



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

[REDACTED]
Iliana S.,¹
Complainant,

v.

Louis DeJoy,
Postmaster General,
United States Postal Service
(Headquarters),
Agency.

Appeal No. 2021000595

Hearing No. 443-2017-00068X

Agency Nos. 6F-000-0020-16

DECISION

Following its November 15, 2019, final order, the Agency filed a timely appeal which the Commission accepts pursuant to 29 C.F.R. § 1614.405(a). On appeal, the Agency requests that the Commission affirm its partial rejection of an Equal Employment Opportunity Commission Administrative Judge's (AJ) decision regarding attorney's fees and costs. For the following reasons, the Commission REVERSES the Agency's final order.

ISSUE PRESENTED

The issue presented by the Agency's appeal is whether the AJ abused his discretion in awarding \$145,142.26 in attorney's fees and costs.

BACKGROUND

At the time of events giving rise to this complaint, Complainant previously worked for the Agency as a Computer Analyst/Programmer for 12 years at the Agency's Information Technology Solution Center (ITSC) in Eagan, Minnesota. On September 7, 2016, Complainant filed an EEO complaint, as amended, alleging that the Agency discriminated against her on the bases of race (Asian), sex (female), and age 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. In April 2016, she was notified that she was not selected for the position of Computer Analyst/Programmer Associate in Eagan, Minnesota because the job posting had been cancelled after her interviews (Position 1).
2. She was subjected to reprisal for her prior protected EEO activity (instant EEO complaint) when in October 2016 she was not selected for the position of Computer Analyst / Programmer Associate in Eagan, Minnesota (Position 2).²
3. The Agency Representative stated to Complainant's Representative that: "I can tell you that she [Complainant] is never going to be hired back."

Following the investigation, the Agency provided Complainant with a copy of the report of investigation and notice of her right to request a hearing before an Equal Employment Opportunity Commission Administrative Judge (AJ). Complainant timely requested a hearing.³

AJ's Decision Finding of Discrimination

The AJ thereafter held a hearing on April 17, and April 18, 2019, on claims 1 and 2. Meanwhile, during the April 18, 2019, hearing, Complainant orally made a motion before the AJ, requesting judgment as a matter of law in her favor and sanctions against the Agency because it failed to produce/preserve individual panel members' scoring documentation relative to the AJ's February 21, 2017, order. Complainant maintained that this scoring documentation was necessary to address whether she had been subjected to retaliation with respect to Position 2.

The AJ however denied Complainant's motion for judgment and sanctions, noting that Complainant produced no evidence showing that the employees serving on the selection panel for Position 2 were aware of her protected EEO activity. The AJ therefore found that Complainant did not establish a prima facie case of reprisal with regard to Position 2, and consequently determined that the requested scoring documentation concerning Position 1 did not have any evidentiary value.

The AJ found, however, that Complainant did establish that she was subjected to discrimination when she was not selected for Position 1. The AJ determined that Complainant's race was a motivating factor in the Agency's decision not to select her for Position 1. The AJ specifically found that the Computer Operations Manager's testimony, that he was prepared to hire Complainant, was not credible and not supported by the evidence in the record. The AJ noted that the Computer Operations Manager expressed that Complainant had a communication problem, but the Agency presented no evidence that Complainant's accent interfered with her job performance when she previously worked for Agency in same position.

² Complainant only alleged that she was subjected to discrimination based on reprisal with regard to claim 2.

³ The AJ granted the Agency's motion for Summary Judgment on December 6, 2018, regarding claim 3, but denied the Agency's motion as to claims 1 and 2.

Notwithstanding, using a mixed-motive analysis, the AJ found evidence that the advertising of Position 1 for external candidates did violate the Collective Bargaining Agreement (CBA). The AJ observed that the Labor Relations Specialist credibly testified that he independently reached the conclusion that the posting of Position 1 violated the CBA, and therefore he determined that the Union's grievance must be settled, resulting in the cancelation of the selection process for Position 1. The AJ found no evidence that the Labor Relations Specialist was motivated by discriminatory or retaliatory animus. The AJ therefore determined that the hiring for Position 1 would have been canceled even absent the Computer Operations Manager's discrimination.

