Summary of cases

1999 Decisions

Commission on Human Rights and Opportunities, ex rel, Gomez, Carlos v. Connecticut General Life Insurance Company 9710105 Vallen 6/30/1999 Memorandum of Decision***:
Facts: Complainant filed a complaint against Connecticut General Life Insurance Company ("CGLIC") alleging that his employment was terminated as a result of his national origin in violation of the Connecticut Fair Employment Practices Act and Title VII of the Civil Rights Act. Complainant also alleged that CGLIC had retaliated against him for filing his initial complaint. *Held:* (1) The termination of the Complainant did not occur in circumstances giving rise to an inference of discrimination, and therefore the Complainant has not established a prima facie case of discrimination. (2) CGLIC fired Complainant for running over a goose with a company truck, and CGLIC was found to have conducted a proper investigation and determined that the Complainant's running over a goose was intentional. (3) The Complainant failed to show that his termination was in retaliation for Complainant's filing a complaint against Respondent. (4) Complaint dismissed.
***on appeal as of 12/9/99

Commission on Human Rights and Opportunities, ex rel Mills, Billy v. Wal-Mart Stores, Inc. 9840208 Daly 5/26/19 Memorandum of Decision via Default:
Facts: Complainant, Billy Mills filed a complaint against Wal-Mart Stores, Inc., his former employer. On August 31, 1998, an Order of Default was issued pursuant to Section 46a-54-73 of the Regulations of Connecticut State Agencies. Because of the Default, the Complainant's allegations are deemed admitted and the only issue to decide is what relief will make the Complainant whole and eliminate the discriminatory practices. During the eighteen months after losing his job as a security guard, Mills had applied for nine jobs and had turned down a job at Burger King that would have paid less money than his previous job. *Held*: (1) The Complainant's prayer for reinstatement was denied, because Mills did not offer any evidence that reinstatement would make him whole; (2) Mills had failed to mitigate his damages by showing reasonable diligence in seeking employment; (3) The evidence showed that there were numerous security jobs available in the Hartford area immediately following the Complainant's termination; (4) The unemployment compensation and money that Mills had earned from temporary jobs will offset the back pay that Mills is due for the three months prior to his turning down of the Burger King job, therefore limiting Respondent's financial liability to zero.

Commission on Human Rights and Opportunities, ex rel Vono, Joseph v. United Technologies Corporation, Pratt & Whitney Division 9330160 Schoenhorn, 6/17/1999 Memorandum of Decision:
Facts: Complainant, Joseph Vono was terminated from his job at Pratt & Whitney allegedly due to budget cut backs. Vono filed a complaint with the CHRO alleging that

he was fired due to being 59 years old. Pratt & Whitney responded that Vono was relieved of his duties, because of his low job performance rating. Vono offered evidence showing that a younger employee who had the same job rating as him was not laid off. *Held:* (1) The complaint must be dismissed, because Vono had failed to establish two of the four factors needed to establish a prima facie case of discrimination. (2) Vono did not meet his burden of showing that he was qualified to assume another position at the company; (3) Vono also failed to meet his burden of showing that the employer had a discriminatory motive; (4) The younger worker who was not terminated was not similarly situated to Vono, because the younger worker had only been at the company for a few months and during that time his job performance rating was rising, while Vono's rating was not; (5) Complaint dismissed.

Commission on Human Rights and Opportunities, ex rel Nelson, Victoria v. David Malinguaggio, et al. 9740155 Sullivan 6/10/1999 Memorandum of Decision via Default:

Facts: Complainant, Victoria Nelson, a black woman, alleged that she was charged $580/month for an apartment owned by Respondent, while white tenants were paying $450/month. The respondents made racial statements regarding Nelson's children in the presence of her children. A default order dated July 22, 1998 established the liability of the Respondents. *Held:* (1) Connecticut General Statutes Section 46a-86 authorized the hearing Officer in a Housing Discrimination case to award damages for emotional distress when Section 46a-64c has been violated; (2) Section 46a-86(c) authorizes the Hearing Officer to award damages for rent differentials, costs for obtaining additional housing, moving and other costs. Nelson's heating costs can be counted as other costs; (3) It is ordered that Respondents cease and desist their discriminatory housing practices and pay Nelson a total of $18,142 representing costs for rent differential in Manchester and West Hartford, heating costs in West Hartford, moving costs, and emotional distress.

Commission on Human Rights and Opportunities, ex rel Van Buren, Joseph v. Merrit-Davis Corporation 9730124 Sullivan 6/7/1999 Memorandum of Decision:

Facts: Complainant Joseph Van Buren was terminated from his job of Engineer Manager with Merrit-Davis Corporation on September 18, 1996. Van Buren was terminated after an investigation prompted by a complaint by Ms. Ginenez concluded that Van Buren was involved in sex talk with other employees. Van Buren claimed that he was fired in retaliation for making a complaint of sexual harassment in the workplace. Van Buren filed a complaint against Ms. Ginenez, claiming that she had left him threatening e-mail messages. These messages came shortly after Van Buren had terminated the relationship that he had been having with Ms. Ginenez. *Held:* (1) The Complainant was not subject to sexual harassment in the workplace. Hostile environment sexual harassment occurs when the Complainant is subjected to offensive sexual conduct that is so severe and pervasive that it alters the terms and conditions of employment and creates an abusive working environment. The messages that were sent to Van Buren were not of a sexual nature, because they were the result of a sexual relationship rather than sexual

harassment; (2) Complainant's discharge was not retaliatory and the employer had a legitimate, non-discriminatory reason for firing Mr. Van Buren. Van Buren had a history of disruptive behavior at work aside from the sex talk that occurred in his department; (3) Van Buren was not discriminated on the basis of his sex, because he did not show that he had been treated differently from other similarly situated employees who were not in his class; (4) Complaint dismissed.

Commission on Human Rights and Opportunities, ex rel Cooper, Regina & Ricky v. Gorski, Hanna & Andrew 9710197 Ward 5/11/1999 *Memorandum of Decision***:*

Facts: Respondents Hanna and Andrew Gorski owned a four family apartment in New Britain. Complainants Ricky and Regina Cooper are husband and wife living with their son. Complainants alleged that Respondents offered them unequal terms and conditions of housing as a result of complainants being black. Complainants were required to fill out forms concerning their income and to pay a fee to have their credit checked. In the past, Respondents had not required a background check of possible renters and had no uniform procedure for renting an apartment. This policy changed after a prior tenant failed to pay rent and was evicted. In order to guard against any future losses, Respondents decided to use RE/MAX, a rental management service, to advertise and screen potential renters. *Held:* (1) Giving RE/MAX the exclusive right to list the apartment for rent and fill out the forms was not a discriminatory deviation from an otherwise consistent pattern. This is supported by the fact that Complainants were the first prospective tenants to have applied for the apartment through RE/MAX, leaving no similarly situated white applicants; (2) Respondents did not enter into the contract with RE/MAX in order to discriminate against complainants; (3) Claimant has not met the burden of meeting the contractual prerequisite of making or offering to make the required rent and security payment, therefore Complainants never made an offer to rent the apartment. (4) Complainants did not provide clear authority to show a theory of "constructive denial"; (5) Complaint dismissed.

*** on appeal

Commission on Human Rights and Opportunities, ex rel Maybin, Susan v. Berthiaume, Tina 9950026

Daly, III 4/29/1999 *Memorandum of Decision:*

Facts: On September 4, 1998, Complainant Susan Maybin, a black female, filed a complaint against Tina Berthiaume alleging that Berthiaume had been physically assaulting Maybin and her family while making racial slurs towards them. Berthiaume did not answer the complaint and a Default Order was entered against her. *Held:* (1) Damages must be awarded for emotional distress pursuant to section 46a-86 in order to make the complainant whole. (2) Respondent is ordered to pay $50,000 to Complainant and cease and desist from using racial slurs to Complainant or encouraging others to use racial slurs against the Complainant or her family.

Commission on Human Rights and Opportunities, ex rel Slootskin, Inessa v. John Brown Engineers and Construction, Inc., 9320167 Kotowski 2/19/1999 *Memorandum of Decision:*

Facts: Complainant Inessa Slootskin who was born in 1938, filed a complaint against her former employer, John Brown, alleging that she was terminated as a result of age and sex discrimination. John Brown claimed that Complainant was terminated because there was a lack of work coming in to the department. *Held:* (1) Statements made by supervisors employed by John Brown indicate that younger workers were to be brought in, and that there was a bias against older workers; (2) The justification given for respondent's discharge was pretextual, because other work did come into the department and younger workers were given overtime while older workers were not assigned work; (3) There is no evidence to support sex discrimination or that she did not receive equal pay from John Brown. (4) Respondent is ordered to cease and desist all discriminatory treatment of its employees and pay Complainant $109,174.28 in damages including back pay, interest and loss of benefits.

Commission on Human Rights and Opportunities, ex rel Nestor, Gail v. United Technologies Corporation, Pratt & Whitney Aircraft 9340251 O'Connor 9/20/1999 *Memorandum of Decision: Facts:* Complainant Gail Nestor brought a complaint alleging that she was fired from her job because of gender discrimination. Her discharge resulted from an altercation that Nestor had with Benjamin Elmore, another employee. Respondent contends that Nestor was responsible for the altercation. *Held* (1) Nestor had made numerous complaints in the past concerning past instances of Elmore harassing her, which Respondent had not acted on; (2) Elmore was responsible for the altercation and the fact that he was only suspended for one day while Nestor was fired shows an inconsistency in the policy; (3) Respondent failed to justify their handling of the dispute, because it is not possible for only one employee to be responsible for a dispute. (4) Respondent is ordered to pay $12,126 plus 10% interest to Nestor for back pay.

Commission on Human Rights and Opportunities, ex rel Villwock, Catherine v. City of Middletown 9530476 Herman 9/6/1999 *Memorandum of Decision:*

Facts: Complainant Catherine Villwock accepted a job as a police officer for the town of Middletown, but the offer was retracted after a physical revealed that Villwock had a bipolar disorder. Neither Villwock's medication nor her bipolar disorder would affect her ability to perform her job as a police officer. *Held:* (1) Having a bipolar disorder puts Complainant in a protected class. (2) Middletown admits that her disease was the reason for the rejection of Villwock and Middletown did not offer any valid reason why Villwock could not perform the job of police officer. (3) Later, the job was filled by a person who did not have bipolar disorder. (4) Respondent is ordered to hire Villwock and give her $102,213.28 in lost wages and pension benefits.

Commission of Human Rights and Opportunities, ex rel Constanzo, Josephine v. Inn at Cafe Lafayette & Vincent Roberti 9630225 Acosta 1/12/199

Memorandum of Decision:

Facts: Constanzo filed a complaint alleging that she had been sexually harassed and fired from her job at the Inn at Cafe Lafayette because of her sex. The Inn had not answered the complaint and a default judgment was entered against the Inn by the Commission.
Held: (1) Respondent was given sufficient notice of the complaint, Motion for Default, Order of Default and the hearing in damages. (2) The Oct. 26, 1998 Order of Default establishes the Inn at Cafe Lafayette's liability. (3) Respondent is ordered to pay Complainant $68,600.03 plus interest for her lost income, housing and other expenses. (4) Judgment on Vincent Roberti's motion to reopen judgment is not ruled on.

