

**LORI LYONS,**

**Complainant**

**v.**

**MICHAEL CHERTOFF, SECRETARY,  
DEPARTMENT OF HOMELAND  
SECURITY,**

**Agency**

**EEOC No. 530-2006-00125X**

**Agency Case No. TSAF-05-0485**

**Susan Flynn,  
Chief Administrative Judge**

---

**COMPLAINANT'S BRIEF IN OPPOSITION  
TO AGENCY'S MOTION FOR SUMMARY JUDGMENT  
AND IN SUPPORT OF COMPLAINANT'S CROSS MOTION  
FOR SUMMARY JUDGMENT  
AND IN SUPPORT OF COMPLAINANT'S MOTION TO COMPEL  
DISCOVERY**

---

**Law Offices of Ty Hyderally, PC  
96 Park Street  
Montclair, New Jersey 07042  
Telephone (973) 509-0050  
Facsimile (973) 509-2003  
Attorneys for Complainant, Lori Lyons**

On the Brief:  
TY HYDERALLY

Of Counsel:  
TY HYDERALLY

July 29, 2006

## ARGUMENT

### **I. STANDARD OF REVIEW FOR SUMMARY JUDGMENT**

The standards for review on a Summary Judgment motion are well settled. When deciding a motion for Summary Judgment, the Court should deny such a motion if, when viewing the competent evidential materials presented in the light most favorable to the non-moving party, there exists a genuine issue with respect to a material fact. Brill v. Guardian Life Ins. Co. of America, 142 N.J. 520, 524 (1995). Additionally, by its plain language, Rule 4:46-2 dictates that a court should deny a Summary Judgment motion where the party opposing the motion has come forward with evidence that creates a “genuine issue as to any material fact challenged.” The relevant portion of this Brief adequately display that most if not all material facts giving rise to the Motion are hotly contested.

Additionally, the Court, when deciding the Agency’s Motion for Summary Judgment, should construe all facts and other evidence, “in the light most favorable to the parties opposing Summary Judgment.” Dairy Stores, Inc. v. Sentinel Publishing Co., Inc., 104 N.J. 125, 135, 516 A.2d 220 (1986). This is so because a party opposing a motion should not be denied a hearing unless the moving party sustains the burden of showing clearly the absence of a genuine issue of material fact. Judson v. Peoples Bank & Trust Co. of Westfield, 17 N.J. 67, 74 (1954).

In determining the validity of this Motion for Summary Judgment, Complainant respectfully submits that, the Court must not decide issues of fact, but merely decide whether there are any such issues that are material and controverted. Judson. supra at 73; Mercer v. Weyerhaeuser Co., 735 A.2d 576 (App. Div. 1999) citing Brill supra at 540 (Appellate standard to review granting of Summary Judgment motion is Awhether, viewing all of the competent evidential material presented to the trial judge in a light most favorable to the non-moving party, the evidence is so one-sided that a reasonable fact- finder must resolve the disputed issue of material fact in favor of the movant@); Antheunisse v. Tiffany & Co., Inc., 551 A.2d 1006 (App.Div. 1988) (Same standard should be applied on appeal of such issues). Under such a standard, it is beyond clear that Agency’s motion for Summary Judgment should be denied.

**II. THE AGENCY'S MOTION IS PREMATURE AND SHOULD BE DENIED ON THAT BASIS ALONE**

As of this date, no depositions have taken place. Discovery deficiency letters are being sent out by Lyons as the Agency's discovery responses, which were woefully and inexcusably late, are terribly inadequate.<sup>1</sup>

Further, there are numerous fact witnesses who can give testimony as to the gender discrimination that permeates TSA. Thus, the Agency's motion is thus premature and should be denied in accordance with Rule 4:46-5(a). *See, e.g.,* Wilson v. Amerada Hess Corp., 168 N.J. 236 (N.J. 2001); Wellington v. Estate of Wellington, 359 N.J. Super. 484, 496, 820 A.2d 669 (App. Div.), *certif. denied*, 177 N.J. 493, 828 A.2d 920 (2003); Smith v. Estate of Kelly, 343 N.J. Super. 480, 502, 778 A.2d 1162 (App. Div. 2001); Kaczorowska v. National Envelope Corp., 342 N.J. Super. 580, 591-592, 777 A.2d 941 (App. Div. 2000).

