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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

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CLERK U.S. DISTRICT COURT
OCALA FLORIDA

GARY L. LANE,

Plaintiff,

v.

Case No.: 5:03-cv-00042

SUMTER ELECTRIC COOPERATIVE,
INC., a Florida corporation,

Defendant.

_____ /

VERIFIED AMENDED COMPLAINT

The plaintiff, GARY L. LANE, (hereinafter referred to as "LANE"), by and through undersigned counsel, files this Complaint against Defendant, SUMTER ELECTRIC COOPERATIVE, INC., a Florida corporation, (hereinafter referred to as "SECO"), and as grounds states:

BACKGROUND AND JURISDICTION

1. This is an action which arises under the "Americans with Disabilities Act of 1990", (ADA) 42 U.S.C. §12101 et. seq.; and under the "Family and Medical Leave Act of 1993" (FMLA) 29 U.S.C §2601 et. seq. and 5 U.S.C. §6381 et.seq.
2. ADA, 42 U.S.C., §12117(a) incorporates by reference Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §2000e-5, which grants jurisdiction to this Court.
3. FMLA, 29 U.S.C. §2617(a)(2) grants jurisdiction to this Court.
4. All preconditions of Title VII, 42 U.S.C. §2000e5(f)(3), have been satisfied.
5. The plaintiff, LANE, filed charges of employment discrimination on the basis of disability against him (see attached Exhibit "A") within 180 days of the employment discrimination.

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6. The Equal Employment Opportunity Commission (EEOC) issued a "Right to Sue" letter on 5 November 2002 (see attached Exhibit "B").

7. LANE filed this complaint within 90 days of receiving the "Right to Sue" letter from the EEOC.

PARTIES

Plaintiff

8. LANE is a citizen of the United States and a resident of Dunnellon, Citrus County, Florida

9. At all times pertinent, LANE suffered from diverticulitis and mental illness involving depression and anxiety.

10. LANE was a long-term employee of the defendant who with the following accommodations could perform the essential functions of his job with the defendant as a lineman:

- a. Light duty;
- b. Extension of unpaid leave; and
- c. Not testing on those days when the plaintiff was in less than good health.

11. LANE is a "qualified individual with a disability within the meaning of ADA 42 U.S.C. §12111(8).

12. LANE was an "eligible employee" within the meaning of FMLA §101(2).

Defendant

13. The defendant, SECO, is a Florida not-for-profit corporation whose principal place of business is in Sumterville, Sumter County, Florida.

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14 SECO is a "person" within the meaning of the ADA, 42 U.S.C. §1211(7); Title VII §701(a), 42 U.S. C. §2000e(a).

15. SECO is an "employer" within the meaning of FMLA §101(4), as:

a. A person engaged in an industry or activity affecting commerce and which

b. Employs 50 or more employees for each working day during each 20 or more calendar work weeks in the current or preceding calendar year.

16. SECO is an "employer" and a "covered entity" within the meaning of ADA §101(5)(A); and §101(2) respectively.

FACTS COMMON TO ALL COUNTS

17. SECO hired LANE in or about 1983.

18. In October 1999, LANE was made a Line Technician Second Class for SECO, commonly referred to as a "lineman".

19. In December 2000, LANE was hospitalized with diverticulitis.

20. While on FMLA leave, SECO issued LANE a "Final Warning Letter" dated 12 December 2000, which repeatedly berated LANE for his medical absences during the year 2000. (See attached Exhibit "C").

21. Subsequent to issuance of the above "Final Warning Letter", LANE's mental illness became worse.

22. SECO knew of LANE's disability and intentionally scheduled difficult field tests for LANE when he appeared to be in less than good health on the job; thereby increasing the chance of failure by LANE.

23. On or about 6 February 2001, LANE submitted a "no work" until 18 February 2001 order from his medical doctor to SECO.

24. On or about 6 February 2001, LANE sought accommodations from SECO to be assigned "light duty" after 18 February 2001, in a less stressful environment than that of a lineman still in training, including but not limited to assignment as a meter reader.

25. SECO denied LANE's request for accommodation to a less stressful position and said it had no such "light duty" available.

26. LANE's mental health continued to deteriorate and on or about 22 February 2001, he was admitted to Seven Rivers Hospital where he stayed for treatment of his mental illness until discharged on or about 27 February 2001.

