



# Illinois Human Rights Commission: Quarterly Newsletter



## Illinois Human Rights Commission Presents Second Round of Diamond Award Recipients

### *Commission Honors Three Illinoisans Fighting for Justice and Equity*

(Chicago) The Illinois Human Rights Commission (IHRC) presented its IHRC Diamond Awards during the Juneteenth Celebration on Wednesday, June 19, 2019. The Juneteenth event was held in partnership with the Illinois Department of Human Rights. The event celebrated Juneteenth Emancipation Day by honoring

three individuals who have dedicated their careers to protecting human and civil rights for all Illinoisans through activism, leadership, and multi-generational discourse.

During the ceremony at the James R. Thompson Center, IHRC Executive Director Philip Dalmage presented the IHRC Diamond Award to Myiti Sengstacke-Rice, Michelle Duster, and Dr. Haki R. Madhubuti, PhD., for their exemplary community service, extraordinary bodies of work, and activism.

These three Diamond Award honorees join the inaugural honorees, Jazmine Cruz, Bonnie Allen, and Alexandra Sosa, who were all recognized with this award during IHRC's Women's History Month ceremony in March 2019. The IHRC Diamond Award Series will continue through the year with two additional events to be announced.

Governor J.B. Pritzker served as the keynote speaker at the ceremony and issued an official proclamation commemorating Juneteenth and Illinois's observance.

IHRC Executive Director Philip Dalmage stated: "As we celebrate Juneteenth, we are reminded that this occasion marks the recognition of the news of emancipation for each former slave. This day, June 19, 1865, became a significant cog in Freedom's wheel; moving us down the road which would be long-traveled, and the quest for equality that would be hard-fought. Through faith and perseverance of the people, and with the enactment of the Thirteenth Amendment, the Civil Rights Act of 1964, the 1965 Voting Rights Act, and the Illinois Human Rights Act, the descendants of former slaves here in the State of Illinois can celebrate this day in this state, in this country, as Americans, free and equal."

Juneteenth Emancipation Day celebrates the day enslaved African-Americans in Texas were informed of their freedom a full two-and-one-half years after the signing of the Emancipation Proclamation on January 1, 1863. Juneteenth has become a nationally recognized holiday throughout Black communities, celebrating the freedom of nearly 3.5 million enslaved African-Americans.

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- This Quarter In Civil Rights History
- A Note on Motion Practice from an ALJ
- Patterson v. Walgreens Co.

## *A Letter from the Chair*

While the mission of the Illinois Human Rights Commission (Commission) – to promote the freedom from unlawful discrimination as defined by the Illinois Human Rights Act and provide a neutral forum to resolve Act-related complaints – is nearly forty years old, the Commission’s rededication to deliver on this mission crystalized over the past eight months. Thanks to the Illinois General Assembly, through unanimous floor votes in 2018, and the prior and current Governors of Illinois, through an executive order in 2018 and both their signatures on several bills over the last two years, the Commission has seen major changes to its composition, process, and focus in 2019. These changes, I believe, inure to the benefit of the people of Illinois.

**Composition:** Public Act 100-1066 transitioned the Commission from 13 part-time members to seven full-time members. Governor JB Pritzker – who himself was a former chair of the Commission – recently announced the seven appointments. The new appointments, all of which took effect on July 1, 2019, are subject to confirmation by the Illinois Senate and are for staggered terms. The reconstituted Commission is as follows:

**STEVEN A. ANDERSSON** of Geneva, a former Illinois state representative and Republican floor leader;

**MANUEL BARBOSA** of Elgin, a retired bankruptcy judge and past commissioner chair;

**BARBARA R. BARRENO-PASCHALL** of Chicago, formerly a senior staff attorney with the Chicago Lawyers’ Committee for Civil Rights Under Law, Inc.;

**ROBERT A. CANTONE** of Orland Park, most recently an attorney who was appointed as a part-time commissioner in 2011, returns as a full-time commissioner;

**JAMES A. FERG-CADIMA** of Chicago, previously an associate general counsel in the city of Chicago’s office of inspector general, as chair of the Commission;

**JEFFREY SHUCK** of Athens, a former senior assistant attorney general with the state of Illinois’ office of attorney general; and

**LEDEIDRE S. TURNER** of Chicago, last an assistant commissioner in the city of Chicago’s department of business affairs and consumer protection.

