. GARY EARLY, ALJ

Defendant,

Case No (LT): 2021-CA-002763-XXXX

Division: CV-B

S U M M O N S

TO:

Hon. E. Gary Early, ALJ
1230 Apalachee Pkwy
Tallahassee, FL 32399

SERVED THIS

DAY OF

20

AT

10:40

A.M.

P.M.

WALT McNEIL, SHERIFF OF LEON COUNTY, FL

BY..

DS

A **lawsuit** has been filed against you. You have **20 calendar days** after this summons is served on you to file a written response to the attached **Complaint** in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed if you want the Court to hear your case.

If you do not file your response on time, **you may lose the case**, and the Court may enter a default against you for the relief requested in the complaint. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court you **must** also mail (or take a photocopy/carbon copy of) your written response to the Plaintiff:

Elias Makere, FSA, MAAA
3709 San Pablo Rd. S #701
Jacksonville, FL 32224
P: 904.294.0026
E: justice.actuarial@gmail.com

28MAY2021 11:34 RCUD

THE STATE OF FLORIDA:

TO EACH SHERIFF OF THE STATE:

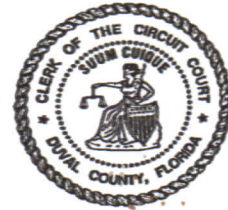
YOU ARE COMMANDED to serve this Summons and a copy of the Complaint in
this lawsuit on the above-named Defendant.

DATED ON: May 20 2021 20 _____

Jody Phillips
Clerk of Court

Bethany Wain

Deputy Clerk



If the party serving summons has designated e-mail address(es) for service, or is represented by an attorney, you may designate email address(es) for service by or on you. Service must be in accordance with Florida Rules of Judicial Administration 2.516.

Copies of all court documents in this case, including orders, are available at the Clerk of the Circuit Court's office. You may review these documents, upon request.

WARNING: Rule 1.285, Florida Rules of Civil Procedure, requires certain automatic disclosure of documents and information. Failure to comply can result in sanctions, including dismissal or striking of pleadings.

NOTICES TO PERSONS WITH DISABILITIES

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this Hearing should contact the ADA Coordinator no later than seven (7) days prior to the proceeding at **1-904-272-7040** or via Florida Relay Service at **1-800-955-8771 (TDD)**.

IMPORTANT

A lawsuit has been filed against you. You have 20 calendar days after this summons is served on you to file a written response to the attached Complaint in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed on time. If you do not file your response on time you may lose the case without further warning from the Court. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book). If you choose to file a written response yourself, at the same time you file your written response to the Court you must also mail (or take a carbon copy/photocopy of) your written response to the Plaintiff.

IMPORTANTE

Usted ha sido demandado legalmente. Tiene veinte (20) dias, contados a partir del recibo de esta notificacion, para contestar la demanda adjunta, por escrito, y presentarla ante este tribunal. Una llamada Telefonica no lo protegera; si usted desea que el tribunal considere su defensa, debe presentar su respuesta por escrito, incluyendo el numero del caso y los nombres de las partes, interesadas en dicho caso. Si usted no contesta la demanda a tiempo, podria perder el caso y podria ser despojado de sus ingresos y propiedades, o privado de sus derechos, sin previo aviso del tribunal. Existen otros requisitos legales. Si lo desea, puede usted consultar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a una de las oficinas de asistencia legal que aparecen en la guia Telefonica. Si desea responder a la demanda por su cuenta, al mismo tiempo en que presenta su respuesta ante el tribunal, debera usted enviar por correo o entregar una copia de su respuesta a la persona denominada abajo como "Plaintiff/Plaintiff's attorney" (demandante o abogado, del Demandante).

IMPORTANT

Des poursuites judiciaires ont ete entreprises contre vous. Vous avez 20 jours consecutifs a partir de la date de l'assignation de cet'te citation pour déposer une réponse écrite a la plainte ci-jointe aupres de ce Tribunal. Un simple coup de telephone est insuffisant pour vous proteger; vous etes obligé de déposer votre réponse écrite, avec mention du numero de dossier ci-dessus et du nom des parties nommées ici, si vous souhaitez que le Tribunal entende votre cause. Si vous ne déposez pas votre réponse écrite dans le delai requis, vous risquez de perdre la cause ainsi que votre salaire, votre argent, et vos biens peuvent etre saisis par la suite, sans aucun preavis ulterieur du tribunal. Il y a d'autres obligations juridiques et vous pouvez requerir les services immediats d'un avocat. Si vous ne connaissez pas d'avocat, vous pourriez telephone a un service de reference d'avocats ou a un bureau d'assistance juridique (figurant a l'annuaire de telephones). Si vous choisissez de déposer vous-meme une réponse écrite, il vous faudra également, en meme temps que cette formalite, faire parvenir ou expedier une copie de votre réponse écrite au "Plaintiff/Plaintiff's attorney" (Plaignant ou a son avocat) nomme ci-dessous.