27. On the day following his discharge from the hospital, LANE returned to defendant's work place presented himself for work and again sought accommodation of "light duty" or assignment as a meter reader and again SECO refused the accommodation and sent LANE home, although it had such meter reader or other light duty available.

28. On 7 March 2001, SECO fired LANE by letter sent to his home.

29. On 8 March 2001, LANE was again hospitalized for his mental condition which had further deteriorated after being fired by SECO.

COUNT I
ADA (42 U.S.C. §12101 et seq.)

30. SECO's refusal to make reasonable accommodations to LANE's disability of mental illness, by assigning LANE to light (less stressful) duty such as a meter reader, constituted discrimination against LANE due to his disability in violation of the ADA Section 102(D)(5)(A), 42 U.S.C. §12112(D)(5)(A).

31. SECO also discriminated against LANE due to his disability by intentionally scheduling difficult line tech field tests to perform on days when LANE was able to work, but

was not visibly healthy, thereby providing SECO with a subterfuge regarding LANE's performance.

32. SECO also discriminated against LANE by refusing to afford him unpaid leave for further medical treatment when requested. Instead, SECO fired LANE because of his disability.

33. As a result of SECO's discrimination, LANE suffered a loss of salary and benefits accruing into the present and the future; mental pain and anguish; and exacerbation of his disability.

34. SECO's discrimination was done intentionally and with total disregard to LANE's medical condition or welfare.

35. LANE has sought the assistance of the undersigned to assist him in bringing this action and has agreed to pay a reasonable attorneys fee.

WHEREFORE, LANE demands judgment against SECO for damages, including back pay, front pay, compensatory and punitive damages as provided by law; and any such other relief as the Court may order, and trial by jury.

COUNT II
FMLA (29 U.S.C. §2601 et. seq.)

36. SECO's repeated warnings of LANE's alleged "excessive absenteeism" while on medical leave was intended to and did interfere with LANE's rights to take medical leave under Section 105 of the FMLA.

37. SECO's termination of LANE's employment was based on his taking of what SECO thought was too much leave, although guaranteed to LANE by Section 105 of the FMLA.

38. SECO's multiple refusals to restore LANE to his job when he sought to return to work after hospitalizations violated plaintiff's rights under Section 104 of the FMLA.

39. SECO's termination of LANE was done in retaliation of his seeking his rights under the FMLA, in violation of Section 105 of the FMLA, for opposing SECO's leave practices make illegal under the Act.

40. As a result of SECO's violation of the FMLA, LANE suffered a loss of compensation which continues to this day and will continue into the future, plus loss of associated employment benefits.

41. SECO knew or should have known that its actions concerning LANE's FMLA entitlements was illegal.

42. LANE has sought the assistance of the undersigned to bring this action and has agreed to pay a reasonable attorneys fee.

WHEREFORE, LANE demands judgment against SECO for damages, both compensatory and liquidated, and any such other damages and relief as may be provided by law; and trial by jury.

**COUNT III
FLORIDA CIVIL RIGHTS ACT**

43. The Florida Civil Rights Act of 1992, Sections 760.01 through 760.11, Florida Statutes, protects persons from discrimination by employers employing fifteen or more employees based on an employee's handicap, concerning the terms and conditions of employment, including among others, on the job training programs.

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44. LANE is a person with a mental impairment which substantially limits one or more major life activities and who had a record of having, and who was regarded by SECO, as having such an impairment.

45. LANE filed charges with the Florida Commission on Human Relations (FCHR) simultaneously when he filed with the EEOC on 14 December 2001, and the FCHR relinquished the matter by Notice of Dismissal after more than 180 had elapsed, and LANE voluntarily withdrew his charges with the FCHR so as to allow him to bring this action (Exhibits "D" and "E").

46. SECO discriminated against LANE by assigning him duties as a Line Tech Class 2 for which he had not been trained; by targeting the testing of his job performance on days in which he was visibly not at his best due to his disability; by refusing transfer of LANE to other available duty; and by firing him and holding his job open for persons of like qualifications all due to discrimination against LANE because of his mental illness, despite which, LANE was able to perform his job.

46. SECO's treatment of LANE regarding the terms and conditions of his employment were in violation of Sections 760.01 through 760.11, Florida Statutes, the Florida Civil Rights Act.

