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SUPREME COURT
STATE OF FLORIDA
TALLAHASSEE, FLORIDA

GERALDINE SEALE,

Petitioner,

v.

EMSA CORRECTIONAL CARE, INC.,

Respondent.
_____/

CASE NO: 96,908

LOWER TRIBUNAL NO: 2D98-04187

CIRCUIT COURT NO: GC-G-98-804

PETITIONER'S INITIAL BRIEF ON THE MERITS

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This is an Appeal from an Order of the Second District Court of Appeal, Lakeland, Florida, Opinion filed 9/29/99, affirming a Final Order from the Honorable Cecelia M. Moore, Circuit Judge of the Tenth Judicial Circuit in and for Polk County, Florida, dated 9/23/98.

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THE DATE OF DETERMINATION OF REASONABLE CAUSE BY THE COMMISSION, AND PLAINTIFF'S COMPLAINT WAS FILED WITHIN ONE YEAR FROM THE DATE THE FCHR, THROUGH ITS AGENCY, THE EEOC, MADE A DETERMINATION OF REASONABLE CAUSE.

TABLE OF CITATIONS

OTHER CITATIONS

PRELIMINARY STATEMENT

The Petitioner, GERALDINE SEALE, shall be referred to herein as “SEALE”.

The Respondents, EMSA CORRECTIONAL CARE, INC., shall be referred to herein as “EMSA”.

The Honorable Judge Cecelia M. Moore, Circuit Judge, shall be referred to herein as “TC” (Trial Court).

References to the Record on Appeal shall be abbreviated by the letter “V” (Volume) and followed by the applicable volume and page number.

References to the Appendix attached hereto shall be referred to by the letters “APP” followed by the applicable Appendix number.

CERTIFICATE OF TYPE SIZE AND STYLE

The type size and style used in this brief is Courier New, 12 point.

STATEMENT OF THE CASE AND STATEMENT OF THE FACTS

On 9/16/94, The Florida Commission of Human Relations and the Equal Employment Opportunity Commission entered into a "work sharing agreement" for the fiscal year 1995(V1-68-77). The work sharing agreement is in six parts.

The first part is an introduction(V1-68). In the introduction it was noted that the Florida Commission of Human Relations ("FCHR") had jurisdiction over allegations of employment discrimination filed against Employers within the State of Florida, based on race, color, religion, sex, national origin, age, handicap or marital status. The introduction also noted that the EEOC has jurisdiction over allegations of employment discrimination occurring throughout the U.S. when based on race, color, religion, sex, national origin, age or discrimination based on disability(V1-68). The introduction further provided:

> "In recognition of, and to the extent of the common jurisdiction and goals of the two (2) agencies, and in consideration of the mutual promises and covenants contained herein, the FEPA (FHCA) and the EEOC hereby agree to the terms of this work sharing agreement, which is designed to provide individuals with an efficient procedure for obtaining redress for their grievances under appropriate state or federal laws."(V1-68).

Part Two deals with the filing of charges of discrimination(V1-69-70). Under that Section the EEOC and FCHR designated the other as its agent for the purposes of receiving and

drafting charges. Furthermore, charges that were to be dual filed were to be done on EEOC charge form five (5) and each agency was to make every effort to forward all dual filed charges to the other agency within two (2) working days of receipt(V1-69).

Additionally, the work sharing agreement provided, under Part 2, the following:

> "(H). The delegation of authority to receive charges contained in paragraph II-a does not include the right of one agency to determine the jurisdiction of the other agency over a charge."(V1-70).

Part Three purported to divide up initial charge processing responsibilities (V1-70-72). That section determines which charges would be initially investigated by the EEOC and which charges would be initially investigated by the FCHR(V1-70-72).

The fourth section of the work sharing agreement deals with an exchange of information between the FCHR and the EEOC(V1-72-73).

The fifth section deals with resolution of charges(V1-73-74).

Finally, the sixth section deals with implementation of the work sharing agreement(V1-74-75).

Similar work sharing agreements were entered into between the FCHR and the EEOC for the fiscal year 1996(V1-59-67) and 1997(V1-51-58).

SEALE began working for EMSA on 10/2/89(V1-24). On 12/18/95, SEALE was hospitalized for coronary blockage(V1-24). She was

terminated by EMSA on 1/22/96(V1-24).

On or about 2/26/96, SEALE transmitted a charge of discrimination against EMSA under the ADA as well as the Florida Human Rights Act to both the FCHR(V1-22-24) and the EEOC(V1-25-27). The FCHR acknowledged receipt of the charge of employment discrimination on 2/28/96(V1-20). The EEOC acknowledged receipt of the charge of discrimination on 2/28/96(V1-21).

Evidently, under the work sharing agreement, the EEOC investigated the Complaint. On 12/10/97, the EEOC issued a Notice of Right to Sue(V1-39), which provided as follows:

> "This notice concludes the EEOC's processing of the above numbered charge. The EEOC found reasonable cause to believe that violations of the statutes occurred with respect to some or all of the matters alleged in the charge, but could not obtain a settlement with the Respondent that would provide relief for you. In addition, the EEOC has decided that it will not bring suit against the Respondent at this time based on this charge and will close it's file on this case. This does not mean that the EEOC is certifying that the Respondent is in compliance with the law, or that the EEOC will not sue the Respondent later or intervene later in the lawsuit if you decide to sue on your own behalf."(V1-39).

The Notice of Right to Sue also stated:

> "Title VII, the Americans with Disabilities Act, and/or age discrimination in employment act: This will be the only Notice of your Right to Sue that we will send you. You may pursue this matter further by bringing suit in Federal or State Court against the Respondents named in the charge. Your suit must be filed within 90 days from your receipt of this Notice. Otherwise, your right to sue based on the above numbered charge will be lost."(V1-39).

