



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

[REDACTED]  
Natalie S.,<sup>1</sup>  
Complainant,

v.

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

Appeal No. 2021000139

Agency Nos. 200J-0326-2011103602, 200J-0326-2012101608

**DECISION**

Complainant filed the instant appeal, pursuant to 29 C.F.R. § 1614.403(a), from the Agency's February 6, 2020 final decision concerning her award of compensatory damages regarding her equal employment opportunity (EEO) complaints alleging discrimination in violation of Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq.

**BACKGROUND**

At the time of events giving rise to these complaints, Complainant worked as a Rating Veterans Service Representative at the Agency's Regional Office in Indianapolis, Indiana.

On August 5, 2011, Complainant filed her complaint, Agency No. 200J-0326-2011103602, which was later amended, alleging that the Agency discriminated against her and subjected her to a hostile work environment on the bases of disability and reprisal for prior EEO activity under Rehabilitation Act when:

1. On February 19, 2011, she was denied 11 hours of administrative leave;
2. On May 19, 2011, she requested a reasonable accommodation and, as of the filing of the complaint, no action had been taken;

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<sup>1</sup> This case has been randomly assigned a pseudonym which will replace Complainant's name when the decision is published to non-parties and the Commission's website.

3. On May 18, 2011, her third-line supervisor informed Complainant that her husband was no longer allowed within or outside the Regional Office;
4. On May 20, 2011, she was issued a 10-day suspension;
5. On June 16, 2011, she was issued a proposed 14-day suspension;
6. On August 2, 2011, her third-line supervisor stated during mediation that Complainant's performance was "at best subpar;"
7. On August 19, 2011, she was forced to submit her paperwork for disability retirement;
8. On August 22, 2011, her first-line supervisor gave her false information regarding her disability retirement; and
9. From September 2010 through December 2010, she was forced to work mandatory overtime.

The Agency dismissed claim 1, pursuant to 29 C.F.R. § 1614.107(a)(4), for raising the same matter in a union step 2 grievance. The Agency dismissed claim 6, pursuant to 29 C.F.R. § 1614.107(a)(1), for failure to state a claim. The Agency accepted claims 2, 4, and 7 as timely discrete acts and accepted incidents 2 through 5 and 7 through 9 as a hostile work environment claim. At the conclusion of the investigation, Complainant requested a final Agency decision without a hearing before an EEOC Administrative Judge (AJ). The Agency issued its final decision concluding that it asserted legitimate, nondiscriminatory reasons for its action, which Complainant failed to rebut.

On March 13, 2012, Complainant filed a second complaint, Agency No. 200J-0326 2012101608, which was later amended, alleging that the Agency discriminated against her and subjected her to a hostile work environment on the bases of disability and in reprisal for prior EEO activity under the Rehabilitation Act when:

1. In October 2011, she was excluded as a recipient for the Blue-Ribbon Employee Recognition Program award ceremony;
2. On December 27, 2011, her first-line supervisor informed her that he would approve five hours of official time for her EEO investigation if she finished a specific work case the same day;
3. On January 5, 2012, she was denied a monetary award for the Integrated Lab project;
4. On January 9, 2012, and January 24, 2012, her union representative was not allowed to assist her in gathering documents for her EEO investigation;
5. On or about February 6, 2012, she was informed that her union representative would only be allowed one hour to assist her with her EEO investigation;
6. On February 9, 2012, her second-line supervisor requested a current doctor's statement certifying the need for Complainant to self-medicate;
7. On February 9, 2012, due to a one-hour time limit placed on her union representative, Complainant could not schedule time to meet with her;
8. On or about February 21, 2012, her first-line supervisor informed her that her medical statement (regarding self-medication) would not be accepted because it did not include her physician's signature block; and

9. On March 23, 2012, her first-line supervisor informed her that comments that she had input into the Enhanced Time and Attendance were inappropriate.

The Agency accepted claim 3 as a timely discrete act and accepted allegations 1 through 9 as a hostile work environment claim. At the conclusion of the investigation, Complainant requested a final Agency decision without a hearing before an AJ. The Agency issued its final decision concluding that it asserted legitimate, nondiscriminatory reasons for its action, which Complainant failed to rebut.

