City of Chicago
COMMISSION ON HUMAN RELATIONS
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IN THE MATTER OF:	
Gloria Anguiano Lopez **Complainant,** **v.**	**Case No.:** 14-E-06 **Date of Ruling:** February 11, 2016
Law Offices of Daniel G. Lauer & Associates, P.C., and Daniel G. Lauer **Respondents.**	

FINAL RULING ON LIABILITY

I. INTRODUCTION

On January 22, 2014, Complainant Gloria Anguiano-Lopez ("Complainant") filed a complaint against Respondents Daniel G. Lauer and the Law Office of Daniel G. Lauer & Associates, PC ("Respondents") alleging discrimination in employment based on Complainant's sex. C.[1] Complainant alleged that when she was employed by Respondents, she was pregnant. C., pars. I and II. Complainant further alleged that after Respondent Lauer was informed by Complainant of her pregnancy and her desire to return to work after the birth of her child, Respondents assigned Complainant menial tasks, repeatedly asked when Complainant would be going on maternity leave, and thereafter terminated Complainant's employment before her due date. C, pars. IV-VI.

On April 1, 2014, after being granted an extension in which to file, Respondents filed a Response to Complainant's Complaint. RR.[2] In the Response, Respondents admitted that Complainant had been employed by Respondents, but denied that she was assigned menial tasks or that she was fired due to her pregnancy. RR., pars. I-VII. Respondents asserted that their office work was cyclical in nature and temporary employees were occasionally hired, that Complainant had been hired as a temporary employee, and that all of Respondents' employees help with maintenance tasks, such as taking out the garbage. PS., pp. 1-3.[3]

On May 22, 2015, the Commission issued an Order Finding Substantial Evidence, ordering the matter to proceed to an administrative hearing. On June 3, 2015, the Commission issued an Order Appointing Hearing Officer and Commencing Hearing Process. The pre-hearing conference was scheduled for July 9, 2015. The pre-hearing conference was held on July 9, 2015; at the request of the parties, the conference was conducted by telephone. A hearing was set for August 25, 2015.

The parties exchanged requests for production and responses thereto prior to the hearing. On August 6, 2015, Complainant filed a motion for the issuance of a subpoena to a potential

[1] "C" refers to the Complaint filed in this case on January 22, 2014. Paragraphs are the numbers designated by Complainant in the Complaint.
[2] "RR." refers to the Response filed by Respondents on April 1, 2014.
[3] "PS" refers to the Position Statement filed by Respondents on April 1, 2014.

impeachment witness; this motion was denied on August 10, 2015, because the motion was not filed 21 days before the hearing set for August 25, 2015, and did not state a reason that it could not have been filed in a timely fashion as required by Commission regulations. CCHR Reg. 220.210(b). The August 10, 2015, order invited Complainant to file an amended request for a subpoena with a reason that it could not have been filed more timely, but Complainant did not file an amended request.

Each party filed a Pre-Hearing Memorandum prior to the hearing. Attached to Complainant's Pre-hearing Memorandum were interview reports from the Commission's investigative file for this matter. The hearing officer issued an Order on August 19, 2015, stating:

> Use of the Commission's investigative file materials is governed by the Commission's Regulations....The use of materials from investigative files – in this case, documentation of witness testimony – is allowed only when the materials are not otherwise available to the parties or for impeachment purposes if the investigative summaries or testimony summaries contain prior inconsistent statements from a witness. See *Cotton v. La Luce Restaurant, Inc.*, CCHR No. 8-P-034 (April 21, 2010). The party seeking to use documents from the Commission's investigative file has the obligation of establishing that the information is not otherwise available or that the file contains statements inconsistent with the testimony of a witness at the hearing. See *Newby v. Chicago Transit Authority, et al.*, CCHR No. 09-P-10 (Aug. 22, 2013).
>
> Commission regulations clearly state that the hearing officer shall not otherwise have access to the Commission's investigative file at any time during the proceedings. CCHR 240.307(c).

The Order also noted that the exhibits from the Commission's investigative file were not reviewed by the hearing officer and would be returned to Complainant in a sealed envelope.

On August 25, 2015, a hearing was held in this matter. Both parties were represented by counsel. No post-hearing briefs were ordered.

On November 12, 2015, the hearing officer issued her Recommended Ruling on Liability. Complainant filed objections to the Recommended Ruling, which were considered in reaching this Final Ruling.

II. FINDINGS OF FACT

Complainant Gloria R. Anguiano-Lopez

1. Gloria R. Anguiano-Lopez received a bachelor's degree in political science and a certificate as a paralegal in 2007 from Roosevelt University. Tr. pp. 19-20.[4]

2. Complainant was employed as a paralegal in legal firms and temporary agencies from 2007 until March 2013. Tr. pp. 20-22. She was also employed as a part-time tutor for an agency providing services to the Chicago Public Schools for three hours a week, and acted as a

[4] "Tr." refers to the transcript from the hearing on August 25, 2015.

"brand ambassador"[5] for 4-16 hours per month on weekends. Tr. p. 22. Complainant had expected the tutoring position to end in March 2013. Tr. p. 23.

Respondents Daniel G. Lauer and Daniel G. Lauer and Associates, PC

3. Respondent Daniel G. Lauer was the president and sole shareholder of Daniel G. Lauer and Associates, PC. Tr. pp. 92-93. Respondent Lauer is an attorney. Tr. p. 93. Respondent Lauer's offices were located in Chicago, Illinois. Tr. p. 92. The office had been in business since 1992 and had been at its current location since 1996. Tr. p. 93.

4. Respondent Lauer's business started as a litigation firm; the practice is now a full service real estate firm. Tr. p. 93. The business provided services for real estate developments, including condominiums, townhouses, and new single family homes. Tr. p. 93. Respondent Lauer's work mainly involved commercial real estate, with some residential real estate and land use zoning changes. Tr. p. 93. His associate, James Sethna, handled most of the litigation. Tr. p. 93. Besides Respondent Lauer, Respondent Daniel G. Lauer and Associates, PC, had four employees at the time of the hearing: James Sethna (attorney), Kelly Williams (paralegal), William Rue (position unidentified), and Renata Ponikiewska (accounts and preparation of documents for real estate closings). Tr. p. 94.

5. Kelly Williams had been with Respondents for over eight years. Tr. pp. 95-99. Williams has a bachelor's degree of paralegal certification and a master's degree in criminal justice. Tr. p. 164. She started as a clerk, picking up and filing documents downtown. Tr. p. 95. Her duties changed over time into more paralegal duties. Tr. p. 95. Respondent Lauer noted that Williams was able to draft letters independently after receiving an explanation from him about the situation involved in any particular file. Tr. p. 95. Her duties included zoning changes, correspondence, attorney modifications, drafting deed documents, drafting documents for LLCs and filing work. Tr. p. 164. Williams described Respondent Lauer as fair and a "good boss." Tr. p. 177. She worked 40 hours per week for Respondents; it was her main employment and income. Tr. pp. 188-189.

