



ANDREW M. CUOMO
GOVERNOR

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION
OF HUMAN RIGHTS

on the Complaint of

MARGARET PASCALE,

Complainant,

v.

ERIE COUNTY, DEPARTMENT OF SOCIAL
SERVICES,

Respondent.

NOTICE AND
FINAL ORDER

Case No. 10149794

Federal Charge No. 16GB104017

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 March 26, 2013, by Martin Erazo, Jr., 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.

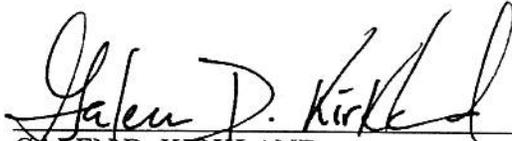
PLEASE BE ADVISED THAT, UPON REVIEW, THE RECOMMENDED ORDER IS HEREBY ADOPTED AND ISSUED BY THE HONORABLE GALEN D. KIRKLAND, COMMISSIONER, AS THE FINAL ORDER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS (“ORDER”). In accordance with the Division's Rules of Practice, a copy of this Order has been filed 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: 6/3/2013
Bronx, New York


GALEN D. KIRKLAND
COMMISSIONER



ANDREW M. CUOMO
GOVERNOR

**NEW YORK STATE
DIVISION OF HUMAN RIGHTS**

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on the Complaint of

MARGARET PASCALE,

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**ERIE COUNTY, DEPARTMENT OF SOCIAL
SERVICES,**

Respondent.

**RECOMMENDED FINDINGS OF
FACT, OPINION AND DECISION,
AND ORDER**

Case No. **10149794**

SUMMARY

Complainant established that Respondent unlawfully discriminated against her by failing to reasonably accommodate her. Respondent is liable to Complainant in \$10,000 for pain and suffering. Respondent is also liable to the State of New York in the amount of \$5,000 in civil fines and penalties.

PROCEEDINGS IN THE CASE

On August 1, 2011, 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 Martin Erazo, Jr., an Administrative Law Judge ("ALJ") of the Division. A public hearing session was held on September 24, 2012.

Complainant and Respondent appeared at the hearing. The Division's prosecutions unit was represented by Richard J. Van Coevering, Esq., Senior Attorney. Respondent was represented by Michelle Parker, Esq., First Assistant County Attorney.

As stipulated by Van Coevering and Parker, the verification of Respondent's answer was received on September 24, 2012, after the public hearing session, attached to its September 20, 2012 answer, and moved into the record as ALJ Exhibit 2. (Tr. 9-11)

FINDINGS OF FACT

1. Complainant has a diabetes-caused amputation of her left leg, below the knee, and makes use of a prosthetic leg. (Respondent's Exhibit 1; Tr. 29, 33-34, 37)
2. Complainant also testified that she also suffers from "bad knees." (Tr. 34)
3. Complainant works for Respondent's Department of Social Services as a receptionist in the fraud unit. (Tr. 31-33)
4. Respondent's job description of a receptionist's typical work activities indicates a broad array of clerical duties expected of an employee in that title. (Respondent's Exhibits 1, 2; Tr. 29)

5. Complainant's work duties include answering the fraud unit hotline, performing online research for the fraud unit, printing the researched material, and assembling case files for fraud unit investigators. (Respondent's Exhibit 17; Tr. 36)
6. The frequency of Complainant's print jobs varies from every five minutes to five times an hour. (Tr. 39-40)
7. In 2011, Respondent decided to cut costs by replacing numerous small printers with heavy duty Lanier copiers and allocated one printer to every fifteen employees. (Tr. 29, 96, 103-05)
8. Renee Binieki ("Binieki") is Respondent's Department of Social Services' logistics coordinator. (Tr. 91-94)
9. In accordance with Respondent's cost cutting policy, in April 2011, Binieki commenced work to remove all tabletop and small printers used by 1600 employees in the Department of Social Services. (Tr. 95)
10. Binieki assessed how many employees used each small printer. (Tr. 97)
11. Binieki ascertained that Complainant had a desktop printer only she used. (Tr. 97-99)
12. Binieki also confirmed that a Lanier printer was located approximately six to fifteen feet from Complainant's workstation. (Tr. 41, 98, 198)
13. On June 10, 2011, Respondent removed the desktop printer from Complainant's desk. (Respondent's Exhibit 25, p.2; Tr. 29)
14. Subsequently, Complainant used the Lanier printer used by her unit. (Tr. 41, 154)
15. Complainant wanted to keep the desktop printer to minimize the pain on her knees caused by the increased frequency of standing and sitting needed to retrieve printing jobs. (Tr. 41, 45-46, 52-55)

