



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

[REDACTED]
Donte L.,¹
Complainant,

v.

William P. Barr,
Attorney General,
Department of Justice
(U.S. Marshals Service),
Agency.

Appeal No. 2019005117

Hearing No. 480-2014-00223X

Agency No. USM-2013-00255

DECISION

The Equal Employment Opportunity Commission (EEOC or Commission) accepts the Agency's timely appeal following its July 19, 2019 final order pursuant to 29 C.F.R. § 1614.403(a). On appeal, the Agency requests that the Commission affirm its partial rejection of the relief ordered by the EEOC Administrative Judge (AJ) after a finding of 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 **MODIFIES** the Agency's final order.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a Deputy United States Marshal (DUSM), GS-1811-12, at the Agency's Los Angeles Central District Office in Los Angeles, California. On March 10, 2013, Complainant filed an EEO complaint alleging that the Agency discriminated against him in reprisal for prior protected EEO activity when:

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.

1. On July 10, 2012, while attending a retired DUSM's funeral, Complainant's immediate supervisor contacted him during the funeral service to ask him when he was returning to the office;
2. On July 24, 2012, Complainant received a "Successful" rating on his 2011 Annual Performance Evaluation, along with a Letter of Counseling (LOC) regarding his leave balance;
3. On July 30, 2012, Complainant was advised by his immediate supervisor to take leave to complete his required Periodic Medical Examination for his DUSM position;
4. In September 2012, Complainant's immediate supervisor removed him as the Deputy in Charge (DIC) and replaced him with a junior DUSM;
5. On December 4, 2012, Complainant received a proposed letter of suspension for providing misleading information regarding his immediate supervisor to Internal Affairs (IA); and
6. On February 4, 2013, complainant was reassigned from the Los Angeles office to the Santa Ana sub-office.

At the conclusion of the investigation, the Agency provided Complainant with a copy of the report of investigation and notice of his right to request a hearing before an Equal Employment Opportunity Commission Administrative Judge (AJ). Complainant timely requested a hearing. The AJ assigned to the matter granted partial summary judgment in favor of the Agency finding that Complainant was not subjected to reprisal as to claims (1) – (5). The AJ held a hearing on October 16 and 17, 2018, as to claim (6). Following the hearing, the AJ issued a decision on June 17, 2019, finding that the Agency had subjected Complainant to reprisal as alleged in claim (6).

Prior to his reassignment, Complainant had initiated an EEO complaint against his immediate supervisor (S1). Until his reassignment on February 4, 2013, Complainant had worked at the Agency's office in Los Angeles, California. Complainant remained at Santa Ana until the Agency reassigned him back to Los Angeles on September 30, 2017, approximately four and a half years later.

An Assistant Chief Deputy U.S. Marshal (ACDUSM1) informed Complainant that he was being reassigned to Santa Ana "for the pendency of the EEO he has filed." ACDUSM1 contemporaneously memorialized these words and the conversation in an email he sent to another ACDUSM (ACDUSM2). ACDUSM2 forwarded the email to the Chief Deputy U.S. Marshal.

In her decision, the AJ rejected all of the reasons set forth by the Agency for transferring Complainant. First, the AJ noted that none of the recipients of ACDUSM1's email disavowed the language therein or indicated that ACDUSM1 misrepresented to Complainant the reasons for his reassignment. Further, the Central District U.S. Marshal affirmatively testified he agreed with reassigning Complainant as a means of separating Complainant from S1 during the EEO investigation.

The AJ noted that Commission precedent held that separating an alleged victim of harassment from the harasser by reassigning the victim to a less desirable location constituted reprisal for EEO activity. citing EEOC Enforcement Guidance: Vicarious Liability for Unlawful Harassment by Supervisors, at 21-22 (June 18, 1999).

Next, the AJ rejected the Agency's argument that Complainant requested the reassignment. Rather, the record showed that Complainant requested to be reassigned away from S1, not from Los Angeles. Further, Complainant quickly complained to his supervisors about being reassigned to Santa Ana, which constituted strong evidence he did not, in fact, seek such a reassignment or that Agency management was carrying out Complainant's wishes.

The AJ also did not accept the Agency's argument that Complainant was insubordinate to S1 and failed to communicate with S1. The AJ noted that Complainant's supervisors proposed to suspend Complainant for insubordination two months prior to his reassignment, and he did not actually serve the suspension until after he was reassigned and no longer under S1's supervision. As a result, the AJ concluded that Complainant had demonstrated that he was subjected to reprisal for prior protected EEO activity.