1998 Decisions

Commission on Human Rights and Opportunities, ex rel Hawkins, Barbara J. v. State of Connecticut Department of Correction 9340303 Pearl, 8/24/1998

Memorandum of Decision:

Facts: Complainant, Barbara J. Hawkins, a black female alleged that the Department of Correction discriminated against her by terminating her after violating a disciplinary provision that was not uniformly enforced. Hawkins, a Corrections Officer was fired for having a relationship with and sponsoring an inmate who was previously incarcerated at the prison that Hawkins worked at, but had since been transferred to another prison and later released on furlough. This constituted a violation of the DOC written rule on "undue familiarity", which forbid a Correction Officer from having too close a relationship with an inmate. At the time of her dismissal, Hawkins believed that the rule only prohibited relationships between Correction Officers and inmates who were in the same prison.
Held: (1) There was sufficient evidence that white and Hispanic women as well as male Correction Officers had received little or no disciplinary action for having violated the "undue familiarity" policy, thus giving rise to the inference that Hawkins was discharged on the basis of her gender or race; (2) The fact that the Warden did not inform Hawkins that her actions were a violation made it reasonable for Hawkins to believe that the policy against "undue familiarity" did not apply to her situation; (3) Respondent was ordered to cease and desist from discriminatory employment practices and pay Complainant for back pay pursuant to F.F. 95 minus $8,528 already received from unemployment compensation.

*** Supplemental Memorandum of Decision 6/30/99
Facts: This order is incorporated by reference in the 8/24/98 decision and is limited to the issue of damages and calculations thereof as of 7/1/99. The typographical error on p.22 of the decision is corrected to read that " Hawkins received $8,528 in unemployment compensation benefits." Held: The Respondent shall cease and desist from

discriminatory employment practices; within 30 days the Respondent shall post CHRO posters in locations visible to employees for a minimum of 12 months; within 30 days the Respondent shall expunge from any and all records information detrimental to the Complainant resulting from this complaint; within 30 days the Respondent shall pay to the Complainant $15,506.36 which represents back pay, overtime and shift differential, Thanksgiving holiday premium for 1992 and contract meal allowances minus unemployment compensation already received. Prejudgment interest on net back pay, holiday premium and meal allowance reimbursement at the statutory rate of 10% is awarded to the Complainant in the amount of $10,079.13 as of 7/1/99. Furthermore, within 30 days, the Respondent shall restore to the Complainant 6.25 sick days, 6.25 vacation days and T.O. days lost during 1992 for Memorial Day, Independence Day, Labor Day, Columbus Day and Veteran's Day.
*** on appeal as of 12/9/99

Commission of Human Rights and Opportunities, ex rel Busby, Mary Ann v. Mercyknoll, Inc. 9410345
Daly III 8/25/1998
Memorandum of Decision: Facts: Complainant Mary Ann Busby filed a complaint against her former employer Mercyknoll alleging that she was discriminated against on the basis of her sex (pregnancy), marital status and perceived disability and that Respondent fostered a hostile work environment. Busby is black, of African-American descent and had a baby while on maternity leave. Prior to going on maternity leave, Complainant received average to good evaluations for her job of cleaning stairways, vacuuming, mopping and cleaning sinks. After returning from leave, Busby was assigned to clean bathrooms and her evaluations became poor, resulting in her termination. *Held:* (1) Respondent's acts of assigning Busby to more difficult work, giving her a written warning, and making derogatory remarks to Busby were acts of discriminatory harassment based on her pregnancy, request for maternity leave and/or her unmarried status. (2) Complainant failed to show that the warnings that were issued were pretextual or inaccurate, therefore the discharge can not be found discriminatory or retaliatory. (3) Respondent must review its practices for women returning from maternity leave to ensure that they are not subject to different standards than before leave. (4) Respondent must give fair consideration to re-hiring Complainant as a penalty for the discriminatory acts against Busby.

Commission of Human Rights and Opportunities, ex rel, Brian Breitbart v. State of Connecticut, DOC 9240296R Acosta 10/20/1998
Memorandum of Decision: Complainant, Brian Breitbart, filed a complaint to challenge his termination as a Correctional Officer with Respondent, State of Connecticut. Breitbart, who was terminated for hitting a prisoner, claimed that he was terminated as a result of his sex (male) and his color (white), and alleged that a Jacqueline Foster, a female black Corrections Officer was not fired after committing a similar act. *Held:* (1) Complainant was not able to show that Foster's situation was similar to his, because Foster had been under a different supervisor than Complainant and

Foster had committed a less serious violation than Complainant. (2) Respondent submitted enough evidence to show that Complainant's use of excessive force was the actual reason for his termination. (3) The complaint is dismissed.

Commission of Human Rights and Opportunities, ex rel,Taylory, Virginia v. Yankee Motor Inn 9230063
Adams 9/28/1998
Memorandum of Decision: Complainant, Virginia Taylor alleged that Respondent Yankee Inn had terminated Taylor's employment as Assistant Supervisor in Housekeeping because of her race, color and national origin (African American/ Non-Hispanic). Taylor alleged that Carmen Fernandez, a new supervisor had a preference towards Hispanic workers and therefore replaced Taylor with a Hispanic worker. *Held:* (1) A default hearing was held on June 23, 1998 and neither Respondent or a representative appeared. (2) Respondent is ordered to compensate Complainant in the amount of $7,984.54 for lost wages and overtime, less worker's compensation and other income. (3) Respondent is also ordered to compensate the State of Connecticut $5,865.00 for unemployment benefits that were paid to Complainant.

CHRO ex rel. Galeano v. Stamford Entertainment 9720495 12/8/98
Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall pay to the Complainant $2,250 in satisfaction of lost wages. The Complainant's request for attorney's fees was denied (Bridgeport Hospital).

CHRO ex rel. Ferrer v. Travelers 9410554 11/10/98
Memo Sussman
Facts: The Complainant alleged that he was terminated based on his nationality (Spain) and retaliation for complaints regarding said discrimination. Held: The Complainant proved a prima facie case. The Respondent also offered a legitimate, non-discriminatory reason for its actions, namely, that the Complainant was an average, but not stellar employee and when time came for a staff reduction, the Complainant's job performance was left wanting. The Complainant was not able to prove that the proffered reasons were pretextual because the sole person accused of making discriminatory statements had no part in the decision to terminate the Complainant six years after her supervisory role had ceased. Accordingly, judgment was entered for the Respondent.

CHRO ex rel. Stanley v. Kurt's Automotive 9820329 10/7/98
Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall pay the Complainant $26,975 in back pay (less

mitigation), plus interest in the amount of $2,6797, plus front pay in the amount of $133,152 which represents two years of lost earnings for a total award of $142,824.

CHRO ex rel. Velasco v. Angus Restaurant 9520433 9/29/98
Memo Kotowski

Facts: The Complainant alleged that she was subjected to a hostile work environment and discharged from her employment in retaliation for her opposition to her alleged mistreatment in violation of state and federal law. Held: The Complainant failed to establish a prima facie case of hostile work environment/sexual harassment because the word "f***" was used as an adjective in reference to food orders three times in a six-month period and Complainant testified that the word did not have a sexual connotation as used. Also, the Respondent immediately addressed the Complainant's displeasure at the word's use around her by reprimanding the offending employees. Accordingly, judgment was entered for the Respondent.

CHRO ex rel. Curtis Fogle v. Panda Garden 9720006 10/15/98
Memo via Default Daly

Facts: Due to the entry of a default order, the Respondent is adjudged to have violated the Sections 46a-44, 58 and 64(a) in refusing to allow Complainant to enter the Respondent's place of public accommodation with his licensed guide dog and failure to post the notice concerning guide dogs. Held: The Respondent shall pay to the Complainant $7500 for emotional distress. The Respondent was also enjoined from discriminating against persons with guide dogs and ordered to post the notice required by § 46a-64(a)(3).

CHRO ex rel. Breitbart v. DOC 9240296 10/20/98
Memo Acosta

Facts: The Complainant alleges that he was illegally terminated based on his color (White) and sex (male) in violation of 46a-60(a)(1), 46a-71 and Title VII of the Civil Rights Act of 1964 while another employee who was a Black female was not. The Complainant, a correctional officer was terminated for allegedly using excessive force in subduing an inmate in the course of his employment. Held: Using a disparate treatment analysis, the Complainant proved a prima facie case because he is a member of a protected class (white/male?); was qualified and was terminated under circumstances giving rise to an inference of discrimination. The Respondent submitted sufficient evidence to show that a legitimate, non-discriminatory reason for his termination was the Complainant's excessive use of force on the job. The Complainant was not able to show that this reason was pretextual because one of his witnesses who testified that the Complainant did not use excessive force had lost his prescription glasses during the incident in question and did not have the inmate "constantly within his range of vision" and his testimony therefore was suspect. The other witness provided "after acquired evidence" and his testimony was not given significant value by the hearing officer. Furthermore, the Complainant never attributed his treatment to be motivated by

discriminatory factors but was more related to his status as a "probationary" employee. The evidence concerning the black female correctional officer showed that the incident in which she was involved was substantially different than the Complainant's because at the time of the assault she was alone in a corridor and the sexual assault inflicted was "degrading and emotionally charged." Also, the Complainant failed to prove that he was "similarly situated" to her as an employee. Accordingly, the complaint was dismissed.

CHRO ex rel. Lynn Thomas v. Samuel Mills 9510408 8/7/98
Memo via Default Spinner

Facts: Due to the entry of a default order, the Respondent was determined to have violated 46a-64, 46a-81d and Titles II and III of the Americans with Disabilities Act. The Complainant is a lesbian and has reflex hympothetic dystrophy, a progressive disease involving the involuntary nervous system. The Respondent, a security guard screamed many anti-gay and anti-disabled person comments at the top of his lungs in a public place with many people around, including complainant's significant other. He then continued to verbally abuse her significant other with anti-gay rhetoric and physical threats. The Complainant received terrifying phone calls at home following this incident. The Complainant had a second incident with the Respondent where he publicly challenged her use of a handicapped entrance to a public building and further physically injured the Complainant by slamming a steel door on her. His repeated threats caused the Complainant to avoid another potential incident and to keep a gun in her home for protection. Held: The Complainant was subjected to multiple instances of intimidation, harassment and discrimination causing sever embarrassment, pain and terror. The Complainant was awarded $25,000 for emotional distress damages plus interest at the rate of 10% from the date of the injury to the date of judgment (to be calculated by the counsel for Complainant***) plus attorney's fees in the amount of $10,696 and interest thereon at 10%. Furthermore, the Respondent is ordered to cease and desist from any discriminatory and harassing conduct with respect to the Complainant in the future.

***Supplemental Memorandum of Decision 9/2/98
The Memorandum of Decision dated 8/7/98 was modified to incorporate the Complainant's Computation of Interest dated 8/17/98. Accordingly, the compensatory damages awarded to Complainant were increased to $35,741 as of 8/5/98, including principal and interest.

CHRO ex rel. Stiles v. State of CT, DOT 9340422 9/22/98
Memo Kotowski

Facts: The Complainant filed a complaint alleging that the Respondent failed to promote him due to a knee injury and perceived mental disability in violation of the Americans with Disabilities Act and state law, and retaliated against him because his sister-in-law filed a discrimination complaint. The Respondent developed a selection process to fill 4 newly created positions involving a written application followed by a panel interview of selected candidates. The Complainant was selected for an oral interview but not ultimately selected for promotion. Held: Using the disparate treatment theory analysis

the Complainant is unable to prove a prima facie case because his knee injury was of a temporary nature and thus not a disability under the ADA. Similarly, the Complainant presented no evidence that he was suffering from a mental disability or was perceived to have such a disability. Furthermore, the Complainant offered no evidence concerning the retaliation claim so that claim was deemed abandoned. Since the Complainant failed to establish a prima facie case and although not required, the Respondent articulated legitimate reasons of "poor work history" and service ratings, a judgment was entered for the Respondent.

CHRO ex rel. Virginia Taylor v. Yankee Motor Inn 9230062 8/24/98
Memo via Default Adams

Facts: Due to entry of a default order, Respondent is adjudged in violation of 46a-58(a) and 46a-60(a)(1) and Title VII of the Civil Rights Act of 1964 for terminating the Complainant based on her race, color and national origin (Black, African American/Non-Hispanic). Held: Respondent shall pay to the lost pay for 1991 of $6,183.62; lost income for 1992-95 of $9,778.24; prejudgment interest on the amount of lost compensation for the years 1993-98 at the statutory rate of 10% for a total of $7,984.54. The Respondent must also reimburse the state for $5,865 in unemployment benefits.