Thereafter, on 3/19/98, SEALE filed a One Count Complaint in the Circuit Court of the Tenth Judicial Circuit, in and for Polk County, Florida(V1-9). The basis of the complaint was that EMSA violated the Florida Civil Rights Act of 1992 on the basis of handicap(V1-6-9). The complaint also alleged compliance with all conditions precedent(V1-4), and provided:

> "14. The Plaintiff, Geraldine Seale, has filed a timely written charge under oath with the Equal Employment Opportunity Commission (EEOC) and the Florida Commission on Human Relations, alleging discrimination based upon handicap on the part of the Defendant and denial by the Defendant of her rights under the FCRA in that her employment with the Defendant was adversely impacted (i.e., demoted and constructively terminated) on the basis of her handicap, in violation of the FCRA.
>
> 15. Pursuant to agreement between the EEOC and the State of Florida, the charge was dual filed with the Florida Commission on Human Relations invoking the jurisdiction of this Court and the application of Fla. Stat. 760.01-760.11 to this cause of action.
>
> 16. More than 180 days have passed since the Plaintiff filed her charge.
>
> 17. The Plaintiff has filed this action pursuant to the provisions of Fla. Stat. 760.11(8), 760.11(4), and 760.11(5) of the FCRA.
>
> 18. All conditions precedent have been performed or have occurred."(V1-4).

Thereafter, on 5/5/98, EMSA filed their Answer(V1-10 - 14), wherein, as it relates to the conditions precedent, EMSA stated the following:

> "11. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations of paragraphs 14, 15, 16, 17 or 18."(V1-11).

Under the Affirmative Defenses, EMSA stated, inter alia:

> "Plaintiff's claims are barred by the applicable statutes of limitations."(V1-12).

On 8/7/98, EMSA filed its Motion for Summary Judgment(V1-15-27). In the MSJ, EMSA contended the following:

> "5. The one year limitations period for filing a civil action for employment discrimination under the Florida Civil Rights Act of 1992 begins to run at the expiration of the 180 day period in which the Florida Commission on Human Relations (hereinafter "Florida Commission") has to make a reasonable cause determination if the Florida Commission does not make a reasonable cause determination within the 180 day period. . ."(V1-16).

EMSA further contended that the FCHR had 180 days from 2/28/96 in which to make a reasonable cause determination and that this 180 day period expired on 8/26/96 (V1-16-17). EMSA further contended that the FCHR did not make a reasonable cause determination by 8/26/96; thus, SEALE had one year from 8/26/96 in which to file a civil action, pursuant to the Florida Civil Rights Act of 1992(V1-17). That is, as argued by EMSA, that SEALE had until 8/26/97 to file this action (V1-17).

EMSA further contended that since SEALE did not file the suit until 3/19/98, she filed it outside the application statute of limitations and her action is time barred(V1-17).

EMSA also contended that even though the EEOC subsequently issued a Notice of Right to Sue to SEALE on 12/10/97, SEALE also allowed the 90 day time period for filing a Federal claim pursuant to that notice elapse(V1-17).

Thereafter, on or about 9/18/98, SEALE filed a Memorandum of Law in opposition to EMSA's MSJ(V1-30-77). In that Memorandum of Law, SEALE contended that when the EEOC issued a cause determination and Notice of Right to Sue on 12/10/97, that triggered the one year SOL pursuant to F.S. 760(V1-31). SEALE argued that she filed her lawsuit prior to 12/10/98 and therefore, it was timely(V1-31).

As part of SEALE's argument, SEAL contended that the FCHR's referral to the EEOC for initial investigation purposes does not divest the FCHR of jurisdiction of SEALE's claim or the application of State law(V1-31).

SEALE therefore argued that acceptance by the EEOC of SEALE's discrimination charge was acceptance of all potential state law claims under F.S. 760(V1-32-33).

SEALE also argued that the clear and plain language of F.S. 760.11(8) was permissive language, in that it does not require that the aggrieved person proceed under (4) if the Commission fails to conciliate or determine whether there is reasonable cause in any

complaint within 180 days of the filing of the Complaint, but rather provides that the aggrieved person "may" proceed under (4) as if the Commission determined there was reasonable cause.

SEALE also argued that although F.S. 760.11(3) places a good faith requirement on the FCHR to make best efforts to make a determination within a 180 day period, the FCHR is not divested of jurisdiction to continue an investigation beyond the 180 days, nor does F.S. 760.11(3) require or mandate that the complaining party commence her lawsuit within one year of the 181st day after the charge is filed.

On or about 9/23/98, EMSA filed a Reply to SEALE's Memorandum of Law in opposition to EMSA's MSJ(V1-85-94). In that reply, EMSA disagreed with SEALE's contention that the SOL under the FCRA begins to run when the EEOC issues its notice of right to sue(V1-87-89).

On 9/23/98, a hearing on the aforesaid MSJ was held before the TC(V1-1-15). On 9/23/98, the Honorable TC entered her Order on EMSA's Motion for Summary Judgment(V1-97, 98). In that Order the TC found as follows:

> "4. Plaintiff initially filed her charge of discrimination with both the Florida Commission and the EEOC on 2/28/96. The Florida Commission on Human Relations had 180 days from 2/28/96 in which to make a reasonable cause determination. Sec. 760.11(3)-(5) and (8), Fla. Stat. (1995); Milano v. Mold Master, Inc., 703 So.2d 1093 (Fla. 4th DCA 1997).

5. Plaintiff failed to file suit within the one year limitations period, as she filed this action on 3/19/98.

6. Accordingly, this action is time barred. There is no genuine issue of material fact to be tried. Defendant is entitled to a judgment in its favor as a matter of law."(V1-97).

A final judgment was entered in favor of Defendant in 3/99.

Thereafter, SEALE appealed the TC's dismissal of her complaint to the Second District Court of Appeal.

On 9/29/99, the Second DCA entered a Per Curiam affirmance of the TC's Order(App-1). Specifically, the Second DCA's opinion states as follows:

"PER CURIAM.

AFFIRMED. See Joshua v. City of Gainesville, 734 So.2d 1068 (Fla. 1st DCA 1999), review granted, 735 So.2d 1285 (Fla. 1999)."(App.-1).

Thereafter, Claimant filed her Notice to Invoke Discretionary Jurisdiction before this Honorable Court. On February 3, 2000, This Honorable Court entered an Order accepting jurisdiction and dispensing with oral argument. This Court also ordered Petitioner's Brief on the Merits to be served on or before February 28, 2000. This Brief is being served in accordance with this Honorable Court's Order accepting jurisdiction dated February 3, 2000.

A more specific reference to facts will be made during Argument.

