Division of Human Rights

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF HUMAN RIGHTS on the Complaint of **ROSA LANDAVERDE,** Complainant, v. **NUTRA SOLUTIONS USA, INC.,** Respondent.	**NOTICE AND FINAL ORDER** Case No. 10195680

Federal Charge No. 16GB804064

PLEASE TAKE NOTICE that the attached is a true copy of the Recommended Findings of Fact, Opinion and Decision, and Order ("Recommended Order"), issued on April 30, 2020, by Robert M. Vespoli, an Administrative Law Judge of the New York State Division of Human Rights ("Division"). An opportunity was given to all parties to object to the Recommended Order, and all Objections received have been reviewed.

PLEASE BE ADVISED THAT, UPON REVIEW, THE RECOMMENDED ORDER IS HEREBY ADOPTED AND ISSUED BY THE HONORABLE JOHNATHAN J. SMITH, INTERIM COMMISSIONER, AS THE FINAL ORDER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS ("ORDER"). In accordance with the Division's Rules of Practice, a copy of this Order has been filed in the offices maintained by the Division at One Fordham Plaza, 4th Floor, Bronx, New York 10458. The Order may be

inspected by any member of the public during the regular office hours of the Division.

PLEASE TAKE FURTHER NOTICE that any party to this proceeding may appeal this Order to the Supreme Court in the County wherein the unlawful discriminatory practice that is the subject of the Order occurred, or wherein any person required in the Order to cease and desist from an unlawful discriminatory practice, or to take other affirmative action, resides or transacts business, by filing with such Supreme Court of the State a Petition and Notice of Petition, within sixty (60) days after service of this Order. A copy of the Petition and Notice of Petition must also be served on all parties, including the General Counsel, New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. Please do not file the original Notice or Petition with the Division.

ADOPTED, ISSUED, AND ORDERED.

DATED: **March 25, 2021**
Bronx, New York

JOHNATHAN J. SMITH
INTERIM COMMISSIONER

Division of
Human Rights

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF HUMAN RIGHTS
on the Complaint of

ROSA LANDAVERDE,
Complainant,

v.

NUTRA SOLUTIONS USA, INC.,
Respondent.

Federal Charge No. 16GB804064

RECOMMENDED FINDINGS OF FACT, OPINION AND DECISION, AND ORDER

Case No. **10195680**

SUMMARY

Complainant alleged that Respondent unlawfully discriminated against her because of her disability, pregnancy-related condition, familial status, and sex and that Respondent subjected her to unlawful retaliation. Complainant has established her claims of pregnancy-based discrimination and retaliation, and she is awarded damages. A civil penalty is also assessed against Respondent.

PROCEEDINGS IN THE CASE

On June 25, 2018, Complainant filed a verified complaint with the New York State Division of Human Rights ("Division"), charging Respondent with unlawful discriminatory practices relating to employment in violation of N.Y. Exec. Law, art. 15 ("Human Rights Law").

After investigation, the Division found that it had jurisdiction over the complaint and that probable cause existed to believe that Respondent had engaged in unlawful discriminatory practices. The Division thereupon referred the case to public hearing.

After due notice, the case came on for hearing before Robert M. Vespoli, an Administrative Law Judge ("ALJ") of the Division. Public hearing sessions were held on October 7-8, 2019.

Complainant and Respondent appeared at the hearing. The Division was represented by Michael Adeyemi, Esq., Senior Attorney. Respondent was represented by Shari Sugarman, Esq.

Pursuant to 9 N.Y.C.R.R. § 465.4(c), the presiding ALJ amended the instant caption, on consent, to correctly name Respondent as "Nutra Solutions USA, Inc." (Tr. 5-6)

Permission to file post-hearing briefs was granted. Respondent filed a post-hearing brief, which was considered and, where appropriate, adopted.

