

COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

EBONI HARRISON AND MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION  
Complainants,

v.

Docket No. 02-BPA-00845

ROLLER WORLD, INC.  
Respondent

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
ORDER OF THE HEARING OFFICER**

**I. PROCEDURAL HISTORY**

On February 19, 2002, Complainant Eboni Harrison filed a complaint with the Massachusetts Commission Against Discrimination (the "Commission") against Respondent Roller World, Inc. In her complaint, Complainant alleged that Respondent unlawfully denied her admittance to a roller skating facility on January 5, 2002, on the basis of her religious beliefs in violation of Massachusetts General Laws, c. 272, §§ 92A and 98.<sup>1</sup>

On April 5, 2005, the Commission certified for hearing Complainant's claim of religious discrimination in a place of public accommodation. A public hearing was held before me on August 2, 2005, in Boston, MA. In deciding this matter, I have considered the entire record, including the testimony and exhibits introduced at the public hearing, and the stipulations of the parties. I have

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<sup>1</sup> In her complaint, Complainant also alleged that Respondent discriminated against her on the basis of race and color in a place of public accommodation. However, the Commission only found probable cause to credit Complainant's allegations of religious discrimination and issued a lack of probable cause finding with respect to the race and color claims.

likewise considered the Proposed Findings of Fact and Conclusions of Law submitted by the parties after the public hearing. To the extent that the proposed findings and conclusions are in accord with the findings herein, they are accepted; to the extent that they are not, they are rejected. Certain proposed findings have been omitted as not relevant or necessary to a proper determination of the material issues presented.

## **II. FINDINGS OF FACT**

1. Complainant Eboni Harrison is an African-American woman who resides in Massachusetts with her family. Complainant testified that in November 2000, she converted to Islam. As part of her religious conversion, she gave a “Declaration of Faith” and began studying religious texts, including the Koran. Complainant stated that after her conversion to Islam, she continued to teach herself aspects of the Muslim faith and began praying five times a day. She also testified that she began dressing more conservatively consistent with the religious practice of some Muslim women to dress modestly. Complainant claimed that shortly after the tragic events of September 11, 2001, she began wearing a headscarf or “hijab” so that she would be recognized as a Muslim woman. According to Complainant, wearing a hijab is not a requirement of the Muslim faith and the Muslim community is divided on the issue of whether it has to be worn. Notwithstanding, she testified that she choose to wear the hijab as an expression of her Muslim identity. I credit Complainant’s testimony regarding her religious beliefs and her status as a member of the Muslim faith. I also credited Complainant’s testimony that she sincerely held these religious beliefs.

2. Respondent, Roller World, Inc. is a corporation that operates a roller skating facility located on Broadway in Saugus, Massachusetts. Respondent is owned by Gerry Breen, who has been involved in the roller skating business since 1958. Respondent's roller skating facility is a place of accommodation within the meaning of M.G.L. c. 272, § 92A.

3. Breen testified that Respondent has clearly posted rules and regulations throughout the roller skating facility related to the safety of its patrons. One of the rules of the facility prohibits the wearing of hats, bandanas, doo rags, scarves, or any other headgear while skating in the rink. Breen testified that this rule has been in effect for approximately twenty-four years. He estimated that personnel at the facility speak to thirty to fifty people each night about the wearing of headgear. He stated that the rule also prohibited the wearing of kerchiefs held in place on a person's head by bobby pins. Breen claimed that this rule is in place because head gear or similar items might become dislodged and fall on the rink, thus creating a serious risk of injury to other skaters. In addition to the postings of the rule throughout the facility, regular announcements were made over the loudspeaker to remind patrons of the rule about not wearing headgear.<sup>2</sup> According to Breen, the roller skating facility has numerous lockers where patrons can store their head gear and other personal belongings before going onto the skating area. Saugus Police Officer Sgt. Richard Brunelle, who often worked at the roller skating facility on a paid police detail, as well as Sandra

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<sup>2</sup> Breen testified credibly that two or three times during the night, they announce over the loudspeakers that all food must remain in the snack bar area, no hats or headgear are permitted to be worn on the skating floor, no fast skating is permitted in addition to no stopping or standing against the wall while on the skating surface.

