



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

[REDACTED]  
Rigoberto A.,<sup>1</sup>  
Complainant,

v.

Michael S. Regan,  
Administrator,  
Environmental Protection Agency,  
Agency.

Appeal No. 2021002128

Agency Nos. 2012-0011-R05, 2014-0048-HQ, 2015-0101-HQ, and 2016-0039-HQ

**DECISION**

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 January 14, 2021 final decision addressing attorneys' fees on an 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**

During the period at issue, Complainant worked as a Criminal Investigator, GS-13, at the Agency's Region 5, Criminal Investigation Division (CID) of the Office of Enforcement and Compliance Assurance in Indianapolis, Indiana.

On December 9, 2011, July 27, 2014, September 16, 2015, and April 4, 2016, Complainant filed four EEO complaint claiming that the Agency discriminated against him and subjected him to harassment in reprisal for prior protected EEO activity when:

1. on November 14, 2011, Complainant received a "minimally satisfactory" rating for his 2011 performance appraisal evaluation;

---

<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.

2. on or about November 15, 2011, Complainant did not receive an award for his involvement in a 2011 team investigation;
3. on January 26, 2012, Complainant was given a Notice of Proposed Removal;
4. on or about January 10, 2014, the Director ordered Complainant not to enter or approach any CID office or partner (such as the United States Attorney) in Region 5;
5. on or about January 10, 2014, Complainant was denied access to the government office and equipment necessary for him to do productive work;
6. on or about January 24, 2014, Complainant was provided a copy of an upgraded (revised) Performance Appraisal and Recognition System (PARS) report that had been signed by the wrong parties and backdated to October 14, 2011;
7. on April 8, 2014, the Acting Assistant Special Agent-in-Charge directed Complainant not to participate in interviews or field work;
8. on April 9, 2014, Complainant received a memorandum from the Director advising him that each of the USAOs that he might work with had been informed of past allegations;
9. since January 10, 2014, the Director's restrictions of Complainant's duties prevented Complainant from conducting case work, denying him equal opportunity to earn awards for case work;
10. in August 2014, the Director provided Complainant with a memorandum advising him that he may work in all but one of the judicial districts in his area of responsibility, and left open the possibility that he may be restricted from other districts in the future;
11. the Director failed to provide him with all of the communications Complainant had about him with various USAOs and these communications are the basis for his work restrictions;
12. the Director failed to select Complainant for a lateral transfer as a Law Enforcement Instructor with the Federal Law Enforcement Center;
13. on or about February 7, 2014, the Head of the Legal Division, Criminal Investigation Division, provided to USAOs his January 26, 2012 Notice of Proposed Removal and his personal medical records;

14. since January 2014, Complainant has been denied access to his work-related documents and materials maintained at his prior work location in Indianapolis, Indiana; and
15. on or about February 1, 2016, a number of documents related to Complainant were uploaded to an unsecure Agency information technology server/drive.

After an investigation into each of the four complaints, the Agency provided Complainant copies of the reports of investigation and notices of right to request a hearing before an EEOC Administrative Judge (AJ). Complainant requested a final decision.

On March 10, 2021, the Agency issued a consolidated decision, pursuant to 29 C.F.R. § 1614.110(b), finding no discrimination. Complainant appealed.

In EEOC Appeal No. 0120180363 (Sept. 17, 2019), request for reconsideration denied, EEOC Request No. 2020000926 (Sept. 3, 2020), the Commission modified the Agency's final decision. The Commission reversed the Agency's finding of no discrimination regarding claims 1, 3, 7-10, and 13. The Commission determined that the Agency unlawfully retaliated against Complainant when it issued him a minimally satisfactory performance rating, a notice of proposed removal, and when management restricted Complainant from working with certain USAO and jurisdictions. However, the Commission determined that Complainant was not entitled to personal relief regarding these claims (claims 1, 3, and 7-10) because there was clear and convincing evidence of mixed motive – in other words, that the management officials would have taken the same actions (minimally satisfactory performance rating, proposed removal, and work restrictions) even if it had not considered Complainant's prior protected EEO activity.

