

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

Commission on Human Rights &  
Opportunities ex rel. Caterina Caggiano,  
Complainant

CHRO No. 0450017

v.

Doreen Rockhead,  
Respondent

May 5, 2004

FINAL DECISION

I. Parties

The Complainant is Ms. Caterina Caggiano. She resides at 52 Garfield Avenue, Bridgeport CT 06606. The Complainant was represented by Attorney John A. Florek, 2885 Main Street, Stratford, CT 06614. The Respondent is Ms. Doreen Rockhead. She resides at 55 Garfield Avenue, Bridgeport, CT 06606. The Commission on Human Rights and Opportunities was represented by Alix Simonetti, Assistant Commission Counsel II. The Commission on Human Rights and Opportunities is located at 21 Grand Street, Hartford CT 06106.

II. Procedural History

The Complainant filed her complaint with the Commission on August 29, 2003 alleging that she was shouted at, screamed at and publicly humiliated, harassed and threatened because of her race, Caucasian, her color, white, and her national origin, Italian, by the Respondent, Doreen Rockhead in violation of the Connecticut General Statutes § 46a-64(a)(1) and Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S. C 3601, et seq.

The Respondent neither appeared nor filed an answer despite repeated contacts and notices sent to her by Commission personnel CHRO Exh. 1-13. However, the Respondent and her daughter did appear at the hearing in damages and participated fully in that proceeding. The Respondent was not represented by counsel. Because of her failure to appear at earlier proceeding, or to file an answer, an order of default was entered by the Executive Director's designee, Donald Newton, on November 19, 2003 General Statutes § 46a-83(i). A Hearing in Damages was held on February 10, 2004.

### III. Findings of Fact

References to testimony are to the transcript page where the testimony is found. References to exhibits are by party designation and number. Based upon a review of the pleadings, the exhibits and the transcript, the following facts relevant to this decision are found.

1. The Complainant lives at 52 Garfield Ave. in Bridgeport. Doreen Rockhead and her family live across the street. Tr. 12
2. Whenever Complainant would go outside she would hear racially offensive statements from Respondent and her family. Tr. 13
3. The Respondent and her family would call the Complainant “white trash” and “white bitch”. They would also say, “The white bitch is outside”.
4. Complainant testified the Respondent does not like her because she is white and Italian. Tr. 18
5. When Complainant planted flowers the Respondent and her family would uproot the plants at night and they would throw garbage all over her yard. Tr. 17
6. Complainant was scared the Respondent and her family would burn down her house. Tr. 18
7. The Respondent told a new neighbor that Complainant is mentally ill and needs to be watched and also that she should be sent to mental clinic. Tr. 17, 19
8. The Complainant became very anxious and nervous because of the conduct of the Respondent and her family. Tr. 15
9. The Complainant claimed that she fell off a stepladder while she was working outside because she was anxious and nervous about the Respondent’s behavior. Tr. 17
10. The Complainant thought she was having a nervous breakdown. Tr. 17
11. The statements and conduct of the Rockhead family affected the Complainant deeply. It made her so nervous she was sometimes afraid to go outside. Tr. 12, 13

12. The Complainant also called the police about the conduct of the Rockhead family. Tr. 16
13. Sometime during October of 2003, the Complainant was walking on the sidewalk near her home when the Respondent's husband gave her a look of hatred like he wanted to kill her. The Complainant was so scared she fell on the sidewalk. Tr. 29
14. The Complainant also had trouble sleeping and began arguing with her husband. Tr. 20, 21
15. Complainant went to see Dr. Wayne Levin for her nervousness and her injuries from falling off the stepladder. Tr. 21, 26
16. Dr. Levin referred her to Dr. Belkins who sent her to Saint Vincent's Hospital for a CAT scan on December 5, 2003. Tr. 22, 23, 24
17. Complainant testified that she paid a \$75.00 co-payment to St. Vincent's every time she visited the Hospital. Tr. 23, 24, Exh. C-1
18. Complainant also went to St. Vincent's Hospital on October 8, 2003 and she also paid \$75.00 co-pay for this visit. The visit was because of her elbow and knee pain due to her fall off the stepladder Exh. C-2, Tr. 22, 23, 24, 30, 31, 32.
19. Complainant was taking Bextra, Methocarbamol and Percocet, Synthroid and Vioxx for pain, as prescribed by Dr. Wayne Levin, M.D. Exh. C-3 pp 3,4 & 5, Tr. 26, 27
20. The Complainant has to pay a \$20.00 co-pay fee whenever she visits Dr. Levin. The dates of her visits to Dr. Levin were November 4, 2003, November 13, 2003 and January 6, 2004. Her checks are dated the same as her visits Exh. C-1 pp 1 (first check on the page) pp 2 (first and second check on the page). Tr. 28, 29
21. Complainant paid her lawyer a \$150.00 fee for consultation on her CHRO case. Tr. 38
22. Ms. Taylor testified that the Complainant's physical or psychological symptoms were not related to the Respondent's conduct Tr. 65, 66, 70.