To remedy the discrimination, the AJ awarded Complainant \$90,000 in non-pecuniary compensatory damages. The AJ pointed to Complainant's testimony that the additional thirty miles would add as much as two hours to his commute due to traffic, and that the drive was exhausting, both mentally and physically. As a result, Complainant had less time with his wife and children. Further, Complainant needed to take leave so that he could make it home in time for medical appointments or pick up his children or attend their special events. The AJ noted that Complainant testified he suffered back injuries due to the commute but that he did not provide supporting medical documentation.

Complainant's wife testified that because Complainant was no longer able to drop off the children at school, the family had to scramble to make transportation arrangements. She described a particular incident in which their child was badly injured at school – an injury that required staples to close a severe cut on the child's head – and Complainant was not able to get to their child as quickly because he was two hours away, instead of twenty minutes. Further, as a result of using leave to compensate for his commute, the family was not able to go on vacations and Complainant was not able to spend time with his mother-in-law while she was terminally ill.

The AJ concluded that “the deleterious effect on his quality of life is intuitively obvious.” The AJ further noted that the CDUSM described the commute from Los Angeles to Santa Ana as “a bear,” not to mention the additional time to reach Los Angeles from Burbank. As a result, the AJ determined that Complainant was entitled to \$90,000 in non-pecuniary compensatory damages.

In addition, the AJ awarded out of pocket mileage costs from February 4, 2013 to September 30, 2017. In awarding mileage costs, the AJ noted that Complainant's commute from Burbank to Los Angeles was approximately fourteen miles, while his commute to Santa Ana was approximately 45 miles. Complainant's reassignment to Santa Ana added 62 miles to his round-trip commute.

Further, the AJ awarded Complainant \$50,161.25 in attorney's fees and costs; training for Agency management in the Central District of California concerning reprisal under Title VII and the Rehabilitation Act; and to post a notice.

The Agency subsequently issued a final order agreeing with the AJ's finding that Complainant proved that the Agency subjected him to discrimination as alleged. However, the Agency disagreed with the AJ on two discrete points. First, the Agency disagreed that it should be required to train relevant management officials on the Rehabilitation Act because disability was not implicated in this matter. Second, the Agency argued that Complainant should only be entitled to \$30,000 in non-pecuniary damages. The instant appeal immediately followed.

CONTENTIONS ON APPEAL

On appeal, the Agency argues that Complainant presented minimal evidence in support of his claim for non-pecuniary damages, and therefore, \$90,000 is excessive. The Agency argues that Complainant failed to provide evidence from "friends, co-workers, family members or health care professionals regarding the effect of the retaliation on Complainant." The Agency argues that the cases cited by the AJ are distinguishable in that the complainants provided medical documentation or additional testimony to support their claim. The Agency contends that the AJ's award was based on a "seemingly arbitrary marker of \$20,000 per year for each year Complainant had to commute to Santa Ana."

The Agency suggests other Commission precedent support a reduced damages award. In one case, the Commission awarded \$10,000 to a complainant who was denied a reasonable accommodation of teleworking three times a week. Zehe v. Nat'l Aeronautics Space Admin., EEOC Appeal No. 0120113282 (Mar. 26, 2013). In another, the Commission awarded \$25,000 to a complainant who was reassigned because of EEO activity for two years. Gerald L. v. Tenn. Valley Auth., EEOC Appeal No. 0120171266 (Oct. 23, 2018). Additionally, the Commission awarded \$15,000 to a complainant who was, as a result of reassignment, stripped of supervisory duties. Fuentes v. U.S. Postal Serv., EEOC Appeal No. 0120113519 (Mar. 11, 2013). Accordingly, the Agency requests that the Commission modify the training award and reduce Complainant's compensatory damages award to \$30,000.

In response, Complainant does not oppose the Agency's argument as to training. Rather, Complainant focuses on the AJ's award of non-pecuniary damages. Complainant argues that the case cited by the AJ adequately support an award of \$90,000. In the first case, the complainant received \$60,000 for emotional distress. Cox v. Astrue, EEOC Appeal No. 0720050055 (Dec. 24, 2009). Complainant notes that Cox did not implement any rule that damages depend on the number of images or the amount of medical documentation provided. Coffee v. Dep't of Def., EEOC Appeal No. 0720090012 (Mar. 13, 2009), awarded \$75,000 for three months' harassment, despite no medical documentation. The Commission awarded \$80,000 in Pendelton v. U.S. Postal Serv., EEOC Appeal No. 0720090054 (Sept. 21, 2011) for emotional distress for a single instance of discrimination – a failure to promote. As a result, Complainant requests that the Commission affirm the AJ's award of \$90,000 in compensatory damages.

