



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

[REDACTED]  
Augustine V.,<sup>1</sup>  
Complainant,

v.

Megan J. Brennan,  
Postmaster General,  
United States Postal Service  
(Western Area),  
Agency.

Appeal No. 0120180469

Agency No. 4F-913-0051-17

**DECISION**

On November 16, 2017, 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 October 16, 2017, final decision 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. For the following reasons, the Commission REVERSES the Agency's final decision.

**ISSUES PRESENTED**

Whether the Agency discriminated against Complainant based on disability, and in reprisal for requesting a reasonable accommodation, when it forced him to disclose his medical information and when it denied him a reasonable accommodation.

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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.

### BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a City Carrier at the Agency's Oxnard Post Office in Oxnard, California. In November 2016, Complainant stated that the then-Postmaster (PM1) granted him an informal accommodation to allow him to take restroom breaks as needed. Complainant stated that another Postmaster (PM2) took over PM1's duties, and that she did not allow him to continue this informal accommodation, only allowing him to take breaks at regularly scheduled intervals. Report of Investigation (ROI) at 75,78-80.

Complainant stated that his first-line supervisor (S1) gave him a direct order to note his medical condition as a reason for returning late on his Form 3996.<sup>2</sup> Complainant stated that the carriers are required to post their 3996 forms on their desks, which can be viewed by others. ROI at 77. Complainant noted a "bladder problem" on his 3996 forms dated February 3, 7, 13, 14, and March 2, 2017. ROI at 297-301.

On March 3, 2017, Complainant attended a fact-finding meeting with two Acting Supervisors (AS1) and (AS2). Complainant was asked to explain his street and office "expansion," and the duration and frequency of his restroom breaks due to his bladder problem. ROI at 302-305. Complainant stated that PM2, through AS2, then ordered him to go home and not return to work until he had medical documentation for a light-duty assignment. ROI at 88.

On or about April 18, 2017, Complainant provided medical documentation noting that his medical condition was "urinary frequency," and that he needs to urinate "every 30 min-2 hrs." ROI at 306-308. On May 10, 2017, S1 offered Complainant a Light Duty Assignment to case mail two hours per day, which Complainant accepted. ROI at 309. On June 2, 2017, Complainant retracted his acceptance of the light-duty assignment, stating that he accepted the offer because he felt pressured by management. Complainant stated that when he asked S1 if he could see a union steward prior to making a decision, S1 denied his request. ROI at 315.

On May 17, 2017, Complainant initiated a grievance, which was resolved on July 7, 2017. Management officials agreed to restore Complainant's sick leave from April 19, 2017 and return Complainant to duty immediately. ROI at 204-210. On May 18, 2017, Complainant submitted a written request for a reasonable accommodation for additional time to use the restroom, as needed. On June 8, 2017, the Reasonable Accommodation Committee (RAC) informed Complainant that it had scheduled a meeting with him to discuss his request on June 19, 2017.<sup>3</sup> ROI at 310-313, 316.

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<sup>2</sup> A Form 3996 is used when a carrier is unable to complete a route within eight hours, and it is used to authorize overtime or auxiliary assistance. ROI at 83.

<sup>3</sup> The record does not contain information regarding a RAC decision on Complainant's request. The RAC Chairperson stated that the committee was "still searching for work for him," in his affidavit, dated July 3, 2017. ROI at 282.

*EEO Complaint*

On April 13, 2017, Complainant filed an EEO complaint alleging that the Agency discriminated against him on the bases of disability (incontinence), and reprisal for prior protected EEO activity of requesting a reasonable accommodation under Section 501 of the Rehabilitation Act of 1973, when:

1. on March 3, 2017, he was forced to disclose his medical information during a fact-finding interview; and
2. since March 3, 2017, he was denied a reasonable accommodation when he was sent home and told that there was no work available.

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

For claim 1, the Agency determined that it was Complainant's decision to include his medical issue on his 3996 forms, and that management had not required him to do so. The Agency also found that his managers had a right to conduct a fact-finding interview to determine the reason for the expansion of his time, and that Complainant voluntarily disclosed his medical information during the fact-finding meeting. The Agency concluded that Complainant failed to show an improper medical inquiry or disclosure of information.