6. Respondent Lauer described the real estate business as fluctuating, front-loaded at the beginning of the year. Tr. p. 96. The traditional beginning date for the real estate market was Super Bowl Sunday. Tr. p. 96. If it was going to be a good year for Respondents, Respondent Lauer would see the market starting to get busy in the beginning of January. Tr. p. 96. Then the market would really pick up in February, March and April. Tr. p. 96. The volume of business would be very quiet from October to December. Tr. p. 119.

7. The office experienced a typical year during 2013, and was very busy from February through the spring timeframe. Tr. pp. 96, 97. The office was particularly busy because William Rue had been out of the office recovering from a heart attack. Tr. p. 97. Closed title orders, one indicator of the work load of the office, from April 2013 to September 2013, were as follows: April (15); May (11); June (7); July(14); August (9); and September (6). Rp. Exh. 3.[6]

[5] A "brand ambassador" works for a specific company (Complainant worked for Nespresso) and trains salespeople (such as Bloomingdale's salespeople) about a product to increase the sales of that product. Tr. p. 69.

[6] "Exh." are exhibits introduced into evidence at the hearing. "Rp. Exh." were Respondents' exhibits; "C. Exh." were Complainant's exhibits.

8. Respondents have had two pregnant female employees. Tr. p. 126. Heidi Hubert Jorudd was a full-time, salaried paralegal who worked for Respondents from 2005-2011[7]. Tr. pp. 126, 201. During her employment, Jorudd took out the trash from her area and the common areas. Tr. p. 205. After five years with Respondents, Jorudd became pregnant. Tr. p. 202. During her pregnancy, Respondents did not treat Jorudd differently than they had treated her before she became pregnant. Tr. p. 203. Jorudd worked throughout her pregnancy, took two months off, and then returned to work after the birth of her child for an additional six months[8] in good standing. Tr. pp. 126, 203. In order to shorten her commute, Jorudd found a job closer to her home in Wonder Lake, Illinois, and left Respondents' employ. Tr. pp. 128, 204. Jorudd was not fired and received good references upon her leaving. Tr. pp. 128, 208. Respondent Lauer said Renata Ponikiewska was a current employee who was pregnant; she planned to return to work after the birth of her child. Tr. p. 129.

9. Complainant's Exhibit 4 contained what Respondents claimed was Complainant's complete employment file maintained by Respondents; it was produced in response to Complainant's Request for Production. Tr. p. 140, Cp. Exh. 4. Exhibit 4 contains: Complainant's W-9, a blank cancelled check from Complainant, 4 e-mails from Complainant to Respondent Lauer listing Complainant's work hours for the week following the e-mail, 1 e-mail from Complainant accepting the position and listing hours for the following week, 1 e-mail from Respondent Lauer acknowledging her acceptance of the employment, 1 e-mail from Kelly Williams to Respondent Lauer with Complainant's resume, 1 e-mail from Respondent Lauer acknowledging receipt of Complainant's resume, Complainant's resume, a payroll summary report of Complainant's pay from April 5, 2013, to August 9, 2013, and pay stub detail sheets from April 5, 2013, to August 9, 2013.

The Interview

10. With the seasonal increase in business and the loss of an employee (William Rue was recovering from a heart attack), Respondent Lauer decided the office needed additional staff in late March or early April 2013. Tr. p. 98. Respondent Lauer asked Williams if she knew anyone for the position. Tr. pp. 98, 130-131. Lauer said he told Williams that it was not a permanent position, but it could be full- or part-time. Tr. pp. 98-99. Lauer said he trusted Williams' judgment. Tr. pp. 99, 167.

11. Respondent Lauer testified that Williams said she knew someone for the position, but that he never received a copy of Complainant's resume. Tr. p. 100. Complainant's Exhibit 4 contains an e-mail from Williams to Lauer dated March 29, 2013, which stated Complainant's resume was attached. Tr. pp. 141-142, Cp. Exh. 4.

12. Complainant heard about the position with Respondents through her friend, Kelly Williams, who was employed there. Tr. pp. 23-24, 48. Williams called Complainant at the end of March 2013 to see if Complainant would be interested in a part-time position. Tr. p. 24. Respondents needed additional staff due to the illness of one of its employees. Tr. p. 167. Complainant testified that Williams never told her the position was temporary; Williams said she told Complainant it was a temporary, part-time position, but did not state when it would end. Tr. pp. 29, 168, 190. Respondent Lauer testified that he was uncertain when the position would end.

[7] Respondent Lauer stated Jorudd started in 2003; Jorudd said it was 2005.

[8] Lauer said Jorudd worked for 6 months after the birth of Jorudd's child (Tr. p. 126); Jorudd said it was 5-6 weeks after the birth of her child (Tr. p. 203).

Tr. p. 114. The hearing officer found that Williams told Complainant it was a temporary position, but open-ended with no stated end date.

13. Complainant sent in her resume via e-mail to Williams and arranged to have an interview with Respondent Lauer on April 2, 2013. Tr. pp. 25, 49, 169; Rp. Exh. 1.

14. Complainant considered Kelly Williams a friend; she socialized with Williams. Tr. pp. 48, 166. Complainant and Williams had met in 2005 while attending Roosevelt University. Tr. p. 165. Williams said she and Complainant were friends at Roosevelt. Tr. p. 166. Williams attended Complainant's baby shower and the christening of her son. Tr. p. 165.

15. On April 2, 2013, Complainant went to Respondents' office; Complainant testified she met with Respondent Lauer about the position. Tr. p. 25. Respondent Lauer said his colleague, James Sethna, interviewed Complainant first because he was busy, but then Lauer met Complainant in the hallway near the copy machine. Tr. p. 100. Sethna had given him a "sign" that she seemed okay. Tr. p. 134. Lauer said that after Complainant's interview with Sethna, he took Complainant to her work station and discussed hourly wages. Tr. p. 100. Respondent Lauer made the ultimate decision to hire Complainant. Tr. p. 135. The hearing officer found, regardless of where they met, Complainant and Respondent Lauer did meet and discussed the position at Respondents' law office on April 2, 2013.

16. Complainant told Respondent Lauer about her education, her paralegal certificate, and her work experience, and gave him a copy of her resume. Tr. pp. 25, 49. Respondent Lauer was aware that Complainant had no real estate experience. Tr. p. 25. Complainant's resume did not include contact information for prior employers for reference checks, but Complainant would have given them if she had been asked for them during the interview. Tr. pp. 50-51, R. Exh. 1.

