STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
Adeliia Klinkova,	)	
	)	
Complainant,	)	CHARGE NO(S): **2023CP1605**
	)	EEOC NO(S): **N/A**
and	)	ALS NO(S): **24-0193**
	)	
Zulu Dog & Cat Boutique,	)	
	)	
Respondent.	)	

NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above-named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

Entered this November 07, 2025

____
David R. Larson
INTERIM EXECUTIVE DIRECTOR

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF: ADELIIA KLINKOVA, Complainant, v. ZULU DOG & CAT BOUTIQUE, Respondent.	IDHR Charge No.: 2023-CP-1605 EEOC Charge No.: N/A ALS Case No.: 24-0193 Administrative Law Judge Jennifer S. Nolen

RECOMMENDED ORDER AND DECISION

On July 7, 2025, a public hearing was conducted on Complainant's complaint filed with the Illinois Human Rights Commission (the "Commission"). Complainant Adeliia Klinkova ("Complainant") was present and represented herself, *pro se*, during the public hearing. Respondent Zulu Dog & Cat Boutique ("Respondent") was present through its counsel, and its owner, Jackie Jockell ("Jockell") was also present. [1] At the conclusion of the parties' cases, each party presented oral arguments and proposed findings for this court to consider. *See* 56 Ill. Admin. Code §5300.750(d).

PROCEDURAL HISTORY

On March 13, 2023, Complainant filed a charge of discrimination with the Illinois Department of Human Rights (the "Department"). Complainant alleged that she was refused

[1] Respondent is registered with the Office of the Illinois Secretary of State as Phoenix Cats LLC d/b/a Zulu Dog & Cat Boutique.

grooming services for her cat at Respondent's facilities because she is Russian (Count A) and because she is European (Count B).

On March 25, 2024, the Department issued its Notice of Substantial Evidence and Notice of Dismissal to the parties. *See id*. The Department issued the Notice of Substantial Evidence for Count A, the denial of full and equal enjoyment of Respondent's facilities because of Complainant's national origin (Russian). The Department issued the Notice of Dismissal for Count B, the denial of full and equal enjoyment of Respondent's facilities because of Complainant's Eastern European ancestry. Complainant did not file a Request for Review for Count B.

On June 24, 2024, Complainant filed her complaint alleging that on February 20, 2023, Respondent denied Complainant full and equal enjoyment of its services and facilities because of Complainant's national origin. *See* Compl. of Civil Rights Violation(s)("Compl.") (filed June 24, 2024).

CONTENTIONS OF THE PARTIES

A. Uncontested Facts

On July 7, 2025, at the commencement of the public hearing, Complainant and Respondent tendered a fully executed Joint Statement of Stipulated Facts ("Joint Stipulation") to the court, which was then admitted into evidence. *See* Joint Hr'g Ex. 1, Joint Stipulation; See also Hr'g Tr. 57:18-23 (Jul. 7, 2025). The parties stipulated to the following facts:

1. Complainant is of Russian national origin.
2. Olena, a pet groomer, advertised her grooming services on the messaging app Telegram.
3. The advertisement post was made by Olena from her personal Telegram account in a public Telegram group with over 21,000 subscribers.

4. The advertisement stated: “I want to offer pet care services. I am a pet groomer working at Zulu salon on Lincoln Ave. I specialize in dog and cats. I work with and American salon owner. If you have just arrived or have been looking for a groomer for a long time – contact us! We are taking new clients.”

5. The advertisement was not made by Jackie Jockell’s account or Zulu’s official account.

6. On February 20, 2023, Complainant contacted Olena via phone call and messages.

7. The number used by Complainant to contact Olena was Olena’s personal phone number.

8. Olena refused to schedule grooming services for Complainant after learning Complainant was Russian.

9. Complainant did not contact Jackie Jockell’s business phone number prior to contacting Olena.

10. Complainant did not contact Jackie Jockell via social media prior to contacting Olena.

11. Complainant did not at any time request services directly from Jackie Jockell.

12. Jackie Jockell did not at any time personally refuse to provide services to Complainant.

13. Olena provided grooming services at Zulu’s location until May 2023.

14. Complainant left a Yelp review about Zulu concerning her experiences with Olena.

15. The Respondent made no effort to contact the Complainant, clarify the incident, or resolve the issue in the 1.5 years following the incident.[2]

