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

[redacted]
Jovan S.,[1]
Complainant,

v.

Denis R. McDonough,
Secretary,
Department of Veterans Affairs,
Agency.

Appeal No. 2023004800

Hearing No. 440-2021-00376X

Agency No. 200J-0537-2021101482

DECISION

On August 24, 2023, 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 July 28, 2023, final order 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. and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq. For the following reasons, the Commission VACATES the Agency's final decision and REMANDS the complaint for further processing.

[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.

ISSUES PRESENTED

Whether the Administrative Judgment properly determined by summary judgment that Complainant failed to meet her burden in proving the Agency subjected her to discrimination and harassment based on race, sex, religion, and disability.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Lead Dental Hygienist at the Agency's Jesse Brown VA Medical Center (JBVAMC) in Chicago, Illinois. Complainant's immediate supervisor was the Chief of Dental (S1) and her second level supervisor was the Chief of Staff (S2).

On January 14, 2020, Complainant filed an EEO complaint alleging that the Agency subjected her to a hostile work environment based on race (Black), sex (female), religion (Christian), and disability (mental)[2] when:

A. In June 2020, S1 removed Complainant from assignments and made a disparaging comment about her being a mother;
B. On an unspecified date, S1 disclosed employment actions taken against a coworker;
C. On June 9, 2020, and October 5, 2020, a coworker yelled and made disparaging comments to Complainant;
D. In August 2020, S1 required Complainant to begin seeing patients that were not tested for COVID-19;
E. On December 8, 2020, an Administrative Officer (AO) denied Complainant the opportunity to take a witness to a staff meeting, where she was yelled at and called a liar;
F. As of December 9, 2020, S1 has made disparaging comments about Complainant's management style, religion, and disability;
G. On January 4, 2021, S1 stated, "I made a mistake making [Complainant] the supervisor"; and
H. The following independently actionable claims:
    1. As of August 17, 2020, Complainant has been denied the opportunity to telework.
    2. On January 4, 2021, Complainant was terminated from her probationary position.

[2] Complainant described her medical conditions as migraines, Post Traumatic Stress Disorder (PTSD), and major depression. ROI at 106.

The evidence developed during the investigation revealed that S1 was aware of Complainant's race, sex, religion, and disability. However, S1 has since retired from employment with the federal government.

The record indicates that Lead Dentist Hygienists (LDH) are "supervisory practitioners," not supervisors. LDHs monitor the work assignments of Dental Hygienists and Dental Assistants, provide training, and can recommend special advancement, promotions, and discipline. While they can recommend special advancement, promotions, and discipline, Lead Dental Hygienists cannot advance, promote, or discipline employees. The only supervisory duty of a Lead Dental Hygienist is over participants in the dental hygiene student program.

During 2020, there were two Dental Assistant Supervisors at JBVAMC. However, in 2020 one was promoted to the Administrative Office and the other began the process to retire. The full performance level of a Dental Assistant Supervisor is less than Complainant's GS Level as a LDH. Due to losing all Dental Assistant Supervisors, the Chief of the Dental Service appointed Complainant to acting supervisory duties. This announcement was made during a staff meeting on September 24, 2020. It was clear from the announcement that the position was temporary.

The Service also inquired into the possibility of turning the LDH position into a supervisory position, but it was determined that complainant could not just be placed in the position. If the Lead position was converted to a supervisory position, it would need to be announced and Complainant would need to apply and compete for the position just like any other vacancy.

On January 4, 2021, at a staff meeting, S1 made the following announcement:

> DA Supervision will be changing – I want to apologize to everyone and be transparent for the mistake I made. [Complainant] was promoted into a "Lead" position for her excellent work in coordinating oral hygiene students rotating to our dental clinic. Since both DA supervisors were leaving, I was in a panic to find a supervisor for the DA's. [Complainant] was tapped to assume this role, but it has come to my attention (in consultation with management and HR) that a "Lead" track does not have any supervision assignments. Supervision is under the "Supervision" track. Therefore, I will take over supervising the DA's until [another employee] can start." ROI at 596.

Complainant testified that she wanted to telework because schools and daycares were closed. Complainant reported back to work on or around June 2020. Complainant stated that in June 2020 her duties as LDH, which included supervising the Dental Hygienist, Dental Assistants, and creating rotations for work assignments, were removed.