ANALYSIS AND FINDINGS

Pursuant to 29 C.F.R. § 1614.405(a), all post-hearing factual findings by an AJ will be upheld if supported by substantial evidence in the record. Substantial evidence is defined as “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” Universal Camera Corp. v. National Labor Relations Board, 340 U.S. 474, 477 (1951) (citation omitted). A finding regarding whether or not discriminatory intent existed is a factual finding. See Pullman-Standard Co. v. Swint, 456 U.S. 273, 293 (1982). An AJ's conclusions of law are subject to a de novo standard of review, whether or not a hearing was held.

As an initial note, neither party challenges the AJ's finding of reprisal, or the remedies ordered except for the scope of the training and the amount of the AJ's non-pecuniary, compensatory damages award. As such, this decision will only address those matters.

Non-Pecuniary Compensatory Damages

Non-pecuniary losses are 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 EEOC Notice No. 915.302, Enforcement Guidance on Compensatory and Punitive Damages Available Under Section 102 of the Civil Rights Act of 1991, at 10 (July 14, 1992). There is no precise formula for determining the amount of damages for non-pecuniary 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 (Aug. 29, 1997). The Commission notes that non-pecuniary compensatory damages are designed to remedy the harm caused by the discriminatory event rather than to punish the Agency for the discriminatory action. 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 (Mar. 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 Serv., EEOC Appeal No. 01952288 (Apr. 18, 1996) (citing Carle v. Dep't of the Navy, EEOC Appeal No. 01922369 (Jan. 5, 1993)). Objective evidence of compensatory damages can include statements from Complainant concerning his 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 non-pecuniary losses that are incurred as a result of the discriminatory conduct. Id.

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, including sleeplessness, anxiety, stress, depression, marital strain, humiliation, emotional distress, loss of self-esteem, excessive fatigue, or a nervous breakdown.

Id. Complainant's own testimony, along with the circumstances of a particular case, can suffice to sustain his burden in this regard. Id. 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.

An award of non-pecuniary, compensatory damages should reflect the extent to which the Agency's discriminatory action directly or proximately caused the harm, as well as the extent to which other factors also caused the harm. See Johnson v. Dep't of the Interior, EEOC Appeal No. 01961812 (June 18, 1998).

It is the complainant's burden to provide objective evidence in support of his claim and proof linking the damages to the alleged discrimination. Papas v. U.S. Postal Serv., EEOC Appeal No. 01930547 (Mar. 17, 1994); Mims v. Dep't of the Navy, EEOC Appeal No. 01933956 (Nov. 23, 1993).

We agree with the AJ in this matter that \$90,000 in non-pecuniary damages is appropriate. The Agency limits its arguments on appeal to its belief that Complainant presented insufficient evidence to warrant such damages. However, the Agency disregards the length of time Complainant suffered as a result of the Agency's actions or that Complainant demonstrated the impact that the increased commute had on his quality of life. In addition to the cases cited above, we have awarded \$50,000 in non-pecuniary damages where, as a result of the agency's failure to accommodate a complainant by refusing her requests for telework, she suffered an unnecessary commute for over a year. Marybeth C. v. Dep't of Health & Human Servs., EEOC Appeal No. 0120170811 (June 11, 2019). In Nia G. v. Dep't of Homeland Sec., EEOC Appeal No. 0120160716 (Feb. 6, 2018), the agency retaliated against a complainant by terminating her employment. As a result, the complainant searched diligently for a new job but was only able to find stable employment three years after her termination, that paid less and required a 100-mile, two-hour roundtrip commute. Id. Her previous commute was two and a half miles. The Commission rejected the Agency's argument for \$10,000 damages and awarded the complainant \$110,000 in compensatory damages. Id.

In this case, Complainant testified that the commute to Santa Ana caused severe emotional harm and resulted in far less time he was able to spend with his wife and children. Complainant's wife testified that she "was a single parent for all intents and purposes" as a result of Complainant's reassignment. Complainant endured the longer commute for approximately four and a half years.

The Agency's cases are distinguishable and do not support a lesser damages award. Zehe involved a situation where a complainant was denied part-time telework three times a week for two years; the complainant had requested additional damages for harm he suffered in almost a decade prior to his request for telework. Moreover, he was not required to report to a different duty station. Gerald L. involved a reassignment to a different position within the same duty station, and the Commission was concerned with awarding the complainant double recovery since he had also recovered damages for a different claim during the same time frame.