Regarding claim 13, the Commission found that the Agency violated the Rehabilitation Act when it disclosed Complainant's medical records to the AUSAs. Therefore, the Commission ordered the Agency to conduct a supplemental investigation to determine whether Complainant was entitled to compensatory damages as a result of the Agency's disclosure of Complainant's medical information as well as attorneys' fees.<sup>2</sup>

Finally, the Commission affirmed the Agency's finding that Complainant failed to establish that the Agency subjected him to a hostile work environment as indicated in remaining claims 2, 4-6, 11-12, and 14-15.

On October 11, 2019, Complainant submitted to the Agency a petition for attorneys' fees totaling \$360,400. On October 24, 2020, Complainant resubmitted his petition for \$360,400 for attorney's fees, dated October 11, 2019, as well as his attorney's affidavit dated October 10, 2019.

---

<sup>2</sup> Complainant appealed the Agency's March 10, 2021 final decision awarding \$3,000 in compensatory damages, which the Commission affirmed in EEOC Appeal No. 2021002810 (July 21, 2022).

On January 14, 2021, the Agency issued a final decision on the attorney's fees request which determined that Complainant failed to provide adequate documentation to support a finding that his attorney's hourly rate of \$400 was reasonable. Therefore, the Agency reduced Complainant's attorney's hourly rate to \$250. The Agency determined that Complainant's attorney billed a total of 403.5 hours. However, the Agency noted that because Complainant did not prevail on all four of his formal complaints and because the documentation accompanying the expenditures was inadequate and redundant, Complainant was not entitled to reimbursement of all 403.5 hours. Therefore, the Agency applied an across-the-board reduction by 75% of the total 403.5 hours billed. Thus, the Agency determined that Complainant's attorney was entitled to 100.875 hours at the rate of \$250 for a total of \$27,218.75. Finally, the Agency determined that Complainant's attorney did not submit any documentation for associated costs, so the Agency did not award any costs.

The instant appeal followed. On appeal, Complainant argues that the Agency's reduction of the hourly rate and billable hours was improper. Additionally, Complainant asserts that the Agency improperly dismissed three of the five invoices Complainant's attorney submitted, which represented 497.5 hours worked. Consequently, Complainant indicates that his attorney billed a total of 901 hours which the Agency ultimately and improperly reduced to 100.875 hours. Complainant asserts that his four complaint and subsequent appeal were not separate and distinct from each other because the complaints and the appeal all involved the same medical records that the Agency released in violation of the Rehabilitation Act. Therefore, Complainant seeks reimbursement for the total 901 hours billed by his attorney.

Complainant further asserts that \$400 hourly rate was reasonable and disputes the Agency's determination that a \$250 hourly rate was more appropriate. Specifically, Complainant argues that the Agency's use of Federal Sector EEO comparator cases was not appropriate because the facts and circumstances of the two Federal Sector EEO cases the Agency used are different from the instant case. Complainant maintains that his attorney indicated in the affidavit that \$400 was his normal hourly rate and Complainant asserts that this rate should be upheld.

Finally, Complainant argues that the Agency failed to issue a final decision on damages within a timely manner. Specifically, Complainant indicates that the Agency failed to respond to his initial October 11, 2019 submission regarding his request for attorneys' fees within 30 days and the Agency failed to issue a determination within 60 days of receipt of the initial statement as required by EEOC regulations. Complainant acknowledged that he had requested reconsideration of the Commission's September 17, 2019 order. However, Complainant explains that this appeal would not have impacted the Agency's determination on attorney's fees. Nevertheless, Complainant states that the Agency waited more than four months after the Commission denied his request for reconsideration to issue its decision on Complainant's entitlement to attorneys' fees.

## ANALYSIS AND FINDINGS

### ***Timeliness of Agency's Final Decision on Attorney's Fees***

As an initial matter, we address Complainant's arguments on appeal that the Agency did not timely respond and issue a final decision on Complainant's request for attorney's fees. The record indicates that Complainant timely filed a petition for attorney's fees on October 11, 2019, after the Commission issued its September 17, 2019 decision. However, the record indicates that Complainant requested reconsideration of the Commission's September 17, 2019 decision on October 15, 2019. Contrary to Complainant's assertion, Complainant's request for reconsideration effectively stayed the Agency's obligation to issue a determination on attorneys' fees pending the resolution of Complainant's request for reconsideration. We acknowledge that Complainant argues that the reconsideration decision did not involve attorney's fees. We note, however, that Complainant was only entitled to attorney's fees if he prevailed on his claims, *i.e.* Complainant could only seek reimbursement for attorney's fees if there was a finding of discrimination. Consequently, Complainant's request for reconsideration resulted in another review of his complaints on the merits, to determine whether the Commission would affirm, modify, or reverse its prior decision finding discrimination in claim 13. Therefore, the Agency could not respond or issue a decision on Complainant's October 2019 submission, until after the Commission had adjudicated Complainant's request for reconsideration.