FINDINGS OF FACT

1. Complainant is female. (Tr. 117)

2. Respondent is a full-service manufacturer of nutraceutical products in the form of tablets, capsules, liquids, and powders. (Tr. 148-49)

3. As a nutraceutical company, Respondent is subject to government safety standards and regulations on both the state and federal level. (Tr. 149)

4. Mohammed ("Tito") Rahman is one of Respondent's owners; he works as Respondent's chief operating officer. (Tr. 145, 147)

5. Respondent is also owned by Latiful Haque and Dr. Qausar Sultana. (Tr. 147)

6. In April 2017, Complainant began working for Respondent operating a machine that makes capsules. (Tr. 13-14)

7. Complainant's job duties sometimes included mixing powder, inspecting, packing, cleaning bathrooms, and cleaning the cafeteria. (Tr. 15-16, 80-81, 286)

8. Operating the capsule machine is a physically demanding job that involves standing, lifting heavy containers, and being exposed to potentially harmful granulated powder. Some of this granulated powder can pass through protective gear and be ingested by the capsule machine operator. (Tr. 80, 155-56, 246, 280, 371)

9. Carlos Gonzalez, Respondent's chief engineer, was Complainant's supervisor. (Tr. 348-49)

10. Rebecca Olivares, Respondent's quality assurance manager, also supervised Complainant. (Tr. 275, 281-82)

11. Because of the strenuous activities and potentially unhealthy effects associated with operating the capsule machine, Respondent's safety policy ("Policy") requires the transfer of a pregnant capsule machine operator to another position that is less strenuous and safer for the pregnant employee and the unborn child. (Tr. 156-59, 187-88, 283-84, 287, 370)

12. During this transfer, Respondent does not reduce the pregnant employee's pay or benefits. (Tr. 81, 157-58, 171-72, 284)

13. After the child is born and the employee is cleared to return to work, Respondent will transfer the employee back to her regular position. (Tr. 187-88, 284-85, 287)

14. On or about May 11, 2018, Complainant informed Rahman and Gonzalez that she was pregnant. (Tr. 34-35)

15. Complainant did not request an accommodation for her pregnancy. (Tr. 106, 191)

16. Pursuant to the Policy, Respondent then transferred Complainant (the "Transfer") away from her position as a capsule machine operator to a position performing inspections and some other less strenuous duties, such as light cleaning, bottling, packaging, and powder filling. (Tr. 36, 81, 170-71, 173-74, 229, 239, 252, 254, 281, 287-88, 294)

17. Complainant's duties after the Transfer were "easier" and "more relaxed." (Tr. 81-82, 107)

18. Respondent informed Complainant that the Transfer occurred pursuant to the Policy and that Respondent would return her to all regular position after she gave birth and was cleared to return to work. (Tr. 187, 287-89, 361)

19. Respondent did not reduce Complainant's pay or benefits after the Transfer. (Tr. 81, 106-07)

20. Complainant did not like performing inspections; she wanted to return to her position as a capsule machine operator, even though it contravened the Policy. (Tr. 80, 94, 167, 169, 177, 370, 393)

21. After the Transfer, Complainant's inspection production was substandard; Complainant was observed wandering around the building when she should have been working. Rahman, Olivares, and Gonzalez believed that Complainant's inspection production was substandard because she was unhappy about the Transfer. (Tr. 167, 290, 295-96, 332-33, 362-68)

22. On May 18, 2018, Rahman, Olivares, and Gonzalez met with Complainant to ascertain the reason for Complainant's substandard inspection production and to help her increase her production. (Tr. 42, 172-73, 176-77, 235, 290, 295, 297, 366-68)

23. At the May 18 meeting, Complainant told Rahman, Olivares, and Gonzalez that she wanted to go back to her position as a capsule machine operator. (Tr. 177-78, 297, 368, 379, 399)

24. Rahman then told Complainant that she would not return to her position as a capsule machine operator while she was pregnant because of the Policy. (Tr. 297-98, 370)