17. Complainant told Respondent Lauer during the interview that she currently was tutoring and working as a brand ambassador. Tr. p. 26. She explained that her tutoring was only three hours a week and that the position would end on April 18, 2013. Tr. p. 26. She told him her brand ambassador position work was only on weekends so it would not interfere with the position with Respondents. Tr. p. 27. Respondent Lauer knew that Complainant worked other jobs. Tr. pp. 102, 131. Respondent Lauer was unaware that Complainant's husband was unemployed or that she was the sole source of family income. Tr. p. 131.

18. At some time during the day on April 2, 2013, Complainant and Respondent Lauer discussed the hourly rate for the position. Tr. p. 27. Complainant testified she asked for $17 an hour, but that Respondent Lauer said she would be paid $16 an hour for three months, and then her hourly rate would be raised to $17 an hour. Tr. pp. 27, 52. Respondent Lauer testified that Complainant asked for $18 an hour, but he said he would offer $16, and said "we'll see how it goes." Tr. pp. 101, 151. Respondent Lauer said he told Complainant that her increase would depend on her performance. Tr. p. 102. The hearing officer found that Respondent Lauer indicated to Complainant that her hourly rate was $16 an hour, but could be increased at some point depending on "how things worked out," but that no definitive amount or timetable for the raise was suggested. No benefits were associated with the position. Tr. p. 52.

19. Complainant testified that at the meeting on April 2, 2013, she and Respondent Lauer discussed the tasks she would perform. Complainant was told those tasks would include correspondence, research, tax forms, conducting searches online, calling other attorneys if needed,

closing Respondents' cases, and packing the case materials for storage. Tr. p. 27. None of these tasks were new to Complainant, except obtaining the tax information which Complainant testified was "straightforward." Tr. p. 27-28.

20. At some point during the day on April 2, 2013, Complainant and Respondent Lauer agreed that Complainant would take the position and discussed the hours Respondent Lauer would offer to Complainant. Tr. p. 28. Complainant knew the position would be part-time; Respondent Lauer offered her 17-25 hours per week at that time. Tr. p. 28. Respondent Lauer indicated he might be able to offer her additional hours in the future. Tr. pp. 28, 132. Additional hours would depend on Complainant's abilities. Tr. p. 132.

21. On April 2, 2013, Respondent Lauer and Complainant agreed that she would set her own schedule, including the number of hours she would work each week, and e-mail the schedule to Respondent Lauer on Sunday evenings prior to the workweek. Tr. pp. 51, 102, 131. No minimum number of hours per week was guaranteed. Tr. p. 103.

Complainant's employment with Respondents

22. Complainant began working at the Respondent law firm on April 3, 2013. Tr. p. 29. Complainant determined the number of hours per week she would work throughout her employment with Respondents. Tr. p. 133.

23. For the first several weeks of her employment, Complainant worked on correspondence, contacted banks and attorneys about closings, and followed up with other counties via phone or the internet to check on property descriptions and other information. Tr. pp. 30, 54. Respondent Lauer hoped Complainant would be a Williams "clone." Tr. p. 103. Both Williams and Complainant had attended the same school, so Respondent Lauer was hopeful that Complainant could do "exactly" what Williams did without a lot of supervision, including developing letters based on notes posted on the file which indicated what non-standard items should be included in the firm's standard letters. Tr. p. 103.

24. Complainant testified she would draft letters based on notes from Respondent Lauer and incorporate any changes made by Respondent Lauer into the final draft. Tr. p. 53. Respondent Lauer testified that he had to write the letters in longhand for Complainant and that Complainant was simply a typist; even under those circumstances the letters required two or three drafts. Tr. pp. 103, 104. Respondent Lauer testified that even though he wrote the letters out, Complainant could not punctuate them correctly. Tr. p. 104. At one point, Respondent Lauer said he told Complainant to "Google" the proper punctuation. Tr. p. 105. The hearing officer found that correspondence typed by Complainant would have to be revised to assure they were properly completed, unlike correspondence prepared by Williams.

25. Complainant testified she received no complaints about her performance from Respondent Lauer or other employees. Tr. p. 30. Nothing in Complainant's employment file, which was produced in response to Complainant's Request for Production as the complete file, indicated any problems with her performance or that anyone had talked with her about any shortcomings. Cp. Exh. 4. The hearing officer found that Complainant reasonably felt she was competently completing her assigned tasks because no one discussed or documented any shortcomings with her, according to Complainant's testimony, Respondent Lauer's testimony, and Respondents' copy of Complainant's complete employment file.

26. For one week in May 2013, when Respondent Lauer informed Complainant he would be out of the office for the week on a family vacation, Complainant did not work any hours. Tr. pp. 67, 144, 145; Cp. Exh. 4 (Payroll Summary Report). Complainant had worked from 10 to 25 hours a week during her employment with Respondents. Exh. 4, Payroll Summary Report. The amount of hours fluctuated from week to week, with no regular pattern. Exh. 4, Payroll Summary Report. In the final four complete weeks of Complainant's employment, she worked 24, 15, 25 and 25 hours per week. Exh. 4, Payroll Summary Report.

27. Because of what he perceived to be her "limited" skills, Respondent Lauer soon decided that Complainant was not going to be Williams "clone," nor would she lighten Williams' load at the office. Tr. p. 106.

28. Evidence about any training of Complainant, despite her "limited" skills," was minimal. Williams showed Complainant how to use the office letter templates, search for documents using websites, and showed her how to complete a few "water certs" before leaving the rest to her. Tr. p. 170. Respondent Lauer testified that he did train Complainant (Tr. p.135), but provided no specific evidence of any training. The affidavit signed by Respondent Lauer filed with his Response contradicted the testimony that Complainant received training:

> 9. Shortly after she began her employment with Daniel G. Lauer and Associates, it became apparent that Ms. Anguiano-Lopez did not have any working knowledge of real estate, of the real estate business, and *due to the increased volume of work, there was no time to train her.* (Emphasis added.)

The hearing officer found that there is no indication in Complainant's employee file or the testimony produced by Respondents that the "limitations" perceived by Respondent Lauer were discussed with Complainant, nor is there any documentation that Complainant received any training other than minimal directions during her time with Respondents. To the contrary, the affidavit is clear that there was no training provided to Complainant despite her lack of experience in real estate law.