EXHIBIT B

Recommended Order

From: That Officer
To: State Agency (FCHR)
4/18/2019

[marked]

(Pages 1 and 2 only)

{That Officer's removal of Plaintiff's sex discrimination charge}

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ELIAS MAKERE,

Petitioner,

vs.

Case No. 18-0373

ALLSTATE INSURANCE COMPANY,

Respondent.

RECOMMENDED ORDER

Pursuant to notice, this case was heard in Jacksonville, Florida, on July 31, 2018, before Lawrence P. Stevenson, and on November 28 through 30, 2018, and January 29, 2019, before E. Gary Early, designated Administrative Law Judges of the Division of Administrative Hearings ("DOAH").

APPEARANCES

For Petitioner: Elias Makere, pro se
No. 701
3709 San Pablo Road South
Jacksonville, Florida 32224

For Respondent: Carmen Rodriguez, Esquire
Law Offices of Carmen Rodriguez, P.A.
Suite 411
15715 South Dixie Highway
Miami, Florida 33157

STATEMENT OF THE ISSUE

Whether Petitioner, Elias Makere, was subject to an unlawful employment practice by Respondent, Allstate Insurance

Company ("Respondent" or "Allstate"), on account of his race or due to retaliation for his opposition to an unlawful employment practice in violation of section 760.10, Florida Statutes.

PRELIMINARY STATEMENT

On June 30, 2017, Petitioner filed an eight-page complaint of discrimination ("Complaint of Discrimination") with the Florida Commission on Human Relations ("FCHR") which alleged that Respondent violated section 760.10 of the Florida Civil Rights Act of 1992 ("FCRA"), by discriminating against him on the basis of his race or as retaliation.

On December 15, 2017, the FCHR issued a Determination: No Cause, and a Notice of Determination: No Cause, by which the FCHR determined that reasonable cause did not exist to believe that an unlawful employment practice occurred.

On January 19, 2018, Petitioner filed a 231-page Petition for Relief (the "Petition") with the FCHR. The Petition included allegations of racial discrimination for which there is no evidence of their having been presented to FCHR or having been part of the FCHR investigation. The Petition also, for the first identifiable time, alleged that Allstate, and in particular Lisa Henry, engaged in sexually provocative and inappropriate behaviors, which Petitioner alleged to be "sexual harassment and discrimination." He alleged that "[t]he FCHR ignored these events."

EXHIBIT C

Recommended Order

From: 'That Officer'
To: State Agency (FCHR)
4/18/2019

[marked]

(2nd page only)

{That Officer's perjury}

Company ("Respondent" or "Allstate"), on account of his race or due to retaliation for his opposition to an unlawful employment practice in violation of section 760.10, Florida Statutes.

PRELIMINARY STATEMENT

On June 30, 2017, Petitioner filed an eight-page complaint of discrimination ("Complaint of Discrimination") with the Florida Commission on Human Relations ("FCHR") which alleged that Respondent violated section 760.10 of the Florida Civil Rights Act of 1992 ("FCRA"), by discriminating against him on the basis of his race or as retaliation.

On December 15, 2017, the FCHR issued a Determination: No Cause, and a Notice of Determination: No Cause, by which the FCHR determined that reasonable cause did not exist to believe that an unlawful employment practice occurred.

On January 19, 2018, Petitioner filed a 231-page Petition for Relief (the "Petition") with the FCHR. The Petition included allegations of racial discrimination for which there is no evidence of their having been presented to FCHR or having been part of the FCHR investigation. The Petition also, for the first identifiable time, alleged that Allstate, and in particular Lisa Henry, engaged in sexually provocative and inappropriate behaviors, which Petitioner alleged to be "sexual harassment and discrimination." He alleged that "[t]he FCHR ignored these events."

EXHIBIT D

Charge of Discrimination

From: Plaintiff
To: State Agency (FCHR)
6/30/2017

[marked]

(first page only)

RACIAL DISCRIMINATION | ALLSTATE CORPORATION | FLORIDA | 6/30/2017

Elias Makere, ASA
3709 San Pablo Rd S, 701
Jacksonville, FL 32224

Phone 904.294.0026
Fax
Email inquiry.allstate@gmail.com

201701432
Allstate

EMPLOYMENT DISCRIMINATION

Racial Discrimination, Sex Discrimination

This document introduces the racial discrimination of a former Allstate employee. The discrimination involved racist dolls, epithets, hostility, ostracism, discrimination of terms/conditions/compensation, and termination. I am looking for justice, an examination of the facts, and an eradication of Allstate's racial discrimination.