Complainant appealed the Agency's final decisions. The Commission, consolidating Complainant's appeals, in Appeal Nos. 0120140815 and 0120142049 (Jan. 26, 2018), reversed the Agency's dismissal of claim 1 of Complainant's first complaint, vacated the Agency's determination that Complainant did not establish that she was subjected to discrimination when she and her representative were denied official time with respect to claims 2, 4, 5, and 7 of Complainant's second complaint, and reversed the Agency's determination that the preponderance of the evidence did not establish that Complainant was subjected to unlawful discrimination in violation of the Rehabilitation Act when she was denied reasonable accommodation and required to submit updated medical documentation. The Commission affirmed the Agency's final decisions with respect to all remaining claims.

Specifically, the Commission ordered the following actions:

1. The Agency shall supplement the record with a copy of the negotiated grievance procedures, specifically including the relevant portion of the agreement relating to whether grievants have the right to raise claims of discriminatory treatment under the negotiated grievance procedure. Within 30 calendar days of the date this decision is issued, the Agency shall either issue a new decision dismissing claim 1 of Complainant's first complaint or issue a letter to Complainant accepting the claim for investigation. The Agency shall submit a copy of the decision dismissing the claim or a copy of the letter Complainant accepting the claim for investigation, to the Compliance Officer as referenced herein.
2. Regarding claims 2, 4, 5, and 7 of Complainant's second complaint, with respect to the alleged denial of official time, within ninety (90) calendar days of the date this decision issued, the Agency shall investigate whether Complainant was provided a reasonable amount of official time. The Agency shall include in the record the following information: legible documentation showing how much time was requested; for what stated purpose time was requested; how much time was granted, if any; and the justification for the denial of any requested time. The Agency shall notify Complainant of the opportunity to place into the record any evidence supporting her claim that she was denied a reasonable amount of official time. Thereafter, the Agency shall issue a final decision as to whether Complainant was denied a reasonable amount of official time, with appeal rights to Commission. A copy of the report of investigation and the final decision on official time shall be sent to the Compliance Officer as referenced below.

3. If Complainant is still employed by the Agency, the Agency shall offer Complainant fulltime telework as a reasonable accommodation for a trial period of not less than 30 calendar days, within 30 calendar days of the date this decision is issued. If the Agency terminates Complainant's reasonable accommodation of full-time telework after the trial period, it shall set forth in a compliance report the reason(s).
4. Within 90 days of the date this decision is issued, the Agency shall conduct a supplemental investigation on the issue of Complainant's entitlement to compensatory damages with respect to this complaint and determine the amount of compensatory damages to which Complainant is entitled. Complainant will cooperate in the Agency's efforts to compute the amount of compensatory' damages, if any, and will provide all relevant information requested by the Agency. The Agency shall issue a final decision on the issue of compensatory damages with appeal rights to the Commission. A copy of the final decision must be submitted to the Compliance Officer as reference bellowed. Within 30 days of its determination of the amount of compensatory damages owed to Complainant, the Agency shall pay Complainant that amount.
5. Within 90 days of the date this decision is issued, the Agency shall provide a minimum of eight hours of in-person training to all Agency employees at the Agency's Regional Office in Indianapolis, Indiana responsible for making the impermissible medical inquiry to Complainant and/or denying Complainant an effective reasonable accommodation. The training shall concern the Rehabilitation Act with an emphasis on reasonable accommodation and the Agency's duties to ensure that similar violations do not occur.
6. Within 60 days of the date this decision is issued, the Agency shall consider taking disciplinary action against the individuals, still working for the Agency, who were responsible for making the impermissible medical inquiry to Complainant and/or denying Complainant an effective reasonable accommodation. If the Agency decides to take disciplinary action, it shall identify in a compliance report the action taken. If the Agency decides not to take disciplinary action, it shall set forth in its compliance report the reason(s) or its decision not to impose discipline. If the responsible individuals are no longer employed by the Agency, the Agency shall furnish evidence of their dates of separation.

On June 6, 2018, the Agency issued its final decision awarding Complainant \$5,000.00 in compensatory damages concerning the discrimination when she was subjected to an impermissible medical inquiry and when it failed to accommodate her disability when it denied her request to telework as a reasonable accommodation. Complainant did not appeal this decision.

