

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST	)		
FOR REVIEW BY:	)	CHARGE NO.:	2014SF2270
	)	EEOC NO.:	21BA41102
<b>ERIN ZAMBRANO</b>	)	ALS NO.:	14-0417
	)		
Petitioner.	)		

**ORDER**

This matter coming before the Commission by a panel of three, Chair Rose Mary Bombela-Tobias and Commissioners Patricia Bakalis Yadgir and Michael Bigger presiding, upon Erin Zambrano’s (“Petitioner”) Request for Review (“Request”) of the Notice of Dismissal issued by the Illinois Department of Human Rights (“Respondent”)<sup>1</sup> of Charge No. 2014SF2270 and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, THEREFORE, it is hereby **ORDERED** that the Respondent’s dismissal of the Petitioner’s charge for **LACK OF SUBSTANTIAL EVIDENCE** is **SUSTAINED**.

**DISCUSSION**

On March 5, 2014, the Petitioner filed a charge of discrimination with the Respondent alleging that Cedar Valley Podiatry d/b/a Cervetti & Associates (“Employer”) constructively discharged her in retaliation for opposing sexual harassment in violation of Section 6-101(A) of the Illinois Human Rights Act (“Act”). On August 4, 2014 the Respondent dismissed the Petitioner’s charge for lack of substantial evidence. The Petitioner filed a timely request.

The Commission concludes that the Respondent properly dismissed the Petitioner’s charge for lack of substantial evidence. Generally, to establish a *prima facie* case for retaliation the Petitioner must show that (1) Complainant engaged in a protected activity; (2) Respondent committed an adverse action against the Petitioner; (3) a causal connection existed between the protected activity and the adverse action. Carter Coal Co. v. Human Rights Commission, 261 Ill. App. 3d 1,7, 633 N.E.2d 202 (5<sup>th</sup> Dist. 1994). In this case, the Petitioner failed to provide substantial evidence as to

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<sup>1</sup> In a request for review proceeding, the Illinois Department of Human Rights is the “Respondent.” The party to the underlying charge requesting review of the Illinois Department of Human Rights’s action shall be referred to as the “Petitioner.”

elements two and three. The evidence established that the Petitioner refused to return to work following her paid leave of absence despite the Employer making reasonable efforts to minimize contact between the Petitioner and Employer's employee, Brian Ting. Also, there is no substantial evidence to show that the Employer deliberately made the Petitioner's working conditions so intolerable that she was forced to resign involuntarily as is needed to show that the Petitioner was constructively discharged. Steele v. Ill. Human Rights Comm'n, 160 Ill. App. 3d 577, 581, 513 N.E.2d 1177 (3<sup>rd</sup> Dist. 1987).

Additionally, the Petitioner's allegation that the Respondent violated the court's injunctive order in Cooper v. Salazar, 196 F.3d 809 (7<sup>th</sup> Cir. 1999), is without merit. The Respondent conducted a full investigation and made findings based on the evidence discovered.

Accordingly, the Petitioner has not presented any substantial evidence to show that the Respondent's dismissal of the charge was not in accordance with the Act.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The dismissal of the Petitioner's charge is hereby **SUSTAINED**.
2. This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and Cedar Valley Podiatry d/b/a Cervetti and Associates as respondents, with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

**STATE OF ILLINOIS**

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**Entered this 7th day of November 2018**

Chair Rose Mary Bombela-Tobias

Commissioner Patricia Bakalis Yadgir

Commissioner Michael Bigger