29. Williams did not think Complainant was catching on. Tr. p. 171. At times, Williams had to finish letters assigned to Complainant because they were not getting out in a timely fashion; Williams was not present when the assignments were given to Complainant and did not hear any instructions that the letters were time-sensitive. Tr. pp. 171, 190. Twice Williams had to go to Complainant's work station to find letters assigned to Complainant and send them out after Complainant left work. Tr. p. 172. After Complainant completed a number of "water certs," Respondents discovered that seven were not completed correctly and as a consequence the office had to "eat" the fee of $50 each, or $350. Tr. pp. 170-171. After the "water certs" issue was discovered, that duty was removed from Complainant. Tr. p. 173. During her employment with Respondents, Complainant asked if staff members needed assistance and was given other tasks. Tr. p. 173.

30. Complainant testified she received no complaints about her work and had not been informed that the office had to absorb costs associated with mistakes she made. Tr. p. 66. Respondents proffered no employment records documenting that Complainant had been reprimanded or that she had been told that the office had to absorb additional costs due to her errors. Rp. Exh. 4. The hearing officer found that Complainant was not made aware that the office had

out-of-pocket costs due to her errors and in general her performance, or lack thereof, was not discussed with her.

31. Respondent Lauer testified that Complainant did not act professionally in the office. Tr. p. 105. Respondent gave the following examples of unprofessional conduct: Complainant was concerned about whether or not her break was paid; Respondent Lauer told her it was, although he was not sure he had to give her a break. Tr. p. 105. Respondent Lauer said Complainant would enter his office with a document to sign when he had a client in his office, even though he gave her a "please-wait-a-minute" signal which he perceived Complainant did not care for. Tr. pp. 105-106. The hearing officer found that there is no indication in Complainant's employee file that these activities, deemed unprofessional by Respondent Lauer, were discussed with Complainant during an employee review or otherwise.

32. Complainant said the small office was "somewhat" tight-knit. Tr. p. 54. Complainant remembered a couple of times that Respondent Lauer brought in lunch for the staff and agreed that Respondents paid for snacks from Costco for the office; Respondent Lauer said he provided lunch once a week and paid for snacks from Costco. Tr. pp. 55, 108. Williams described the office atmosphere as a family environment, where everyone pitched in and ate lunch together daily. Tr. pp. 173-174.

33. Respondent Lauer said his daughters cleaned his office and he employed a cleaning service for the office that came in every 10 days to two weeks. Tr. pp. 109, 110. Respondent Lauer said trash needed to be taken out daily and there was no cleaning service to do that; he said he did it 90 percent of the time. Tr. pp. 109, 110. The remaining 10 percent of the time, Williams or Rue would take out the trash. Tr. p. 110. Williams said if she saw the trash bins in the common areas were full, she would take them out. Tr. p. 174. Respondent Lauer asked Complainant to take out the trash at the end of her employment because the office ran out of things for her to do. Tr. p. 110. Complainant agreed that the staff was responsible for keeping their own areas clean, but she never saw anyone else throwing out the garbage from the bathrooms or kitchen. Tr. p. 55. Williams kept her area clean. Tr. p. 174. Complainant never told Williams that Respondent Lauer had asked her to do tasks that were demeaning. Tr. p. 175.

34. Respondent Lauer was uncertain when Complainant's position with the firm would end. Tr. p. 114. Respondent Lauer had hoped there would be "good, fulfilling" work for Complainant to do, but it did not "work out that way." Tr. p. 114. Respondent Lauer believed that Complainant was not going to be able to do the work that Williams did, so he gave her errands to run and letters to type, which then needed to be revised. Tr. p. 115. Respondent Lauer testified that if Complainant had been an "absolutely stellar" employee and "soaked up information like a sponge" that she would have been employed longer if business increased, but Respondents "ran out of stuff for her to do." Tr. p. 116. The hearing officer found that the decision of when to end the position was not made until after Complainant did not meet Respondents' expectations.

35. In mid-May, 2013, Complainant learned she was pregnant. Tr. p. 31. She was unaware she was pregnant until mid-May, even though she became pregnant in February because her period was very irregular. Tr. pp. 57, 81. No restrictions were placed upon Complainant by her physician during her pregnancy. Tr. p. 60

36. Complainant informed Respondent Lauer immediately that she was pregnant and that her due date was October 27, 2013. Tr. p. 31. Complainant testified that Respondent Lauer asked

whether she was going to continue to work and whether she wanted to continue working after she gave birth. Tr. p. 31. Complainant testified that she told Lauer she wanted to continue work until her baby was born and then return to work because her income was the only income coming into her family. Tr. p. 31. Complainant testified that Respondent Lauer said okay, and that after she returned to work following the birth of her child there might be addjtional hours for her. Tr. pp. 31-32, 63, 87. Respondent Lauer testified he and Complainant never discussed whether she would return to work after she gave birth. Tr. p. 112. The hearing officer found that when Respondent Lauer knew about Complainant's pregnancy, he discussed whether Complainant would return to work after her child was born. In a small office, it is not likely that he would not have discussed how long she would be working and whether she planned to return after the birth of her child.

37. Complainant did not complain about her treatment at the office after she announced she was pregnant to Respondent Lauer or any other employees until August 8, 2013. Tr. pp. 113, 114. Complainant never told Williams that Respondent Lauer was treating her differently after Complainant announced she was pregnant. Tr. p. 176. Williams testified that she felt Respondent Lauer treated Complainant as he treated all other employees. Tr. p. 176.

38. Complainant never asked anyone at the office, including Respondent Lauer and Williams, whether there was a maternity leave policy for part-time employees[9]. Tr. pp. 62, 114, 177. Respondent Lauer told Complainant he could not offer medical insurance for her family because it was a small firm, but Complainant had a "medical card" so she had not thought to ask him to put her family on his insurance. Tr. p. 63. Complainant did not know if her employment qualified her for Family Medical Leave Act ("FMLA") protections, including the guarantee of a job upon return from leave. Tr. p. 64.

39. Complainant testified that about 2½ weeks after the mid-May conversation in which Respondent Lauer was informed she was pregnant, Lauer once again asked her when she was going on maternity leave and she told him as close as she could to the birth of her child. Tr. p. 32. Complainant testified that Respondent Lauer asked her again in July 2013, and she answered again "exactly the same." Tr. p. 33.

40. From mid-May through August 2013, Complainant testified that her treatment by Respondent Lauer changed. Complainant was asked to put out the trash from everyone's office and the office bathroom on a weekly basis; earlier she was only keeping her area clean but after mid-May Respondent Lauer told her to be sure the office, including the common areas, was "tidy." Tr. pp. 33-34, 57, 60. Complainant never saw anyone else taking out the trash from the common spaces. Tr. p. 59. Complainant never complained or refused to take the trash out because she needed her job. Tr. pp. 58, 61.