**Process:** We continue to make progress in clearing out the backlog of cases pending before the Commission. Moving forward, two newly formed panels will meet four times a month to adjudicate matters, with the proceedings being open to the public to observe either in Chicago or Springfield. I am pleased to announce that Commissioner ANDERSSON will chair Panel A, which will also include Commissioners BARRENO-PASCHALL and SHUCK. I am heartened to see Commissioner CANTONE assume the role of chair of Panel B, which Commissioners BARBOSA and TURNER will join as well. I, in turn, will serve as a substitute on either panel, as needed. Last, Commissioner Turner accepted my invitation to serve as the Vice Chair.

## A Letter from Chair continued...

**Focus:** While the Commission’s primary responsibility is to make impartial determinations of unlawful discrimination under the Act, it is also charged with providing information to the public. Accordingly, Commissioner BARBOSA will oversee the Commission’s education and outreach efforts to reach stakeholders across the state’s legal profession, while Vice Chair TURNER will head up a youth-focused initiative. Commissioner SHUCK, in turn, will lead an effort to bring comparable state agencies across the Midwest together. Commissioner ANDERSSON, after his years of service in the Illinois Statehouse, will head up the Commission’s legislative response. Finally, Commissioner BARRENO-PASCHALL will explore how technology can bring about additional efficiencies for the Commission’s work, while I will revisit how the Commission’s appellate process is transparent to all while being accessible to those with disabilities, with limited English proficiency, and who are impacted by low literacy.

The newly appointed Commission is committed to serving the people of Illinois with a renewed focus on timely yet impartial adjudication and enhanced outreach across the state.

James A. Ferg-Cadima  
Chair

## *This Quarter In Civil Rights History*

- ⇒ July 26, 1990: The Americans with Disabilities Act (ADA) was signed by President George Bush. Disability rights activists attended the signing ceremony on the White House lawn. The law mandated that local, state, and federal governments and programs be accessible, that businesses with more than 15 employees make “reasonable accommodations” for disabled workers, and that public accommodations such as restaurants and stores make “reasonable modifications” to ensure access for disabled members of the public. The act also mandated access in public transportation, communication, and in other areas of public life.
- ⇒ August 6, 1965: President Lyndon B. Johnson signs the Voting Rights Act, which was designed to protect the voting rights guaranteed by the Constitution. The Act prohibits racial discrimination in voting, including such devices as literacy tests designed to decrease voter registration by racial minorities.
- ⇒ September 9, 1957: President Dwight D. Eisenhower signs the Civil Rights Act of 1957. While the Act had a limited effect on minority voter participation, it did establish the first Commission on Civil Rights in the federal government.

## *Meet the New Commissioners*

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### **James A. Ferg-Cadima - Chair of the Illinois Human Rights Commission.**

Ferg-Cadima has built a public service career on shaping and enforcing civil rights protections at the federal, state, and local levels. Prior to being appointed to the Commission, he worked for the City of Chicago's Office of Inspector General as an Associate General Counsel to a recently created Public Safety Section that audits Chicago's police and police accountability functions. He was also the Acting Deputy Assistant Secretary for Policy at the Office for Civil Rights at the U.S. Department of Education, where he coordinated the Obama Administration's schools- and college-related federal regulatory interpretations prohibiting discrimination based on race, color, national origin, sex, and disability. Prior to this, Ferg-Cadima headed a regional office of the Mexican American Legal Defense and Educational Fund and worked at the ACLU of Illinois, pressing units of government and covered private entities for more than minimal construction of education, employment, immigration, open records, privacy, and voting laws. He has also served as a judicial clerk for the Northern District of Illinois. Ferg-Cadima earned his law degree from the American University Washington College of Law. He is also active in Chicagoland civic life. Ferg-Cadima currently serves on the board of directors of Free Spirit Media, a nonprofit providing opportunities for emerging digital content creators from Chicago's West and South sides, and the Chicago Mosaic School, a nonprofit school dedicated to the comprehensive study of mosaic arts. He is also a member of the ADA25 Advancing Leadership Network, a pipeline of emerging leaders with disabilities who are engaged in the civil life of the greater Chicagoland region. Last, he is a native Washingtonian, child of an undocumented Latino immigrant, openly gay, and a person with a non-apparent disability.