We further acknowledge that the Agency waited approximately four months after the Commission denied Complainant's request for reconsideration to issue a final decision on attorney's fees. However, we do not find that Complainant was adversely impacted by this delay considering that Complainant already had to wait approximately one year for resolution of his reconsideration request. Therefore, we find that the Agency's delay in issuing the final decision on attorney's fees was nominal.

### ***Attorneys' Fees***

The Commission's regulations require federal agencies to award attorney's fees and costs for the successful processing of an EEO complaint in accordance with existing case law and regulatory standards. 29 C.F.R. § 1614.501(e)(1)(ii). To receive an award of attorney's fees, a complainant must submit: (1) a verified statement of attorney's fees and (2) an affidavit executed by the attorney of record itemizing the attorney's charges for legal services. *See* 29 C.F.R. § 1614.501(e)(2)(i), EEO MD-110 at Chap. 11 § VI A, at 11-17 (Aug. 5, 2015). Among many other requirements, the verified statement of fees must include a list of services rendered itemized by date, number of hours, and a detailed summary of the task performed. *Id.* The description of services performed should be of sufficient detail in order to justify the time and work expended.

Here, the record includes an October 11, 2019 verified statement of attorney's fees as well as an October 10, 2019 sworn affidavit provided by Complainant's attorney. In the statement, Complainant petitions for payment of attorney's fees totaling \$360,400 for 901 hours of work at \$400 per hour. In the affidavit, Complainant's attorney explains that he has represented Complainant for all four complaints as well as Complainant's appeal identified in EEOC Appeal No. 0120180363. Therefore, Complainant's attorney attached five invoices, one for each complaint and subsequent appeal.<sup>3</sup> As explained in further detail below, our review of the attorney's documentation supports that an hourly rate of \$400 and a total of 901 billable hours was excessive in this case.

### Hourly Rate

Attorney's fees are calculated by determining the lodestar, which consists of the number of hours reasonably expended multiplied by a reasonable hourly rate. All hours reasonably spent to process the complaint are compensable. However, the number of hours should not include excessive, redundant, or otherwise expenditures of time. Attorney's fees are also not recoverable for work on unsuccessful claims. Blum v. Stenson, 465 U.S. 886 (1984); and Hensley v. Eckerhart, 461 U.S. 424 (1983).

The reasonable hourly rate for an attorney is determined by the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skill, experience and reputation. Blum, 465 U.S. at 895. Recent fees awarded by the courts or through settlement to attorneys of comparable reputation and experience performing similar work are also useful guides in setting an appropriate rate. Nat'l Ass'n of Concerned Veterans v. Sec'y of Def., 675 F.2d 319 (D.C. Cir. 1982).

Here, Complainant's attorney explained in his affidavit that his \$400 hourly rate was based on his understanding that this rate was "both conservative and reasonable" for time and work conducted. However, the attorney's subjective opinion alone is not sufficient to determine whether a \$400 hourly rate was reasonable in the instant case. Complainant's attorney has not provided any evidence of the prevailing market rate where he resides (Jasper, Georgia) for similar services provided by attorneys with similar skill, experience, and reputation as Complainant's attorney.<sup>4</sup>

---

<sup>3</sup> The invoices indicate that the attorney billed 144.5 hours (\$57,800) for Complaint No. 2012-0011-R05; 137 hours (\$54,800) for Complaint No. 2014-0048-HQ; 192.5 hours (\$77,000) for Complaint No. 2015-0101-HQ; 216 hours (\$86,400) for Complaint No. 2016-0039-HQ; and 211 hours (\$84,400) for EEOC Appeal No. 0120180363.