Germain, an employee at the facility, corroborated Breen's testimony regarding the rule prohibiting the wearing of head gear and the postings throughout the facility. Germain also corroborated Breen's testimony that on a daily basis, the staff would tell approximately thirty to forty people that they couldn't wear headgear. I credit Breen, Brunelle, and Germain's testimony. I further credit Breen's testimony that the facility provided patrons at all relevant times with notice and obvious postings about the rule against wearing headgear.

4. On January 5, 2002, at approximately 8:10 pm, Complainant arrived at the roller rink with her cousin Jenaya, her sister Nefertitti, and a friend, Jason. Complainant testified that she was wearing black jeans, a black undershirt, a long jacket, and a hijab. Complainant and her companions purchased tickets from the ticket window. Complainant claimed that no one at the ticket window told her that she could not wear the headscarf. Complainant testified that she had been to Roller World on many occasions prior to January 5. She claimed she had never previously been denied access to the facility; however, she did not believe she wore any headgear on those prior occasions. I credit Complainant's testimony.

5. After purchasing tickets, Complainant waited on line with her companions to enter through a metal detector that then lead to the skating area. As she was waiting to pass through the metal detector, a male staff person told her they were not going to let her in "with that thing on your head." Breen identified the staff person as Larry Crivello. Complainant testified she responded that the reason she was wearing "this thing on my head" was because "I'm a Muslim and it

cannot be removed.” According to Complainant, the staff person repeated that he could not let her in with that thing on her head. The staff person then went to get Breen. Although Breen denied that any person including Larry Crivello told him about Complainant’s comments, he did admit that Complainant told Crivello that she could not remove the headscarf for religious reasons.<sup>3</sup> Specifically, in a letter from Breen to the MCAD, dated April 30, 2002, Breen wrote, “Crivello remembered a young woman entering the building with a two tone, as he recalls, handkerchief on her head. He remembers explaining to her the headgear rules. He does remember her saying something to the effect of she is required to wear it because of her religion. He does not remember the exact words that she used.” In the letter, Breen further acknowledged that “[the] girl checking the pocketbooks also remembers her stating some thing to the effect of religion and the headgear.” I credit Complainant’s testimony that she informed Respondent’s employees that she could not take off her headscarf for religious reasons.

6. Complainant claimed that when Breen came over, she relayed her exact conversation with the staff person to him, namely, that she was a Muslim and she could not remove her headscarf. Complainant testified that Breen responded without any emotion, that “it was a rule.” According to Complainant Breen then said that when boys come in with scarves on their heads they also had to remove them. She claimed she again repeated to him that she could not remove her

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<sup>3</sup> Breen testified credibly that he first learned of Complainant’s comments to Crivello months later during his investigation into this matter after he had received Complainant’s complaint from the Commission.

scarf because of her religion. Complainant stated that Breen just repeated what he had said before about “the rule” and said that if her scarf fell off, somebody on the rink could get hurt. She claimed she then demonstrated to Breen that the scarf could not come off by shaking it and shaking her head. Complainant testified that she became embarrassed, particularly because the line to go through the metal detector went out the door and her discussion with Breen was holding up the line. She then stepped out of line and Sgt. Brunelle approached her. Complainant claimed that Sgt. Brunelle told her, “This is not discrimination.” She stated she was shocked by his remark and then began to cry. At that point, she claims she witnessed skaters wearing hats, bandanas and doo rags. She also stated she saw skaters with jackets tied around their waist. Complainant then approached Breen and asked for a refund, which he provided to her. I credit Complainant’s testimony that she told Breen she could not remove the headscarf for religious reasons.

7. It should be emphasized that there was no evidence that Breen or any other employee of Respondent made any derogatory or offensive comment about the Muslim faith. Complainant did not testify that Breen was rude or condescending; rather, she claimed he talked to her “with no emotion.” Although Crivello purportedly commented to Complainant that she could not enter the facility “with that thing on her head”, he made the comment before Complainant told him that she could not remove the headscarf for religious reasons. In addition, Complainant did not offer any credible evidence that Crivello acted with discriminatory intent.