41. From mid-May through August 2013, Complainant testified she felt Respondent Lauer was talking to her in a less respectful manner, was demanding, and always seemed angry or agitated. Tr. pp. 33, 57, 61. Complainant testified she asked Kelly Williams why he was so agitated. Tr. p. 61. Williams said Complainant did not talk with her about any negative treatment by Respondents. Tr. pp. 175-176. The hearing officer found that Complainant did not discuss any negative behavior toward her from Respondents with Williams.

[9] Complainant was asked at the hearing whether she asked Respondent Lauer about a maternity leave policy and answered in the affirmative, but it is likely from the testimony that followed that she was asking about medical insurance rather than leave with or without pay. Tr. p. 62.

Complainant's employment with Respondents ends

42. Respondent Lauer asked Complainant to "make a Costco run" on August 8, 2013, because again the office ran out of other things for her to do. Tr. pp. 35, 111, 120. Williams usually went to Costco, but Williams was more valuable in the office. Tr. pp. 108, 111. When Complainant returned, other employees helped her unload the supplies. Tr. pp. 35-38, 121.

43. On August 8, 2013, Williams said that Complainant asked her about reimbursement for her travel expenses for errands like the Costco trip. Tr. p. 178. Williams advised her to wait because Complainant did not have many expenses yet. Tr. p. 178.

44. Complainant testified that after she put away the Costco supplies, she went into Respondent Lauer's office to return the Costco credit card and the receipt. Tr. p. 38. At that time, she asked Respondent Lauer if he had time to talk about the $1 per hour pay increase. Tr. p. 38. Complainant told Respondent Lauer she thought she was entitled to a raise because she had done everything she was asked to do and had received no complaints about her work. Tr. pp. 65, 66. Complainant testified that Respondent Lauer responded by asking if she was going on maternity leave. Tr. p. 39. Complainant testified that she told him not until the end of October 2013, to which Respondent Lauer said, "You're leaving anyways. You're pregnant. You're just fired." Tr. p. 39. After Respondent Lauer said this to Complainant, Complainant testified that she asked about reimbursement for her out-of-pocket and mileage expenses and Respondent Lauer threw money on his desk. Tr. pp. 35-36, 39-40. Complainant stated she was in shock, hurt and very emotional at Respondent Lauer's statements. Tr. p. 39. Complainant testified that she began to cry. Tr. p. 40.

Respondent Lauer disputed this version of events. He testified that after the Costco purchases were put away, he heard Complainant talking to Renata Ponikiewska, who sat outside his office. Tr. p. 121. The office has a policy for reimbursing expenses. Tr. p. 121. Ponikiewska came into his office and said Complainant wanted her to cut a check for her expenses; Respondent Lauer felt this was too much trouble for expenses under $10 and told Ponikiewska to have Complainant come into his office. Tr. p. 122. He testified Complainant came into his office, he offered cash from his pocket to Complainant, who proceeded to launch into a profanity-laced tirade against Respondent Lauer, questioning why any person would work with Respondents. Tr. pp. 122-123. Ponikiewska, who was not called as a witness, was right outside his office door. Tr. p. 123. Williams said she heard loud voices from Respondent Lauer's office, mainly a female voice, but could not hear what was being said. Tr. p. 179. Respondent Lauer testified that he told Complainant he would not need her next week and Complainant walked out. Tr. pp. 124, 144. During cross-examination, Respondent Lauer remembered that Complainant had also brought up the raise issue and he responded to her that it was not "required." Tr. p. 157. Respondent Lauer also stated Complainant "confronted me and demanded a raise" in his affidavit filed with his Response to the Complaint. Affidavit of Respondent Lauer, dated March 31, 2014, attached to Response to the Complaint.

Complainant testified that she would never have called Respondent Lauer profane names because she needed her job. Tr. p. 210.

Respondent Lauer insisted that Complainant could have sent him an e-mail with an apology and a request for hours a week following this "row" as he described it; he never received that e-mail and "was not heartbroken that she did not e-mail" him with hours the next Sunday. Tr. pp. 125-

126, 146. Respondent Lauer testified that he never said he did not need Complainant because she was leaving anyway, or that she was being fired because she was pregnant. Tr. p. 146. Respondent Lauer never contacted Complainant after that date. Tr. p. 145. Respondent Lauer testified that he thought Complainant "sensed" that the position was ending anyway. Tr. p. 124.

The hearing officer found that neither rendition of the final confrontation is wholly credible. The hearing officer further determined that both Complainant's testimony that Respondent Lauer told Complainant she could leave because she was pregnant and Respondent Lauer's testimony that Complainant launched into a profanity-laced tirade were not credible.

It is credible that something caused both Complainant and Respondent Lauer to have a serious misunderstanding and heightened emotions that resulted in Respondent Lauer telling Complainant she was not needed the following week. It is both reasonable and credible that Complainant understood that statement as a termination of her employment.

45. Complainant left Respondent Lauer's office and walked down to her desk to gather some files to give to Williams. Tr. pp. 40, 180. Complainant testified she told Williams that Respondent Lauer had just fired her because she was pregnant (Tr. p. 40); Williams testified that Complainant said she was laid off because she did not have any work. Tr. pp. 40, 180. Complainant testified that Williams could see she was crying; Williams testified that Complainant appeared upset. Tr. pp. 40, 180. Complainant said she informed Williams some of the files had deadlines that needed to be reviewed; she left post-it notes for Williams on the files; Williams disputed that Complainant left any files on her desk. Tr. pp. 40-41, 194. Complainant then walked out of the office, said goodbye to Rue. Rue said "see you tomorrow," and Complainant told him he would not because she had been fired. Tr. p. 41. Rue was not called as a witness. The hearing officer found that Complainant told Williams that she was leaving because there was no work, but did not tell Williams she was fired because she was pregnant.

46. Respondent Lauer testified he never told Williams that he felt like an "asshole for firing [Complainant] because she was pregnant." Tr. p. 129. Williams testified that Respondent Lauer never said he fired Complainant because she was pregnant. Tr. p. 181. Williams testified that Complainant never told Williams she was fired because she was pregnant. Tr. p. 181. The hearing officer found that neither Complainant nor Respondent Lauer told Williams Complainant was fired because she was pregnant.

47. After Complainant's employment ended, Williams attended a baby shower for Complainant; Complainant appeared fine. Tr. p. 182. After the shower, Complainant tried to contact Williams about the office on Facebook, by phone or text, but Williams ignored her and Complainant stopped trying to contact Williams. Tr. p. 182.

48. After leaving the office on August 13, 2013, Complainant said she was very emotional and in tears. She called her husband, who could hear in her voice that something was wrong. She went home. Tr. p. 41.

