



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

[REDACTED]
Augustine V.,¹
Complainant,

v.

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

Appeal No. 2020001847

Agency No. 4F-913-0051-17

DECISION

Complainant timely filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission), pursuant to 29 C.F.R. § 1614.403(a), from an Agency decision, dated December 3, 2019, concerning Complainant's entitlement to compensatory damages regarding an equal employment opportunity (EEO) complaint claiming employment discrimination in violation of 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 decision.

ISSUE PRESENTED

The issue presented is whether the Agency properly determined Complainant's entitlement to compensatory damages.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a City Carrier at the Agency's Post Office in Oxnard, California. On April 13, 2017, Complainant filed an EEO complaint alleging that the Agency discriminated against him on the bases of disability (incontinence), and reprisal for prior protected EEO activity of requesting a reasonable accommodation under Section 501 of the Rehabilitation Act of 1973, 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 March 3, 2017, he was forced to disclose his medical information during a fact-finding interview; and
2. On March 3, 2017, and ongoing, he was denied reasonable accommodation when he was told there was no work available for him and was sent home.

Following the investigation, the Agency provided Complainant with a copy of the Report of Investigation (ROI) and notice of his right to request a hearing before an EEOC Administrative Judge (AJ). When Complainant did not request a hearing within the time frame provided in 29 C.F.R. § 1614.108(f), the Agency issued a final decision pursuant to 29 C.F.R. § 1614.110(b). Therein, the Agency concluded that Complainant failed to prove that the Agency subjected him to discrimination as alleged.

In Augustine v. U.S Postal Serv., EEOC Appeal No. 0120180469 (July 24, 2019), we reversed the Agency's final decision. Therein, we found that the Agency violated the Rehabilitation Act because Complainant's Supervisor's instruction to Complainant to include his medical information on his publicly displayed 3996 forms breached the Agency's obligation to keep an employee's medical information confidential. We also determined that Complainant established that he was denied reasonable accommodation for his disability when the Agency, on March 3, 2017, stopped allowing him to work with unscheduled breaks and ordered him to go home. We noted that Complainant had to take sick leave for over two months until May 10, 2017, when the Agency offered him a light-duty assignment. The Commission found, however, that the light-duty assignment, which only provided up to two hours of work per day, was not an effective accommodation. We specifically noted that despite being a full-time carrier, Complainant's light-duty assignment did not provide him with full-time employment. As a result, Complainant had to use approximately six hours of sick leave each day to make up the difference. We further observed that Complainant's request for accommodation was still pending with the Reasonable Accommodation Committee (RAC) during the EEO investigation, and there was no evidence that the Agency had since provided Complainant with an effective accommodation.

We additionally determined that the Agency failed to make a good faith effort to accommodate Complainant, and therefore found that Complainant was entitled to compensatory damages. As a result, we ordered the Agency to, among other things, conduct a supplemental investigation regarding Complainant's entitlement to compensatory damages and train and discipline the responsible management officials involved in this case.

Complainant's Evidence Submitted in Support of Compensatory Damages

The Agency subsequently provided Complainant with a notice of his right to submit evidence in support of his claim for damages. On September 27, 2019, Complainant submitted documentation to the Agency, which included a Narrative Medical Report dated September 3, 2019, from his Doctor of Psychiatry and Neurology. Complainant's Doctor opined, in pertinent part, that Complainant experienced mental and emotional trauma as a result of the discrimination he experienced while at work.

Complainant's Doctor believed that the discrimination Complainant suffered at the hands of the Agency caused him to develop severe stress that lead to the development of life-threatening hypertension and high blood pressure. Complainant's doctor further indicated that the lack of accommodation put undue pressure on Complainant's urinary disability, and Complainant felt unduly ridiculed and wrongly exposed when his medical information was unduly released. Complainant's doctor further opined that all the undue stress caused Complainant to experience major depression and Post Traumatic Stress Disorder (PTSD). Complainant's doctor recommended future medical treatment for Complainant, including psychiatric treatments, Eye Movement Desensitization and Reprocessing (EMDR) therapy for PTSD, family therapy, chiropractic treatments, as well as an Anger Management class. Complainant's doctor believed that Complainant would need these treatments over a 10-year span.

Complainant specifically requested \$3,699.16 for past medical expenses. These expenses encompassed a visit for anger management on September 10, 2019, for 64.95; three visits to his doctor on April 17, 2017, May 22, 2017, and June 8, 2017, totaling \$60.79; two visits to the Ventura County Medical Center on May 11 and 31, 2017, totaling \$411.83; three visits to his primary care doctor on May 30, 2017, June 8, 2017, and September 10, 2017, totaling \$70.69; chiropractic treatments (from his brother) for anxiety, depression, muscle tension, muscle spasms, headaches, and subluxation totaling \$2,836.01; \$53.57 for a visit to another doctor when his primary care doctor was unavailable; \$7.00 in medical bills associated with the Ventura County Medical Center's referral of him to another doctor; a \$53.57 bill for Seaside Emergency Services; and \$140.75 for medications.