POINTS ON APPEAL

I

DOES THE SECTION 760.11(5), FLORIDA STATUTES (1997), ONE YEAR STATUTE OF LIMITATIONS FOR FILING CIVIL ACTIONS "AFTER THE DATE OF DETERMINATION OF REASONABLE CAUSE BY THE COMMISSION" APPLY ALSO UPON THE COMMISSION'S FAILURE TO MAKE ANY DETERMINATION AS TO "REASONABLE CAUSE" WITHIN 180 DAYS AS CONTEMPLATED IN SECTION 760.11(8) FLORIDA STATUTES (1997), SO THAT AN ACTION FILED BEYOND THE ONE YEAR PERIOD IS TIME BARRED?

II

THE TRIAL COURT ERRED AS A MATTER OF LAW WHEN IT HELD THAT PETITIONER/PLAINTIFF FAILED TO FILE SUIT WITHIN THE ONE YEAR LIMITATIONS PERIOD WHEN F.S. 760.11(5)(1997) PROVIDES THAT A CIVIL ACTION MAY BE COMMENCED NO LATER THAN ONE YEAR AFTER THE DATE OF DETERMINATION OF REASONABLE CAUSE BY THE COMMISSION, AND PLAINTIFF'S COMPLAINT WAS FILED WITHIN ONE YEAR FROM THE DATE THE FCHR, THROUGH ITS AGENCY, THE EEOC, MADE A DETERMINATION OF REASONABLE CAUSE.

III

THE TRIAL COURT ERRED IN GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND DISMISSING PETITIONER/PLAINTIFF'S COMPLAINT.

SUMMARY OF ARGUMENT

I

DOES THE SECTION 760.11(5), FLORIDA STATUTES (1997), ONE YEAR STATUTE OF LIMITATIONS FOR FILING CIVIL ACTIONS "AFTER THE DATE OF DETERMINATION OF REASONABLE CAUSE BY THE COMMISSION" APPLY ALSO UPON THE COMMISSION'S FAILURE TO MAKE ANY DETERMINATION AS TO "REASONABLE CAUSE" WITHIN 180 DAYS AS CONTEMPLATED IN SECTION 760.11(8) FLORIDA STATUTES (1997), SO THAT AN ACTION FILED BEYOND THE ONE YEAR PERIOD IS TIME BARRED?

F.S. 760.11(5)(1997) provides, inter alia:

". . .A civil action brought under this Section shall be commenced no later than one year after the date of

determination of reasonable cause by the commission. . . .”

F.S. 760.11(8)(1997) further provides:

> “. . .In the event that the Commission fails to conciliate or determine whether there is reasonable cause on any complaint under this Section within 180 days of the filing of the Complaint, an aggrieved person **may** proceed under subsection (4) as if the commission determined that there was reasonable cause.”

The legislature, in passing F.S. 760.11(8)(1997) used the word “may”, not “shall”. The word “may” denotes a permissive term rather than the mandatory connotation of the word “shall”, Fixel v. Clevenger, 285 So.2d 687 (Fla. 3rd DCA 1973).

Therefore, an aggrieved person’s ability to file suit after 180 days of filing the Complaint with the FCHR, in those instances where the Commission has not yet reached a determination whether there is reasonable cause, is purely elective, but not mandatory. Federal cases interpreting a similar provision in 42 U.S.C. 2000 e-5(f) have, in essence, ruled the same way, Forbes v. Reno, 893 F.Supp. 476 (U.S.D.C. WD Pa 1995).

Yet, despite the permissive language of F.S. 760.11(8)(1997), the trial court held that 760.11(8)(1997) was mandatory and if the Complaint was not filed within 1 year from the 180th day after the filing of a complaint with the FCHR, the complaint would be time barred.

Such a ruling is completely contrary to the clear and

unequivocal language of F.S. 760.11(8)(1997).

It is Petitioner's position in this case that when 180 days has gone by and the FCHR has not yet made a determination as to whether or not there is reasonable cause on a complaint filed with them, the aggrieved party may elect not to wait any longer and proceed under F.S. 760.11(4)(1997) by either filing a civil action or requesting an administrative hearing, **OR** the aggrieved party may do nothing and allow the FCHR to continue its investigation and to attempt to resolve any disputes between the parties. This is exactly what happens under Federal law, See 29 C.F.R. 1601.28, Forbes v. Reno, supra.

II

In the case at bar, the EEOC actually investigated SEALE'S complaint of discrimination in conformity with a work sharing agreement entered into between FCHR and EEOC. Thus, the EEOC, acting on behalf of the FCHR, entered a Notice of Reasonable Cause on 12/10/97. It was the EEOC'S Notice of Reasonable Cause on 12/10/97 that triggered SEALE'S right to file a civil action against Respondents pursuant to F.S. 760.11(4)(a) and (5)(1997), Dawkins v. BellSouth Telecommunications, Inc., 53 F.Supp.2d 1356 (M.D. Fla. 1999). SEALE filed her complaint on 3/19/98, well within one year of 12/10/97. SEALE'S complaint was timely filed.

III

Since the TC erred in ruling that SEALE did not file her suit timely, the TC also erred in granting EMSA's MSJ and in dismissing SEALE'S Complaint.

ARGUMENT

I

DOES THE SECTION 760.11(5), FLORIDA STATUTES (1997), ONE YEAR STATUTE OF LIMITATIONS FOR FILING CIVIL ACTIONS "AFTER THE DATE OF DETERMINATION OF REASONABLE CAUSE BY THE COMMISSION" APPLY ALSO UPON THE COMMISSION'S FAILURE TO MAKE ANY DETERMINATION AS TO "REASONABLE CAUSE" WITHIN 180 DAYS AS CONTEMPLATED IN SECTION 760.11(8) FLORIDA STATUTES (1997), SO THAT AN ACTION FILED BEYOND THE ONE YEAR PERIOD IS TIME BARRED?

The TC, in its Order of 9/23/98, found as follows:

> "4. Plaintiff initially filed her charge of discrimination with both the Florida Commission and the EEOC on 2/28/96. The Florida Commission on Human Relations had 180 days from 2/28/96 in which to make a reasonable cause determination. Sec. 760.11(3)-(5) and (8), Fla. Stat. (1995); Milano v. Moldmaster, Inc., 703 So.2d 1093 (Fla. 4th DCA 1997).
>
> 5. Plaintiff failed to file suit within the one year limitations period, as she filed this action on 3/19/98.
>
> 6. Accordingly, this action is time barred. There is no genuine issue of material fact to be tried. Defendant is entitled to a judgment in its favor as a matter of law."(V1-97)."

