

**BEFORE THE MONTGOMERY COUNTY
COMMISSION ON HUMAN RIGHTS
Case Review Board**

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6660 (240) / Fax (240) 777-6665
www.montgomerycountymd.gov/OZAH**

AMECIA STARKS,

Complainant,

v.

DIG-IT! GAMES,

Respondent.

*
*
*
*
*
*
*
*
*
*
*
*
*
*
*

Human Rights Commission
HRC No. E-06001/E-06228
OZAH Referral No. HR 20-02

* * * * *

Before: Tammy J. CitaraManis, Hearing Examiner

REVISED SCHEDULING AND PROCEDURES ORDER

Complainant in the above-captioned case alleges unlawful discrimination in employment on the basis of race, sex and age and that her termination from employment was retaliatory. The Respondent denies these allegations. The Director of the Office of Human Rights (OHR) determined that reasonable ground exist to believe that a violation of Chapter 27 of the Montgomery County Code occurred in both cases and conciliation has failed. By Order dated August 26, 2019, the Case Review Board of the Montgomery County Commission of Human Rights (MCCHR) referred the above-captioned complaint to the Office of Zoning and Administrative Hearings (OZAH) for the purpose of conducting a public hearing on all outstanding issue in the case, and thereafter submitting a written Report and Recommendation to the Case Review Board.

On September 6, 2019, the Hearing Examiner issued a Scheduling and Procedures Order and Order Consolidating Cases governing discovery and pre-hearing submissions and setting a hearing date in the above-captioned matter (Scheduling Order).¹ Dkt. 7. A pre-hearing conference was held on September 24,

¹ The above-captioned matter was initially assigned to Hearing Examiner Lynn Robeson Hannan through the second week of January 2020 when the matter was reassigned to Hearing Examiner Tammy CitaraManis.

2019. Counsel for both parties attended and agreed to the pre-hearing schedule and the hearing date proposed in Paragraph 7 of the Scheduling Order as follows:

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

By Order dated November 20, 2019, the Hearing Examiner issued an Order Granting Consent Motion to Modify Scheduling Order which extended the time to complete discovery from December 9, 2019, to January 9, 2020. Dkts. 15 and 16. On December 23, 2019, the parties filed a second Consent Motion to Modify the Scheduling Order asking to extend the time to complete discovery from January 9, 2020, to January 31, 2020, and to extend all pre-hearing filing deadlines from January to dates specific in February. No request to change the March 2, 2020, hearing was requested. Dkt. 17.

By letter dated January 17, 2020, the Hearing Examiner agreed to extend the close of discovery and pre-hearing filing deadlines as proposed in the second Consent Motion to Modify the Scheduling Order and gave notice that the hearing scheduled for March 2, 2020, would be rescheduled to a later date. In order to timely reschedule the hearing, the Hearing Examiner requested the parties to consult with each other to provide dates both parties were available to convene the hearing. Dkt. 21. (*See also Dkt. 24*) In an e-mail dated January 31, 2020, counsel for both parties provided the following nine dates when all parties and counsel are available to reschedule the hearing in this case: April 30, May 1, 4, 5, 6, 14, 18, 19 and June 5. Dkt. 26.

In a letter dated February 3, 2020, the Hearing Examiner advised the parties that the hearing would be scheduled for April 30, May 1, 4, 5, and 6. Further, the date by when discovery is to be completed was extended from January 9, 2020, to January 31, 2020, and notice was given that the pre-hearing submission filing deadlines would be extended from the proposed February dates to dates in March (shown below).

Based on the hearing dates provided by consent of counsel for both parties, the September 6, 2019, Scheduling and Procedure Order, amended by Order dated November 20, 2019, is hereby revised and the pre-hearing schedule and hearing dates in the above-captioned matter are as follows:

January 31, 2020	Completion of Discovery
March 2, 2020	Complainant's submission of pre-hearing statement
March 16, 2020	Respondent's submission of pre-hearing statement
March 23, 2020	Pre-hearing Motions
March 30, 2020	Joint pre-hearing submission
April 30, 2020	Hearing
May 1, 4-6, 2020	

All other provisions of the Scheduling Order (Dkt. 7) remain in full force and effect.