47. All preconditions to filing this action have been met.

48. This Federal Court has supplemental jurisdiction over this State action pursuant to 28 U.S.C. 1367.

49. LANE was obliged to retain the undersigned attorneys and has agreed to pay them a reasonable attorneys' fee.

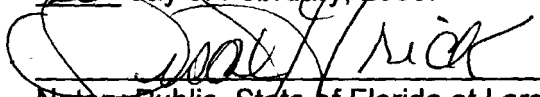
50. Plaintiff demands trial by jury.

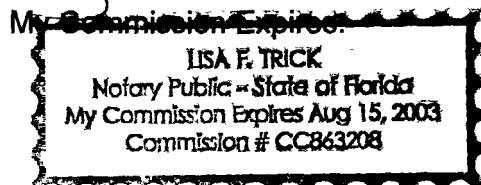
WHEREFORE, the plaintiff demands judgment for compensatory damages, including but not limited to lost wages and benefits; and damages for mental anguish, loss of dignity and other intangible injuries and punitive damages and reasonable attorneys fees.

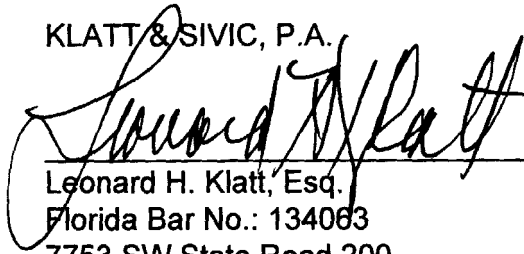
Dated this 20 day of February, 2003.


GARY L. LANE, Plaintiff

Sworn to and subscribed before me this, 20th day of February, 2003.


Notary Public, State of Florida at Large



KLATT & SIVIC, P.A.
By: 
Leonard H. Klatt, Esq.
Florida Bar No.: 134063
7753 SW State Road 200
Ocala, FL 34476
(352) 237-3304
(352) 237-0488 Facsimile
Attorney for Plaintiff

CHARGE OF DISCRIMINATION

CHARGE NUMBER

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing the form

FEPA
 EEOC

State or local Agency, if any

and EEOC

NAME (Indicate Mr., Mrs., MRS.) Mr. Gary C. Lane

HOME TELEPHONE (Include Area Code)
(352) 489-0114

STREET ADDRESS
Post Office Box 315

CITY, STATE AND ZIP CODE
Dunnellon, FL 34430

DATE OF BIRTH
12/18/57

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME. (If more than one list below.)

NAME Sumter Electric Cooperative, Inc.

NUMBER OF EMPLOYEES, MEMBERS
Approximately 300

TELEPHONE (Include Area Code)
(352) 293-3801 (352) 793-3200

STREET ADDRESS
239 South US Highway 301

CITY, STATE AND ZIP CODE
Sumterville, FL 33585-0301

COUNTY
Sumter

NAME

NUMBER OF EMPLOYEES, MEMBERS

TELEPHONE (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

DATE DISCRIMINATION TOOK PLACE
EARLIEST (ADEA/FEPA) LATEST(ALL)

RACE COLOR SEX RELIGION AGE

22 Nov 00 7 Mar 01

RETALIATION NATIONAL ORIGIN DISABILITY OTHER (Specify) FMLA

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

1. A. The Employer violated the Americans with Disabilities Act (ADA) who suffered from diverticulitis and extreme depression and anxiety, by refusing to grant the employee reasonable accommodations he requested:
 1. Light Duty;
 2. Transfer to a meter reader position; and
 3. Extension of his unpaid leave.
 4. Employee was given difficult field tests to perform whenever he appeared to be ill on the job;
- B. The employer violated the Family and Medical Leave Act (FMLA) by:
 1. Multiple warnings of "excessive" absenteeism while on medical leave;
 2. Penalizing him for taking vacation leave in lieu of sick leave[§102(e)(2)]; and
 3. Firing him for taking FMLA leave.
2. Employer's Director of Human Resources, Ms. Tina Wallace, claimed that employee had exhausted his FMLA leave.
3. The employee was fired by the employer instead of granting him reasonable accommodations he requested.

01 DEC 14 PM 12:12
EEOC COMMISSION
DISCRIMINATION

I want this charge filed with both the EEOC and the State or local Agency, if any, I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

[Signature]
LISWE TRICK
Notary Public - State of Florida
My Commission Expires Aug 15, 2003
I swear or affirm that I have read the above # 663-3308 and that it is true to the best of my knowledge, information and belief

I declare under penalty of perjury that the foregoing is true and correct.

