



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Federal Operations
P.O. Box 77960
Washington, DC 20013

[REDACTED]
Lelah T.,¹
Complainant,

v.

Megan J. Brennan,
Postmaster General,
United States Postal Service
(Great Lakes Area),
Agency.

Appeal No. 0120172533

Hearing No. 440-2015-00058X

Agency No. 1J-607-0068-14

DECISION

On July 10, 2017, Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission), pursuant to 29 C.F.R. § 1614.403(a), from the Agency's June 13, 2017, final decision concerning her equal employment opportunity (EEO) complaint alleging employment discrimination in violation of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e et seq.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Full-Time Supervisor at the Agency's Processing and Distribution Center facility in Chicago, Illinois.

On October 2, 2014, Complainant filed an EEO complaint alleging that the Agency discriminated against her on the bases of sex (female) and reprisal for prior protected EEO activity under Title VII of the Civil Rights Act of 1964 when:

1. Since May 2013 and ongoing, Complainant was subjected to sexual harassment by her manager ("Manager") (male).

¹ This case has been randomly assigned a pseudonym which will replace Complainant's name when the decision is published to non-parties and the Commission's website.

2. On June 23, 2014, Complainant was informed that her detail as acting manager was cancelled.

The Agency accepted the complaint and conducted an investigation. During the investigation, Complainant alleged that she had been subjected to harassment by the Manager starting in May 2013. Complainant indicated that at the beginning, the Manager invited her to his home but she declined the invitation. She asserted that the Manager continued to make advances towards her throughout the summer. In November 2013, Complainant stated that she encountered the Manager in the parking lot and that he informed her that his sexual libido was intense. On December 25, 2013, she said the Manager called her on her phone in order to set up a date.

Management was made aware of the Manager's inappropriate sexual advances toward Complainant and three other women in the workplace. Complainant reported the events to the In-Plant Manager (male) who in turn informed the Plant Manager (male). Based on the complaint, the Plant Manager held a meeting between Complainant and the Manager in January 2014, during which the Manager apologized for his behavior to Complainant. Complainant believed that the apology would change the Manager's behavior. However, a month after the meeting, Complainant indicated that the advances continued by the Manager and he continued to make remarks to her with sexual overtones.

In early June 2014, Complainant returned from vacation when the Plant Manager announced that he would be taking a role as the Acting District Manager of Chicago. After the meeting, on or around June 3, 2014, she told the Plant Manager that the Manager had still been harassing her and the abuse had gotten worse. Complainant provided a statement to management, dated June 30, 2014, detailing her experiences with the Manager and his inappropriate advances.

Following Complainant's meeting with the Plant Manager, on June 23, 2014, the Manager informed Complainant that her detail to an acting manager position was cancelled. The Manager indicated that Complainant was removed from the detail due to the disagreement between herself and another supervisor ("Coworker") (male). However, Complainant believed that she was removed from the detail because she had rejected his sexual advances and complained of harassment to the Plant Manager.

The Manager indicated that the Plant Manager did speak with him in January 2014, regarding Complainant's claims that she was uncomfortable. The Manager asserted that this was because of a "hugging" incident which he felt Complainant made a big deal about nothing. During the investigation, the Manager both stated that it was not clear to him that Complainant had alleged sexual harassment, while at the same time conceding that the Plant Manager told him that Complainant felt that she was being sexually harassed. He said he believed that the matter was resolved in January 2014. We note that the Manager was not asked about the additional claims of sexual harassment which occurred after the January 2014 meeting with the Plant Manager.

As for ending Complainant's detail, the Manager indicated that Complainant was involved in an incident on the workroom floor where Complainant "cursed out" the Coworker.

The Manager indicated that the incident was overheard by others and he felt it was detrimental to the workplace. As such, the Manager took Complainant out of the acting position.

The Plant Manager averred that he believed the matter with the Manager was resolved in January 2014. He noted that Complainant contacted him about the Manager acting poorly with everyone in June 2014. However, he stated that she did not allege "sexual harassment." The Plant Manager stated that he contacted the Manager and instructed him to be more professional. We note that the Manager did not provide any statement as to this alleged discussion.

The In-Plant Manager stated in his affidavit that Complainant clearly complained to him that she was subjected to sexual harassment based on the Manager's actions. She informed him of the Manager's inappropriate advances. The In-Plant Manager provided the information to the Plant Manager. We note that the investigation did not ask the In-Plant Manager about Complainant's claims that others had experienced inappropriate sexual advances by the Manager.