CHRO ex rel. James Yon v. City of Waterbury II 9430368 7/6/98
Memo Schoenhorn

Facts: This order modifies the order previously entered by the hearing officer. The modification is based on an agreement negotiated by the parties. Held: The Respondent shall cease and desist from discriminatory acts; shall not retaliate against the Complainant; shall pay the Complainant $37,510 forthwith; shall pay the Commission $100 in costs; shall transfer the Complainant to be foreman at a different, but acceptable park; and shall allow the Complainant to live in the residence rent-free for 4 years, as long as he holds the position of foreman at that park. If the Complainant is transferred to another park he may be asked to vacate the residence, at the Respondent's option, but shall be compensated for said vacating fir $865 month. If the Complainant voluntarily transfers, resigns or is terminated the relief concerning the residence shall cease immediately and prospectively.

CHRO ex rel. James Yon v. City of Waterbury I 9430368 2/20/98
Memo Schoenhorn

Facts: Complainant filed a complaint alleging that the Respondent violated the CFEPA and Title VII by not promoting/transferring him in employment due to Complainant's race (African American) and color (black). Using a disparate treatment analysis, the Complainant was able to prove a prima facie case. The Respondent articulated a legitimate non-discriminatory reason, namely a different person was more qualified. This reason, however, was found to be pretextual based on the Respondent's handpicked selection of only white candidates for the job among other reasons. Held: The Complainant is entitled to $37,510 to compensate for the rent and utilities that he would

have received had he been promoted/transferred because the position sought came with Respondent-owned housing. Also, $100 in costs is awarded to the Commission to cover the cost of the licensed real estate appraiser. The Respondent is prohibited from retaliating against the Complainant, must cease and desist from discriminatory acts and must transfer the Complainant to the sought position and either make the Respondent-owned residence available for the Complainant to live in or provide him with the equivalent amount of money - $865 monthly for seven years.

CHRO ex rel. Exum v. C-Town Supermarkets 9310569 8/19/98
Memo via Default Daly
Facts: Due to entry of a default order, Respondent is adjudged in violation of CFEPA. Held: Respondent shall pay to the complainant back pay for two year's preceding complainant's termination of $15,322.67, and front pay for six years for $91,939.05 less the interim earnings as mitigation of $31,450.12 for a total award of $75,808.60. Further the Respondent is ordered to cease and desist from any further discrimination.

CHRO ex rel. Paravalos and Paradisis v. Booker Corp. 9720344 6/6/98
Memo via Default Daly
Facts: Due to the entry of a default order, Respondent is adjudged to have violated § 46a-64c, by harassing them in their tenancy because of a disability of Complainant Paravalos' three-year old son. Held: Respondents shall pay to each Complainant $5,000 in emotional damages, the sum of $1,317.38 in satisfaction of excessive gas and electric bills to Complainant Paradisis; a combined sum of $1000 to the Complainants for moving costs and lost furniture; and shall cease and desist from any and all acts of discrimination.

CHRO ex rel. John Williams v. City of Bridgeport 9320141 7/21/98
Memo Kotowski
Facts: The Complainant filed a complaint alleging that the Respondent City's Water Pollution Control Authority violated §§ 46a-60(a)(1) and 46a-58(a) and Title VII. The Complainant, a black male, worked as a sewage plant operator where he received good performance appraisals. The Complainant applied for an open position of shift supervisor but was not selected although he had more seniority and qualifications than the successful, black female candidate. Held: Under the disparate treatment theory described in the McDonnell Douglas line of cases, the Complainant met his burden on proving a prima facie case: he is a member of a protected class, he was qualified for the job, he was not selected and the position was filled by someone not from the same class. The Respondent failed to articulate a legitimate, non-discriminatory reason for its failure to promote the Complainant, therefore a finding was made that the promotion was made on the basis of race and gender. The Respondent is ordered to pay to the Complainant back pay in the amount of $6,502.24 and $500 for emotional distress damages. Further, the Repsondent is ordered to remove a written warning from the Complainant's personnel file and to cease and desist from all discriminatory treatment of its employees.

CHRO ex rel. Wilson-Boykin v. Vallerie Transport. 9620402 6/17/98
Memo via Default Ward

Facts: Due to the entry of a default order, Respondent is adjudged to have violated the CFEPA. Held: Respondent shall pay to the Complainant back pay in the amount of $1,644 plus 10% simple interest for a total of $1,972.80.

CHRO ex rel. Alan Peckham v.CGLIC 8610405 1/13/98
Memo Adams

Facts: The Complainant filed a complaint alleging that the Respondent violated §§ 46a-60(a)(1) and 46a-60(a)(4) by refusing to allow the Complainant to work at full duty status because he is an epileptic, that he was physically threatened by the Respondent in retaliation for filing a complaint and that Respondent wanted to replace him at his job instead of letting the Complainant return to work. Held: (I) Using the direct evidence theory, the Complainant established a prima facie case but the Respondent is not found to have discriminated because it offered a legitimate, non-discriminatory reason. The Respondent feared for Complainant's safety at work and merely placed him on long-term medical leave until his condition could be controlled with medication. (II) Similarly, under the indirect evidence, burden-shifting analysis, the Complainant established a prima facie case. Once again, Respondent offers the same legitimate reason for its action. The Complainant fails in establishing that this reason was pretextual because (1) Respondent waited until the seventh seizure before taking any adverse employment actions, (2) Respondent waited until after the second masturbation incident before taking any adverse employment action; and (3) Respondent put Complainant on short and long term disability without loss of benefits. (III) As to Complainant's allegation that the Respondent failed to accommodate him, the Hearing Officer found that the Complainant's medical condition deteriorated to the point where no accommodation was possible. (IV) As to the Complainant's retaliation claim, the Complainant established a prima facie case, but the Respondent successfully rebutted two of its components. Therefore, the case was dismissed.

CHRO ex rel. Germaine v. Bullard Havens 8640204 1/20/98
Decision on Damages Acosta

Facts: The hearing officer found in an earlier ruling (7/8/97) that the Complainant had been the victim of illegal discrimination based on sex. This decision merely addresses the damages due her because of said discrimination. Held: The Complainant asked for, but was not awarded, an apology, out of pocket expenses, an adjustment in seniority credit, health insurance, pension benefits, an early retirement incentive, reinstatement or front pay. The Complainant was awarded a cease and desist order, an anti-retaliation order and an order for expungement of detrimental information/records, as well as back pay in the amount of $16,757 plus compounded statutory interest at a rate of 10% for a total of $26,891.69. This amount is not offset by any amount from mitigation because the

Complainant's efforts to mitigate were reasonable and the Respondent did not sufficiently challenge her mitigation efforts at hearing.

CHRO ex rel. Danoff v. U.S. Postal Service 9740371 1/26/98
Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated the CFEPA. Held: The Respondent shall pay to the Complainant lost income in the amount of $19,608.56 and shall give the Complainant priority to obtain a transfer to the first available clerk position located within 15 miles of her home. The Postmaster and other designated employees shall receive training/counseling in sexual harassment prevention and appropriate reprimands for their actions. The Complainant shall be restored to the level of seniority and benefits that may have been lost due to her leave.

CHRO ex rel. Gibson v. Rose Manor Rest Home 9330372 2/9/98
Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated the CFEPA by illegally terminating the Complainant. Held: The Respondent shall pay to the Complainant $4,160 for lost regular wages, $2,964 in lost overtime wages, plus $3,306.25 in simple interest calculated at a rate of 10% for a total of $10,430.25. Of this amount, the Respondent shall pay to the CHRO the amounts received by the Complainant from the Unemployment Compensation Commission to be forwarded to said Commission for reimbursement and the Respondent shall cease and desist from all discriminatory actions and conduct.

CHRO ex rel. Jackson v. City of Stamford 8820490 3/4/98
Memo Kotowski
Facts: The Complainant filed a complaint alleging that the Respondent City failed to hire him on the basis of his race and color, African American and black. Held: Under the McDonnell Douglas burden shifting analysis, the Complainant proved his prima facie case: he is a member of a protected class, he applied for a position, he was qualified for the position (he was the high scorer on the written examination) and a white female was hired to the job instead of him. The Respondent successfully articulated a legitimate, non-discriminatory reason for not hiring the Complainant, namely, he did not interview well, he was applying for many different positions all at the same time, and was interested in "job improvement and perhaps moving on to another position." The Respondent was a small agency within the City and was looking for an employee to make a longer commitment. These reasons are legitimate and non-discriminatory, and accordingly, the complaint was dismissed.

CHRO ex rel. Keneally v. Impact Auto Finance 9710102 3/13/98
Memo via Default Daly

Facts: Due to the entry of a default order, the Respondent is adjudged to have violated the CFEPA. Held: The Respondent shall pay to the Complainant $3,960 in back pay and shall not retaliate against the Complainant in violation of § 46a-60(a)(4).

CHRO ex rel. Simon v. Resort Camplands Int'l 9840126 4/15/98
M2D granted Daly
Facts: An order of default had been entered because the Respondent had failed to comply with the conciliation agreement and, accordingly, a hearing in damages had been scheduled. Held: The hearing in damages shall be dismissed because the Respondent fully complied with the previously negotiated conciliation agreement.

CHRO ex rel. Michaels v. City of Norwalk 9120320 4/17/98
Memo Harris
Facts: Complainant filed a complaint alleging that the Respondent City's Police Department, Chief of Police and other officers violated §§ 46a-58 and 64, 42 U.S.C. § 1983 and the 14th Amendment to the U.S. Constitution by failing to provide police services due to the Complainant's color, black. Held: Although, police services do not fall within the definition of public accommodations because the public is not invited to patronize the services of the police, the Complainant still would not have been able to prove his case. Using the McDonnell Douglas burden shifting analysis, the Complainant proved his prima facie case, the Respondent's offered a legitimate, non-discriminatory reason and the Complainant failed to prove that this reason was a pretext. The main reasons for his failure are that the Complainant's testimony was illogical, inconsistent and lacking in corroboration and the fact that the Complainant failed to "apply" to receive police services. Specifically, he failed to state that he had been robbed, assaulted and therefore needed police assistance. Under the Constitutional analysis, the Complainant failed to prove the requisite intentional discrimination or racial animus or bias for an improper purpose to be successful in his claim. The complaint was therefore dismissed.

CHRO ex rel. Tina Pihl v. Penny Musbak, dba DV8 9640106 5/20/98
Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated § 46a-64, by refusing to allow the Complainant and her companions to enter the Respondent's entertainment establishment due to their race, black. Held: The Respondent shall pay to the Complainant $10,000 for emotional distress damages and $2,869 for expenses related to preparing the complaint and traveling to the hearing. Since the DV8 establishment was since closed, there was no need for an order to eliminate the discriminatory practice.

1997 Case Summaries

CHRO ex rel. Allen v. Charles Harper Associates 8920287 1/27/97
Memo via Default Stafstrom (EXCELLENT MEMO!!)
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA for terminating the Complainant on the basis of her gender and status as pregnant. Held: The Respondent shall pay to the Complainant $41,445.01 in earned unpaid commissions; $329,767.60 in estimated lost future commissions less Complainant's interim mitigating earnings; $93,102.21 in prejudgment interest; and $3,250 in reimbursement of medical expenses. The Respondent shall also pay to the State $6,084.26 as reimbursement for unemployment compensation benefits.

