

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.  
★ JUN 07 2004 ★  
*of SE*  
BROOKLYN OFFICE

-----X  
STEPHANIE LEWIS  
Plaintiff,

-against-

VERIFIED COMPLAINT  
Index No.

**CV 04 2331**

NEW YORK CITY TRANSIT  
AUTHORITY, RICHARD DICCIARELLO  
RICHARD HERMAN, STEVE LOPIANO,  
TOMMY DAVIS, *Benny Peppino*

KORMAN, CH. J.

Defendants  
-----X

CHREIN, J.

Plaintiff STEPHANIE LEWIS, by and through the undersigned attorneys, alleges as follows:

NATURE OF ACTION

1. Plaintiff brings this action to remedy:
  - (A) Discrimination on the basis of religion and gender in the terms, conditions and privileges of employment in violation of: (a) the Title VII of the Civil Right Act of 1964, as amended, 42 U.S.C. §§ 2000 et seq.; (b) New York Executive Law § 292(1), § 296 (10)(a) and ; (c) New York City Administrative Code § 8-107(1);
  - (B) Failure to Accommodate religious beliefs under the terms, conditions and privileges of employment in violation of: (a) § 701 (j) of Title VII of the Civil Rights Act, as amended at 42 U.S.C. § 2000e(j), New York Executive Law § 296(10)(b), City HRL § 8-107(3)
  - (C) Disparate Treatment under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C §§ 2000 et seq.; The New York Executive Law, and the New York City Administrative Code;

- (D) Disparate Impact under § 703(k) of Title VII of the Civil Rights Act of 1991, as amended, 42 U.S.C. § 2000e-2(k); the City HRL § 8-107(17);
- (E) Conspiracy to Discriminate based on plaintiff's religion and gender under the New York Executive Law § 296(6);
- (F) Retaliation against an employee for having complained of discrimination in violation of Title VII, 42 U.S.C. § 2000e-3(a), New York Executive Law § 296(7), and the City Administrative Code § 8-107(7), (19);
- (G) Deprivation of rights guaranteed by 42 U.S.C. § 1983, the First and Fourteenth Amendments to the United States Constitution, and Article 1, Section 8 and 11 of the New York State Constitution. Plaintiff seeks both declaratory relief and monetary damages.

#### JURISDICTION AND VENUE

2. This Court has jurisdiction over plaintiff's Title VII claims under 42 U.S.C. § 2000e-5(f)(3), 28 U.S.C. §§ 1331, 1343(a)(3) and (a)(4).
3. This Court has supplemental jurisdiction over plaintiff's state law claims under 28 U.S.C. § 1367(a), since plaintiff's federal and state law claims arise from a common nucleus of operative facts and are so intertwined as to make the existence of supplemental jurisdiction over the state law claims appropriate.
4. Plaintiff has complied with the prerequisite to jurisdiction under Title VII. On February December 4, 2003, plaintiff filed a timely charge with the Equal Employment Opportunity Commission ("EEOC") alleging that the NYC CITY Transit Authority ("MTA"), discriminated against her based on religion, religious

- beliefs and gender and failed to accommodate her religious beliefs. (A copy of this charge is attached hereto as Exhibit (A).
5. Plaintiffs stated that On February 12, 2003, the MTA took adverse action against her by not allowing her to drive the passenger bus and relegated her to other job duties at the Depot.
  6. On March 4, 2004, the EEOC issued plaintiff a Right-to-Sue letter in the Federal Court on the above charges. The letter was mailed on March 7<sup>th</sup> and received by our office on March 10, 2004. (A copy of the Right-to-Sue letter is attached as Exhibit (B)
  7. In its letter, however, the EEOC confused the date of MTA' s adverse action against plaintiff, February 12, 2003, with the date of her return from her disability leave, February 6, 2003. Thereby, concluding that the federal charge was not filed timely.
  8. On March 12, 2004, our office sent a letter to correct the EEOC's confusion as to the date of the adverse action and discrimination and that of the plaintiff's return from her disability leave. (Copy of the letter is offered as Exhibit (C)).
  9. Plaintiff complied with the requirements of N.Y.C. Admin. Code § 8-502(C). A copy of the complaint has been served on the New York City Commission on Human Rights and the New York City Corporation Counsel.
  10. Venue is proper in the Eastern District of New York under 28 U.S.C. § 1391 (b) in that the plaintiff resides in Brooklyn.