#### IV. Analysis

The Hearing in Damages was held pursuant to the entry of an order of default. Regulations of Connecticut State Agencies §46a-54-88a(2)(b) state that the hearing shall be limited to the relief necessary to eliminate the discriminatory practice and make the Complainant whole. The presiding officer is authorized to award both compensatory as well as emotional distress damages.

#### V. Legal Standard for an Award of Emotional Distress Damages

It is well-settled in Connecticut housing discrimination law that the “broad authority to award damages under Connecticut General Statutes § 46a-64(a)(1) ... includes the authority to award damages for emotional distress or other non-economic harm. Commission on Human Rights and Opportunities ex rel. Peoples v. Estate of Eva Belinski, 1988 WL 492460 (Conn. Super. November 8, 1988); Commission on Human Rights and Opportunities ex rel. Harrison v. Greco, CHRO No. 7930433, pp. 12-14 (June 13, 1985). Such awards must be limited to compensatory, rather than punitive amounts. Chestnut Realty, Inc. v. Commission on Human Rights and Opportunities, 201 Conn. 350, 366 (1986).” Commission on Human Rights and Opportunities ex rel. Little v. Clark and Bauer, CHRO No. 9810387, p. 10 (August 2, 2000).

“[T]he most important factor of such [emotional distress] damages is the subjective internal emotional reaction of the complainant[s] to the discriminatory experience which [they] ha[ve] undergone...” (Id. At 15, citing Smith v. Anchor Building Corp., 536 F.2d 344 (7<sup>th</sup> Cir. 1971) and whether the reaction was intense, prolonged and understandable. Commission on Human Rights and Opportunities ex rel. Lynne Thomas v. Samuel Mills, p. 7. Second, is whether the discrimination occurred in front of other people. Commission on Human Rights and Opportunities ex el Donna Harrison v. John Greco, *supra*, 15, citing Commission on Human Rights and Opportunities vs. Lampost Inn, 1 CHHR 1685 (1979) and Seaton v. Sky Realty Co., Inc. 491 F2d 634 (7<sup>th</sup> Cir. 1974). For this [tribunal] must consider if the discriminatory act was in public and in view or earshot of other persons which would cause a more intense feeling of humiliation and embarrassment. The third and final factor is the “degree of offensiveness of the discrimination” and the “impact on the Complainant”. Commission on Human Rights and Opportunities ex rel. Donna Harrison v. John Greco, *supra*, 15, citing Commission on Human Rights and Opportunities v. Rhana Pippins, 1 CHHR 1617 (1980); and Seaton v. Sky Realty Co., Inc., *supra*. In other words, was the act egregious and was it done with the intention and effect of producing the maximum pain, embarrassment and humiliation. Commission on Human Rights and Opportunities ex rel. Lynne Thomas v. Samuel Mills, *supra*, p. 8. In addition, it is important to consider further factors that exacerbate the emotional distress suffered by the Complainants. Commission on Human Rights and Opportunities

ex rel Aguiar, CHRO No. 9850105 (January 14, 2000) Commission on Human Rights and Opportunities ex rel. Herman Filshtein v. West Hartford Housing Authority CHRO No. 0050061 (October 4, 2001).

Finally, “a complainant need not present expert medical testimony to establish his internal, emotional response to the harassment; his own testimony, or that of friends or family members, may suffice...However, medical testimony may strengthen a case. Bushe v. Burkee, 649 F.2d 509, 519 n. 12 (7<sup>th</sup> Cir. 1981).” Commission on Human Rights and Opportunities ex rel. Little v. Clark and Bauer, supra, p. 10.

The most important factor in the awarding of the emotional damages is the subjective emotional reaction of the Complainant to the discriminatory experience and whether the reaction was intense, prolonged and understandable. The Respondent and her family called the Complainant “white trash” and “white bitch” whenever she came onto Garfield Avenue or worked outside in her yard. Complainant says Respondent and her family don’t like her because she is Italian and white. The Respondent told her neighbor she was mentally ill. They would also uproot flowers and throw trash in her yard. She stated that Respondent’s husband, who was big man, would confront her verbally making her afraid to go out of her house. She said during one of these confrontations she fell off the ladder and was injured and had to go to Bridgeport Hospital for treatment. The Respondent’s husband also confronted her in October of 2003 resulting in another fall, Complainant was also scared they would burn down her house. The second factor to be considered was whether the discriminatory conduct occurred in front of other people, in other words “in public”. All of the Respondent and her family’s conduct was “in public” either on Garfield Avenue or in the Complainant’s yard. The conduct was also in view or earshot of other people, who witnessed the conduct of the Respondent and her family, which caused the Complainant a more intense feeling of humiliation and embarrassment. Whenever Complainant went outside she would hear offensive statements from the Respondent and her family. The Complainant became fearful of going outside because of the conduct of the Respondent and her family. All of the foregoing conduct by the Respondent and her family caused Complainant to become very anxious and nervous. She thought she having a nervous breakdown. The Complainant also had trouble sleeping and was constantly arguing with her husband.

The second prong of the emotional distress damages standard was whether the conduct was in public and in the view and earshot of other people. All of the conduct in this case falls within that standard.