CHRO ex rel. Tina Marie Tufano v. McDermott Auto Dealership 9630302
12/18/96 Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall cease and desist from any further discriminatory practice and pay to the Complainant $5,490.94 in back pay plus 10% interest; $1,647.19 in medical insurance benefits plus 10% interest; and $67.20 in reimbursement plus 10% interest. The Respondent shall also pay to the State Department of Labor $833 as reimbursement for unemployment compensation benefits.

CHRO ex rel. Illingworth c. City of New Haven PD 9130299 2/24/97
Memo Adams
Facts: The Complainant alleges that she was wrongfully prevented from working at full duty status on a perception that her visual impairment necessitated such light duty in violation of CFEPA. While working as a police officer, the Complainant' retina was detached while she restrained a suspect. The retina required surgery, but was successful and the doctor allowed the Complainant initially returned to desk work and full duty status once she obtained a satisfactory contact lens for her eye. Subsequently, the Complainant underwent treatment for cancer. At this time, the new administration eliminated all "permanent light duty" positions. The Complainant received the appropriate medical certifications allowing her to return to full duty status, but was not reassigned to full duty status. Additionally, the Chief of Police made degrading statements and threatened to have her removed from duty permanently because she is "blind." Held: Using the direct evidence theory, the Complainant proved a prima facie case. The Respondent was not able to provide any credible evidence that of any BFOQ that the Complainant was deficient in but rather the evidence shows that the Respondent endured harassing and discriminatory treatment. Similarly, if the disparate treatment analysis were used, the result would be the same, with the Complainant being able to prove that the drawn-out investigation into her medical condition was a mere pretext for discrimination. The Respondent shall pay to the Complainant a total of $19,692.75 in lost wages, full pay for 13 sick days, full pay for 5 "C" days, full pay for two weeks of vacation and full pay for lost overtime for almost two years. In addition, the Respondent shall also reimburses the Complainant for medical and psychotherapy bills in the amount

of $4,573.99, and interest at the rate of 10% on these reimbursements and back wages. Further, Respondent shall cease and desist from discriminatory practices and not retaliate against the Complainant. Complainant's request for emotional distress damages and attorney's fees is denied as not authorized under the case law.

CHRO ex rel. Smith v. DOT 8940128 2/28/97
Memo-Damages Pearl

Facts: This decision solely concerns the damages awarded in a public hearing that was bifurcated. Liability was found by the hearing officer in a decision dated September 22, 1995. Held: The Complainant would have been promoted to Captain effective 1/1/93 and accordingly is awarded back and front pay including overtime, paramedic bonuses, crash truck premiums, shift differentials and reimbursement for insurance co-pays, training courses and shoes. In addition, the Complainant shall be offered the next immediate opening for a Captain and all front and back pay and mitigation calculations shall be made only until the date of that first opening. If the Complainant is unable or unwilling to accept the first appointment she shall retain the right of first refusal for the next two succeeding openings. If she declines all three, her right to said position shall be deemed waived. Her seniority date is also adjusted. In lieu of a consideration of interest, the Complainant shall retain her pension rights from a different job.

CHRO ex rel. Hyde v. Town of East Hartford 9340119 3/10/97
Memo Adams

Facts: The Complainant alleges that he was retaliated against and denied a promotion due to his marital status (single), age (33) and prior complaint of workplace discrimination. The Complainant filed an earlier complaint alleging that the Respondent did not allow the Complainant to take a promotional examination due to his age (29) and marital status (single), as of the hearing that complaint was still outstanding. The Complainant was later allowed to take the exam where he placed third out of ten but was repeatedly passed over for promotion until the list expired. The Complainant took the exam again, placed fifth on the list and was promoted into the desired position thereafter. The Complainant also allegedly had attitude problems, especially in dealing with the Chief. Held: The Complainant fails to prove a prima facie case with respect to the allegations of age or marital status, accordingly, those allegations are dismissed. Using the disparate treatment analysis for the retaliation claim, the Complainant established a prima facie case. The Respondent, however, offered legitimate, non-discriminatory reasons for his non-promotion, including the fact that he was eventually promoted with a pending CHRO complaint. The Complainant was not able to prove the Respondent's reasons were pretextual and therefore the entire complaint was dismissed.

CHRO ex rel. Hanif v. Aetna 9210394 3/21/97
Memo Lifton

Facts: The Complainant filed a complaint alleging the Respondent illegally denied him a promotion and terminated his employment on the basis of his religion (Muslim), race

(Black) and sex (male) in violation of CFEPA and Title VII of the Civil Rights Act. Due to an company-wide reorganization, the Complainant was notified that his position was to be eliminated. The Complainant applied for a similar recreated position but was not chosen; another black male employee ultimately filled the position. The Complainant did not choose to post for other available Aetna positions, but was interviewed for another position for which he was not selected. Held: Since the sex discrimination claim was not briefed by Complainant/Commission, it was considered abandoned. The Respondent's first special defense of lack of subject matter jurisdiction based on the timeliness of the filing of the complainant (i.e. within 180 days of the adverse employment act) is overruled. The Complainant's "clear and unequivocal notice of termination" was the date that he was actually terminated, not the date he was notified he may be terminated and should start searching for another job. Also since the Respondent encouraged the Complainant to utilize an internal dispute resolution process concerning his termination, the Respondent is estopped from claiming that the Complainant's filing was untimely. Using the disparate treatment analysis, the Complainant/Commission is unable to present a prima facie case because he meet the fourth requirement since the position was filled by someone from the same protected class. The Complainant also cannot show that it was under circumstances which give rise to an inference of discrimination, especially because the decision-maker did not even know that the Complainant was Muslim. The case was accordingly dismissed. Addendum has editorial comments about corporate negligence and insensitive treatment of employees.

CHRO ex rel. Wilhelm v. Sunrise Northeast, Inc. 9340562
3/21/97 Memo Harris
Facts: The Complainant filed a complaint alleging that he was subjected to unequal terms and conditions of employment because of his sexual orientation and as a result of such mistreatment was constructively discharged. Complainant worked as a training instructor in a group home and was accused of sexually assaulting one of the patients. Because of the accusations Complainant was unable to sleep and too frightened to return to work. He sought a transfer to another home, but there were no available positions. The Complainant also filed a union grievance concerning the accusations. Since he felt it was unsafe to return to the group home and was not able to transfer, the Complainant resigned. Held: The direct evidence theory is inapplicable because its standards were not met by the evidence presented at hearing. Using the disparate treatment theory, the Complainant failed to present a prima facie case because he failed to show that he was targeted for investigation of the sexual assault merely due to his status as a homosexual. The evidence showed that there were many reasons why the Complainant was interviewed, namely, his close affiliation with the prime suspect and his physical presence at the group home at the time of the sexual assault. Additionally, the Complainant failed to prove that the circumstances surrounding his resignation rose to the level of constructive discharge judged by the standard of a reasonable person. Furthermore, under a "mixed motive" analysis, the Complainant may be able to establish a prima facie case, but the Respondent can prove by a preponderance of the evidence that the Complainant would still have been interviewed. Accordingly, the case was dismissed.

CHRO ex rel. Marshall v. Windsor Hall Convalescent 9310478 4/8/97
Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall cease and desist from any further discriminatory practice and pay to the Complainant $36,578.30 in back pay plus 10% interest and $19,066.08 in medical insurance benefits plus 10% interest. The Respondent shall also pay to the State Department of Labor $71 as reimbursement for unemployment compensation benefits.

CHRO ex rel. Chan v. Roy Rogers Restaurant 9620006 4/8/97
Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall pay to the Complainant $2,816 in back and front pay.

CHRO ex rel. Taylor v. Days Inn Hotel 9620511 5/9/97
Memo via Default Daly
Facts: At a duly noticed hearing in damages, neither the Complainant nor the Respondent appeared. Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall cease and desist from any further discriminatory practice and is prohibited from retaliating against the Complainant.

CHRO ex rel. Dacey v. Borough of Naugatuck 8330054 6/24/97
Memo-Damages Heagney
Facts: The hearing officer found in an earlier Memorandum of Decision (March, 2, 1993) that the Complainant had been the victim of illegal discrimination based on age and relief was ordered. An appeal of that decision was taken by the Commission and Complainant to the Superior Court. The Court found the issues in favor of the Complainant and remanded the case for further proceedings. Thereafter, an appeal of the decision of the Superior Court was taken by the Respondent to the Appellate Court dismissed the appeal, ruling that the decision was not ripe for adjudication since the Superior Court's order directed the CHRO's Hearing Officer to make further evidentiary findings. This decision finds three specific facts ordered to find on the remand from the Superior Court. Held: The Respondent shall cease and desist from enforcement of the subject maximum age restriction for application for employment and ordered to amend the Police Department's Rules accordingly. The Respondent shall pay to the Complainant an amount equal to her back pay less interim earnings for a specific period of time; the Respondent shall pay to the Complainant an amount equal to the unreimbursed medical or dental expenses incurred by Complainant that would have been covered by the insurance offered by the Respondent; the Respondent shall pay costs and/or expenses incurred by the Complainant/Commission; the Respondent shall pay the

these three items with 10% simple annual interest. The determination of the actual amount of these awards was to be an administrative task to be completed between the parties.
***Appealed and Remanded to HRR Wilkerson (Decision 8/10/99)
***Appealed again - pending

CHRO ex rel. Vigil v. Building Maintenance Corp. 9210556 7/3/97
Memo Adams
Facts: The Complainant filed a complaint alleging that he was illegally terminated from his employment on the basis of his age. He was replaced by two significantly younger (15 and 23 years younger) employees in his job as supervisor of a cleaning crew and received a lay-off notice citing "lack of work" as the reason for the termination. Held: Using the McDonnell Douglas burden-shifting analysis, the Complainant presents a prima facie case. The Respondent attempted to offer four legitimate, non-discriminatory reasons for the Complainant's termination which the Hearing Officer found highly suspect. The Complainant was able to prove that the proffered reasons were, in fact, pretextual and found for the Complainant. The Respondent was ordered to pay the Complainant his weekly pay for the preceding five years, adjusted by 6% annually (his prior average raise) less amounts earned in mitigation. The Respondent shall also reinstate the Complainant to his former position as supervisor with according pay, medical and/or dental coverage, pension and tenure rights. Respondent shall also cease and desist from discriminatory acts based on age, not retaliate against the Complainant in any way and post CHRO anti-discrimination posters in conspicuous locations in each of Respondent's locations.

CHRO ex rel. Fryer v. RFR Realty 9610105 7/3/97
Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall pay to the Complainant $1,299.50 in net lost income, including payment for earned vacation pay unpaid by the Respondent, less mitigation.

CHRO ex rel. Hughley v. City of Hartford, DPW 8910224 7/24/97
Memo Adams
Facts: The Complainant, a black, African American male, alleges that the Respondent treated him differently than similarly situate white co-workers in that they were not terminated for offenses similar to those that caused the Complainant's termination. Held: Under a disparate treatment analysis, the Complainant proves a prima facie case. The Respondent then articulated numerous non-discriminatory reasons for the termination including fighting on the job, physically threatening his supervisor and excessive tardiness and absenteeism. The Complainant failed to show that these reasons were pretextual and accordingly, the complaint was dismissed.

CHRO ex rel. Levine v. U.S. Postal Service 9710268 8/20/97
Memo via Deafult Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall cease and desist from any further discriminatory practice and pay to the Complainant $14,560 in back pay plus 10% interest.

CHRO ex rel. Perez v. State of CT, DMH 9140290 8/27/97
Memo Kotowski
Facts: The Complainant filed a complaint alleging that that the Respondent illegally discharged her from employment due to her disability. Complainant sustained a serious injury to her arm during the course of her duties as a mental health worker. After surgery and disability leave, Complainant returned to work with a medical release with specific restrictions and therefore could not "float" to any ward as was Respondent's policy. In accordance with state personnel policy, the Department of Administrative Services conducted an unsuccessful search for a less arduous position. As no other suitable position in state service was found, the Complainant was discharged. Held: Express discrimination is legally permissible if it is based on a bona fide occupational qualification (BFOQ). In this case, the Respondent proved, by a preponderance of the evidence, that the physical demands of the job that the Complainant could not meet, were in fact a BFOQ. Additionally, since the Complainant was not "otherwise qualified" the Respondent had no duty to provide a reasonable accommodation. Accordingly, the complaint is dismissed.