PARTIES

11. Plaintiff, Stephanie Lewis resides at 947 Montgomery Street, Apt. #5, Brooklyn, NY. Plaintiff is a female and a Muslim-American. She has been employed by the NYC Transit Authority as a Bus Operator since March of 1989.
12. Defendant NYC Transit Authority ("MTA") is a municipal corporation duly organized and existing under the laws of the State of New York. At all times material to this action, the NYC Transit Authority was the plaintiff's "employer" within the meaning of Section 701(f) of Title VII (42 U.S.C. § 2000e(f), Section 292(1) of the State HRL, and Section 8-102(1) of the City HRL. The City is also a "person" within the meaning of 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution.
13. Richard Dicciarello, is the General Superintendent within the NYC Transit Authority. He is responsible to follow employment directives and policies, including religious accommodation of religious beliefs and equality between male and female employees. He is also responsible for ensuring that the NYC Transit Authority does not deprive any individual of rights secured by federal or state law. He is also responsible for hiring, screening, training, retention, supervision, discipline and counseling of NYC Transit Authority. Defendant Richard Dicciarello knew or should have known of the discriminatory customs, practices, policies, and wrongful acts described in the complaint but nonetheless, condoned, ratified, and/or authorized such conduct. He is being sued in his official and individual capacities.
14. Richard Herman, is the Dispatcher within the NYC Transit Authority. He is responsible for implementing employment policies and operations. He

participated in various MTA decisions to deny plaintiff's employment, educational and training opportunities. He is being sued in his official and individual capacities.

15. Benny Pepperino is the Dispatcher at Flatbush depot. He participated in various MTA decisions to deny plaintiff's employment, educational and training opportunities. He retaliated against plaintiff for speaking out against her discrimination. He is being sued in his official and individual capacities.
16. Tommy Davis is the Dispatcher at Flatbush Depot. He participated in various MTA decisions to deny plaintiff's employment, educational and training opportunities. He exposed plaintiff to daily harassment and hostile environment. He is being sued in his official and individual capacities.
17. Steve Lopiano is the Assistant General Manager at the Flatbush Depot. He participated in various MTA decisions to deny plaintiff's employment, educational and training opportunities. He exposed plaintiff to daily harassment and work hostile environment. He is being sued in his official and individual capacities.
18. At all times material to this action, defendants have acted under color or custom or usage of law and continue to so act, depriving plaintiff of rights, privileges, and immunities secured to her by the constitution and laws of the United States and the State of New York, and in direct violation of the Civil Rights Act of 1871, 42 U.S.C. § 1983.
19. Defendants have individually and collectively discriminated against plaintiff on the basis of religion and gender and in retaliation against plaintiff for not only

having complained about employment discrimination in the MTA but also having exercised her constitutionally protected free speech rights.

### FACTUAL ALLEGATIONS

20. Plaintiff is a female Muslim-American. As required by her Religion, Islam, she wears a scarf ("Khimar") as her only head cover.
21. Plaintiff has been employed by Defendant since March 27, 1989. She held the Title of Bus Operator.
22. Plaintiff has worked in that capacity during her 14 years of employment with the MTA. Primarily she is responsible for driving a passenger MTA bus. She is responsible for transporting passengers on a MTA bus.
23. Since plaintiff's commenced her employment with the MTA, she has worn a Khimar without any complaint or discipline.
24. During her tenure as a passenger Bus Operator, she was never reprimanded on her job performance or behavior.
25. During her 14 years of service as Bus Operator, plaintiff has received numerous positive work performance evaluations. She performed her duties as a Bus Operator with professionalism and courtesy. A substantial number of passengers have sent letters and/or commendations to defendants praising plaintiff on for her professionalism and courtesy.
26. In March , 2002, plaintiff went out on disability leave. She returned to work on February 6, 2003.
27. Upon her return, she was required to attend a course called 19-A Re-Certification.