This ruling by the TC is error, as a matter of law, and should be reversed. A civil action may be brought within one year after the date of determination of reasonable cause by the commission, F.S. 760.11(5)(1997). In the case at bar, the EEOC, acting as agent for

the FCHR under the work sharing agreement between the two agencies, issued a finding of reasonable cause on 12/10/97. SEALE'S complaint was filed on 3/19/98, within one year from the date of the issuance of the Notice of reasonable cause and therefore, was timely."

In the case at bar, SEALE filed a one count complaint alleging that EMSA violated the Florida Civil Rights Act of 1992 on the basis of handicap(V1-9).

F.S. 760.11(1)(1997) requires a person aggrieved by a violation of the Florida Civil Rights Act of 1992 to file a complaint with the FCHR within 365 days of the alleged violation, See also Farancz v. Saint Mary's Hospital, Inc., 585 So.2d 1151 (Fla. 4th DCA 1991). Once a complaint is filed, the FCHR shall, except as otherwise provided:

> ". . .investigate the allegations in the complaint. Within 180 days of the filing of the complaint, the Commission shall determine if there is reasonable cause to believe that discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992. When the Commission determines whether or not there is reasonable cause, the Commission, by registered mail, shall promptly notify the aggrieved person and the Respondent of the reasonable cause determination, the date of such determination and the options available under this section." F.S. 760.11(3)(1997)

Although F.S. 760.11(3)(1997) states that within 180 days of the filing of the complaint, . . .the Commission **shall** determine if there is reasonable cause to believe that discriminatory practice has occurred. . .", the FCHR is not required to conclude its

investigations within 180 days. Rather, the use of the word “shall” is directory only, not mandatory.

SEALE acknowledges that the term “shall” in a statute is normally interpreted to be mandatory in nature, Psychiatric Institute of Delray, Inc. v. Keele, 717 So.2d 1042(Fla. 4th DCA 1998). However, mandatory language used in a statute may, in a proper case, be construed as permissive or directory only, See e.g., Scottie Craft Boat Corp. v. Smith, 336 So.2d 1150 (Fla. 1976), Palm Springs General Hospital, Inc. v. State Farm Mutual Automobile Insurance Company, 218 So.2d 793 (Fla. 3rd DCA 1969). Thus, unless the body of the statute indicates a contrary legislative intention, the use of mandatory words in a statute specifying the time within which duties of public officers are to be performed may be construed as directory only, and not mandatory, Smith, supra, Lomelo v. Mayo, 204 So.2d 550 (Fla. 1st DCA 1967).

The rule has been stated in Lomelo v. Mayo, supra, as follows:

> “When a particular provision of a statute relates to some immaterial matter, where compliance is a matter of convenience rather than substance, or where the directions of a statute are given with a view to the proper, orderly and prompt conduct of business merely, the provision may generally be regarded as directory.” Lomelo v. Mayo, supra at 553.

Thus, for example, in Lomelo, supra, the word “shall” in a statute providing that a hearing to determine reasonableness and justness of a proposed water and sewer rate change, filed by the

public utility company must be held and the Order entered thereon within 180 days from the date the public utility company filed proposed changes with the Commission is directory rather than mandatory since there was nothing to indicate that the time requirement was intended as a limitation on the Commission's power to act and since the statute does not have the effect of depriving any person of his property or property rights.

Similarly in Smith, supra, this Honorable Court held that the provision of F.S. 440.25(3)(b)(1971), which provided that a JCC "shall" within 30 days, unless otherwise agreed to by the parties after such hearing, determined the dispute in a summary manner was directory only and did not divest the JCC of jurisdiction after 30 days. The decision in Smith, supra, has been affirmed in numerous worker's compensation cases occurring thereafter, Parker v. Sugar Cane Grower's Coop, 595 So.2d 1022 (Fla. 1st DCA 1992).

The requirement in F.S. 760.11(3)(1997) that provides that the commission "shall" determine if there is reasonable cause to believe that discriminatory practice has occurred within 180 days of the filing of the complaint, is simply words specifying the time within which the duties of the commission is to be performed, and is really designed merely to further the orderly conduct of business, and thus, such provision is to be deemed directory only

and not mandatory."

The same result has been reached under Federal law dealing with the EEOC, Forbes v. Reno, 893 F.Supp. 476 (U.S.D.C. WD PA 1995),(Title VII does not require the EEOC to conclude its investigations within 180 days or to automatically issue a Notice of Right to Sue at 180 days if its investigation is still pending at that time).

Common sense dictates that the FCHR still has jurisdiction to determine if there is reasonable cause to believe that discriminatory practice has occurred even if they have not yet made that decision within 180 days of the filing of the Complaint. For example, F.S. 760.11(11)(1997) gives the FCHR considerable leeway in attempting to resolve any alleged discrimination complaint filed with them. F.S. 760.11(11)(1997) provides:

> "If a complaint is within the jurisdiction of the Commission, the Commission shall simultaneously, with its other statutory obligations, attempt to eliminate or correct the alleged discrimination by informal methods of conference, conciliation and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent civil proceeding, trial or hearing. The Commission may initiate dispute resolution procedures, including voluntary arbitration, by special masters or mediators. The Commission may adopt rules as to the qualifications of persons who may serve as special masters and mediators."

It is clear that it is the legislative intent that the FCHR take all reasonable steps to amicably resolve any discrimination

complaint by informal methods of conference, conciliation and persuasion, or the more formal dispute resolution procedures including voluntary arbitration by special masters or mediators. With the workload of the FCHR, it is unreasonable to think that they could perform all of these functions within 180 days in very many of their cases. If the word “shall” is deemed to be mandatory in F.S. 760.11(3)(1997), then it would severely undermind the very purpose of the FCHR, and that is to fully investigate and attempt to resolve, without the necessity of litigation, any discrimination complaints.

The case of Farancz v. Saint Mary’s Hospital, Inc., 585 So.2d 1151 (Fla. 4th DCA 1991), clearly establishes that the FCHR has jurisdiction beyond its 180 days to continue to investigate to determine if there is reasonable cause to believe that a discriminatory practice has occurred. For example, Farancz filed a charge with the FCHR on 11/1/84. Initially, on 11/8/85, the FCHR issued an investigatory report recommending a no cause finding. However, on 7/28/87, two and one half years after the Compliant was filed with them, the FCHR issued a reasonable cause determination. Thus, although it was not an issue in Farancz, supra, the case clearly shows that the FCHR has jurisdiction to determine reasonable cause even beyond the 180 day period set forth in F.S.