CHRO ex rel. Parks v. Deckel Maho et al. 9530040 9/23/97
Memo via Default Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall cease and desist from any further discriminatory practice and pay to the Complainant $42,510 in back pay plus 10% interest. In addition, the Respondent shall expunge from any and all records information detrimental to the Complainant resulting from the conduct complained of in her complaint. The order was amended to add that the Respondent shall pay to the Commission, who in turn will pay to the appropriate agency, $7,488 as reimbursement for unemployment compensation.

CHRO ex rel. McDougall v. Textron Lycoming 9320453 10/6/97
Memo McNeill
Facts: The Complainant brings this action alleging discrimination based on physical disability and age under both state and federal law. Complainant received an injury at work which required him to be out for 2 separate periods of approximately 7 months and 16 months, respectively. The Complainant asked for and was denied the installation of a CRT tube in his home to allow him to access the Respondent's main frame computer, an accommodation made for other employees. At his doctor's suggestion, the Complainant requested a reduced work schedule, a medical parking space, an office on the first floor,

and an orthopedic chair. He received the parking space, was provided with work space on the first floor and received the chair 6 months after his return to work. His supervisor asked him to reschedule his medical appointments outside of working hours and to not take off extended periods of time. The Complainant's job was eliminated as part of a Reduction in Force. Held: (I) Respondent claims that the Complainant failed to file his complaint within the 180 day filing period and therefore the complaint should be dismissed. Since the disability discrimination claims constitute a Continuing violation claim until the last day Complainant worked, the complaint was timely filed. (II) As to the issue of age discrimination, the hearing officer finds that the Complainant has failed to offer supporting evidence on this basis and therefore not met his burden of proving Respondent discriminated against him. (III) As to physical disability, using a disparate treatment analysis, the Complainant does not prove a prima facie case because he cannot prove that he was qualified to perform the essential functions of the job because of his lack of regular full-time attendance at work. Further, all reasonable accommodations requested were provided by the Respondent. And, assuming arguendo, the Respondent has a legitimate, non-discriminatory reason to rebut the presumption of discrimination, namely the guidelines set forth in the RIF. Therefore, the complaint was dismissed.

CHRO ex rel. Philip Colon, Jr. v. UPS 9710262 10/10/97
Memo via Default Daly

Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall cease and desist from any discrimination and retaliation against the Complainant for filing his complaint. The Respondent shall permanently expunge from the Complainant's personnel file its Notice of Reduction in Grade, Notice of Letter of Indebtedness and performance appraisals of November 14 and December 1, 1996 and shall also cease the collection actions against the Complainant. The Respondent shall pay to the Complainant $7,976.29 in back pay and $238,678 in loss of future earnings and $120,000 as loss of retirement benefits.
** Note this ruling was overturned by U.S. District Court Judge Arterton on the basis of lack of subject matter jurisdiction (August 1999).

CHRO ex rel. Ramos v. Futuramik Industries, Inc. 9210532 11/10/97
Memo Holtman

Facts: The Complainant alleges she was illegally terminated on the basis of her age in violation of CFEPA and the ADEA. The Complainant worked for the Respondent during the day and worked for a cleaning contractor in the evenings. The Complainant fell down at the Respondent's worksite and also while on the job at the cleaning contractor. The Complainant allegedly tried to claim workers' compensation benefits from both jobs' insurance carriers and was terminated from the Respondent's employ on that basis for "willful misconduct." The Complainant alleges that she was the oldest employee of the Respondent by far and that she was referred to as "old lady." Held: Using a disparate treatment analysis, the Complainant produced a prima facie case. The Respondent's legitimate, non-discriminatory reason was the alleged workers' compensation fraud.

However, the evidence is not sufficient that Respondent's reason was pretextual and accordingly, the case was dismissed.

CHRO ex rel. Clark v. Together Dating 9510422 11/18/97 Memo Ciccarillo

Facts: The Complainant received a bulk mail solicitation addressed to "single occupant". Thereafter, the Complainant and Commission filed a complaint alleging that the Respondent discriminates in providing dating introductions on the basis of sexual orientation (i.e., no homosexual introductions). The Complainant, however, never sought and was therefore never denied services of the Respondent to be matched with a woman, or with a man. Held: The Complainant lacks standing to pursue the complaint be cause not "aggrieved" under CT's public accommodations law. Assuming, arguendo, that the Complainant did have standing, the claim would still fail because the Respondent is not a place of public accommodation, because although it advertises to the public at large, only approximately 50-70% of its applicants eventually become members. Accordingly, the case was dismissed.

1996 Case Summaries

CHRO ex rel. Carolan v. Sheraton 8810278 Memo of Dec 12/20/96 Monahan

Facts: The Complainant alleges that she was sexually harassed by her supervisor and retaliated against for filing a sexual harassment complaint with corporate headquarters. The Complainant claimed that while away on an out-of-state training seminar, her supervisor propositioned her, which she refused, then later fired her, after she filed an in-house complaint. Held: The Complainant's termination resulted from a variety of performance-related problems that by her own admission she was unable to correct. As for the retaliation claim, the Complainant was unable to show that there was a causal connection between Complainant's rejection of her supervisor's sexual advance or her complaint to the human resources department and her termination. Accordingly, her case was dismissed.

CHRO ex rel. Fernandez v CIGNA 8610332 Memo of Dec. 12/23/96 Acosta

Facts: The Complainant alleges the Respondent illegally terminated his employment on the basis of his race (Hispanic) and national origin (Cuban) in violation of CFEPA and Title VII of the Civil Rights Act. Held: (I) The complaint amendment adding race as an additional ground was reasonable and properly admitted by the hearing officer. (II) The Respondent's motion to dismiss was denied because CHRO retained jurisdiction over this complaint, notwithstanding that it was not "resolved by July 1, 1992" pursuant to 46a-82a, due to the reasoning enunciated by courts in Truelove and Bridgeport Hospital.

(III) Using the direct evidence theory, the Complainant is unable to present a prima facie case because he is not able to prove that his termination was motivated by discriminatory animus. (Stray remark of "try English" is inartful but not prove existence of animus.) Using the disparate impact analysis, the Complainant proves a prima facie case. The Respondent offered evidence that the Complainant was terminated because he failed to successfully complete three of the six tasks assigned to him in his probationary period as its legitimate non-discriminatory reason. The Complainant suggests that the Respondent supervisor was not supportive of his efforts to learn, made a negative comment and was not evaluated in a timely manner. These reasons were not found to be sufficient to rebut the Respondent's legitimate business reason of Complainant's poor performance for his termination. (IV) Furthermore, even if the Complainant had been successful in his complaint, emotional distress damages and attorney's fees could not have been awarded due to the holdings in Bridgeport Hospital and Truelove. The complaint was accordingly dismissed.

CHRO ex rel. Codrington v City of Bridgeport 9320270 Memo of Dec. 12/24/96 Berke-Schlessel

Facts: The Complainant, an African American woman, alleged she was treated differently due to her race than a similarly-situated white employee in that she was suspended for a longer period of time for actions which were authorized by her supervisor. Held: Under the disparate treatment theory, the Complainant presents a prima facie case of discrimination in discipline. Respondent articulated a legitimate, non-discriminatory reason, namely violating a policy which was more serious than the one violated by her white counterpart. The hearing officer found that the reason was pretextual in that her supervisor admitted he gave her permission to violate the policy, in fact, violating the policy was meant to safeguard the safety of all employees in the office. The Respondent shall pay the Complainant $1336.35 plus statutory interest to cover the days she was out on suspension. The Respondent shall also reimburse the State Department of Labor $1400, the amount of unemployment compensation the Complainant received while she was suspended. Respondent shall also rescind the Complainant's suspension from her personnel file, cease and desist from further discriminatory practices and not retaliate against the Complainant or any person who took part in this matter on her behalf.

** Order revised on 1/25/97 pursuant to a petition for reconsideration to require the Respondent to reimburse the Department of Labor for $1440 (not $1400) and must further pay the Complainant $1,178.16 which represents the Complainant's pay for the duration of the hearing.

CHRO ex rel. Shaw v. CIGNA 9010101 Ruling on Motion to Dismiss 12/4/96 Harris

Facts: The Complainant filed a complaint alleging discrimination based on Complainant's race (African American) and color (black) when the Respondent deprived her of training and adequate supervision as a paralegal thus causing her problems in her work and effectively causing a constructive discharge. After 10 days of public hearing,

the Respondent filed a motion to dismiss for failure to prove a prima facie case of race discrimination, including failure to prove constructive discharge. Held: (I) The hearing officer has the authority to rule on all motions presented at hearing under Sec. 46a-54-103, also under 46a-86© it is illogical to require all the evidence of a case to be presented if a prima facie case has not been proven, in fact it would usurp the rights of A Respondent to file a motion to dismiss. (II) Using the burden-shifting analysis of McDonnell Douglas, Complainant cannot prove that she was qualified for the position, even with significant efforts at training by Respondent. Also, that there was insufficient evidence to support an inference of racial discrimination. (III) Furthermore, when she realized she wasn't able to learn the requisite skills, she voluntarily quit and was therefore not constructively discharged. Accordingly, the Motion to Dismiss was granted and the case was dismissed.

CHRO ex rel. Genovesi v. MDC 9110004 Memo
10/3/96 Holtman

Facts: A "final decision" dismissing the complaint was rendered by HO Kotowski on 4/11/94. Thereafter, the Commission appealed to the Superior Court and the Court remanded the matter with orders to vacate the decision dismissing the complaint and designate a new presiding officer render a new decision not inconsistent with the decision of the Superior Court. The Court found that the "disparate treatment" analysis was applied erroneously and that the standards applicable for a claim of overt discrimination should have been applied instead. The Complainant filed a complaint alleging the Respondent illegally terminated his employment based on his physical disability, namely a seizure disorder (epilepsy and polycystic kidney disease). Held: Using the direct evidence theory, the Complainant shows that he was overtly discriminated against on the basis of his disability. The Respondent then attempts to offer both a legitimate, reason which, by itself, would have led to the Complainant's termination, and a defense that freedom from epileptic seizures was a BFOQ. As for the former, the HO found that Respondent's reason for termination, specifically that the Complainant failed to produce a required medical form by a date certain, is not supported by the evidence. As to the BFOQ defense, it likewise was not supported by the evidence because the Complainant was sufficiently seizure-free with medication to not be a safety risk. The Respondent shall reinstate the Complainant to his position of plant operator with the proviso that the Respondent may conduct an individualized examination/evaluation of Complainant's health to determine whether accommodation might be indicated. The Respondent shall cease and desist from further discrimination, and disclose to the Commission all medical criteria it uses in evaluating persons for employment for a period of three years. The Respondent shall pay to the Commission $60,874.02 with 6% interest in payment of net loss of earnings after deducting mitigating amounts (self-employment earnings, health insurance COBRA payments and expenses incurred for his medical expert). The Commission shall reimburse the Employment Security Division for the actual unemployment compensation benefits received by the Complainant.

CHRO ex rel. Fearing v. Bob's Transmission 9410023 Memo via Default 9/9/96 Daly

Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall pay to the Complainant $84 for his one day of work plus $2,741in back pay plus 10% interest.