The third and final factor is the degree of offensiveness of the discrimination and the impact on the Complainant, was the conduct egregious and was it done with the intention of producing the maximum pain, embarrassment and humiliation.

The conduct of the Respondent and her family was egregious. It was intentional and was done to cause the Complainant the maximum pain, embarrassment and humiliation. Ultimately, she became afraid to go out of her house. Finally the Complainant did not present expert medical testimony of her emotional distress and she did not have to because her own testimony suffices under this standard.

To summarize, the Complainant's subjective mental state was characterized by the fact she had trouble sleeping. All of the Respondent and her family's discriminatory behavior occurred in public, in front of other people either in Complainant's front yard or on the streets and sidewalks of Bridgeport. All of this behavior caused Complainant to experience anxiety and mental stress that resulted in Complainant experiencing an intense feeling of humiliation and embarrassment. The conduct of the Respondent and her family was frequent – almost every time Complainant was outside of her house. The Respondent and her family's discriminatory acts occurred over an extended period of time for approximately one year. The discriminatory acts of the Respondent and her family had a cumulative negative on Complainant's psychological and emotional well being.

The Complainant experienced the following symptoms:

- Trouble sleeping
- Fear of going outside because of the past harassment by the Respondent and her family
- Arguments with her husband
- Mental and emotional stress

The harassment by the Respondent and her family was intentional and done with the intention of producing pain, embarrassment and humiliation.

#### VI. Compensatory Damages Calculation

Copay for the 12-5-2003 visit to St. Vincent's	-	\$75.00
Copay for the 10-5-2003 visit to St. Vincent's	-	\$75.00
Copay for the 11-4-2003 visit to Dr. Levin	-	\$20.00
Copay for the 11-13-2003 visit to Dr. Levin	-	\$20.00
<u>Copay for the 1-6-2003</u>	<u>-</u>	<u>\$20.00</u>
Total	-	\$210.00

VII. Attorney's Fees and Costs

The order of default issued by the Executive Director's Designee on November 19, 2003 which established the Respondent's liability for the violation of General Statute § 46(a)-64(a)(1). General Statutes § 46a-86(c) allows reasonable attorneys fees and costs reasonable attorney's fees have been defined by the courts to be "(t)he hourly market rate charged by attorneys of similar skill and experience doing substantially similar litigation Ricky and Regina Cooper, et al. v. CHRO No. 990496223 citing to Blum v. Stenson, 465 U.S. 895, 896. Complainant's attorney is requesting \$150.00 for his total bill. This is reasonable given the time and effort he has invested in this case. Although he has not filed an affidavit in support of his request, I am granting his request for attorney fees because of the preparation evident in this case.

Compensatory damages	-	\$210.00
<u>Attorney fees</u>	-	<u>\$150.00</u>
Total	-	\$360.00

XI. Conclusions of Law

1. The Respondent was provided with legally sufficient notice of her obligation to attend the hearing conference, the settlement conference and the other scheduled conferences and hearings.
2. The Commission had the authority to enter the order of default and send notice of the hearing in damages.
3. The entry of the order of default established the Respondent liability for violations of General Statute § 46a-64(a)(1) and Title VII of the Civil Rights Act of 1968, as amended 42 U.S.C. 3601 et seq.
4. All of the allegations in the complaint are deemed admitted, including the allegation that the Complainant was harassed and intimidated because of her color, white and nationality, Italian.
5. The Complainant is awarded compensatory damages in the sum of \$210.00 for medical care by Dr. Wayne Levin, Dr. Balkins and Saint Vincent's Hospital.
6. The Complainant is further awarded reasonable attorney's fees in the sum of \$150.00 to be paid to Complainant's attorney John A. Florek, 2885 Main Street, Stratford, CT 06606.
7. Finally, the Complainant is awarded the sum of \$4500.00 emotional distress damages because she suffered significant emotional distress as a direct result of Respondent's illegal discriminatory conduct General Statute § 46a-64(a)(1).
8. The Respondent shall pay to the Complainant statutory post-judgment interest pursuant to General Statute § 37-3a, at the rate of ten (10%)

percent a year from the date of this judgment until full payment is made by the Respondent.

VIII. Order of Relief

1. The Respondent is hereby directed to cease and desist from any discriminatory acts in violation of General Statute § 46a-64(a)(1) and Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601, et. seq., with regard to the Complainant and all persons similarly situated.
2. The Respondent shall pay the sum \$4500.00 of to the Complainant as emotional distress damages.
3. The Respondent shall pay the sum of \$210.00 to the Complainant as Compensatory damages for the cost of medical care.
4. The Respondent shall pay Complainant's attorney John A. Florek legal fees in the amount of \$150.00.
5. The Respondent shall pay to the Complainant statutory interest on the \$210.00 in accordance with General Statute § 37-3a.

It is so ordered this 5<sup>th</sup> day of May 2004

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Leonard E. Trojanowski  
Presiding Human Rights Referee

cc.

Caterina Caggiano – certified mail #  
Doreen Rockhead – certified mail #  
Attorney John Florek  
Assistant Commission Counsel II Alix Simonetti