8. Breen testified that he recalled the incident with Complainant at Roller World, although he disputed that the incident occurred on January 5. He claimed he was talking to Sgt. Brunelle when Crivello called for him. Breen said Crivello tapped his head and then pointed to Complainant. Breen understood from Crivello's motions that a question arose about Complainant's headgear. Breen claimed that he and Sgt. Brunelle then walked over to Complainant. Breen then asked her if she had a question about the headgear. According to Breen, he then told her that they did not allow patrons to wear headgear because if the scarf or bobby pins fell out, somebody could fall over it and get hurt. Breen testified that Complainant responded she was here with her sister and friends. Breen reiterated that she could not skate with the headgear on. He claimed he then told her, "If you want to take it off, you can skate." According to Breen, Complainant told him she did not want to remove the head scarf because "her hair was a mess; something to that effect, so I said, I don't know. It looks all right to me." Complainant replied, "Well, can I come in if I'm not skating, if I don't skate?" Breen claimed he told her, "Yes, you can" and "we'll give you a refund on your money but you can't go on the skating floor with the headgear on that you have." Breen testified he then told Complainant that he already told many other people that evening to take off their baseball hats and other headgear. According to Breen, Complainant then went back to the ticket window to get her refund and left the premises. Breen adamantly denied that Complainant made any statement to him about her being a Muslim or saying she could not remove her headscarf for religious reasons. On rebuttal, Complainant adamantly denied

saying to Breen that she did not want to remove the headscarf because “her hair was a mess.” To the contrary, she claimed that she had dreadlocks at that time. I credit Complainant’s testimony.

9. Sgt. Brunelle testified that he did not recall Complainant or the incident regarding her wearing a headscarf. Brunelle claimed that during the many evenings he has worked at Roller World on a paid police detail, “situations” would often develop when patrons become “a little contentious” after staff would ask the patrons to take their headgear off. He stated that his role was to merely stand by and monitor the situation and he would only get involved if anyone became contentious or disruptive. Brunelle testified that when staff told patrons they could not wear headgear, patrons would often think “it was somehow based upon their race or something like that, and I would often go up and let them know that it wasn’t anything that was race based.” On cross-examination, Brunelle reiterated that when he saw “a discussion going back and forth for a prolonged period of time, I would often step in and just sort of intercede and let people know that Mr. Breen’s policy was there for safety reasons; not for a racial or ethnic or religious reasons or anything to that effect.” Although Brunelle did not specifically recall the occasion when Breen talked to Complainant about the wearing of a headscarf, he did not believe he had ever heard anyone make a claim that they couldn’t take off their headgear because they were Muslim. I credit Brunelle’s testimony.

10. Complainant’s sister, Nefertiti Graham, testified that she entered through the metal detector without incident and went and got her skates. About five or

ten minutes later, she noticed that her sister was not with her so she went to look for her. Graham came back to the area near the metal detector and noticed her sister standing nearby. She claimed she asked Complainant what was wrong, and Complainant answered, "They won't let me in." Graham then asked her why, and Complainant said, "because of my scarf, because of my religion, because I'm Muslim." On cross examination, Respondent introduced an affidavit signed by Graham submitted to the Commission as part of its initial investigation into Complainant's charges. In the affidavit, Graham claimed that Complainant told her Respondent wouldn't let her in "with the scarf on her head." However, in the affidavit, Graham did not state that Complainant had mentioned that she was denied entrance because of her religion or because she was Muslim.

Graham further testified that she did not notice the signs around the facility on January 5 that prohibited the wearing of head garments. However, she claimed that when she went roller skating at the facility several months later, she noticed the signs. In addition, on the night of January 5, Graham testified that she saw two girls skating around the rink with "bandana-like things hanging from their head." She also claimed to see at least two or three boys with hats on their heads skating on the rink. In addition, she stated that her friend Jason, who had accompanied her and her sister that night to the roller rink, walked in with a doo rag on his head, but nobody said anything.

11. Breen testified that they occasionally make exceptions to the prohibition against wearing head gear. He also said that Respondent had a policy of accommodating anyone that might have to wear the headgear for religious

reasons. Specifically, he said, “We have a thin ribbon. It’s very thin and – that you could tie something onto them. For instance, a yamaka [sic] or something to that effect or something that usually a Muslim had tied under their chin. Anyway, the Hijab, I guess you call it, so that’s not going to fall off your head.” Breen recalled using the ribbon only once or twice in twenty-five years. Breen further stated that prior to Complainant, he has never had any similar problems with a female insisting on coming into the facility with headgear, scarves or hijabs similar to the one worn by Complainant. Breen acknowledged that he did not offer Complainant the opportunity of tying down her headscarf with the thin ribbon.