CHRO ex rel. Red v. CT Dept of Retardation 9540035 Memo 7/22/96 Ciccarillo

Facts: The Complainant alleges that after two terminations, two CHRO complaints and two reinstatements of employment, based on his race (African American), color, sex (male) and retaliation for protected activity, he was the subject of a special, disparate scrutiny. Held: Specific allegations of sexual harassment were withdrawn

CHRO ex rel. Carraway v State of Connecticut, Commission on Alcohol and Drug Abuse 9240537 Memo 7/22/96 Acosta

Facts: The Complainant filed a complaint alleging that the Respondent failed to grant her a light duty position during her pregnancy and later amended it to include allegations of sex discrimination and retaliation. During the course of Complainant's pregnancy the Complainant injured her back in the course of duty and received workers' compensation benefits. Respondent accommodated her in a light duty position and reduced schedule, however, after giving birth, similar positions were not available for the Complainant. Held: A. Pregnancy Discrimination (I) The Complainant failed to prove a prima facie case because she did not prove that the position to which she wished to be assigned was a suitable temporary position within the meaning of §46a-60(a)(7)(E) because she could not perform all of its duties in a manner which suited the Respondent's needs, pursuant to the holding in Fenn Manufacturing. (II) The Complainant successfully proved a prima facie case since the Respondent failed to find a suitable temporary position to which she could be transferred. The burden then shifted to the Respondent to show that it had a legitimate business reason for its action. The Hearing Officer found that the Respondent, in fact, made a reasonable effort to find a suitable temporary position during the relevant time period, however,, none were available, due in large part to financial crises facing the state. Since the Respondent's efforts were reasonable and the Complainant did not show them to be pretext for discrimination, Complainant's claim of pregnancy discrimination was dismissed. B. Sex Discrimination. The Complainant established a prima facie case because she is a member of a protected class (Black female); she requested a modification of her job duties; and the request was initially denied. Only two other similarly situated employees had requested job modifications, one was a White male and the other a Black female, both of whom were accommodated. The Complainant was ultimately accommodated under the same basic terms as the other two employees but not in the same timely manner. The burden then shifted to the Respondent who stated that it had bad prior experiences with offering light duty assignments because it needs its officers available for their full range of duties. The Complainant was not able to prove

that Respondent's reason was pretextual so this claim was also dismissed. C. Retaliation. The Complainant failed to establish a causal link between her removal from the second shift and her filing of several discrimination complaints and a grievance. She is therefore unable to prove a prima facie case and accordingly, the remainder of the complaint was dismissed.

CHRO ex rel. Courtemanche v. Gromtec Mfg., Inc. 9640024 Memo via Default
6/13/96 Daly
Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA. Held: The Respondent shall pay to the Complainant $6,962.40 in back pay and lost wages plus 10% interest and $5,725.32 in front pay because reinstatement is inappropriate. The Respondent shall pay to the Commission, who in turn will pay to the appropriate agency, $2,322 as reimbursement for unemployment compensation.

CHRO ex rel. Crawford v. Kent Management 9210154 Memo
7/5/96 Ciccarillo
Facts: The Complainant alleged the Respondent constructively discharged him on the basis of his race (African-American), color and sex (male). Complainant alleged that the Respondent preferred to schedule women to work the lunchtime bartending shift and hired Caucasian bartenders at the time Complainant was being removed from the bartender rotation. Held: Using a disparate treatment analysis, the Complainant is a member of a protected class, was qualified to be a bartender, and suffered an advers employment decision (removal from the bartender rotation), though these circumstances did not support a claim for constructive discharge. The fourth element of a prima facie is met by the inference drawn by the Respondent's removing the Complainant from the bartending rotation at the same time as hiring additional Caucasian bartenders. The Respondent articulated a legitimate, non-discriminatory reason, namely that the Complainant was periodically too slow in his work as a bartender, especially for the upturn anticipated upon the imminent opening of an expanded facility. The Complainant did not prove that this reason was pretextual and there was no reason to second-guess management's assessment of Complainant's ability in the context of its changing needs. Also, with regard to the scheduling of lunchtime shifts, the Complainant admitted that he worked several lunchtime shifts and then expressed a preference for more nighttime hours. Further the stray racial remarks, in their context, were not believed to have been offensive to Complainant, but more importantly they were not related to the adverse employment action. Accordingly, the complaint was dismissed.

CHRO ex rel. Brown v State of Connecticut, DOT 9240473 memo to dec.
5/23/96 Lifton
Facts: The Complainant alleged that he was discriminated against on the basis of his race in the denial of taxicab permits and that he was retaliated against by the Respondent for complaining about this alleged discrimination in violation of state law. The Complainant is not an "employee" of the Respondent as defined by state statute, however, was an

applicant for a state license and as such was protected by 46a-73. Respondent's argument that Complainant's exclusive remedy is an administrative appeal of his denial of his denial of taxicab licenses was found to be without merit and the hearing officer therefore has jurisdiction to hear the allegations of race discrimination, not additional certificates to operate taxicabs. Held: Using the three-prong structure to prove race discrimination, the Complainant is a member of a protected class (African American) and he applied for licenses and was denied while Caucasians were granted certificates during the same time period. The hearing officer was not possible to determine whether the Complainant met the basic qualifications for licenses under DOT regulations or whether he was treated fairly in the administrative processing of his request because no such regulations were submitted into evidence and the hearing officer will not substitute her judgment for that of the DOT hearing officer. There was no evidence that showed that the Complainant was specifically discriminated against in his denial of licenses and therefore did not meet the fourth prong of the prima facie case. Similarly, the Complainant was unable to prove a causal connection between his filing of complaint and his denial of the licenses. His complaint was therefore dismissed.

CHRO ex rel. Thomas v. R.A. Lalli Co. 9520527 Memo via Default
4/22/96 Daly

Facts: Due to the entry of a default order, the Respondent is adjudged to have violated CFEPA**. The Complainant was awarded $804.43 as reimbursement of expenses for attending the default hearing scheduled for 7/19/95 to which the Respondent requested and was granted a continuance. The second default hearing was held on 12/4/95. Held: The Respondent shall pay the Complainant $22,585 in back pay, $1,441 for 10% interest on the back pay and $8,502 as reimbursement for unemployment compensation.
**this case is on appeal.

CHRO ex rel. Kochey v Eastman Kodak Company 8310319 Memo of Dec.
5/1/96 Shedd

Facts: The Complainant alleged that the Respondent failed to accommodate her physical disability (hyperactive airways disease) and terminated her employment because of her disability in violation of state law. Held: With respect to Respondent's affirmative defenses, the Complainant's claims are not barred by the doctrines of res judicata and collateral estoppel; the settlement entered in the Complainant's workers' compensation claim against the respondent does not bar the claims of discrimination before the CHRO; the Complainant's claims are not barred pursuant to 46a-82a because the complaint was not resolved by July 1, 1992; the Complainant's claims are not for personal injuries arising out of and in the course of her employment requiring preemption by CT's Workers' Compensation Act; and the Respondent's defenses pertaining to the propriety of the Commission's prehearing findings and procedures are not properly before the hearing officer. With respect to the final decision, the Complainant suffered from a physical handicap as defined in 46a-51(15). Using the direct evidence test, the Complainant proved that she was placed on extended sick leave and then terminated because of her physical disability. The Respondent did not prove a BFOQ requiring the

Complainant to be placed on sick leave or terminated (the ability to work in a smoke-filled environment is not a BFOQ.) Although not specifically stated, analogizing to federal law, the state law requires reasonable accommodation of a disability. The only accommodation that would have helped the Complainant was to require her co-workers to stop smoking at their desks I order to provide a smoke-free environment, however, their views as to that possibility were never solicited. Furthermore, prohibiting smoking at the Farmington facility was a reasonable accommodation that would not have caused the Respondent undue hardship. Although the Complainant did not work after she was terminated, she did not prove that her inability to work was caused by the Respondent's actions but may have been caused by other intertwined longstanding psychiatric problems, complex medical situation and other exposure to irritants. A claim for emotional distress damages and attorney's fees was denied based on Bridgeport Hospital. The Respondent was ordered to cease and desist all discriminatory actions, completely familiarize itself with state and federal anti-discrimination statutes, post information about these forbidden practices throughout its offices and plants and expunge any detrimental information concerning the Complainant from all record.

CHRO ex rel. Manuel v State of Connecticut, DOC 8640112 Supplemental Memo
3/19/96 Kone

Facts: This memo amends and supplements a memorandum of decision rendered by the hearing officer on 8/9/95. Held: The Respondent shall pay to the Complainant $120,049.65 in lost wages plus interest. The 8/9/95 decision remains in full force and effect as to all other respects.

CHRO ex rel. Bilodeau v. United Technologies, Pratt & Whitney 9230115 Memo
4/8/96 O'Rourke

Facts: The Complainant alleged that the Respondent provided a sexually hostile work environment in violation of state law and Title Vii of the Civil Rights Act of 1964. There was a printed card stating "I like oral sex, it's the phone bills I hate" posted in her department and numerous Snap-On Tool calendars promoting tools modeled in photographs by women wearing bikinis. The Complainant also testified that several employees had nude pictures of women displayed in their toolboxes which were the employees personal property. Also, the Complainant testified to numerous incidents she perceived as facially hostile or intimidating such as the mimicking of oral sex on a banana and other ribald acts and comments. The Complainant did not file a grievance protesting the alleged sexual harassment, even though she was a union steward. She did, however, report it to the Respondent, who, in turn, investigated the same and ordered the removal of the aforementioned calendars and reiterated the Respondent's anti-sexual harassment policy. Held: This hearing bifurcated was bifurcated to address the issue of liability first and damages only if liability were found. Although the Commission argues that the Complainant need not prove that the work environment was objectively hostile (citing the legislative history), the hearing officer disagreed and ruled that the statutory interpretation should be guided by the federal standard. The Complainant did not prove that she subjectively perceived the Respondent's work environment as sexually hostile,

thus does not make out a prima facie case of sexual harassment. Even beyond the issue of subjective perception, she did not prove her claim under the other necessary elements articulated under federal case law because she failed to prove that the conduct was sufficiently severe or pervasive so as to alter the conditions of employment. Further, the Complainant failed to establish respondeat superior liability because the Respondent provided multiple avenues for complaint and took reasonable and appropriate steps to investigate and resolve her expressed concerns. Accordingly, the complaint was dismissed and the decision rendered in favor of the Respondent.

CHRO ex rel. Timmons v. United technologies Corp., Sikorsky Aircraft 9220420 Memo 1/29/96 Holtman

Facts: The Complainant alleged that he was denied a promotion under the collective bargaining agreement because of his race and color in violation of state law and Title VII of the Civil Rights Act of 1964. Held: Although there is no shred of evidence that Respondent's failure to promote him was racially motivated, using a disparate treatment analysis, the Complainant failed to make out a prima facie case. The Complainant did not show that he was qualified for the promotion, in fact, he was a marginal employee in terms of performance, attendance and cooperation. Accordingly, the complaint was dismissed.