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### **LeDeidre S. Turner - Vice Chair of the Illinois Human Rights Commission.**

Prior to joining the Commission, Turner served as an Assistant Commissioner of Prosecution and Adjudication in the Chicago Department of Business Affairs and Consumer Protection. In this role, she provided guidance, direction, and training to attorneys and law clerks in the division. She also co-managed labor relations for the department and assisted all divisions with labor-management issues. Prior to joining the City, Turner was an Assistant State's Attorney with the Cook County State's Attorney's Office, working in the Child Support Enforcement Division, Child Protection Division, Delinquency Division, and Felony Review Unit. Turner received a Bachelor of Arts in Sociology from Spelman College and a Juris Doctor from John Marshall Law School.

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### **Steven A. Andersson - Commissioner of the Illinois Human Rights Commission.**

Andersson has been a licensed attorney for almost three decades. Prior to being appointed to the Commission, he was a partner at the law firm of Mickey, Wilson, Weiler, Renzi & Andersson, P.C. and the Elder Law Center, P.C. Andersson was also the State Representative for Illinois's 65th legislative district from 2015 to 2019 where he served as Republican floor leader in 2018. During the 99th General Assembly, Andersson was a leader of the Republican coalition that joined with the Democratic caucus to end the longest state budget impasse in U.S. history. He has also been a strident defender of the rights of all people, including being the chief co-sponsor for the ERA, a two-time sponsor of the Equal Pay Act, and chief co-sponsor of the LGBTQ curriculum bill. Prior to joining the Illinois House of Representatives, Andersson served his community as a Trustee on the Geneva Library District Board for approximately five years, including serving two years as treasurer. Andersson is a Past President of the Kane County Bar Association.

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### **Manuel Barbosa - Commissioner of the Illinois Human Rights Commission.**

Barbosa is a retired United States Bankruptcy Judge who served for fifteen years in the Northern District of Illinois before retiring in 2013. He served as Chairman of the Illinois Human Rights Commission upon its creation under Governor Thompson and under Governor Edgar. He started his legal career as a Kane County Assistant State's Attorney and was in private practice in Elgin for twenty years. Barbosa obtained his bachelor's degree in Literature from Illinois Benedictine University. He received his Juris Doctor from John Marshall Law School in 1977.

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### **Barbara R. Barreno-Paschall - Commissioner of the Illinois Human Rights Commission.**

Barreno-Paschall is an attorney and policy advocate with experience in the private, government, and non-profit sectors. Prior to being appointed to the Commission, she was a Senior Staff Attorney with Chicago Lawyers' Committee for Civil Rights in the Housing Opportunity Project and previously worked as an Employment and Labor Associate at the law firm of Sidley Austin LLP, where she received the firm's highest pro bono honor for her representation of immigrants seeking asylum. Barreno-Paschall is a recipient of the Hispanic National Bar Association's 2019 Top Lawyers Under 40 Award and Chicago Scholars' 2018 35 Under 35 Young Leaders Making an Impact Award. She received her Juris Doctor from Vanderbilt Law School, her Master of Public Policy from the University of Chicago Harris School of Public Policy, and her Bachelor of Arts in Social Studies from Harvard College.

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## *Meet the New Commissioners*

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### **Robert A. Cantone - Commissioner of the Illinois Human Rights Commission.**

