COMMONWEALTH OF MASSACHUSETTS
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSSION AGAINST DISCRIMINATION, COMMONWEALTH OF MASSACHUSETTS by its Attorney General, and MADELINE SERRANO

Complainants,

v. DOCKET NO. 14-BEM-02913

CATALDO AMBULANCE SERVICE, INC.,

Respondent

Appearances: Wendy A.Cassidy, Esq., Commission Counsel for MCAD and Serrano
Genevieve C. Nadeau, Esq. for the Attorney General
Mark A. Pogue, Esq. for Cataldo Ambulance Service

DECISION OF THE HEARING OFFCER

I. INTRODUCTION

On August 11, 2014, Complainant, Madeline Serrano, filed a complaint with the Massachusetts Commission Against Discrimination charging her former employer, Respondent, Cataldo Ambulance Service, Inc., with unlawful discrimination on the basis of sex (pregnancy) and disability. On March 16, 2015, the Commonwealth of Massachusetts, by its Attorney General, was permitted to intervene in the matter as a complainant. Ms. Serrano and the Commonwealth allege violations of state and federal law, including G.L. c. 151B, §§ 4(1) and 4(16), Title VII of the Civil Rights Act of 1964, the Pregnancy Discrimination Act and the Americans with Disabilities Act. Complainant specifically alleges that her employment with

Respondent was terminated after she informed officials of the company that she was pregnant and experiencing disabling pregnancy related-complications. She further alleges that Respondent failed to accommodate her pregnancy-related disability by granting her a brief medical leave or allowing her to perform certain functions remotely. Respondent denied having any knowledge of Complainant's pregnancy and asserted that Complainant was terminated for her failure to come to work in her first few weeks on the job, essentially abandoning her position.

The Investigating Commissioner found probable cause to credit the allegations of the complaint and efforts at conciliation were unsuccessful. A four day hearing was held before me on October 15-18, 2018. The parties submitted post-hearing briefs on January 25, 2019. Having reviewed the record of the proceedings and the post-hearing submissions, I make the following Findings of Fact and Conclusions of Law.

II. FINDINGS OF FACT

1. Complainant, Madeline Serrano, is a 34 year old female who was employed by Respondent, Cataldo Ambulance Service, Inc., in the Fall of 2013. Complainant is married with two children. (Tr. Vol. I; 20, 21)

2. Respondent, Cataldo Ambulance Service, Inc., is an employer within the meaning of G.L. c. 151B, s.1(5) and has a main office in Somerville, MA and administrative offices in Malden, MA. (Tr. Vol. II; 74) Respondent provides medical services including ambulance transport in 18 communities. In 2013, Respondent employed over 700 employees serving as emergency medical technicians, paramedics, office staff, managers and supervisors. (Tr. Vol. III; 71; Vol. IV, 7)

3. Cataldo Ambulance is a family owned and operated business. (Tr. Vol. II, 91; Vol. III, 4-5) Robert and Diana Cataldo founded the company and are co-owners. (Tr. Vol. II; 74; Vol. III; 4-5, 47) Diana Cataldo served as Respondent's treasurer in the Fall of 2013 and was actively involved in the company, including matters pertaining to personnel and human resources. She gave the final approval for Complainant to be hired. (Tr. Vol. II, 72; Vol. III, 26, 47, 48, 49; Vol. IV, 49 Jt. Ex. 1)

4. Dennis Cataldo, the son of owners Robert and Diana Cataldo, is Respondent's Vice President of Operations. As such, he was responsible for overseeing the day-to-day operations of the company, including provision of patient care services and related operations. (Tr. Vol. III, 5; Jt. Ex. 1 ¶11) Dennis Cataldo reported directly to his parents or to his mother Diana Cataldo. (Tr. Vol. II, 75; Vol. III, 5-6)

5. Ronald Quaranto was Respondent's Chief Operating Officer from 2006 to 2018 and reported directly to Dennis Cataldo. (Tr. Vol. II, 61; 75; Vol. III, 6; Jt. Ex. 1 ¶ 13) He was responsible for management of the day-to-day operations of the company, including several support departments that included Human Resources and Information Technology. (Tr. Vol. II, 63, 70, 75)

6. Donald Wolcott was employed by Respondent as its Director of Human Resources from July 2002 until February 28, 2014. (Tr. Vol. II, 76, Vol. IV, 5; Jt. Ex. 1 ¶ 9) Wolcott reported directly to Ronald Quaranto at all relevant times. (Tr. Vol. II, 63; Vol. IV, 6)

7. In 2013, Respondent began efforts to recruit and hire an experienced human resources representative who would eventually replace Mr. Wolcott as the Director of Human Resources. (Tr. IV, 38, Complaint ¶4)

8. Complainant had taken several courses in human resources after earning a bachelor's degree in Communications and had worked for three years in the HR field. (Tr. Vol. I, 21, 24) She was interested in the position as Senior Human Resource Representative at Respondent because it was an opportunity to advance her career. (Tr. Vol. I, 24, 25)

9. Complainant had a telephone interview that was initiated by Wolcott and a subsequent in-person interview with Wolcott, Quaranto and Dennis Cataldo on August 2, 2013, at Respondent's Malden office. (Tr. Vol. I, 26; Complaint ¶ 6) She understood that Respondent intended to groom her to take over the position of Director of Human Resources and that Wolcott intended to retire in two years. (Tr. Vol. I, 28 , 33) During the interview she was informed that Respondent had a backlog of files with data that needed to be entered into the Human Resource Information System. (Tr. Vol. I, 30, 31)

10. On August 16, 2013, Complainant had an in-person interview with Diana Cataldo at Respondent's Somerville office. (Tr. Vol. I, 32, 33; Complaint ¶ 8; Vol. III, 49) Ms. Cataldo reiterated that Respondent was looking to hire someone to eventually take over for Mr. Wolcott as Director of Human Resources who was expected to retire in two years. (Tr. Vol. I, 33; Complaint ¶ 9) Diana Cataldo told Wolcott she found Complainant to be a "very strong candidate," and Wolcott's impression of Complainant was also very favorable. (Tr. Vol. IV, 9, 10)