[Signature]

SIGNATURE OF COMPLAINANT

[Signature]

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)

Date 12-10-00

Charging Party (Signature)

EEOC FORM 7 (3-94)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE
(ISSUED ON REQUEST)

To:

Gary C. Lane
P.O. Box 315
Dunnellon, Florida 34430

From:

Miami District Office
Equal Employment Opportunity Commission
One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131-1805

On behalf of a person aggrieved whose identity is CONFIDENTIAL
(29 C.F.R. 1601.7(a))

Charge Number
15DA200274

EEOC Representative
James Colon, State & Local Coordinator

Telephone Number
(305) 536-4454

(See the additional information attached to this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964 and/or the Americans with Disabilities Act(ADA): This is your Notice of Right to Sue, issued under Title VII and/or the ADA based on the above-numbered charge. It has been issued at your request. Your suit under Title VII or the ADA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the Commission will EEOC will be able to complete its administrative processing within 180 days from the filing of the charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.
- EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of your charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required). EPA suits must be brought in federal or state court within within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit based on this charge, please send a copy of your court compliant to this office.

NOV 05 2002

(Date Mailed)

On Behalf of the Commission

Feder.co Costales, District Director

Enclosures
Information Sheet
Copy of Charge

cc: Sumter Electric Cooperative
c/o King & Spalding
191 Peachtree Street
Atlanta, GA 30303

Leonard H. Klatt, Esq.
Klatt & Sivic, P.A.
7753 Southwest State Road 200
Ocala, Florida 34476

Exhibit "B"

Mar-13-01 08:37A HR/BENEFITS FAX

352 568 7777 1152

P.02

Northern Division
MEMORANDUM

TO: Gary Lane
FROM: Harry Schindehette
DATE: December 12, 2000
SUBJECT: Final Warning Letter

Since you were promoted to a Line Technician Second Class in October, 1999 you have received counseling and coaching on numerous occasions for unsatisfactory performance including substandard demonstration of the essential job knowledge & skills required after 12 months in your position. Your unsatisfactory performance includes several careless safety related errors, some of which could have caused serious injury to yourself and/or others. This letter is to notify you that your performance, conduct and unsafe work habits must improve if you hope to continue your employment with SECO.

The following examples are just some of your unsatisfactory performance during the past 10 months.

- On **February 2, 2000**, you received a written memo from your Supervisor, Richard Scruggs. He advised you that you needed improvement in two key areas – (1) Climbing and Doing Productive Work While on Hooks, and (2) Retaining REA Specs. He also noted that you failed to demonstrate the ability to frame poles to REA specifications, and offered you the opportunity to take a refresher course on REA specifications, which you elected to take.
- On **March 17, 2000**, Richard Scruggs issued a memorandum for your Working File regarding your inability to properly operate the line truck. He commented that you need to pay attention to what you are doing and what is going on around you.
- On **June 14, 2000**, Richard Scruggs gave you a memorandum stating you had missed 49 workdays due to sickness in the preceding 7 months. He advised you that these absences reduced the amount of training you were able to receive, so your progression to become a qualified second year, Line Technician Second Class, would have to be extended until October 21, 2000 to allow you to receive additional training time.
- On **June 14, 2000**, Richard Scruggs issued you a memorandum stating your performance as a Second Class, First Step, Line Technician was unacceptable. He listed several areas of deficiency and advised you that you should have learned these areas while in the Third Class level. He also told you that these areas would be closely monitored in the future to see if you improved.

On **July 4, 2000**, Steve Balius, Sr. Line Supervisor, discussed with you on the job site several major performance deficiencies you demonstrated in his presence on an after hour trouble call. Specifically, when Steve asked you why you failed to pull the proper material needed for