In Lyons response to Interrogatory No. 1, she submits the following:

The following persons have information about this occurrence: Julie Hanley Term C (201) 341-6544; Atiya Singleton Term C (201) 538-1642; Yvette Jordan Term C (973) 902-3759; Helene Samsin Term A (848) 250-2611; Robert Smolinski Term B (973) 670-4841; John McCormick Term C; Mitchell Brunckhorst Term A; Chris Estanislau Term C; Tywana Garner supervisor Term A (201) 362-2214; Rosangela Vasquez (973) 991-7885; Theodore Jones Term C (973) 390-8969; Henry Zupko Term C. Further, Domingos Silva-is the scheduling officer who discriminated against petitioner for implementing the bid knowing that males were given better days off than her, and doing absolutely nothing to rectify the situation. Joseph Santos-scheduling officer who discriminated against petitioner for implementing the bid knowing that males were given better days off than her, and doing absolutely nothing to rectify the situation. Gerard Grandinetti-administrative officer for enforcing the policy knowing that

---

<sup>1</sup> Out of efficiency considerations, Complainant respectfully submits this deficiency letter as the basis for her motion to compel. However, this motion is highly effected by the outcome of this motion and cross-motion. Further, the Agency has not had a full opportunity to decide if it will provide the information requested in the deficiency letter as it was only recently served on the Agency.

discrimination against petitioner was taking place. Marcus Arroyo-Federal Screening Director for enforcing the policy knowing that discrimination against petitioner was taking place. Also Mr Arroyo's policy on not wanting any women in baggage furthered the discrimination. Mr Arroyo stated this to Lyons on the morning of April 26, 2005 and also again at a town hall meeting a week later. Individuals present during my bid were Gerard Grandinetti, Joseph Santos, Domingos Silva, Rosangela Vasquez, Julie Hanley and officers that had bid numbers near petitioner.

Thus, there are numerous persons who can and will give testimony supportive of Lyons' allegation provided that summary judgment is not granted.

Further, TSA has not provided the actual bid sheets. (Lyons Cert. ¶1). Yet TSA shows the relevance of the request that was made in discovery as it states the number of women who were allowed to bid on baggage. Lyons disputes that 42 women were allowed to bid on baggage and believes the true number was under 25. However, the actual bid sheets would show the truth on this issue.

### **III. ESSENTIAL FACTS IGNORED**

The Agency completely misses the boat, or maybe more appropriately, the airplane in its argument and ignores an essential fact of this case.

The Agency's argument would be valid if we were dealing with a female passenger screener. However, we are not.

The Agency's argument may have some scintilla of validity if we were dealing with a female who was trained or certified to perform passenger screener functions. However we are not.

The entirety of the Agency's argument surrounds whether or not there exists a Bona Fide Occupational Qualification ("BFOQ") to discriminate against women to fill the slot of a Passenger Screener. This is a complete red herring that has nothing to do with the facts, *sub judice*.

The Complainant, Lori Lyons ("Lyons"), is a Baggage Screener. (Lyons Cert. ¶2). Lyons was hired to be a Baggage Screener. (Lyons Cert. ¶3; Hyderally Cert., Ex. "1"). To perform baggage screening, you must first be fully trained and certified. (Lyons

Cert. ¶4). Lyons was trained and certified to be a Baggage Screener. (Lyons Cert. ¶4A). Subsequent to Lyons receiving this training, she began the job function of baggage screening.

