

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION
OF HUMAN RIGHTS

on the Complaint of

JOSSLYNNE C. TURNER,

Complainant,

v.

V.C. VITANZA SONS INC., PATRA
CONTRACTINGCORP.,

Respondents.

NOTICE AND
FINAL ORDER

Case No. 10120476

PLEASE TAKE NOTICE that the attached is a true copy of the Recommended Order of Dismissal for Administrative Convenience ("Recommended Order"), issued on March 25, 2009, by Robert J. Tuosto, an Administrative Law Judge of the New York State Division of Human Rights ("Division"). An opportunity was given to all parties to object to the Recommended Order, and all Objections received have been reviewed.

PLEASE BE ADVISED THAT, UPON REVIEW, THE RECOMMENDED ORDER IS HEREBY ADOPTED AND ISSUED BY THE HONORABLE GALEN D. KIRKLAND, COMMISSIONER, AS THE FINAL ORDER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS ("ORDER"). In accordance with the Division's Rules of Practice, a copy of this Order has been filed in the offices maintained by the Division at One Fordham Plaza, 4th Floor, Bronx, New York 10458. The Order may be inspected by any member of the public during the regular office hours of the Division.

PLEASE TAKE FURTHER NOTICE that any party to this proceeding may appeal this Order to the Supreme Court in the County wherein the unlawful discriminatory practice that is

the subject of the Order occurred, or wherein any person required in the Order to cease and desist from an unlawful discriminatory practice, or to take other affirmative action, resides or transacts business, by filing with such Supreme Court of the State a Petition and Notice of Petition, within sixty (60) days after service of this Order. A copy of the Petition and Notice of Petition must also be served on all parties, including the General Counsel, New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. Please do not file the original Notice or Petition with the Division.

ADOPTED, ISSUED, AND ORDERED.

DATED: **MAR 27 2009**
Bronx, New York



GALEN D. KIRKLAND
COMMISSIONER

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on the Complaint of

JOSSLYNNE C. TURNER,

Complainant,

v.

PATRA CONTRACTINGCORP., V.C.
VITANZA SONS INC.,

Respondents.

RECOMMENDED ORDER
OF DISMISSAL FOR
ADMINISTRATIVE
CONVENIENCE

Case No. 10120476

PROCEEDINGS IN THE CASE

On September 28, 2007, Complainant filed a verified complaint with the New York State Division of Human Rights ("Division"), charging Respondents with unlawful discriminatory practices relating to employment in violation of N.Y. Exec. Law, art. 15 ("Human Rights Law").

After investigation, the Division found that it had jurisdiction over the complaint and that probable cause existed to believe that Respondents had engaged in unlawful discriminatory practices. The Division thereupon referred the case to public hearing.

The case was assigned to Robert J. Tuosto, an Administrative Law Judge ("ALJ") of the Division. Complainant was represented by Vincent I. Eke-Nweke, Esq. Respondents were represented by Brendan R. Wolf, Esq.

FINDINGS OF FACT

1. Complainant's counsel, in a letter to the Division dated March 9, 2009,

requested that the instant case be dismissed for administrative convenience (“ACD”) so that Complainant could pursue her remedies in another forum. (ALJ Exh. 1)

2. Respondent was given an opportunity to oppose the ACD request or, by not doing so, have the ACD be granted. Respondent’s counsel failed to oppose the ACD request. (ALJ Exh. 2)

OPINION AND DECISION

The Division’s Rules of Practice govern the issue of administrative convenience dismissals. *See* 9 N.Y.C.R.R. § 465.5 (e). Specifically, the grounds for dismissal of a complaint for administrative convenience include, but are not limited to, the following:

- (i) the complainant’s objections to a proposed conciliation agreement are without substance;
- (ii) the complainant is unavailable or unwilling to participate in conciliation or investigation, or to attend a hearing;
- (iii) relief is precluded by the respondent’s absence or other special circumstances;
- (iv) holding a hearing will not benefit the complainant;
- (iv) processing the complaint will not advance the State’s human rights goals; or
- (v) the complainant has initiated or wants to initiate an action or proceeding in another forum based on the same grievance, where the administrative convenience dismissal would not contravene the election of remedies provision contained in §279 or §300 of the Law.

9 N.Y.C.R.R. § 465.5 (e) (2)

Here, Complainant seeks an ACD to commence an action in another forum.

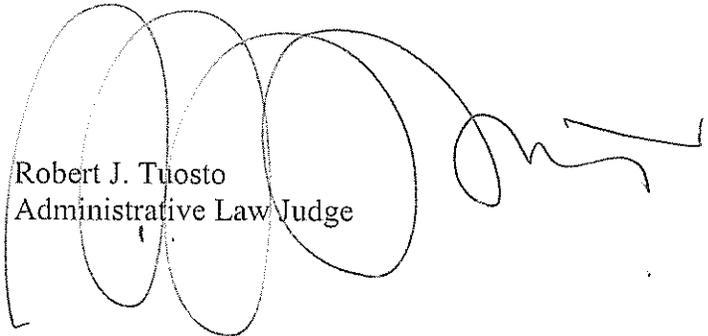
Accordingly, the instant complaint is dismissed for administrative convenience. *See Eastman Chem. Prod., Inc. v. State Div. of Human Rights*, 162 A.D.2d 157, 556 N.Y.S.2d 571 (1st Dep’t., 1990).

ORDER

On the basis of the foregoing Findings of Fact, Opinion and Decision, and pursuant to the provisions of the Human Rights Law and the Division's Rules of Practice, it is hereby

ORDERED, that the case be dismissed for administrative convenience.

DATED: March 25, 2009
Bronx, New York

A handwritten signature in black ink, consisting of several large, overlapping loops followed by a short horizontal stroke and a vertical line.

Robert J. Tuosto
Administrative Law Judge