

FREEDOM FROM RELIGION *foundation*

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June 20, 2016

Sent via U.S. Mail and email _____@wegmans.com, _____@wegmans.com

Mr. Daniel Wegman
CEO
Wegmans Food Markets, Inc.
1500 Brooks Ave.
Rochester, NY 14603-0844

Ms. Colleen Wegman
President
Wegmans Food Markets, Inc.
1500 Brooks Ave.
Rochester, NY 14603-0844

Manager
Wegmans Fairfax
11620 Monument Dr.
Fairfax, VA 22030

Re: Fairfax Wegmans store violates civil rights of ex-Muslims

Dear Mr. Wegman and Ms. Wegman:

I am writing on behalf of the Freedom From Religion Foundation to inform you of a serious civil rights violation committed by the Wegmans in Fairfax, Virginia when it refused to bake and decorate a cake for the Ex-Muslims of North America. FFRF is a nationwide nonprofit organization with nearly 24,000 members, including more than 500 in Virginia. We educate on nontheism and protect the constitutional separation between state and church.

ExMNA is the first organization of its kind; it establishes communities for ex-Muslims that foster a sense of camaraderie and are free of judgment for lack of religiosity. ExMNA aims to reduce discrimination faced by those who leave Islam and shed a light on religiously-motivated abuse and oppression.

On Tuesday, May 31 at 9:01 p.m., ExMNA staff emailed bakery.fairfax@wegmans.com and requested a cake to celebrate the group's third anniversary. The caption was to read, "Congratulations on 3 years!!" and the cake was to feature the ExMNA name and logo:



When ExMNA staff called to confirm the design and status of the cake, we understand that a “rude bakery associate” denied the request, calling it “offensive.”

An ExMNA leader called the store on June 1, to determine what precisely was offensive about the group’s name and anniversary celebration. We understand that the staff was vague about their rationale, but seemed “unsure” of the design, worried that it might be “misconstrued,” and “wasn’t sure how anyone else would think” about the design. The associate did not explain why the opinion of others should bear on decorating a group’s cake, but promised to call back after speaking to her boss.

The associate called back and explained that the cake was declined because the store did not want to advocate “one way or the other.” The associate said that the store has “a lot of employees who are Muslim,” and that “employees may not know what this stands for, Ex-Muslims of North America, and [the associate doesn’t] have time and people to educate them.”

Unlike the blatant discrimination some Christian bakeries have shown to LGTBQ Americans in the name of religious freedom, this appears to be discrimination against customers’ lack of religious belief—Wegmans essentially refused to serve a group of nonbelievers. This raises serious concerns under federal, state, and local civil rights laws.

First, the Civil Rights Act states in relevant part, “All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation... without discrimination on the ground of race, color, religion, or national origin.” 42 U.S.C. §2000a(a). As a place of “public accommodation,” it is illegal for Wegmans to discriminate on the basis of religion. See 42 U.S.C. §2000a(b)(1)-(4)(defining a place of public accommodation as any establishment that provides for consumption of food on the premises, such as a café, bar, pub, or restaurant, or contains a facility that does so.) See also, *Daniel v. Paul*, 395 U.S. 298, 305, 89 S.Ct. 1697, 23 L.Ed.2d 318 (1969) and *Brown v. Whole Foods Mkt. Grp., Inc.*, 965 F. Supp. 2d 132, 137-8 (D.D.C. 2013), *rev’d and remanded on other grounds*, 789 F.3d 146 (D.C. Cir. 2015).

Refusing to bake and decorate a cake for a group of ex-Muslims is refusing to provide equal enjoyment of goods, services, privileges, and advantages on the basis of religious identification. It is unlawful discrimination.

Second, refusing to provide a service to a group because of their former religious beliefs or current lack of religious beliefs violates state civil rights laws. The Virginia Human Rights Act states, “It is the policy of the Commonwealth to safeguard all individuals within the Commonwealth from unlawful discrimination because of race, color, religion,...in places of public accommodation,...and further the interests, rights and privileges of individuals within the Commonwealth.” VA Code Ann. §2.2-3900.

Finally, the Human Rights Ordinance of Fairfax County makes it “unlawful for any person or public accommodation to discriminate against any person on the basis of . . . religion . . . with respect to the access, use of, benefit of, or enjoyment of goods, services, facilities, privileges, or any other advantages of any public accommodation.” § 11-1-6 (a).

Legalities aside, Wegmans rationale for the discrimination is wrong on multiple counts. First, it suggests that leaving a religion is offensive. ExMNA are people who have left a particular religion behind. The cake is not insulting, denigrating, or mocking the religion. It is simply stating that this group of people exists. Second, the cake was not for Wegmans, it was for ExMNA. There is no need for Wegmans to construe the cake's message or educate employees about its meaning. Should an employee have such heightened sensibilities that merely acknowledging the existence of ex-Muslims distresses them, surely another, less sensitive employee can be found to decorate the cake.

Finally, this sort of treatment reinforces the stigma the 23% Americans who identify as nonreligious face in this country.¹ For example, when it comes to voting for an otherwise qualified candidate, atheists rank below Jewish, Mormon, LGBT and Muslim candidates—falling 14 percentage points below a gay or lesbian candidate, simply for not believing.² The same holds for parents asked about their child's potential spouse—atheists are viewed as the least desirable.³

ExMNA was not asking for a hateful message, as some Christians have asked of bakeries that support LGBT rights, in an effort to bait discrimination. This is a group whose mere name—Ex-Muslims of North America—precipitated this discrimination. No doubt Wegmans stores have made hundreds of cakes feature the names of churches and church groups, synagogues and Jewish groups, and even mosques and Muslim groups. Yet more evidence that the “nones” are unfairly stigmatized.

We understand that this was likely the result of misguided, store-level employees. But it is the responsibility of the corporate office to educate its employees on the civil rights laws and to enforce those regulations. Irrespective of the law, discriminating against people who have left religion behind goes against the values and culture of which Wegmans is so rightfully proud.

Unfortunately, the ExMNA board and staff are no longer gathered to celebrate their anniversary, however, fulfilling the original order gratis and educating employees would ameliorate this situation entirely. I look forward to your written response.

Sincerely,



Andrew L. Seidel
Staff Attorney

¹ *America's Changing Religious Landscape*, PEW RESEARCH CENTER (May 12, 2015), available at www.pewforum.org/2015/05/12/americas-changing-religious-landscape/.

² A more recent study put the number who would vote for atheists even lower. See Daisy Grewal, *In Atheists we Distrust*, SCIENTIFIC AMERICAN (Jan 17, 2012) (noting that only 45% of Americans would vote for an otherwise qualified atheist presidential candidate; and that atheists are rated the least desirable groups as potential son/daughters-in-law) available at <http://www.scientificamerican.com/article/in-atheists-we-distrust/>.

³ John Allen Paulos, *Who's Counting: Distrusting Atheists*, ABC News, April 2, 2006, available at <http://abcnews.go.com/Technology/story?id=1786422> (last accessed Feb. 11, 2015).