Lyons was not hired to be a Passenger Screener. (Lyons Cert. ¶5). Lyons was not certified or trained to be a Passenger Screener. (Lyons Cert. ¶6). Lyons cannot perform passenger screening functions until she is fully certified and trained. (Lyons Cert. ¶7). If there was a need for someone to “fill in” and perform passenger screening functions, Lyons could not perform the function as she was never trained or certified to be a Passenger Screener. (Lyons Cert. ¶8).

There is discrete and mandatory training a person must go through to be a Passenger Screener. (Lyons Cert. ¶9). There is discrete and mandatory training a person must go through to be a Baggage Screener. (Lyons Cert. ¶10). If you do not go through the specific training to do baggage screening, you cannot be a Baggage Screener. (Lyons Cert. ¶11). If you do not go through the specific training to do passenger screening, you cannot be a Passenger Screener. (Lyons Cert. ¶12).

An example of this is reflected in Lyons experience as well as the experience of Ms. Atiya Singleton, a female. Ms. Singleton was forced to bid for passenger screener on the April 26, 2005 bid. (Lyons Cert. ¶13). She reported to the passenger checkpoint every day only to be sent back to baggage because she was not trained. (Lyons Cert. ¶14). Eventually, TSA management told her to go back to baggage and stay there until they could train her. (Lyons Cert. ¶15). To this day she is still only a baggage screening officer. (Lyons Cert. ¶16).

Another example of this is reflected in the experience of Ms. Julie Handley, a female. Ms. Handley is an employee of TSA who was hired as a Baggage Screener and was not cross trained to be a Passenger Screener. (Lyons Cert. ¶17). She cannot do the functions of Passenger Screener because she was not trained. (Lyons Cert. ¶18). To this day she is still only a baggage screening officer. (Lyons Cert. ¶19).

If TSA really wanted to have more women as Passenger Screener, it would have cross trained Ms. Singleton, Ms. Handley, and Ms. Lyons to be as a Passenger Screener. (Lyons Cert. ¶20). TSA chose not to do so. (Lyons Cert. ¶21). Because of this fact, Ms. Singleton can not and has not performed the job functions of a Passenger Screener

despite her showing up to a passenger checkpoint to do the job function of Passenger Screener. (Lyons Cert. ¶22). Ms. Handley and Ms. Lyons cannot perform the job functions of a Passenger Screener despite the fact that they were subjected to a gender discriminatory bid that resulted in them getting lesser shifts despite their seniority because of the fact that they are female.

If TSA wanted Lyons to be cross trained and certified to be a Passenger Screener, TSA could have cross trained and certified her. TSA could have also hired Lyons to be a Passenger Screener. TSA *chose* not to cross train Lyons before the bid. TSA chose not to certify Lyons to be a Passenger Screener before the bid. TSA chose not to hire Lyons to be a Passenger Screener.

TSA complains of gender imbalance. (TSA Br. at 3). TSA chose not to try to hire more women to make up for the gender imbalance it now protests. (Lyons Cert. ¶23). Upon information and belief, TSA has not advertised in women's periodicals. (Lyons Cert. ¶24). Upon information and belief, TSA has not held job fairs specifically for women. (Lyons Cert. ¶25). Upon information and belief, TSA has not contacted any women's groups or organizations to entice women to apply for these positions. (Lyons Cert. ¶26). In its Brief, TSA's attorneys gloss over this horrendous hiring track record and merely make the glib statement that TSA has had difficulty attracting qualified females for passenger-screening positions. (TSA's Br. at 3). When Lyons and other complained of gender discrimination and stated there was no reason for females who were trained only to do baggage screening to be discriminated against, the Federal Screening Director ("FSD"), Marcus Arroyo, a male, responded by stating that "eventually there wouldn't be any females in baggage." This was his manner of handling this sensitive issue that was gravely serious to females such as Lyons. Such an insensitive comment made it clear to females such as Lyons that TSA does not respect nor care for its female workforce. A comment like this by the FSD that was repeated at a public town hall meeting shows a work environment where sexual discrimination permeates even the highest level.