In addressing Position 2, the AJ noted that the panel, based on their evaluations of the applications, recommend three candidates for interviews. The AJ noted that as Complainant was not ranked as a top candidate by the panel, she did not receive an interview for Position 2. In finding no evidence of reprisal, the AJ observed that all three panel members credibly testified that they were not aware of Complainant's protected EEO activity. The AJ found that the panel members credibly testified that no individual influenced their ranking of Complainant's application. The AJ therefore determined that Complainant did not establish a prima facie case of reprisal with respect to Position 2.

Due to the AJ's mixed-motive finding with regard to Position 1, the AJ ordered the Agency to train and consider taking disciplinary action against the Computer Operations Manager; post notice of the finding of discrimination; and award Complainant a reasonable amount in attorney's fees and costs. The AJ however did not award Complainant compensatory damages or back pay in light of the mixed-motive finding of discrimination.

The Agency subsequently issued a final order adopting the AJ's decision in its entirety.⁴

The AJ's Decision on Attorney's Fees

Complainant, through her attorneys, subsequently submitted fee petition documentation, requesting \$186,858 in attorney's fees and \$150.96 in costs. The fee petition documentation specifically noted that Attorney 1 requested 430.5 hours at a rate of \$400 per hour, totaling \$172,040⁵ and Attorney 2 requested 47.8 hours at a rate of \$310 per hour in the amount of \$14,818. Each attorney submitted a separate fee petition.

Thereafter, on October 7, 2019, the AJ issued a decision awarding Complainant attorney's fees and costs in the amount of \$145,142.26. The AJ initially determined that the hourly rates billed by each Attorney were reasonable. The AJ noted that Attorney 1 showed that he customary billed clients at a rate of \$400 per hour and that the Agency did not challenge Attorney 2's rate of \$310 per hour.

⁴ In Appeal No. 2019005824, the Commission affirmed the Agency's final order adopting the AJ's decision.

⁵ We note that 430.5 hours multiplied by the rate of \$400 per hour totals \$172,200. We however will use \$172,040, which is the amount A1's fee petition specifically requests.

The AJ, in addressing the number of hours requested by Attorney 1, observed that some entries contained billing related to un-prevailing claims. The AJ therefore reduced the number of hours requested by Attorney 1 by 40.5 hours and an additional .6 hours for an erroneously described billing entry. The AJ then additionally reduced the lodestar amount by a 15% across-the-board reduction for each separate fee petition. In doing so, the AJ further considered the unsuccessful claims that were present in the case, the relationship of the claims, and the time spent by the parties addressing the issues. The AJ denied the Agency's request for a further reduction for excessive time billed, vague entries, and for the failure to submit a proper fee petition, among other things. The AJ found that the amount of time spent on preparing for the hearing to be reasonable due to the complexity of the case and because Complainant bore the burden of proof at the hearing. The AJ the calculated Complainant's award of attorney's fees for each attorney as follows:

Attorney 1's Petition: $(\$400 \times 389.4^6 = \$155,760) (\$155,760 - 15\%) = \$132,396$

Attorney 2's Petition: $(\$310 \times 47.8 = \$14,818) (\$14,818 - 15\%) = \$12,595.3$

The AJ ultimately calculated the total attorney fee award to be \$145,142.26 (\$144,991.30 in fees with \$150.96 in costs).

The Agency then issued a final order on November 15, 2019, not implementing the AJ's decision on attorney's fees and costs, and simultaneously appealed to the Commission.

CONTENTIONS ON APPEAL

Agency's Brief on Appeal

On appeal, the Agency argues that Complainant is not a prevailing party, and therefore is not entitled to an award of attorney's fees. The Agency argues that the AJ only made a mixed-motive finding of discrimination, and Complainant received no modification of the Agency's behavior in a way that directly benefited her. The Agency additionally maintains that the AJ erred in only taking a 15% reduction and should have instead taken a 50% to 75% reduction because Complainant only partially prevailed on claim 1 and did not prevail on claim 2.

