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

Edyta JANCZAK, Complainant v. Ariana BINO, Respondent	)	Case Nos. 2008E034, 2008E035 Entered: February 21, 2014
Edyta JANCZAK, Complainant v. William J. MCSWEENEY, DDS, Respondent	)	Hearing Officer: Joanne Kinoy

ORDER

On July 9, 2008, Complainant Edyta Janczak ("Janczak") filed complaints against Respondents Ariano Bino ("Bino) and William J. McSweeney, DDS ("Sweeney"), alleging sexual harassment and retaliation in violation of the Cook County Human Rights Ordinance ("Human Rights Ordinance"). After an administrative hearing before Hearing Officer Joanne Kinoy on July 14, 2010, the Cook County Commission on Human Rights ("Commission") entered an order dismissing Janczak's complaints against Bino (2008E034) and Sweeney (2008E035) with prejudice. *Janczak v. Bino, et al.*, 2008E034-35 (CCHRC June 4, 2013). On July 5, 2013, Janczak requested reconsideration of the Commission's dismissal. The Commission adopts the Recommended Order to Deny Complainant's Motion to Reconsider (the "Kinoy Order," attached as Exhibit A) and declines Janczak's request for reconsideration.

Pursuant to the Commission's Procedural Rules:

> After the Commission has issued its final order and decision on an Administrative Hearing either party may file . . . a Request for Reconsideration seeking a rehearing before the Commission. The Request for Reconsideration shall state briefly and specifically the legal issues claimed to have been overlooked or misapprehended by the Commission in its final order and decision. . . . *A rehearing will be granted by the Commission only when it is clear that the Request for Reconsideration raises legal issues of significant impact.* A Request for Reconsideration allowing a rehearing will be granted sparingly.

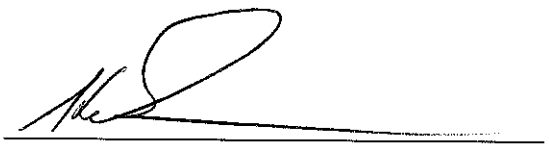
CCHR Pro. R. 480.100(C) (emphasis supplied). In order to clearly show that a request for reconsideration raises legal issues of significant impact, the requesting party "must state with specificity the reason(s) supporting the Request for Reconsideration, such as relevant evidence which is newly discovered and not available at the time of the original determination, or the presentation of new, legal precedent not available at the time of the original determination, or the Commission's misapprehension or misapplication of law." *Id.* at 480.105.

As discussed in the Kinoy Order, Janczak has not produced any relevant evidence in her request for reconsideration that was not available at the time of the original determination. *See* Exh. A at 2. Nor has she directed the Commission to any legal precedent not available at the time of the original determination or that causes the Commission to revisit its determination on any issue of law. *See id.* at 2-3. As such, it is not clear that Janczak's request for reconsideration raises legal issues of significant impact such that the Commission can reconsider its prior decision dismissing Janczak's complaints against Bino and McSweeney.

For the foregoing reasons, the Commission hereby DENIES Janczak's request to reconsider its June 4, 2013 order dismissing complaints 2008E034 and 2008E035 with prejudice for lack of proof.

February 21, 2014

COOK COUNTY COMMISSION ON HUMAN RIGHTS:



Kenneth A. Gunn,
Chairperson

Exh. A

COOK COUNTY
COMMISSION ON HUMAN RIGHTS
69 W. Washington, Suite 3040
Chicago, Illinois 60602

IN THE MATTER OF:	)	
Edyta Janczak COMPLAINANT,	)	
AND	)	Complaint Number: 2008-E-034
Ariana Bino RESPONDENT	)	
---	)	
Edyta Janczak COMPLAINANT,	)	Complaint Number: 2008-E-035
AND	)	Hearing Officer: Joanne Kinoy
William J. McSweeney, DDS RESPONDENT	)	

RECOMMENDED ORDER TO DENY COMPLAINANT'S MOTION TO RECONSIDER

Complainant, Edyta Janczak has filed a Motion to Reconsider the June 4, 2013 Commission Decision and Order in this case. It is recommended that this Motion be denied for the following reasons.