B. Complainant’s Arguments

Complainant alleged in her Compl.:

> I was discriminated against on the basis of my national origin on 02/20/2023. I was refused the service (at Zulu Dog & Cat Boutique) and was directly informed of the reason. The reason is that I am an

[2] Respondent’s counsel raised an objection to ¶15 of the Joint Stipulations during the public hearing. However, all parties signed the stipulations and had the opportunity to review them prior to entering the exhibit into evidence. Notwithstanding the objection and my associated ruling thereon, ¶15 has little relevance to my decision in this matter.

> ethnic Russian. I would like to ask the respondent for compensation for moral damage and expenses for the psychologist of $15,000,00.

See Compl., ¶ 4. [3] Complainant testified at the public hearing that she read an advertisement for grooming services posted on the Telegram app. *See* Public Hr'g Tr. 17:5-24, July 7, 2025. The advertisement was posted by Olena Meilite ("Olena"). *See id*. Olena advertised that she speaks three languages—Ukrainian, English, and Russian. *Id*.

Complainant called Olena to set up an appointment for grooming services for her cat, Lucy. *Id*. Complainant alleged that she spoke to Olena in Russian, but Olena responded in Ukrainian. *Id*. After the initial telephone conversation, Complainant received a text message from Olena with her availability to groom Lucy. *Id*. at 18:1-4.

Complainant declared that Olena never identified herself directly as an independent contractor or employee with Respondent. *Id*. 46:2-21. Complainant believed that Olena was an employee of Respondent because she posted "'I work with an American salon owner'" on her Telegram post. *Id*. It is uncontested that Complainant contacted Olena directly to schedule a grooming appointment, but Olena denied services to Complainant because she is Russian.

Complainant testified that after Olena denied her services, Complainant called the telephone number she believed belong to Respondent's owner, Jockell, but there was no answer. *Id*. 42:9-19. The purpose of her call was to complain about Olena and to schedule services with another groomer. *Id*. Complainant alleged that she left a voice message, and she also posted her complaint about Olena on Yelp. *Id*. 33:3-6.

[3] Unless otherwise indicated, the facts summarized in this section are either uncontested or admitted by the parties in their respective submissions. Where facts are disputed, citations to pleadings and other exhibits appearing in the record are provided.

Complainant attested that, prior to the February 20, 2023 incident, she felt stress and anxiety from previously receiving threats and comments based on her national origin during the current war between Ukraine and Russia. *Id*. 51:1-24. Complainant testified that she did not seek therapy or counseling before her February 2023 interaction with Olena. *Id*. Complainant also stated that she saw a psychologist twice a week from March 2023 until September 2023. *Id.* 29:12-23; 30:1-3. Complainant seeks a judgment of $15,000.00 against Respondent for emotional distress damages and for the expenses she incurred with her psychologist. *Id*. 27:1-7.

C. Respondent's Arguments

Respondent's owner, Jockell, is the sole owner of Respondent. See Hr'g Tr. 63:11-17. Jockell recalls that Olena was referred to her by a friend for employment. *Id*. 64:7-24. Olena was hired as a groomer for Respondent, and there was no formal written contract. *Id*. Olena worked for Jockell for three to four months during the summer of 2023. *Id.* 66:1-17. While both Olena and Jockell worked at Zulu, Jockell was grooming and managing. *Id.* 68:7-15.

When Jockell was not present in the shop (two days a week and outside of a 9 a.m. to 5:00 p.m. schedule), Jockell testified that Olena had "free rein to the phones or clients walking in". *See id*. at 70:1-16. Jockell testified that Respondent has a written employee handbook, but "nobody really reads it". *See id*. 71:14-22.

Jockell claimed that following the exchange between Olena and Complainant on February 20, 2023, she (Jockell) had no immediate knowledge of any voicemail or Yelp review left by Complainant. *Id*. 75:1-23. Jockell acquired Respondent's facilities in 2019, and the prior business owner did not give her the passwords to Respondent's Yelp business page. *Id*. 63:18-24; 73:2-19. Jockell visited the Yelp business page a "handful of times" since she acquired the business, but she has not been able to respond to the reviews from the business' page because she did not have the Yelp password. *Id*. Jockel testified that she only became aware of Complainant's charge and allegations against Olena when she received a packet in the mail from the Department with the charge included. *See id*. 74:8-21.