25. Complainant then became upset. (Tr. 177, 188, 298-99)

26. Complainant complained that Respondent was discriminating against her because of her pregnancy. (Tr. 50; ALJ's Exh. 2)

27. Complainant then told Rahman that she was going to bring a legal proceeding against Respondent because she was being subjected to discrimination based on her pregnancy. (Tr. 42-44, 188, 265-66, 299, 371-72, 397-98; ALJ's Exh. 2)

28. Rahman then said, "If you're threatening me, then you should not work with us." (Tr. 265-66)

29. At that time, Complainant believed that Rahman had terminated her employment, and she left work. (Tr. 38, 42-44, 47, 61, 189; Complainant's Exh. 1)

30. After the May 18, 2018, meeting, Complainant sent a text message to Haque complaining that Rahman had terminated her employment because of her pregnancy. (Tr. 24, 28, 30, 46-48; Complainant's Exh. 1)

31. Although Haque said he would talk to Rahman, Respondent took no subsequent remedial action and did not call Complainant back to work. (Tr. 47-48, 50; Complainant's Exh. 1)

32. Complainant's last day of work for Respondent was May 18, 2018. (Tr. 38, 189)

33. At the time she stopped working for Respondent, Complainant worked a forty-hour week and earned $13 per hour. (Tr. 51-52, 63)

34. Complainant did not apply for unemployment insurance benefits and offered no reasonable explanation for her failure to do so. (Tr. 107)

35. After she stopped working for Respondent, Complainant made one unsuccessful attempt to secure employment at a previous employer. (Tr. 53, 61-62)

36. Complainant acknowledged that she did not prepare a resume, consult with employment agencies, look at job advertisements, or take any other reasonable actions to obtain comparable employment. (Tr. 108, 110-11)

37. Complainant gave birth on September 8, 2018. (Tr. 62-63)

38. After she gave birth, Complainant was unable to work again until March 2019. (Tr. 63-64)

39. In March 2019, Complainant obtained comparable employment with a pharmaceutical company earning the same amount of money she earned working for Respondent. (Tr. 51-52, 63-65; Complainant's Exhs. 2, 3)

40. After Respondent terminated Complainant's employment, Complainant "fell into a huge depression." Due to her loss of income, Complainant was afraid that she would not be able to pay her bills and that her depression would cause her to lose her baby. (Tr. 59-60, 65)

41. At the time of the public hearing, Complainant continued to feel the effects of her depression; these feelings have lessened slightly since she obtained comparable employment. (Tr. 60)

OPINION AND DECISION

It is unlawful for an employer to discriminate against an employee based on the employee's sex, familial status, disability, and pregnancy-related condition. N.Y. Exec. Law, art 15 ("Human Rights Law") §§ 296.1(a) and 292.21-f.

The Human Rights Law prohibits employment discrimination on the basis of pregnancy. *See Rainer N. Mittl, Ophthalmologist, P.C. v. New York State Div. of Human Rights*, 100 N.Y.2d 326, 330, 763 N.Y.S.2d 518, 520 (2003). Under the Human Rights Law, courts have "consistently held that distinctions based solely upon a woman's pregnant condition constitute sexual discrimination." *Elaine W. v. Joint Diseases N. Gen. Hosp., Inc.*, 81 N.Y.2d 211, 216, 597 N.Y.S.2d 617, 619 (1993) (citations omitted). The definition of familial status includes "any person who is pregnant." Human Rights Law § 292.26(a). Therefore, discrimination based on familial status provides protections in the areas of pregnancy and childbirth.

