

**STATE OF MICHIGAN
CIVIL RIGHTS COMMISSION**

MICHIGAN DEPARTMENT OF CIVIL RIGHTS
ex rel ANGELA BERCHENI
Claimant,

Case No. 422642 & 427833

v.

CHARLIE'S FAMILY DINING, INC. and
BASHAR MOUSSA,
Respondent.

OPINION AND ORDER

At a meeting of the Michigan Civil Rights Commission
Held in Lansing, Michigan on the 25th day of January 2016

In accordance with the rules and the Michigan Civil Rights Commission (Commission), a Hearing Referee heard proofs and arguments in this matter and on June 17, 2015, issued his Recommended Findings of Fact and Conclusions of Law ("Hearing Report").

Commissioner Deloris Hunt was named as Lead Commissioner to work on behalf of the Commission. The Commission provided the parties with an opportunity to submit exceptions to the Referee's Report and its recommendations. Claimant submitted exceptions on January 6, 2016 and the Commission provided Respondent with the opportunity to submit a rebuttal to the exceptions by January 15, 2016. No rebuttal was filed.

After due consideration of the record in this matter, the Hearing Report, the exceptions filed by Claimant, and following deliberation at an open meeting held on Monday, January 25, 2016, the Commission adopts the following:

FINDINGS OF FACT

The Commission adopts and incorporates the recommended findings of fact as stated in the Hearing Report issued by Administrative Law Judge (ALJ) David M. Cohen on July 2, 2015.

CONCLUSIONS OF LAW

The Commission adopts and incorporates the recommended conclusions of law as stated in the Hearing Report issued by ALJ David M. Cohen on July 2, 2015, with the following exceptions and additions:

1. As it pertains to noneconomic damages, the Commission rejects the ALJ's recommended conclusion that exemplary damages are appropriate. Per case law, exemplary damages shall not be awarded in civil rights cases. *Eide, et al v Kelsey-Hayes Company, 431 Mich 26, 28-29 (1988)*
2. The Commission accepts the ALJ's recommended conclusion that the Claimant suffered from emotional distress caused by the Respondent and is therefore entitled to emotional distress damages, rather than exemplary damages.
3. The Commission further notes that the Claimant is entitled to statutory interest on the amount calculated from the date her civil rights complaint was filed until the date the judgment is fully satisfied.

THE COMMISSION THEREFORE ORDERS that:

- A. Claimant is awarded \$3936.80 plus statutory interest for economic damages.
- B. Claimant is awarded \$13,300 plus statutory interest for emotional distress.
- C. Respondent shall pay \$670.08 in attorney fees to the Claimant's counsel.
- D. Statutory interest on all the above is awarded from the date of the filing of this civil rights complaint on March 6, 2011 until the judgment is satisfied.
- E. This is a final order and resolves this case.

Adopted by the Commission by the affirmative vote of 7 Commissioners on Monday, January 25, 2016.


Deloris Hunt

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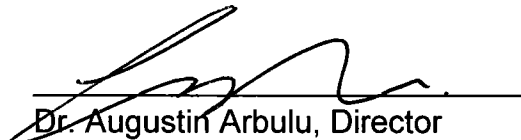
FINAL ORDER

The Michigan Civil Rights Commission having adopted the attached Opinion and Order by an affirmative vote of ____ members at an open meeting held in Lansing, Michigan on the 25th day of January 2016,

IT IS HEREBY ORDERED that:

- A. Claimant is awarded \$3936.80 plus statutory interest for lost wages and/or other economic damages.
- B. Claimant is awarded \$13,300 plus statutory interest for emotional distress.
- C. Respondent shall pay \$670.08 in attorney fees to the Claimant's counsel.
- D. Statutory interest on all the above is awarded from the date of the filing of this civil rights complaint on March 6, 2011 until the judgment is satisfied.
- E. This is a final order and resolves this case.

Date: January 25, 2016



Dr. Augustin Arbulu, Director
Michigan Department of Civil Rights

NOTICE OF RIGHT TO APPEAL

You are hereby notified of your right to appeal within thirty (30) days to the Circuit Court of the State of Michigan having jurisdiction as provided by law. MCLA 37.2606