On June 9, 2020, during a morning huddle a DA (DA1) was conversing with Complainant's coworker when Complainant asked, "why the hostility?" After the huddle Complainant approached S1 and requested a meeting with DA1. Complainant stated that DA1 and others wanted another employee to be promoted to LDH and that this led to the events on June 9, 2020.

An independent fact finding was conducted into the July 9, 2020 incident. Thirteen interviews were conducted. According to the collected testimony, Complainant's coworker was attempting to receive clarification from DA1 regarding a question about procedures and safety concerns. Complainant ask DA1 why she was behaving in an angry manner. An interchange between Complainant and DA1 ensured. Some described the exchange as getting loud, others did not recall it, and some described it as an exchange of opinions.

Complainant alleged that in the follow up meeting in the Chief's office, attended by Complainant, S1, DA1, and DA1's supervisor, DA1 threw a pen however, this was not substantiated by the other three individuals present. The fact finding substantiated that an "interaction" occurred between the two, but they did not find a hostile work environment or recommend any discipline for this incident. The fact finding noted that S1 described the exchange as "heated words."

On or about October 5, 2020, Complainant states that DA1 told Complainant she made a mistake putting her on the schedule.

The Dental Clinic had a phased reopening in response to the COVID-19 pandemic. Phase One was emergency services only and started in June 2020. During Phase One, Complainant and other Dental Hygienists conducted screenings of patients for COVID-19 but were not conducting any procedures. In Phase Two, Complainant and other Dental Hygienists were still acting as screeners and not seeing patients. Also in Phase Two, dentists could request their patients be tested for COVID-19 prior to aerosol intense or difficult surgical procedures. In Phase Three, Dental Hygienist were limited to hand scaling and polishing only, which is not aerosol intense.

Also in Phase Three, dentists could request COVID-19 testing for aerosol intense or difficult surgical procedures. Complainant disagreed with management decisions during Phase Three.

S2 shared that Complainant expressed concerns about all patients not being tested for COVID-19 on or about August 19, 2020. S2 explained that CDC guidance and dental professional guidance did not require testing of all dental patients prior to treatment. S2 states that the decision to not test all dental patients was based on science and available guidelines. Additional guidance issued by S2 on August 25, 2020, clarified that COVID-19 pre-procedural testing was performed for all patients who were deemed high risk (patients who screen positive for COVID-19 signs and symptoms), and those who were undergoing aerosol-generating dental procedures. The Phase Three Reopening and the August 25, 2020 memo made it clear that dental hygienist treatment would consist of hand scaling and polishing only, to prevent aerosolization.

Management determined that for low-risk patients who would not undergo aerosolization, Dental Hygienists were limited to performing hand scaling and polishing. If a patient screed positive or was medically assessed as not suitable for dental treatment, the patient was sent to the dentist who referred the patient to return home, the emergency department or to the patient's primary care provider. Complainant was scheduled one patient, that upon review of his records had tested positive of COVID-19 within the past two weeks. The patient was not treated by Complainant or any other provider in dental services at that time.

In August 2020, steps had been taken to protect staff from COVID-19 to include enhanced engineering controls and requiring dental healthcare personnel to wear aerosol generating procedure (AGP) PPE that would maximally protect them, such as N95 respirators, face shields, goggles, gowns, and gloves.

On or about December 8, 2020, a meeting was held between DAs and Complainant. Union representatives for the DAs and medical support assistants were also present. The meeting was held to express concerns within the clinic and was facilitated by the DA's union representatives. It is a supervisor's responsibility to meet with their subordinates and union representatives. The meeting was not a disciplinary meeting for Complainant, and Complainant's supervisor was not present. A witness who attended the meeting that that the meeting became uncomfortable and that she believed some employees were jealous and envious of Complainant.

According to Complainant, the AO and S1 have a history of mistreating minority employees. The AO would often talk down to minority employees while S1 would stand by and laugh, even stating with excitement on one occasion, "did you see how she spoke to them." ROI at 86. S1 would often ask Complainant questions about Black individuals implying that all Black people were the same and expressed confusion over the George Floyd protests and Black persons involved in said protests. Complainant also alleged that S1 stated to her "because you are a mother, I don't think you can do your job." ROI at 83. Furthermore, Complainant testified that S1 made several comments about her disability (PTSD). Complainant stated that she reported S1's comments to S2 several times.