11. Dennis and Diana Cataldo made the decision to hire Complainant. Respondent sent Complainant two letters offering her the job of Senior Human Resources Representative, dated August 20 and August 21, 2013. (Tr. Vol. I, 40, 42; Ex. C-1, C-2) Respondent offered Complainant an annual salary of $62,400 payable on a weekly basis of $1200 per week. (Tr. I, 25, 26; Exs. C-1, C-2) The offer included health, dental and short-term disability benefits, after

a 30-day waiting period, and eight paid holidays annually upon hire. (Tr. Vol. I, 42, 43; Ex. C-1, C-2)

12. Complainant accepted Respondent's job offer and began work on Monday September 16, 2013. (Tr. I, 43, Jt. Ex. 1,¶ 2) She reported to Donald Wolcott. (Tr. Vol. I, 43; Vol. IV, 13, 38) At the time, the HR department was understaffed and there were only two full time employees in the department. (Tr. Vol. IV 17-22; Vol. I, 131, 132) In the short-run, Complainant was to replace an employee who had left the company some months earlier. (Tr. Vol. IV, 7, 38 44; Tr. Vol. I, 131, 132)

13. Complainant's primary job duties were to be (1) recruiting, which included scheduling interviews, conducting telephone screening interviews with applicants, visiting EMT schools and job fairs to talk with potential candidates, and coordinating pre-employment physicals and background checks; (2) employee orientations, which included revising and preparing orientation materials and conducting meetings with new employees; (3) employee relations, including matters involving conflict resolution, counseling and warnings, employee discipline and communications and ordering uniforms; (4) workers compensation administration, including processing and responding to employee claims; and (5) other administrative tasks including entering EMT credentials and other human resources information into the company's databases, updating employee files, and completing new-hire paperwork. (Tr. Vol. I, 29, 31, 33, 46, 47; Vol. II, 65; Vol. IV, 2, 10, 11, 42, 43)

14. During her first two weeks of employment Complainant attended company meetings and received training about the ambulance business and the systems that she would be using. She toured the interior of an ambulance and attended and participated in a new employee orientation. She undertook some of the functions of recruiting new employees, including

scheduling interviews of EMT candidates, conducting initial telephone screening of applicants, and participating in in-person interviews, and assisting with ordering of uniforms. She also worked on revising and drafting presentations and other orientation materials for new employees. (Tr. Vol. I, 44-45, 144-145; Complaint ¶ 16) Complainant received positive feed-back during the initial weeks of her employment and Wolcott commented positively on her performance. (Tr. Vol. I, 46; Vol IV, 46)

15. Complainant had received treatment from a fertility specialist since early 2013 and was actively trying to get pregnant through the use of IVF from mid-2013 onward. She did not disclose this fact to anyone at Respondent while she was interviewing with them. (Tr. Vol. I, 128, 130) On September 18, 2013, Complainant learned that she was pregnant. (Tr. Vol. I, 48) On September 20, 2013 Complainant saw her doctor and complained of acute pain and swelling in her abdomen. Her doctor informed her that she had a condition called Ovarian Hyperstimulation Syndrome (OHSS) and related complications. (Tr. Vol. I, 49-50)

16. Complainant's doctor recommended bed rest on September 20th, but Complainant continued working out of concern that she had just started a new job which she was excited about and wanted to succeed at. She was also concerned about how her pregnancy and related medical situation would be perceived by Respondent. (Tr. Vol. I, 50-51)

17. Complainant saw her doctor again on September 30, 2013, and was placed on bed rest until October 7, 2013, due to the seriousness of her condition which she was informed could result in damage to her ovaries requiring surgery and risk to the life of the baby. She was also told she was suffering from other serious related complications that if unmanaged, could result in removal of her ovaries. Complainant received a letter from her physician stating only that she was being treated and had to remain on bed-rest until October 7th, but did not state the nature of

her condition. (Tr. Vol. I, 49-50; Jt. Ex. 2) Complainant returned to work on September 30th and met with Wolcott, told him she was pregnant, that she had undergone fertility treatments, had only learned she was pregnant after beginning to work for Respondent, and that she had a serious condition (OHSS) that required bed rest. She also informed him that she had declined bed rest on September 20, 2013, but that her health and the health of her unborn child were now at risk. She gave Wolcott a copy of her doctor's note. (Tr. Vol. I, 48-49, 52-53; Tr. IV, 15) I credit her testimony that she provided this information to Wolcott.

18. Wolcott approved Complainant's leave of absence from September 30, 2013, through October 7, 2013, and did not expect Complainant to call in on a daily basis to report her absence. (Tr. Vol. IV, 19; 63) Complainant told Wolcott that her job was important to her and that she was committed to the company. She asked to work from home while she was on bed rest. Complainant also told Wolcott she was concerned about sharing the news of her pregnancy with the Cataldos, stating that that she wanted to prove herself in the job first. Wolcott reassured Complainant of his support and stated he would deal with the Cataldos, and that her secret was "safe with him." (Tr. Vol. I, 52-53, 54) Wolcott categorically denied that Complainant ever informed him that she was pregnant and denied telling her he would keep the information secret. (Tr. Vol. IV, 16-17) I do not credit his testimony in this regard. Wolcott also testified that he did not seriously consider allowing Complainant to work from home, since she had only worked for Respondent for ten days, which were insufficient for her to become acclimated to the company and its needs. (Tr. Vol. IV, 19-20) He sent an email to Complainant's personal account later that same day advising her that he had postponed the Orientation meeting scheduled for the upcoming Wednesday until after she returned to work because he considered her an important

part of the team. Complainant responded with an email thanking him. (Tr. Vol. I, 55-56; Ex.C-8)

19. The following day, Wolcott sent Complainant a follow-up email telling her: "Your main job is to rest and get better. My prayers are with you." (Tr.Vol. I 56, C-8) Complainant responded with an email thanking him for his support and indicating how relieved she was after they spoke. She also offered to do some work remotely if Wolcott would send her the software program and asked him what he intended to tell people in the office about her absence. (Tr. Vol I, 58; Ex. C-8) Wolcott responded that they were a "team" and that "is what team members do." He reiterated that her main focus was to get better and he would inquire about getting her connected to the computer system. His response to what he would tell people about Complainant's absence was simply that she would be out for the rest of the week. Complainant felt reassured by his responses. (Tr. Vol. I, 58; Ex. C-8)