The Investigator obtain affidavits from several of Complainant's coworkers. One Manager of Distributions Operations ("MDO1") (female) stated that Complainant complained that the Manager made inappropriate sexual advances towards her and complained that after Complainant raised the issues to management, the Manager retaliated against her. Another Manager of Distributions Operations ("MDO2") (male) provided similar testimony in support of Complainant. The record also included statements from other coworkers regarding the incident on June 12, 2014, between Complainant and the Coworker. One indicated that they heard noises but could not make out the words being exchanged. Another indicated that Complainant stated that she was going to make changes when she became the Acting Manager. The Coworker took issue and a discussion ensued. Complainant indicated that the Coworker was telling her how to do her job which offended Complainant.

At the conclusion of the investigation, the Agency provided Complainant with a copy of the report of investigation and notice of her right to request a hearing before an Equal Employment Opportunity Commission Administrative Judge (AJ). Complainant requested a hearing but the AJ denied the hearing request on the grounds that Complainant failed to follow the AJ's orders and did not prosecute her case. The AJ issued a Notice to Show Cause on April 26, 2017. In response, Complainant asserted that she did not receive the AJ's Acknowledgement and Scheduling Order. In addition, she stated that she was not able to respond to the Agency due to feeling overwhelmed. The Agency responded to Complainant's response to the Notice requesting that the AJ find Complainant's assertions to be disingenuous. The AJ found that Complainant failed to provide any pre-hearing submissions to the AJ and had not shown good cause for her failure to comply with the AJ's orders. Therefore, the AJ remanded the complaint to the Agency, and the Agency issued a final decision pursuant to 29 C.F.R. § 1614.110(b).

The Agency's decision concluded that Complainant failed to prove that the Agency subjected her to discrimination and/or harassment as alleged. Regarding her sexual harassment claim, the Agency held that Complainant did not show that the alleged incidents were sufficiently severe or pervasive to create a hostile work environment.

The Agency also determined that once the Plant Manager was made aware of the alleged harassment, management took timely and appropriate action to prevent further issues. As to claim (2), the Agency found that Complainant failed to establish a prima facie case of sex and/or in reprisal for her protected activity. The Agency specifically found that Complainant did not show that the cancelation of her detail was motivated by sex-based animus. As for her claim of retaliation, the Agency determined that Complainant did not establish an adequate connection between her protected activity and the removal from the detail, noting that Complainant only alleged sexual harassment in December 2013 while the alleged retaliation occurred in June 2014. The Agency also determined that the Manager provided legitimate, nondiscriminatory reasons for the action, noting the workroom floor incident between Complainant and the Coworker. Finally, the Agency concluded that Complainant failed to establish that the Agency's reasons were pretext for discrimination based on her sex and/or prior protected activity.

The instant appeal followed.

ANALYSIS AND FINDINGS

Standard of Review

As this is an appeal from a decision issued without a hearing, pursuant to 29 C.F.R. § 1614.110(b), the Agency's decision is subject to de novo review by the Commission. 29 C.F.R. § 1614.405(a). See Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614, at Chapter 9, § VI.A. (Aug. 5, 2015) (explaining that the de novo standard of review “requires that the Commission examine the record without regard to the factual and legal determinations of the previous decision maker,” and that EEOC “review the documents, statements, and testimony of record, including any timely and relevant submissions of the parties, and . . . issue its decision based on the Commission’s own assessment of the record and its interpretation of the law”).

Sexual Harassment

To establish a claim of sexual harassment, Complainant must show that: (1) she belongs to a statutorily protected class; (2) she was subjected to unwelcome conduct related to her sex, including sexual advances, requests for favors, or other verbal or physical conduct of a sexual nature; (3) the harassment complained of was based on sex; (4) the harassment had the purpose or effect of unreasonably interfering with her work performance and/or creating an intimidating, hostile, or offensive work environment; and (5) there is a basis for imputing liability to the employer, in other words, did the agency know or have reason to know of the sexual harassment and fail to take prompt remedial action. See Henson v. City of Dundee, 682 F.2d 897 (11th Cir. 1982); Humphrey v. U.S. Postal Serv., EEOC Appeal No. 01965238 (Oct. 16, 1998). The harasser's conduct should be evaluated from the objective viewpoint of a reasonable person in the complainant's circumstances. Enforcement Guidance on Harris v. Forklift Systems Inc., EEOC Notice No. 915.002 (Mar. 8, 1994); see also Jenna P. v. Dep't of Veteran Affairs, EEOC Appeal 0120150825 (Mar. 9, 2018).