760.11(3)(1997). F.S. 760.11(4)(1997) states the options an aggrieved person has once the Commission determines that there is reasonable cause to believe that a discriminatory practice has occurred. Those options are:

> "(4) In the event that the Commission determines that there is reasonable cause to believe that a discriminatory practice has occurred in violation of the Florida Civil Rights of 1992, the aggrieved person may either:
>
> (a) Bring a civil action against the person named in the complaint in any Court of competent jurisdiction; or
>
> (b) Request an administrative hearing under Sec. 120.569 and 120.57.
>
> The election by the aggrieved person of filing a civil action or requesting an administrative hearing under this subsection is the exclusive procedure available to the aggrieved person pursuant to this act."

As can be seen by F.S. 760.11(4)(1997), an aggrieved person has two remedies when the FCHR determines if there is reasonable cause to believe that a discriminatory practice has occurred. Those two options are to (1) Bring a civil action in a Court of competent jurisdiction or (2) Request an administrative hearing.

F.S. 760.11(5)(1997) tells us the time limitations that an aggrieved person has to take action once the Commission has determined that there is reasonable cause to believe that a discriminatory practice has occurred, and provides:

> ". . .A civil action brought under this Section shall be commenced no later than one year after the date of

determination of reasonable cause by the Commission. . . ."

If the party elects to have an administrative hearing, the aggrieved party has less time. F.S. 760.11(6)(1997) provides:

> "An administrative hearing pursuant to (4)(b) must be requested no later than 35 days after the date of determination of reasonable cause by the Commission. . . ."

The statute also provides what happens in the event that there is not reasonable cause to believe a violation has occurred. If the FCHR determines that there is not reasonable cause to believe that a violation has occurred, the aggrieved person is left with just one remedy, an administrative hearing, and that remedy must be requested within 35 days. F.S. 760.11(1997) provides:

> "If the Commission determines that there is not reasonable cause to believe that a violation of the Florida Civil Rights Act of 1992 has occurred, the Commission shall dismiss the complaint. The aggrieved person may request an administrative hearing under Sec. 120.569 and 120.57, that any such request must be made within 35 days of the date of determination of reasonable cause and any such hearing shall be heard by an Administrative Law Judge and not by the Commission or a Commissioner. If the aggrieved person does not request an Administrative hearing within the 35 days, the claim will be barred. . . "

In McElrath v. Burley, 707 So.2d 836 (Fla. 1st DCA 1998), this Court held that the aforesaid statute was constitutional, even though it precluded a person whom the FCHR found there was no reasonable cause to believe that a violation of the Florida Civil Rights Act occurred from filing a civil lawsuit.

The statute provides for a third possibility, that being in a situation where the FCHR fails to conciliate or fails to determine whether or nor there is reasonable cause on any complaint. Specifically, F.S. 760.11(8)(1997) provides:

> "In the event that the Commission fails to conciliate or determine whether there is reasonable cause on any complaint under this section within 180 days of the filing of the complaint, an aggrieved person **may** proceed under "(4)", as if the Commission determined that there was reasonable cause."

The legislature, in F.S. 760.11(8)(1997) uses the permissive word "may" which clearly demotes a permissive term rather than the mandatory connotation of "shall", which can also, as previously argued, depending on the circumstances, be permissive or directory, Fixel v. Clevenger, 285 So. 687 (Fla. 3rd DCA 1972), Brooks v. Anastasia Mosquite, 148 So.2d 64 (Fla. 1st DCA 1963).

It is therefore SEALS's position that if 180 days has gone by and the FCHR has not yet made a determination as to whether or not there is reasonable cause on a complaint filed with them, the aggrieved party has two choices: (1) Do nothing and allow the FCHR to continue its investigation and to attempt to resolve any disputes between the parties, or (2) Not wait any longer and proceed under F.S. 760.11(4)(1997). However, SEALE is not required to proceed under F.S. 760.11(4)(1997) since F.S. 760.11(8)(1997) simply states that SEALE "may" proceed under (4) but is not

required to proceed under that statute.

In the case at bar, the TC held otherwise. The TC, based on the 4th DCA's decision in Milano v. Moldmaster, Inc., 703 So.2d 1093(Fla. 4th DCA 1997), held that the aggrieved party had to elect its rights under (4) at the end of the 180 days, or his claim was barred.

Similarly, in Joshua v. City of Gainesville, 734 So.2d 1068 (Fla. 1st DCA 1999), the First DCA also held that where the Commission failed to make any determination as to "reasonable cause" within 180 days as contemplated in F.S. 760.11(8)(1995), an action not filed within one year from the 181st day was time barred. In Joshua v. City of Gainesville, supra, the First DCA certified the question which is set forth as Point I hereinabove, to be a question of great public importance, Joshua v. City of Gainesville, supra at 1071. That case is still pending before this Honorable Court.

To the extent that Milano v. Moldmaster, Inc., supra, and Joshua v. City of Gainesville, supra can be interpreted to hold that in those instances where the FCHR fails to make a determination within 180 days, it looses jurisdiction, and a Claimant must file a lawsuit within one year after the 181st day, or forever have his claim barred, Petitioner respectfully submits

such a determination is error as a matter of law. Petitioner further respectfully submits that Milano, supra, and Joshua, supra, can be distinguished on factual grounds, and for that reason also should not be followed by this Court in this case.

In Milano, supra, the Appellant, Milano, filed a complaint with the FCHR on 4/8/94, alleging that Moldmaster wrongfully terminated her employment based upon her disability. The FCHR failed to issue a reasonable cause determination within 180 days. More than one year after the expiration of the 180 day period, Milano filed a civil action against Moldmaster. The FCHR then sent Milano a Notice of Dismissal, advising her that the FCHR's jurisdiction was divested by Milano's filing of the civil action. The TC dismissed the action based on its interpretation that the statute of limitations had run. The Fourth DCA, in upholding the TC's decision in Milano, supra, stated:

> "The TC determined that the one year limitation on filing a civil action began to run at the expiration of the 180 day period in which the Commission was to make a reasonable cause determination. We agree, as any other interpretation of the foregoing subsections, read together, would not be reasonable."