20. On October 3, 2013, Wolcott sent an email to Complainant informing her that he had informed Dennis Cataldo in person the previous day that she was out of work for a week, but only disclosed that her doctor had ordered bed rest. The email went on to say that the next day Dennis inquired again about her situation. Wolcott surmised Dennis was concerned about a scheduled meeting to discuss worker's compensation since Diana Cataldo would be present and likely ask questions about Complainant's absence. Wolcott told Complainant he did not reveal any information about her condition to Dennis Cataldo and said Complainant had not shared that information with him. Wolcott relayed that Dennis expressed concern for her well-being and the company's need to move forward with their agenda. (Tr. Vol. I, 59-61; Ex. C-9) This email made Complainant nervous because it seemed inconsistent with Wolcott's assurances that she need not worry about being absent from work. (Tr. Vol. I, 59, 61) Complainant responded by

asking Wolcott if she should contact Dennis Cataldo directly to reassure him that her absence was unexpected but that she had every intention of returning and making the job a priority. (Tr. Vol. I, 61 Ex. C-9) Wolcott replied within minutes that that might be a good idea because Diana Cataldo was inquiring about her absence, that he had not divulged the reason, and that she should not tell the Cataldos that he knew. Complainant grew more concerned because Wolcott had informed her previously that Diana Cataldo could be high-strung, had a tendency to get involved in personnel matters, and sometimes made decisions he didn't agree with. (Tr. Vol. I, 44, 62) Wolcott sent another email within the half hour asking Complainant's permission to tell Dennis Cataldo about her situation and to inform Dennis that she would be calling him. Complainant tried unsuccessfully to call Wolcott to relay her decision to speak with Dennis Cataldo, and to reassure Wolcott that she would not reveal that he knew about her "situation." (Tr. Vol.I, 63-64; 91-94; Ex. C-21) Shortly thereafter Complainant sent Wolcott two text messages to his phone asking him to call her before she spoke to Dennis Cataldo. (Tr. Vol. I, 63-64; Ex. C-16) Wolcott denied that he was referencing Complainant's pregnancy in his emails to her and stated that the "situation" and the details he contemplated telling Dennis were merely that she was seeing a doctor who had prescribed bed rest. (Tr. Vol. IV, 23-25) I did not find this testimony at all credible.

21. The following day, October 4, 2013, Complainant spoke to Wolcott by phone. Wolcott told Complainant that Diana Cataldo had noticed her absence at the previous day's worker's compensation meeting and was upset. Wolcott also told her that the Cataldos intended to contact an attorney to discuss Respondent's options with respect to Complainant. He urged Complainant to discuss her situation with the Cataldos and assure them she was committed to her job and returning to work. (Tr. Vol. I, 66, 91-94; Ex.C-22) The communications from Wolcott

on October 3rd and 4th, further increased Complainant's anxiety about Respondent's intentions and her job security. (Tr. Vol. I, 62, 67)

22. On the afternoon of October 4, 2013, Complainant spoke to Dennis Cataldo and informed him of her pregnancy and that she had undergone fertility treatments but did not know she was pregnant until after she began her employment. She explained her condition and that she needed to remain on bedrest. She also told him that she had declined bedrest earlier, in the interest of her job, but her condition had worsened. She assured him she was committed to her job and offered to work from home doing whatever she could to help. (Tr. Vol. I, 67-68) Dennis Cataldo told Complainant that he and his wife had had a similar experience and that her main concerns should be her family and taking care of herself. (Tr. Vol, I, 68-69) He also categorically denied that Complainant disclosed that she was pregnant, but revealed only that she had an "unexpected health condition." He claimed that he did not ask Complainant about the nature of her condition because it was "none of his business" and stated he did not learn of her pregnancy until four or five months later. (Tr. Vol. III, 12-14) I did not find this testimony credible. When pressed, Dennis Cataldo admitted that he and his wife experienced a similar issue involving pregnancy. Complainant would have had no reason to know this had they not spoken about her pregnancy and fertility treatments and had he not told her about his wife.

22. On October 7, 2013, the day before she was to return to work, Complainant's symptoms worsened. She began experiencing excruciating pain and ultimately went to the emergency room at a hospital in Lawrence around mid-night. The doctors told her that her ovaries were extremely enlarged and experiencing periodic torsion. Due to the severity of her condition, Complainant was transferred to Beth Israel Deaconess Medical Center in Boston. (Tr. Vol. I, 69-70) She remained hospitalized there from October 7-10, 2013. (Tr. Vol. I, 69-70; 82)

23. Early on the morning of October 8, 2013, after being transferred to Beth Israel Hospital, Complainant called Wolcott to inform him that she had gone to the emergency room the night before because of excruciating pain and had been transferred to Beth Israel and was being admitted. She also informed him that the nature of her condition was high risk. (Tr. Vol. I, 70-71; 95; Ex. C-21) Complainant testified that Wolcott seemed somewhat detached and less warm and personable during that phone call but told her to take care of herself and to keep him posted. (Tr. Vol. I, 71) Complainant also sent Wolcott an email that afternoon to inform him that she was awaiting test results and would call him as soon as she had more information. She also sent him a text message to that effect. (Tr. Vol. I, 74-75; Ex. C-17) Wolcott responded by email thanking Complainant for the update. (Tr. Vol. I, 72-73; Ex. C-10) Complainant's phone records show that she had another 6-minute long phone conversation with Wolcott around 5 p.m. on Oct. 8th. (Tr. Vol, I, 95-97: Ex. C-21) Complainant testified that she kept checking in with Wolcott to keep him abreast of the situation and to let him know that she cared about the job. (Tr. Vol. I, 74)

24. On the afternoon of October 9, 2013, Complainant updated Wolcott again by sending him a text message that she would likely be released from the hospital the next day, would call him with a prognosis and to call her if he had any questions. (Tr. Vol. I, 75, 76; Ex. C-18) He responded with a text message on Thursday morning, October 10th thanking her for the update, and advising her not to come to work until the following Tuesday, October 15th by which time he would have discussed her future with Diana and Dennis Cataldo and would have some answers. (Tr. Vol. I, 80-8; Ex. C-19) This message caused Complainant great anxiety. Knowing that the Cataldos were consulting an attorney about her situation, she feared that the "future" meant termination. (Tr. Vol. I, 81)

25. Upon her release from the hospital on October 10, 2013, Complainant was instructed by her doctors to remain out of work on bedrest until October 17, 2013, and was prescribed strong pain medication. (Jt. Ex. 3; Tr. Vol. I, 82) She advised Wolcott of this by email and specifically discussed her condition. She reiterated her willingness to work from home and assist Respondent in any way possible during what was admittedly a busy time. She advised him that a doctor's letter regarding her hospitalization and bedrest orders would be forthcoming and told him he could share the information with Dennis Cataldo. (Tr. Vol. I, 77-78; 186-188; Ex. C-11; Jt. Ex. 3)

