



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

████████████████████  
Nila S.,<sup>1</sup>  
Complainant,

v.

Steven T. Mnuchin,  
Secretary,  
Department of the Treasury  
(Internal Revenue Service),  
Agency.

Appeal No. 2019000420

Agency No. IRS-17-0532-F

**DECISION**

On October 24, 2018, 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 September 28, 2018 final order concerning her equal employment opportunity (EEO) complaint alleging employment discrimination in violation of Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq.

**BACKGROUND**

At the time of events giving rise to this complaint, Complainant worked as a Contact Representative, GS-8, at an Agency Service Center located in Oakland, California.

On July 7, 2017, Complainant filed an EEO complaint alleging that the Agency discriminated against her on the bases of disability (Carpel Tunnel Syndrome, Wrist Contusion, Tenosynovitis, and Right Lateral Epicondylitis) and reprisal for prior protected activity (2016 EEO complaint) when:

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<sup>1</sup> 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.

1. on March 20, 2017, while Complainant was on indefinite leave for on-the-job injuries, she learned the Office of Workers' Compensation Programs (OWCP) simply needed a prescription for Dragon Naturally Speaking software (Dragon software) to provide Complainant's accommodation, and
2. on April 6, 2017, Complainant's manager informed her that she was not on OWCP leave without pay (LWOP), but on regular LWOP and had been since December 2016.<sup>2</sup>

The Agency accepted Complainant's claims for investigation.

### *INVESTIGATION*

During the EEO investigation, Complainant stated her daily work duties were to:

Answer incoming calls, perform research on tax payer accounts via using the computer (operating up to 6 programs during one call), perform account adjustments on the computer, annotate and sign particular forms (Tax returns/3210's/4442 forms), limited reaching above shoulder, Complete full financial reviews via computer, address and mail envelopes periodically, sit at the computer for 7.4 hours with slight walking to and from the printer or fax machine, type clear and concise notes on the system.

Complainant stated, without accommodation, she would have to take breaks more frequently to rest her wrist and treat her arm and shoulder.

### *POST-INVESTIGATION*

Following an EEO investigation, the Agency informed Complainant of the right to request a hearing before an EEOC Administrative Judge or an immediate final agency decision (FAD). On January 8, 2018, Complainant requested a FAD.

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<sup>2</sup> The record reveals Complainant was on extended absence from duty October 2016 to May 2017. Her Orthopedic Surgeon (OS1) found her able to return to modified work of keying two hours in the morning and two hours in the afternoon for the periods of September 27, 2016 to November 2, 2016, November 28, 2016 to December 9, 2016, and May 10, 2017 to September 9, 2017. OS1 found Complainant "Temporarily Totally Disabled" for the periods of November 2, 2016 to November 28, 2016, December 15, 2016 to January 18, 2017, March 30, 2017 to May 10, 2017, and September 13, 2017 to October 30, 2017. In approximately February 2017, DOL denied Complainant's OWCP claim.

On March 14, 2018, the Agency issued a FAD finding discrimination as to claim (1), denial of reasonable accommodation, and no discrimination as to claim (2), change of type of leave charged for absences. Specifically, the March 14 FAD found that the Agency failed to provide Complainant accommodation when management required additional medical documentation prior to providing Complainant with Dragon software. The FAD stated that the Agency possessed sufficient medical documentation to substantiate Complainant's disability and it identified an effective accommodation to address her disability. The FAD found that the Agency did not provide the accommodation and did not show that it would have been an undue hardship to do so. Conversely, the Agency found no discrimination based on retaliation when the Agency changed Complainant's leave category from OWCP-LWOP to LWOP. The decision concluded that the Agency changed Complainant's leave to regular LWOP because the Department of Labor (DOL) denied her OWCP claim.

As to claim (1), the March 14 FAD ordered the following remedial relief.

The [Agency] shall take the following actions within 120 calendar days of this decision becoming final:

1. Provide Complainant with the accommodation of Dragon software.
2. Provide two hours of training on disability discrimination to all responsible management officials in the Complainant's business office, including the Reasonable Accommodation Coordinator.
3. Pay proven compensatory damages with respect to the Complainant within sixty (60) days of receipt of the order establishing the amount of damages to which the Complainant is entitled; guidance regarding compensatory damages is attached.
4. Post a notice on all bulletin boards (electronic or physical) at the facility where the discrimination occurred for a period no less than 60 days.
5. Take appropriate disciplinary action against [the responsible management officials]. Please note that training is not considered disciplinary action.
6. Due to the absence of any evidence that Complainant was represented by an attorney, Complainant is not entitled to petition for attorney's fees.