CONCLUSIONS OF LAW

I make the following conclusions of law based on the evidence submitted in this case and the pleading before me:

1. This administrative court has jurisdiction over this matter and over the parties who have appeared in this case.

2. During the time relevant to the allegations described in the Complaint, Complainant was an "Aggrieved Person" as that term is defined by the Illinois Human Rights Act. *See* 775 ILCS 5/1-103(B). As such, Complainant is authorized to invoke the protections of the Act.

3. During the time relevant to the allegations described in the Complaint, Respondent was a "Place of Public Accommodation" as that term is defined by the Illinois Human Rights Act. *See* 775 ILCS 5/5-101(A)(6). As such, Respondent was (and still is) subject to the provisions of the Act.

4. During the time relevant to the allegations described in the Complaint, Olena Meilite was a "Person" as that term is defined by the Illinois Human Rights Act. 775 ILCS 5/1-103(L).

5. Complainant established by direct evidence that Olena Meilite denied her grooming services at Respondent's facility because her national origin is Russian.

6. Respondent failed to assert an affirmative defense in its answer to Complainant's Complaint. An argument based on the evidence cannot be made if the argument asserts an affirmative defense that should have been properly pled.

7. Complainant has proven by a preponderance of the evidence that she has suffered emotional distress from the actions of Respondent of such magnitude that she is entitled to an award of emotional distress damages.

8. Pursuant to Section 8A-104(B) of the Illinois Human Rights Act, 775 ILCS 5/8A-104(B), Complainant, as the prevailing party in this action, is entitled to an award of damages—including actual damages—resulting from Respondents' violations of the Illinois Human Rights Act.

DISCUSSION AND ANALYSIS

There are two methods for proving discrimination, direct and indirect. *Sola v. Illinois Human Rights Commission,* 316 Ill.App.3d 528, 736 N.E.2d 1150 (1st Dist. 2000). Under the direct approach, Complainant must present sufficient evidence, direct or circumstantial, without reliance upon inference or presumption, to allow a trier of fact to decide that her national origin was a motivating factor in Respondent's alleged adverse act. *Id*. Direct evidence requires evidence that demonstrates a linkage between the adverse act and the decision-maker's alleged discriminatory animosity. *Id*.

Respondent is a place of public accommodation, and it is a civil rights violation for any ***person*** on the basis of unlawful discrimination to:

> (A) Enjoyment of Facilities, Goods, and Services. Deny or refuse to another the full and equal enjoyment of the facilities, goods, and services of any public place of accommodation.

See 775 ILCS 5/5-102(A) (emphasis added).

During the public hearing, Respondent argued that corporate entity sued in this matter could not be held liable based on the fact that Olena Meilite was an Independent Contractor. In Response, I advised during the trial that the employment relationships described under Article 2 of the Illinois Human Rights Act were distinct from the "person" or "operator" standard articulated in Article 5 for cases involving the denial of a public accommodation.

Article 2 of the Act, which governs employment discrimination, expressly prohibits "employers" from unlawfully discriminating. An "employer" is defined any person employing one or more employees. 775 ILCS 5/2-101(B)(1)(a). By contrast, section 5-102(A) expressly prohibits any "person" from denying full and equal enjoyment of facilities, goods, and services to another person at any place of public accommodation. A "person", as defined in the Act, can include one or more individuals, partnerships, associations, or other entities. See 775 ILCS 5/1-103(L). Where the legislature uses certain words in one instance and different words in another, it intended different results. *Dana Tank Container v. Human Rights Comm'n*, 292 Ill. App. 3d 1022, 1025-1026 (1st Dist. 1997)(citing *Costello v. Governing Board of Lee County Special Education Ass'n,* 252 Ill. App. 3d 547, 558, (1993)). Thus, I conclude that the legislature intended to consider more than just the employment relationship in cases where an individual was denied public accommodations under Article 5 of the applicable statute.

