

Commission on Human Rights and : Connecticut Commission on Human
Rights Opportunities ex rel. : Rights and Opportunities
Susan Ferri :
v. : CHRO No. 0520471
Darien Barber Shop : April 15, 2008

Ruling re: motion to dismiss

On April 14, 2005, the complainant filed her affidavit of illegal discriminatory practice alleging that Darien Barber Shop discriminated against her in the terms and conditions of her employment and subsequently terminated her employment because of her sex and pregnancy in violation of General Statutes § 46a-60 (a) (1), (6), (7) and (8). On April 20, 2007, the commission certified the affidavit to public hearing and, on May 14, 2007, the respondent, acting by Dominic Della Ripa and represented by counsel, filed its answer in the name of Darien Barber Shop. On March 31, 2008, the respondent filed a motion to dismiss the complaint alleging that the commission lacked subject matter jurisdiction because "Darien Barber Shop is not a legal entity" but "is a trade name used by John Chetta for over fifty years, and was adopted by the partnership of John Chetta and Dominick Della Ripa when they entered into a partnership approximately forty years ago."

The respondent's motion is denied.

Although there does seem to be a split among the superior courts, courts have found that even though an action may not be commenced in or by a trade name, a trade name may properly be named as a defendant. *Simpson v D & L Tractor Trailer School*, Superior Court, judicial district of Fairfield at Bridgeport, Docket No. FBT-CV-05-4008081-s (December 19, 2007 (2007 WL 4733078, 1)). While “a trade name does not create a separate legal entity, the entity doing business under the trade name, whether corporation or individual, remains liable for all its obligations. . . . In essence, the courts held that the trade names were not distinct separate entities, but rather that the owners of the trade name and the trade name entities were one and the same.” *Id.*, 2. The naming of the fictitious business name as the respondent does not limit the complainant’s ability to reach the partnership. *Id.* Furthermore, there is no risk of confusion or prejudice; *id.* against the partnership because a partner, Dominic Della Ripa, received notice of the contested case proceeding and hearing conference and signed the post-certification answer.

Further, an “attorney who enters an appearance is acknowledging that the party named on the appearance form is an accurate legal designation of the party for the purpose of the trial.” *Coulombe v. Aaron Manor, Inc.*, Superior Court, judicial district of

New London at New London, Docket No. KNL-CV-05-5000182-s (August 20, 2007)
(2007 WL 2570385, 5).

Hon. Jon P. FitzGerald
Presiding Human Rights Referee

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