49. Complainant testified that losing her job put a strain on her relationship with her husband because she brought in the only income at that time. Tr. p. 42. Sometimes her husband had "side jobs." Tr. p. 42.

50. Complainant continued to work as a part-time tutor until the fall of 2015, and as a brand ambassador until the present, but did not obtain another part-time position until May 2013, when she was hired as a substitute teacher for the Chicago Public Schools. Tr. p. 43. Substituting is an "as-needed" position only during the school year. Tr. pp. 43, 75. She has not obtained any position as a paralegal with guaranteed hours since her employment at Respondents ended. Tr. p. 43. She has not looked for other tutoring jobs. Tr. p. 73. She has looked for other paralegal positions through online resources and word of mouth, but has not been successful. Tr. pp. 78, 79.

51. Complainant testified that she was emotional after the loss of her employment. She was worried about how her family was going to pay the bills. She was not sleeping as much. Both she and her husband looked for work. It was "really, really hard," and an emotional strain. The sleeplessness continued until January 2014, because her husband became employed and with her income from tutoring they could begin to pay their bills. Tr. pp. 45, 83-84. Complainant never went to a counselor or therapist and was not prescribed medication. Tr. p. 80.

52. Complainant attempted to file for unemployment compensation with the Illinois Department of Employment Security ("IDES")[10]; she could not remember the date. Tr. p. 44. She was told she could not file on the first date she went to the IDES office because a "quarter was about to close out." Tr. p. 44. Complainant testified that the agent filled out the application for her. Tr. p. 47. Respondent Lauer contested giving her unemployment compensation. Tr. p. 82. Complainant eventually was ruled eligible to receive benefits but her income at that point as a tutor was higher than the benefit, so she never received unemployment benefits. Tr. pp. 82, 88. Respondent Lauer did not recall receiving the document from IDES. Tr. p. 148.

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[10] Respondents attempted to utilize the statements in the form sent out from IDES to establish what Complainant gave to the agent who took her claim as the reason for her unemployment. The Illinois Unemployment Insurance Act, 820 ILCS 405/1900, states as follows:

> Sec. 1900. Disclosure of information.
>
> A. Except as provided in this Section, information obtained from any individual or employing unit during the administration of this Act shall:
>
> 1. be confidential,
> 2. not be published or open to public inspection,
> 3. not be used in any court in any pending action or proceeding,
> 4. not be admissible in evidence in any action or proceeding other than one arising out of this Act.
>
> B. No finding, determination, decision, ruling or order (including any finding of fact, statement or conclusion made therein) issued pursuant to this Act shall be admissible or used in evidence in any section other than one arising out of this Act, nor shall it be binding or conclusive except as provided in this Act, nor shall it constitute res judicata regardless of whether the actions were between the same or related parties or involved the same facts.

Information obtained from individuals by IDES is thus not admissible in Commission hearings. See *Feinstein v. Premiere Connections, LLC et al.*, CCHR 02-E-215 (Oct. 27, 2003). In addition, Complainant did not fill out the form for unemployment insurance, the IDES agent did and thus there is no admission from Complainant in the form. All such evidence from the form will not be included in this determination.

III. APPLICABLE LEGAL STANDARDS AND CONCLUSIONS OF LAW

1. Complainant filed a complaint of discrimination alleging discriminatory conduct in the City of Chicago against Respondents on January 22, 2014. Complaints of discrimination under Section 2-120-510 of the Chicago Municipal Code must be filed with 180 days of the alleged violation. The action complained of occurred on August 8, 2013. Complainant has filed a timely complaint within 180 days and the Commission has jurisdiction over the complaint.

2. CCHR Reg. 100(13) defines "employer" as "any 'person,' as defined in these regulations, employing one or more employees." CCHR Reg. 100(26) defines "person" to include "one or more individuals, corporations, partnerships ...." Respondent Lauer and Daniel G. Lauer and Associates PC are "employers" within the meaning of this regulation.

3. Section 2-16-030 of the Chicago Municipal Code (Human Rights Ordinance), which provides: "No person shall directly or indirectly discriminate against any individual in hiring, classification, grading, discharge, discipline, compensation or other term or condition of employment because of the individual's...sex." CCHR Reg. 335.100 provides that "It shall also be a *prima facie* violation of the [Human Rights Ordinance] for an employer to discharge an employee because she becomes pregnant." Respondents did not violate Section 2-160-030 of the Chicago Human Rights Ordinance in that Complainant did not establish by a preponderance of the evidence that she was fired because she was pregnant.

IV. ANALYSIS

A complainant has the initial burden of establishing a *prima facie* case of discrimination in violation of the Chicago Human Rights Ordinance. *Williams v. Bally Total Fitness Corp.*, CCHR No. 05-P-94 (May 16, 2007). Each element of the claim must established by "evidence produced and admitted at the administrative hearing" and proved by a preponderance of the evidence, which means that "the item to be proved is more likely true than not." *Robinson v. American Security Services*, CCHR No. 08-P-69 (Jan. 19. 2011), *Wehbe v. Contacts & Specs et al.*, CCHR No. 93-E-232 (Nov. 20, 1996).

As in most cases where the evidence is overwhelmingly introduced via testimony by two opposing parties, the truth can be difficult to determine. But as the party bringing the charge, Complainant has the burden of establishing, by whatever evidence is available to her, that it is more likely than not that her allegations that Respondents Lauer and Daniel G. Lauer and Associates, PC, fired her because she was pregnant are true.

As the findings of fact show, Complainant presented only her own testimony in support of her contention that she was fired due to her pregnancy. Kelly Williams, whom Complainant identified as a friend, disputed key elements of Complainant's testimony. The only documentary evidence Complainant introduced at the hearing was her employment file (Cp. Exh. 4), and the affidavit of Respondent Lauer (Cp. Exh. 2), both of which were devoid of any direct evidence of discrimination.

The Commission has held that the testimony of a complainant, without further support, can support a finding of discrimination. See *Rankin v. 6954 N. Sheridan, Inc., et al.*, CCHR No. 08-H-049 (Aug. 8, 2010). Indeed, a complainant's testimony in employment discrimination cases is often the only evidence available to a complainant due to a complainant's inability to be supported by

fellow employees or by documents held by the respondent employer. See *Barrera v. American Dental Associates, Ltd., et al.*, CCHR No. 13-E-60 (July 9, 2015). A hearing officer must weigh the evidence with the understanding that evidence may be out of complainant's control and that witnesses currently employed may be biased or fearful of losing employment.