16. At first, Complainant tried to minimize the number of times that she would retrieve her printing jobs to once in the morning and once in the afternoon. (Tr. 48-49)

17. However, Complainant's new routine created conflicts with the printing jobs produced by others. Complainant often found her print jobs intermingled with others or found she was missing printed material. (Tr. 48-50)

18. Complainant dramatically increased her use of the painkiller hydrocodone from once a month to once or twice a week starting in June of 2011. Complainant testified, "by the end of the week, I have to take pain pills to sleep." (Tr. 46-47)

19. Constance VanDette is Respondent's Social Case Supervisor in the Special Investigation Division. (Complainant's Exhibit 2)

20. On June 13, 2011, Complainant sent VanDette an electronic mail communication requesting the return of the desktop printer as an accommodation of her disability. (Respondent's Exhibit 25, p.2; Tr. 29)

21. Susan V. Sizemore ("Sizemore") was the Executive Director of Respondent's Office for the Disabled ("Office for the Disabled"). (Respondent's Exhibit 3; Tr. 110-11, 113-14)

22. Respondent's Office for the Disabled is charged with reviewing accommodation requests from Erie County employees. (Tr. 115-16)

23. On June 14, 2011, VanDette forwarded Complainant's June 13, 2011 communication to Sizemore. (Respondent's Exhibit 25, p.1)

24. Sizemore immediately acknowledged Complainant's request for a desktop printer and met with Complainant the same day. (Respondent's Exhibits 3; 16 p.4; 25)

25. In addition, representatives from the Office for the Disabled went to Complainant's workplace, measured her desk, and measured the distance from her desk to the Lanier printer. (Tr. 54)

26. On June 14, 2011, Sizemore asked Complainant to have her physician fill out the Respondent's form, "Physician Medical Certification for Request for Reasonable Accommodation," (PMC) no later than June 24, 2011. (Respondent's Exhibits 3, 15; Tr. 29-30)

27. Catherine P. O'Neill, M.D., (O'Neill, M.D.), located in the Primary Medicine Clinic at Buffalo General Hospital, has been Complainant's physician since 2006. (Complainant's Exhibit 3, Respondent's Exhibit 1)

28. On June 14, 2011, O'Neill, M.D., completed the PMC provided by Respondent's Office for the Disabled. (Respondent's Exhibits 1, 15; Tr. 35-36)

29. O'Neill, M.D., indicated that Complainant could work an 8-hour day; that her walking was limited; that her knees were weak; and that she suffered from chronic back pain. O'Neill, M.D. did not specify how Complainant was limited in her walking. (Respondent's Exhibit 1)

30. O'Neill, M.D., specified that Complainant was limited in her mobility as follows:
no sitting for more than 2 hours; no standing, fine manipulation, and simple grasping for more than 15 minutes; no driving for more than 1 hour; no stooping, crouching, pulling, pushing, reaching overhead, reaching below waist for more than 5 minutes; and no lifting and carrying weights greater than 10 pounds. (Respondent's Exhibit 1)

31. In June 20, 2011, Sizemore visited Complainant's work site. (Respondent's Exhibit 17)

32. Complainant told Sizemore that she gets up every two hours and walks around because she "gets stiff." (Respondent's Exhibit 17)

33. Complainant also explained to Sizemore that her complaint concerned the pain caused by frequent standing and sitting. (Tr. 54-55)

34. On June 20, 2011, Sizemore “determined that an accommodation of supplying [Complainant] with a desktop printer is not warranted.” (Respondent’s Exhibits 4, 17, 18; Tr. 30, 121)

35. Sizemore considered Complainant’s medical documentation, workspace, and the location of the common area printer in making her determination. (Respondent’s Exhibit 17, 18; Tr. 29)