As it related to the Federal statute, all the Fourth DCA stated was as follows:

> "While the corresponding Federal statute, 42 U.S.C. 2000e-5(b)(1997) has different wrinkles than Florida's legislation (referring to the 90 day right to sue letter), one observation

under the former is worth noting. The 11th Circuit observed in a related, but not identical context:

> "There is no reason why a Plaintiff should enjoy a manipulable open ended time extension, which could render the statutory limitation meaningless. Plaintiff should be required to assume some minimum responsibility himself for an orderly and expeditious resolution of his dispute." Milano, supra, at 1094-1095.

SEALE submits that Milano is factually distinguishable from the case at bar, because Milano filed his claim more than one year after the expiration of the 180 day period, and before the FCHR rendered its decision. In other words, if Milano did not wish to wait for the FCHR to render its decision, then, they should have filed their complaint within one year from the 180 day time period as set forth in F.S. 760.11(8)(1997). That is one of the options that they are given under F.S. 760.11(8)(1997).

However, SEALE respectfully submits that a Plaintiff has a second option - to allow the FCHR to continue with its investigation and then (1) file suit within one year if the FCHR should determine that there is reasonable cause to believe that discriminatory practice has occurred or (2) ask for an administrative hearing, if the FCHR finds reasonable cause, or file an administrative hearing if the FCHR finds no reasonable cause (since that is the only remedy if the FCHR finds no reasonable cause).

As argued under Point II hereinbelow, that is what SEALE did in the case at bar. When the EEOC, acting as agent for the FCHR did not render a decision within 180 days, SEALE elected to allow the EEOC to continue its investigation rather than elect her option to file suit under F.S. 760.11(8)(1997). The EEOC did eventually render its decision on 12/10/97 (V1-39), and SEALE had, pursuant to F.S. 760.11(5)(1997) one year from 12/10/97 (actually 12/15/97, the date the notice was received) within which to file suit.

Similarly, Joshua v. City of Gainesville, supra, is distinguishable from the case at bar. The First DCA reached its decision in Joshua v. City of Gainesville, supra, based upon the decision of the Fourth DCA in Milano, supra. In fact, the First DCA stated:

> "Milano, which is factually indistinguishable from the instant case and all material respects, supports the Trial Court's ruling." Joshua v. City of Gainesville, supra, at 1070.

If Milano is factually indistinguishable from Joshua in all material respects, one can only assume that in Joshua, supra, the FCHR also never rendered a decision one way or the other, and the Claimant filed her Complaint more than one year after the 180 day time period arose. Thus, in Joshua, supra, as in Milano, supra, the Plaintiff elected not to wait for the FCHR to render its decision, and therefore was required to file their complaint within one year

from the 180 day time period per F.S. 760.11(8)(1997). Again, however, in the case at bar, although SEALE "may" file suit within 180 days of the filing of the Complaint since the FCHR failed to conciliate or determine whether there was reasonable cause within 180 days of the filing of the complaint, SEALE elected not to, but instead chose to allow the FCHR to continue to try to resolve the complaint, and make a determination whether or not there was reasonable cause. It is only after the FCHR made a determination of reasonable cause, through its agent, the EEOC, that SEALE elected to file her complaint in the case at bar. This clearly makes SEALE's claim distinguishable from both Milano and Joshua, supra.

SEALE respectfully submits that despite the language in F.S. 760.11(3)(1997), the FCHR has ongoing jurisdiction to attempt to conciliate or determine whether there is reasonable cause, even after the initial 180 days for the following reasons:

(1) Although the legislature utilized the word "shall" in F.S. 760.11(3)(1997), the use of mandatory words in a statute specifying the time within which duties of public officers are to be performed may be construed as directory only and not mandatory, Lomelo v. Mayo, supra, Parker v. Sugar Cane Growers Coop, supra, Scottie Craft Boat Corp. v. Smith, 336 So.2d 1150 (Fla. 1976), Brown v. Pumpian, 504 So.2d 481 (Fla. 1st DCA 1987), Palm Springs

General Hospital, Inc. v. State Farm Mutual Automobile Insurance Company, 218 So.2d 793 (Fla. 3rd DCA 1969).

(2) The same result as argued by SEALE is the result that has been reached under Federal law dealing with the EEOC, Forbes v. Reno, supra, 29 C.F.R. 1601.28. SEALE would respectfully note that if a Florida Statute is modeled after Federal law on the same subject, the Florida Statute will take on the same construction as is placed on its Federal prototype insofar as such interpretation is harmonious with the spirit and policy of the Florida legislation, Smith v. Avatar Properties, Inc., 714 So.2d 1103 (Fla. 5th DCA 1998), Brand v. Florida Power Corp., 633 So.2d 504 (Fla. 1st DCA 1994).

The Florida Civil Rights Act is clearly modeled after Federal law. Title 42, Sec. 2000e-5(f)(1) provides that:

> "If a charge filed with the Commission pursuant to (b) of this section is dismissed by the Commission or if within 180 days from the filing of such charge or the expiration of any period of reference under (c) or (d) of this section, whichever is later, the Commission has not filed a civil action under this section where the Attorney General has not filed a civil action in a case involving a government, governmental agency, or political subdivision, or the Commission has not entered into a conciliation agreement to which the person aggrieved is a party, the Commission, or the Attorney General in a case involving a government, governmental agency, or political subdivision, shall so notify the person aggrieved and within 90 days after the giving of such notice, a civil action may be brought against the Respondent named in the charge (A) By the person claiming to be aggrieved, or (B) if such charge was filed by a member of the Commission, by any person whom the

> charge alleges was aggrieved by the alleged unlawful employment practice. . . .”

Despite the above language, which provides that if a decision has not been reached within 180 days, the EEOC shall so notify the person and within 90 days after giving such notice, a civil action may be brought, federal cases have held that the actual notice of the right to sue shall be issued, when an investigation is still pending after 180 days, only upon the complainant’s request in writing, Forbes v. Reno, supra. Under Federal statute, of which the Florida statute is modeled, the EEOC retains jurisdiction over the investigation even beyond 180 days, until such time as they reach a decision or the aggrieved party requests a notice of right to sue.

