

**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, Room 200
Rockville, Maryland 20850
(240) 777-6660 / Fax (240) 777-6665**

NANCY PYKE

3455 Emy's Place
Monrovia, Maryland 21770

Complainant

Counsel:
James Edward Rubin
The Rubin Employment Law Firm
600 Jefferson Plaza, Suite 204
Rockville, Maryland 20852
(301) 760-7914

v.

**SGF SERVICES, LLC
9600 Blackwell Road
Rockville, MD 20850**

Respondent

Counsel:
Jeffrey W. Larroca, Esq.
ECKERT SEAMANS CHERIN
& MELLOTT, LLC
1717 Pennsylvania Avenue, NW
Suite 1200
Washington, DC 20006
(202) 659-6646

Human Rights Commission
HRC No. E-06840
OZAH Case No. HR 21-01

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Before: Derek J. Baumgardner, Hearing Examiner

REVISED SCHEDULING AND PROCEDURES ORDER

The above-captioned complaint has been referred to the Office of Zoning and Administrative Hearings (OZAH) for the purpose of scheduling and conducting a public hearing under the provisions of Montgomery County law.

For the benefit of the parties, the following are some basic rules that will govern further proceedings:

1. Procedures in this litigation will be governed by the Montgomery County Administrative Procedures Act (MCAPA), Code §§ 2A-1 through 2A-11, Human Rights Commission Rules, and OZAH's rules of procedure for agency referral.
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. No *ex parte* communication with the Hearing Examiner is permitted at any time.
4. Written submissions to OZAH must be submitted in duplicate hard copy *and* by email. A copy of any written matter filed with OZAH shall be served on the opposing party by hard copy; and by email. The electronic copies should be sent by e-mail (Derek.Baumgardner@montgomerycountymd.gov), with copies to opposing parties.
5. **COVID PANDEMIC PROCEDURES:** Due to the COVID pandemic, OZAH does not permit public access to its offices without an appointment. Should you wish make a submission in person or review the hard copy of the file, you should contact OZAH Staff at (240) 777-6660. Until further notice, OZAH will accept email submissions, provided a hard copy is mailed postmarked the same date as the email.
6. Unless otherwise agreed or ordered by the Hearing Examiner, responses to pre-hearing motions or other pre-hearing filings should be served on the opposing party within 10 calendar days after service (plus three calendar days when responding to motions served by mail). Service on a party is complete when deposited with the United States Postal Service, and filing is complete when delivered to OZAH's office by the due date.
7. All motions must include a statement that the other party has been asked to agree to the relief requested in the motion as well as a statement disclosing whether the other party has informed the movant that it expects to oppose the motion. If the movant is unable to reach the other party after reasonable, good-faith efforts to do so, the motion shall include a statement to that effect.
8. **DISCOVERY:** As agreed to by the parties, discovery will be conducted and limited to the following:

- A. Interrogatories (maximum of 10)
 - B. Request for Production of Documents (maximum of 10)
 - C. Any further discovery requests must be made by motion, response, and subsequent order
 - D. The parties are encouraged to reach agreement on discovery disputes
 - E. Discovery material shall not be filed with OZAH. Rather, the party propounding the discovery shall 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 shall retain the original and shall make it available for inspection by any other party. Discovery materials may be introduced as evidence at the hearing, or be used for cross-examination, under the normal rules of evidence. They may also be used as exhibits to support or oppose motions.
 - F. Unless otherwise modified or limited by the above, discovery shall comply with the Maryland Rules of Civil Procedure
9. The hearing, when scheduled, will be held in an OZAH hearing room in the Stella B. Werner Council Office Building **or by virtual format using Microsoft Teams**, as determined by the Hearing Examiner. OZAH will arrange for a court reporter. The hearing will be somewhat less formal than a judicial trial, but it will proceed in an orderly manner, with sworn witnesses subject to cross-examination. Hearsay may be admitted if it is probative and reliable. See MCAPA § 2A-8(e). The hearing will be public. The parties will be asked whether 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.
 10. At the hearing, the parties will have the opportunity to present witnesses, cross-examine witnesses and present supporting documentation.
 11. The parties may request a postponement of the hearing by written request if made not less than five (5) days prior to the date of hearing.
 12. 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 Office of Human Rights, except as necessary to establish jurisdiction (*e.g.*, the Complainant's complaint and the Human Rights Commission's referral to OZAH). Other items will be included in the record only if the parties stipulate to them, or if they are introduced and admitted at the hearing, or if they are admitted by the Hearing Examiner, *sua sponte*.
 13. The parties' pre-hearing submissions must contain all the information specified in Code § 2A-7(a)(1), as well as a legal brief; a set of labeled exhibits; and a joint pre-hearing submission, specifying all items that are mutually stipulated and all objections to the authenticity or admissibility of any opposing exhibits. These items

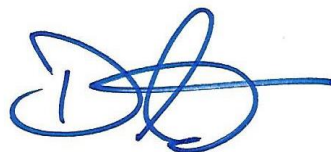
must be filed by the date agreed to at the scheduling conference. Individual submissions will include the following:

- a. All documents which will be relied upon at the hearing, including investigative reports, or portions thereof. The Hearing Examiner may, in his discretion, exclude from evidence any materials or documents not included in the pre-hearing submission.
- b. List of names and addresses of all prospective witnesses, together with summaries of their expected testimony.
- c. List of names and addresses of any persons requested to be summoned by the Hearing Examiner and any documents or records requested to be subpoenaed for the hearing.
- d. Estimate of time to present case.
- e. A brief statement of your legal theories and points and authorities.

Motions to change the schedule below will be granted only upon a showing of good cause. The schedule for this case is as follows:

June 30, 2021	Completion of Discovery
July 15, 2021	Complainant's pre-hearing statement/motions due
August 2, 2021	Respondent's pre-hearing statement/motions/response to motions due
August 16, 2021	Complainant's opposition to motions due
August 30 2021	Joint pre-hearing submission due
September 10, 2021	Hearing

So **ORDERED**, May 5, 2021.



Derek J. Baumgardner
Hearing Examiner

CC:

James Rubin, Esq. on behalf of
Nancy Pyke

Jeffrey Larroca, Esq. on behalf of
SGF Services, LLC

James L. Stowe, Director
Loretta Garcia, Esq.
Office of Human Rights
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Suite 330
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