Upon review of the record, we find that Complainant has clearly established that she is a woman who was subjected to unwelcome conduct based on her sex. The Agency found that the alleged harassment was not sufficient to create a hostile work environment. We disagree.

Complainant indicated that from May 2013 through June 2014, the Manager made repeated sexual advances towards her, that included frequent remarks of a sexual nature or containing sexual innuendo, as well as contacting her outside of work and asking her on a date or to come to his house. She had complained of this conduct to coworkers and management officials. Complainant also stated that once she informed the In-Plant Manager and Plant Manager of the sexual harassment, the Plant Manager discussed the issue with the Manager in January 2014. Subsequently, Complainant stated that the harassment continued and became worse. MDO1 averred that Complainant complained about the Manager "micromanaging" her after she informed the Plant Manager of the Manager's harassment. MDO2 confirmed that Complainant complained of sexual harassment by the Manager.

Furthermore, Complainant indicated to the Plant Manager that once he left the facility in June 2014, she feared that the Manager's conduct would get worse. Following the Plant Manager's second meeting with the Manager in June 2014, Complainant's detail was terminated. Complainant asserted that the Manager ended her detail in retaliation for her reporting of the sexual harassment.

The Manager stated in his affidavit that he believed that Complainant complained about being given a hug that was too long. The Manager separately stated that he was not aware that Complainant alleged sexual harassment, but then also noted that the Plant Manager told him that Complainant complained of sexual harassment. We find that the Manager was inconsistent in his testimony. Furthermore, the MDO1, MDO2, In-Plant Manager, and Plant Manager all stated that Complainant complained to each of them that the Manager had asked her out on dates and invited her over to his house in December 2013.

The Manager denied the allegations of harassment. However, the totality of the record does not support the Manager's assertion that the only issue raised by Complainant involved a "hug." Further, we note that the Manager only addressed the claims of harassment between May 2013 and December 2013. The Manager was not asked nor did he deny Complainant's claim of sexual harassment from January 2014 to June 2014. Complainant averred that the Manager continued his sexual innuendos, requests for dates, and became unbearable. MDO1 also stated that Complainant complained to her that after the January 2014 meeting, the Manager micro-managed Complainant. Based on the totality of the record, we are skeptical of the Manager's denial that he subjected Complainant to sexual harassment. Therefore, we find that Complainant has established that she was subjected to sexual harassment sufficient to create a hostile work environment.

Retaliation Claim – Removal from Detail

Complainant can establish a prima facie case of reprisal discrimination by presenting facts that, if unexplained, reasonably give rise to an inference of discrimination. Shapiro v. Social Sec Admin., EEOC Request No. 05960403 (Dec. 6, 1996) (citing McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802 (1973)). Specifically, in a reprisal claim, and in accordance with the burdens set forth in McDonnell Douglas, Hochstadt v. Worcester Found. for Experimental Biology, 425 F. Supp. 318, 324 (D. Mass.), aff'd, 545 F.2d 222 (1st Cir. 1976), and Coffman v. Dep't of Veteran Affairs, EEOC Request No. 05960473 (Nov. 20, 1997), a complainant may establish a prima facie case of reprisal by showing that: (1) she engaged in a protected activity; (2) the Agency was aware of the protected activity; (3) subsequently, she was subjected to adverse treatment by the Agency; and (4) a nexus exists between the protected activity and the adverse treatment. Whitmire v. Dep't of the Air Force, EEOC Appeal No. 01A00340 (Sept. 25, 2000). The burden of production then shifts to the Agency to articulate a legitimate, non-discriminatory reason for the adverse employment action. In order to satisfy her burden of proof, Complainant must then demonstrate by a preponderance of the evidence that the Agency's proffered reason is a pretext for disability discrimination.

Upon review of the record, we find that Complainant has established a prima facie case of unlawful retaliation. Complainant engaged in protected activity when she complained to management that the Manager subjected her to sexual harassment. The Plant Manager, the In-Plant Manager, MDO1 and MDO2 all provided affidavits in which they stated that Complainant clearly complained about the Manager's inappropriate sexual advances towards her. Further, although the Manager averred that Complainant did not use the terms "sexual harassment," he stated that the Plant Manager told him that Complainant had alleged sexual harassment. Therefore, we find that Complainant engaged in protected activity when she complained of sexual harassment based on the Manager's actions. We note that the Manager stated in his affidavit inconsistently that Complainant did not specify she felt that she was subjected to "sexual harassment." However, the Plant Manager stated that Complainant complained of sexual harassment and made the Manager aware of the allegation. Therefore, we find that the Manager was aware of Complainant's protected activity. Shortly thereafter, the Manager removed Complainant from the detail. We further determine that Complainant has established a connection between her protected activity and the cancellation of her detail. Complainant averred that the Manager continued to make sexual advances towards her following their meeting in January 2014. She asserted that she spoke with the Plant Manager about the Manager's continued inappropriate actions in June 2014. The Plant Manager stated that he spoke with the Manager about the complaints but asserted that it was only about the Manager's "poor treatment." The Manager, on the other hand, provided no information regarding this meeting. Upon review of the record, we are skeptical of management's assertions. The record included several statements by employees who indicated that Complainant complained of the Manager's inappropriate sexual advances. MDO1 noted that Complainant was subjected to actions following the January 2014 meeting indicating that the Manager seemed to be retaliating against her.