In weighing the evidence in the process of making findings, a hearing officer determines the credibility of witnesses and may disregard, in whole or in part, testimony of witnesses not found to be credible. *Sleper v. Maduff & Maduff, LLC,* CCHR No. 06-E-90 (May 16, 2012), *Poole v. Perry and Associates*, CCHR No. 02-E-161 (Feb. 15, 2006). In making those determinations, a hearing officer may consider the witnesses' bias and demeanor. *Poole, supra.* The trier of fact also decides if testimony indicates a discriminatory motive, such as, in this case, fear of keeping current employment or obtaining good references. See *Harper v. Cambridge Systematics, Inc., et al.*, CCHR No. 04-E-86 (Feb. 17, 2010); *McGavock v. Burchet*, CCHR No. 95-H-22 (July 17, 1996).

The Chicago Human Rights Ordinance prohibits discrimination in employment, including termination, based on sex which includes pregnancy. Chgo. Muni. Code §2-160-030. A complainant may establish a *prima facie* case of discrimination in employment by two methods: by direct evidence of discriminatory intent or by the indirect method based on inferences drawn from the facts proven in the case. *Sleper, supra.* The direct method will be addressed first.

Under the direct method, Complainant could prove that she was terminated due to her pregnancy if she introduced credible evidence via documents or testimony that proved Respondent Lauer made explicit statements that she was being terminated because she was pregnant or which proved he had a discriminatory *animus*. See *Sleper, supra*, and cases cited therein. Complainant testified that Respondent Lauer told her that she was being fired because she was pregnant, but the hearing officer found that Complainant's testimony to that fact was not credible. No other testimony or documentation supports Complainant's claim that Respondent Lauer told Complainant she was being fired because she was pregnant. Indeed Complainant's friend, Kelly Williams, testified credibly that Complainant never told Williams that Respondent Lauer told Complainant she was being fired because she was pregnant on her last day at the office, in direct contradiction to Complainant's testimony that she did tell her friend. Williams also testified credibly that she heard mainly a loud female voice coming from the office where Complainant and Respondent Lauer were meeting on the last day of Complainant's employment, in direct contradiction of Complainant's version of the events. The hearing officer noted that neither party called Renata Ponikiewska, who sat immediately outside of Respondent Lauer's office and was present on Complainant's final day. Reviewing all of the testimony and documentary evidence presented at the hearing by Complainant and Respondent, the hearing officer determined that Complainant did not prove by direct evidence that she was discharged based on her pregnancy.

When discrimination by direct evidence is not established, the Commission has adopted the "convincing mosaic" approach developed in federal courts in which circumstantial evidence proffered by a complainant can lead a fact-finder to infer discriminatory intent. *Sleper, supra*, citing *Greenwell v. Zimmer, Inc.*, 2010 U.S.Dist. LEXIS 29457 *12 (N.D.Ind.2012) and *Phelan v. Cook County*, 463 F.3d 773, 770 (7th Cir. 2006). The court in *Greenwell* described the "convincing mosaic" method as being proved by one of three methods.

> With the direct method, a plaintiff may prove discrimination by showing an admission of discriminatory animus or by constructing a "convincing mosaic" of circumstantial evidence that allows a jury to infer intentional discrimination.

> *Phelan v. Cook County,* 463 F.3d 773, 779 (7th Cir. 2006). Three types of circumstantial evidence can create this proof. *Petts v. Rockledge Furniture, LLC,* 534 F.3d 715, 720 (7th Cir. 2008); *Troupe,* 20 F.3d at 736. First, a plaintiff may bring direct evidence by way of suspicious timing, ambiguous oral or written statements, behavior toward or comments directed at other employees in the protected group, and other bits and pieces from which an inference of discriminatory intent might be drawn. *Petts,* 534 F.3d at 721; *Troupe,* 20 F.3d at 736. Second, a plaintiff may have evidence (whether or not rigorously statistical) demonstrating that similarly situated employees outside the plaintiff's protected class received systematically better treatment. *Petts,* 534 F.3d at 721; *Troupe,* 20 F.3d at 736. Third, a plaintiff might show that she was qualified for the job but was passed over for or replaced by a similarly situated person not in the protected class, and that the employer's stated reason for the difference in treatment is unworthy of belief, a mere pretext for discrimination. *Petts,* 534 F.3d at 721; *Troupe,* 20 F.3d at 736. Regardless of the category of circumstantial evidence brought forward by a plaintiff, the evidence brought forward must point directly to a discriminatory reason for the employer's action. *Petts,* 534 F.3d at 720.

Id.

In *Sleper*, the Commission first adopted the "convincing mosaic" approach and noted that previous Commission opinions had found direct discrimination in public accommodation cases based on "the totality of circumstances of each case." The Commission in the *Sleper* opinion cited *Blakemore v. Dominick's Finer Foods*, CCHR No. 01-P-51 (Oct. 18, 2006), where a black store patron was followed closely by a security guard in contradiction to the store's general policy and practice, and *Jenkins v. Artists' Restaurant*, CCHR No 90-PA-14 (Aug. 14, 1991) where a black patron was asked to leave because he was deemed "suspicious," as examples of the Commission using the same analysis as the federal court's "convincing mosaic" approach. In *Flores v. A Taste of Heaven and Dan McCauley*, CCHR No. 06-E-32 (Aug. 18, 2010), the Commission noted that in a discriminatory termination case, a complainant must show:

> (1) [her] employer made an unequivocal statement of discriminatory animus as a reason for taking the discriminatory action, or (2) circumstantial evidence, such as making statements or taking actions, together form the basis for concluding the actions were motivated by discriminatory animus.

Complainant did not offer credible proof that others were treated better (the second method of proof in *Greenwell*) or that she was passed over or replaced by a similarly situated person not in the protected class (the third method of proof in *Greenwell*). Therefore, Complainant must rely on "suspicious timing, ambiguous oral or written statements, behavior toward or comments directed at other employees in the protected group, and other bits and pieces from which an inference of discriminatory intent might be drawn." *Greenwell, supra.* This logically would include if Complainant can prove by a preponderance of the evidence that the express reason given for her termination was pretextual. See *Sleper, supra.*

There are several facts that Complainant might rely on to support a discrimination case based on the "mosaic" analysis.

Respondents have argued that Complainant's discharge was due to the fact that there was not sufficient work for her to perform given her limited skills, yet Complainant argues that her hours did not diminish during the last four weeks of her employment. However, Complainant set her own hours, according to both Complainant's and Respondent Lauer's testimony. The only inference that can be drawn from the continuing level of hours from the findings of fact is that Complainant continued to set her hours at a level that did not diminish and Respondents allowed her to continue with those hours despite her lack of skills. It is clear that Respondents' law office was operated in a relaxed atmosphere with only Respondent Lauer making decisions. He decided to allow Complainant to set her own hours despite her shortcomings. His failure to document Complainant's shortcomings in her employment file makes the case more difficult for Respondents (and indeed is quite surprising for an attorney), but it is not Respondents' burden to prove its case, it is Complainant's burden.