*Complainant's Submissions for Remedial Relief*

In a letter dated April 6, 2018, Complainant accepted the March 14 FAD and submitted evidence regarding compensatory damages to the Agency.

Subsequently, in a letter dated June 1, 2018, Complainant requested \$125,000 in non-pecuniary compensatory damages. As to nexus, Complainant stated that the Agency informed her that it did not have any light duty work that would accommodate her restrictions, which caused Complainant to lose pay and medical coverage, and become delinquent on her monthly bills (e.g., mortgage, gas, electric). Further, Complainant stated that placement in LWOP caused her Thrift Savings Plan (TSP) loan to go into default.

Complainant stated that she experienced anxiety attacks, depression, mental anguish, and became anti-social. Complainant stated that she will see a psychologist for emotional stress and take related prescriptions indefinitely. Complainant stated that extreme stress and anxiety raised her blood glucose levels, affecting her Diabetes (She provided articles regarding the impact of stress on Diabetes). Complainant provided letters from her husband, mother, and sister regarding her emotional distress.

Complainant stated it is not feasible for her to work two hours in the morning and then two hours in the afternoon because she commutes 66 miles each way to and from work, and it would only exacerbate other medical conditions. Complainant stated she could not return to work sooner and had to obtain a personal loan from a predatory lending company because the Agency did not contact her physician to get clarification about whether she could use Dragon software. Complainant stated that she obtained a personal loan because TSP contacted her to inform her that her delinquent payments equated to an early withdrawal with tax and other financial consequences. Complainant stated, in addition, she borrowed money from various family members and friends. Complainant stated that due to her 15-month absence from work she endured late fees and insufficient funds fees. Complainant stated that she still incurs hardship because she can only work four hours per day. Complainant stated that she did her best to mitigate her damages amid stress and financial hardship.

Further, Complainant requested 30 pay periods of back-pay, stating that she was “ready and willing to return to work” during the time she was on leave. Complainant stated, if her physician’s recommendations were met from the beginning, she would have taken leave and could have worked with restrictions. Complainant cited Pay Period 23 of 2016 (beginning November 13, 2016) through Pay Period 26 of 2017 (ending January 6, 2018) as dates she did not receive earnings because management placed her on leave until further notice. Complainant stated that she was on an Agency Hardship Transfer List between November 2016 and November 2017, but the Agency had hiring freezes and funding issues. Complainant requested mileage reimbursement for trips to her doctor for her OWCP claim.

Complainant requested adjustment to her service computation date (SCD) back to October 29, 2001, stating that it was adjusted due to use of leave without pay. Complainant requested \$209,960.71.

Complainant stated that she attempted to work with management so that she could return to work, but management would not respond. Complainant noted that she was maintaining her bills until she was unable to work due to the Agency’s focus on additional medical documentation.

In pertinent part, Complainant’s submissions contained the documentation in the table immediately below.

<b>Document</b>	<b>Pertinent Dates</b>	<b>Pertinent Information</b>
Account Statement	1/4/17 – 5/23/18	Handwriting on statement that the list is of prescription payments.
Medication List	Printed 4/5/18	List of 29 various medications and medical supplies.
Unsigned Letter from Complainant's Mother	Undated	Complainant's mother stated that Complainant's "quality of life" decreased and Complainant had to depend on her to survive. She stated that Complainant was "out of character" due to social, economic, physical, and emotional pain from treatment by Agency management.
Letter from Complainant's Therapist (CT1)	Dated 4/2/18	CT1 stated, "[Complainant] began treatment at the Stockton Kaiser Behavioral Health Department on 10/16/16 . . . [Complainant] reported anxiety related to medical problems and a history of trauma. . . . Primary complaint has been distress related to work problems. Diagnoses have included: Anxiety, Adjustment Disorder with Mixed Anxiety and Depression, Generalized Anxiety Disorder and Panic Attack."
Google Maps	Printed 3/27/18	Distance from Complainant's home to mental health appointments – 18.2 miles.
Google Maps	Printed 3/27/18	Distance from Complainant's home to OWCP appointments – 61 miles.
Unsigned Letter from Complainant's Husband	Dated 3/2/18	Complainant's husband stated that Complainant was no longer social, they laughed less and had more disagreements, she had depression, she could not sleep due to anxiety about paying bills, they experienced decreased romance, there were late night trips to the emergency room, her symptoms progressed and her medical coverage lapsed so her prescriptions could not be renewed.
Credit Card Statements	Invoices for 02/18 – 03/18	Macys, American Express, including fees and interest charges.
Medical Statements	Invoices for 02/18 – 03/18	Kaiser for office visits and a December 23, 2017 emergency room visit.
Utilities Statements	Invoices for 02/18 – 03/18	Verizon, PG&E, City of Manteca, ADT, Dish, Direct TV, including Past Due Reminder Notices.
Unsigned Letter from Complainant's Sister	Dated 2/24/18	Complainant's sister stated that Complainant was off work for about 15 months and, during that time, her quality of life went down, she was frustrated with her manager failing to