We also find that the Manager's statements were inconsistent regarding whether Complainant accused him of "sexual harassment." Based on the totality of the record, we find that Complainant established a prima facie case of retaliation.

The burden now shifts to the Agency to articulate a legitimate, nondiscriminatory reason for its action. The Manager averred that Complainant was taken off the detail because she an argument on the workroom floor with the Coworker. The Manager indicated that Complainant cursed at the Coworker. He felt that it would be detrimental to the Agency to keep Complainant in the detail based on how she conducted herself.

However, the weight of the evidence shows that Complainant established that the Agency's proffered reason was pretext for unlawful retaliation. Witnesses did not confirm that Complainant cursed during the alleged incident. Moreover, the Coworker involved provided a statement in support of Complainant on appeal. He indicated that the incident was a misunderstanding. Further, he and Complainant had met and cleared up the situation. He stated he would not have had an issue working with her. In addition, the documentation in the record at the time of the incident does not match the reason provided by the Manager for removing Complainant from the detail. The Notification of Assignment dated June 23, 2014, signed by the Manager indicated that Complainant's assignment change was "in order to improve Operational efficiency." In addition, the Manager distributed an email dated June 27, 2014, to the facility thanking Complainant as her detail came to an end and how Complainant "stepped up to the plate," took on challenges, and put in place good processes. He closed the message by thanking Complainant for a "job well done." These documents do not reflect the Manager's assertion that the detail had to end due to the incident of June 12, 2014.

In Reeves v. Sanderson Plumbing Products, Inc., 120 S. Ct. 2097 (2000), a unanimous Supreme Court held that evidence showing that the employer presented a false reason for a challenged action is sufficient in most cases to support a finding of discrimination. Upon review of the record, we find that the Manager's reasons are inconsistent with the record as a whole. Accordingly, we conclude that Complainant established that she was subjected to unlawful retaliation.

Agency's Liability for Manager's Actions

The Agency argues that there is no basis for imputing liability for the Manager's actions to the Agency. However, an employer is subject to vicarious liability for harassment when it is created by a supervisor with immediate (or successively higher) authority over the employee. See Vance v. Ball State Univ., 133 S. Ct. 2434, 2443 (2013); Burlington Indus., Inc., v. Ellerth, 524 U.S. 742 (1998); Faragher v. City of Boca Raton, 524 U.S. 775 (1998). Where the harassment results in a tangible employment action, such as a supervisor disciplining an employee for refusing the supervisor's advances, the action of the supervisor is viewed as the action of the employer, and strict liability attaches. See, e.g., Ellerth, 524 U.S. at 762-63.

In the instant matter, we have determined that the Manager subjected Complainant to sexual harassment and subsequently cancelled Complainant's detail in retaliation for complaining about the harassment to the Plant Manager. Moreover, the record clearly establishes that Complainant notified management of the alleged sexual harassment, and the Plant Manager's discussions with the Manager about Complainant's concerns were ineffective as the harassment continued and the retaliatory cancellation of the detail occurred. As such, we conclude the Agency is liable for the sex-based and retaliatory hostile work environment created by the Manager.

CONCLUSION

Based on a thorough review of the record and the contentions on appeal, including those not specifically addressed herein, we REVERSE the Agency's final decision and REMAND the matter in accordance with the ORDER below.