I. Complainant Established a *Prima Facie C*ase of Unlawful Denial of a Public Accommodation.

To establish a *prima facie* case of unlawful denial of a public accommodation pursuant to Section 5-102(A), Complainant has the burden to prove that a *person*—not necessarily employees or employers—denied her full and equal enjoyment of facilities, goods, and services at Respondent's place of business.

Here, it is an uncontested fact that "Olena refused to schedule grooming services for Complainant after learning Complainant was Russian". *See* Joint Ex. 1. This is a straightforward factual admission by Respondent that a person, working at Respondent's facilities, would not schedule Complainant's cat for grooming services because Complainant is Russian. Where there is direct evidence of discrimination, it is unnecessary to use the three-part analysis for discrimination that was adopted in *McDonnell-Douglas*. *Meggan Sommerville v. Hobby Lobby Stores, Inc*., IHRC, ALS NO. 13-0060C, 2019 ILHUM LEXIS 499, *28 (Apr. 1, 2019) (*citing Catherine Littleiohn and Wal-Mart Stores*, IHRC, ALS No. 9929, November 4, 2009).

The evidence in this case establishes that a groomer working for Respondent (in whatever capacity) denied services to Complainant because she is Russian, which is a violation of the Act under the direct method of proof. Olena substantially relied on a prohibited factor, Complainant's national origin, in her decision to deny services to Complainant. *Lalvani v. Illinois Human Rights Commission*, 324 Ill.App.3d 774, 755 N.E.2d 51 (1st Dist. 2001). Therefore, Complainant has met her initial burden of proving, by a preponderance of the evidence, that she was denied services based on her national origin.

After a complainant has established a *prima facie case* of discrimination through the use of direct evidence, a respondent must articulate a legitimate reason for the adverse act, which the Complainant may then attempt to show is a pretext for discrimination. *In Re Matter Melvin Osborne and Robert Boudreaux, and Steve's Old Time Tap*, IHRC, ALS No. S-11225, 2001 ILHUM LEXIS 29, *12 (Apr. 25, 2021).

II. Respondent Failed to Plead Olena's Employment Status as an Affirmative Defense

Respondent provided no legitimate reason for Olena to deny services to Complainant other than her national origin. Instead, Respondent repeatedly argued at trial that Jockell was unaware of Olena's actions because Olena was an independent contractor. But even before addressing the topic of Olena's status as an independent contractor, I note that Respondent cannot prevail in this matter because it failed to plead any statements constituting its affirmative defenses to the allegations raised in the Complaint, as required by the Commission's Procedural Rules. 56 Ill

Admin. Code §5300.640(c)(2). "An affirmative defense must be specifically pled so the plaintiff is not taken by surprise. In a civil matter, failure to plead an affirmative defense absolutely bars the respondent from raising that defense later." *Hemmingway and Crawford Estates Condominium Association and MC Property Management Corp*., IHRC, ALS No. 19-0101, 2023 ILHUM LEXIS 193, *2 (Sept. 26, 2023); *Department, Muhammed and Szkoda*, IHRC, ALS No. 4764, 2023 ILHUM LEXIS 193, *2 (June 21, 1996).

The test of whether a defense is "affirmative" (and thus must be pled by a Respondent) is whether the defense gives color to the opposing party's claim and then asserts a new matter by which the apparent right is defeated, and an admission of the apparent right is inferable from the affirmative defense. *In Re Craig Stafford and City of Belleville Board of Police and Fire Commissioners*, IHRC. ALS No. 1527(K), 1986 ILHUM LEXIS 278, *14 (April 16, 1986). Where an affirmative defense is raised, the party raising the affirmative defense still bears the burden of proving their defense by a preponderance of the evidence. *In Re James Allen, Jr. and Aero Services International Inc*., IHRC, ALS No. 3150, 1991 ILHUM LEXIS 4, *12 (Sep. 20, 1991).

In this case, Respondent's answer, filed on January 13, 2025, contained four responses that either admitted or denied the allegations raised in Complainant's complaint. Respondent failed to raise any affirmative defenses in its answer. In fact, the first time Respondent raised Olena's classification as an "independent contractor" in these proceedings was in the parties' Joint Prehearing Mem. (filed June 6, 2025). I find that the status of Olena as an employee or independent contractor is an affirmative defense because it seeks to avoid the legal effect or otherwise defeat the cause of action set forth in the Complainant's complaint. Therefore, it should have been raised and properly pled in Respondent's answer.