Where there is direct evidence of unlawful discrimination, there is no need to apply the burden shifting analysis set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973). *Trans World Airlines, Inc. v. Thurston*, 469 U.S. 111, 121 (1985). In the instant case, there is direct evidence showing that Respondent openly treated employees differently because of pregnancy. Because Respondent's Policy singles out pregnant employees and transfers them to a position with significantly diminished responsibilities, the Policy is discriminatory on its face. *See id.*

On May 11, 2018, Respondent discovered that Complainant was pregnant. Pursuant to the Policy, Respondent then transferred Complainant away from her position as a capsule machine operator and placed her in a different, light-duty position with significantly diminished

responsibilities. The record clearly establishes that the Transfer occurred because Complainant was pregnant.

Respondent cannot justify the pregnancy-based transfer Policy. Pursuant to the Policy, Respondent transferred Complainant based on the general assumption that is was unsafe for a pregnant employee to work as a capsule machine operator because of the strenuous activities and potential unhealthy effects associated with operating the capsule machine. Respondent proffered only conclusory testimony in support of the Policy, and it did not explain why the Policy applied only to pregnant employees. Complainant did not ask for the Transfer, state that she could not perform her duties, or refuse any orders to perform her duties.

Under these circumstances, Complainant's claim that Respondent subjected her to unlawful pregnancy-based discrimination as a result of the Transfer is sustained.

Complainant also alleged that Respondent denied her a promotion or pay raise, denied her leave time or other benefits, gave her worse job duties than other similarly situated workers, and gave her a disciplinary notice or negative evaluation. Because the record contains no evidence to support these allegations, these claims are dismissed.

Complainant further alleged that she was subjected to a hostile work environment. In order to sustain a hostile work environment claim, Complainant must demonstrate that she was subjected to conduct that produced a work environment permeated with unlawful discriminatory intimidation, ridicule, and insult that was sufficiently severe or pervasive to alter the conditions of her employment and create an abusive working environment. The Division must examine the totality of the circumstances and the perception of both the victim and a reasonable person in making its determination. *See Father Belle Cmty. Ctr. v. New York State Div. of Human Rights*, 221 A.D.2d 44, 50-51, 642 N.Y.S.2d 739, 744 (4th Dept. 1996), *lv. denied*, 89 N.Y.2d 809, 655

N.Y.S.2d 889 (1997). The record is devoid of specific incidents of harassment based on any protected classes required to constitute an actionable hostile work environment claim.

Complainant's claim that Respondent failed to provide a reasonable accommodation for her disability and pregnancy-related condition must be dismissed.

Under the Human Rights Law, an employer is obligated to provide reasonable accommodations for an employee's known disabilities or pregnancy-related conditions. Human Rights Law § 296.3(a). In order to establish a prima facie case based on Respondent's failure to provide a reasonable accommodation, Complainant must demonstrate that she suffered from a disability or pregnancy-related condition, she could perform the essential functions of the position with a reasonable accommodation, Respondent was on notice of Complainant's need for an accommodation, and Respondent refused to make such accommodation. *See County of Erie v. New York State Div. of Human Rights,* 121 A.D.3d 1564, 1565, 993 N.Y.S.2d 849, 850 (4th Dept. 2014).

Under the Human Rights Law, the definition of a disability and a pregnancy-related condition are analogous. A disability is "a physical, mental or medical impairment resulting from anatomical, physiological, genetic or neurological conditions which prevents the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques," a record of such impairment, or the perception of such impairment. Human Rights Law § 292.21.

A pregnancy-related condition is a "a medical condition related to pregnancy or childbirth that inhibits the exercise of a normal bodily function or is demonstrable by medically accepted clinical or laboratory diagnostic techniques." Human Rights Law § 292.21-f.

Complainant was pregnant when Respondent terminated her employment. Complainant

did not show that she had a disability or a medical condition related to her pregnancy. The mere fact that Complainant was pregnant does not activate Respondent's duty to provide an accommodation. Only those medical conditions related to Complainant's pregnancy or childbirth could activate that duty. Moreover, Complainant did not need or request an accommodation related to her pregnancy. Therefore, Complainant has not shown that Respondent failed to provide a reasonable accommodation for a disability or pregnancy-related condition.