Complainant also requested to be reimbursed for a personal loan given to him from his sister wherein he borrowed \$20,000. Complainant specifically requested to be reimbursed the fee he was charged for the loan in the amount of \$2,000. Complainant additionally sought to be compensated for future medical expenses totaling \$95,400 encompassing: \$5,000 for chiropractic treatments; \$41,600 for psychotherapy; \$41,600 for family therapy; and \$7,200 for EMDR.

Complainant further requested non-pecuniary damages in the amount of \$200,000 for the physical and emotional harm he suffered as a result of the Agency's actions. He submitted statements from his friends and family supporting his assertions that he suffered from depression, stress, anxiety, disruption of marital and familial relations, interference with his sex and social life, social withdrawal, loss of self-confidence, and headaches, among other conditions as a result of the Agency's actions. Complainant maintained that his physical and emotion harm began in 2017 and continued long thereafter. Complainant cited to Commission cases awarding non-pecuniary compensatory damages ranging from \$145,000 to \$210,000, believing that the harm he suffered is similar to these cases.

Agency's Final Decision on Compensatory Damages

On December 3, 2019, the Agency issued its final decision on Complainant's entitled to compensatory damages. In its decision, the Agency found that Complainant was only entitled to \$40 in past pecuniary damages for medical expenses and found that Complainant did not show that he was entitled to an award of future pecuniary damages.

In so finding, the Agency noted that Complainant had several pre-existing medical conditions, including gastro-intestinal reflux, hypertension, and allergies, which were not caused or exacerbated by its actions. The Agency declined to consider Complainant's Doctor's Narrative Medical Report dated September 3, 2019, noting that the report was issued more than two years after the discrimination took place. The Agency also noted that Complainant returned to full-time work in July 2017 and Complainant's leave usage thereafter did not show a continuing issue with providing him with accommodation. The Agency noted, moreover, that Complainant's assertion that he has been treated for hypertension since April of 2017 was not consistent with his Doctor's statement that the onset of hypertension was "recent" when she saw Complainant in August 2019. The Agency nevertheless found that Complainant was entitled to reimbursement for co-payments for visits to his doctor on April 17, 2017, and May 22, 2017. The Agency observed that these visits were not related to hypertension but were related to Complainant's incontinence disability. The Agency however declined to reimburse Complainant for his June 8, 2017, visit to his doctor, finding that Complainant did not include documentation to support the visit.

The Agency additionally found that the documentation Complainant submitted did not specifically explain the reasons for Complainant's visits to his doctor on May 30, 2017, June 8, 2017, and September 18, 2017. The Agency similarly found that the documentation Complainant submitted did not explain the reasons for his treatment at the Ventura County Medical Center, Seaside Emergency Services, as well as his other doctors' visits. The Agency additionally declined to award Complainant \$140.75 for medications, finding that the medications listed were not associated with panic attacks or hypertension.

The Agency noted, moreover, that Complainant requested to be reimbursed \$2,000 for interest relating to a \$20,000 loan from his sister. The Agency however declined to reimburse Complainant the \$2,000, finding that Complainant did not present evidence to establish the extent of any financial hardship at that time or evidence showing that he actually received the funds in question. The Agency further determined that Complainant was not entitled to an award of future pecuniary compensatory damages, finding that Complainant's Doctor's recommendation that he needed treatment for 10 years due to the discrimination was not supported by any medical evidence.

In addressing Complainant's request for non-pecuniary compensatory damages, the Agency noted that Complainant's friends and family observed that Complainant became withdrawn, depressed, angry, lost weight, and had been less attentive to his children and wife. The Agency also noted that a neighbor claimed that Complainant said he experienced thoughts of suicide and other family members stated that Complainant struggled with his finances.

The Agency observed, however, that none of these statements from his friends and family discuss what was occurring to Complainant during the period wherein he was denied accommodation. The Agency noted that between July 2017 and March 2019 Complainant worked full-time with limited time off, and he also did not file an additional EEO complaint.

The Agency also noted that Complainant stopped reporting for work in March 2019 and he had not shown that this was related to his denial of accommodation two years earlier on March 3, 2017. The Agency therefore found that the period following March 2019, when Complainant stopped reporting for work, was not properly a part of this complaint and Complainant's entitlement to compensatory damages herein. The Agency further found no medical evidence in the record suggesting that Complainant experienced any exacerbation of his pre-existing conditions, including hypertension, due to working part time as a result of the denial of accommodation. The Agency additionally considered that Complainant returned to work full-time in July 2017 and received two hours of work and six hours of paid sick leave during the period he was denied accommodation. Based on similar Commission cases, the Agency found that Complainant was entitled to an award of \$25,000 in non-pecuniary compensatory damages. In so finding, the Agency noted that the discrimination caused Complainant to worry about his finances and children but not to the drastic effect presented in his submission for compensatory damages.