		accommodate her work restrictions, and she experienced isolation, sudden crying spells, staying in bed and inability to enjoy life, multiple panic attacks, anxiety, and emotional distress. Her sister stated, "I have never seen my sister having to deal with this type of emotional distraught. She has always been a person with positive spirits, lively, and happiness. During the time she was off of work, she wouldn't even attend church and family engagements and looking at today, she has not regained her 'old-self.' "
Doctor's Visit Notes	12/27/17	"Return to Work . . . 4 hours per day 5 days per week From 10 am to 2pm."
Doctor's Visit Notes	9/13/17	The doctor stated, "[Complainant] returns secondary to her right wrist and elbow. She has persistent symptoms in the area, and she requires surgery for her wrist. She is aware of this; however, unfortunately she basically has [Post Traumatic Stress Disorder] PTSD secondary to a private surgery, where she had a near-death experience. She has had difficulty getting over this, and has been working with her PMD's office and a psychologist to try to work through this, however, has not been successful to date. [Complainant] was working light duty, however, this has been taken away from her. She cannot use her right dominant upper extremity repetitively when doing computer, table, desk, and fine motor activities and, therefore, she is on Temporary Total Disability until 10/30/17."

September 28, 2018 FAD (Remedies)

In a FAD dated September 28, 2018, the Agency found \$125,000 in nonpecuniary, compensatory damages excessive, stating "the evidence shows that [Complainant] experienced psychological issues in connection with her medical problems and history of trauma prior to the denial of reasonable accommodation at issue." Further, the September 28 decision stated, "the letters Complainant submitted in support of her request suggest that issues related to [her] OWCP benefits also accounted for a significant part of the issues she experienced related to work." The Agency awarded \$10,000 in nonpecuniary compensatory damages, reasoning that Complainant submitted a personal affidavit, a statement from her mental health provider regarding treatment, and unsigned letters from family members as support for her request.

The Agency stated \$10,000 aligned with the nature and severity of harm Complainant evidenced, as well as considered Complainant's preexisting depression and prior Commission decisions for similar cases.

As to pecuniary damages, the FAD stated that Complainant requested \$17,967.11 in pecuniary expenses but failed to provide evidence that she paid the expenses incurred. Further, the Agency stated that Complainant requested damages for expenses she would have incurred even absent denial of accommodation, such as living expenses. The FAD noted, to support her request, Complainant provided bills, lists of medications, credit union statements, and a statement for a loan initiated in 2012. It noted further, however, that Complainant did not provide receipts of payment for the bills submitted. The decision stated that Complainant failed to establish a causal relationship between her costs and the denial of Dragon software. The FAD ordered remedial relief consistent with its finding. The decision noted that, appropriately, back-pay was not provided in the March 14 FAD because the record suggested Complainant's absence from work was due to her pending OWCP claim and not the delay in accommodation.

*Complainant's Appeal on Remedies*

The instant appeal followed the September 28 FAD. On appeal, Complainant stated: "We are appealing the decision of granting ... only \$10,000.00 as we believe the [Agency] has not carefully looked into the causal relationship between the denial of OWCP claim and the extended leave period imposed by [Complainant's] manager." Complainant stated that she was harmed when her manager did not allow her to return to work because she did not submit additional medical documentation after she submitted such documentation for OWCP purposes. Complainant stated that she lost wages and opportunity for payments into her retirement and thrift savings plan. Complainant stated that the Agency failed to act in good faith.