RECEIVED
JUN 30 2017
2017 JUN 30 PM 12:32

EXHIBIT E

Notice of Determination

From: State Agency (FCHR)

To: Plaintiff/Defendant/'That Officer'
12/15/2017

[marked]



Rick Scott
Governor

State of Florida
Florida Commission on Human Relations

An Equal Opportunity Employer • Affirmative Action Employer

4075 Esplanade Way • Room 110 • Tallahassee, Florida 32399-7020
(850) 488-7082 / FAX: (850) 487-1007

<http://fchr.state.fl.us>

United in One Goal: Equal Opportunity and Mutual Respect



Rebecca Steele
Chair
Michelle Wilson
Executive Director

FCHR No. 201701432

Mr. Elias Makere
3709 San Pable Road S., #701
Jacksonville, FL 32224

COMPLAINANT

Allstate Corporation
c/o Ms. Charmaine Neal, HR-Workforce Relations Lead Consultant
2775 Sanders Rd. F5
Northbrook, IL 60062

RESPONDENT

DETERMINATION: NO REASONABLE CAUSE

Complainant filed a complaint of discrimination alleging that Respondent violated the Florida Civil Rights Act of 1992. The Florida Commission on Human Relations has completed its investigation of this matter.

Complainant worked for Respondent as an Actuary. Complainant alleged that Respondent discriminated against him based on his race and sex. However, the investigation did not support Complainant's allegations. The investigation did not reveal enough evidence to establish that Complainant reported discriminatory harassment to Respondent. Complainant alleged that Respondent graded his required exams so that he would fail as an excuse to terminate him based on his race. However, the investigation revealed that the required exams were administered and graded anonymously by "The Society of Actuaries" and not Respondent. Therefore, the Respondent could not have been responsible for Complainant failing his exams. Complainant was terminated for failing his exam and not securing a non-actuarial position. The investigation did not reveal evidence of discrimination.

On the basis of the report from the Commission's Office of Employment Investigations and recommendation from the Commission's Office of General Counsel, pursuant to the authority delegated to me as Executive Director of the Florida Commission on Human Relations, I have determined that no reasonable cause exists to believe that an unlawful practice occurred.

Michelle Wilson

Dated: Dec. 15, 2017

PLAINTIFF'S AFFIDAVIT

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA

Plaintiff

v.

ALLSTATE INSURANCE COMPANY,

Defendant

)
)
)
)
)
)
)

Case No (LT)
3:20-cv-00905-MMH-JRK

**PLAINTIFF'S AFFIDAVIT IN SUPPORT OF
PLAINTIFF'S MOTION IN LIMINE**

The affiant, Elias Makere, swears or affirms as follows:

Background

1. I am over the age of eighteen (18).
2. I am a plaintiff in the above-captioned case.
3. This affidavit is made in good faith.

Familiarity

4. I have read the Local Rules of Court, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Middle District's Discovery Handbook.
5. The information in this affidavit is based on my own personal knowledge.

Facts

6. The Honorable E. Gary Early is days away from default judgment.

7. In April 2019, that hearing officer wrote a recommended order in my administrative case against Allstate.

8. That order was based on a massive lie.

a. In short, I charged Allstate with race and sex discrimination, but Mr. Edward Gary Early professed that I only charged Allstate with race discrimination.

b. All government records proved my complaint was on both bases.

c. He even acknowledged the most pertinent record prior to ushering his lie.

9. Edward Gary Early perjured himself.

10. So, I filed civil charges against him under federal and state law.

11. On June 1, 2021, a process server delivered the summons to him.

12. It appears that he is going to leave the charges uncontested.

a. For one, Florida Rules of Civil Procedure grant him 20 days to do so (1.140(a)). With just 5 days remaining, E. Gary Early has not submitted an answer.

b. Secondly, I've been able to track/gauge Mr. Early's diligence. My electronic records indicate that he is going to let the charges stand.

13. After all, there's little-to-nothing Mr. Early can say about the undisputable facts. He flat-out lied, and it's public record.

14. That lie was the bedrock for the remaining lies and slander that he planted against me.

a. For example, in his recommended order, Mr. Early said that

I would never pass the exams to become an FSA.

i. Obviously, this is false (ie, please look at my name).

ii. Importantly, Mr. Early was playing on the same racial stereotype (of black inferiority) that Allstate preyed on.

iii. Most importantly, **he knew it was false.**

1. In January 2019, I took the stand in the administrative case. Among other things, I disclosed that I had already passed all the exams, and the only thing left was for me to *'walk across the stage'*.

2. At the end of all testimony, Edward Gary Early said something to the effect of *"If you hadn't told me that you passed all the actuarial exams I would've recommended the legal profession to you"*.

Note: he said this after instructing the court reporter that he was going off-the-record. Allstate, the Bailiff, and the Court Reporter were inside the courtroom at the time.

b. In short, the rest of Edward G. Early's perjured RO was full of slander and stereotyped lies.

15.His lies and propaganda were conjured up from the centuries-long preachings of the Ku Klux Klan.

16.Which was befitting, because I sued him under the *Ku Klux Klan Act of 1871* (ie, 42 USC §1983).

17.An act that he is apparently set to leave uncontested.

Request

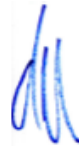
18.May you please strike Edward Gary Early's recommended order out of this proceeding. It is perjured, prejudicial, and unconstitutional.

Thank you.

Verification Under Oath Pursuant to 28 USC §1746

I declare under penalty of perjury that the foregoing is true and correct.
Executed on this 16th day of June 2021.

UNITED STATES OF AMERICA



6/16/2021

Elias Makere, Plaintiff/Affiant

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