12. Breen testified that despite Respondent’s scrutiny of patrons coming into the facility wearing headgear, patrons often put their hats and headgear back on, once they are on the skating floor. Breen stated that Respondent employs “skate guards” to enforce the rules on the skating floor. In particular, skate guards are responsible for enforcing the rule against wearing headgear when they notice persons wearing hats and headgear on the skating facility. Breen claimed that Roller World does not confiscate the person’s headgear in these situations; but rather, requires them to put their headgear away. Breen emphasized that Respondent has two hundred lockers where patrons can place their hats and other personal belongings. I credit Breen’s testimony on this particular matter.

13. Complainant testified that the incident at Roller World made her embarrassed and upset. She claimed that after leaving the facility, she cried the whole night. Complainant further stated that the incident has had a profound

affect on her. She testified that she no longer goes into public facilities like Roller World without “a plan.” Complainant explained that she now calls ahead to such places and asks if it’s a problem if people wear something on their heads in the facility. She claimed that since the incident at Roller World, she is not comfortable in public places when she goes out. Complainant stated, “I feel like I’m always watching to make sure I’m not doing something wrong, especially in a place where there’s a lot of people.”

### **III. CONCLUSIONS OF LAW**

Massachusetts General Laws c. 272, § 98 prohibits any distinction, discrimination, or restriction relative to the admission of any person to a place of public accommodation based on religious creed. The Commission is authorized to enforce the public accommodation statute pursuant to M.G.L. c. 151B, § 5. Ekhatov v. Stop & Shop Supermarket Co., 24 MDLR 147, 149 (2002). The phrase "place of public accommodation" is broadly defined in M.G.L. c. 272, § 92A as “any place, whether licensed or unlicensed, which is open to and accepts or solicits the patronage of the general public and, without limiting the generality of this definition, whether or not it be...(8) a place of public amusement, recreation, sport, exercise or entertainment...” See, Samartin v. Metropolitan Life Insurance Co., 27 MDLR 210, 213-214 (2005) (Full Commission) (discussing broad language of statute). Complainant’s claim can be analyzed under the

theory of disparate treatment or, in the alternative, under the theory of failure to provide a reasonable accommodation.<sup>4</sup>

**A. Disparate Treatment**

In determining whether a violation of the public accommodation statute exists under a disparate treatment analysis, the Commission analyzes the evidence in accordance with the standard set forth in Wheelock v. MCAD, 371 Mass. 130, 134-136 (1976). Lipchitz v. Raytheon Company, 434 Mass. 493, 495 (2001); Reese v. May Dept. Store, 24 MDLR 395, 399 (2002). To establish a prima facie case of discrimination in a place of public accommodation, Complainant must demonstrate that she was (1) a member of a protected class; (2) denied access to, restricted, or treated differently from others not in her protected class; and, (3) in a place of public accommodation. Rome v. PVRTA, 19 MDLR 159, 161 (1997).

Once Complainant has established a prima facie case of discrimination, an inference or presumption of discrimination arises. The burden of production then shifts to Respondent to rebut the presumption of discrimination by presenting credible evidence of a legitimate, non-discriminatory reason for its adverse action. Abramian v. President & Fellows of Harvard College, 432 Mass.

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<sup>4</sup> Complainant's claim could arguably be analyzed under the theory of "disparate impact." In order to establish a disparate impact case, Complainant must show that the practice complained of had a substantial adverse impact on a legally protected class of which she is a member. See Bresnahan v. Route 114 Liquors, Inc., 17 MDLR 1129, 1133 (1995) and cases cited therein. In other words, Respondent's no headgear policy, while appearing neutral on its face, would have to have a disparate impact on Muslim women. However, there is no evidence in the record regarding the number of Muslim women or other persons excluded from Respondent's facility because of religious headgear. In fact, there is no evidence in the record that other Muslim women were ever restricted from entering the facility. Under these circumstances, and absent relevant statistical information, it appears that Complainant is without sufficient evidence to establish a claim of discriminatory disparate impact.