Maybe if TSA did not engage in gender discrimination and mistreat female employees, more females would want to work for the TSA. (Lyons Cert. ¶27). Its workforce is replete with upset female employees such as Yvette Jordan. (Hyderally Cert.

Ex. “5”). In fact, Lyons is not surprised, by her own treatment as a female, that TSA has difficulty attracting other females to work for it. (Lyons Cert. ¶28).

TSA may want to consider looking at itself in the mirror to blame for this reality - - as opposed to continuing to mistreat women and then seeking to dismiss the valid complaint of one of its female employees who was subjected to gender discrimination – and try to avoid a hearing.

Thus, because the Agency is incorrect in the essential issue pertaining to discriminating against Baggage Screener as opposed to Passenger Screener, the Agency’s motion for summary judgment must be denied. Brill, *supra*.

#### **IV. MATERIAL FACTUAL DISPUTES EXIST**

Lyons job title is not Transportation Security Screener as set forth by the Agency’s attorney. (TSA Br. at 2). The TSA intentionally misleads the EEOC and hopes that it can sandbag the agency before discovery occurs. Luckily for Lyons she kept her hire letter. (Lyons Cert. ¶29). Her hire letter reflects her job title as Baggage Screener. (Lyons Cert. ¶30; Hyderally Cert., Ex. “1”).

The TSA further misleads the EEOC and states that Lyons job duties included the screening of persons. (TSA Br. at 2). This is untrue. (Lyons Cert. ¶31). Lyons’ job duties included only the screening of bags. (Lyons Cert. ¶32).

The TSA hopes to cast a veil over the eyes of the Honorable EEOC by bandying about the red herring that TSA has a well-established policy that pat-downs of passengers will occur by same sex Passenger Screener. (TSA Br. at 3). This has nothing to do with this case as Lyons is a Baggage Screener, not a Passenger Screener. (Lyons Cert. ¶33).

The TSA further misleads by discussing screener rotation with regard to rotating employees to serve as passenger screeners to ensure that they have enough female Passenger Screeners at each station. (TSA Br. at 3-4). Lyons was never trained to be a Passenger Screener. (Lyons Cert. ¶34). Lyons cannot fulfill the job function of Passenger Screener. (Lyons Cert. ¶35). Lyons cannot rotate to fill a Passenger Screener slot even if one is there is a requirement to pat down a female who is coming through her station

where she is checking bags and there is no female Passenger Screener around. (Lyons Cert. ¶36).

TSA states that females in the baggage rooms can fill in and serve as a Passenger Screener if TSA fell short of female a Passenger Screener such that same sex screening of passengers could not take place. (TSA Br. at 4). Once again, this argument takes no consideration of the facts of this case. This does not serve as an argument to legitimize TSA's actions with regard to Lyons as Lyons could not fill in to serve as a Passenger Screener. (Lyons Cert. ¶37). Thus, there was no legitimate reason for requiring Lyons to submit to an admittedly gender biased bidding process. This point lends itself not just as support to deny the motion for summary judgment, but as the factual predicate to grant the cross motion of Complainant for summary judgment.

TSA states that that the job functions implicate privacy interests and discusses the requirements of females patting down females. (TSA Br. at 7). This point is also disputed as Lyons is a Baggage Screener who "pats down", if you will, bags. There is no need for a certain gender individual to "pat down" a certain bag.

TSA states that it is undisputed that sex is a BFOQ for Passenger Screener. (TSA Br. at 7). One would think this brief must have been a cut paste of a canned brief used in another matter as it takes no cognizance of the fact that Lyons is not a Passenger Screener but a Baggage Screener.

TSA states it is undisputed that there are rotational requirements for Passenger Screeners. (TSA Br. at 8). Once again, Lyons is a Baggage Screener, not a Passenger Screener. Thus, whether or not there are legitimate rotational requirements for a Passenger Screener is irrelevant to this matter due to the fact that Lyons is a Baggage Screener, and she cannot perform the job functions of a Passenger Screener as she is not cross trained as a Passenger Screener. (Lyons Cert. ¶38).