May-13-01 08:38A HR/BENEFITS FAX

352 568 7777 1152

P.03

the job when you were in the yard, you looked at him puzzled as if you did not know what he was talking about. When Steve then told you what materials were needed, you replied, "Oh, yea." The items you failed to pull should have been learned when you were a Third Class Line Technician. Steve also said you asked him if you should get another cross arm. When you explained why you thought it was needed it was apparent to Steve you obviously did not have any idea what the situation required. After arriving at the job site, you reached to grab a broken pole with an open ground wire. Steve had to grab you and prevent you from reaching the pole. This was a potentially serious life threatening safety violation that you should have learned as a Third Class Line Technician. During the work, Steve observed that you did not know the proper measurements to drill holes in the new pole and installed a bracket on the wrong end of the cross arm. When Steve asked you what you had done wrong, he had to tell you to move it to the other side of the pole above the tap phase, which again is basic knowledge in line work. Finally, when Steve asked you to move the truck down the road, you got in the truck and took off without binding down the butts of the poles. This caused the poles to bounce and jam a cross arm into the dirt road. Steve had to call you on the radio to get you to stop. Steve issued you a verbal warning on the job site and instructed you to never touch a pole with an open ground with the line energized again. Steve summarized your performance as unorganized and you had to be directed in almost every step of your required job responsibilities. He also noted that the things you had problems with should have been learned as a Line Technician Third Class.

- On July 10, 2000, Richard Scruggs gave you a Written Reprimand summarizing where you had violated a serious safety rule while working on a job on July 6. While working with Step-Up Supervisor, Roy Mathis, you installed primary cover without covering the neutral conductors. This violates Safety Rule #129.03 of the SECO Safety Manual. Roy directed you to come down from the bucket and asked you what you had done wrong. You responded that you did not know. This action was a very serious violation of safe work practices and could have resulted in serious injury or death.
- On July 12, 2000, Based on your supervisor's observations and the above discussed performance deficiencies, Richard Scruggs issued you a memorandum stating that you would not progress to Line Technician Second Class, Second Step, until you completed a three page check list of required tasks. As of Friday, November 3, 2000 you had completed only 3 of the 39 items.
- On October 23, 2000, Karen Robinson, Coordinator, OSHA Compliance & Training, sent me a memo stating she had sent you the TVPPA Lessons (Unit III) on March 15, 2000. She said she sent you a memo on March 22, 2000, reminding you about your progression dates and training requirements for qualification as Second Step. She stated that she has reminded you twice since then. You submitted nothing until Friday, November 3. You then submitted only five of the ten lessons.
- On November 3, 2000, Richard Scruggs administered a closed book pole framing exercise to evaluate your progress to date. Richard instructed you not to use your spec book during this exercise. When Richard returned he observed you with the spec book in your hand and it appeared to him you were either removing it from your shirt or you were preparing to place the book inside your shirt; however, you then threw the book on the dock. Later that same day Richard returned to the dock and observed you violating his direct instructions to not use the spec book. When you told him you needed to look up one more spec, Richard told you "No" and after your asking a second time, Richard again replied "NO". The results of the

field exercise reflect that you lack the required knowledge of REA specifications. Further, you disobeyed a direct order from your supervisor. which is insubordination.


Gary, you have continually failed to meet performance and conduct standards. Despite the fact we gave you additional learning time, due to your prior absences from work, you have failed to demonstrate the required skills and knowledge needed to perform your job. In addition, you have failed to fulfill your commitment to complete your training requirements under the TVPPA correspondence courses that were due for final completion on October 21, 2000. Finally, you have been insubordinate to your supervisor.

Because of the seriousness of your actions, we are issuing you this final written warning. If you fail to meet performance expectations during the next 90 days you will be dismissed from SECO. Gary, we are not charging you for insubordination at this time only because of your tenure with our organization. Understand, however, that if you ever again disobey direct instructions from your supervisor, the Cooperative will immediately terminate your employment.

In addition to all of the above discussed performance issues, during the past 12 months, your absences from work have become excessive. In addition to using all of your accrued leave, you have been granted in excess of 160 additional hours of leave without pay. This is to advise you that during the next 90 days you will be subject to dismissal for any additional leave without pay that is not FMLA.

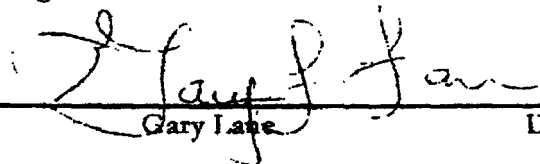
Gary should you choose to correct all of the problems discussed herein, no further disciplinary action will be necessary, and your employment here can continue. Performing your job correctly will also help you enjoy a progressive career and gain more satisfaction at work.

Sincerely,



Harry Schindehette
Northern Division Manager

I have read and understand the contents of this letter. I further understand if I fail to abide by the directives established in this letter, I will voluntarily resign or be discharged for cause.