CHRO ex rel. Mullings v. Saint Francis Hospital 9010159 Memo 1/17/96 McNeill

Facts: The Complainant alleged that she was denied a promotion and constructively discharged based on her race, color (black) and marital status (married) in violation of state law. She claimed that she was not allowed to interview for the position of head nurse because the supervisor had already decided on another (white) candidate for the opening. Held: On the jurisdictional issue, no specific statutory language in 46a-82 requires dismissal of matters pending before January 1, 1990, if not resolved by July 1, 1992. On the discrimination claim, using the disparate treatment analysis, the Complainant put forth a prima facie case. She was a member of a protected class(es); she was qualified for the position; the position was filled by a person who was white and single; and the Complainant applied for the position. The Respondent puts forth essentially unbelievable and pretexual reasons for not interviewing the Complainant regarding qualifications of both applicants and the timeliness of the Complainant's application. The two applicants were similarly qualified, in fact, the hearing officer found that the Complainant had more relevant experience and the Respondent advanced conflicting reasons as litigation progressed to explain not promoting the Complainant. Furthermore, if Complainant's application was late it was due to the fact that her supervisor withheld it and prevented her from applying in a timely manner. Discriminatory motives may be inferred because no credible reasons for bypassing and blocking the Complainant were set forth, and that the Respondent had no African American head nurses in its employ. The stray racially discriminatory statements alone do not prove discrimination but they add to evidence of discrimination when sufficiently related to the decision process, such as Complainant's supervisor referring to her as a

"black bitch." The Complainant also proved her case of constructive discharge because she was asked to help train the successful applicant for the position she wanted; she was offered the successful applicant's former position which would have been a demotion; and she was told to shut up and not make trouble which was sufficient to create an atmosphere of personal oppression and intolerable working conditions. The Respondent is to cease and desist all discriminatory practices against racial minorities and married individuals seeking employment opportunities and promotions. The Respondent shall also document its future efforts to consider qualified candidates from such protected classes as this Complainant. The Respondent shall pay the Complainant $91,755 as wage differential for 1989-94, plus $20,300 the reasonable estimated wage differential for 1995. In addition, Respondent shall reinstate the Complainant to the position of Head Nurse or upon agreement make arrangements for front pay differential in lieu of reinstatement.

CHRO ex rel. Advani v. Ernest & Young 9220359 Memo
1/5/96 Monahan

Facts: The Complainant alleged that she was terminated in violation of state law based on her age, 47, and her ancestry, Indian. Held: Using the direct evidence model, the Respondent made direct negative, discriminatory statements about Complainant's ancestry and age. Also, using the disparate treatment analysis, the Complainant proved a prima facie case because she is a member of a protected class, was qualified for the job, was terminated while other not of her protected class were not terminated. The Respondent claimed that the Complainant was fired for performance problems but failed to produce sufficient evidence. The Complainant successfully proved that Respondent's reason was pretextual and met her burden of persuasion that her discharge was motivated, in part, by an intent to discriminate. The Respondent shall pay to the Complainant back pay plus interest at the rate of 10%; reimburse her for $450, the cost of her renewal of her CPA license, and $640 the cost of required continuing education classes; reimburse her $175, the cost of resume preparation and $374.60, job search expenses; and reimburse Complainant in amount of unvested 401K plan plus $67.50 in medical expenses incurred after termination. Attorney's fees and emotional distress damages are not awarded due to Bridgeport Hospital v. CHRO.

CHRO ex rel. Sheridan v. Wallace Ventures 9110227 Memo of dec
1/19/96 Sinclair

Facts: Complainant alleged that she was terminated on the basis of her perceived physical disabilities (cerebral aneurysm and chronic back problems) and age (60) in violation of 46a-60(a)(1) and the Rehabilitation Act of 1973, as amended. Held: Using the disparate treatment analysis, the Complainant is a member of a protected group due to her age and physical or perceived disabilities; she was qualified to perform the job; and although she was terminated based on the reason of "downsizing", her position was not eliminated, but was filled by a younger employee who was not disabled. The Respondent offered a great deal of testimony about the worsening financial condition of the Respondent's business and its continued efforts and cost-saving, including Complainant's

termination as its legitimate non-discriminatory reason. In rebuttal, the Complainant/CHRO focused on the timing of Complainant's termination ,i.e., one week after her request for time-off due to hospitalization for back problems. However, the testimony presented was not credible. Similarly, as to the age claim, there was insufficient testimony to indicate that age played an impermissible role in the Complainant's termination and accordingly the complaint was dismissed.

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CHRO ex rel. Lewis v. Ames Department Store 9210292 11/8/95
Adams Memo

Facts: The complainant, a black male, alleged that he was discriminated against on the basis of his color when he was terminated. The respondent alleged that his position of assistant buyer was being terminated for lack of work but when the work picked up, the complainant was not recalled, despite representations to the contrary. Held: The complainant met his burden of proving a prima facie case. The economic downturn and resulting bankruptcy of the respondent, however, were legitimate non-discriminatory reasons for the complainant's layoff. There were a variety of incidents and factors which taken together show that the general layoff was indeed a pretexual reason for terminating the complainant. Damages and attorney's fees are not expressly authorized by statute, so none may be awarded. The Respondent shall reinstate the complainant forthwith at a rate of pay commensurate with the median assistant buyer; his medical and/or dental coverage as provided to other employees shall also be reinstated; and his complete pension and tenure rights shall be reinstated as if he had been consecutively employed since his initial hire date. The Respondent shall pay to the Complainant $71,774 for back pay plus interest, $7,716 in medical insurance premiums and shall cease and desist from the discriminatory practices, post anti-discrimination posters and not retaliate against the Complainant.

CHRO ex rel. Dennen v. Superbin USA, Inc. 9230020 9/19/95
Adams Memo

Facts: The Complainant alleged that she was illegally terminated from her employment as a sales operations manager on the basis of her sex, female. Held: The Complainant proved a prima facie case. The Respondent alleged that she was terminated because of poor work habits and lack of loyalty, however, the Complainant proved that she was subjected to discriminatory harassment and replaced by a male. The Respondent shall pay to the Complainant $110,921.98 for back pay plus interest; $649.56 for unreimbursed medical expenses; shall cease and desist from any sexual harassment of its employees; shall provide the Complainant with a neutral employment reference; and shall not retaliate against the Complainant or any other employees who participated in this matter. The claim for attorney's fees and emotional distress was denied.

CHRO ex rel. Minnis v. CT Institute for the Blind 9130293 8/4/95
Sinclair Memo

Facts: The Complainant alleged that he was illegally terminated from his employment on the basis of his color, black. The Complainant alleged that he was required by the Respondent to punch a timeclock on the half-hour while white employees were only required to punch in on the hour during the third shift. Held: The Complainant produced just enough evidence to establish a prima facie case and shift the burden to the Respondent. The Respondent offered ample evidence to show that its treatment of Complainant was based on his past disciplinary record and its view that progressive discipline would serve no useful purpose since the Complainant had a history of improper work attitude, inattention to directions, failure to abide by house procedures, failure to obtain the required PSL license and failure to document his work assignments. The Commission failed to successfully rebut the Respondent's allegations, namely, the Complainant was treated differently than white employees but no information was offered to show those comparative employees' prior work history. Accordingly, the complaint was dismissed.

CHRO ex rel. Manuel v. State of CT, Dept. of Correction 8640112
8/11/95 Kone Memo
Facts: The Complainant alleged that he was not allowed to return to work from medical leave as a Correctional Officer (CO) after amputation of his leg below the knee and attachment of a prosthesis. The Respondent did not find alternative work for the Complainant at the Correctional facility, but did find him a position at a different state agency as a security guard/substance abuse counselor/storekeeper which he performed without difficulty.
Held: The complaint is dismissed with respect to the individual Respondent, Commissioner Lopes, because the Complainant's memorandum appeared to have abandoned those claims and the courts are divided as to whether an executive employee may be held individually liable. Using the direct evidence theory, the evidence is overwhelming that the Respondent was motivated by discriminatory animus based on Complainant's physical disability. The burden then shifted to Respondent who failed to show that the Complainant could not physically perform the duties of a CO, but rather that its beliefs were based on stereotypical views of individuals with amputations rather than any reliable evidence concerning the Complainant's abilities. Similarly, the Respondent failed to meets its burden of proving a BFOQ because it did not prove that "no member of the class excluded is physically capable of performing the tasks required by the job." The Complainant is awarded back pay in the amount of $120,049.65* minus workers compensation benefits and insurance proceeds received during the period he was injured; unemployment benefits that the Complainant could have, but did not apply for are not deducted therefrom; overtime pay in the amount of 25% of the base rate; no front pay because there are available CO positions; the Complainant shall be reinstated with all seniority retirement benefits;
Respondent's defense of laches is denied because the delays of processing the complaint were the CHRO's and not the Complainant's and that during this time the Complainant had no right to request a right to sue letter.
*This amount was incorporated by reference in a supplemental award dated 3/11/96.

CHRO ex rel. McKenna v. City of Waterbury, Board of Education 9430514
5/24/95 Daly Memo via Default
Facts: The Complainant alleged that he was involuntarily transferred from his position of custodian at a Waterbury public school based on his race. Held: Due to the entry of a default order, all of the allegations in the complaint are deemed admitted. The Complainant is entitled to emotional distress damages, Bridgeport Hospital notwithstanding, because he alleged a violation of Section 46a-58(a), a statute which is specifically enumerated in 46a-86(1) in the amount of $10,000. The Complainant is also entitled to expenses incurred in attending the hearing in the amount of $15. If the Complainant is reinstated, he shall be reinstated to his pre-transfer position. The Complainant is not, however, entitled to have the Respondent expunge from his personnel record any information detrimental to the Complainant resulting from the conduct complained of because there is no statutory authority to authorize such relief.

CHRO ex rel. Nettleton v. Connecticut Credit Union League 9230162
2/8/95 Monahan Memo
Facts: The Complainant alleged that her position was illegally eliminated on the basis of her sex and pregnancy. Even though a new position with virtually identical duties and responsibilities was created, she was not hired for it and terminated from her employment with the Respondent. Decision makers made numerous negative statements about the Complainant's pregnancy and denied her request for flex time, claiming it was just an excuse. Also, the Respondent disregarded its duty to inform the Complainant of potentially harmful insecticides being sprayed. Held: The Complainant proved that she was terminated from her old job and not hired for the new one through direct evidence of partial motivation due to her status as a pregnant woman. The Respondent failed to meet its burden that it would have made the same decisions regarding the Complainant anyway. The Complainant shall be awarded back pay of $88,270 (representing back pay of $88,420* less unemployment compensation of $10,800 plus health insurance benefit costs in the amount of $10,650); the Respondent shall pay the Commission $10,800 to be forwarded to the appropriate state agency for reimbursement of unemployment compensation benefits received; and attorneys fees upon the submission of a fee petition*.
This amount was reflected in a Supplemental Memorandum of Decision dated 5/24/95. No petition for attorneys fees was discussed therein.

CHRO ex rel. Favereau v. Epicurean Feast 9420594 6/1/95
Daly Memo (Via Default?)
Facts: All allegations in the complaint are deemed admitted due to entry of a default order.
Held: The Respondent shall pay to the Commission $3,660 to transfer to the appropriate state agency as reimbursement for unemployment compensation benefits; shall pay to the Complainant $10,000 as emotional distress damages; shall reimburse the Complainant $27.90 for expenses incurred in attending the hearing; and the Respondent shall not retaliate against the Complainant.

CHRO ex rel. Santos v. Learning and Laughing Day Care Center 9410374
10/16/95 Daly Memo Via Default
Facts: All allegations in the complaint are deemed admitted due to entry of a default order.
Held: The Respondent shall pay the Commission $3,588 as reimbursement for unemployment compensation to transfer to the appropriate state agency; shall pay the Complainant $13,493 as back pay and $9.137 as front pay; shall pay the Complainant $15,000 as emotional distress damages; and shall pay $3,000 as attorneys fees.

CHRO ex rel. Chomko v. Lechter's, Inc. 9420563 1/10/95
Daly Memo via Default
Facts: All allegations in the complaint are deemed admitted due to entry of a default order.
Held: The Respondent shall pay the Complainant $1,799.94 as back pay plus 10% interest; shall pay the Complainant $10,000 as emotional distress damages plus 10% interest; shall expunge from its personnel records any information detrimental to the Complainant resulting from the conduct complained of; and shall not retaliate against the Complainant.