107, 116-17 (2000), Wheelock College, 371 Mass. at 136. If Respondent meets its burden of production, then Complainant must show by a preponderance of the evidence that Respondent's action was the product of discrimination based on Complainant's membership in a protected group. Abramian, 432 Mass. at 116-118. Because proof of unlawful discrimination can rarely be established by direct evidence, Complainant may prove that Respondent's discriminatory animus was the determinative cause by establishing that one or more of Respondent's stated non-discriminatory reasons were false, or not the real reasons for its action. Lipchitz, 434 Mass. at 499, 504-505; see, Abramian, 432 Mass. at 118 (finding by jury that at least one of the reasons advanced by defendant was false, in addition to proof of prima facie case, sufficient to permit inference that real reason for defendant's action was discrimination). However, Complainant retains the ultimate burden of proving that Respondent's action was the result of discriminatory animus. Lipchitz, 434 Mass at 504; Abramian, 432 Mass at 117.

I conclude that Complainant has established a prima facie case of discrimination. Complainant is a member of a protected class by virtue of her sincerely held religious belief in Islam. In addition, I conclude that Respondent's roller skating facility is a place of public accommodation within the meaning of M.G.L. c. 272, § 92A. Moreover, she has established that she was denied access to the facility because she wore a hijab, a religiously significant headscarf. She also told Respondent's employees that she could not remove the hijab for religious reasons.

Respondent, thus, has the burden of articulating legitimate non-discriminatory reasons for its action. Respondent has met this burden by credible testimony that it has a policy which does not allow patrons to wear headgear of any sort for legitimate safety reasons. Complainant, therefore, must show by a preponderance of the evidence that Respondent's refusal to allow her admission to the skating area was motivated by discrimination based on Complainant's religion. Complainant has failed to meet this burden. In particular, she has failed to prove that the legitimate non-discriminatory reasons articulated by Respondent were false or not the real reasons for its action. I credited Breen and Brunelle's testimony that Respondent tells patrons, regardless of race, ethnicity, or religion, that they cannot wear headgear on the skating floor. While some patrons may have escaped Respondent's scrutiny as they entered the facility, I credited Respondent's witnesses that they regularly tell thirty to fifty patrons each night to remove their headgear. I also credited Breen's testimony that Respondent has skate guards who patrol the skating area and remind patrons who are wearing hats and other headgear that the items must be removed. Moreover, I credited Respondent's witnesses' testimony that it has visibly posted the no headgear policy throughout the facility. Respondent also makes announcements over the loudspeakers throughout the evening about the no headgear policy and other safety-related rules. Consequently, Complainant has failed to show that Respondent's refusal to allow her entry into the skating area of the facility wearing a hijab constituted disparate treatment.

**B. Reasonable Accommodation**

Respondent has an obligation to provide Complainant with a reasonable accommodation for her sincerely held religious beliefs. Although Chapter 272, § 98 does not expressly contain any reasonable accommodation language, “the statute is in pattern” with the provisions of the employment discrimination statute, c. 151B, § 4. MCAD v. Colangelo, 344 Mass. 387, 398 (1962). Pursuant to c. 151B, § 4(1A), an employer is obligated to provide a reasonable accommodation to the religious needs of an individual employee. Estabrook v. MBTA, 23 MDLR 125, 129-130 (2001); Said v. Northeast Security, Inc., 22 MDLR 15 (2000). A “reasonable accommodation” is defined under § 4(1A) as “such accommodation to an employee's religious observance or practice as shall not cause undue hardship in the conduct of the employer's business.” Estabrook, 23 MDLR at 130-131; Yusef v. Medical Weight Loss Clinic, 22 MDLR 72 (2000).

It appears the Commission has not been presented with the specific issue of whether a place of public accommodation must provide reasonable accommodation when a conflict arises between its policies and a patron’s sincerely held religious beliefs. However, the Commission has held that an unreasonable refusal by a place of public accommodation to accommodate an individual's physical or mental disability can constitute discrimination. Bachner v. MBTA, 22 MDLR 183 (2000); Bachner v. Charlton’s Lounge and Restaurant, 9 MDLR, 1274, 1288 (1987). Therefore, by analogy, an unreasonable refusal by a place of public accommodation to accommodate an individual's sincerely held

religious beliefs should likewise constitute unlawful discrimination under c. 272, § 98.