Complainant also alleged that Respondent retaliated against her by terminating her employment because she threatened to bring a legal proceeding against Respondent due to pregnancy-based discrimination.

It is unlawful for an employer to retaliate against an employee for having filed a complaint or opposed unlawful discriminatory practices. Human Rights Law § 296.7.

Complainant bears the burden of establishing a prima facie retaliation claim by showing that she engaged in protected activity, Respondent was aware that she participated in this activity, she suffered an adverse employment action, and there is a causal relationship between the protected activity and the adverse employment action. *See Adeniran v. State of New York*, 106 A.D.3d 844, 844-45, 965 N.Y.S.2d 163, 164-65 (2d Dept. 2013). Once Complainant has met this burden, Respondent has the burden of coming forward with legitimate, nondiscriminatory reasons in support of its actions. *See id.* at 845, 965 N.Y.S.2d at 165. Assuming Respondent meets this burden, Complainant then must show that the reasons presented are a pretext for unlawful retaliation. *See id.*

Complainant has established a prima facie retaliation claim. Complainant engaged in protected activity at the May 18, 2018, meeting when she threatened to bring a legal proceeding

against Respondent because she was being subjected to discrimination based on her pregnancy. *See Thermidor v. Beth Israel Med. Ctr.*, 683 F. Supp. 403, 410 (S.D.N.Y. 1988) (the central inquiry in a retaliation claim concerned whether the filing of an E.E.O.C. complaint, or the threat to do so, in any way caused plaintiff's discharge); *Verriotto v. Merber, et al.*, DHR Case No. 10168357 (February 4, 2016) (a threat to file a Division complaint is protected activity).

Rahman, Gonzalez and Olivares were present at the May 18, 2018, meeting and heard Complainant threaten to bring a legal proceeding against Respondent because she was subjected to pregnancy-based discrimination. When Rahman heard Complainant make this statement, he replied, "If you're threatening me, then you should not work with us." Under these circumstances, it is reasonable to conclude that Respondent had subjected Complainant to an adverse employment action by terminating her employment at the May 18 meeting. Rahman's statement provides direct evidence of retaliatory animus and establishes the requisite causal connection for Complainant to make out a prima facie retaliation claim.

Respondent did not come forward with legitimate, nondiscriminatory reasons for terminating Complainant's employment. Respondent claimed that it did not terminate Complainant's employment. This claim is without merit. After the May 18, 2018, meeting, Complainant reasonably concluded that Rahman had terminated her employment. Complainant then contacted Haque and complained that Rahman had terminated her employment because of her pregnancy. Respondent took no subsequent remedial action and did not call Complainant back to work.

Respondent did not meet its burden of coming forward with legitimate, nondiscriminatory reasons for terminating Complainant's employment. Therefore, Complainant's claim of unlawful retaliation is sustained.

The Division is granted broad discretionary powers to redress an injury by way of an award of reasonable compensatory damages. *Imperial Diner, Inc. v. State Human Rights Appeal Bd.*, 52 N.Y.2d 72, 79, 436 N.Y.S.2d 231, 235 (1980). However, the award must bear a reasonable relationship to the wrongdoing, be supported by substantial evidence, and be comparable to awards for similar injuries. *State of New York v. New York State Div. of Human Rights*, 284 A.D.2d 882, 884, 727 N.Y.S.2d 499, 501 (3d Dept. 2001).