EEOC Appeal No. 0120171266.² The complainant in Gerald L. received a total of \$60,000 in non-pecuniary damages resulting from two discriminatory acts. Additionally, in Fuentes, the complainant also did not suffer a change in duty station and the discrimination was limited to approximately a year and a half. Further, similar to Zehe, the complainant in Fuentes sought damages for harm allegedly suffered long before the events comprising discrimination as well as events that the complainant did not show were connected to the discrimination.

As a result, the Commission concludes that the \$90,000 awarded by the AJ is reasonable, not monstrously excessive, and is consistent with Commission precedent.

Training

Finally, the Agency challenges the scope of the training ordered by the Agency. Specifically, the Agency claims that Complainant had not alleged a claim of disability discrimination; therefore, the AJ should have not included training regarding the Rehabilitation Act, only Title VII. A review of Commission records reveals, however, that Complainant's prior protected EEO activity included allegations under the Rehabilitation Act. Complainant alleged reprisal for that prior protected EEO activity in the instant complaint. EEOC Regulation 29 C.F.R. § 1614.101(b) provides that: "[n]o person shall be subject to retaliation for opposing any practice made unlawful by Title VII of the Civil Rights Act...the Age Discrimination in Employment Act...the Equal Pay Act...or the Rehabilitation Act or for participating in any stage of administrative or judicial proceedings" under those statutes. The statutory anti-retaliation provisions prohibit any adverse treatment that is based on a retaliatory motive and is reasonably likely to deter a reasonable employee from engaging in protected activity. Burlington N. and Santa Fe Ry. Co. v. White, 548 U.S. 53 (2006). Thus, the Commission finds that the AJ properly included training concerning reprisal under Title VII and the Rehabilitation Act as a remedy.

² The Gerald L. decision reflects that the Agency had improperly processed the complainant's allegations by failing to sufficiently investigate the complainant's amended claim. As a result, although the complainant had two allegations within the same complaint, these allegations proceeded on separate tracks, each ending in a finding of discrimination and an award of damages.

CONCLUSION

Accordingly, we MODIFY the Agency's final order to award Complainant \$90,000.00 in non-pecuniary, compensatory damages and we restate the relief granted by the AJ as slightly modified herein.

ORDER

The Agency shall take the following remedial action, to the extent that it has not already done so:

1. Within 60 days of the date this decision is issued, pay Complainant \$90,000.00 in non-pecuniary compensatory damages.
2. Within 60 days of the date this decision is issued, reimburse Complainant out of pocket mileage costs from February 4, 2013 to September 30, 2017.
3. Within 60 days of the date this decision is issued, pay Complainant attorney's fees and costs in the amount of \$50,161.25.
4. Within 90 days of the date this decision is issued, the Agency shall provide eight hours of in-person or interactive EEO training to all management officials at the Central District of California facility with a special emphasis on reprisal and the obligation not to restrain, interfere, coerce, or retaliate against any individual who exercises his or her right to oppose practices made unlawful by, or who participates in proceedings under, the Federal equal employment opportunity laws.
5. Within 60 days of the date this decision is issued, the Agency shall consider taking disciplinary action against the responsible management officials involved in retaliating against Complainant (including but limited to the U.S Marshall, the Chief Deputy U.S. Marshall, and the Assistant Chief Deputy U.S. Marshalls), if these individuals are still employed by the Agency. The Commission does not consider training to be disciplinary action. The Agency shall report its decision to the Compliance Officer referenced herein. If the Agency decides to take disciplinary action, it shall identify the action taken. If the Agency decides not to take disciplinary action, it shall set forth the reason(s) for its decision not to impose discipline. If the identified responsible management officials have left the Agency's employment, then the Agency shall furnish documentation of her departure date.
6. The Agency shall post a notice of this finding in accordance with the paragraph below.

The Agency is further directed to submit a report of compliance, as provided in the statement entitled "Implementation of the Commission's Decision." The report shall include supporting documentation verifying that the corrective action has been implemented.

POSTING ORDER (G0617)

The Agency is ordered to post at its Central District Office in Los Angeles, California 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 (H1019)

If Complainant has been represented by an attorney (as defined by 29 C.F.R. § 1614.501(e)(1)(iii)), she/he 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 receipt of this decision. 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 (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 (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).

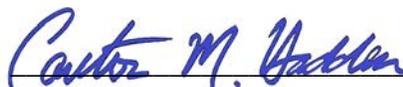
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (T0610)

This decision affirms the Agency's final decision/action in part, but it also requires the Agency to continue its administrative processing of a portion of your complaint. 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 on both that portion of your complaint which the Commission has affirmed and that portion of the complaint which has been remanded for continued administrative processing. 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 your appeal with the Commission, until such time as the Agency issues its final decision on your complaint. 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

January 22, 2020

Date