



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Office of Federal Operations

P.O. Box 77960

Washington, DC 20013

[REDACTED]
Erik S.,¹
Complainant,

v.

Merrick B. Garland,
Attorney General,
Department of Justice
(Federal Bureau of Prisons),
Agency.

Appeal No. 2020004617

Agency No. BOP-2016-0197

DECISION

On August 19, 2020, Complainant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission), pursuant to 29 C.F.R. § 1614.403(a), from the Agency's July 28, 2020, final decision on compensatory damages and attorney's fees concerning his equal employment opportunity (EEO) complaint alleging employment discrimination in violation of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e et seq. and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a GL-0007-07 Correctional Officer at the Agency's Federal Correctional Complex (FCC) facility in Coleman, Florida. On March 1, 2016, Complainant filed a complaint in which he alleged that the Agency discriminated against him on the bases of race (Caucasian), national origin (American, perceived as Arab), sex (male), religion (Muslim), and disability in violation of Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e et seq. and Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq.

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.

Complainant appealed the Agency's final decision to the Commission, and in Appeal No. 0120181994, the Commission found that the Agency discriminated against Complainant based on national origin and religion when it did not select him for a GL-0007-08 Correctional Officer position in November 2015. Among other ordered remedial actions, the Commission ordered the Agency to conduct a supplemental investigation on Complainant's entitlement to compensatory damages, issue a final decision on compensatory damages, and pay Complainant the undisputed amount.²

Complainant requested \$300,000 in nonpecuniary compensatory damages. Complainant stated that, although he had a history of depression since 2006, which was before he began working for the Agency, his depression was manageable until it significantly worsened. Complainant alleged that he was subjected to retaliation in 2016 and 2017. Complainant averred that, in October 2016, he was diagnosed with major depressive disorder, generalized anxiety disorder, and attention deficit hyperactivity disorder (ADHD) and that, in May 2017, he was diagnosed with post-traumatic stress disorder (PTSD). Complainant stated that a psychiatrist prescribed four medications for his emotional conditions and that he was also in counseling. According to Complainant, he frequently experienced sadness, tearfulness, irritability, anger, anxiety, agitation, and restlessness. Complainant reported sleep disturbances, recurring nightmares, headaches, lack of energy, and fatigue. Complainant stated that he had recurrent suicidal thoughts. According to Complainant, he felt paranoid and was easily startled. Complainant averred that he began consuming more alcohol and smoking more cigarettes than usual. According to Complainant, although he used to enjoy spending time with family, gardening, and doing yard work and home improvement, he no longer enjoyed these activities and felt detached from family and friends. Agency Damages and Attorney Fees Case File at 16-29, 87, 477-79.

In a statement, Complainant's wife stated that his mental and emotional state began deteriorating around the time he filed his EEO complaint. Complainant's wife averred that he had problems with depression, anxiety, and coping with stress and noted that Complainant was drinking and smoking more often. According to his wife, Complainant avoided going anywhere in public and would constantly look over his shoulder when he was out. Complainant's wife added that, if Complainant was outside their house when a car drove by or people were outside, Complainant would hide behind bushes or pillars. Agency Damages and Attorney Fees Case File at 31-32.

Complainant's psychiatrist stated that, around the time Complainant filed his EEO complaint, he started to have increased depression, anxiety, sleep disturbance, paranoia, social withdrawal, and agitation. The psychiatrist reported that Complainant's condition continued to worsen from March 2016 until May 2017, when he determined Complainant could not work. According to Complainant's psychiatrist, Complainant will require ongoing treatment for the rest of his life, and he will never be able to return to his Correctional Officer job or law enforcement work. Complainant filed a workers' compensation claim for major depressive disorder and PTSD in May 2017.

² The Commission has docketed a petition for enforcement, Petition No. 2020003869, to examine whether the Agency has complied with the Order in Appeal No. 0120181994.

A psychiatrist who performed an independent medical examination in September 2017 in connection with Complainant's workers' compensation claim found that Complainant's depression was aggravated and that his PTSD was caused by a series of workplace events. Agency Damages and Attorney Fees Case File at 33-64, 126-57, 220-476.

Complainant requested pecuniary damages, but he did not specify the type or amount of pecuniary damages he was requesting. Complainant requested back pay for lost wages, with interest, and other benefits, calculated from the date of discrimination. Complainant submitted a receipt for an August 2017, \$33,719.67 financial hardship withdrawal from his Thrift Savings Program (TSP) account. According to the receipt, \$6,751.97 was withheld from this amount for federal income tax, resulting in a net payment of \$26,967.70. Agency Damages and Attorney Fees File at 30, 85-86.