This is how the Federal government interprets the aforesaid provision in its Code of Federal Regulations. 29 C.F.R. 1601.28 provides that a notice of right to sue will be issued (1) When more than 180 days has transpired and the aggrieved party requests a notice of right to sue, or (2) where the Commission has found reasonable cause to believe that Title VII or the ADA has been violated and they have been unable to obtain voluntary compliance with Title VII or the ADA.

Thus, under the Federal scheme, when more than 180 days has elapsed and no decision has been made, the EEOC retains

jurisdiction until either: (1) A decision has been reached or (2) The aggrieved party requests the right to sue. However, under the Federal scheme, an aggrieved party is not required to request a right to sue letter after the 180 days, but rather, the EEOC retains jurisdiction to complete its investigation if it's investigation is still pending at that time, Forbes v. Reno, supra.

(3) Common sense dictates that the FCHR still has jurisdiction, even if they have not yet made a decision within 180 days, given the fact that the legislature clearly intends the FCHR to use every means possible to resolve a discrimination complaint, See e.g., F.S. 760.11(11)(1997). Restricting the FCHR's jurisdiction to 180 days would severely undermind the very purpose and function of the FCHR, and in effect, render the agency a nullity. Clearly the agency has so many cases it would be very difficult for the agency to complete very many of those cases within 180 days. In fact, this case is a perfect example, the original complaint was filed on 2/26/96, yet a determination was not made until 12/10/97, nearly 21 months after the initial claim was filed. To hold that the FCHR does not have jurisdiction beyond 180 days would nearly render the FCHR a nullity.

(4) The case of Farancz, supra, establishes that the FCHR has jurisdiction beyond its 180 days to continue to investigate to

determine if there is reasonable cause to believe that a discriminatory practice has occurred.

Therefore, if the FCHR continues to have jurisdiction to attempt to conciliate or determine whether there is reasonable cause on any complaint filed with them even beyond the 180 days, it is therefore clear that a Claimant is then not required to file suit within one year after 180 days. In fact, once a Claimant files a lawsuit it divests the FCHR of jurisdiction, Sweeney v. Florida Power and Light Company, Inc., 725 So.2d 380 (Fla. 3rd DCA 1998).

Instead, it is respectfully submitted that since the FCHR has ongoing jurisdiction even after the initial 180 days, then, an aggrieved party has one of two options once the 180 days has transpired:

(1) Do nothing until the FCHR makes its determination, or

(2) Elect its remedy under F.S. 760.11(4)(1997).

It is a choice the aggrieved party has, and it is not mandatory that the aggrieved party elect its remedy under F.S. 760.11(4)(1997) after 180 days has transpired and the FCHR has failed to make a determination.

SEALE further respectfully submits that both Milano, supra, and Joshua, supra, should not be followed because:

(1) They are factually distinguishable as argued hereinabove

(2) They improperly interpret the word "may" in F.S. 760.11(8)(1997) to be mandatory rather than permissive or directory, Fixel v. Clevenger, supra;

(3) It conflicts with the implication in Farancz, supra, which clearly implies the FCHR has jurisdiction to continue to investigate and determine if discriminatory practices have occurred well beyond the initial 180 day period;

(4) It severely underminds the mandate in F.S. 760.11(11) which requires the FCHR to conciliate and attempt to resolve civil rights through informal resolution processes because it cuts the FCHR's jurisdiction short by requiring an aggrieved party to transfer the dispute for formal resolution by the Court in many instances where the FCHR has not yet had time to complete its investigation;

(5) It can unduly and unconstitutionally deny an aggrieved party with a right to litigate or to seek an administrative hearing because an aggrieved party's right to proceed by way of administrative hearing or by civil action, under Milano, could terminate during the time period that the aggrieved party believes the FCHR is still investigating its complaint (which is exactly what happened in the case at bar), if the TC's decision is upheld, without any kind of notice given to the aggrieved party of her

obligation to make an election under F.S. 760.11(8)(1997).

Finally, in connection with the Fourth DCA's observation of the Eleventh Circuit Court's statement that:

> "There is no reason why Plaintiff should enjoy a manipulable open ended time extension which could render the statutory meaningless. . . .",

SEALE would state that the statute does not allow the Plaintiff an open ended time extension which could render the statutory limitation meaningless. There is a four year statute of limitations (SOL) for filing an employment discrimination case under the FCHR, Farancz v. Saint Mary's Hospital, Inc., supra, F.S. 95.11(3)(1997). Thus, any concern over some manipulable open ended time extension is at least restricted by the four year SOL.

SEALE therefore respectfully submits that the certified question should be answered in the negative. Specifically, Section 760.11(5)(1997) one year statute of limitations for filing civil actions after the date of determination of reasonable cause by the Commission does not automatically apply upon the Commission's failure to make any determination as to "reasonable cause" within 180 days as contemplated in Section 760.11(8)(1997). Rather, when the Commission fails to make a determination as to "reasonable cause" within 180 days as contemplated in Section 760.11(8)(1997), the aggrieved party has two options:

(1) Do nothing until the FCHR makes its determination, and then proceed within the time provisions set forth in F.S. 760.11(5)(1997) once such a decision has been made, or

(2) Elect its remedy under F.S. 760.11(4)(1997), but if it is going to do so, and does not wish to allow the FCHR to continue its investigation, then such election must be exercised within one year of the 180 days as required by F.S. 760.11(5)(1997).

II

THE TRIAL COURT ERRED AS A MATTER OF LAW WHEN IT HELD THAT PETITIONER/PLAINTIFF FAILED TO FILE SUIT WITHIN THE ONE YEAR LIMITATIONS PERIOD WHEN F.S. 760.11(5)(1997) PROVIDES THAT A CIVIL ACTION MAY BE COMMENCED NO LATER THAN ONE YEAR AFTER THE DATE OF DETERMINATION OF REASONABLE CAUSE BY THE COMMISSION, AND PLAINTIFF'S COMPLAINT WAS FILED WITHIN ONE YEAR FROM THE DATE THE FCHR, THROUGH ITS AGENCY, THE EEOC, MADE A DETERMINATION OF REASONABLE CAUSE.

SEALE respectfully submits that her Complaint was timely filed.