26. Respondent asserted that when Complainant did not return to work on October 8, 2013, she was required by its policy call in to the company as soon as possible to report her absence and that she was required to continue to do so on any day she was not reporting to work. Respondent asserts that Complainant's texts to Wolcott on October 8th and 9th both in the late afternoon, were the first communications to Respondent that she would not be in, and that she was derelict in not showing up for work and not calling to report her absence at any time after October 8, 2013, the date of her scheduled return from leave. (Tr. Vol. I, 174-175)

27. Starting as early as October 3, 2013, a few days into Complainant's approved absence, Wolcott, the Cataldos and Ronald Quaranto had a least three discussions regarding potential termination of her employment. (Tr. Vol. II, 71-72; Vol. IV, 41,53-54,64-66; Exs. C-3, C-9, C-19, C-20) Quaranto testified that Respondent was concerned that Complainant was not coming to work and stated the reason for her absence was irrelevant. He asserted that Respondent had no idea why Complainant was absent and that no one mentioned her possibly being pregnant or disabled. (Tr. Vol. II 66-67, 83, 88) Wolcott testified he had no idea why Complainant was on bed rest and knew nothing more about her condition, despite writing to

Complainant that he would not reveal the details of her "situation" to Respondent. He also denied being concerned that Respondent would ascertain why Complainant was absent, despite urging her to discuss her situation with Dennis Cataldo. (Tr. Vol. I, 73, Ex. C-10) The Cataldos also disavowed any knowledge of Complainant's pregnancy and denied that they perceived her as impaired or disabled. (Tr. Vol.III, 9, 15, 55, 67) Diana Cataldo testified that she did not ask for any information about Complainant's situation because Respondent was not allowed to ask any questions about the nature of her condition. (Tr.Vol. III, 57) I did not credit the testimony of Quaranto, Wolcott or the Cataldos in this respect and draw the reasonable inference that they knew, or at the very least, surmised the reason for Complainant's absence and discussed the matter.

28. On October 16, 2013, Wolcott sent Complainant a text message telling her that her employment with Respondent was terminated effective immediately. He apologized for communicating the information in a text, but stated that Respondent did not want her to show up for work the following day, only to be told to leave. Wolcott also informed her that a formal termination letter was in the mail. (Ex. C-20; Tr. Vol. I, 83-84) That same day Wolcott mailed Complainant a letter confirming her termination. The letter stated that since her date of hire on September 26th she had been out of work more than she was in work, and that Respondent needed someone to move their recruiting process forward. (Ex. C-3; Tr.Vol. I, 86-87) However, the evidence suggests that Respondent would not have expected Complainant to actively perform sourcing of employees or recruiting in the early weeks of her employment and that this would not have been prudent, since Complainant was just getting acclimated and was not fully trained. Wolcott admitted that it took him six months to understand Respondent's

business of Emergency Management Services despite his 30 years of experience in Human Resources. (Tr. Vol. IV, 14-15, 41-42)

29. In 2013, Respondent's policy was to not allow leaves of absence to employees during their first year of employment, and it had no written policy regarding reasonable accommodation of employees with disabilities. Respondent also had a policy of not approving maternity leave for employees unless they were eligible for FMLA leave, which is not available until an employee has worked for the company for at least 12 months. (Tr. Vol. II, 80; Ex. C-26)

30. Diana Cataldo testified that she believed Complainant misled Respondent during her hiring process by not disclosing that she was pregnant or trying to conceive. (Tr. Vol. III, 57-58) She believed that because Complainant was not coming to work, she was not doing the job she was hired to do and abandoned her job. Ms. Cataldo stated that regardless of whether Complainant was pregnant, she needed to able to do the job she was hired for and the job was not getting done. (Tr. Vol. 57-58) Dennis and Diana Cataldo made the decision to terminate Complainant's employment. This was after Diana Cataldo and Wolcott consulted with an attorney out of concern that Complainant might be in a protected class, that she might be pregnant, and to ensure the termination was on "firm ground." (Tr. Vol. II, 73; Vol. III, 43-44; 49; Vol. IV, 35-36, 40, 69-70)

31. Complainant was physically able to return to work at Respondent on October 17, 2013, one day after her employment was terminated. Wolcott knew she was planning on returning to work that day. (Tr. Vol. IV, 71; Jt. Ex 1) Respondent did not hire another human resource generalist until five months later on March 17, 2014, and it did not fill Complainant's position of Senior Human Resources Representative. (Tr. Vol. II, 83-85; Ex. C-30) Wolcott and other employees performed many of Complainant's designated job duties from October 2013

until March 2014. (Tr. Vol. IV, 43-45) Wolcott admitted that Complainant had a great deal of potential, would have made a good employee, and that allowing her to return to work on October 17th would likely have been more beneficial for the company than having a position empty for several months. (Tr. Vol. IV, 67-68)

32. After her termination from Respondent, Complainant actively sought alternative employment by posting her resume on multiple web-sites, contacting multiple headhunters, and networking. She received multiple interviews for different positions and was offered two positions on February 3, 2014. (Tr. Vol. I, 104-105) Complainant gave birth prematurely on February 11, 2014, and began working in March of 2014. (Tr. Vol. I, 106)

33. Complainant accepted a position with SunSetter Products as a Human Resources Generalist to start on March 12, 2014, at a salary of $58,000, less than she was earning at Cataldo. (Jt. Ex. 1; Tr. Vol. I, 106) She also lost the opportunity to succeed Wolcott as the Director of Human Resources at Respondent, a position she was to be groomed for, and which would have resulted in a substantial increase in pay. Wolcott earned $80,000 to $85,000 annually and left Respondent in February of 2014. (Tr. Vol.III, 18-19, 50; Vol. IV, 37-38) Complainant's salary at Sunsetter was increased to $70,000 in January of 2016. (Tr. Vol. I, 218) In March 2018, Complainant was hired as Human Resource Manager at Anaqua, an IP Software Company in Boston and at the time of the hearing was earning $92,500 annually. (Tr. Vol. I, 106-107)

