

**STATE OF CONNECTICUT
Commission on Human Rights and Opportunities
OFFICE OF PUBLIC HEARINGS**

**Commission on Human Rights and Opportunities ex rel.
Cheryl Roberts,
Complainant** : **CASE NO. 0640147
Fed No. 16aa600215**

v.

**Germania Lodge,
Respondent** : **July 1, 2009**

**ORDER
RE: RESPONDENT'S MOTION FOR SANCTIONS**

On June 11, 2009, the respondent filed a motion for sanctions (motion) against the complainant for her failure to produce documents. In support of its motion, the respondent argued that pursuant to the May 26, 2009 order of this tribunal, the complainant was ordered to produce documents responsive to the respondent's production requests by June 9, 2009 and has failed to fully comply. On June 11, 2009, the complainant filed an objection to the motion arguing among other things that she provided the respondent with all the documents that she found in her possession. The commission on human rights and opportunities (commission) did not file a response to the respondent's motion. On June 18, 2009, the respondent filed a reply to the complainant's objection reiterating its previous arguments. After a review of the pleadings, the motion is Granted in part and Denied in part and the following is ordered:

On March 5, 2009, the respondent served the complainant and the commission with production requests. On April 30, 2009, the complainant filed a cover sheet stating that she had answered all of the requests and objected to all the interrogatories. In the respondent's renewed motion for compliance filed May 14, 2009, it attached a copy of the complainant's response to the respondent's production requests. In production request number ten (10), the respondent requested that the complainant produce her federal income tax returns for calendar years 2002 and each year subsequent through 2008. The complainant responded to the request by stating she was "unable to

provide at this time.” Also, in request number thirteen (13), the respondent requested all documents containing the hours the complainant has worked, and the pay and benefits she has received from employment with the Mohegan Sun. The complainant responded by stating she was “unable to produce at this time, not working/laid off [and] company has all documents.” However, subsequently, in her objection to the motion, she argued that her husband filed tax returns and they include household income, which is private to her husband. She argued that she had submitted her financial records to the respondent. She stated that she arrived at her damages calculation by using the “very documents” submitted to the respondent. However, the respondent stated it does not have the documents complainant claims it has.

With its motion, the respondent provided the complainant’s supplemental production response dated June 8, 2009. In this response, the complainant represented that all other discoverable documents are no longer in her possession and have been given to respondent through the discovery process. The respondent also attached three 2005 pay stubs from the complainant’s employment with the respondent and a damages calculation provided by the complainant, which it claims were the only documents the complainant provided.

The complainant’s tax returns would contain information pertinent to her damages claim and mitigation obligation. Nevertheless, she failed to provide her tax returns, claiming first, she was unable to provide such information and then stating the information is private to her husband and he is not before this tribunal. Certainly, the complainant cannot produce documents that are not in her possession but this was not the case. It is one thing to not have the documents in her possession but it is another thing to fail to produce when ordered. Because she failed to comply with production requests and failed to comply with this tribunal’s order to produce documents except to provide inconsistent responses, sanctions are in order. Since the complainant has not produced tax returns or related income information to support her earned income from the respondent or any other employer and to support her mitigation obligation pertaining to her employer, Mohegan Sun Casino, or any other employer, the complainant and the

commission shall be precluded from introducing any evidence pertaining to the complainant's income tax returns or any relevant income information of any version at the public hearing.

So Ordered.

The Honorable Donna Maria Wilkerson Brilliant
Presiding Human Rights Referee

c. Attorney Donald L. Williams
Attorney David L. Kent
Attorney Richard J. Pascal