Complainant is not entitled to an award of damages as compensation for lost wages. It is well-settled that "A complainant in a discrimination matter 'ordinarily has a duty to exercise diligence to mitigate his or her damages by making reasonable efforts to obtain comparable employment.'" *Palmblad v. Gibson*, 63 A.D.3d 844, 845, 881 N.Y.S.2d 139, 140 (2d Dept. 2009) (citing *Rio Mar Rest. v. New York State Div. of Human Rights*, 270 A.D.2d 47, 48, 704 N.Y.S.2d 230, 231 (1st Dept. 2000)). Complainant failed to diligently seek comparable employment from the time of her discharge on May 18, 2018, until she gave birth on September 8, 2018. Complainant offered no reasonable explanation for her failure to apply for unemployment insurance benefits, and she made only one unsuccessful attempt to secure employment at a prior employer. Complainant acknowledged that she did not prepare a resume, consult with employment agencies, look at job advertisements, or take any other reasonable actions to obtain comparable employment. After she gave birth, Complainant was unable to work again until March 2019. In March 2019, Complainant readily obtained comparable employment with a pharmaceutical company earning the same amount of money she earned working for Respondent. Under these circumstances, Complainant cannot recover lost wages. *Cf. id.* (finding that the complainant failed to diligently seek comparable employment in the nine

months between her discharge and her next job where the complainant had looked for work in two newspapers, submitted her resume to a temp agency, and went on three or four interviews).

Complainant is entitled to recover compensatory damages for mental anguish caused by Respondent's unlawful conduct. In considering an award of compensatory damages for mental anguish, the Division must ensure that the award is reasonably related to the wrongdoing, supported in the record, and comparable to awards for similar injuries. *State Div. of Human Rights v. Muia*, 176 A.D.2d 1142, 1144, 575 N.Y.S.2d 957, 960 (3d Dept. 1991). Because of the "strong anti-discrimination policy" of the Human Rights Law, a complainant seeking an award for pain and suffering "need not produce the quantum and quality of evidence to prove compensatory damages he would have had to produce under an analogous provision." *Batavia Lodge No. 196 v. New York State Div. of Human Rights*, 35 N.Y.2d 143, 147, 359 N.Y.S.2d 25, 28 (1974). Indeed, "[m]ental injury may be proved by the complainant's own testimony, corroborated by reference to the circumstances of the alleged misconduct." *New York City Transit Auth. v. State Div. of Human Rights*, 78 N.Y.2d 207, 216, 573 N.Y.S.2d 49, 54 (1991).

After Respondent terminated Complainant's employment, Complainant "fell into a huge depression." Due to her loss of income, Complainant was afraid that she would not be able to pay her bills and that her depression would cause her to lose her baby. Although Complainant's feelings of depression have lessened slightly since she obtained comparable employment, these feelings persisted at the time of the public hearing. Accordingly, an award of $15,000.00 will compensate Complainant for her mental anguish, is comparable to awards for similar injuries, and will effectuate the remedial purposes of the Human Rights Law. *See Argyle Realty Assocs. v. New York State Div. of Human Rights*, 65 A.D.3d 273, 285, 882 N.Y.S.2d 458, 467-68 (2d Dept. 2009) (upholding $15,000.00 mental anguish award where Complainant, who was

discharged due to her pregnancy, testified that she felt distraught about her discharge, worried about providing financial security for her family, and felt emotional pain that continued through the dates of the hearing).

Human Rights Law § 297.4(c)(vi) allows the Division to assess civil fines and penalties, "in an amount not to exceed fifty thousand dollars, to be paid to the state by a respondent found to have committed an unlawful discriminatory act, or not to exceed one hundred thousand dollars to be paid to the state by a respondent found to have committed an unlawful discriminatory act which is found to be willful, wanton or malicious."

Human Rights Law § 297.4(e) requires that "any civil penalty imposed pursuant to this subdivision shall be separately stated, and shall be in addition to and not reduce or offset any other damages or payment imposed upon a respondent pursuant to this article." The factors that determine the appropriate amount of a civil penalty are the goal of deterrence, the nature and circumstances of the violation, the degree of Respondent's culpability, any relevant history of Respondent's actions, Respondent's financial resources, and other matters as justice may require. *See Gostomski v. Sherwood Terrace Apartments*, DHR Case Nos. 10107538 and 10107540 (November 15, 2007), *aff'd sub nom. Sherwood Terrace Apartments v. New York State Div. of Human Rights*, 61 A.D.3d 1333, 877 N.Y.S.2d 595 (4th Dept. 2009).