"Justice requires that the parties live with litigation decisions they have made, either through their attorney or on a *pro se* basis." *Fitzgerald and Fischer Imaging Corp.*, IHRC, ALS No. 10142 (May 29, 1998). In Illinois, an answer must contain facts sufficient to satisfy each element of the affirmative defense. *See Richco Plastic Co. v. IMS Co.*, 288 Ill. App. 3d 782, 784 (1st Dist. 1997). A party that fails to plead sufficient factual support for an affirmative defense forfeits that defense. *See Performance Food Grp. Co. v. Arba Care Ctr.*, 2017 IL App (3d) 160348, ¶ 22. Here, I find that Respondent waived its right to plead an affirmative defense in this case when it did not timely raise any affirmative defenses for the Court's consideration prior to trial.

Further, after reviewing the entire trial transcript, I find that while Jockell testified that Olena was hired as a groomer, she never directly testified that Olena was hired as an "independent contractor." Indeed, the transcript is clear that only Respondent's attorney made those arguments in opening and closing statements, and in questions posed to Complainant (which were not responsively confirmed). Complainant also testified to having confusion over the nature of Olena's employment status. In sum, I conclude not only that Respondent waived the opportunity to assert Olena's independent contractor status as an affirmative defense, *see In Re Illinois Dept. of Human Rights and Robin Muhammad, and Henry K. Szkoda,* IHRC, ALS No. 4764, 1996 ILHUM LEXIS 1035, *13-14 (Jun. 21, 1996), but that I am further lacking the necessary evidence to establish that Olena was somehow an independent contractor based on the evidence (vice the arguments) that were offered at trial.

III. Arguments Over Olena's Status as an Independent Contractor

Even if I am mistaken over the propriety of considering whether Olena was an independent contractor, I find that Respondent failed to carry its burden on this affirmative defense even if I was to weigh the limited evidence before me. To begin, the general rule in Illinois is that one who engages the services of an independent contractor is not liable for the acts or omissions of that contractor. *Dahan v. UHS of Bethesda, Inc*., 295 Ill. App. 3d 770, 775 (1st Dist. 1998). The rationale for this rule is that a principal generally does not supervise the details of an independent contractor's work and, thus, is in no position to prevent the independent contractor's tortious acts or omissions. *Martens v. MCL Constr. Corp*., 347 Ill. App. 3d 303, 313-14 (1st Dist. 2004).

Unless it is so clear as to be undisputed, the question of whether an employer-employee relationship exists is ordinarily a question of fact for the trier of fact and hinges on the "unique facts of each particular case." *In Re Request for Review by Edmund White*, IHRC, ALS No. 24-0042, 2024ILHUM LEXIS 138, *3 (Jul. 2, 2024) (*citing McConnell v. Freeman United Coal Co*., 198 Ill. App. 3d 322, 325 (5th Dist. 1990); *Conrads v. Rush-Copley Med. Ctr*., 2023 IL App (2d) 220455, ¶¶ 39-40). Thus, the question of whether a person is an independent contractor, or an employee is often a difficult one because elements pertaining to both relationships may be present. *Marian Dehne and Middle American Express, Inc.*, 1991 ILHUM LEXIS 11, *28 (Nov. 4, 1991).

To determine whether an individual is an employee or an independent contractor for the purposes of the Act, the Commission considers the factors described by the Illinois Supreme Court in *Bob Neal Pontiac-Toyota, Inc, v. Indus. Comm'n*, 89 Ill.2d 403, 410 (1982). These include: (1) the amount of control and supervision; (2) the right of discharge; (3) the method of payment; (4) the skill required and the work to be done; (5) the source of tools, materials, or equipment; and (6) the work schedule. *Elmer Thompson and Chicago Tribune Co*., IHRC, ALS No. 6729, 1996 ILHUM LEXIS 1089, * 7 (Nov. 6, 1996). The most important single factor is the right to control the purported employee's work. *Id*.

Even if I relaxed the procedural requirement for Respondent to plead Olena's employment status as its affirmative defense, I find that Olena was not an independent contractor as contemplated by the Act. I considered both the definitions provided by the Act and the six (6) common law factors described by the Illinois Supreme Court in *Bob Neal Pontiac-Toyota, Inc*.