On May 7, 2019, the Agency issued its final decision dismissing claim 1 of Complainant's first complaint, pursuant to 29 C.F.R. § 1614.107(a)(4), because she elected to pursue the same matter via grievance. Regarding the alleged denial of official time in Complainant's second complaint,

the Agency found no discrimination/violation regarding claim 2 concerning the December 27, 2011 official time issue but found a violation of EEOC regulations regarding claims 4, 5, and 7 concerning the January and February 2012 incidents. The Agency stated that it would provide Complainant with full, make-whole relief to restore her to the position she would have occupied absent the discrimination, including restoration of leave, compensatory damages, and attorney's fees if she was represented by an attorney. Complainant did not file an appeal from this decision.

On February 6, 2020, the Agency issued its final decision awarding Complainant \$1,500.00 compensatory damages for the violations found in its May 7, 2019 decision. The Agency stated that Complainant sought \$809,521.40 for compensatory damages (\$509,521.40 for pecuniary damages and \$300,000.00 for nonpecuniary damages). The Agency indicated that Complainant claimed that she suffered financial losses after she retired from the Agency in 2012, including a driving under the influence arrest, divorce, liquidation of her Thrift Savings Plan (TSP) assets, child support expenses, selling of her wedding rings, and other expenses, but she did not show that the denial of her union representative's ability to represent her during the EEO process was responsible for these pecuniary losses. The Agency also stated that Complainant failed to submit any bills, statements, or receipts supporting a claim for pecuniary damages. Thus, the Agency concluded that Complainant was not entitled to any pecuniary damages.

Regarding Complainant's nonpecuniary damages, the Agency indicated that Complainant claimed that she suffered an exacerbation of her post traumatic stress disorder (PTSD), depression, anxiety, and nervousness as a result of her representative's inability to represent her for her EEO matters. The Agency also indicated that Complainant claimed that she had trouble sleeping, a fear of leaving home, feeling of worthlessness, anxiety, stress, and headaches; her marriage and relationships with her children were strained; and she sought professional counseling for her emotional distress. The Agency indicated that Complainant provided an affidavit from her ex-husband but provided no medical statements from health care providers.<sup>2</sup> The Agency stated that Complainant's emotional distress was contributed in large part by her preexisting conditions, familial strains, financial stress, and marital discord. Thus, the Agency concluded that an award of \$1,500.00 was reasonable for Complainant's nonpecuniary damages since she provided objective evidence to support her claim that she suffered some emotional harm as a result of the discrimination. The instant appeal from Complainant is from the Agency's February 6, 2020 decision awarding her \$1,500.00 in compensatory damages.

On appeal, Complainant, without specifying any amount, contends that \$1,500.00 is unreasonable for the discrimination which aggravated her service-connected PTSD. In her September 29, 2020 statement, Complainant indicates that her supervisors at the Agency exacerbated her PTSD; she was unable to sleep at night; her marriage suffered; she had to go to

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<sup>2</sup> In an affidavit dated June 15, 2012, Complainant's now ex-husband indicated that Complainant was terribly upset and sometimes in tears about her union representative's unavailability to represent her in her EEO case in January and February 2012, and how her supervisors treated her.

marriage counseling; she was unable to parent her four boys, take them to their extracurricular events, go to grocery shops, clean her home, and cook for her family; and she gained approximately 50 pounds. Complainant also indicates that she decided to retire on disability, effective August 2012, because she was unable to get out of bed or care for herself physically and mentally (including suicidal thoughts). After her retirement, Complainant indicates that her husband began having an affair; she filed for divorce in June 2016; she was charged with Felony 6 Strangulation of her son; she was removed from her home and became homeless and stayed in a hotel until she found an apartment; her divorce became finalized on November 5, 2017; she lost the house and lost custody of her minor children; she was ordered to pay child support; in March 2018, she was charged with a DWI (driving while intoxicated); she was still suffering PTSD; and she had to close out her TSP account in March 2018, to pay for family and felony legal fees and familial debts.