28. The course is mandatory for Bus Operators who are returning from a long leave of absence. While taking the course, the General Superintendent Richard Dicciarello in the presence of Union Chair person Athena Carter, supplied plaintiff with the MTA hat and instructed her to wear it when she returned to work.
29. Plaintiff passed all her Rc-Certification tests and reported to work on February 11, 2003. While the plaintiff was operating the bus, Dispatcher Richard Herman boarded the bus and cited plaintiff for not wearing the MTA hat.
30. Plaintiff expressed her refusal to wear the MTA hat over her "Khimar" because it violated her religious beliefs.
31. On February 12, 2003, Superintendent Richard Dicciarello, in the presence of the Union representatives, Leroutha Carter and Vice Chairperson of the Flatbush Depot Carlos Clarke, informed plaintiff that because she refused to wear the MTA hat she would be relieved of her duties as Bus Operator.
32. Since February 12, 2003, plaintiff has not been allowed to perform her duties as a Bus Operator. She has been assigned to depot duties.
33. Defendant disciplined and is continuing to discipline plaintiff by relegating her to depot's duties such as janitorial work, shifting buses within depots, transporting out of service buses to Tonytown, NY, Zeerega Depot, Bronx, NY E.N. Y. Depot, Brooklyn, Lodi, NJ, Pensky, Bronx, NY.
34. Plaintiff suggested that she makes the "Khimar" with the same material and color as the MTA uniform with the logo on top. Defendants refused her request.

35. Plaintiff complained about her discrimination to the media on February 26, 2003. As a result, defendants started harassing her and exposing her to hostile environment in retaliation.
36. Dispatcher Steve Lopanio required plaintiff to inform him whenever she steps out to the bathroom.
37. On or about March 27, 2003, Dispatcher Tommy Davis yelled at plaintiff for going to the ladies room without informing him while other employees were not obligated to such report.
38. When plaintiff complaint of such harassment to the Union Representative, Loretha Carter, asked plaintiff to go along and play the game.
39. On or about April 3, 2003, Amin Khan, Vice President of TWU 100 told plaintiff that she was splitting up the depot and causing problem by not accepting the new duties which were being assigned to her.
40. On or about April 3, 2003, plaintiff filed a grievance against defendant Steve Lopiano with Amin Khan for harassment, humiliation, retaliation and hostile environment.
41. On or about April 3, 2003, Amin Khan, the vice president of Transit Union stated to plaintiff that he was able to prevent the MTA from discharging plaintiff as a result of her refusal to wear the MTA hat over her Khimar.
42. On or about June 17, 2003, Superintended Dicciarello advised plaintiff that she was taking away jobs from other employees at the depot by shifting buses within depot. Defendant Dicciarello wanted plaintiff to perform janitorial duties such as cleaning buses and depot.



43. In or about July, 2003, plaintiff asked Belly Pellitier, the division person for TWU, Transit Union, as to why the men employce at the depot were authorized to choose their duties, while plaintiff and the other Muslim women were not allowed top choose. Mr. Pellitier replied by saying that these men were taken out of the passengers Bus Operation (because of accidents) while plaintiff and the other Muslim women took themselves out of the passenger bus operation because they refused to compromise their religious beliefs.
44. On or about August, 13, 2003, Dispatcher Benny Pepperino put plaintiff on hold for 15 minutes while she was calling for information and hung up on her. When plaintiff insisted to speak to him he got on the phone and started yelling at her.
45. On or about October 10, 2003, plaintiff and the other Muslim women disciplined were ordered to sign in and out and had to report their lunch time or their brief leave to the ladies room while other employecs at the depot did not have to comply with this procedure.
46. On or about October 24, 2003, Dispatcher Benny Pepperino told plaintiff that she should work at Wendy's since they would not mind having her wearing that "rag on her head."
47. Defendants are continuing to discipline plaintiff which has prevented plaintiff from acquiring valuable overtime which was available to her when she was driving the passenger bus.
48. The MTA's dress code for Bus Operators states the MTA issued hats are "optional" and Bus Operator are not required to wear them while driving the passenger buses. (A copy of the memorandum is attached hercto as Exhibit (D)).