Regarding attorney's fees, Complainant submitted an invoice for \$7,500 from a law firm in Dallas, Texas, that represented him in his workers' compensation claim. A law firm in Washington, D.C., represented Complainant during the compensatory damages phase, and Complainant paid the firm \$2,500 as a fee advance. The record contains records showing work performed by the D.C. law firm between October 4, 2019, and December 3, 2019. The records show the date, the initials of the employee who completed the task, the amount of time the task took, that employee's hourly rate, and a brief description of the work performed. The D.C. law firm requested \$2,600 in attorney's fees and \$25.40 in costs. Agency Damages and Attorney Fees Case File at 71-87, 158-65, 486-94.

On July 28, 2020, the Agency issued its final decision on compensatory damages and attorney's fees and costs. The Agency awarded Complainant \$30,000 in nonpecuniary compensatory damages and \$1,975.40 in attorney's fees and costs. The Agency found that Complainant's depression predated his December 2015 nonselection and that Complainant attributed a significant component of the harm he suffered to retaliation he experienced after he filed his EEO complaint regarding the nonselection. Accordingly, the Agency determined that \$30,000 in nonpecuniary compensatory damages appropriately compensated Complainant for the exacerbation of his medical conditions caused by the non-selection. The Agency denied Complainant's request for pecuniary damages. The Agency noted that, although Complainant requested back pay as pecuniary damages, back pay is a form of equitable relief. The Agency found that Complainant did not establish a link between the discrimination and the withdrawal from his TSP and that he also did not provide evidence that he was forced to pay penalties or incurred higher taxes as a result of the TSP withdrawal.

The Agency found that the \$7,500 in attorney's fees from the Dallas law firm that represented Complainant in his workers' compensation claim was not compensable. Regarding the D.C. law firm, although the Agency found that the hours expended appeared reasonable and that no entries appeared excessive, redundant, or otherwise unnecessary, the Agency noted that the attorneys did not provide affidavits describing their experience with federal sector EEO cases or a copy of the applicable Laffey Matrix to justify their hourly rates.

Accordingly, the Agency reduced the requested \$2,600 in attorney's fees by 25 percent, awarding \$1,950 in attorney's fees and \$25.40 in costs.

The instant appeal followed.

On appeal, Complainant contends that the Agency did not explain the type of documentation he needed to provide in connection with his request for damages and attorney's fees. Complainant also argues that the evidence shows that he is entitled to \$300,000 in damages.

The Agency did not file a brief or statement responding to Complainant's appeal.

ANALYSIS AND FINDINGS

Compensatory Damages

When discrimination is found, the agency must provide the complainant with a remedy that constitutes full, make-whole relief to restore her as nearly as possible to the position she would have occupied absent the discrimination. See, e.g., Franks v. Bowman Transp. Co., 424 U.S. 747, 764 (1976); Albemarle Paper Co. v. Moody, 422 U.S. 405, 418-19 (1975); Adesanya v. U.S. Postal Serv., EEOC Appeal No. 01933395 (July 21, 1994). Pursuant to section 102(a) of the Civil Rights Act of 1991, a complainant who establishes unlawful intentional discrimination under either Title VII of the Civil Rights Act of 1964 (Title VII), as amended, 42 U.S.C. § 2000e et seq. or Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq. may receive compensatory damages for past and future pecuniary losses (i.e., out-of-pocket expenses) and nonpecuniary losses (e.g., pain and suffering, mental anguish) as part of this "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. 42 U.S.C. § 1981a(b)(3)

To receive an award of compensatory damages, a complainant must demonstrate that he or she has been harmed as a result of the agency's discriminatory action; the extent, nature, and severity of the harm; and the duration or expected duration of the harm. Rivera v. Dep't of the Navy, EEOC Appeal No. 01934157 (July 22, 1994), req. for recon. denied, EEOC Request No. 05940927 (Dec. 11, 1995); Compensatory and Punitive Damages Available Under Section 102 of the Civil Rights Act of 1991, EEOC Notice No. 915.002 (July 14, 1992), at 11-12, 14. Compensatory damages may be awarded for the past pecuniary losses, future pecuniary losses, and nonpecuniary losses which are directly or proximately caused by the agency's discriminatory conduct. EEOC Notice No. 915.002 at 8.