The Agency found that the record established that Complainant was an individual with a disability. The Agency assumed, for the sake of argument, that Complainant was a qualified individual with a disability, and found that the record did not support that he could perform the essential functions of his position or that the Agency denied him a reasonable accommodation. The Agency stated that completing a route within the time justified by the actual workload is an essential function of the job, and that regularly expending overtime or requesting assistance represents an undue hardship when the cost of overtime is more than *de minimis*, and when assigning others to perform some of Complainant's duties relieves him of his essential functions.

Regarding Complainant's reprisal claim, the Agency determined that Complainant had not established a prima facie case of discrimination because he did not show a causal link between his protected activity and the adverse actions. Specifically, the Agency found that there was no evidence that Complainant's request for an accommodation was the motivating factor in PM2's decision to determine why he was not meeting his street obligations and when she tried to obtain medical documentation to verify his need for an accommodation. The Agency concluded that the evidence did not support a finding that Complainant was subjected to discrimination.

### CONTENTIONS ON APPEAL

#### *Complainant's contentions*

On appeal, Complainant, through his attorney, argues that the Agency ignored evidence showing that he was a qualified individual with a disability. Specifically, Complainant states that he has been employed by the Agency for over thirteen years, and he never received an adverse performance-based action against him, and the Agency has not produced any evidence showing inadequate work performance.

Complainant also asserts that PM2 was aware of Complainant's disability status since September 23, 2016, but she did not initiate an interactive dialogue regarding his possible need for an accommodation. Instead, Complainant alleges that PM2 ordered him to submit to a disciplinary fact-finding meeting in March 2017.

Additionally, Complainant argues that his request for a "slight increase in extra bathroom time" is reasonable, and that there is no evidence in the record to show that it is unreasonable or an undue hardship. Complainant states that the Agency is attempting to falsely equate any delay in completing a route with undue hardship, which is not supported by the law. Further, Complainant argues that the Agency only provided speculation that Complainant's additional breaks caused significant delays, but it did not provide any evidence of an actual delay.

Complainant also argues that the Agency retaliated against him for seeking an accommodation when he was ordered to submit to a pre-disciplinary fact-finding interview, and when PM2 placed him on light duty with limited hours.

Complainant requests that the Commission find the Agency liable for its failure to accommodate him and its retaliation against him. Complainant asks that the Commission order the Agency to: (1) restore Complainant to his regular carrier position, with irregular breaks; (2) conduct a supplemental investigation and issue a new final decision regarding appropriate remedies; and (3) pay Complainant's legal costs.

#### *Agency Contentions*

The Agency argues that PM2 was not aware of Complainant's bladder condition until his managers requested specific information related to his requests for extra time on his route. The Agency also states that Complainant was never forced to disclose confidential medical documentation, and that he volunteered the information on his 3996 forms.

The Agency also claims that Complainant's requests for "hours of assistance make it clear that he is not otherwise qualified." The Agency further argues that it "cannot be said that a carrier who...still returned to the office well over two hours late is performing anywhere near the minimum required of a professional carrier."

The Agency added that Complainant's requests were "excessive," and that requiring the Agency to "absorb premium pay," or assign others to assist with Complainant's duties would impose an undue hardship. The Agency requests that the Commission affirm its final decision.

### ANALYSIS AND FINDINGS

#### *Standard of Review*

As this is an appeal from a decision issued without a hearing, pursuant to 29 C.F.R. § 1614.110(b), the Agency's decision is subject to de novo review by the Commission. 29 C.F.R. § 1614.405(a). See Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614, at Chapter 9, § VI.A. (Aug. 5, 2015) (explaining that the de novo standard of review "requires that the Commission examine the record without regard to the factual and legal determinations of the previous decision maker," and that EEOC "review the documents, statements, and testimony of record, including any timely and relevant submissions of the parties, and . . . issue its decision based on the Commission's own assessment of the record and its interpretation of the law").

As an initial matter, we note that Complainant alleges, on appeal, that the Agency has failed to engage in the interactive process regarding his request for a reasonable accommodation since September 23, 2016. However, we note that Complainant alleged that S1 failed to engage in the interactive process when she insisted that he apply for light duty. ROI at 75. We note that this occurred on March 3, 2017, not September 23, 2016. The Commission cannot address an issue raised for the first time on appeal, and as such, we will not address Complainant's allegation that the Agency has failed to engage in the interactive process since September 23, 2016.