At the conclusion of the investigation, the Agency provided Complainant with a copy of the report of investigation (ROI) and notice of her right to request a hearing before an Equal Employment Opportunity Commission Administrative Judge (AJ). Complainant timely requested a hearing. The AJ assigned to the case determined *sua sponte* that the complaint did not warrant a hearing and over Complainant's objections, issued a decision without a hearing on July 27, 2023.[3] The Agency subsequently issued a final order adopting the AJ's finding that Complainant failed to prove that the Agency subjected her to discrimination as alleged.

CONTENTIONS ON APPEAL

On appeal, Complainant maintains that she was subjected to discrimination and harassment by the Agency and that the proffered reasons for the Agency's actions are pretextual. Complainant also provided two exhibits which she alleges proves that her medical conditions were exacerbated by her work environment, and that she requested reprisal to be added as a basis for her overall hostile work environment claim.

On appeal, the Agency argues that Complainant made no attempt to argue that the AJ's legal or factual reasoning was inappropriate or should otherwise be overturned. The Agency argues that instead, Complainant uses her appellate statement to take a second bite at the apple to respond to the Agency's Motion for Summary Judgment and impermissibly introduce new evidence to the Commission.

[3] Subsequent to the AJ's Intent to Issue a Decision Without a Hearing, the Agency submitted a Motion for Summary Judgment in which it presented its arguments regarding the merits of Complainant's complaint at the pre-hearing stage.

STANDARD OF REVIEW

As this is an appeal from a decision issued without a hearing, 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").

The Commission's regulations allow an AJ to grant summary judgment when he or she finds that there is no genuine issue of material fact. 29 C.F.R. § 1614.109(g). An issue of fact is "genuine" if the evidence is such that a reasonable fact finder could find in favor of the non-moving party. Celotex v. Catrett, 477 U.S. 317, 322-23 (1986); Oliver v. Digital Equip. Corp., 846 F.2d 103, 105 (1st Cir. 1988). A fact is "material" if it has the potential to affect the outcome of the case. In rendering this appellate decision, we must scrutinize the AJ's legal and factual conclusions, and the Agency's final order adopting them, de novo. See 29 C.F.R. § 1614.405(a)(stating that a "decision on an appeal from an Agency's final action shall be based on a de novo review…"); see also Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9, § VI.B. (Aug. 5, 2015) (providing that an administrative judge's determination to issue a decision without a hearing, and the decision itself, will both be reviewed de novo).

ANALYSIS

Denied Motion to Amend

In a footnote within Complainant's appellate statement, Complainant stated that she was asked by the EEO Investigator for her complaint whether she wanted to amend her complaint to include reprisal as a basis for her overall harassment claim. See Complainant's Appellate Statement at n.1. Complainant stated that she responded to the EEO Investigator stating that she did want to amend her complaint to add reprisal as a basis as well as several other claims. Id. at 1, 28-30. However, the record reveals that harassment based on reprisal was not investigated.

At the summary judgement stage, the AJ took Complainant's arguments of ongoing retaliation through her pre-hearing responses as a motion to amend her complaint. The AJ found that filing a motion after the Agency already moved for summary judgment was a basis for denying the motion to amend. On appeal, we note that Complainant did not argue that her basis or claims were inappropriately dismissed or denied at the investigative stage or prehearing stage. The Commission has the discretion to review only those issues specifically raised in an appeal. See Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614, at Chap. 9, § IV.A.3 (Aug. 5, 2015). Since Complainant did not contest the AJ's denial of her motion to amend, we will not address it in the instant decision.

Summary Judgment

In order to successfully oppose a decision by summary judgment, a complainant must identify, with specificity, facts in dispute either within the record or by producing further supporting evidence and must further establish that such facts are material under applicable law. Such a dispute would indicate that a hearing is necessary to produce evidence to support a finding that the Agency was motivated by discriminatory animus.