Complainant claims that but for the Agency's discrimination, she would not have experienced the incidents described above. Complainant indicates that she is entitled to: the lost income since 2012, including step increases and bonuses; her legal fees for her divorce, felony charges, DWI/Veterans Court Program fees, including breathalyzers; hotel expenses until she moved into her apartment; the year lease for the apartment; all the furnishings; her wedding rings she had to sell; \$20,000 down payment for her house she lost in her divorce; the closing of her TSP account of \$38,000 in March 2018; reinstatement of her job at the Agency; Rating Veterans Service Representative Training; moving costs to her new area of work; and removal of all negative documentation from her personnel file at the Agency.

Complainant submits on appeal her licensed clinical social worker's Behavioral Health Questionnaire dated January 6, 2020. Therein, the social worker indicated that Complainant had been under her care since August 2016, and she was diagnosed with service-connected PTSD, unspecified depressive disorder, generalized anxiety disorder, and alcohol use disorder, in remission.

Complainant also submits on appeal a VA Medical Center psychiatrist's statement dated September 13, 2012, which was addressed to the Agency. Therein, the psychiatrist indicated that he had been seeing Complainant since August 24, 2007, for depression and personal trauma PTSD. He indicated that Complainant was a veteran from September 1983 to July 1986; then, she served four years with the National Guard; she served in a noncombat role at the Scofield Barracks in Hawaii; there was an incident in the service where she was subjected to a sexual assault; and since then she had trust issues, nightmares, trouble sleeping, emotional distress, hopeless, helpless, passive thoughts of hurting self, angry with her kids, sad, tearful, and irritable. The psychiatrist indicated that being at her workplace had increased daytime reexperiencing phenomena and distress to the extent that she was exhibiting increasing avoidance behaviors, another cardinal feature of PTSD.

Complainant also submits the psychiatrist's September 9, 2014 statement, which was addressed to the Office of Personnel Management. Therein, the psychiatrist indicated that Complainant was 100% service-connected disabled overall where she was 70% service-connected disabled for

PTSD due to her military sexual trauma. He stated that Complainant continued to be permanently and totally disabled by her psychiatric issues. The psychiatrist indicated that at the time he was writing this statement, Complainant was on bed rest due to recent back surgery. He also indicated that Complainant's avoidance behaviors and lack of ability to maintain a competitive work pace made her an unlikely candidate for any gainful employment; returning her to work at the Agency was out of the question; and her physical and emotional risks to her of returning to work were just too great.

### ANALYSIS AND FINDINGS

Initially, we note that the instant appeal concerns solely an award of \$1,500.00 for Complainant's damages for her union representative's inability to represent her for her EEO matters on January 9 and 24, February 6 and 9, 2012, as described in claims 4, 5, and 7 of her second complaint.

Pursuant to section 102(a) of the Civil Rights Act of 1991, a complainant who establishes unlawful intentional discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., may receive compensatory damages for past and future pecuniary losses (i.e., out-of-pocket expenses) and non-pecuniary losses (e.g., pain and suffering, mental anguish) as part of make-whole relief. 42 U.S.C. § 1981a(b)(3). In West v. Gibson, 527 U.S. 212 (1999), the Supreme Court held that Congress afforded the Commission the authority to award compensatory damages in the administrative process. For an employer with more than 500 employees, such as the Agency, the limit of liability for future pecuniary and non-pecuniary damages is \$300,000.00. 42 U.S.C. § 1981a(b)(3).

Pecuniary losses are out-of-pocket expenses incurred because of the agency's unlawful action, including job-hunting expenses, moving expenses, medical expenses, psychiatric expenses, physical therapy expenses, and other quantifiable out-of-pocket expenses. Past pecuniary losses are losses incurred prior to the resolution of a complaint through a finding of discrimination, or a voluntary settlement. EEO MD-110, at Chap. 11, VII.B.2 (Aug. 5, 2015) (internal citations omitted). Future pecuniary damages are losses likely to occur after the resolution of the complaint.

In a claim for pecuniary, compensatory damages, a complainant must demonstrate, through appropriate evidence and documentation, the harm suffered because of the agency's discriminatory action. Objective evidence in support of a claim for pecuniary damages includes documentation showing actual out-of-pocket expenses with an explanation of the expenditure. The agency is only responsible for those damages that are clearly shown to be caused by the Agency's discriminatory conduct. To recover damages, a complainant must prove that the employer's discriminatory actions were the cause of the pecuniary loss. Id. (citations omitted).