#### *Medical Information Disclosure*

Under the Rehabilitation Act, information "regarding the medical condition or history of any employee shall be collected and maintained on separate forms and in separate medical files and be treated as a confidential medical record." 29 C.F.R. § 1630.14(c)(1); see also 42 U.S.C. § 12112(d)(4)(C). This requirement applies to all medical information, including information that an individual voluntarily discloses. See EEOC Enforcement Guidance on Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act (ADA), No. 915.002, at 4 (July 26, 2000). Employers may share confidential medical information only in limited circumstances: supervisors and managers may be told about necessary restrictions on the work or duties of the employee and about necessary accommodations; first aid and safety personnel may be told if the disability might require emergency treatment; and government officials investigating compliance with the ADA and Rehabilitation Act must be given relevant information on request. 29 C.F.R. § 1630.14(c)(1).

In claim 1, Complainant alleged that he was forced to disclose his medical condition to AS1 and AS2 during the investigatory meeting on March 3, 2017. However, we find that Complainant was made to disclose his medical condition even prior to this meeting.

Complainant stated that S1 directed him to include his medical condition on his 3996 forms, and that he complied because he was concerned about being disciplined for disobeying an order. ROI at 77. PM2 confirmed that the 3996 forms are “posted in public view.” ROI at 260. While we note that S1 was not asked if he directed Complainant to include his medical information on his 3996 forms, there is no evidence in the record to contradict Complainant’s claim. As such, we find that the Agency violated the Rehabilitation Act because S1’s instruction to Complainant to include his medical information on his publicly displayed 3996 forms breached the Agency’s obligation to keep an employee’s medical information confidential, and the circumstances do not fall within one of the given exceptions; we will reverse the Agency’s decision.

#### *Failure to Provide Reasonable Accommodation*

In order to establish that Complainant was denied a reasonable accommodation, Complainant must show that: (1) he is an individual with a disability; (2) he is a qualified individual with a disability; and (3) the Agency failed to provide a reasonable accommodation. See Enforcement Guidance. “The term ‘qualified,’ with respect to an individual with a disability, means that the individual satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.” 29 C.F.R. § 1630.2(m). An agency is required to make reasonable accommodation to the known physical and mental limitations of a qualified individual with a disability unless the Agency can show that accommodation would cause an undue hardship. 29 C.F.R. §§ 1630.2(o) and (p).

An individual with a disability is one who: (1) has a physical or mental impairment that substantially limits one or more major life activities; (2) has a record of such impairment; or (3) is regarded as having such an impairment. 29 C.F.R. § 1630.2(g). Major life activities include such functions as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; and the operation of a major bodily function. 29 C.F.R. § 1630.2(i). An impairment is a disability if it substantially limits the ability of an individual to perform a major life activity as compared to the ability of most people in the general population. 29 C.F.R. § 1630.2(j)(ii).

The record contains Complainant’s medical documentation showing that he suffers from “urinary frequency” and “OAB,”<sup>4</sup> which causes him to urinate “every 30 min-2 hrs.” ROI at 131, 308. As such, we find that Complainant is an individual with a disability because he has an impairment which substantially limits one of his major bodily functions.

We also find that Complainant is a qualified individual with a disability. Complainant stated that he is able to perform the essential functions of his position. ROI at 78-79. The Agency argues that Complainant is not a qualified individual because he could not finish his route within the established time for his route. Specifically, PM2 stated that Complainant is unable to perform his duties within eight hours. ROI at 258. However, we find that the record shows that the expected time to complete Complainant’s route was within 9 hours and 39 minutes. ROI at 108.

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<sup>4</sup> OAB is an acronym for overactive bladder.

Additionally, we are not persuaded by the Agency's contention that Complainant was not qualified because he requested additional overtime or auxiliary assistance. Complainant's 3996 forms show that there were multiple reasons for his requests for overtime or auxiliary assistance. For example, Complainant noted that he needed to fuel his vehicle; deal with wet roads and "trash day"; and had heavy parcel loads. ROI at 297-301. We find that Complainant's medical condition was only one of many factors contributing to his need for overtime or auxiliary assistance.