48. The MTA's dress code for Bus Operators states the MTA issued hats are "optional" and Bus Operators are not required to wear them while driving the passenger buses. (A copy of the memorandum is attached hereto as Exhibit (D)).
49. Defendants failed to provide plaintiff with any written rule or regulation which prohibits her from wearing a Khimar while driving the passenger bus.
50. To date, defendants have not been able to articulate legitimate reasons for discriminating against plaintiff based on her religion and gender. Instead they are continuing to discipline her and retaliate against her for complaining about her being discriminated against.
51. Upon information and belief all Muslim women were singled out because of their religion and gender. Muslim men were allowed to operate the Bus without wearing the MTA hat over their "Kuff", a religious hat Muslim men wear.
52. The three Muslim women including plaintiff have been singled out to the same discrimination and treatment.
53. The MTA treated the Muslim women with disparity by subjecting them to inferior treatment and exposing them to harsher consequences than the other Bus Operators because of their religion and gender.
54. The defendants' decision to require the three Muslim women to wear the MTA hat against their religious beliefs while allowing male bus operators to drive bus without wearing the hat has resulted in discrimination based on the plaintiff's gender and religion.
55. The two other women filed their discriminatory complaint against the MTA in the Eastern District of New York.

56. At all times material to this action, the MTA was plaintiff's "employer" within the meaning of section 701(f) of Title VII (42 U.S.C. § 2000e(f), Section 292(1) of the New York State Executive Law, and Section 8-102(1) of the New York City Administrative Code.

**FIRST CLAIM FOR RELIEF**

**(Employment Discrimination)**

57. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 56 above with the same force and effect as if fully set forth herein.
58. Defendants have discriminated against plaintiff in terms of conditions of her employment on the basis of her religion in violation of Section 703(a)(2) of Title VII (42U.S.C. § 2000e-2(a)(2)), Section 296 of the State HRL, and Section 8-107 of the City HRL.
59. As a result of the defendants' wrongful actions complained of herein, plaintiff has suffered, humiliation, embarrassment and money damages

**SECOND CLAIM FOR RELIEF**

**(Unlawful Discrimination and Demotion)**

60. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 59 above with the same force and effect as if fully set forth herein.

61. Defendants have unlawfully and intentionally demoted plaintiff based on her religion and religious appearance in violation of 42 U.S.C. §§ 2000-1(a)(1), Section 296 (1) of the State HRL, and Section 8-107 of the City HRL.
62. Defendants' discriminatory acts were motivated by religious animus and were performed with the intent to discriminate against plaintiff based on her religion.
63. Plaintiff has suffered distress, humiliation, embarrassment, and money damages as a result of defendants' illegal dismissal.

### THIRD CLAIM FOR RELIEF

#### **(Failure to Accommodate Religious beliefs and practices)**

64. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 63 above with the same force and effect as if fully set forth herein.
65. Defendant failed to offer religious accommodation to plaintiff in violation of Section 701(j) of Title VII (42 U.S.C. § 2000e(j)), Section 296 of the State IIRL, and Section 8-107 of the City HRL.
66. As a result of the defendants' wrongful actions complained of herein, plaintiff has suffered, humiliation, embarrassment, money damages.

### FOURTH CLAIM FOR RELIEF

#### **(Disparate Treatment)**

67. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 66 above with the same force and effect as if fully set forth herein.