Pecuniary Damages

Pecuniary losses are out-of-pocket expenses that are incurred as a result of the employer's unlawful action, including job-hunting expenses, moving expenses, medical expenses, psychiatric expenses, physical therapy expenses, and other quantifiable out-of-pocket expenses. Enforcement Guidance: Compensatory and Punitive Damages Available Under Section 102 of the Civil Rights Act of 1991, EEOC Notice No. 915.002 (July 14, 1992), at 14. Past pecuniary losses are losses incurred prior to the resolution of a complaint through a finding of discrimination, the issuance of a full-relief offer, or a voluntary settlement. *Id.* at 8-9. Future pecuniary losses are losses that are likely to occur after resolution of a complaint. *Id.* at 9. For claims seeking pecuniary damages, such objective evidence should include documentation of out-of-pocket expenses for all actual costs and an explanation of the expense, e.g., medical and psychological billings, other costs associated with the injury caused by the agency's actions, and an explanation for the expenditure. *Id.* at 9.

Complainant requested reimbursement for the August 2017 withdrawal from his TSP account, stating that he was forced to withdraw the money for living expenses. However, we agree with the Agency that Complainant has not provided evidence of his out-of-pocket expenses related to the withdrawal or demonstrate that the withdrawal from his TSP account was connected to his nonselection approximately 20 months earlier.

Complainant also requested back pay as a form of pecuniary damages. However, back pay is a form of equitable relief and was not at issue in the Agency's final decision on compensatory damages and attorney's fees.³ Accordingly, the Agency appropriately denied Complainant's request for pecuniary damages.

Nonpecuniary Damages

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 Enforcement Guidance: Compensatory and Punitive Damages Available under § 102 of the Civil Rights Act of 1991, EEOC Notice No. 915.302 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 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).

³ The Agency's calculation and award of back pay is at issue in the pending petition for enforcement, Petition No. 2020003869.

Evidence from a health care provider or other expert is not a mandatory prerequisite for recovery of compensatory damages for emotional harm. See Lawrence v. U.S. Postal Serv., EEOC Appeal No. 01952288 (Apr. 18, 1996) (citing Carle v. Dep't of the Navy, EEOC Appeal No. 01922369 (Jan. 5, 1993)). Objective evidence of compensatory damages can include statements from Complainant concerning his emotional pain or suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character or reputation, injury to credit standing, loss of health, and any other non-pecuniary losses that are incurred as a result of the discriminatory conduct. Id. 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. The absence of supporting evidence, however, may affect the amount of damages appropriate in specific cases. Lawrence, EEOC Appeal No. 01952288.

Complainant requested \$300,000 in nonpecuniary compensatory damages. He stated that, as a result of the discrimination and subsequent retaliation, his preexisting depression significantly worsened, and he was diagnosed with anxiety, ADHD, and PTSD. He reported experiencing suicidal thoughts, sadness, irritability, agitation, paranoia, sleep disturbances, lack of energy, and loss of interest in spending time with family, gardening, and home improvement. Complainant was in counseling and saw a psychiatrist who prescribed four medications. Complainant's wife also observed a deterioration in his mental state. Complainant's treating psychiatrist and medical records from his workers' compensation claim connected his worsening depression and PTSD to Complainant's workplace, although the record reflects that retaliation between March 2016 and May 2017 played a role. The Agency awarded Complainant \$30,000 in nonpecuniary compensatory damages.

We find that the award \$30,000 in nonpecuniary compensatory damages is adequate to compensate Complainant for the harm shown to be causally related to the discriminatory nonselection. The amount of the award meets the goals of not being "monstrously excessive" standing alone, not being the produce of passion or prejudice, and being consistent with the amount awarded in similar cases. See Thaddeus G. v. Dep't of the Navy, EEOC Appeal No. 2019004733 (Sept. 29, 2020) (\$30,000 in nonpecuniary damages where Complainant suffered damage to reputation, increased anxiety, depression, sleep disturbances, and marital problems); Ross H. v. U.S. Postal Serv., EEOC Appeal No. 0720180001 (May 17, 2018) (\$30,000 in compensatory damages where discriminatory nonselections caused stress, sleeplessness, chest pain, anger, depressed outlook, and aggravation of teeth grinding); Dallas D. v. U.S. Postal Serv., EEOC Appeal No. 0120150319 (Mar. 24, 2017) (\$30,000 in nonpecuniary damages where discrimination exacerbated complainant's preexisting conditions, suffered extreme stress, experienced marital problems, isolated himself, and developed anxiety).

Attorney's Fees

Title VII authorizes the award of reasonable attorney's fees, including for an attorney's processing of a compensatory damages claim. 29 C.F.R. § 1614.501(e). To establish entitlement to attorney's fees, Complainant must first show that he or she is a prevailing party. Buckhannon Bd. and Care Home Inc. v. W.Va. Dep't of Health and Human Resources, 532 U.S. 598 (2001).