HISTORY OF CLAIMS

The administrative hearing in this matter was held on July 14, 2010. The Hearing Officer issued her final recommended Decision and Order on February 4, 2011. The Commission adopted the recommendations of the Hearing Officer and issued its Decision and Order on June 4, 2013. The Commission held that the Complainant had failed to sustain her claims of sexual harassment or retaliation and dismissed the Complaint. On July 5, 2013 the Complainant, appearing *pro se,* filed the instant Motion to Reconsider the Commission Decision and Order.

COMMISSION PROCEDURES

> The Request for Reconsideration shall state briefly and specifically the legal issues claimed to have been overlooked or misapprehended by the Commission in its final order and decision... A rehearing will be granted by the Commission only when it is clear that the Request for Reconsideration raises legal issues of significant impact. A Request for Reconsideration allowing a rehearing will be granted sparingly.
> Section 480.100 (C), Ck. Cty. Commn. H.R. Proc. Rules

> Any party requesting review pursuant to Section 480.100 must state with specificity the reason(s) supporting the Request for Reconsideration, such as relevant evidence which is newly discovered and not available at the time of the original determination, or the presentation of new, legal precedent not available at the time of the original determination, or the Commission's misapprehension or misapplication of law.
> Section 480.105, Ck. Cty. Commn. H.R. Proc. Rules

COMPLAINANT'S REQUEST FOR REVIEW

The Complainant, Ms. Janczyk, has not produced any relevant evidence that was not available at the time of the original determination. She has resubmitted statements from co-workers Nicole Smith and Jeffery A. Rivera. These are the same statements that the Complainant attached to her Response to Recommended Order and Decision filed on November 16, 2010. The Hearing Officer explained in her Recommended Decision and Order the reasons why these statements could not be considered after the hearing. (Page 2, fn. 2). Even, however, if these statements had been appropriately before this Commission, they would not have altered the decision in this case.

In her Request for Reconsideration, Ms. Janczyk reasserts the same arguments made in her Response to Recommended Order and Decision. Each of these contentions was previously addressed in the Hearing Officer's Final Recommended Decision and Order and the final Commission Decision and Order. Complainant does, however, cite two cases not previously relied upon. She cites *Berry v. Chicago Transit Authority*, 618 F. 3d 688 (7th Cir. 2010) for the proposition that "a single act can constitute harassment". (Motion, at Page 3) The plaintiff in *Berry*, experienced a severe physical sexual attack by a co-worker who had repeatedly expressed

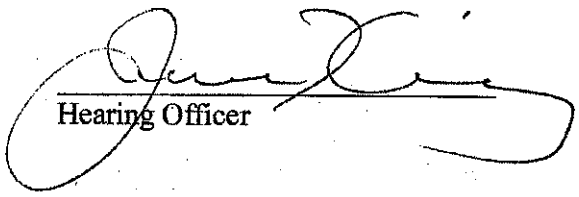
sexist animus. No facts presented here, even if deemed credible, rise to the level of this kind of harassment. There is no "one act" that would support a claim of sexual harassment.

Ms. Janczyk also cites *Sangamon County Sheriff's Department v. Illinois Department of Human Rights Commission*, 233 Ill. 2d 125, 908 N. E. 2d 39 (April 16, 2009) In *Sangamon*, the Illinois Supreme Court established that the employer was strictly liable for an employee's harassment by a supervisor. This precedent is not new and more importantly does not apply to the facts presented herein. Finally Ms. Janczyk cites to Illinois precedent preventing retaliation for filing a workman's compensation claim. This also is not applicable or helpful to Complainant's position in this Commission.

Ms. Janczyk asserts, as she has in prior pleadings, that Bino's actions created a hostile and abusive working environment for her. As explained before, Complainant may very well have felt harassed. What Ms. Janczyk has not been able to show is that Bino's actions constitutes "sexual harassment" as defined in this Ordinance. *See,* Commission Decision and Order, pages 7-9

In summary, the motion does not present new evidence or legal precedent. There are no legal issues of significant impact. There is no basis to order a new hearing in this matter.

It is therefore recommended that Complainant's Request for Review be denied.



Hearing Officer

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CERTIFICATE OF SERVICE

I, Aviva Cahn, of the Cook County Commission on Human Rights, hereby certify that I caused copies of the Cook County Commission on Human Rights Order for Dismissal to be served, on the parties on the attached Service List on February 21, 2014 by United States Mail, appropriate postage pre-paid.

Aviva Cahn

SERVICE LIST

COMPLAINTS No. **2008E034 and 2008E035**

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