



Montgomery County Code occurred in both cases and conciliation has failed. By Orders dated August 26, 2019, the Case Review Board of the Montgomery County Commission of Human Rights (MCCHR) referred the above-captioned complaint to OZAH for the purpose of conducting a public hearing on all outstanding issues in the case, and thereafter submitting a written Report and Recommendation to the Case Review Board.

Both cases (*i.e.*, Case No. 06001 and 06228) involve facts related to Complainant's employment by Respondent from approximately August 2013 to July 2015. In Case No. 06001, Complainant alleges discrimination based on age, sex, and race. In Case No. 06228, Complainant alleges that Respondent retaliated against her for protected activity, terminating her on July 29, 2015. Because both cases arise from Complainant's employment for the period stated, the Hearing Examiner hereby consolidates these cases for hearing under Rule 2.3.2 of OZAH's Rules Governing Agency Referral Cases. OHR's Determination reveals that there are many common facts underlying both cases, as well the common question of whether discrimination occurred. Therefore, consolidation will promote efficient and fair resolution of the outstanding issues.

In order to arrange for the hearing, discovery and appropriate pre-hearing submissions, **a pre-hearing conference is hereby scheduled for 1:00 p.m., Tuesday, September 24, 2019**, at OZAH's temporary location at the Broome School, 751 Twinbrook Parkway, Rockville, Maryland 20850. Please contact Nana Johnson, OZAH's Administrative Specialist, at (240) 777-6660 **by Monday, September 16, 2019**, to confirm your appearance for this conference or to indicate any date conflicts.

Paragraph 7 of this Order sets forth the proposed schedule for discovery, submission of pre-hearing statements, pre-hearing motions and the hearing. This schedule will be discussed at the pre-hearing conference and may be further amended, so the parties should bring their calendars and be prepared to provide an estimate of the span of time they expect to need for discovery. The discussion will also include preliminary matters and any other procedural concerns that the parties wish to raise.

Only the attendance of attorneys for the parties is required at the scheduling conference unless the party is not represented by an attorney. All attorneys who appear before OZAH must be licensed to practice in Maryland or admitted by the Circuit Court *pro hac vice* under Rule 19-217 of the Maryland Rules of Civil Procedure.

The following are some basic rules that will govern further proceedings:

1. Procedures in this litigation will be governed by Chapter 27 of the Montgomery County Code, the Montgomery County Administrative Procedures Act (MCAPA), Code §§ 2A-1 through 2A-11, the Human Rights Commission Regulations, COMCOR Chapter 27, and OZAH's Rules of Procedure for Agency Referral Cases. A copy of the latter may be found on OZAH's website listed in the heading of this Order above.

2. Copies of all correspondence with OZAH shall be served on the opposing party.
3. OZAH's mailing address appears in the heading of this Order. **PLEASE NOTE: After September 13, 2019, OZAH's office will be physically located at the Broome School, 751 Twinbrook Parkway, Rockville, Maryland 20851**, while Montgomery County renovates OZAH's current office. Mailed items should continue to use the address in the heading of this Order. Hand-deliveries should be directed to the Twinbrook Parkway address. All meetings and hearings will be held at the Broome School unless otherwise stated.
4. No *ex parte* communication with the Hearing Examiner is permitted at any time.
5. The parties are encouraged to reach an agreement on a plan for the scheduling and completion of discovery prior to the pre-hearing conference.
6. The referral order gives OZAH the authority only to write a report and recommendation, not a decision in the case. However, Sec. 2A-7(d) of the MCAPA allows a motion for summary decision (below). If summary decision is warranted, the Hearing Examiner may recommend that to the Human Rights Commission in his/her report and recommendation in the case.

(d) Summary Decision. Any party may file a motion for summary decision at least 30 days before the date of a hearing. The hearing authority may grant summary decision if the hearing authority finds that:

- (1) there is no genuine issue of material fact to be decided at the hearing; and
- (2) the moving party is entitled to prevail as a matter of law.


The hearing authority must give all other parties at least 10 days to respond to the motion for summary decision before deciding the motion. The hearing authority may permit oral argument on the motion.

7. The following schedule is proposed, subject to modification at the scheduling conference based on the reasonable suggestions of the parties:

December 9, 2019	Completion of Discovery
January 13, 2020	Complainant's submission of pre-hearing statement
January 23, 2020	Respondent's submission of pre-hearing statement
January 30, 2020	Pre-hearing Motions
February 6, 2020	Joint pre-hearing submission
March 2, 2020	Hearing

8. Supplemental Orders will be issued following the pre-hearing conference to confirm the schedule of events, including a date for the convening of the hearing. Thereafter, motions to change the agreed schedule will be granted only upon a showing of good cause.

So ORDERED, this 6th day of September, 2019.



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Lynn A. Robeson  
*Hearing Examiner*

COPY TO:

Loretta J. Garcia, Esquire  
Manager of Enforcement Programs  
Office of Human Rights