<sup>4</sup> We note that on appeal, Complainant submits, for the first time, a billing document from another law firm using the same format as Complainant's attorney, but with an hourly rate of \$350. However, Complainant has not demonstrated why this evidence was not produced before the instant appeal. Therefore, we decline to consider this document as part of the evidentiary record.

Therefore, we agree with the Agency's decision to use comparable Federal Sector EEO cases, within Complainant's attorney's jurisdiction, to help determine a reasonable hourly rate for the services Complainant's attorney provided.

The attorney's affidavit indicates that he was licensed in Georgia, North Carolina, and Texas. The affidavit further indicates that the attorney had twenty-three years as a law specialist in the United States Coast Guard and ten years as an assistant attorney general for the North Carolina Department of Justice Environmental Protection Division. The attorney also previously worked as the Regional Criminal Enforcement Counsel for the Environmental Protection Agency's Region 6 where he prosecuted environmental crimes in the Southern and Eastern federal judicial districts of Texas. After he retired from federal service in December 2011, the attorney began representing Complainant regarding Complainant's complaints against the Agency. Consequently, Complainant's attorney had no prior experience with Federal Sector EEO complaints or appeals.

Given the attorney's background and experience, our review indicates that the Agency used comparable Federal Sector EEO cases to determine an appropriate hourly rate for similar services and experience of Complainant's attorney.<sup>5</sup> The Agency noted that the attorneys in the two comparable Federal Sector EEO cases were based in the Atlanta, Georgia area, less than 100 miles from where Complainant's attorney's location in Jasper, Georgia. The Agency further noted that the attorney in Allen G. charged an hourly rate of \$250, he had approximately 16 – 20 years of experience as an attorney, and he practiced as a Federal Sector Investigator. Additionally, the Allen G. attorney's services included filing a motion for summary judgement and engaging in settlement negotiations. However, the complainant in this case only prevailed on one retaliation claim out of a total of eighteen claims.

Similarly, the Agency indicated that the two attorneys in Sylvester D. charged hourly rates based on experience. The senior attorney/partner charged \$500 per hour while the associate attorney charged \$200 per hour. The Agency reasoned that Complainant's attorney's experience was more similar to the associate attorney in Sylvester D., and the attorney in Allen G.

In sum, we find no basis to disturb the Agency's determination that an hourly rate of \$250 was reasonable in this case.

### Billable Hours

A fee petition must "contain sufficiently detailed information regarding the hours logged and the work done" to permit the determination of whether hours were reasonably expended. National Association of Concerned Veterans v. Secretary of Defense, 675 F.2d 1319, 1327 (D.C. Cir.

---

<sup>5</sup> The Agency used two cases, Allen G. v. Environmental Protection Agency, EEOC Appeal No. 2019003532 (Sept. 16, 2020) and Sylvester D. v. Tennessee Valley Auth., EEOC Appeal No. 0120161524 for comparison (Sept. 18, 2018).

1932). In support of her request, the fee applicant need not “record in great detail how each minute of his time was expended.” Hensley, 461 U.S. 424, at n. 12. However, the applicant does have the burden of identifying the subject matter on which she spent her time, which can be documented by submitting sufficiently detailed contemporaneous time records; billing records, or a reasonable accurate substantial reconstruction of time records. MD-110, Chapter 11, §VII, page 11-9. This should include a summary of the task. Id.

Our review of the record indicates that Complainant’s attorney submitted invoices totaling 901 hours worked covering all four complaints and one subsequent appeal. However, we note that Complainant is entitled to reimbursement for attorney’s fees for the claims on which he prevailed. In this case, the Commission only found one violation and that was disclosure of Complainant’s medical records (claim 13). Our review further indicates that claim 13 was separate and distinct from the other unsuccessful claims because this was the only claim which resulted in a finding solely based on a violation of the Rehabilitation Act. In contrast, the other claims alleged retaliatory discrimination and harassment regarding performance evaluations and awards, a proposed removal, and limitation of job duties which are otherwise unrelated to the disclosure of Complainant’s medical records and involve different management officials.<sup>6</sup> Therefore, we find that it was reasonable for the Agency to only consider those invoices which directly related to the disclosure of Complainant’s medical records. Our review indicates that the Agency only considered 192.5 hours worked by the attorney for Complaint No. 2015-0101-HQ and 211 hours worked by the attorney for EEOC Appeal 0120180363 which totaled 403.5 hours worked for matters directly related to the disclosure of Complainant’s medical records.