The Agency also argues that the AJ erred in finding that Attorney 1's hourly rate of 400 per hour was reasonable. The Agency specifically maintains that the District Court of Minnesota has performed an extensive analysis of prevailing attorney fee rates, finding that attorneys, similar to Attorney 1, with 10 years of experience are only entitled to an hourly rate of \$350 per hour.

The Agency additionally maintains that A1 requested 84.5 hours in reviewing and responding to the Agency's motion for summary judgment.

⁶ The AJ noted that these hours represent the original 430.5 hours minus the specific reduction of 40.5 hours and .6 hours.

The Agency believes this amount billed is clearly excessive, and therefore requests a reduction of these hours billed by half to 41.25 hours. The Agency argues, moreover, that the issues in this case were not complex, and therefore the request for 74.3 hours for trial preparation is excessive. The Agency requests a reduction of these hours by half as well to 37.15 hours. The Agency also believes that Attorney 1's billing of 84.2 hours on post-trial work was excessive and asserts that this amount should be reduced by half also.

The Agency furthermore contends that A1's fee petition should be reduced for vague billing entries and for entries that were billed for clerical work. Also, in addition to the reductions mentioned above, the Agency seeks an additional 15% across-the-board reduction applied to both petitions to further take into account the unsuccessful claims, the excessive fees, the vague entries, the billing for clerical work, the filing of frivolous motions, and for an overall failure to exercise good billing judgment.

Complainant's Response

In response, Complainant, through her attorneys, maintain that she is a prevailing party entitled to an award of attorney fees, and that the AJ significantly lowered the requested fee amount by slightly more than 22%. Complainant asserts that the Agency's arguments on appeal are the same as those raised before the Administrative Judge who had the opportunity to review her case and the evidence in it. Complainant argues that the AJ had the opportunity to review numerous pre-hearing motions, filings, and observe the hearings and the evidence. Complainant also refutes the Agency's contention that A1's hourly rate was not reasonable, noting that affidavits from other attorneys from his legal community were submitted in support of A1's hourly rate of \$400 per hour.

ANALYSIS AND FINDINGS

Complainant is a Prevailing Party

On appeal, the Agency argues that Complainant is not a prevailing party in this case. We note that a complainant is entitled to attorney's fees as long as she has obtained some relief on the merits of his claim. See Farrar v. Hobby, 506 U.S. 103, 112, 113 (1992). "In short, a plaintiff 'prevails' when actual relief on the merits of his claim materially alters the legal relationship between the parties by modifying the defendant's behavior in a way that directly benefits the plaintiff." Id. The magnitude of the relief obtained is not dispositive. Id. The Commission has found that a complainant is a prevailing party even in situations where only a finding of discrimination and a posting was ordered. See McGinnis v. Dep't of Defense, EEOC Request No. 05920150 (July 15, 1992). Accordingly, in light of fact that Complainant obtained some relief on her complaint, we agree with the AJ's finding that she is a prevailing party for attorneys' fees purposes in this case. Therefore, as Complainant is a prevailing party in this case, we will address the AJ's award of attorney's fees, below.

Attorney's Fees

EEOC Regulation 29 C.F.R. § 1614.501 provides for an award of attorney fees and costs to a successful Title VII litigant in accordance with existing case law and regulatory standards. The starting point for determining the amount of an award of reasonable attorney fees is the number of hours reasonably expended multiplied by a reasonable hourly rate. See 29 C.F.R. § 1614.501; Hensley v. Eckerhart, 461 U.S. 424, 433-34 (1983). Additional consideration, however, may lead to an adjustment of the fee award upward or downward, “including the important factor of the ‘results obtained.’” Hensley, 461 U.S. at 434 (citations omitted). In cases involving “a common core of facts” or based on related legal theories, much of an attorney's time will be devoted generally to the litigation as a whole, making it difficult to divide the hours expended on a claim-by-claim basis. Hensley, 461 U.S. at 435. In such cases, the focus should be on the significance of the overall relief obtained in relation to the hours reasonably expended. Id.