36. I do not credit Sizemore’s testimony that on June 20, 2011, she telephoned the office of O’Neill, M.D., and was informed by a staff member that “it is ok for [Complainant] to get up and down to go to the printer” that was a few feet away because “it was good for the circulation.” (Respondent’s Exhibit 17; Tr. 132-34)

37. Sizemore conceded at the public hearing that she did not speak with O’Neill, M.D., that she did not recall the name or title of the staff member with whom she spoke, and that she did not know if that individual was a health care professional. (Tr. 134)

38. In addition, on July 5, 2011, O’Neill, M.D.’s office confirmed in writing that, “there was no indication that anyone from the Erie County Office of Disability called the clinic.” (Complainant’s Exhibit 1)

39. On July 1, 2011, Complainant responded by electronic mail to Sizemore’s denial of the accommodation request. Complainant reiterated that the effect caused by the increased frequency of the trips on her physical problems, not the location of the common area printer, was the issue. (Respondent’s Exhibit 4; Tr. 56)

40. Respondent did not make any further inquiries of Complainant’s physician or contact Complainant. (Tr. 151)

41. On October 26, 2011, O’Neill, M.D., wrote:

"I am writing this letter at the request of my patient, Margaret Pascale, who I see in my practice at the Primary Medicine center of the Buffalo General Hospital. Ms. Pascale had related to me that her printer at work has been moved. As a result, she reports that she must get up hourly and walk to the shared printer and that this is causing her increased pain related to her prosthesis." (Complainant's Exhibit 3)

42. Complainant was "surprised" by Respondent's decision to deny her the accommodation of a desktop printer. Complainant also testified that Respondent's decision "angered" her, made her "depressed." (Tr. 60-61)

43. Complainant did not want to rely on her increased use of hydrocodone for the pain caused by the additional sitting and standing. (Tr. 62)

44. Complainant also testified that she has experienced an increased time away from work, approximately two times a month, because "...some of the days at the end of the week, on Friday just because...I'm just worn out." (Tr. 62-63)

45. Complainant's testimony indicated that as of the date of the September 24, 2012 public hearing she continued to experience the physical negative effects of the denial of her accommodation request. (Tr. 62-63)

OPINION AND DECISION

Reasonable Accommodation

A respondent is obligated to provide a reasonable accommodation for a complainant's known disability. Human Rights Law § 296.3.

Forms of reasonable accommodation include, but are not limited to "making existing facilities more readily accessible to individuals with disabilities; acquisition or modification of equipment; job restructuring; modified work schedules; adjustments to work schedule for treatment or recovery; reassignment to an available position." 9 N.Y.C.R.R. § 466.11(a)(2).

Furthermore, both the employee and the employer are obligated to engage in an interactive process, which includes the discussion and exchange of pertinent medical information, in order to arrive at a reasonable accommodation that will allow a disabled employee to perform the necessary job requirements. 9 N.Y.C.R.R. § 466.11(j)(4).

In order to establish a prima facie case for failure to provide a reasonable accommodation a complainant must demonstrate that she suffered from a disability, that she could perform the essential functions of the position with or without a reasonable accommodation, that her employer was aware of her need for an accommodation and that the employer failed to provide a reasonable accommodation. *See Abram v New York State Div. of Human Rights*, 71 A.D.3d 1471, 1473 (4th Dept. 2010); *see also McCarthy v St. Francis Hosp.*, 41 A.D.3d 794 (2d Dept. 2007).

Complainant established a prima facie case for failure to provide a reasonable accommodation.

First, Complainant established that she suffers from a disability.

A disability is defined under the Human Rights Law as “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.” Human Rights Law § 292.21. This definition has been interpreted to include medically diagnosable impairments and conditions that are merely “diagnosable medical anomalies.” *State Div. of Human Rights v. Xerox Corp.*, 65 N.Y.2d 213, 219, 491 N.Y.S.2d 106, 109 (1985). Complainant suffers from a diabetes-caused amputation of her left leg, makes use of a prosthetic leg, and suffers from knee pain. Complainant’s medical conditions constitute disabilities under the Human Rights Law.