CONTENTIONS ON APPEAL

On appeal, Complainant, through his attorney, argues that the Agency falsely noted that it provided him with accommodation in July 2017. Complainant maintains that the Agency continued to deny him an accommodation for his disability from July 2017 through March 2019 and thereafter. Complainant maintains that he has submitted ample evidence to fully support his claim for compensatory damages. Complainant also contends that the Agency improperly discredited his Doctor of Psychiatry and Neurology based on mere speculation and not based on the evidence presented in this case. Complainant maintains that his Doctor corroborated his claim that the Agency continued to deny him accommodations for his disability and that all of his medical issues were a direct result of the Agency's conduct. Complainant therefore requests that we award him \$101,099.16 in pecuniary compensatory damages and \$200,000 in non-pecuniary compensatory damages.

The Agency did not respond to Complainant's brief on appeal.

ANALYSIS AND FINDINGS

Compensatory Damages

Compensatory damages may be awarded for past pecuniary losses, future pecuniary losses, and non-pecuniary losses which are directly or proximately caused by the agency's discriminatory conduct. Enforcement Guidance: Compensatory and Punitive Damages Available under Section 102 of the Civil Rights Act of 1991, EEOC Notice No. 915.002, at 8 (July 14, 1992).

Past Pecuniary Compensatory Damages

According to our Guidance, "[p]ecuniary losses include, for example, moving expenses, job search expenses, medical expenses, psychiatric expenses, physical therapy expenses, and other quantifiable out-of-pocket expenses that are incurred as a result of the discriminatory conduct."

EEOC Notice No. 915.002, at 10. The employee, to recover damages, must prove that the employer's discriminatory act or conduct was the cause of the loss. Id. The critical question is whether the employee incurred the pecuniary losses because of the employer's discriminatory action or conduct. Id.

In the instant case, Complainant maintained that the discrimination he suffered at the hands of the Agency, caused him to develop severe stress that lead to the development of life-threatening hypertension and high blood pressure, among other conditions. Complainant also indicated that the lack of accommodation put undue pressure on his urinary disability, and he felt ridiculed and wrongly exposed when his medical information was unduly released. Complainant also asserted that all the undue stress caused him to experience major depression and PTSD. As such, according to Complainant, as a result of the Agency's denial of accommodation, he accumulated medical expenses associated with panic attacks, hypertension, PTSD, and depression, among other conditions.

However, like the Agency, we note that the documentation Complainant submitted did not explain the reasons for his visit to his doctor on May 30, 2017, June 8, 2017, and September 18, 2017. In addition, the documentation Complainant submitted did not explain that the reasons for his treatment at the Ventura County Medical Center, Seaside Emergency Services, as well as his other doctors' visits. There is also no evidence in the record substantiating that Complainant's prescription costs were associated with any conditions caused by the Agency's actions. While Complainant did submit bills and receipts for his expenses, there is insufficient evidence showing that these costs were associated with any conditions caused by the Agency's conduct. Moreover, we find that there is simply no connection between the Agency's conduct and Complainant's need for Chiropractic treatments from his brother or a financial loan from his sister.

Pecuniary damages are only appropriate if they are directly or proximately caused by the Agency's discrimination. In this case, we find that Complainant did not persuasively establish that the Agency's discriminatory actions were the cause of his losses. We find, like the Agency, Complainant did not provide specific information indicating that many of the damages he suffered occurred because of the discrimination or were exacerbated by the discrimination. As such, we decline to disturb the Agency's award of \$40 for past pecuniary compensatory damages in this case.

Future Pecuniary Compensatory Damages

We now turn to Complainant's claim for future pecuniary losses. Future pecuniary losses are losses that are likely to occur after the resolution of a complaint. Alvina S. v. Envtl. Prot. Agency, EEOC Appeal No. 0120151681 (Jan. 17, 2018) citing EEOC Notice No. 915.002, at 9. Claims for future pecuniary losses, which are typically future medical expenses, are normally supported with documentation of past pecuniary losses together with an attestation that such losses are likely to continue for some time into the future.

Here, Complainant's Doctor of Psychiatry and Neurology recommended future medical treatment for Complainant, including psychiatric treatments, EMDR for PTSD, family therapy, chiropractic treatments, as well as an Anger Management class. Complainant's Doctor believed that Complainant would need treatment over a 10-year span. Complainant specifically requested Future Pecuniary Compensatory Damages totaling \$95,400 encompassing: \$5,000 for chiropractic treatments; \$41,600 for psychotherapy; \$41,600 for family therapy; and \$7,200 for EMDR.