In order to establish a prima facie case of discrimination for failure to provide a reasonable accommodation in a place of public accommodation, it seems reasonable to look to, and apply, the standards of proof and analysis utilized in employment cases. Viewed in that context, Complainant must show that she had a sincerely held religious belief that required her to refrain from a certain practice, that she informed Respondent of his belief, and that Respondent unreasonably refused to accommodate her practice. See, New York and Massachusetts Motor Service, Inc. v. MCAD, 401 Mass. 566, 575-576 (1988); Estabrook v. MBTA, 23 MDLR at 128-129, *citing*, Manganaro v. Eastern Container Corp., 10 MDLR 1173 (1988). Once Complainant has established a prima facie case, Respondent then must show that it could not accommodate Complainant's need without undue hardship to its business.

As stated above, Complainant has established that she was denied access to the skating area of the facility because she wore a hijab, a religiously significant headscarf. Complainant also informed Respondent's employees that she could not remove the hijab for religious reasons. Respondent then refused to discuss or to provide Complainant with a reasonable accommodation. Breen admitted that Respondent had a policy of accommodating anyone who might have to wear headgear for religious reasons. He testified that Respondent provides patrons with a thin ribbon that could be used, for example, for a "yamaka or something to that effect or something that usually a Muslim had tied

under their chin.” According to Breen, the ribbon would allow a patron to safely wear headgear. Despite acknowledging that there was a reasonable accommodation that Respondent could have extended to Complainant, Breen admitted that he did not discuss or provide Complainant with the option of tying down her headscarf with such a ribbon. Breen also failed to provide any credible evidence that providing Complainant with a ribbon to tie down her hijab would constitute an undue hardship. Consequently, Complainant has established that Respondent’s failure to provide a reasonable accommodation for her religious beliefs constituted a violation of the provisions of M.G.L. c. 272, § 98.

#### **IV. REMEDY**

Upon a finding of unlawful discrimination in a place of public accommodation, the Commission is authorized pursuant to G. L. c. 151 B, § 5 to award damages to compensate the aggrieved party for injury suffered as a result of the unlawful conduct. College-Town v. MCAD, 400 Mass. 156, 168-169 (1987). In particular, Complainant is entitled to monetary damages in compensation for the emotional distress she suffered as a direct and probable result of Respondents’ unlawful conduct. Stonehill College v. MCAD, 441 Mass. 549, 576 (2004); Buckley Nursing Home v. MCAD, 20 Mass. App. Ct. 172, 181-182 (1985).

I conclude that Complainant experienced some emotional distress as a result of Respondent's conduct. Although Complainant failed to present any expert testimony, an award for emotional distress can be based on

Complainant's credible testimony as to the cause and extent of her distress. Stonehill College, 441 Mass. at 576. While proof of physical injury or psychiatric consultation is beneficial, such evidence is not necessary to sustain an award for emotional distress. *Id.* An award must rest on substantial evidence that is causally connected to the unlawful act of discrimination and take into consideration the nature and character of the alleged harm, the severity of the harm, the length of time the Complainant has or expects to suffer, and whether Complainant has attempted to mitigate the harm. *Id.*

Complainant testified that the incident at Respondent's skating facility made her feel embarrassed and upset. She testified that after leaving the facility, she cried the entire night. Complainant further stated that the incident has had a profound affect on her in that it has caused her to give pause about attending, and curbed her desire to attend, similar places of accommodation. I found her testimony to be credible. Under these circumstances, I conclude that Complainant is entitled to emotional distress damages in the amount of \$3,500.00.

#### **IV. ORDER**

Based on the foregoing findings of fact and conclusions of law, I hereby issue the following order:

1. Respondent Roller World, Inc., shall cease and desist from engaging in any unlawful discriminatory conduct in the exercise of its dress code provisions that violates of M.G.L. c. 272, § 98, and shall provide

reasonable accommodation to patrons' religious beliefs when warranted.

2. Respondent Roller World, Inc., shall pay Complainant, Eboni Harrison, within sixty (60) days of receipt of this decision, the sum of \$3,500.00 in damages for emotional distress plus interest at the statutory rate of 12% per annum from the date the complaint was filed until paid, or until this order is reduced to a court judgment and post-judgment interest begins to accrue.

This decision represents the final order of the Hearing Officer. Any party aggrieved by this Order may appeal this decision to the Full Commission. To do so, a party must file a Notice of Appeal of this decision with the Clerk of the Commission within ten (10) days after the receipt of this Order and a Petition for Review within thirty (30) days of receipt of this Order.

So Ordered this 22<sup>nd</sup> day of November, 2006.

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EDWARD R. MITNICK  
Hearing Officer