Respondent subjected Complainant to a retaliatory discharge because she threatened to bring a legal proceeding against Respondent due to pregnancy-based discrimination. Complainant appealed to Haque, but Respondent took no remedial action.

There is nothing in the record showing that Respondent was adjudged to have committed any previous, similar violation of the Human Rights Law or that it is incapable of paying a penalty.

To vindicate the public interest and deter future violations of the Human Rights Law, a civil penalty of $5,000.00 is appropriate in this case. *See New York State Div. of Human Rights v. Roadtec, Inc.*, 167 A.D.3d 898, 900, 90 N.Y.S.3d 252, 255 (2d Dept. 2018) ($5,000 civil penalty confirmed); *Gagliano v. El Agave Mexican Grill, Inc., et al.*, DHR Case No. 10162624 (March 29, 2016).

ORDER

On the basis of the foregoing Findings of Fact, Opinion and Decision, and pursuant to the provisions of the Human Rights Law and the Division's Rules of Practice, it is hereby

ORDERED, that Respondent, and its agents, representatives, employees, successors, and assigns, shall cease and desist from discriminatory practices in employment; and

IT IS FURTHER ORDERED, that Respondent shall take the following actions to effectuate the purposes of the Human Rights Law, and the findings and conclusions of this Order:

1. Within sixty (60) days of the date of the Commissioner's Order, Respondent shall pay Complainant an award of compensatory damages for mental anguish in the amount of $15,000.00. Interest shall accrue on the award at the rate of nine (9) percent per annum from the date of the Commissioner's Order until payment is actually made by Respondent;

2. The aforesaid payment to Complainant shall be made by Respondent in the form of a certified check made payable to the order of Complainant, Rosa Landaverde, and delivered by certified mail, return receipt requested, to Michael Adeyemi, Esq., Senior Attorney, New York State Division of Human Rights, 50 Clinton Street, Suite 301, Hempstead, New York. Respondent shall simultaneously submit proof of its compliance with this directive in the form of an affidavit or attorney affirmation to Caroline Downey, Esq., Office of General Counsel, New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458;

3. Within sixty (60) days of the date of the Commissioner's Order, Respondent shall pay a civil penalty to the State of New York in the amount of $5,000.00 for having violated the Human Rights Law. Payment of the civil penalty shall be made in the form of a certified check, made payable to the order of the State of New York and delivered by certified mail, return receipt requested, to Caroline Downey, Esq., Office of General Counsel, New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458. Interest shall accrue on this civil penalty at the rate of nine (9) percent per annum from the date of the Commissioner's Order until payment is actually made by Respondent;

4. Within sixty (60) days of the date of the Commissioner's Order, Respondent is directed to post in a prominent place in its offices, a copy of the Division's poster which can be found at https://dhr.ny.gov/sites/default/files/pdf/posters/poster.pdf. The poster must be in color, no smaller than 8.5" x 14" and be posted where all staff are likely to view it. Respondent shall simultaneously submit proof of its compliance with this directive in the form of an affidavit or attorney affirmation to Caroline Downey, Esq., Office of General Counsel, New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458;

5. Within sixty (60) days of the date of the Commissioner's Order, Respondent shall establish policies, procedures, and training regarding the prevention of unlawful pregnancy-based discrimination and retaliation. Respondent shall simultaneously submit proof of its compliance with this directive in the form of an affidavit or attorney affirmation to Caroline Downey, Esq., Office of General Counsel, New York State Division of Human Rights, One Fordham Plaza, 4th Floor, Bronx, New York 10458; and

6. Respondent shall cooperate with representatives of the Division during an investigation into compliance with the directives contained within this Order.

DATED: April 30, 2020
Hauppauge, New York

Robert M. Vespoli

Robert M. Vespoli
Administrative Law Judge