Upon review, we find that Complainant has also not demonstrated a causal nexus between the breach of his medical confidentiality, the denial of accommodation, and the need for these future treatments. In so finding, as noted above, we find that Complainant has not shown that his past medical treatments were associated with the Agency's conduct, and therefore we also find that Complainant has not sufficiently established that he would need additional treatment due to the Agency's conduct into the future. We note that Complainant's Doctor attributed much of Complainant's conditions to a hostile work environment. But our decision in EEOC Appeal No. 0120180469 did not find that Complainant was subjected to a hostile work environment. Nevertheless, we did find that Complainant was denied accommodation beginning on March 3, 2017, and we noted that Complainant's accommodation request was still pending with the RAC during the EEO investigation. We further noted that there was no evidence that the Agency had since provided Complainant with an effective accommodation.

Although we find that Complainant is not entitled to future pecuniary damages for this matter, we will nonetheless address the harm suffered upon Complainant due to the Agency's extended failure to provide Complainant with an effective accommodation as it relates to non-pecuniary compensatory damages.²

Non-pecuniary Compensatory Damages

Non-pecuniary losses are losses that are not subject to precise quantification, including emotional pain and injury to character, professional standing and reputation. There is no precise formula for determining the amount of 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 nonpecuniary compensatory damages are designed to remedy the harm caused by the discriminatory event rather than to punish the agency for the discriminatory action.

² We take judicial notice that in Augustine v. U.S Postal Serv., EEOC Petition No. 2020003456 (Nov. 3, 2020), we determined that the Agency did not provide evidence to show that it had provided Complainant with an effective reasonable accommodation. As such, we found that the Agency had not shown that it complied with our decision in Appeal No. 0120180469 by providing Complainant with a reasonable accommodation at the Oxnard Post Office, which allowed him to work a full-time schedule.

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 a complainant concerning his or her emotional pain or suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character or reputation, injury to credit standing, loss of health, and any other 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.

In the instant case, Complainant submitted statements from friends, family, as well a report from his Doctor of Psychiatry and Neurology. They all noted that Complainant experienced emotional distress as a result of the Agency's extended and continual denial of accommodation. These symptoms, which they believed were caused by the Agency's actions, included: social and familial withdrawal, depression, anxiety, anger, sleeplessness, nightmares, panic attacks, embarrassment, among other conditions.

Due to the harm Complainant suffered as a result of the Agency's actions, we that the Agency's award of \$25,000 in non-pecuniary compensatory damages is insufficient to compensate him. We are not persuaded by the Agency's argument that it fully accommodated Complainant by July 2017. Specifically, as we noted in Appeal 0120180469, Complainant's request for accommodation was still pending with the RAC during the EEO investigation, and we noted that there was no evidence that the Agency had since provided Complainant with an effective accommodation.

In consideration of the severity and duration of the harm Complainant experienced as a result of the Agency's lengthy and continued delay in providing him with an effective accommodation, we find that an award of \$70,000 is a more appropriate amount of non-pecuniary damages in this case.

This award is not monstrously excessive and adequately compensates Complainant for his pain and suffering. See Mardell B. v. Soc. Sec. Admin., EEOC Appeal No. 0120172035 (Oct. 31, 2017) (\$70,000 awarded where the agency's two-year delay in providing complainant with accommodation caused her to suffer emotionally, become depressed, and change physically); See Pasquale D. v. Dep't of Homeland Sec., EEOC Appeal No. 0120160892 (Apr. 12, 2018) (complainant awarded \$60,000 where agency discrimination resulted in anxiety attacks, mood swings, nightmares, insomnia, difficulty concentrating, loss of self-esteem, alcohol dependency, weight gain, paranoia, and diminishment of self-worth.); Irvin W. v. Dep't of State, EEOC Appeal No. 0120141773 (Oct. 28, 2016) (\$60,000 awarded where complainant experienced anxiety, irritability, headaches, social withdrawal, and exacerbation of pre-existing conditions); and Complainant v. Dep't of Transp., EEOC Appeal No. 0720140022 (Sept. 16, 2015) (\$60,000 awarded where complainant suffered sleeplessness, anxiety, stress, and depression, as a result of the Agency's discriminatory actions).

CONCLUSION

Based on a thorough review of the record and the contentions on appeal, including those not specifically addressed herein, we MODIFY the Agency's final decision.

ORDER

Within sixty (60) calendar days of the date this decision is issued, and to the extent it has not done so already, the Agency shall pay Complainant \$70,000 in non-pecuniary compensatory damages and \$40 in pecuniary compensatory damages.

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 (M0920)

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 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, 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 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

August 16, 2021
Date