The First Circuit in Coutin v. Youna & Rubicam, 124 F.3d 331, 337 (1st Cir. 1997), a case cited by Equal Employment Opportunity Commission Management Directive (MD)-110 for 29 C.F.R. Part 1614 (Aug. 5, 2015), provides guidance as to the appropriate standard of review for an AJ's determination of attorney's fees:

We review fee awards deferentially, according substantial respect to the trial court's informed discretion. See Brewster v. Dukakis, 3 F.3d 488, 492 (1st Cir. 1993). We will disturb such an award only for mistake of law or abuse of discretion. See United States v. Metropolitan Dist. Comm'n, 847 F.2d 12, 14 (1st Cir. 1988). In this regard, an abuse of discretion occurs “when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them.” Foster v. Mvdas Assocs., Inc., 943 F.2d 139, 143 (1st Cir. 1991) [internal quotation marks and citations omitted], 124 F.3d at 336.

Therefore, in this appeal, the Commission will determine if the AJ made a mistake as a matter of law or abused his discretion.

Hourly Rate

The Commission has previously held that the most reliable evidence for establishing reasonable hourly rates for private attorneys is the hourly rate customarily charged by those attorneys for fee-paying clients. Cooley v. Dep't of Veterans Affairs, EEOC Request No. 05960748 (July 30, 1998); Chris v. Central Intelligence Agency, EEOC Appeal No. 01956844 (July 19, 1996). Documentary evidence to show the reasonableness of an hourly rate may include the following: an affidavit stating that the requested rate is the attorney's normal billing rate; a detailed affidavit of another attorney in the community familiar with prevailing community rates for attorneys of comparable experience and expertise; a resume; a list of cases handled; or a list of comparable cases where a similar rate was accepted. EEO MD-110, Chap.11, § VI.G.

Upon review, we find that the Agency has not established that the AJ erred in determining that A1's hourly rate of \$400 per hour was reasonable. In so finding, we note that A1 attached to his fee petition his declaration, noting that he had approximately 10 years of experience practicing law at the time of the AJ's decision finding discrimination. A1 further noted, in his declaration, that he had worked for several large firms in Minnesota where he charged an hourly rate similar to his colleagues. A1 additionally attested that he previously charged an hourly rate of \$350 per hour but raised his hourly rate to \$400 after he was told by colleagues that his rate was too low in comparison to other attorneys with similar experience. We note that A1 has submitted several affidavits from attorneys in his legal community, with one attorney attesting that Complainant's previous hourly rate of \$350 per hour was below the going market rate for attorneys with his level of experience. After reviewing the documentary evidence submitted by A1, we will not disturb the AJ's determination that A1 reasonably billed at a rate of \$400 per hour.

Determination of Hours Reasonably Expended, including the AJ's 15% Reduction of the Lodestar

Complainant is only entitled to an award for time reasonably expended. It does not always follow that the amount of time actually expended is the amount of time reasonably expended. Donald v. Dep't of Labor, EEOC Request No. 01943425 (Aug. 31, 1995). Rather, "billing judgment" is an important component in fee setting, and hours that would not be properly billed to a private client are also not properly billed to the agency pursuant to a successful EEO claim. Id. "Counsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive, redundant or otherwise unnecessary." Hensley, 461 U.S. at 433. "[R]esults obtained" is an important factor in determining an award of attorney's fees. Hensley, 461 U.S. at 434. Considerations include whether complainant failed to "prevail on claims that were unrelated to the claims on which he succeeded . . . [and whether complainant] achieve[d] a level of success that makes the hours reasonably expended a satisfactory basis for making a fee award." Id. The latter considers whether the claims "involve[d] the same facts and legal theories." Id.

On appeal, the Agency has asked that the Commission reduce the AJ's award of attorney's fees because Complainant only succeeded on a mixed-motive finding with regard to claim 1 and did not prevail at all on claim 2. The Agency also argues that the AJ's award of attorney's fees should be reduced further, maintaining that Complainant's attorneys billed for frivolous motions and excessively billed for hearing preparation, post hearing work, among other matters. The Agency asserts that Complainant's attorneys failed to exercise good billing judgment, and therefore the AJ's award of attorney's fees should be substantially reduced. The Agency contends, moreover, that the fee amount should also be reduced because of the vagueness of the submitted billing entries and for the billing of clerical work at \$400 per hour, among other things.