For the benefit of the parties, some of the basic rules that will govern further proceedings are listed below and are in addition to those previously identified in the Scheduling Order. Dkt. 7.

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 the Office of Zoning and Administrative Hearing's (OZAH) 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. The record on which the Hearing Examiner and the Human Rights Commission will base their findings and conclusions will consist of the verbatim transcript of the testimony and exhibits admitted at the hearing. The record will not automatically include documents filed with OZAH or the OHR, except as necessary to establish OZAH's jurisdiction (*e.g.*, the Complainant's complaint, Reasonable Grounds Determination, and the Human Rights Commission's referral to OZAH). Other items will be included in the hearing record only if the parties stipulate to them, or if they are introduced and admitted at the hearing, or if they are otherwise admitted by the Hearing Examiner.
3. The hearing will be held at the Broome School located at 751 Twinbrook Parkway, Rockville, MD 20851. The hearing will be somewhat less formal than a judicial trial, but it will proceed in an orderly manner in accordance with the Montgomery County Administrative Procedures Act (MCAPA) and due process. All witnesses will be sworn in and subject to cross-examination. Hearsay may be admitted if probative and reliable. *See MCAPA* § 2A-8(e). The hearing will be public. The parties will be asked if they would like a rule on witnesses, *i.e.*, a rule excluding witnesses (other than the parties themselves) from the hearing room except during the witnesses' own testimony.
4. Discovery will be governed by MCAPA§ 2A-7(b) and Rule 2.5 of OZAH's Rules Governing Agency Referral Cases. Discovery material shall not be filed with OZAH. The party propounding the discovery must promptly file with OZAH a notice stating (A) the type of discovery material served, (B) the date and manner of service, and (C) the party or person served. The party generating the discovery material must retain the original and must make it available for inspection by any other party. Discovery materials may be introduced as evidence at the hearing, or used for cross-examination, under the normal rules of evidence. They may also be used as exhibits to support or oppose motions.
5. All requests for rulings by the Hearing Examiner must be made in a motion as provided in Rule 2.4 of OZAH's Rules Governing Agency Referral Cases.
6. The parties' pre-hearing submissions must contain all the information specified in Code § 2A-7(a)(1) and in Rule 2.6 of OZAH's Rules Governing Agency Referral Cases, including a brief summary of the party's legal theory and a set of labeled exhibits. The parties Joint Pre-hearing Submission must contain all the information specified in Rule 2.7 of OZAH's Rules Governing Agency Referral Case, and specifically, stating all matters that are mutually stipulated to and all

objections to the authenticity of any opposing exhibits. All pre-hearing submissions must be filed with OZAH by the dates identified above in this Revised Scheduling and Procedures Order. Further, pre-hearing submissions must conform with the filing requirements of Rule 1.5.3 of OZAH's Rules Governing Agency Referral Cases.

7. All correspondence filed with OZAH must comply with Rule 1.5.2 of OZAH's Rules Governing Agency Referral Cases. Correspondence filed with OZAH must be signed. OZAH will accept Digital IDs if verifiable; scanned and e-mail signatures are accepted only if OZAH receives a signed, hard copy of the submission within 10 days of its filing date. The party filing any written matter with OZAH must serve a copy on the opposing party either in person or by first-class mail, fax, or e-mail.

Motions to change the agreed upon pre-hearing schedule and hearing dates as noted above will be granted only upon a showing of good cause.

So ORDERED, this 11th day of February, 2020



Tammy J. CitaraManis
Hearing Examiner

Copy to:
Counsel for Complainant:
Shavon J. Smith, Esq.
The SJS Law Firm, PLLC
1775 I Street, NW Suite 1150
Washington, DC 20006

Erik J. Williams, Esq.
The Law Office of Erik J. Williams, PLLC
1300 I Street NW Suite 400 East
Washington, DC 20005

Counsel for Respondent:
Jessica Summers, Esq.
James Hammerschmidt, Esq.
Paley Rothman
4800 Hampden Lane, Sixth Floor
Bethesda, Maryland 20814

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