We note that the hearing process is intended to be an extension of the investigative process, designed to ensure that the parties have "a fair and reasonable opportunity to explain and supplement the record and, in appropriate instances, to examine and cross-examine witnesses." See EEO MD-110, 7-1; see also 29 C.F.R. § 1614.109(e). "Truncation of this process, while material facts are still in dispute and the credibility of witnesses is still ripe for challenge, improperly deprives Complainant of a full and fair investigation of her claims." Bang v. U.S. Postal Serv., EEOC Appeal No. 01961575 (March 26, 1998). See also Peavley v. U.S. Postal Serv., EEOC Request No. 05950628 (October 31, 1996); Chronister v. U.S. Postal Serv., EEOC Request No. 05940578 (April 25, 1995).

In order to establish a prima facie case of harassment, Complainant must prove, by a preponderance of the evidence, the existence of five elements: (1) that she is a member of a statutorily protected class; (2) that she was subjected to unwelcome conduct related to her protected class; (3) that the harassment complained of was based on her protected class; (4) that 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) that there is a basis for imputing liability to the employer. See Celine B. v. Dep't of Navy, EEOC Appeal No. 2019001961

(Sept. 21, 2020); Humphrey v. U.S. Postal Serv., EEOC Appeal No. 01965238 (Oct. 16, 1998). See also Henson v. City of Dundee, 682 F.2d 897 (11th Cir. 1982); Flowers v. Southern Reg'l Physician Serv. Inc., 247 F.3d 229 (5th Cir. 2001).

It is undisputed that Complainant is a member of protected classes for her race, sex, religion, and disability. We find that there is evidence to suggest that S1's actions were related to at least one of Complainant's protected classes. For instance, Complainant testified that S1 explicitly stated to her that because she was a mother, he did not believe that Complainant could perform her job duties. ROI at 110. Complainant alleges that S1 went on to say that he had done this before with another employee (who was a mother) where she still got paid but management did not allow her to be a supervisor. Id. Complainant stated that S1 even explained why he said it and allegedly stated that he knew it was wrong to feel how he felt, but that he just could not shake the feeling. Id.

Complainant stated that S1 made the disparaging comments to her in front of a witness, a Staff Dentist (W1). Complainant alleged that W1 responded to S1's comments to state that they were inappropriate. ROI at 111. In a six-sentence affidavit, W1 stated that she never witnessed S1 make disparaging comments about Complainant being a mother but did not speak to whether she was present during the alleged incident or not. Appeal File at 445. In the decision, the AJ even stated that the record is "unclear" regarding whether W1 was present during the alleged incident. While the record reflects that S1 has since left the Agency, we find that a hearing is necessary to access the credibility of the alleged witness to these disparaging comments, W1.

Complainant also stated that S1 made several comments about her race, religion, and disability. Complainant testified that S1 often made comments about her having PTSD, stating that her perception was not clear because of her disability. ROI at 111. S1 allegedly made a reference to Complainant's religion stated that Complainant felt that she was "holier than thou" and often stated that she reminded him of his religious wife and that he didn't understand why they (Complainant and his wife) were so religious. ROI at 111, 113. Complainant also alleged that S1 asked her questions such as "why do black people do this and why do black people do that?" ROI at 113.

Complainant stated that S1 also had several questions regarding why "black people" were standing for justice for George Floyd.[4] Id.

Complainant alleged that during some of these instances, the AO was present and even encouraged S1's behavior. However, the AO testified that she was not present for the cited evidence and/or did not hear S1 state any disparaging comments to Complainant regarding her protected classes. A review of the record reveals that two Dental Assistants disagree with the AO's testimony of S1's actions and overall interactions with Complainant and other employees. In fact, a Registered Dental Hygienist testified that S1 made many disparaging comments regarding Complainant's protected classes. For example, the Registered Dental Hygienist testified that S1 stated that "women as supervisors may not work because they may want to start families." ROI at 175-76. In light of the conflicting testimony, we find that a hearing is necessary to assess the credibility of the witnesses.[5]