Under those factors, I am unconvinced that Respondent should be absolved from responsibility for an individual who was acknowledged to have "free rein" over Respondent's facilities, services, and customers. The purpose of Jockell hiring Olena was to address a surge in the number of Respondent's clients and to enlist aid managing those clients. *Id*. 89:10-17. In so enlisting this assistance, I do not find that Olena was given the freedom to forego work assignments from Respondent or manage only Olena's particular clients under whatever schedule she chose for herself. On the contrary—Jockell testified that Respondent's business kept regular hours, and that Olena's duty was to run that business (including tasks beyond just her own clientele) at different times during the week when she and Jockell did not work the same schedule. *See* Hr'g Tr. 70:12-16. Running a business when an owner is not present is the task of a relied-upon employee or manager, not an independent contractor. As noted above, Respondent failed to present any evidence that contradicted this understanding of Olena's duties.

When asked about her managing of Olena, Jockell testified that she provided minimal supervision of Olena, which leads me to believe that Jockell had at least some basis or ability on which to exercise control over Olena (as an independent contractor is largely unbound by any attendance rules set by an employer). *Id*. 68:11-15, 90:23-24; 91:1-3. I therefore find that this factor weights in favor of treating Olena as an employee/agent of Respondent. Whether control was actually exercised is not dispositive in this context. Rather, the ***<u>right to control</u>*** the alleged agent is the proper query, even where that right is not exercised. *In Re Neal Peterson and Regency Express,* Inc. IHRC, ALS No. 13-0412, 2018 ILHUM LEXIS 834, *7 (Aug. 30, 2018); *Thompson and Chicago Tribune Co*., IHRC, ALS No. 6729 (Jan. 10, 1997); *Ross v. Cummins,* 7 Ill. 2d 595, 600, 131 N.E.2d 521 (1956). In effect, the evidence at trial suggested that either Olena or Jockell had the right to end their relationship at any time. I thus find Olena's status was highly inconsistent with the parameters under which independent contractors are gauged under Illinois law, and so for this reason, I find that Olena's reject of Complainant binds Respondent and ascribes liability to Respondent for Olena's violation of the Human Rights Act. Therefore, with no evidence of a nondiscriminatory rationale for Respondent's actions, I find that judgement in this case is properly rendered in favor of Complainant.

III. Damages

Having determined that Complainant proved her case by a preponderance of the evidence, I also conclude that the evidence in this matter demonstrates that Respondent's actions did harm of a magnitude that Complainant is entitled to an award of emotional distress damages. The "actual damages" provision of section 8A-104(B) of the Act includes damages for humiliation, embarrassment and mental distress. *Ayers and Johnson*, IHRC, ALS No. 3375(K), October 3, 1991. The act of violating a person's civil rights, by itself, is insufficient to support an award for emotional distress damages. *Garrity and Lockett*, IHRC, ALS No. 6389, May 3, 1996. The probative factors in determining the amount of an emotional distress award are the nature and duration of the suffering experienced by the complainant. *Gipson and H.P. Mechanical, Inc., and Steve Hathorne*, IHRC, ALS No. 06-060C, August 3, 2007.

It is difficult to quantify emotional distress damages. Emotional distress awards are not well-suited to ready mathematic calculation. Ultimately, determining the amount of an award is an "act of judgment and discretion." *Clark and Windy City Waste & Recycling, Inc.*, IHRC, ALS No. 03-059, 2005 ILHUM LEXIS 62, *12 (May 17, 2005). In such matters, the extension of this remedy is consistent with this administrative court's practice of awarding emotional distress damages where other measures of recovery will not make the complainant 'whole' for his or her adjudged injuries. *See In re Straw v. Reposteria*, ALS No. 16-0320, 2018 ILHUM LEXIS 905, at *3 (July 2, 2018) (citation omitted).

Determining an appropriate award of monetary damages for emotional distress has proven to be difficult when one tries to base the figure solely upon other Commission cases. That is because it is difficult to measure with precision the monetary value of a particular individual's distress versus the distress felt by another individual. *Kuhlman and The Korner House*, IHRC, ALS No. 9696, November 24, 1997. I will refrain from using prior Commission cases for evaluating damages, as the Illinois appellate courts have routinely precluded efforts to cite to prior Commission cases when evaluating the reasonableness of an award of emotional distress. See, e.g., *Windsor Clothing Store v. Castro*, 2015 IL App (1st) 142999, ¶ 47, 41 N.E.3d 983.