It is of interest that the Agency states that Screeners "must be proficient in each method [of screening], including x-ray, wand, pat-down, and walk-through-metal-detector." (TSA Br. at 8). This is exactly the point that Lyons makes. A Passenger Screener must be proficient in each of these areas prior to engaging in passenger screening. (Lyons Cert. ¶39). Lyons is not proficient in any of these areas as she has never been trained by TSA as a Passenger Screener. (Lyons Cert. ¶40). TSA decided to



only train Lyons in being a Baggage Screener and thus never put her through training on x-ray, wand, pat-down, and walk-through-metal-detector (Lyons Cert. ¶41). This is why Lyons could not fill in as a Passenger Screener if there was a shortage of female Passenger Screener at a certain location. (Lyons Cert. ¶42). This fact is glaring evidence that compels the granting of Complainant's cross motion for summary judgment.

TSA states it is undisputed that TSA management may consider the Screener's gender... (TSA Br. at 7). This self-serving statement is set forth as an essential fact in support of its Summary Judgment application. Lyons disputes this fact. (Lyons Cert. ¶43). Lori has and continues to state that TSA management may not consider the Baggage Screener's gender in scheduling bids. (Lyons Cert. ¶44). On this basis alone, summary judgment should be denied. *Brill, supra*.

## **V. A NON-DISCRIMINATORY ALTERNATIVE EXISTED**

### **1. Multiple Bids.**

TSA could have had multiple bids. TSA could have had an initial bid for Baggage Screeners who were not cross trained. There are multiple persons who fall in this category. (Lyons Cert. ¶45). There are multiple persons who are only trained to do baggage screening. (Lyons Cert. ¶46). To not violate the law, this bid could have been based solely on seniority. If this had occurred, Lyons would have received the preferred shift of weekends.<sup>2</sup> This initial bid would then be followed with a bid for all people trained to do Passenger Screener that could have been gender biased due to the operational needs articulated in TSA's motion.

Lyons has been making this request for the past 1 ½ years since this litigation was initiated. (Lyons Cert. ¶47). Lyons made clear from the beginning that she took issue with the bid and found it to be gender discriminatory in an unfair manner because she was not cross trained to be a Passenger Screener. (Lyons Cert. ¶48). TSA chose to ignore the argument, bury its head in the sand, and continues to discriminate against women. TSA would rather employ attorneys to file frivolous motions to attempt to insulate the agency from wrongdoing. If TSA had wanted to redo the bid, it could have. There is

---

<sup>2</sup> Weekends off is a highly desired shift, which explains, as TSA concedes, that the shift was taken by the first 13 women bidding for shifts.

certainly a history of TSA redoing the bid when it realized its bid was flawed.<sup>3</sup> (Hyderally Cert. Ex. “4”).

**2. Change its hiring processes.**

Under its current processes, TSA hires screeners to be either a Passenger or Baggage Screener. TSA could change its hiring criteria and simply hire Screeners. That way, TSA would have great flexibility to move around people from one job duty to another without feeling that wronged in that they applied for a specific position and were now being asked to do a different job duty. Thus, the hire letter would state that the person was being hired to be a screener and the person would be doing both passenger and baggage screening.

**3. Cross-train all current employees.**

TSA could ensure that all of its employees are cross-trained to be either Passenger Screener or Baggage Screener. This way, it gets rid of the issue of having Baggage Screeners who can make the argument that they cannot do the job function of Passenger Screening. This would also provide an immediate fix to the issue of gender imbalance that TSA discusses. To this day, persons such as Lyons are not cross trained. (Lyons Cert. ¶49). Lyons, to this day, is trained only to be a Baggage Screener. (Lyons Cert. ¶50). This is also true with Julie Hanley and Atiya Singleton. (Lyons Cert. ¶51).