34. From the date of her termination on October 17, 2013, until she gave birth prematurely on February 11, 2014, Complainant would have earned $20,400 had she remained working for Respondent ($1,200 x 17 weeks). From February 19, 2014, until March 12, 2014, she would have been eligible for short-term disability benefits at Respondent at 60% of her

weekly salary, ($720/ week) for a total benefit of $2,160. (Tr. Vol., I, 224, 227; Ex. C-2) Complainant was hired to be groomed for the job of Director of Human Resources. Had Complainant replaced Donald Wolcott as anticipated when he left Respondent in February of 2014, she would have likely received a salary increase above her $62,400 per year. Since Wolcott had worked at Respondent for more than eleven years and he retired earlier than anticipated it is unlikely Complainant would have been paid his salary of $80,000 per year. However, I conclude that given Complainant's work ethic, her success in HR and her commitment to, and interest in the job, it is highly likely and reasonable to assume that she would have replaced Wolcott at a salary of at least $70,000. Her potential earnings from March 2014 to March 2018,[1] at this salary would have been of $280,000. Hence, her total potential earnings at Respondent from October 2013 until March of 2018 are $302,560.

35. Complainant made concerted efforts to seek work after her termination but was unsuccessful for six months. She collected unemployment compensation during that time, which I decline to deduct from her lost wages. Complainant's earnings in mitigation of her back pay losses are $58,000 per year at Sunsetter from March 2014 until early 2016 and $70,000 per year from January 2016 to March 2018, for a total of $259,000 from October 2013 to March 2018. (Tr. Vol. I, 217-218) I conclude that a conservative estimate of Complainant's lost wages is $43,560. Complainant also lost other benefits including the potential for increased 401k contributions and potential cost of living raises.

36. Complainant testified that she was excited and happy about her job with Respondent and viewed it as a significant opportunity to advance her career. She felt confident in her abilities and looked forward to working with and learning from Wolcott who she liked very

[1] Complainant's earnings at Anaqua were $92,500 as of March 2018, exceeding what she expected to earn at Respondent.

much. (Tr.Vol., I, 120-121) She was also excited about starting a family and was happy to learn that she was pregnant in September of 2013. (Tr. Vol. I, 48) Complainant was very appreciative of Wolcott's initial support of the need to address her pregnancy related complications, but quickly became quite nervous and anxious that her pregnancy would become a problem for her new employer when Wolcott's attitude seemed to change as he informed her that Respondent was consulting an attorney regarding her situation. (Tr. Vol. I, 61-62, 67, 71, 81, 124)

37. Complainant testified convincingly about the emotional distress that she suffered as a result of her termination from Respondent. She was devastated when she received the text message from Wolcott on October 16, 2013, terminating her employment one day prior to her scheduled return to work. (Tr. Vol. I, 84) After her termination, Complainant became depressed, cried frequently and did not want to see people or go out. She suffered from frequent anxiety attacks, sometimes more than once a day. During these episodes, her body temperature would rise, her heart would race and she would feel physically ill. These panic attacks gradually subsided over a period of several months to a year. (Tr. Vol. I, 124-126) Complainant admitted having a history of suffering from anxiety, and seeking medical attention for such attacks in the past, but after her termination they were much more frequent. (Tr. Vol. I, 124-126, 216-217) She also testified that prior to being terminated she was a "ghost" of herself because she was worried about losing the baby and about her serious medical condition. (Tr. Vol.. 195-196; Ex. R-8) Her termination clearly exacerbated the distress related to these issues.

38. Complainant was very concerned about being able to find another job while pregnant and the prospect of starting a family with no job and without her income, since she was the primary breadwinner. She shared with a former colleague that she felt defeated, apprehensive,

and powerless to help her husband with the finances. She expressed concern that the stress would cause her husband to have health issues because he was an anxious person and was not making very much money. (Tr. Vol. 85, 121, 112, 115, 117, 124-125) Complainant was also concerned that her negative attitude toward Respondent was affecting her relationship with husband and could potentially impact her child. (Tr. Vol. I, 124-125) She testified that she hated burdening others with her negative emotions. (Tr. Vol, I, 113) Complainant's emotional distress at being terminated and having no job was compounded by the traumatic premature birth of her baby in February 2014, the baby's significant health deficits, and the fact that he had to remain a neo-natal intensive care unit for four months. (Tr. Vol. I, 201-202, Vol. II, 48-49) I found Complainant's testimony regarding her emotional state leading up to and after being terminated persuasive and compelling.

39. Complainant testified that the fear of being treated adversely by an employer because of pregnancy surfaced again in her subsequent job when she became pregnant with her second child. She felt the need to work as much as possible to "prove" herself and even reduced her nursing breaks because she felt so nervous. (Tr. Vol. II, 122-123) She has suffered a lingering loss of self-confidence and lack of trust in others due to her termination. (Tr. Vol. I, 122-123)

III. CONCLUSIONS OF LAW

Massachusetts General Laws c. 151B, §§ 4(1) and 4(16) prohibit discrimination in employment based on sex and disability. Complainant alleges that Respondent terminated her employment because of her pregnancy and because she was perceived as disabled on account of her pregnancy-related medical condition that required a leave of absence from work. Claims of unlawful discrimination in employment generally rely on the three-stage analysis articulated in

McDonnell-Douglas Corp. v. Green, 411 U.S. 972 (1973) adopted by the Supreme Judicial Court in Wheelock College v. MCAD, 371 Mass. 130 (1976). Complainant must first establish a prima facie case of discrimination which Respondent may rebut with a legitimate non-discriminatory reason. Complainant must then demonstrate that the reason articulated by Respondent is a pretext for discrimination, i.e. that discriminatory animus was the reason for the action. Lipchitz v. Raytheon Co., 434 Mass. 493, 502-504 (2001).

A. Pregnancy/sex discrimination

Pregnancy and child birth have been held to be sex-linked characteristics and an employer's adverse actions against an employee based on those characteristics are considered sex discrimination. Mass. Electric Co. v. MCAD, 375 Mass. 160 (1978) (classification that relies on pregnancy as the determinative criterion is a distinction based on sex). The Commission has long-standing precedent that refusing to hire or firing an employee or taking other adverse action because of pregnancy is sex discrimination in violation of G.L. c. 151B § 4(1). Thaifa v. White Hen Pantry, 29 MDLR 31 (2007); Carmichael v. Wynn & Wynn, 17 MDLR 1641(1995); Lane v. Laminated Papers, Inc. 16 MDLR 1001 (1994); Foy v. Mast Industries, Inc., 13 MDLR 1501 (1991)

In order to establish a prima facie case of discrimination based on her gender/pregnancy, Complainant must establish that she was (1) a member of a protected class; (2) she was performing her job at an acceptable level; and (3) she was terminated under circumstances that give rise to an inference that the reason was discriminatory. The criteria for establishing a prima facie case are "not intended to be onerous," are not meant to be rigid, and may vary upon the nature of the discrimination claim. Trustees of Health and Hospitals of City of Boston, Inc. v.