CHRO ex rel. Planas v. Bierko 9420599 2/14/95
Daly Memo via Default
Facts: All allegations in the complaint are deemed admitted due to entry of a default order. The Complainant alleged that she was harassed and discriminated against on the basis of her ancestry and national origin (Puerto Rican) in violation of federal and state fair housing laws when the Respondent shouted racial slurs at the Complainant and her family, sent her racial slurs to the Complainant and her family by mail, placed signs with racial slurs directed at Complainant's property and made negative comments about her to her neighbors and her priest. This activity caused the Complainant to place her home on the market for sale, change churches and give up serving as a Eucharistic Minister.
Held: The Respondent shall pay the Complainant $75,000 as emotional distress damages; shall cease and desist from entering the Complainant's yard or house without invitation; shall cease and desist from making oral slurs or sending written racial slurs about the Complainant; shall cease and desist from placing signs on his property referring to Puerto Ricans, etc.; and shall cease and desist from communicating with any representative of the Roman Catholic Church about the Complainant.

CHRO ex rel. Gall v. Pepperidge Farms, Inc. 9220130 2/8/95
Monahan Memo
Facts: The Complainant alleged she was illegally not promoted to the position of Group Leader on the basis of her sex, female. Held: Using a disparate treatment analysis, the Complainant proved a prima facie case. The Respondent met its burden of producing a legitimate non-discriminatory reason for its action, namely that the person chosen to promote was better qualified than the Complainant largely due to his supervisory experience. The Complainant failed to prove that the Respondent's articulated reason was pretextual. Accordingly, the complaint is dismissed.

CHRO ex rel. Johnson v. Southport Manor 9320160 8/17/95 Officer? Memo

Facts: The Complainant alleged that he was suspended without pay for 15 days from his job as a dietary aide because of his color (Black), ancestry and national origin (Jamaican). He was accused of being away from his work duty while on company time, albeit with his supervisor's apparent permission.

Held: Both the testimony of the witnesses of the Respondent and the Complainant verged from not credible to tainted. Using a disparate treatment analysis, the Commission failed to show any evidence of similarly situated employees being accorded differential or more favorable treatment. Even if the Commission had made such a showing, the Respondent articulated a legitimate, non-discriminatory reason, namely being away from one's work station (even though it is more probable that the Respondent believed the Complainant was committing theft but had insufficient proof to terminate him on that ground). Accordingly, the complaint was dismissed.

CHRO ex rel. Cohen v. Menillo 9420047 6/21/95 Officer? Memo

Facts: The Complainants alleged that they were illegally denied the rental of an apartment on the basis of their race, Black. The Respondent stated to the realtor in front of the Complainants that "They've been bringin' too many niggers and spics." Held: The Respondent's conduct is an egregious, overt violation of Connecticut law. The Respondent shall cease and desist from the discriminatory practice; shall report his efforts at non-discrimination for a five year period to the Commission; shall pay to each of the two Complainants $7,500 as compensatory damages; and shall pay attorneys fees to be calculated at a future date in the amount of $10,000.*

*This amount was incorporated into the order by a Supplemental Order dated 7/24/95.

CHRO ex rel. Maldonado v. Candy Candy 9520273 12/27/95 Daly Memo via Default

Facts: All allegations in the complaint are deemed admitted due to entry of a default order. The Complainant alleged discrimination in terms and conditions of her employment on the basis of her race, Black.

Held: The Respondent shall pay the Complainant a total of $19,810 including back pay, front pay, humiliation ($250 per day for 49 days), damage to her reputation ($3,500) and medical bills ($80) and shall pay $4,500 in attorneys fees.

CHRO ex rel. Knowles v. The Gilman Brothers Company 9240221 8/8/95 Schoenhorn Memo

Facts: The Complainant alleged that she was terminated from her position as a secretary/receptionist because of a physical disability or perceived physical disability (carpal tunnel syndrome). Held: The Complainant was found to be suffering from a "chronic" condition at the time of her termination under state law but not under federal law. Assuming arguendo that the Complainant's condition was merely acute, it was also found that the Complainant suffered from perceived disabilities, also covered by the state anti-discrimination statutes. She therefore met her prima facie case. Respondent claimed that the Complainant's work performance was poor and thus presented a legitimate non-

discriminatory reason for her termination. The evidence on this count was insufficient, however, and the trier inferred discrimination when the employer's reason was unworthy of credence. The Respondent shall pay the Commission $3,609 to reimburse the Department of Labor for unemployment benefits; shall pay the Complainant $1,952.39 in back pay, $829.20 in reimbursement for COBRA insurance, $372.99 for medical bills, $800 for medical treatment and $225 for medical tests; interest at 10% on the back pay and COBRA premiums; shall pay $5,000 in emotional distress damages; an award of attorneys fees shall be granted if an appropriate petition is filed within 14 days, otherwise the right is waived; the Respondent shall cease and desist from discriminatory practices, shall not retaliate against the Complainant, shall post anti-discrimination posters and shall expunge all information contained in its records indicating that the Complainant was terminated for poor performance.

CHRO ex rel. Budnick v. State of CT and its Athletic Dept. (UCONN) 9240027
1/20/95 Daly Memo
Facts: The Complainant, a female alternate member of the varsity cheerleading squad, alleged she was "benched" and then dismissed from the squad because she failed to maintain a weight of less than 125 pounds in violation of state law and Title IX of the federal Education Amendments of 1972. The Complainant was referred to the nutritionist (with other male and female cheerleaders) for a prescribed diet which she did not follow. She also has personality problems with the other cheerleaders. Male cheerleaders were terminated from the squad who exceeded weight limits.
Held: The Hearing Officer has no authority to dismiss a complaint based on a lack of jurisdiction. Although cheerleading may be an educational program, there was no sex discrimination in the Complainant's dismissal from the squad, rather she was terminated for her uncooperative behavior and negative attitude. Also, a cheerleading squad is not a place of public accommodation because it is an opportunity to be "of service" not "to be served" and limited only to full time undergraduate students enrolled at UCONN in good academic standing. Also, female weight requirements and male bench-pressing strength requirements were BFOQs for the ability to "toss" girls in cheerleading. Accordingly, the complaint is dismissed and the Title IX claim is deemed unnecessary to discuss.

CHRO ex rel. Tulier v. Hartconn Associates 9330053 1/12/95
Holtman Memo
Facts: The Complainant alleged that she was discriminated against based on his physical disability (visually impaired due to Sjogren's syndrome) in the terms, conditions or sale of a dwelling because she was not given forms and notices in large print as he requested. The Complainant receives the federally funded Section 8 rental assistance subsidy based on her low income, not disability. The Respondent was never told of the Complainant's disability and never inquired due to privacy concerns. She filled out several versions of dense federal application forms without indicating she needed any accommodation until March 1992 when she asked for large print forms. This request was initially ignored by the Respondent and then corrected. Held: The state statute applies to the Respondent, even though it is not integral to a landlord-tenant relationship but provides services "in connection with the sale or rental" of dwellings. The Respondent's policy of sending poor quality documents impaired the Complainant's ability to use and enjoy the dwelling.

An accommodation can reasonably be made in the Respondent's practices regarding sending the Complainant written materials. The Respondent, however, did try to make such reasonable accommodations when it was notified of the need for them. Accordingly, the complaint is dismissed.

CHRO ex rel. Giglietti v. City of New Haven, DPW 9230003 5/8/95 McNeill Memo

Facts: The Complainant, a white male, alleged that he was illegally terminated on two separate occasions based on his race and that he was retaliated against for filing his complaint. The Complainant had been placed on "medical certificate status" due to frequent absences and had been placed on numerous multi-day suspensions for same. The Complainant alleged that 3 black employees were not terminated who had similar attendance problems. Held: Using the disparate treatment analysis, the minimum burden was met by the Complainant and a prima facie case was produced. The Respondent then articulated a legitimate, non-discriminatory reason for its adverse actions, namely the Complainant's excessive absenteeism. The Complainant had received multiple warnings and suspensions including each of the necessary steps in the progressive discipline process call for by the union contract. The burden then shifted back to the Complainant who failed to prove that the reason was pretextual because the so-called "similarly situated" employees not of the Complainant's class were not truly similarly situated because they were not as far along the progressive discipline path as the Complainant. Accordingly, the complaint was dismissed.

CHRO ex rel. McHugh v. State of CT, Board of Trustees, Regional Comm. Colleges 8840356 Sinclair 4/18/95 Memo

Facts: The Complainant alleged that she was treated unequally in terms and conditions of her employment because of her color (white), ancestry (Italian) and age (39 at time of filing complaint) in that she was denied lateral transfers, promotional opportunities, adjunct teaching opportunities, retraining assistance and committee assignments. Held: Using the disparate treatment analysis, the Commission failed to meet its burden of persuasion on the ultimate issue of discrediting the Respondent's showing of legitimate, non-discriminatory reasons for its actions. Accordingly, the complaint was dismissed.

CHRO ex rel. Farling v. State of CT, DRS 9240371 2/8/95 Lifton Memo

Facts: The Complainant alleged that she was retaliated against for filing a complaint of sex discrimination against the same Respondent in 1988. She was slated to be laid off on two separate occasions when her position as a Management Analyst II was to be eliminated during times of workforce reduction in the State. Held: Using the disparate treatment analysis, the Complainant established a prima facie case because the decision makers knew of her filed complaint, she was subjected to "adverse action" in her employment and the decision was causally connected to her "protected activity". The Respondent then failed to meet its burden of proof of offering a legitimate non-discriminatory reason for its action, but rather most likely took the opportunity of a reduction in workforce to rid a "thorn" in the side of the supervisor who had been alleged of sex discrimination. No award damages are available for emotional distress or

attorney's fees due to Bridgeport Hospital and Fenn Mfg. And no back pay is awarded because the Complainant lost no salary as a result of her layoff. Therefore, the Respondent shall immediately cease and desist any and all retaliatory action against the Complainant; afford her equal consideration in any and all employment decisions which affect Complainant's position; reimburse the Complainant for all expenses incurred in the prosecution of this action, with the exception of attorneys' fees; and institute a mandatory educational program for all employees, especially executives and administrators, designed to teach the anti-discrimination laws.

CHRO ex rel. Esterline v. Unisys Corporation 9210159 7/27/95
Ciccarillo Memo

Facts: The Complainant alleged that he was illegally laid off and denied certain retirement benefits on the basis of his age (58 at time of layoff) while 2 younger and less experienced employees were retained. Held: Using a disparate treatment analysis, the Complainant shows a prima facie case, while the fourth criterion of "persuasive evidence" suggesting that age was a factor in the decision the difference of ages (58 vs. 47,48) is plain. The Respondent's legitimate non-discriminatory reason wad that the lay off was necessitated by a company wide reduction in force resulting from significant financial losses over two years. The Complainant failed to rebut this reason because although he was a good employee he did not prove that he was necessarily superior to the two employees retained and that age was a motivating factor. Also, no connection was proven between the decision to lay the Complainant off in May and begin to offer a retirement deal in July. Accordingly, the complaint was dismissed.

CHRO ex rel. Michaud v. Frank's Supermarkets 9210128 2/27/95

Stafstrom Memo

Facts: The Complainant alleged that he was illegally terminated as produce manager on the basis of his age (48 at time of termination). Other department managers were significantly younger (in their teens and twenties). The Complainant was given no reason for his dismissal, was not allowed to transfer to an open position in another branch and was replaced by a 26 year old. Held: The Complainant clearly established a prima facie case. The Respondent alleged a variety of legitimate business reasons for its firing of the Complainant but no reliable evidence was produced at hearing that supported those allegations. Furthermore, the testimony presented proved that any reason other than age was merely pretextual and that other older managers (aged 39, 53 and 62) were discharged because of their age. The Respondent shall the Complainant $136,137.64 in back pay, less $99,774.10 in mitigation; shall pay $9,055.28 per year in front pay for five years for a total of $45,276.40; but no award of attorneys fees or emotional distress damages may be awarded due to the holding in Bridgeport Hospital.