**VI. ARGUMENT REGARDING A BFOZ IS INAPPLICABLE TO THIS MATTER**

TSA’s argument surrounds its ignorance of the facts in this case. Lyons has time and time again discussed the fact that she is not cross trained and cannot serve as a Passenger Screener. The entirety of TSA’s argument surrounds a BFOQ defense pertaining to Passenger Screener -- not Baggage Screener. Every case TSA discusses has to do with a BFOQ existing for a certain gender person to interact with a certain gender person. *See, e.g., Healey v. Southwood Psychiatric Hospital*, 78 F.3d 128, 133 (3<sup>rd</sup> Cir. 1996) (same sex child care specialists accompanying same sex children to the

---

<sup>3</sup> TSA first did a bid that was completely flawed in February 2005. TSA then redid the bid in April 2005 and declared the first bid void.

bathroom); Jennings v. New York State Office of Mental Health, 786 F. Supp. 376, 380 (S.D.N.Y.), *aff'd* 977 F.2d 731 (2<sup>nd</sup> Cir.)(*per curiam*) (same sex assistants helping same sex patients with bathing and toileting); Backus v. Baptist Med. Ctr., 510 F. Supp. 1191, 1193 (E.D. Ark. 1981) (same sex female nurses treat same sex female patients); Katt v. Dep't of the Army, Appeal No. 01850870 (Nov. 5, 1986) (same sex nurses treating same sex patients).

TSA cannot find one case that stands for the proposition that a BFOQ exists for the hiring or bidding of Baggage Screeners. TSA cannot find one such case, because the argument is as ludicrous as it is non-sensical. Such an argument is the very argument that TSA makes, and it has no countenance in the law. It is why it is abundantly clear that TSA violates the law in subjecting non-cross-trained Baggage Screeners, such as Lori Lyons, to a gender biased bidding.

The non-sensical arguments put forth by TSA has consequence. TSA is a large organization that can waste its resources to pay attorneys to file frivolous motions. Lyons does not have such assets at her disposal. It is why Lyons has put TSA on the appropriate notice that its motion is frivolous and should be withdrawn or face a request for attorneys' fees and costs as appropriate sanctions.

## **CONCLUSION**

Quite frankly, such action and inaction by such an important agency is distressing. Management is comprised mostly of men. These men live in glass houses and expect that noone will be able to see through to the truth. Such a reality exposes a flaw that jeopardizes us all. When the TSA is flawed, its employees are unhappy. When employees are unhappy, they are not concentrating on their work. When employees do not concentrate on their work, mistakes occur. When mistakes occur, we are at all at peril.

It is imperative that the EEOC sends a strong message to the TSA that it can be better. That it must be better. That it must respect the rights of female employees. That it must not trample on the rights of its employees. That it must not sap the energies of its workforce and cause such distress. Because when the TSA so acts, it imperils us all. As

a former military officer, it is part of the reason why this case is so important to the undersigned.

We thus, respectfully request the denial of this frivolous motion and cross move for summary judgment for the reasons set forth below.

### **CROSS MOTION FOR SUMMARY JUDGMENT**

The above arguments are more than ample grounds to deny Summary Judgment. However, these arguments also warrant Complainant's cross-motion for Summary Judgment set forth below.

#### **I. FACTS SUBSTANTIATING GENDER DISCRIMINATION**

In plaintiff's response to Interrogatory one, she states that:

“on April 26, 2005, plaintiff was not allowed to bid for days off and terminal that she preferred. Males who had less seniority were given preference in bidding for days off and terminal. Lyon's seniority number was 516 and she received Thursday and Friday off and was forced out of Terminal A. However, males with numbers greater than hers were given at least 1 weekend day off...Also Mr Arroyo's policy on not wanting any women in baggage furthered the discrimination. Mr Arroyo stated this to Lyons on the morning of April 26, 2005 and also again at a town hall meeting a week later.”