In determining the amount of emotional distress damages, it is appropriate to look at the type of conduct which has been alleged. The Act permits monetary damages for emotional distress, using the totality of the circumstances analysis. *Village of Bellwood v. Illinois Human Rights Commission*, 184 III.App.3d 339, 541 N.E.2d 1248 (1st Dist.1989). At the Commission, damages in excess of $10,000 have been awarded when one or more of the following features were present:

(a) detailed testimony that revealed specific effects of the discriminatory conduct;

(b) evidence that the conduct took place over a prolonged period;

(c) evidence that the effects of the mental distress were felt over a prolonged period of time;

(d) evidence that the mental distress was accompanied by physical manifestations and/or medical or psychiatric treatment;

(e) evidence that the discriminatory conduct was particularly egregious and/or included actual malice; or

(f) evidence that Complainant was particularly vulnerable or unusually fragile due to past experiences or a preexisting condition.

See Garrity, 1996 ILHUM LEXIS 993, *18; *Cravens v. Beale*, ALS No. 9995, 1999 ILHUM LEXIS 198, at *22-23 (Oct. 4, 1999) (the analysis articulated in *Cravens* has been applied in a neutral manner to gauge emotional distress in cases alleging the denial of a public accommodation on the basis of discrimination. *See, e.g., In re Mohammed v. Islamic Circle of N. America Chicago*, ALS No. 17-0315, 2018 ILHUM LEXIS 899, at *3 (Nov. 7, 2018)).

The act of violating a person's civil rights, by itself, is insufficient to support an award for emotional distress damages. *Garrity and Lockett*, IHRC, ALS No. 6389, May 3, 1996. The probative factors in determining the amount of an emotional distress award are the nature and duration of the suffering experienced by the complainant. *Gipson and H.P. Mechanical, Inc., and Steve Hathorne*, IHRC, ALS No. 06-060C, August 3, 2007.

Complainant stated in her complaint, “I would like to ask Respondent for compensation for moral damage and expenses for a psychologist of $15,000.00”. *See* Compl., ¶ 4. Complainant testified that she has experienced “Russophobia,” which is hate towards Russians. *See* Public Hr’g Tr. 27:17-22.[4]

Complainant testified that she hired a psychologist, and that she engaged in sessions with the psychologist twice a week from March 2023 to September 2023. *Id*. 29:10-24; 30:1-3. According to complainant, the cost of each session was approximately $50.00. *Id*. 30:4-10. During the discovery phase of these proceedings, Complainant produced bills (which were not admitted into evidence) for services from her psychologist with her initial disclosures. *Id*. 31:1-12. Accordingly, only Complainant’s testimony about her psychology bills was considered. I find that Complainant gave credible testimony regarding her damages.

[4] I struck Complainant’s testimony regarding complaints filed with the police in 2022 regarding threats received from Ukrainians. *See* Hr’g Tr. 28:7-15.

In addition, I weighed: (1) the effects of the mental distress; (2) the alleged physical manifestations and/or medical or psychiatric treatment; (3) the discriminatory conduct which I find included actual malice and intention to discriminate; and (4) Complainant's particular vulnerability or unusually fragility due to past experiences with Russophobia. Considering all of these factors, I award Complainant $20,000.00 in damages for her emotional distress, which in my judgment is the amount reasonably necessary to make Complainant "whole" based on the facts of this case and the evidence that was presented at the public hearing.

RECOMMENDATION

Consistent with the more fulsome explanations set forth above, my recommendation is to award actual damages for humiliation, embarrassment, and emotional distress in the amount of $20,000.00, assessed against Respondent, Phoenix Cats LLC. d/b/a Zulu Dog & Cat Boutique. I am therefore recommending that the Illinois Human Rights Commission affirm and adopt these determinations that are made in this recommended order and decision pursuant to 56 Ill. Admin. Code § 5300.910.

HUMAN RIGHTS COMMISSION

BY:

JENNIFER S. NOLEN
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: September 5, 2025