ORDER (C0618)

Within sixty (60) calendar days (unless otherwise indicated) from the date this decision is issued, the Agency is ordered to take the following remedial action:

- I. Within fifteen (15) calendar days of the date this decision is issued, the Agency shall give Complainant notice of her right to submit objective evidence (pursuant to the guidance given in Carle v. Dep't. of the Navy, EEOC Appeal No. 01922369 (Jan. 5, 1993)) in support of their claims for compensatory damages within forty-five (45) calendar days of the date the Complainant receive the Agency's notice. The Agency shall complete the investigations on the claim for compensatory damages within forty-five (45) calendar days of the date the Agency receives Complainant's claim for compensatory damages. Thereafter, the Agency shall process the claim in accordance with 29 C.F.R. § 1614.110.
- II. The Agency shall provide Complainant with a detail opportunity to the managerial position, or equivalent position, she should have continued in absent discrimination.
- III. The Agency is directed to provide at least eight (8) hours of in-person training for the management officials involved in this matter, particularly regarding recognizing a hostile work environment and addressing management's responsibilities with respect to eliminating harassment in the workplace.
- IV. The Agency shall reconsider the disciplinary action issued against the Manager found to have subjected Complainant to sexual harassment and unlawful retaliation. The Agency shall report its decision. If the Agency decides not to modify the disciplinary action already issued, it shall set forth the reason(s) for its decision not to impose any additional discipline.

The Agency is further directed to submit a report of compliance in digital format as provided in the statement entitled "Implementation of the Commission's Decision." The report shall be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Further, the report must include supporting documentation of the Agency's calculation of back pay and other benefits due Complainant, including evidence that the corrective action has been implemented.

POSTING ORDER (G0617)

The Agency is ordered to post at its Post Office facility copies of the attached notice. Copies of the notice, after being signed by the Agency's duly authorized representative, shall be posted **both in hard copy and electronic format** by the Agency within 30 calendar days of the date this decision was issued, and shall remain posted for 60 consecutive days, in conspicuous places, including all places where notices to employees are customarily posted. The Agency shall take reasonable steps to ensure that said notices are not altered, defaced, or covered by any other material. The original signed notice is to be submitted to the Compliance Officer as directed in the paragraph entitled "Implementation of the Commission's Decision," within 10 calendar days of the expiration of the posting period. The report must be in digital format, and must be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g).

ATTORNEY'S FEES (H1016)

If Complainant has been represented by an attorney (as defined by 29 C.F.R. § 1614.501(e)(1)(iii)), she is entitled to an award of reasonable attorney's fees incurred in the processing of the complaint. 29 C.F.R. § 1614.501(e). The award of attorney's fees shall be paid by the Agency. The attorney shall submit a verified statement of fees to the Agency -- **not** to the Equal Employment Opportunity Commission, Office of Federal Operations -- within thirty (30) calendar days of the date this decision was issued. The Agency shall then process the claim for attorney's fees in accordance with 29 C.F.R. § 1614.501.

IMPLEMENTATION OF THE COMMISSION'S DECISION (K0618)

Under 29 C.F.R. § 1614.405(c) and §1614.502, compliance with the Commission's corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g). The Agency's final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

If the Agency does not comply with the Commission's order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a). The Complainant also has the right to file a civil action to enforce compliance with the Commission's order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g). Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled "Right to File a Civil Action." 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999). **If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated.** See 29 C.F.R. § 1614.409.

STATEMENT OF RIGHTS - ON APPEAL
RECONSIDERATION (M0617)

The Commission may, in its discretion, reconsider the decision in this case if the Complainant or the Agency submits a written request containing arguments or evidence which tend to establish that:

1. The appellate decision involved a clearly erroneous interpretation of material fact or law; or
2. The appellate decision will have a substantial impact on the policies, practices, or operations of the Agency.

Requests to reconsider, with supporting statement or brief, must be filed with the Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. A party shall have **twenty (20) calendar days** of receipt of another party's timely request for reconsideration in which to submit a brief or statement in opposition. See 29 C.F.R. § 1614.405; Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9 § VII.B (Aug. 5, 2015). All requests and arguments must be submitted to the Director, Office of Federal Operations, Equal Employment Opportunity Commission. Complainant's request may be submitted via regular mail to P.O. Box 77960, Washington, DC 20013, or by certified mail to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, the request to reconsider shall be deemed timely filed if it is received by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604. The agency's request must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). The request or opposition must also include proof of service on the other party.

Failure to file within the time period will result in dismissal of your request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. Any supporting documentation must be submitted with your request for reconsideration. The Commission will consider requests for reconsideration filed after the deadline only in very limited circumstances. See 29 C.F.R. § 1614.604(c).


COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (R0610)

This is a decision requiring the Agency to continue its administrative processing of your complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency, or filed your appeal with the Commission. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by his or her full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work. **Filing a civil action will terminate the administrative processing of your complaint.**

RIGHT TO REQUEST COUNSEL (Z0815)

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests. Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Complainant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:



Carlton M. Hadden, Director
Office of Federal Operations

October 24, 2018

Date