The Agency does not deny that the bid was gender biased. With regard to the adverse action, TSA kindly also admits that a larger number of weekend slots were available to men bidding on baggage positions. (TSA Br. at 5). TSA also kindly states the impact of such a gender discriminatory position, Lyons “was unable to obtain weekends off when men less senior to her were able to obtain weekends off.” (TSA Br. at 5). This is exactly correct and cements the cross motion for summary judgment.

Complainant served requests for admissions on TSAs. TSA admits to all three of the following Requests for Admissions:

1. Admit or deny that Ms. Lyons was not cross trained.
2. Admit or deny that Ms. Lyons was trained only for baggage screening.

3. Admit or deny that Ms. Lyons was not trained to be a passenger screener.

(Hyderally Cert. Ex.2)

Thus, TSA does not deny that the bid that it subjected Lyons to was gender biased. TSA does not deny that Lyons did not get the slot she desired because of her gender. TSA does not deny that Lyons was not cross trained. TSA does not deny that Lyons was trained only for baggage screening. Lyons had no training on x-rays, wandng, pat down or walk through metal detector. (Lyons Cert. ¶52). TSA's own hire forms show that Lyons was specifically and solely hired as a Baggage Screener (Hyderally Cert., Ex. "1"). TSA does not deny that Lyons was not trained to be a passenger screener. Thus, TSA does not deny that the only job function that Lyons could perform at the time of the bid to the current date, is the job function of a Baggage Screener.

Shockingly, but correctly, in TSA's own brief, is the reason why summary judgment in favor of Complainant must be granted.

TSA correctly writes that "Same-gender screening is not required for the screening of checked baggage because checked-baggage screening does not require TSA employees to come in physical contact with the passengers." (TSA Br. at 3).

TSA throws in this glaring admission into its moving papers without thought, as indicated by the fact that it then goes on to discuss a different point and makes nothing of the sentence included in its own brief.

However, it is this very sentence that reflects an admission that warrants if not requires the granting of this cross motion for summary judgment.

Lyons agrees completely with this sentence. There is absolutely no bona fide reason to require gender bias in who serves as a baggage screener. Thus, there is absolutely no bona fide reason for gender bias to permeate bidding for positions that pertain to baggage screeners who can only perform the function and job duty of baggage screener.

This is exactly the facts that apply in this matter, and this is not in dispute as reflected in the Agency's responses to Complainant's Request for Admissions. (Hyderally Cert., Ex. "2").

### **CROSS MOTION TO COMPEL**

TSA has not provided the actual bid sheets. (Lyons Cert. ¶53). Yet TSA shows the relevance of the request that was made in discovery as it states the number of women who were allowed to bid on baggage. Lyons disputes that 42 women were allowed to bid on baggage and believes the true number was under 25. However, the actual bid sheets would show the truth on this issue. Further, Complainant appends a discovery deficiency letter and cross moves to compel in accordance with the discovery deficiency letter. (Hyderally Cert. Ex. "3").

### **CONCLUSION**

For all the foregoing reasons, Complainant, Lori Lyons, respectfully requests that the Court deny The Agency's application for Summary Judgment and grant her cross motion. Upon a granting of the cross-motion, Lyons respectfully requests that she be awarded compensatory damages, emotional distress damages, pre-judgment and post-judgment interest, attorneys' fees and costs, and punitive damages.

If the Court is not inclined to grant either motion for summary judgment, then she respectfully cross moves to compel discovery in accordance with her discovery deficiency letter and her request for the actual bid sheets.

Dated: July 29, 2006

**Law Offices of Ty Hyderally, PC**  
96 PARK STREET  
MONTCLAIR, NEW JERSEY 07042  
TELEPHONE (973) 509-0050  
FACSIMILE (973) 509-2003

---

By: TY HYDERALLY, ESQ.  
*for the Firm*

H:\1Law Offices of Ty Hyderally\Lyons Lori\Pleadings\072906.BRF. SJ Response.doc