Further, to support pecuniary damages, Complainant provided the documentation in the table immediately below.

<b>Document</b>	<b>Pertinent Date(s)</b>	<b>Pertinent Information Given</b>
Kaiser Permanente upcoming appointment reminder for CT1	For 12/10/18 phone visit at 3:00pm	Handwriting on reminder stating Complainant remains under CT1's care.
One Main lending statement	Statement Date 5/17/18	Previous balance of \$6,941.49, and Payment of \$3,163.46 on 5/2/18
City of Manteca Utilities Services statement	10/10/17 – 10/10/18	Bills, Third Notices, Penalties, and Payments transactions.
Mr. cooper home loans statement	Payment Activity 10/10/16 – 10/10/18	Starting Balance of \$239,506.28 and remaining balance of \$235,159.11, including fees.

7-11 money orders for TSP loan payments	11/27/2017	Four money orders totaling \$1,524.23 for TSP payment because there was no payroll deduction.
Patelco bank account statements	11/16/16 – 9/30/18	Transactions on savings account, checking account, credit-line, and unsecured loan, including insurance add-ons, late charges, interest charges, cash advance fees, and payments.

### ANALYSIS AND FINDINGS

The primary issue before us is whether the September 28 FAD properly decided the amount of compensatory damages for its finding of disability discrimination for the Agency's failure to provide Complainant with reasonable accommodation although it had adequate medical documentation to do so. In a letter dated April 6, 2018, Complainant accepted the March 14 FAD, which awarded compensatory damages as the sole financial relief. Further, Complainant did not file an appeal of that FAD with this Commission. Specifically, we will discuss herein whether the Agency's decision to award Complainant \$10,000 for non-pecuniary, compensatory damages and no pecuniary compensatory damages was proper.

#### *COMPENSATORY DAMAGES*

##### *Non-pecuniary Damages*

Nonpecuniary damages are for losses that are not subject to precise quantification, i.e., emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character and reputation, injury to credit standing, and loss of health. See Enforcement Guidance: Compensatory and Punitive Damages Available under § 102 of the Civil Rights Act of 1991, II.A.2 (July 14, 1992) (Compensatory Damages Guidance). There is no precise formula for determining the amount of damages for nonpecuniary losses except that the award should reflect the nature and severity of the harm and the duration or expected duration of the harm. See Loving v. Dep't of the Treasury, EEOC Appeal No. 01955789 (August 29, 1997). The Commission notes that nonpecuniary, compensatory damages are designed to remedy the harm caused by the discriminatory event rather than to punish the agency for the discriminatory action. Id. Furthermore, compensatory damages should not be motivated by passion or prejudice or be "monstrously excessive" standing alone but should be consistent with the amounts awarded in similar cases. See Ward-Jenkins v. Dep't of the Interior, EEOC Appeal No. 01961483 (March 4, 1999).

Evidence from a health care provider or other expert is not a mandatory prerequisite for recovery of compensatory damages for emotional harm. See Lawrence v. U.S. Postal Service, EEOC Appeal No. 01952288 (Apr. 18, 1996)(citing Carpenter v. Dep't of Agriculture, EEOC Appeal No. 01945652 (July 17, 1995)). Complainant's own testimony, along with the circumstances of a particular case, can suffice to sustain her burden in this regard. See Lawrence, EEOC Appeal No.



01952288. The more inherently degrading or humiliating the defendant's action is, the more reasonable it is to infer that a person would suffer humiliation or distress from that action. Id. The absence of supporting evidence, however, may affect the amount of damages appropriate in specific cases. Id.

Objective evidence of compensatory damages can include statements from complainant concerning her emotional pain or suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character or reputation, injury to credit standing, loss of health, and any other nonpecuniary losses that are incurred due to the discriminatory conduct. Statements from others including family members, friends, health care providers, other counselors (including clergy) could address the outward manifestations or physical consequences of emotional distress. Id. This may include sleeplessness, anxiety, stress, depression, marital strain, humiliation, emotional distress, loss of self-esteem, excessive fatigue, or a nervous breakdown. Id.