 12 12-00

Gary Lane Date

Xc Personnel File

ELECTION OF RIGHTS FORM

CHARGING PARTY: Gary C Lane
RESPONDENT: Sumter Electric Cooperative

FCHR No. 22-00745
EEOC No. 15DA200274

CHARGING PARTY - Please complete information below, checking only one:

I am aware that the Florida Commission on Human Relations (FCHR) and the U.S. Equal Employment Opportunity Commission (EEOC) protect my right to file a complaint of employment discrimination. I have been advised that it is unlawful for any person covered by the Florida Civil Rights Act of 1992, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA) or Title VII of the Civil Rights Act of 1964 to threaten, intimidate or harass me because I have filed a complaint.

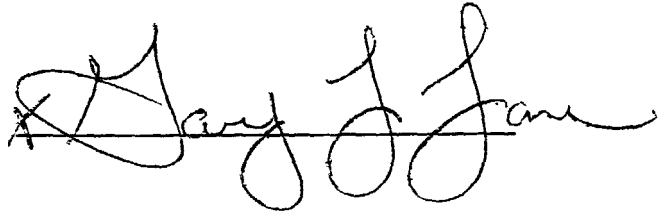
(a) More than 180 days have elapsed since I filed my charge of discrimination. I wish to withdraw my charge with the Florida Commission on Human Relations and with the U. S. Equal Employment Opportunity Commission so that I can obtain a right to sue in federal court and/or to file a civil action in a court of competent jurisdiction.

(b) More than 180 days have elapsed since I filed my charge of discrimination. I wish to withdraw my charge and file a Petition for Relief to proceed with an administrative hearing as provided for under Florida Statutes Section 760.11(4) (b) and (8).

(c) I wish to withdraw my charge of discrimination as filed with the Florida Commission on Human Relations and the U. S. Equal Employment Opportunity Commission because I no longer wish to pursue this matter or this matter has been resolved.

(d) I want the Commission to continue with the processing, investigation and final action in this matter.

Dated: 7-16-02

Signed: 



Jeb Bush
Governor

State of Florida Florida Commission on Human Relations

An Equal Opportunity Employer • Affirmative Action Employer

2009 Apalachee Parkway • Suite 100 • Tallahassee, Florida 32301-4857
(850) 488-7082
Web Site <http://fchr.state.fl.us>



Rita Barreto Craig
Chair

Derick Daniel
Executive Director

FCHR No. 2200745
EEOC No. 15DA200274

Complainant

Mr. Gary C Lane
c/o Leonard H Klatt, Esquire
Klatt & Sivic, P.A.
7753 Southwest State Road 200
Ocala, FL 34476

Respondent

Sumter Electric Cooperative
c/o Jona J Miller, Esquire
King & Spalding
191 Peachtree Street
Atlanta, GA 30303

NOTICE OF DISMISSAL

Pursuant to the authority vested in me by Commission Rule 60Y-5.006, Florida Administrative Code [F.A.C.], I issue on behalf of the Commission the following determination dismissing the above-referenced complaint for the reason indicated below:

Complainant has voluntarily withdrawn the complaint from this Commission. More than 180 days have elapsed since the charge of discrimination was filed with this Commission and Complainant has requested that the Equal Employment Opportunity Commission issue a right-to-sue letter in order to pursue his/her federal remedies and/or Complainant desires to file suit in a state court of competent jurisdiction in this matter pursuant to Section 760.11(8). Rules 60Y-5.001(8) and 60Y-5.006(10), F.A.C.

FOR THE COMMISSION ON HUMAN RELATIONS:

Executive Director

DATED: September 3, 02

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that a copy of the foregoing NOTICE OF DISMISSAL was filed at Tallahassee, Florida and served upon the above-named addressees this 3rd day of September, 2002.

by U.S. Mail.

BY: DeWise Crawford LR
Clerk of the Commission

COMMISSIONERS

Roosevelt Paige, Vice Chair
Orange Park

Gayle Cannon
Lake City

John Corbett
West Palm Beach

Donna Elam
Tallahassee

Leonie Hermantin
Miami

Juan Montes
Miami

Keith A. Roberts
Dania Beach

Gilbert M. Singer
Tampa

Aietta Shutes

Billy Whitefox Stall
Panama City

Exhibit "E"

P. C. Wu
Panama City