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

Commission on Human Rights and Opportunities ex rel. Parvin Kreutter, Complainant	CHRO No. 0620325 Fed No. n/a
v.	
Susan Gorman, Respondent	June 3, 2009

Ruling re:
Respondent's Motion to Dismiss dated
April 30, 2009 and
Complainant's Memorandum in Opposition dated
June 1, 2009

Regulations of Connecticut State Agencies § 46a-54-88a allows the presiding officer, on motion of a party to dismiss a complaint or a portion thereof if a complainant fails to establish jurisdiction or fails to state a claim for which relief can be granted (non exhaustive listing). A motion to dismiss is an appropriate means to challenge a tribunal's jurisdiction to hear an action. *Jolly, Inc. v. Zoning Board of Appeals,* 237 Conn. 184 (1996); *Upson v. State,* 190 Conn. 622, 624 (1983). The motion admits all facts well-pleaded and invokes any record that accompanies the motion, including supporting affidavits that contain undisputed facts. *Malasky v. Metal Products Corp.,* 44 Conn. App. 446, 451-52, cert. denied. 241 Conn. 906 (1997). In evaluating the motion, the complainant's allegations and evidence must be accepted as true and interpreted in a light most favorable to the complainant and every

reasonable inference is to be drawn in his favor. *New England Savings Bank v. Bedford Realty Corp.,* 246 Conn. 594, 608 (1998).

This decision shall disregard any consideration as to whether the complaint against the respondent, Susan Gorman (hereinafter respondent), could survive a motion to dismiss were it predicated upon a violation of General Statutes § 46a-60(a)(4) (opposition to discriminatory practice) because, as the complainant has conceded, this section has not been specifically referenced in her complaint affidavit, and the opportunity to amend the complaint (subject to following proper procedure and surviving any objection thereto) remains available to the complainant.

This decision shall also disregard any reference to pre-certification doings and or findings. This is a de novo proceeding, and while some limited consideration may be afforded to such proceedings, upon proper request and for articulated and permissible purposes (such as impeachment) such pre-certification matters shall otherwise not be brought to my attention.

To the extent that the motion to dismiss addresses the complainant's claims under General Statutes § 46a-60(a)(1) (employer discrimination) the motion is granted pursuant to authority in *Perodeau v. City of Hartford*, 259 Conn 729, 744 (2002), and such claims are DISMISSED.

To the extent that the motion to dismiss addresses the complainant's claims under General Statute § 46a-60(a)(5), (aid, abet, etc.), the motion to dismiss is DENIED.

The complaint affidavit alleges that the respondent would meet with the complainant's (and employer's) clients and express problems she (the respondent) was having with the complainant (paragraph 16), interfered with the complainant's ability to function in a fully productive manner, irrespective of how successful she had been in guiding the employer's business (paragraph 17) and interfered with complainant's relationship with her staff (paragraph 18). There are also allegations (paragraph 21) that numerous complaints made by the complainant to management about the respondent's conduct, prior to the complainant's termination, were disregarded. Given the presumptions that a motion to dismiss requires, I cannot presume, without hearing the testimony that only a public hearing can provide, that the respondent did not ultimately aid and abet the supervisors (who allegedly ignored the complainant's concerns) in building a case for termination and that the respondent did not encourage the complainant's clients and co-workers to complain to those same supervisors as part of an orchestrated exit scenario of which the respondent was only a single actor. Nor can I disregard the possibility that the respondent's activities might have been outside the scope of her employment and might have been in furtherance of some personal agenda, or at least unrelated to the employer's best interest,

allowing the complainant to circumvent the obstacles presented by Connecticut's intra-corporate conspiracy doctrine.

The above litany of possible conclusions of fact that might be drawn subsequent to a full public hearing are of course those deemed potentially dispositive in the cases cited in the parties' legal submissions and all of which could be employed to impose liability against the respondent if (and this is necessarily a significant "if") they can be properly established at a public hearing. The complainant must be afforded the opportunity to attempt to do so, and having alleged in her complaint affidavit the interpersonal contacts necessary to lay at least a foundation broad enough to allow her to do so, a dismissal of her claims under General Statutes §46a-60(a)(5) is not warranted at this time.

It is so ordered this 3RD day of June 2009.

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J. Allen Kerr, Jr.
Presiding Human Rights Referee

cc.
Parvin Kreutter
Susan Gorman
David Kent, Esq.
Mark Durkin, Esq.
Gabriel L. Williams, Esq.