Based on the foregoing, we find that an award of \$10,000 in nonpecuniary, compensatory damages adequately compensates Complainant for the harm she suffered as a result of the Agency's failure to reasonably accommodate her disability. See Humberto P. v. U.S. Postal Service, EEOC Appeal No. 0120161742 (September 7, 2018) (\$10,000 in non-pecuniary damages awarded when denial of accommodation caused complainant's depression and anxiety to increase, which disrupted his relationship with his family); see Zehe v Nat'l Aeronautics and Space Administration, EEOC Appeal No. 0120113282 (March 26, 2013) (\$10,000 for nonpecuniary, compensatory damages to an engineer with epilepsy who suffered from stress, sleeplessness, fear of losing his position, and loss of self-esteem and the enjoyment of life when denied the accommodation of telework); Underwood v. Social Security Administration, EEOC Appeal No. 0720120001 (Jan. 18, 2013) (\$10,000 in nonpecuniary, compensatory damages for the agency's failure to reasonably accommodate complainant's disability for approximately 15 months which caused her stress, deteriorated medical conditions, affected her ability to have a social life, and she became suicidal). While Complainant may feel she is entitled to more, we note, like the Agency, that a substantial portion of the emotional distress Complainant suffered was related to her OWCP claim and factors outside of denial of accommodation.

During the EEO investigation, Complainant stated that her primary work duties included answering telephone calls, operating up to six computer programs during one call to research tax payer accounts, performing account adjustments on the computer, annotating and signing forms, typing notes, completing full financial reviews on the computer, and addressing and mailing correspondence. Complainant stated that her duties required her to reach above shoulder level on occasion, sit for seven and a half hours, and walk to office equipment as necessary. She stated, without accommodation, she would have to take breaks more frequently to rest her wrist and treat her arm and shoulder.

The record reveals that Complainant was on extended absence from work for 15 months. Complainant's medical documentation showed that her Orthopedic Surgeon, OS1, found her able to return to modified work of keying two hours in the morning and two hours in the afternoon for

the periods of September 27, 2016 to November 2, 2016, November 28, 2016 to December 9, 2016, and May 10, 2017 to September 9, 2017 and “Temporarily Totally Disabled” for the periods of November 2, 2016 to November 28, 2016, December 15, 2016 to January 18, 2017, March 30, 2017 to May 10, 2017, and September 13, 2017 to October 30, 2017. Complainant was in the OWCP claim process, and, about February 2017, DOL denied her OWCP claim. We note there were times that Complainant could not work at all. Further, for the times that Complainant could have worked two hours in the morning, taken break, and then worked two hours in the afternoon, Complainant stated that her commute was 132 miles roundtrip so she could not do so.

Both Complainant and her relatives discussed her emotional distress in relation to denial of accommodation, her OWCP claim, and other contributing factors. In September 13, 2017 notes, Complainant’s doctor stated that she has PTSD due to a near-death experience during a private surgery and she has had difficulty getting over it even after working with a mental health professional.

#### Pecuniary Damages

Regarding her claim for pecuniary damages, we agree with the Agency that Complainant failed to provide evidence linking her claimed pecuniary expenses with the Agency’s failure to provide effective accommodation. Specifically, Complainant failed to provide evidence of a nexus between the Agency’s failure to provide accommodation (Dragon software) and her expenses for private loan payments and fees; utility payments and fees; TSP loan payments; charges and fees on savings, checking, and credit-line accounts; medical charges and fees; credit card transactions and fees; and OWCP travel mileage.

#### EQUITABLE RELIEF

On appeal, Complainant requested back-pay and corresponding restoration of leave due to use of LWOP and adjustment of her service computation date due to use of LWOP. As previously stated, we find such remedies beyond the scope of the instant appeal. In essence, Complainant is challenging the remedies ordered by the March 14 FAD, and such a claim should have been raised in an EEOC appeal of the March 14 decision.

#### CONCLUSION

Accordingly, the Agency’s final order is **AFFIRMED**. The Agency is directed to implement the following corrective action in accordance with the **ORDER** below.

#### ORDER

Within 60 days of the date this decision is issued, the Agency shall pay Complainant \$10,000 for nonpecuniary compensatory damages to the extent that it has not already done so.

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).

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 (S0610)

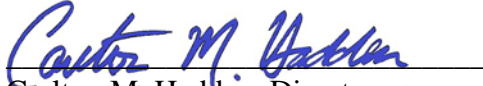
You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department 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. If you file a request to reconsider and also file a civil action, **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

May 8, 2019

Date