MCAD, 449 Mass. 675, 683 (2007); McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 n. 13 (1973); Wheelock College v. MCAD, 371 Mass.130,135 n. 5 (1976).

As a pregnant female, Complainant was a member of a protected class. Wolcott and Diana Cataldo were very impressed with Complainant and agreed that she demonstrated the skill, ability and initiative to succeed in her new position. But for her pregnancy and related health condition, it is evident that Complainant was on track to perform the job well. She demonstrated the willingness to do whatever was necessary to retain her position, including offering to work from home, if possible while she was on bed rest. Complainant was terminated within a few short weeks of disclosing her pregnancy and the need for further bed rest to Wolcott and Dennis Cataldo. While Respondent's witnesses denied having any knowledge of Complainant's pregnancy, I did not credit this testimony, as discussed further below. I conclude that Complainant has established the elements of a prima facie case for gender/pregnancy discrimination.

Once Complainant has established a prima facie case, Respondent must articulate a legitimate non-discriminatory reason for its action and produce credible evidence that the reason advanced was the real reason. Wheelock College, supra. at 138. Respondent asserts that Complainant's employment was terminated due to her absence from work for just short of three weeks immediately after being hired. Diana Cataldo asserted that Complainant was hired to do an important job, she abandoned her job, and the work was not getting done. Since Complainant was unable to report to work for a few weeks, Diana Cataldo was understandably concerned about her absence since she was a new employee and was unable to begin leaning the job. While on its face this may seem to be a legitimate non-discriminatory reason that satisfies Respondent's burden of production at stage two, I do not believe that this was the real reason for

Complainant's termination. Furthermore, Respondent's suggestion that Complainant was fired because she did not call in to report her absences every day verges on ludicrous, given that Wolcott was fully aware of Complainant's circumstances and that she was hospitalized.

Once Respondent presents a non-discriminatory reason, Complainant must prove that Respondent's articulated reasons were a pretext for discrimination, i.e., that Respondent acted with a discriminatory intent, motive or state of mind. Lipchitz, supra. at 504. I conclude that a number of facts speak to the issue of pretext in this case. First, Respondent asserts that no one at Cataldo Ambulance had any knowledge of Complainant's pregnancy or her medical condition, and never asked for any information. These outright denials of knowledge about Complainant's pregnancy and related condition defy credulity. Complainant's testimony that she informed both Wolcott and Dennis Cataldo of her pregnancy and medical situation was wholly credible. She was a very earnest and forthright witness who did not dissemble or prevaricate in any way. Complainant testified that Dennis Cataldo was very sympathetic to her situation when they spoke and told her that his wife had had similar difficulties. While Dennis Cataldo denied ever relaying such information to Complainant, when pressed, he was forced to admit that his wife had experienced a similar situation, something Complainant could not have known, but for his telling her. Given these facts, I decline to credit the assertion that no one at Respondent was unaware of her condition.

Moreover, even if I were to accept the assertion Complainant never directly informed anyone at Respondent of her pregnancy, Diana Cataldo admitted that she considered the possibility that Complainant might be pregnant. She also testified that she would not have hired Complainant had she known that Complainant was pregnant or might become pregnant. Her testimony reflects her resentment of the fact that Complainant had not been forthright in

disclosing her attempts to become pregnant prior to being hired and believed Complainant had mislead the company. Respondent's unwillingness to grant new employees leave time from work is also reflected in Respondent's policies, which do not allow employees to take leaves of absence during their first year of employment, and specifically do not allow employees to take maternity leave during their first year of employment, policies that violate state and federal law. See G.L. c. 149, § 105D (providing for parental leave after three months of employment)[2] Diana Cataldo testified about Respondent's need to control worker's compensation costs which she viewed as a problem. It is apparent that Respondent's primary concern was the potential financial cost of a pregnant employee facing possible medical complications who would likely require a maternity leave within the first year of her employment. The evidence suggests Respondent anticipated that Complainant would require further time away from work for medical reasons within the next nine months and would be entitled to a maternity leave by law after giving birth. Respondent began considering terminating Complainant's employment as early as October 3, 2013, after she had been absent only a couple of days on an approved leave with a scheduled return date of October 8, 2013. All of the above, including the ultimately disingenuous reassurances of Wolcott and Dennis Cataldo that Complainant should focus on her health and not worry about her job, while they discussed her termination, supports the conclusion that Respondent's reasons for the termination were a pretext for pregnancy/sex discrimination.

B. Disability Discrimination

In order to establish a claim of disability discrimination under G.L. c. 151B § 4(16), Complainant must demonstrate that she suffered from a condition that impaired a major life function or that she was perceived as disabled, that she was capable of performing the essential

[2] The Americans with Disabilities Act also may require employers to grant accommodations beyond the leave allowed under the employer's policies. See Garcia-Ayala v. Lederle Parenterals, Inc., 212 F. 3d 638, 646 (1st Cir. 2000)

functions of the job with a reasonable accommodation, and that she suffered an adverse job action because of her disability or was refused a reasonable accommodation. Godfrey v. Globe Newspaper Co., 457 Mass. 113, 120 (2010) see also City of New Bedford v. Massachusetts Comm'n Against Discrimination, 440 Mass. 461-462 (2003)

With respect to the threshold question of disability, G.L. c. 151B is to be construed broadly to cover a wide range of people with mental and physical impairments. See Dahill v. Police Dept. of Boston, 434 Mass. 233, 240-241 (2001) Likewise, the regulations interpreting the ADA specifically provide that "the term 'substantially limits' shall be construed broadly in favor of expansive coverage...[and] is not meant to be a demanding standard." 29 C.F.R. § 1630.2 (j)(1)(i). Complainant suffered from a serious medical condition related to her pregnancy for which she was hospitalized and prescribed bed rest. Despite its temporary nature her condition was severe and substantially limiting with respect to a number of major life activities that she was unable to perform, including working. Her condition was also a serious threat to her health and that of her unborn baby. I conclude that she was a qualified individual with a disability for purposes of both state and federal law. See MCAD & Pope v. Boston Housing. Authority, 33 MDLR 55, 59 (2011) (a female employee will be considered a 'handicapped person,' if she can show that she has a pregnancy-related physical or mental impairment that substantially limits a major life activity...In such a case, the employee is entitled to the same protections under Chapter 151B as are other disabled employees.") (*citing* Darian v. Univ. of Mass., 980 F.Supp. 77 (D. Mass. 1997)