Second, the proof established that Complainant could perform the essential functions of her receptionist position, particularly printing jobs, with or without a reasonable accommodation.

Third, Complainant established that on June 13, 2011, she proposed an accommodation. Complainant wanted the return of a desktop printer in order to minimize the increased pain caused by the additional standing and sitting to retrieve printing jobs from the common printer used by the office.

Fourth, Complainant established that June 20, 2011, Respondent refused to make such accommodation.

Respondent did not articulate any legitimate non-discriminatory reasons for denying the accommodation that Complainant sought.

First, Respondent failed to understand Complainant's accommodation request. Complainant had always made her position clear to Respondent. Complainant's central concern was the pain caused by the increased frequency of sitting and standing in order to retrieve print jobs from the common office printer. Nonetheless, Respondent persisted in its argument at the public hearing that Complainant had access to a common printer that was only a few feet away and, therefore, did not need a desktop printer. Respondent also argued that Complainant could not sit for more than two hours and could retrieve print jobs during those intervals. Respondent failed to understand that Complainant retrieved print jobs at a rate that varied from every five minutes to five times an hour.

Second, Respondent argued that it found an absence of medical support for the requested accommodation. However, the proof established that the interactive process broke down because of Respondent's actions. Respondent failed to communicate with Complainant's physician or medical staff in order to clarify any of its concerns. Respondent stopped its inquiry with the

initial receipt of the completed medical forms from Complainant's physician. If Respondent needed further answers, it could have obtained them. Complainant made her best efforts to provide Respondent with all the data it needed to communicate with her physician.

Third, Respondent argued that the consolidation of printers was an essential cost saving measure as part of its effort to minimize any potential increases in county taxes. Respondent claimed that should it grant Complainant's request, unsupported by medical documentation, it would set a precedent for other unsupported requests. However, as already indicated, the proof established that Complainant provided medical documentation. Any alleged lack of additional medical information was caused by Respondent's own actions. Furthermore, Respondent did not establish that allowing Complainant to keep a desktop printer would impose an undue hardship. *See* Human Rights Law § 296.3(b). An undue hardship is defined as significant difficulty or expense to the employer. In determining whether an accommodation would result in undue hardship, consideration is given to any relevant factor including the nature and cost of the accommodation needed. *See* 9 N.Y.C.R.R. § 466.11(b)(2). Here, Respondent failed to make an individualized assessment of its cost in providing Complainant with a desktop printer. Respondent failed to establish how granting the specific accommodation would cause it an undue hardship. There is absolutely no proof in the record that granting Complainant's proposed accommodation would cost Respondent anything. Respondent cannot rely on generalized concerns, speculation, or conjecture to deny an accommodation request.

Fourth, Respondent argued at the public hearing that Complainant could have made use of the batch printing computer function where an employee could store all her print jobs and then print them all at once. Respondent suggested that Complainant could have used this method in order to minimize how often she had to retrieve printing jobs. However, there was no proof

Respondent ever suggested to Complainant the use of this approach as a potential alternative to her accommodation request. There was no proof that Complainant was aware or familiar with this printing function. In addition, the proof did not show that the batch printing function would have met Complainant's accommodation needs.

Finally, at the public hearing, Respondent's former director of Erie County's Office for the Disabled testified that there was no need to grant the accommodation because "making copies and [Complainant's] need for a desktop printer ... was not part of the essential functions of her job..." Respondent's own proof at the public hearing clearly established that printing was one of Complainant's essential job functions.

Accordingly, Respondent is liable for failing to provide Complainant with a reasonable accommodation for her disability. Respondent failed to properly review and determine the feasibility of Complainant's accommodation request. *Pimentel v. Citibank, N.A.*, 29 A.D. 3d 141, 149, 811 N.Y.S. 2d 381, 387 (1st Dept. 2006), *lv. to appeal den.*, 7 N.Y.3d 707, 821 N.Y.S.2d 813 (2006), *See also* 9 N.Y.C.R.R. §466.11(j)(4).