Notwithstanding the Agency's arguments on appeal, we find that the Agency has not established that the AJ abused his decision with regard to the amount of his reduction of the number of hours billed and with respect to the 15% reduction of the lodestar. While Complainant did not fully prevail on her complaint, we note that a significant amount of work was done in relation to this case.

This is borne out by the extensive record in Complainant's case, which includes two Reports of Investigation, documentation related to discovery and summary judgement, a two-day hearing transcript, an extensive amount of hearing exhibits, and post-hearing matters, among other documentation. We note that the AJ had the opportunity to observe the work that Complainant's attorneys performed in preparation for this case, and we find that the Agency has not shown that the AJ abused his decision with respect to the number of billed hours awarded.

In addition, the fact that Complainant did not prevail on every aspect of her original complaint does not, in itself, justify a reduction in the hours expended where the claims are intertwined, and it would be impossible to segregate the hours involved in each claim. It is true that attorney's fees may not be recovered for work on unsuccessful claims. Hensley, 461 U.S. at 433-35. Courts have held that fee applicants should exclude time expended on "truly fractionable" claims or issues on which they did not prevail. See Nat'l Ass'n of Concerned Veterans v. Secy of Defense, 675 F.2d 1319, 1327 n.13 (D.C. Cir. 1982). Claims are fractionable or unrelated when they involve "distinctly different claims for relief that are based on different facts and legal theories." Hensley, 461 U.S. at 434-35. However, in cases where a claim for relief involves "a common core of facts or will be based on related legal theories" a fee award should not be reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit. Id. "The hours spent on unsuccessful claims should be excluded in considering the amount of a reasonable fee only where the unsuccessful claims are distinct in all respects from the successful claims." See EEO MD-110, Chap. 11, § VI.F.

Here, while Complainant may have not prevailed on claim 2, we observe that claim 1 and 2 were related. Although the claims may have involved different legal theories, we note that both claims involved the same position at the same facility, the same selection process, with some of the same individuals involved in both selections. In addition, both non-selections occurred close in time. As such, we find that claim 1 and 2 did involve the same common core set of facts and were intertwined, and therefore the billable hours for these claims were not easily separable.

Based on our review of the record and consideration of the arguments presented on appeal, we cannot conclude that the AJ abused his discretion in awarding Complainant \$144,991.30 in fees with \$150.96 in costs.⁷

As Complainant prevailed at the appellate state, she is now also entitled to attorney's fees for work performed at this stage. EEO MD-110 Chap. 11, § VI.F. See Order below.

CONCLUSION

Based on the above, we REVERSE the Agency's final order and REMAND the matter to the Agency for remedial action consistent with this decision and the Order below.

⁷ The Agency does not specifically challenge the AJ's award of \$150.96 in costs.

ORDER

1. Within sixty (60) calendar days from issuance of the decision, the Agency shall pay \$144,991.30 in attorney's fees with \$150.96 in costs.
2. The Agency shall also pay attorney's fees for the appellate stage consistent with the statement entitled the same below and complainant shall cooperate with the agency's efforts.

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.

ATTORNEY'S FEES (H1016)

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

IMPLEMENTATION OF THE COMMISSION'S DECISION (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 (M0620)

The Commission may, in its discretion, reconsider this appellate decision if the 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 his or her request for reconsideration, and any statement or brief in support of his or her request, via the EEOC Public Portal, which can be found at

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

Alternatively, complainant can submit his or her 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, 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 his or her 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(c).

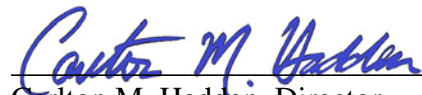
COMPLAINANT'S RIGHT TO FILE A CIVIL ACTION (R0610)

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

RIGHT TO REQUEST COUNSEL (Z0815)

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

FOR THE COMMISSION:



Carlton M. Hadden, Director
Office of Federal Operations

December 7, 2020

Date