Even if Complainant were deemed to not have a protected disability, it is clear that Respondent regarded her as disabled and acted based on that perception. To establish that she was regarded as disabled, Complainant must demonstrate that the employer was aware of an

impairment or medical condition and perceived it as substantially limiting. Dartt, 427 Mass. at 17; Massasoit Industrial Corporation v. Massachusetts Comm'n Against Discrimination, 91 Mass. App. Ct. 208 (2017) Based on Complainant's communications with Wolcott and Dennis Cataldo, both knew that she was experiencing significant medical complications related to her pregnancy that required hospitalization and bedrest. They could have assumed that such complications might last throughout her pregnancy. Even if one were to accept their denials of knowledge of the pregnancy, at the very least, Wolcott and Dennis Cataldo knew Complainant was absent from work because she had been placed on bed rest for a medical condition. They both further admitted that they thought Complainant's medical condition was serious. Based on the information they had, and their actions, one could draw the reasonable inference that they perceived Complainant as disabled.

The evidence further demonstrates that Complainant adequately performed her duties during her first few weeks on the job, Wolcott was happy with her performance, and Respondent had high hopes for her success. I conclude that Complainant would have continued to perform satisfactorily had she been permitted to return to work on October 17, 2013.

G.L. c. 151B § 4(16) requires employers to provide reasonable accommodation to disabled employees who are capable of performing the essential functions of the job. Pregnancy related disabilities must be treated as all other disabilities with respect to providing reasonable accommodation. School Committee of Braintree v. MCAD, 377 Mass. 424, 430 (1979) (policy of refusing to allow accumulated sick leave benefits to be applied to absences caused by disabilities related to pregnancy constitutes unlawful sex discrimination in employment which violates of G. L. c. 151B, Section 4). Employers have a duty to engage in an interactive dialogue with disabled employees surrounding the issue of reasonable accommodation. Massachusetts

Bay Transportation Authority v. Massachusetts Comm'n Against Discriminaiton, et al., 450 Mass. 327, 342 (2008) Reasonable accommodation may take the form of a medical leave of absence.[3] A leave of absence may be a reasonable accommodation under some circumstances, if it does not create an undue hardship for the employer. Thibeault v. Verizon New England, Inc., 33 MDLR 39, 47 (2011) Employer leave policies must be sufficiently flexible to anticipate the facts of each individual claim. Garcia-Ayala v. Lederle Parenterals, Inc. , 212 F.3d at 638, 650. (1st Cir. 2000); Santagate v. FGS, LLC, 36 MDLR 23, 27 (2014) There may be circumstances where an extended leave of absence is an appropriate or reasonable accommodation, including a request for a limited extension which sets a definite time for the employee's return, but each case must be evaluated on the circumstances. Russell v. Cooley Dickinson Hospital, Inc., 437 Mass. 443 (2002) *citing* Garcia-Ayala supra., at 650. (under the circumstances request for two-month extension was reasonable); EEOC Technical Assistance Manual on the Employment Provisions (Title I) of the ADA III-23 ("Flexible leave policies should be considered as a reasonable accommodation when people with disabilities require time off from work because of their disabilities....where this will not cause an undue hardship.") MCAD Handicap Guidelines, p. 36, 20 MDLR (1998) This Commission has held that a further brief continuance of a leave to allow an employee to completely recover may be a reasonable accommodation and in such instances termination may be premature. See Santagate v. FSG, LLC, 36 MDLR 23, 27 (2014); Laing v. J.C. Cannistraro, LLC, 37 MDLR 85 (2015); LaPete v. Country Bank for Savings, 39 MDLR 24, 27-28 (2017)

Regardless of whether Respondent was aware of Complainant's pregnancy, Wolcott and the Cataldos understood that she had a medical condition requiring hospitalization and bed rest

[3] Complainant asserts that the refusal to allow her to work from home while she was on bed rest was a denial of reasonable accommodation, however, I decline to reach this conclusion since she was new to the job and was not yet sufficiently knowledgeable of the business.

and that she was not medically permitted to work for a few weeks. They were aware of her need for a limited leave of absence to deal with this serious health issue. Respondent did not engage in any dialogue with Complainant about granting her leave time as an accommodation for her medical condition. It did not request medical documentation from Complainant to evaluate or consider her request. Rather than consider a medical leave as a reasonable accommodation and engage Complainant in an interactive dialogue surrounding the issue of accommodation, Respondent, instead, decided to terminate her employment one day before her scheduled return to work. For the reasons cited previously, Respondent sought to avoid perceived financial losses posed by Complainant's condition and the possibility that she might require further time off in the future. Respondent's policy of denying employees leaves of absence during the first year of employment as well as its failure to discuss or consider granting Complainant an accommodation, further support the conclusion that its purported reason for terminating Complainant is a pretext for discrimination based on disability.

Finally, Respondent did not demonstrate that granting Complainant a medical leave with an end date of October 17, 2013, constituted an undue hardship on its business or operations. Respondent stressed Complainant's inability to conduct what it viewed as the crucial work of recruiting applicants and learning other crucial aspects of the job due to her absence. Its assertion that Complainant needed to be immediately performing the job duties she was hired for is belied by the fact that Wolcott continued to perform many of the duties and the company did not hire another human resources employee until some five months later in March of 2014, when it employed an HR generalist. Wolcott also admitted that Complainant was not expected to source or recruit applicants so early in her employment and that it took him at least six months to become fully trained when he began with the company. Moreover, Complainant's position had

been vacant for months prior to her hire in addition to remaining so for some time after her termination. Wolcott admitted that it would have been better for the company to allow Complainant to return to work on October 17, 2013, than to leave the position open for some six months thereafter. There is also the evidence that Respondent began considering Complainant's termination as early as October 3, 2013, just a few days after she was absent. Given all of the above, I conclude that Respondent is liable for discrimination based on disability for its failure to consider reasonably accommodating Complainant's pregnancy-related disability with a brief leave and for terminating her employment.