Cantone has devoted much of his professional life to representing the rights and interests of Illinois residents. After obtaining his Bachelor of Arts in psychology and history from DePaul University and his law degree from Lewis University College of Law, Cantone soon began practicing law as an Assistant Public Defender of Cook County. In his more than five years representing individuals charged with traffic, misdemeanor, and felony offenses, he gained considerable experience dealing with the issues that individuals face in society. He then joined a plaintiff's personal injury law firm in downtown Chicago. There, Cantone obtained extensive litigation experience and spent over twenty-five years enthusiastically handling cases for hundreds of persons injured due to motor vehicle accidents, slip and fall accidents, construction accidents, product defects, and medical malpractice. In 2013, Cantone established his own law firm, concentrating in plaintiff's personal injury, workers' compensation, and collections. Drawing on his legal experience, he had also been engaged as an Arbitrator for the Cook County Mandatory Arbitration program since 1990. He is also a member of the Chicago Bar Association, the Illinois State Bar Association, and the Illinois Trial Lawyers Association. Cantone was first appointed as a part-time commissioner of the Illinois Human Rights Commission in 2011, then reappointed in 2015. He is excited to rejoin the Commission full time, as he found great meaning in his past opportunities to participate on the panels and committees of the Commission and collaborate with other Commissioners in reviewing and deciding claims before the Commission. He looks forward, as a full-time Commissioner, to continuing to help the Commission in its role to promote freedom from unlawful discrimination across Illinois.

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### **Jeffrey Shuck - Commissioner of the Illinois Human Rights Commission.**

Prior to his appointment, Shuck served Attorneys General Kwame Raoul and Lisa Madigan as a Senior Assistant Attorney General in the Springfield General Law Bureau since 2016. In that role, he represented state officials, state agencies, and state employees in a variety of civil litigation in state and federal courts. His work included cases alleging discrimination, retaliation, and civil rights violations. Shuck also served as an Assistant Attorney General earlier in his career, from 2000 to 2003 under Attorneys General Jim Ryan and Lisa Madigan. Before rejoining the Attorney General's Office, he twice served the Department of Central Management Services (CMS) as its Deputy General Counsel for Personnel. While at CMS, Shuck was appointed by Governor Quinn to serve as Chairman of the Task Force on Inventorying Employment Restrictions. The Task Force was created to review the statutes, administrative rules, policies, and practices that restrict employment of individuals with a criminal history and to report to the governor and the General Assembly those employment restrictions and their impact on employment opportunities. Shuck also twice served at the Illinois State Board of Education, first as an Assistant Legal Advisor and later as Chief of Labor Relations. Shuck received his Bachelor of Science in Liberal Arts & Sciences from the University of Illinois in Urbana-Champaign, and his Juris Doctor, cum laude, from Southern Illinois University School of Law.

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# *Notes From an Administrative Law Judge*

By Chief Administrative Law Judge Michael Evans

## ***This issue: Motion Practice***

The first thing you need to figure out is which judge should hear your motion. That question is easy to answer. Each case at the Human Rights Commission is assigned to a specific judge. Your judge's name is on the Notice of Public Hearing that was sent to you with the complaint. That judge will handle your case throughout its time in the Administrative Law Section. Judges are randomly assigned to cases at the time the cases are filed.

There are two Commission offices, one in Chicago and one in Springfield. Motion practice before the Commission varies depending on which Commission office has the file.

### Chicago Motion Practice

In Chicago, the Commission has regular motion calls. Their format should be familiar to practitioners in the Circuit Courts. Each ALJ conducts motion calls twice a month. Each motion should be written in the motion book for the day and time you want it heard. The motion book is located on the ledge near the Commission's front desk. Each judge has a section in that book. As with all filings before the Administrative Law Section, you need to file the original motion and one copy.

Many motions, such as motions to dismiss or motions for summary decision, are decided without oral argument. In those cases, the judge decides the matter on the basis of the parties' written submissions. As a result, it's a very bad idea to try to sandbag the opposition by holding back information to reveal at the hearing on the motion.

If you have a discovery dispute with an opponent, try to resolve the matter between yourselves before involving the judge. If you haven't had a face to face meeting to try to resolve your differences, the judge may refuse to hear a motion to compel.

If a discovery dispute involves one or two issues, it may be possible to get a resolution at one of the judge's regular motion calls. However, if you have a laundry list of grievances, the matter will be set on the "off call" calendar. Off call matters usually have to be scheduled at least two or three weeks in advance. Take that into account if you have a problem in a case that is approaching some kind of deadline (such as a discovery cutoff or a public hearing).

