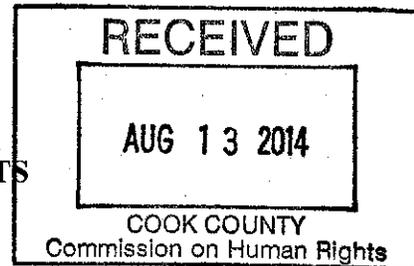


COOK COUNTY COMMISSION ON HUMAN RIGHTS  
69 West Washington Street, Suite 3040  
Chicago, Illinois 60602



Claudette GREENE, Complainant )

v. )

LAW OFFICE OF THE COOK COUNTY )  
PUBLIC DEFENDER, Respondent )

Case No. 2011E036

Entered: August 11, 2014

**ORDER**

This matter is before this Commission on the parties' Joint Motion to Continue Trial, filed on July 29, 2014. The motion is granted in part and denied in part.

On November 16, 2011, Complainant Claudette Greene, ("Greene") filed a complaint against her employer, Respondent Law Office of the Cook County Public Defender ("Cook County"). Greene alleged employment discrimination for failure to reasonably accommodate a disability in violation of the Cook County Human Rights Ordinance ("Human Rights Ordinance"). See Cook County Code of Ordinance ("County Code"), § 42-35(b)(1). The Cook County Commission on Human Rights ("Commission") ordered an evidentiary conference to determine whether there was sufficient evidence that a violation of the Human Rights Ordinance could have occurred to justify a hearing on the merits.

On August 1, 2012, a facilitator, appointed by the Commission, held an evidentiary conference pursuant to Section 440.110 of the Commission Rules and issued an investigation report. The report, adopted by the Commission on May 21, 2014, shows that Greene has presented substantial evidence that a violation of the Human Rights Ordinance may have occurred.

On May 27, 2014 this Commission entered an Order finding Substantial Evidence and scheduling this matter for Administrative Hearing. An initial status was held on June 17, 2014 and the Administrative Law Judge ("ALJ") entered a comprehensive scheduling order. The Order provides that after completion of discovery the matter will proceed to hearing on October 21, 2014. On July 29, 2014, the parties, through counsel attended a discovery status and informed the ALJ that a parallel case was proceeding before the Illinois Commission on Human Rights, ("IHRC") with a hearing date of October 8, 2014. Counsel reported that discovery had been concluded in that matter and that final pretrial preparations were ongoing. The ALJ herein ordered that "the parties are ordered to file with this Commission, jointly or individually, on or before August 12, 2014 a Motion to determine what action should be taken to avoid duplicative

litigation before this Commission". In response, the parties filed the instant, *Joint Motion to Continue Trial*, ("Motion")

In the Motion the parties assert that the "companion case" currently set for trial at the Illinois Human Rights Commission on October 8, 2014 involves the same parties, and "will likely have the same witnesses and issues." The parties request "that the matter before this Commission be continued generally at least until that case has been tried."

The parties' desire to avoid proceeding with parallel cases before different tribunals at the same time is understandable. While this Commission has not seen the Complaint pending before the IHRC, the parties explain that the "companion" case will likely have the same issues and witnesses. Given that the matter is proceeding to hearing in October, 2014 before the IHRC and that the parties are in agreement as to the choice of that forum, there is little question that this case should not proceed.

An issue remains, however, as to the proper disposition of this case pending resolution of the IHRC proceeding. The parties ask that this matter be continued generally until the IHRC case "has at least been tried and agree to report back to this Commission after that trial ends." A general open-ended continuance is not appropriate here as the Commission is deferring adjudication of this claim to the IHRC. See, *Austin v. Cook County*, 2011E022 (CCHRC Mar. 20, 2014), *Walters v. Allied Barton Security Servs.*, 2013E015 (CCHRC Apr. 21, 2014)

This Commission's Procedural Rules allow for the Commission to defer its investigation in favor of an investigation in a similar administrative agency:

The Commission on its own initiative may defer investigation of a timely filed Complaint when the same Complaint, or a substantially similar Complaint, has been filed by the Complainant with another similar agency. In addition, any party may file a motion, in accordance with Section 420.170 herein, requesting that the Commission defer investigation into a timely filed Complaint pending resolution of the same Complaint, or a substantially similar Complaint, which has been filed by the Complainant with another similar administrative agency. The following is a non-exhaustive list of factors which the Commission may consider in determining whether to exercise its discretion to defer an investigation:

- A. Conservation of administrative resources;
- B. Complainant's right to a timely investigation;
- C. Minimization of Respondent's burden;
- D. Procedural or investigative status of charges/complaints filed with the administrative agency as evidenced by one or more of the following: completion of document exchange, witness interviews, response to questionnaires, and the holding of fact-finding conferences; and
- E. Administrative agency backlog.

CCHR Pro. R. 440.105.

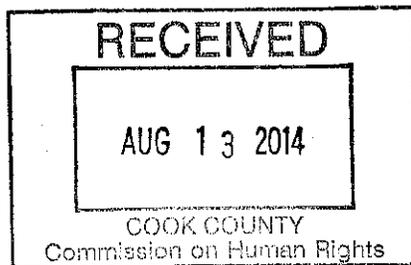
While CCHR Pro. R. 440.105 cited above, addresses circumstances when the Commission will defer an investigation, the same criteria are relevant to this matter that is approaching a hearing date before a parallel Commission. Deferring any further proceedings in this matter will conserve administrative resources and also minimize the burden to both parties.

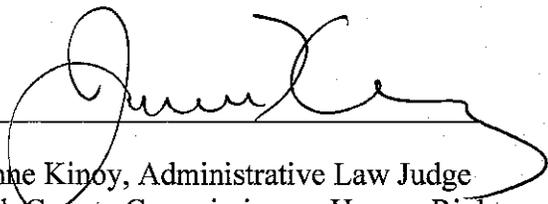
It is important to note that the Procedural Rules also state that when “the Commission defers its investigation of a Complaint in favor of the adjudication of the same Complaint, or a substantially similar Complaint, with another administrative agency...the factual findings and conclusions of law of that other similar administrative agency shall be binding on the parties to the Complaint pending before the Commission unless the Commission Orders otherwise.” *Id.* In other words, this Commission does not contemplate allowing a re-trial of the same case that has been tried to conclusion before a similar forum.

Therefore, rather than continuing this case generally as requested by the parties, this Commission will defer any further actions in regards to this matter in favor of the parallel proceeding before the Illinois Human Rights Commission and dismiss this Complaint. Either party may petition the Commission to re-open this matter after the completion of the parallel adjudication, but pending such a petition, the Commission orders that Complaint No. 2011 E036 be DISMISSED pursuant to a DEFFERAL.

August 11, 2014

By Delegation:



  
Joanne Kinoy, Administrative Law Judge  
Cook County Commission on Human Rights  
Cook County Office of Administrative Hearings  
Joanne.Kinoy@cookcountyil.gov