68. Defendants have unlawfully treated plaintiff and other MTA Muslim women employees less favorably because of their religion and gender pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000 *et seq.*; The New York Executive Law and the City Human Rights Law § 8-107(17).
69. Defendants' disparate treatment of plaintiff and other MTA Muslim women employees resulted in preventing plaintiff working as a passenger bus, improving and advancing.
70. Plaintiff has suffered distress, humiliation, and money damages as a result of defendants' discriminatory practice.

**FIFTH CLAIM FOR RELIEF**

**(Disparate Impact)**

71. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 70 above with the same force and effect as if fully set forth herein.
72. The defendants' wrongful employment practice has resulted in discrimination against plaintiff based on her religion and gender.
73. Plaintiff was discriminated against because she is a women and a Muslim in violation of Disparate Impact under § 703(k) of Title VII of the Civil Rights Act of 1991, as amended, 42 U.S.C. § 2000e-2(k) and the City IIRL § 8 107(17).
74. As a result of the defendants' wrongful actions complained of herein, plaintiff has suffered, humiliation, embarrassment and money damages

**SIXTH CLAIM FOR RELIEF**

**(Gender Discrimination)**

75. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 74 above with the same force and effect as if fully set forth herein.
76. Defendants acts were motivated gender animus and were exhibited with the intent to discriminate based on gender in violation of Title VII, 42 U.S.C. § 2000-2, The New York Executive Law § 296 *et seq.* and the City HRL § 8-107.
77. Defendants disciplined plaintiff and prevented her from driving the passenger bus, while allowing male bus operators to driver passenger bus without having to wear the MTA hat over their "Kufi."
78. Plaintiff has suffered distress, humiliation, embarrassment, and money damages as a result of defendants' discrimination.

**SEVENTH CLAIM FOR RELIEF**

**(Retaliation )**

79. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 78 above with the same force and effects as if fully set forth herein.
80. Defendants have retaliated against plaintiff for having complained of religious discrimination in the terms and conditions of employment in violation of Section 704 of Title VII (42 U.S.C. § 2000e-3), Section 296 (7) of the State HRL, and Section 8-107(7) of the City HRL.

81. As a result of the defendants' wrongful actions complained of herein, plaintiff has suffered, humiliation, embarrassment, money damages.

**EIGHTH CLAIM FOR RELIEF**

**(Conspiracy to Discriminate)**

82. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 81 above with the same force and effects as if fully set forth herein.

83. Defendants, individually and collectively conspired to discriminate by aiding, abetting, inciting, compelling and coercing plaintiff, collectively and individually, to stop driving passenger MTA bus based on religion and gender and relegated her demoted her to depot duties in violation of the New State Executive § 296(6). Defendants conspired to retaliate against plaintiff for speaking out against her discrimination.

84. As a result of the defendants' wrongful actions complained of herein, plaintiff has suffered, humiliation, embarrassment and money damages

**NINETH CLAIM FOR RELIEF**

**(Violation of First Amendment Right)**

85. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 84 above with the same force and effect as if fully set forth herein.

86. Defendants' individually and collectively acted with wanton and reckless disregard for plaintiff's civil rights, religious appearance and belief, under the

87. As a result of the defendants' wrongful actions complained of herein, plaintiff has suffered, humiliation, embarrassment and money damages.

**TENTH CLAIM FOR RELIEF**

**(Violation Freedom of Speech Violation)**

88. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through 87 above with the same force and effect as if fully set forth herein.

89. In retaliation against plaintiff for having spoken out on matters of public concern, defendant has abridged plaintiff's rights freedom of speech under First Amendment to the United States Constitution, and Article I, Section 8 of the New York State Constitution.

90. Plaintiff has suffered distress, humiliation, embarrassment, and money damages as a result of defendants' abridgement of free speech rights.

**ELEVENTH CLAIM FOR RELIEF**

**(Denial of Equal Protection Clause)**

91. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 90 above with the same force and effect as if fully set forth herein.

92. Defendants have denied plaintiff equal protection of the laws because of her gender and religion, in violation of the Fourteenth Amendment to the United States constitution and Article I, Section 11 of the New York State Constitution.