The record indicates that the Agency then applied an overall 75% reduction of the 403.5 hours, reducing the total worked hours to 110.785 hours, because the Agency determined that: (1) there was a lack of documentation in the attorney’s affidavit; (2) the reported hours were excessive, redundant, and otherwise unnecessary; and (3) Complainant’s success on his claims was limited given that he only prevailed on one claim. However, we find that any reduction of the 403.5 hours based on the fact that Complainant only prevailed on one claim is not appropriate. The Agency already removed the billed hours from the unsuccessful, unrelated claims. Therefore, the Agency cannot again reduce the relevant hours directly related to the disclosure of Complainant’s medical records which resulted in a finding of discrimination. Thus, we only consider the sufficiency of the documentation and the services reported to determine whether the Agency’s 75% across-the-board reduction on the 403.5 billable hours was reasonable.

---

<sup>6</sup> The Commission has previously held that if a complainant did not prevail on every aspect of his or her complaint, that does not, in itself, justify a reduction in the hours expended where the successful and unsuccessful claims are closely intertwined. “Claims are fractionable or unrelated when they involve distinctly different claims for relief that are based on different facts and legal theories.” Blinick v. Dep’t of Hous. and Urban Dev., EEOC Appeal No. 07A20079 (Feb. 3, 2004). As discussed above, we find that claim 13 is not closely intertwined with Complainant’s other unsuccessful claims. Therefore, it was reasonable for the Agency to remove the hours worked on these unsuccessful claims.



Our review of the record indicates that the invoices Complainant's attorney submitted generally listed the tasks performed. Our review further indicates that the tasks are dated. However, there is no indication of how much time the attorney spent on each individual task. Instead, the invoices include an overall total of hours worked for Complaint No. 2015-0101-HQ and EEOC Appeal No. 0120180363. Additionally, Complainant's attorney includes some pre-complaint services, such as participating in the initial EEO Counselor interview, which are generally not permitted for reimbursement. See 29 C.F.R. § 1614.501(e)(1)(iv). Because the hours for each service are not itemized, it is difficult to determine how much time Complainant's attorney spent on reimbursable and non-reimbursable tasks. However, the Commission has ruled that, when reviewing fee petitions which contain many excessive, redundant, unnecessary or inadequately documented expenditures of time, in lieu of engaging in a line-by-line analysis of each charge claimed, the Commission may calculate the number of hours compensable by applying an across-the-board reduction to the number of hours requested. See Bernard v. Dep't of Veterans Affairs, EEOC Appeal No. 01966861 (July 17, 1998).

After careful review of Complainant's attorney's petition fee, we find that some of the attorney's hours were excessive and given that counsel did not provide adequate justification for his hourly rate, we find that an across-the-board reduction by 25% of the total 403.5 hours is warranted in this case. Therefore, we find that Complainant is entitled to 302.625 hours at an hourly rate of \$250, for a total of \$75,656.25.

### 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 and direct the Agency to comply with the ORDER below.

### ORDER

Within sixty (60) days from the date this decision is issued, the Agency shall pay Complainant \$75,656.25 in attorney's fees for 302.625 hours of work at the rate of \$250.00 per hour.

The Agency is further directed to submit a report of compliance in digital format as provided in the statement "Implementation of the Commission's Decision." The report shall be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g).

### 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.

#### 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 (T0610)**

This decision affirms the Agency's final decision/action in part, but it also requires the Agency to continue its administrative processing of a portion of your complaint. You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision on both that portion of your complaint which the Commission has affirmed and that portion of the complaint which has been remanded for continued administrative processing. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency, or your appeal with the Commission, until such time as the Agency issues its final decision on your complaint. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by his or her full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work. If you file a request to reconsider and also file a civil action, **filing a civil action will terminate the administrative processing of your complaint.**

#### **RIGHT TO REQUEST COUNSEL (Z0815)**

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests.

Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Complainant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:



---

Carlton M. Hadden, Director  
Office of Federal Operations

July 27, 2022  
Date