

**STATE OF CONNECTICUT  
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES  
OFFICE OF PUBLIC HEARINGS**

Commission on Human Rights & Opportunities ex rel. Arnell Barnes, Complainant	:	CHRO No. 0710395 Fed No. 16a200701081
v.	:	
Alan S. Goodman, Inc., Respondent	:	May 26, 2009

**Ruling on Petition for Reconsideration**

On or about May 19, 2009, the Commission on Human Rights and Opportunities (“commission”) filed a petition for reconsideration (“petition”) of my May 12, 2009 pre-hearing conference order that the commission issue subpoenas for the outstanding discovery records due from the complainant’s prior employers, DHL and Kelly Services. On or about May 20, the respondent, Allan S. Goodman, Inc. (“respondent”) filed a memorandum in opposition to the petition.

This matter is governed procedurally by § 46a-54-95a of the Regulations of Connecticut State Agencies and by the provisions of General Statutes § 4-181a. After reviewing both the petition and the opposition to the petition and applying the appropriate case law to the facts, I hereby decline to grant reconsideration and therefore decline to modify my May 12, 2009 order regarding the issuance and service of subpoenas by the commission to DHL and Kelly Services. As the respondent points out in its memorandum in opposition to said petition, the commission was ordered to produce the records from DHL and Kelly Services on or about February 20, 2009. At the May 12,

2009 status conference, I reiterated my earlier order for compliance. The commission indicates that it has partially complied, but now seeks to be excused from full compliance based on the expense and the claim that the subpoenas are unduly burdensome and expensive. By its very nature, compliance with the requirements of discovery is burdensome. The commission has provided no case law supporting the cost of complying with the requirements of a discovery order is sufficient cause to have compliance with a previous discovery order successfully reconsidered and modified. Likewise, the commission has not alleged that it cannot find a proper party to subpoena within the State of Connecticut nor has it alleged that there will be disobedience in response to the service of a subpoena duces tecum. The commission's recitation of Referee Knishkowy's recent ruling-May 15, 2009-for issuance of subpoenas in the case entitled "*Commission on Human Rights and Opportunities ex rel. Michele Milton v. Pulte Homes*, CHRO No. 0639188" is inapposite. In that case, the respondent moved that the presiding referee issue subpoenas, rather than respondent's counsel. The referee directed respondent's counsel to issue his own subpoenas.

That is an entirely different factual pattern than the present case in which the commission is obligated to fulfill the requirements of a discovery order.

Whether the commission will fail to produce the records from DHL and Kelly Services is not yet known and therefore it is premature to rule on whether an adverse inference is to be drawn should those records not be produced for the public hearing.

I hereby decline to grant the commission's petition for reconsideration as set forth in said petition dated May 19, 2009.

Dated at Hartford, Connecticut this 26<sup>th</sup> day of May 2009.

It is so ordered.

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Jerome D. Levine,  
Presiding Human Rights Referee

cc.

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