93. Defendants' actions are willful and deliberate and are done under the color of law. These acts constitute a pattern, custom and practice in violation of plaintiff constitutional rights under 42 U.S.C. § 1983.
94. Plaintiff has suffered distress, humiliation, embarrassment, and money damages as a result of defendants' denial of his rights to equal protection of the laws.

**PRAYER FOR RELIEF**

95. WHEREFORE, plaintiff respectfully requests that this Court enter:
- a) A Declaratory Judgment declaring that the acts complained of herein violate the rights of plaintiffs guaranteed under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et. seq.*, New York State Executive Law, New York City Administrative Code, First Amendment to the Constitution of the United States, the Fourteenth Amendment to the Constitution of the United States, New York State Constitution Section 8 and 11.
  - b) A judgment granting equitable relief directing defendants to cease and desist from exposing plaintiff to discrimination and retaliation and reinstating her to full status as Bus Operator.
  - b) A judgment directing defendants to reimburse and make plaintiff whole for any and all earnings she would have received but for defendants' discriminatory treatment and unlawful dismissal, but not limited to, back pay and pension benefits;
  - c) A judgment awarding plaintiff compensatory damages for mental anguish, loss of dignity, humiliation, and injury to livelihood in an amount that is fair, just, and

reasonable, to be determined at trial, including reasonable attorney's fees, as provided in 42 U.S.C. § 1988 and 42 U.S.C. § 2000e-5(k);

- d) A judgment awarding plaintiff double damages for plaintiff's intentional discrimination;
- e) A judgment awarding plaintiff punitive damages; and
- f) A judgment Granting plaintiff such other and further relief as the Court deems appropriate.

**JURY TRIAL DEMAND**

Plaintiff hereby demands a trial by jury of all issues in this action that are so triable pursuant to 42 U.S.C. § 1981 and Title VII, civil Rights Act of 1991.

Dated New York, NY  
June 4, 2004



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Omar T. Mohammedi  
Law Firm of Omar T. Mohammedi  
200 Madison Avenue, Suite 1901  
New York, NY 10016  
(212) 725-3846  
Bar Code: OTM7234

FFPA  
X EFOC

New York State Division of Human Rights and EEOC

State or Local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)  
Stephanie Diane Lewis

HOME TELEPHONE (Include Area Code)  
(718) 756-6931

STREET ADDRESS CITY, STATE AND ZIP CODE  
947 Montgomery Street, Apt #5-F, Brooklyn, NY 11213

DATE OF BIRTH  
03 Oct 1949

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (if more than one list below)

NAME  
MTA NYC Transit Authority

NUMBER OF EMPLOYEES, MEMBERS  
1500

TELEPHONE (Include Area Code)  
(347) 643-5702

STREET ADDRESS CITY, STATE AND ZIP CODE  
4901 Filmore Ave, Brooklyn, NY 11213

COUNTY  
Kings

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))  
 RACE  COLOR  SEX  RELIGION  AGE  
 RETALIATION  NATIONAL ORIGIN  DISABILITY  OTHER (Specify)

DATE DISCRIMINATION TOOK PLACE EARLIEST (ADEA/EPA) LATEST (AFL)  
February 5, 2003 to Present  
 CONTINUING ACTION

THE PARTICULARS ARE (if additional paper is needed, attach extra sheet(s)):

(See Attached)

I swear under penalty of perjury that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.  
*Stephanie D. Lewis*

SIGNATURE OF COMPLAINANT  
*Stephanie D. Lewis*

Date 12-4-2003 Charging Party (Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (Day, month, and year)

REGINA A. MCGRAW  
Notary Public, State of New York  
No. 01HRC075367  
Qualified in Kings County  
Commission Expires March 31, 2007

On February 6, 2003 I returned to work after having been on disability leave. I attended a required course by Respondent called 19-A Re-certification course. The 19-A Re-certification course is required to be taken by all individuals upon return from long leaves of absences and every 2 years for all Bus Operators.