Mental Anguish Damages

Complainant is entitled to recover compensatory damages caused by Respondent's violation of the Human Rights Law. Human Rights Law § 297.4(c)(iii). The award of compensatory damages may be based solely on a complainant's testimony. 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. N.Y. State Div. of Human Rights (Nash)*, 78 N.Y.2d 207, 216, 573 N.Y.S.2d 49, 54 (1991); *Cullen v. Nassau County Civil Service Commission*, 53 N.Y.2d 452, 442 N.Y.S.2d 470 (1981). The severity, frequency, and duration of the conduct may be considered in fashioning an appropriate award.

New York State Dep't of Corr. Servs. v. N.Y. State Div. of Human Rights, 225 A.D.2d 856, 859, 638 N.Y.S.2d 827, 830 (3d Dept. 1996). In considering an award of compensatory damages for mental anguish, the Division must be especially careful to ensure that the award is reasonably related to the wrongdoing, supported in the record, and comparable to awards for similar injuries. *N.Y. State Div. of Human Rights v. Muia*, 176 A.D.2d 1142, 1144, 575 N.Y.S.2d 957, 960 (3d Dept. 1991).

Respondent's actions had a negative effect on Complainant.

Complainant was "surprised" by Respondent's June 20, 2011 decision to deny her the accommodation of a desktop printer. Respondent's decision "angered" her, made her "depressed." In addition, since Respondent removed Complainant's desktop printer on June 13, 2011, she increased her use of hydrocodone for the pain caused by the additional sitting and standing. Complainant experienced an increased time away from work, approximately two times a month, exhausted by the additional trips to the common office printer. Complainant testified that she was "...just worn out." Complainant's testimony indicated that as of the date of the September 24, 2012 public hearing she continued to experience the physical negative effects of the denial of her accommodation request.

Accordingly, Complainant is entitled to \$10,000 for the pain and suffering she experienced for the period of June 13, 2011 to September 24, 2012 because of Respondent's discriminatory actions. The award is reasonably related to the wrongdoing, supported by the evidence, comparable with other awards for similar injuries, and, therefore, justified in this case. *See See Iroquois Nursing Home v. New York State Div. of Human Rights*, 55 A.D.3d 1285 (4th Dept. 2008); *New York State Div. of Human Rights v. Adams Sec., Inc.*, 38 A.D.3d 1194 (4th Dept. 2007); *Heidie Tuxedos & Formals v. New York State Div. of Human Rights*, 224 A.D.2d

1022 (4th Dept. 1996); *Marcellus Volunteer Fire Dept. v. Stock*, 155 A.D.2d 982 (4th Dept. 1989)

Affirmative Relief

Complainant is entitled to affirmative relief due to Respondent's violation of the Human Rights Law. Human Rights Law § 297.4(c)(ii). Respondent failed to engage in the interactive process and never provided Complainant with an accommodation. Accordingly, Respondent shall return and maintain the desktop printer it removed from Complainant's desk or otherwise provide her with a comparable desktop printer.

Lost Wage Damages

Complainant did not suffer any lost wages. As of the date of the public hearing, Complainant continued to work for Respondent.

Civil Fines and Penalties

Human Rights Law § 297 (4)(c)(vi) permits 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."

There are several factors that determine if civil fines and penalties are appropriate: 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; other

matters as justice may require. *Gostomski v. Sherwood Terr. Apts.*, SDHR Case Nos. 10107538 and 10107540, November 15, 2007, *aff'd*, *Sherwood Terrace Apartments v. N.Y. State Div. of Human Rights (Gostomski)*, 61 A.D.3d 1333, 877 N.Y.S.2d 595 (4th Dept. 2009); *119-121 East 97th Street Corp, et. al., v. New York City Commission on Human Rights, et. al.*, 220 A.D.2d 79; 642 N.Y.S.2d 638 (1st Dept.1996)

A penalty of \$5,000 is appropriate in this matter. *see Pacheco v 185 East 163rd Street HDFC*, DHR Case No. 10149659 (October 26, 2012) (Commissioner issued a penalty of \$5,000 in a similar matter where Respondent failed to engage in an interactive process.) *see generally Commissioner penalties affirmed, Noe v. N.Y. State Div. of Human Rights (Martin), et.al.*, 101 A.D.3d 1756, 957 N.Y.S.2d 796 (4th Dept. 2012); *Johnston v. N.Y. State Div. of Human Rights, et.al.*, 100 A.D.3d 1354, 953 N.Y.S.2d 757 (4th Dept. 2012); *New York State Div. of Human Rights v. Stennett*, 98 A.D.3d 512, 949 N.Y.S.2d 459 (2d Dept. 2012).