Complainant also argued that Respondents began treating her differently once she revealed her pregnancy. Complainant based this argument on "looks" and the assignment of what she termed the "menial" task of taking out the trash.[11] However, as the findings of fact show, all employees, including Respondent Lauer, took out the trash in both their own office and in the common areas. Williams, Complainant's friend, said she never saw a change in Complainant's treatment by Respondents after Complainant announced her pregnancy; nor did Williams support Complainant's testimony that Complainant told Williams that Respondent Lauer was treating her differently. The hearing officer acknowledged that Williams is currently employed by Respondents, but found Williams' testimony to be credible, and again, it is Complainant's burden to prove her case.

Finally, Complainant was discharged two months before she gave birth, which arguably could be considered suspicious timing. There was no benefit that Complainant could argue Respondents would try to avoid, such as health care or maternity leave. The findings of fact support the Respondents' position that Complainant could not adequately perform the functions of the position, although this may be due more to the lack of training and counseling than to Complainant's inherent shortcomings. The discharge of an employee who does not have the requisite skills does not support a finding of discrimination.

Therefore, the hearing officer determined that Complainant did not meet the burden of proof of establishing a *prima facie* case of discrimination using the mosaic analysis.

Complainant argued that the employment experience of two of Respondents' employees who were pregnant should not have been introduced into evidence. The experience of other employees at different times and under different circumstances does not establish that discrimination could never happen. See *Sleper v. Maduff & Maduff, LLC,* CCHR No. 06-E-90 (May 16, 2012). In *Sleper*, the complainant was able to establish discrimination based on her pregnancy despite the fact that other employees had been pregnant and retained their employment. As the Commission has acknowledged, similar experiences by witnesses at other times could be "more or less relevant" depending on the facts of the case, including credibility of witnesses, timing and what happened. *Williams v. Cingular Wireless et al.,* CCHR No. 04-P-22 (July 11, 2007). The decision by the hearing officer to hear the testimony of other pregnant employees resides well within the hearing officer's authority to determine the particular relevance and thus admissibility of any evidence. *DeHoyos v. La Rabida Children's Hospital and Caldwell,* CCHR No. 10-E-102 (June 18, 2014), CCHR Reg. 240.314.

[11] Complainant did not testify that she found the trip to Costco demeaning.

Complainant in her objections argued that the hearing officer did not properly apply the missing witness rule as to the testimony of Renata Ponikiewska. Complainant did not raise this issue during the hearing in this matter. Complainant sought no witnesses from Respondents' office, choosing instead to rely upon her own testimony. Further, as noted by the hearing officer, neither party asked Ponikiewska to be a witness at the hearing. Complainant's attempt to invoke the missing witness rule is not appropriate.

Here, Respondents did not provide Ponikiewska's testimony about the final meeting between Complainant and Respondent Lauer behind closed doors, and instead relied on Williams to testify about what she heard coming out from the office. Ponikiewska, like Williams, was not in the closed door meeting. Williams testified she heard raised voices, more female than male, according to her testimony, but could not understand what was being said because the doors were closed. (Tr. p. 79) There is no evidence that Ponikiewska would have testified to anything differently; she was not in the room, just closer to the closed office door than Williams. The Commission has found that where a party provided sufficient credible evidence of certain facts, the fact that there may be additional witnesses to that fact does not mean that an adverse inference must be applied. *Sturgies v. Target Department Store*, CCHR No. 08-P-57 (Dec. 16, 2009). Complainant could have asked that Ponikiewska appear to testify but chose to not do so.

Additionally, in her objections, Complainant argued that the hearing officer found Complainant's testimony not credible without articulating or having any basis for this finding. Complainant further argued that the hearing officer made inconsistent findings regarding the credibility of Williams, as Williams had a substantial bias due to her long relationship with Respondents.

As to Williams, her testimony could be accused of bias, given that she is an employee of Respondents. The hearing officer noted and took account of this fact in reaching her determination. There was also testimony of a former employee, Heidi Hubert Jorudd, who was no longer reliant on Respondents. Jorudd testified that she was treated well during her pregnancy and left after the birth of her child on her own volition due to the long commute. Williams and Jorudd testified that they both helped clean the office. (Tr. pp. 174, 205) Williams testified that she would go to the store to purchase items for the office. (Tr. p.174)

Based on the evidence brought out in the hearing, the hearing officer found Complainant's testimony credible in almost every instance, with the exception of Complainant's testimony regarding the alleged promise of a definite pay raise after three months of employment and Complainant's description of the final confrontation with Respondent Lauer. Ultimately, the hearing officer found that Complainant had not been trained or counseled about the inadequacies of her work performance, accepting her testimony in full as bolstered by the lack of proof of training or counseling in her employment record; however, there was no evidence to support Complainant's claim that she was discharged based on her pregnancy.

The Commission reviews a hearing officer's proposed findings of fact pursuant to Section 2-120-510(l) of the Chicago Municipal Code, which provides in pertinent part: "The commission shall adopt the findings of fact recommended by a hearing officer...if the recommended findings are not contrary to the evidence presented at the hearing." This standard of review takes into account that the hearing officer has had the opportunity to observe the testimony and demeanor of witnesses. *Poole v. Perry & Assoc.*, CCHR No. 02-E-161 (Feb. 15, 2006); see also *McGee v. Cichon*, CCHR No. 96-H-26 (Dec. 30, 1997). The Commission will not re-weigh a hearing

officer's recommended findings of fact unless they are against the manifest weight of the evidence. *Stovall v. Metroplex et al.,* CCHR No. 94-H-87 (Oct. 16, 1996); *Wiles v. The Woodlawn Organization et al.*, CCHR No. 96-H-1 (Mar. 17, 1999).

The Commission finds that the hearing officer's findings in this case are not against the manifest weight of the evidence, and the hearing officer's conclusions are consistent with applicable law. Complainant has not proved that Respondents violated the Chicago Human Rights Ordinance by discharging her after she reported her pregnancy.

V. CONCLUSION

Accordingly, the Commission finds in favor of Respondents and specifically finds that Complainant Gloria Anguiano-Lopez has not established a *prima facie* case of sex discrimination by Respondents Daniel G. Lauer and Associates, PC and Daniel G. Lauer. Therefore, the Complaint in this matter is hereby DISMISSED.

CHICAGO COMMISSION ON HUMAN RELATIONS

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By: Mona Noriega, Chair and Commissioner
Entered: February 11, 2016