F.S. 760.11(2)(1997) provides:

> "In the event that any other agency of the state or of any other unit of government of the state has jurisdiction of the subject matter of any complaint filed with the Commission and has legal authority to investigate the complaint, the Commission may refer such complaint to such agency for an investigation. Referral of such a complaint by the Commission shall not constitute agency action within the meaning of § 120.52. In the event of any referral under this subsection, the Commission shall accord substantial weight to any findings

and conclusions of any such agency. **The referral of a complaint by the Commission to a local agency does not divest the Commission's jurisdiction over the complaint.**"

Pursuant to the aforesaid statute and similar Federal law, the FCHR and the EEOC have entered into a work sharing agreement(V1-68-77) Sweeney v. Florida Power and Light Company, Inc., supra, McKelvy v. Metal Container Corp., 854 F.2d 448 (11th Cir. 1988), Thomas v. Florida Power and Light Company, 764 F.2d 768 (11th Cir. 1985). In the case at bar, SEALE filed her charge of discrimination with both the FCHR (V1-22-24) and the EEOC (V1-25-27). Under the work sharing agreement, however, the EEOC investigated the complaint. As such, the EEOC investigated the Complaint as agent for the FCHR. The fact that the EEOC investigated the complaint does not in any way divest the FCHR of jurisdiction, nor does it preclude the aggrieved party from filing a state action, F.S. 760.11(2)(1997), II-H of the work sharing agreement(V1-70), McKelvey v. Metal Container, supra. In McKelvey, supra, the 11th Circuit held that a work sharing agreement between the FCHR and the EEOC does not waive Florida jurisdiction when the FCHR was only waiving its right to investigate. Therefore, it is clear that the FCHR retain jurisdiction over SEALE's complaint of discrimination and F.S. 760.11(1997), along with F.S. 95.11(3)(1997) governs the time periods within which an aggrieved party must proceed once the

EEOC, as agent for the FCHR, enters a determination of whether or not there is reasonable cause.

If SEALE wanted to file a Federal action, the 90 day time period in the Notice of Right to Sue would apply; however, if SEALE wishes to initiate a State action as she did in the case at bar, then the time parameters of F.S. 760.11(5)(1997) would apply.

In the case at bar, the EEOC issued a determination finding reasonable cause to believe that violations of the statute occurred on 12/10/97(V1-39). SEALE submits that the Notice of Right to Sue trigger SEALE's rights under F.S. 760.11(4)(1997) to either:

(1) Bring a civil action, or

(2) Request an administrative hearing, Dawkins v. Bellsouth Telecommunications, Inc., 53 F.Supp.2d 1256 (M.D. Fla. 1999)(under work sharing agreement between EEOC and FCHR, no cause determination by EEOC as to duly filed administrative complaint operated as no cause determination by FCHR, thus triggering administrative appeal deadline of FCRA as to FCHR claim).

If SEALE wanted to bring a civil action, as she did in the case at bar, then F.S. 760.11(5)(1997) provides that it must be brought no later than one year after the date of determination of reasonable cause by the Commission, subject only to the general four year SOL for a discrimination action, Farancz, supra.

In the case at bar, SEALE filed her complaint on 3/19/98, well within one year of 12/10/97, the date the FCHR, through its agent, the EEOC, issued its determination of reasonable cause. SEALE's complaint, therefore, was timely filed within the time period specified in F.S. 760.11(5)(1997).

The alleged discrimination occurred on or about 1/22/96 (V1-3), and therefore, the complaint was filed well within four years from 1/22/96, and well within the general SOL as set forth in F.S. 95.11(3)(1997).

The TC therefore erred in finding that SEALE's action was time barred.

III

THE TRIAL COURT ERRED IN GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND DISMISSING PETITIONER/PLAINTIFF'S COMPLAINT.

The TC, in her Order of 9/23/98, found:

> "Accordingly, this action is time barred. There is no genuine issue of material fact to be tried. Defendant is entitled to a judgment in its favor as a matter of law."(V1-97).

Based upon the foregoing, the TC granted EMSA's MSJ (V1-98).

SEALE submits that the TC erred in finding that the section 760.11(5)(1997) one year statute of limitations for filing civil actions "after the date of determination of reasonable cause by the Commission" apply also upon the Commission's failure to make any determination as to "reasonable cause" within 180 days as

contemplated in Section 760.11(8)(1997) so that an action filed beyond the one year period is time barred. SEALE adopts and realleges the argument set forth under Point I hereinabove.

SEALE further respectfully submits that the TC erred in finding that SEALE's action was time barred, since SEALE timely filed her complaint within one year of the date that the EEOC, as agent for FCHR through its work sharing agreement, issued its determination of reasonable cause, and SEALE adopts and realleges her argument as set forth under Point II hereinabove.

Since the TC erred in finding that SEALE's action is time barred, the TC also erred in finding that EMSA is entitled to a judgment in its favor as a matter of law, and in granting EMSA's MSJ.

CONCLUSION

The TC erred in finding that SEALE's action is time barred. F.S. 760.11(5)(1997) gives an aggrieved party one year after the date of determination of reasonable cause by the FCHR to file a civil action. In this case, the FCHR, through the EEOC, issued a determination of reasonable cause on 12/10/97. SEALE filed her Complaint on 3/19/98, well within one year from 12/10/97.

The TC, and the Second DCA, erred by holding that the

provision of F.S. 760.11(8)(1997) is mandatory despite the legislature's use of the word "may". SEALE contends that F.S. 760.11(8)(1997), which gives an aggrieved party the right to file a civil action if the FCHR fails to make a determination of reasonable cause within 180 days, is simply permissive but not mandatory. SEALE elected to allow the FCHR, through the EEOC, to continue its investigation beyond the 180 days, rather than divest jurisdiction of the FCHR by filing a civil action within the 180 days. Since SEAL elected to leave the complaint with the FCHR (and the EEOC as their agent), she was not required to file suit until one year after the determination of reasonable cause.

WHEREFORE it is respectfully requested that this Honorable Court enter an Order reversing the Second DCA's opinion of 9/29/99, and the TC's Order of 9/23/98, that this Court find that the provisions of F.S. 760.11(8)(1997) are permissive but not mandatory, that SEALE timely filed her complaint per F.S. 760.11(5)(1997), that SEALE's complaint be reinstated, and that this matter be remanded to the TC for further proceedings consistent herewith.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy hereof has been furnished by U.S. Mail on this 28th day of February, 2000 to: **Richard J. Manno, Esquire**, P.O. Box 4979, Orlando, FL 32802 and **Kendra Presswood, Esquire and John Hament, Esquire**, 1800 Second Street, Suite 970, Sarasota, FL 34236.

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