In this case, Complainant alleged that she went to S2 several times to report S1 and AO's conduct, but that no action was taken. Where the harassment does not result in a tangible employment action the agency can raise an affirmative defense, which is subject to proof by a preponderance of the evidence, by demonstrating: (1) that it exercised reasonable care to prevent and correct promptly any harassing behavior; and (2) that complainant unreasonably failed to take advantage of any preventive or corrective opportunities provided by the agency or to avoid harm otherwise. See Burlington Industries, Inc., v. Ellerth, 524 U.S. 742 (1998); Faragher v. City of Boca Raton, 524 U.S. 775 (1998). See also Enforcement Guidance: Vicarious Liability for Unlawful Harassment by Supervisors, EEOC Notice No. 915.002 (June 18, 1999). Accordingly, we find that there is also a need to obtain additional evidence regarding the Agency's liability, if any, for the alleged harassment.

[4] A Black man killed on May 25, 2020 in Minneapolis, Minnesota whose videotaped death under the knee of a white police officer sparked protests in 2020.

[5] It is not appropriate at the summary judgment stage to weigh evidence and assess credibility. See Reeves v. Sanderson Plumbing, 530 U.S. 133, 142 (2000). See also Petty v. Dep't of Defense, EEOC Appeal No. 01A24206 (Jul. 11, 2003).

In summary, there are simply too many unresolved issues regarding S1's actions and the Agency's actions to address Complainant's allegations of harassment. Therefore, judgment as a matter of law for the Agency should not have been granted for this case.

To avoid bifurcation of the complaint, we are remanding the entire complaint back to the Agency for further processing, including Complainant's disparate treatment claims. Upon remand, the AJ assumes full responsibility for the adjudication of the complaint and has the power to regulate the conduct and scope of the hearing as appropriate, under the provisions of 29 C.F.R. § 1614.109. See Complainant v. Dep't of the Treasury, EEOC Request No. 0520130425 (Oct. 29, 2013).

CONCLUSION

Based on a thorough review of the record and the contentions on appeal, including those not specifically addressed herein, the Commission VACATES the Agency's final decision and REMANDS the matter to the Agency for further processing in accordance with this decision and the Order below.

ORDER

Within fifteen (15) calendar days of the date this decision is issued, the Agency is directed to submit a renewed request for a hearing on Complainant's behalf, a copy of the complaint file, and a copy of this appellate decision, to the Hearing Unit of the EEOC's Chicago District Office. The Agency shall provide written notification to the Compliance Officer at the address set forth below that the complaint file has been transmitted to the Hearings Unit. Thereafter, the Administrative Judge shall hold a hearing and issue a decision on the complaint in accordance with 29 C.F.R. § 1614.109 and the Agency shall issue a final action in accordance with 29 C.F.R. § 1614.110.

IMPLEMENTATION OF THE COMMISSION'S DECISION (K0719)

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.

Failure by an agency to either file a compliance report or implement any of the orders set forth in this decision, without good cause shown, may result in the referral of this matter to the Office of Special Counsel pursuant to 29 C.F.R. § 1614.503(f) for enforcement by that agency.

STATEMENT OF RIGHTS - ON APPEAL RECONSIDERATION (M0124.1)

The Commission may, in its discretion, reconsider this appellate decision if Complainant or the Agency submits a written request that contains arguments or evidence that 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 for reconsideration must be filed with EEOC's Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. If the party requesting reconsideration elects to file a statement or brief in support of the request, **that statement or brief must be filed together with the request for reconsideration**.

A party shall have **twenty (20) calendar days** from receipt of another party's request for reconsideration within 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).

Complainant should submit their request for reconsideration, and any statement or brief in support of their request, via the EEOC Public Portal, which can be found at

https://publicportal.eeoc.gov/Portal/Login.aspx

Alternatively, Complainant can submit their request and arguments to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, via regular mail addressed to P.O. Box 77960, Washington, DC 20013, or by certified mail addressed to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, a complainant's request to reconsider shall be deemed timely filed if OFO receives it by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604.

An agency's request for reconsideration must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Either party's request and/or statement or brief in opposition must also include proof of service on the other party, unless Complainant files their request via the EEOC Public Portal, in which case no proof of service is required.

Failure to file within the 30-day time period will result in dismissal of the party's request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. **Any supporting documentation must be submitted together with the 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(f).

COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (R0124)

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 their 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

December 31, 2024
Date