I was approached by Superintendent Curan about my Khimar. The Khimar is the traditional head garment worn by Muslim women. Curan stated that I would have to remove my Khimar or where the hat issued by Respondent. Dispatcher Ryan entered the classroom and asked me to leave since I refused to remove my Khimar. I reported to the lunchroom and Superintendent Joyce commended me on the fact that he never had any problems with me. Joyce instructed me to report to my depot.

Later on February 6, 2003, I met with General Superintendent Richard Dicciarello and Union Chair person Athea Carter. Dicciarello and Carter stated that I would not have to wear the issued hat while in class, however I would be required to wear it while driving the bus. Dicciarello gave me a hat to wear over my Khimar, then told me if it didn't fit he'd have me fitted for one that did. I asked if there was any documentation available about the hat.

February 7, 2003 I went to get my Re-certification from the Zeraga depot. I passed all of the required tests for re-certification. I reported to work on February 11, 2003, Dispatcher Richard Herman boarded the bus I was operating. Herman stated that he was sent out to see if I was wearing the hat and I was not. I was written up. Supposedly I was written up for not wearing the hat.

February 12, 2003 I reported to work and Dispatcher Horseford asked me to take a seat until Dicciarello arrived. A meeting was held with Dicciarello, Carter and Vice Chairperson of the Flatbush depot Carlos, they informed me that I would be removed from driving the bus for not wearing the issued hat.

Since February 12, 2003 I have not been allowed to drive a bus where I am picking up passengers.

I believe I have been discriminated against based on my sex, female and religion (Muslim) in that I have experienced disparate treatment as a Muslim female by Respondent. Despite Respondents contention that the issued hat is optional, Muslim females are the only individuals made to wear the optional hat. Based on my own information and belief there are male Bus Operators that do not wear the issued hats.

To: **Stephanie D. Lewis**  
947 Montgomery Street, Apt #5-  
Brooklyn, NY 11213

From: **Boston Area Office**  
John F. Kennedy Fed Bldg  
Government Ctr, Room 475  
Boston, MA 02203

On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR § 1601.7(a))**

EEOC Charge No.	EEOC Representative	Telephone No.
160-2004-00673	<b>Rance A. O'Quinn,</b> Enforcement Supervisor	(617) 565-3192

**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans with Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- While reasonable efforts were made to locate you, we were not able to do so.
- You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

**- NOTICE OF SUIT RIGHTS -**  
(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission  
*Rance A. O'Quinn*  
Robert L. Sanders,  
Director

**MAR 14 2004**

Enclosure(s)

(Date Mailed)

cc: **Richard Schoolman, Special Counsel**  
MTA NYC TRANSIT AUTHORITY  
4901 Flimore Avenue  
Brooklyn, NY 11213

**Omar Mohammadi, Esquire**  
200 Madison Avenue, Suite 1901  
New York, New York 10016-3903

ex: B

# EXHIBIT

C

LAW FIRM OF  
**OMAR T. MOHAMMEDI**  
200 MADISON AVENUE, SUITE 1901  
NEW YORK, NY 10016-3903  
PHONE (212) 725-3846  
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OF COUNSEL:

MARC RUBIN  
DEVEREAUX CANNICK

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WEBSITE: WWW.OTMLAW.COM

March 12, 2004

Rance A. O'Quinn  
Enforcement Supervisor  
U.S. Equal Employment Opportunity Commission  
John F. Kennedy Fed Bldg  
Government Center, Room 475  
Boston, MA 02203  
Phone: (617) 565-3192

Re: EEOC Charge No. 160-2004-00673  
Stephanie D. Lewis v. MTA NYC Transit Authority

Dear Mr. O'Quinn:

We are in receipt of your letter of Dismissal and Notice of Rights in the above captioned matter. Hereunder is the explanation as to why the basis for dismissal was not accurate. Ms. Lewis filed within the required 300 days. Furthermore, the basis under which the charge was filed was not under the American with Disabilities Act and Equal Pay Act. Ms. Lewis filed her charge under Gender and Religious Discrimination. In addition, we are respectfully requesting that you issue a Right to Sue Letter in this action.