The goal of deterrence; Respondent's degree of culpability; and the nature and circumstances of Respondent's violation warrant a penalty.

Respondent violated the Human Rights Law. Respondent is the County of Erie with the necessary sophistication and resources to properly address an accommodation request through its Office for the Disabled. Respondent's actions in this matter were unacceptable. Respondent's contradictory positions in this matter indicate that it was not genuinely interested in considering Complainant's accommodation request. After Respondent failed to engage in an interactive process, it then placed the burden on Complainant for any lack of information in its decision-making. Respondent never followed up with Complainant's health professionals. Respondent never made an individualized assessment of the cost involved to keep a single desktop printer. Respondent also took the patently incredible position that printing was not an essential function

of Complainant's clerical job and, therefore, no accommodation was needed. Respondent's failure to provide a reasonable accommodation caused Complainant to experience unnecessary pain and suffering in the performance of her job.

There was no proof that Respondent was adjudged to have committed any previous similar violation of the Human Rights Law or were incapable of paying any penalty.

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, its agents, representatives, employees, successors, and assigns, shall cease and desist from discriminating against any employee in the terms and conditions of employment; and it is further

ORDERED, that Respondent, its agents, representatives, employees, successors and assigns shall take the following affirmative action to effectuate the purposes of the Human Rights Law:

1. Within sixty days of the date of the Commissioner's Final Order, Respondent shall pay to Complainant, Margaret Pascale, the sum of \$10,000 as compensatory damages for mental anguish and humiliation Complainant suffered as a result of Respondent's unlawful discrimination against her. Interest shall accrue on this award at the rate of nine percent per annum, from the date of the Commissioner's Final Order until payment is actually made by Respondent.
2. The payment shall be made by Respondent to Complainant, Margaret Pascale, in the

form of a certified check, made payable to the order of Margaret Pascale, and delivered by certified mail, return receipt requested, to her address 709 Busti Avenue, Buffalo, New York 14213. A copy of the certified check shall be provided to Caroline Downey, Esq., General Counsel of the Division, at One Fordham Plaza, 4th Floor, Bronx, New York 10458.

3. Within sixty days of the date of the Commissioner's Final Order, Respondent shall pay to the State of New York the sum of \$5,000 as a civil fine and penalty for its violation of the Human Rights Law. Interest shall accrue on this award at the rate of nine percent per annum, from the date of the Commissioner's Final Order until payment is actually made by Respondent.

4. The payment of the civil fine and penalty shall be made by Respondent 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., General Counsel of the Division, at One Fordham Plaza, 4th Floor, Bronx, New York 10458.

5. Within sixty days of the Final Order, Respondent shall return and maintain the desktop printer it removed from Complainant's desk or otherwise provide her with a comparable desktop printer. Proof that a desktop printer was returned to Complainant's desk shall be provided to Caroline Downey, Esq., General Counsel of the New York State Division of Human Rights, at One Fordham Plaza, 4th Floor, Bronx, New York 10458.

6. Within sixty days of the Final Order, Respondent shall provide a training session in the proper review of reasonable accommodation requests, and in the prevention of unlawful discrimination, in accordance with the Human Rights Law. Training shall be provided to all employees in Respondent's Office for the Disabled, which is Respondent's entity that handles all accommodation requests from Respondent's employees. Proof of the training session shall be provided to Caroline Downey, Esq., General Counsel of the New York State Division of

Human Rights, at One Fordham Plaza, 4th Floor, Bronx, New York 10458.

7. Respondent shall cooperate with the representatives of the Division during any investigation into compliance with the directives contained in this Order.

DATED: March 26, 2013
Buffalo, New York

A handwritten signature in cursive script that reads "Martin Erazo, Jr." The signature is written in black ink and is positioned above the printed name and title.

Martin Erazo, Jr.
Administrative Law Judge