A prevailing party for this purpose is one who succeeds on any significant issue and achieves some of the benefit sought in bringing the action. Davis v. Dep't of Transp., EEOC Request No. 05970101 (Feb. 4, 1999) (citing Hensley v. Eckerhart, 461 U.S. 427, 433 (1983)).

The fee award is ordinarily determined by multiplying a reasonable number of hours expended on the case by a reasonable hourly rate, also known as a “lodestar.” See 29 C.F.R. § 1614.501(e)(2)(ii)(B); Bernard v. Dep't of Veterans Aff., EEOC Appeal No. 01966861 (July 17, 1998). In determining the number of hours expended the Commission recognizes that the attorney “is not required to record in great detail the manner in which each minute of his time was expended.” Id. However, the attorney does have the burden of identifying the subject matters which he spent his time by submitting sufficiently detailed and contemporaneous time records to ensure that the time spent was accurately recorded. Id.

Further, a reasonable fee award may be assessed in light of factors such as: (1) the time required (versus time expended) to complete the legal work; (2) novelty or difficulty of the issues; (3) the requisite skill to properly handle the case; (4) the degree to which counsel is precluded from taking other cases; (5) the relief sought and results obtained; and (6) the nature and length of the attorney-client relationship. See Cerny v. Dep't of the Army, EEOC Request No. 05930899 (Oct. 19, 1994). 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. Elvin 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 an 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.” See Bernard, EEOC Appeal No. 01966861.

As a preliminary matter, we agree with the Agency’s decision to deny Complainant’s request for reimbursement of attorney’s fees paid to the Dallas law firm that represented him in connection to his workers’ compensation claim. Although Complainant is a prevailing party and entitled to attorney’s fees for legal services rendered in relation to his EEO complaint, he is not entitled to attorney’s fees attributable to his workers’ compensation claim. See Williams v. U.S. Postal Serv., EEOC Appeal No. 01992449 (Sept. 26, 2002) (“To the extent that complainant seeks attorneys fees for work done in connection with his workers compensation claim, the Commission does not have the authority to entertain such a claim”).

Next, we consider the appropriateness of the \$1,975.40 in attorney’s fees and costs awarded by the Agency for legal representation by the D.C. law firm. The D.C. law firm requested \$2,600 in attorney’s fees and \$25.40 in costs. Two attorneys from the D.C. law firm worked on Complainant’s case, one who billed \$500 per hour and another who billed \$225 per hour.

Attorney's fee awards are governed by 29 C.F.R. § 1614.501(e) and Chapter 11 of EEOC Management Directive for 29 C.F.R. Part 1614 (EEO MD-110) (Aug. 5, 2015).

In order to receive a fee award, Complainant's attorney must submit a verified statement of fees and costs accompanied by an affidavit executed by the attorney attesting to the statement's accuracy. 29 C.F.R. § 1614.501(e)(2)(i). The verified statement must include the following:

1. A list of services rendered itemized by date, number of hours, detailed summary of the task, rate, and the attorney's name;
2. Documentary evidence of reasonableness of hours, such as contemporaneous time records, billing records, or a reasonably accurate substantial reconstruction of time records.
3. Documentary evidence of reasonableness of rate, such as 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 resumé, a list of cases handled or a list of comparable cases where a similar rate was accepted; and
4. Documentation of costs.

EEO MD-110, Ch. 11, § VI.G.

Here, Complainant did not provide information establishing the reasonableness of the rates charged by the two attorneys from the D.C. law firm. Accordingly, we find that the Agency properly reduced the amount of attorney's fees by 25 percent. See Polly P. v. U.S. Postal Serv., EEOC Appeal No. 2020004341 (Sept. 22, 2020) (finding agency's reduction in hourly rate was appropriate based on attorneys' failure to provide any justification for their hourly rate).

CONCLUSION

Based on a thorough review of the record and the contentions on appeal, including those not specifically addressed herein, we AFFIRM the Agency's decision on compensatory damages and attorney's fees.

ORDER

To the extent that it has not already done so, within 60 calendar days of the date this decision is issued, the Agency shall pay Complainant nonpecuniary compensatory damages in the amount of \$30,000 and attorney's fees and costs in the amount of \$1,975.40.

The Agency is further directed to submit a report of compliance in digital format as provided in the statement entitled "Implementation of the Commission's Decision."

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 (S0610)

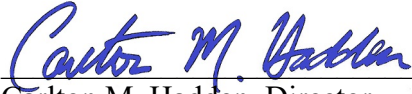
You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department 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

December 13, 2021

Date