In your notice dated March 4, 2003 you stated that Ms. Lewis filed the charge under Title VII of Americans with Disabilities Act and the Equal Pay Act. Ms. Lewis filed her charge based on sex and religious discrimination pursuant to Title VII of the Civil Rights Act of 1964. Attached please find a copy of Ms. Lewis statement and a letter from Ms. Dechantier, of the EEOC, confirming the date and basis for the Charge.

Ms. Lewis filed her charge based on her removal from driving the bus based on her religious beliefs and gender. In her statement, Ms. Lewis said that when she reported to work on February 12, 2003, she was removed from driving the bus for not wearing the

hat. Ms. Lewis filed her charge on December 4<sup>th</sup>, which is well within the required 300 day statute of limitation. Attached are Ms. Lewis's statement and the charge form.

After Ms. Lewis filed her charge I was retained to represent her in the above-stated matter. In the meantime, the NY Office referred Ms. Lewis' case to mediation without her knowledge or consent.

I sent my appearance to Florence Dechantier, from the NY District Office on January 8, 2004. On January 21, 2004, I had a conversation with Ms. Dechantier. I also received a phone call from the Mediation Department stating that the case saw being transferred to the investigation office since the defendant refused to mediate the case. I was asked to wait until someone contacts my office. The case was transferred to your office without informing my office.

I am respectfully requesting that you make the necessary amendment on the basis of discrimination as well as the time limitation. This case should not have been dismissed on the statute of limitation basis. It was filed within the 300 required days.

Finally, I would respectfully request that you issue the right to sue letter to Ms. Lewis on the above-charge based on Sex and Religious Discrimination. The 90 days time limitation to file the claim before the Federal Court should certainly start from the time you issue the right to sue letter.

Your attention to this serious matter is truly appreciated.

Respectfully Submitted,



Omar Mohammedi

Enclosed: Ms. Lewis Statement  
Charge form  
Dismissal Notice  
Letter of Appearance  
EEOC confirming the basis for filing the charge



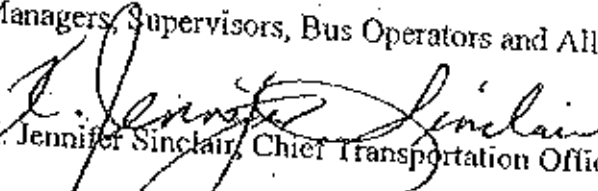


# Temporary Bulletin

September 13, 2002

REMOVE FROM POSTING ON MAY 1, 2003

To: Managers, Supervisors, Bus Operators and All Concerned

From:   
K. Jennifer Sinclair, Chief Transportation Officer

Subject: BUS OPERATORS' WINTER UNIFORMS

During the period of October 15, 2002, through April 30, 2003, bus operators are required to wear their New York City Transit (NYCT) winter uniforms. However, uniform shorts are not to be worn after September 30, 2002. Bus operators are not considered ready for duty unless they are fully attired in the complete and proper uniform. The winter uniform is as follows:

- Light blue uniform shirt (properly worn, tucked inside the uniform trousers/culottes).
- The NYCT maroon tie or bow-tie is mandatory and must be properly worn with a long or short sleeve uniform shirt.
- The commando sweater or cardigan sweater vest may be worn with or without the bi-swing jacket.
- Navy-blue uniform trousers. Operators will be permitted to wear the grey uniform trousers and culottes until further notice (Navy blue trousers from previous uniform distributions are acceptable).
- Depot logo caps are optional. Depot logo caps may only be worn with the bill of the cap facing forward.
- NYCT issued safety uniform shoes/boots with slip-resistant soles. Bus operators may not wear other footwear while in service, unless granted permission by management (for medical reasons).
- Coats or sweatshirts are not to be worn while operating in customer service.
- Bus operators are required to have their signed employee identification (ID) passes in their possession and properly displayed at all times while on duty or on NYCT property.