IV. REMEDY

Upon a finding that Respondent has committed an unlawful act prohibited by the statute, the Commission is authorized to award damages to make the victim whole. See G.L. c. 151B §5. This includes damages for lost wages and benefits. Wynn & Wynn P.C. v. Massachusetts Comm'n Against Discrimination, 431 Mass. 655, 674 (2000). Complainant made concerted efforts to mitigate her damages by seeking other work after her termination from Respondent. She was able to work from October 17, 2013, but was unable to secure employment until the following March. She began working in March of 2014 shortly after the pre-mature birth of her child in February of 2014. I conclude that Complainant not only lost wages as a result of Respondent's unlawful termination but also lost the opportunity to succeed Wolcott as the Director of Human Resources at Respondent, a position she was certain to have achieved. Her damages for lost wages for the period from October 2013 to March of 2018 were calculated to be $302,560. Complainant satisfied her duty to mitigate her damages for back pay and earned $259,000 in mitigation of damages. She therefore is entitled to the difference of $43,560 as damages for lost wages. Although Complainant received unemployment benefits during the time

period from October 2013 to March 2014, I decline to deduct those benefits from her lost wages relying on the "collateral source rule." This rule is grounded in the theory that the party who caused the injury is responsible for the damages and any resulting windfall arising from the receipt of certain benefits should inure to the benefit of the injured party rather than the wrongdoer. Jones v. Wayland, 374 Mass. 249, 262 (1978); School Committee of Norton v. Massachusetts Comm'n Against Discrimination, 63 Mass. App. Ct. 839, 849 (2005) (it is within the discretion of the hearing officer to decline to offset any unemployment benefits received by the complainant); See also, Schillace v. Enos Home Oxygen Therapy, Inc., 17 MDLR 59 (2017) (Comm'n adopts application of collateral source rule absent countervailing circumstances that would render its application unjust) While Complainant also lost the value of 401K contributions and potential cost of living increases, there is no specific value that can be attached to these losses, given the evidence.

The Commission is also authorized to award damages for emotional distress resulting from Respondent's unlawful conduct. Stonehill College v. MCAD, 441 Mass 549 (2004). Awards for emotional distress "should be fair and reasonable, and proportionate to the distress suffered." Id. at 576. Some of the factors to be considered are: "(1) the nature and character of the alleged harm; (2) the severity of the harm; (3) the length of time the Complainant has suffered and reasonably expects to suffer; and (4) whether the complainant has attempted to mitigate the harm..." Id. The Complainant "must show a sufficient causal connection between the respondent's unlawful act and the complainant's emotional distress." Id.

Complainant testified compellingly about the emotional distress she suffered during the time she was out of work due to pregnancy-related complications and began to suspect that her job was in jeopardy and when she ultimately received word of her termination, one day prior to

her scheduled return to work. She noted that the stress resulting from her medical condition and possible loss of her baby were exacerbated by her communications with Wolcott which went from being supportive to increasingly brief and detached. Once Wolcott informed her that the Cataldos were consulting an attorney, her anxiety about her job increased. The loss of employment was significant for Complainant because she was her family's primary breadwinner. She felt defeated, apprehensive and powerless to assist her husband with the finances. She testified that she cried frequently and suffered from an increase in anxiety attacks, sometimes multiple times a day during the months following her termination. Complainant went from being excited about her new job and the potential for career advancement to suffering from a lingering loss of self-confidence. She was simultaneously quite distressed by worries of losing her baby or possible repercussions on her ability to conceive a child in the future. Her baby's premature birth, his serious health deficits and his having to remain in the neo-natal intensive care unit for four months were also significant sources of emotional distress in her life during that period. While these were contributing factors not caused directly by Respondent, the significant stress, anxiety and fear Complainant suffered were greatly exacerbated by the loss of her job, its attendant benefits and greatly diminished income. She demonstrated great emotional strength in seeking and securing alternative employment while dealing with the premature birth of her child and his resulting medical problems. Complainant who was a serious, responsible and conscientious individual, stated that she was not accustomed to sharing her negative emotions with others and throughout her testimony she remained largely stoic and composed; notwithstanding, the emotional distress attributed to her termination was palpable and significant. I conclude that she is entitled to an award of damages in the amount of $200,000 for the emotional distress she suffered as a direct result of Respondent's unlawful termination.

In addition to payment of damages to the Complainant, Respondent is also required to pay a civil penalty to the Commission in the amount of $5000 due to the deliberate, willful and egregious nature of its discriminatory treatment of Complainant. Respondent was calculated and disingenuous in its assertions that it did not know of Complainant's pregnancy and in ignoring existing law with respect to leave policies. Respondent is therefore required to promulgate and distribute lawful policies on parental leave, disability discrimination and reasonable accommodation for disabled employees. This includes a mandate that Respondent update its EEO policies to clarify that pregnancy-based discrimination is unlawful and prohibited and to reflect the current state of the law with respect to accommodation of pregnancy or any related conditions.

V. ORDER

Based on the forgoing Findings of Fact and Conclusions of Law, Respondent is hereby Ordered:

1) To cease and desist from any acts of discrimination based upon gender/pregnancy and disability discrimination.
2) To promulgate, implement and distribute to all employees lawful policies on parental leave and reasonable accommodation of disabled and pregnant employees to be reviewed and approved by the Commission.
3) To pay to Complainant, Madeline Serrano, the sum of $43,560 in damages for lost wages with interest thereon at the rate of 12% per annum from the date the complaint was filed until such time as payment is made or until this Order is reduced to a Court judgment and post-judgment interest begins to accrue.

4) To pay to Complainant, Madeline Serrano, the sum of $200,000 in damages for emotional distress with interest thereon at the rate of 12% per annum from the date the complaint was filed until such time as payment is made or until this Order is reduced to a Court judgment and post-judgment interest begins to accrue.
5) To pay to the Commonwealth of Massachusetts a Civil Penalty in the amount of $5000.

This decision represents the final order of the Hearing Officer. Any party aggrieved by this Order may appeal this decision to the Full Commission pursuant to 804 CMR 1.23. 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. Pursuant to § 5 of c. 151B, Complainant may file a Petition for attorney's fees.

So Ordered this 27th day of June, 2019.

Eugenia M. Guastaferri
Hearing Officer