Since discovery documents are not routinely filed with the Commission, you will have to include the relevant discovery requests and responses with your motion to compel. If you don't do that, the judge will have no idea what the problem is.

### Springfield Motion Practice

Unlike the Chicago office, the Commission's Springfield office does not conduct motion calls. All Springfield motions are decided on the basis of the written submissions provided by the parties. Pursuant to section 5300.730(b) of the Commission's procedural rules, responses to written motions may be filed "within five days after service of the motion, or within such other period as the Administrative Law Judge may order." Springfield motion practice does not provide for oral arguments on motions, so you should make sure you include all your arguments in your motion or response.

# CIVIL RIGHTS CERT WATCH: *Patterson v. Walgreen Co.*, No. 16-16923, 727 Fed. Appx. 581 (11th Cir. Mar. 9, 2018)

by: Kacie Hollins, Coles Fellow Summer 2019

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A case on the United States Supreme Court's docket – being appealed from the 11th Circuit – could further define crucial terms within Title VII. Darrell Patterson, a Seventh Day Adventist, was hired by Walgreens as a customer care representative in 2005. Patterson's religious beliefs prevent him from working from sundown on Fridays to sundown on Saturdays. Patterson told Walgreens he would be unable to work at those times. Walgreens accommodated his request, but that changed when Patterson was promoted to training instructor.

Initially, Walgreens scheduled trainings between Sunday and Thursday to avoid a conflict, but in August 2011, Patterson was told he would have to conduct an emergency training. At the time there was only one other training instructor at Patterson's facility, and she was unable to cover for him.

Patterson did not attend the emergency training, and it was delayed. Walgreens' Human Resources urged Patterson to consider other roles in the company (like his previous customer care representative position) that would give him a larger pool of coworkers to lean on for coverage. Patterson declined, prompting Walgreens to conclude they could not rely on him in the event of an urgent business need requiring emergency training scheduled on a Friday night or Saturday. Patterson was suspended and eventually discharged.

In 2011, Patterson brought Title VII claims for religious discrimination against Walgreens. Both Walgreens and Patterson moved for summary judgment. The District Court granted Walgreens' motion and denied Patterson's.

Patterson appealed to the 11th Circuit, which agreed with the trial court. The 11th Circuit reasoned that to comply with Title VII, an employer need not offer a choice of accommodations or provide the employee with his or her preferred accommodation. The employer need only provide reasonable accommodation without bearing undue hardship. On the other side, the employee must make a good faith effort to meet his or her needs through the accommodations offered by the employer.

In his petition for certiorari, Patterson contends there is a distinct Circuit Court split on whether an accommodation that only lessens or has the *potential* to eliminate the conflict between work and religion is "reasonable." He also contends there is a Circuit Court split on the issue of whether an employer must show actual burden, or must merely present speculation that the potential for a future "undue hardship" exists. Finally, Patterson argues that the only guidance the courts have on the "undue hardship" standard comes from *TWA v. Hardison*, 432 U.S. 63 (1977), holding that "undue hardship" occurs when an employer must bear more than a "*de minimis*" cost, and that *Hardison* should be overturned. In its brief in opposition, Walgreens maintains that an accommodation does not need to eliminate the conflict between work and the employee's religious practices to be reasonable. Walgreens also argues that there is no Circuit Court split.





## Please bring your lunch and join us for our Lunch and Learn CLE

CLE Credit: One hour of general CLE credit for Illinois attorneys  
(pending)

**Location :** James R. Thompson Center, 9-040

### [September 16, 2019, 12:00 PM—1:00 PM](#)

**Presenter:** Alisa Arnoff, Partner  
Scalambrino & Arnoff, LLP

**Topic:** Workplace Bullying: Legal Implications and Exposure

### [October 21, 2019, 12:00 PM—1:00 PM](#)

**Presenter:** Mark Weber, Professor  
DePaul University College of Law

**Topic:** Emerging Trends in Disability Discrimination in Employment

### [November 18, 2019, 12:00 PM—1:00 PM](#)

**Presenter:** Chirag Badlani, Partner  
Hughes Socol Piers Resnick Dym, Ltd.

**Topic:** TBD (please visit our website for information)

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