Nonpecuniary 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 nonpecuniary, compensatory damages are designed to remedy the harm caused by the discriminatory event rather than punish the agency for the discriminatory action. Furthermore, compensatory damages should not be motivated by passion or prejudice or “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 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, and 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 her 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.

Complainant has the burden of proving the existence, nature and severity of the alleged emotional harm. Man H. v. Dept. of Homeland Security, EEOC Appeal No. 0120161218 (May 2, 2017). Complainant must also establish a causal relationship between the alleged harm and the discrimination. Id. Absent such proof of harm and causation, a complainant is not entitled to compensatory damages, even if there were a finding of unlawful discrimination. Id.; Wilda M. v. U.S. Postal Service, EEOC Appeal No. 0120141087 (Jan. 12, 2017) (awards for emotional harm are warranted only if complainant establishes a sufficient causal connection between the agency's illegal actions and her injury).

Initially, we note that although Complainant submits on appeal her attorney's fee statements dated October 31, 2016, November 30, 2016, December 31, 2016, January 31, 2017, February 28, 2017, March 31, 2017, August 30, 2017, and October 25, 2017, regarding her divorce which



became final on November 14, 2017, her attorney's fees are not at issue. Furthermore, there is no evidence these attorney's fees are related to the Agency's discrimination.

After a review of the evidence, we agree with the Agency that Complainant has not established that she was entitled to pecuniary damages. Pecuniary damages are only appropriate if they are directly or proximately caused by the Agency's discrimination. Complainant indicated that she suffered financial losses after her retirement on disability in August 2012, a DWI charge, her divorce, liquidation of TSP assets, child support expenses, selling of her wedding rings, and other expenses. We find that Complainant failed to establish that the Agency's actions which violated EEOC regulations were a proximate cause of these expenses.

Turning to nonpecuniary damages, we find that Complainant suffered some emotional harm as a result of her union representative's inability to represent her for her EEO matters in January and February 2012. Considering Complainant's own statement, her ex-husband's affidavit, and medical statements, we find that her mental and physical symptoms were in large part caused by her service-connected PTSD, her divorce, her felony charge, losing custody of her minor children, losing her house, a DWI, and her back surgery. There is no evidence that Complainant's exacerbation of her PTSD, depression, anxiety, and nervousness were directly related to the Agency's discrimination.

Taking into consideration the evidence of nonpecuniary damages submitted by Complainant, we find her request for \$300,000.00 to be excessive. Rather, given that other matters contributed to Complainant's condition, and having reviewed the entire record and the nature of the Agency's violations, we find that the Agency's award of \$1,500.00 in nonpecuniary, compensatory damages is reasonable and appropriate. This amount takes into account the severity of the harm caused by Complainant's union representative's inability to represent her for her EEO matters in January and February 2012. See Nadene M. v. Dep't of Justice, EEOC Appeal No. 0720150018 (May 20, 2016) (awarded \$1,000.00 in nonpecuniary, compensatory damages for exacerbated preexisting anxiety and depression after a finding of retaliation); Complainant v. U.S. Postal Serv., EEOC Appeal No. 0120111119 (June 28, 2013) (awarded \$1,500.00 in nonpecuniary, compensatory damages for stress, problems with eating and sleeping, anxiety attacks after a finding of discriminatory nonselection). We find that \$1,500.00 is adequate to compensate Complainant for the harm suffered as a result of the discriminatory denial of her union representative, is not "monstrously excessive", is not the product of passion or prejudice and is consistent with prior Commission precedent. The record indicates that the Agency paid Complainant \$1,500.00 in nonpecuniary, compensatory damages and therefore there is no need to order such payment.

### CONCLUSION

Accordingly, the Agency's final decision concerning compensatory damages for the Agency's improper denial of official time for her union representative as described in claims 4, 5, and 7 of her second complaint is AFFIRMED.

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 (S0610)

You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by his or her full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work. If you file a request to reconsider and also file a civil action, **filing a civil action will terminate the administrative processing of your complaint.**

RIGHT TO REQUEST COUNSEL (Z0815)

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

FOR THE COMMISSION:



Carlton M. Hadden, Director  
Office of Federal Operations

April 27, 2021

Date