We further find that the Agency has not shown that Complainant's requests were "excessive" to the point that they rendered him unable to perform the essential functions of his position. As noted in its final decision, the Agency found that Complainant requested the following overtime: 1.23 hours on February 27, 2017; .09 hours on March 1, 2017; and .2 hours on March 2, 2017. However, the Agency has not shown that Complainant's requests were excessive as compared to other employees or shown that his requests created an undue hardship.

We find that the Agency has not shown any evidence that Complainant is unable to perform the essential functions of his position, and that PM2's claim that Complainant needed to complete his work within eight hours is not supported by the evidence. As such, we find that Complainant is a qualified individual with a disability.

We further find that the Agency failed to provide Complainant with a reasonable accommodation. Complainant's request to take additional breaks, as needed, was a reasonable request, and the record shows that PM1 previously granted this request. See Holland v. Social Security Administration, EEOC Appeal No. 01A01372 (Oct. 2, 2003) (finding that allowing for intermittent breaks away from the telephone at a teleservice representative job could have been a reasonable accommodation); and EEOC v. Convergys Customer Management Group, 491 F.3d 790 (8<sup>th</sup> Cir. 2007) (finding an extra 15 minute break was a reasonable accommodation that would allow the plaintiff to comply with the employer's punctuality requirement; noting that employer did not put forth any evidence showing that extending the plaintiff's lunch break by an 15 minutes would eliminate its punctuality requirement).

We find that the Agency failed to accommodate Complainant starting on March 3, 2017, when it stopped allowing him to work with unscheduled breaks and ordered him to go home. Complainant had to take sick leave for over two months until May 10, 2017, when the Agency offered him a light-duty assignment. However, we do not find that the light-duty assignment, which only provided up to two hours of work a day, was an effective accommodation. Despite being a full-time carrier, Complainant's light-duty assignment did not provide him with full-time employment, and he had to use approximately six hours of sick leave each day to make up the difference. ROI at 337.

We also find that the Agency did not provide any evidence showing that it would be an undue hardship to provide Complainant with an effective accommodation. The Agency's claim that Complainant's requested accommodation would have resulted in "substantial" overtime pay is not supported by any evidence. Additionally, there is no evidence that the Agency considered allowing

Complainant to modify his work schedule to accommodate any additional breaks. See Enforcement Guidance at Question 22. (“An employer [must] allow an employee with a disability to work a *modified* or part-time schedule as a reasonable accommodation, absent undue hardship.” “A modified schedule may involve *adjusting arrival or departure times...*”) (emphasis added).

We note that Complainant’s request was still pending with the RAC during the EEO investigation, and there is no evidence that the Agency has since provided Complainant with an effective accommodation. As such, we find that the Agency discriminated against Complainant based on his disability when it failed to provide him with an effective reasonable accommodation since March 3, 2017; and we will reverse the Agency’s decision.

Where a discriminatory practice involves the provision of a reasonable accommodation, damages may be awarded if the Agency fails to demonstrate that it made a good faith effort to provide the individual with a reasonable accommodation for his disability. See 42 U.S.C. § 1981a(a)(3); and Gunn v. U.S. Postal Serv., EEOC Appeal No. 0120053293 (June 15, 2007). We find that the Agency did not act in good faith in this case because PM2 failed to engage in the interactive process when a reasonable accommodation was available; placed Complainant on involuntary leave status until the Agency offered him a light-duty assignment; and then failed to provide Complainant with full-time work, forcing him to use his sick leave. Accordingly, we find that Complainant is entitled to compensatory damages from the Agency’s discrimination against him and will order the Agency to conduct a supplemental investigation on Complainant’s damages.

As Complainant would not be entitled to any additional remedies, we do not find it necessary to address whether the Agency’s actions were also motivated by reprisal for his requesting a reasonable accommodation.

### CONCLUSION

Based on a thorough review of the record and the contentions on appeal, including those not specifically addressed herein, we find that the Agency discriminated against Complainant based on his disability when it made him disclose his medical condition in a non-confidential manner; and failed to provide him with a reasonable accommodation. Therefore, we REVERSE the Agency’s final decision, and ORDER the Agency to take further action, in accordance with the order below.

### ORDER

Within one hundred twenty (120) days of the date this decision is issued the Agency is ordered to take the following remedial action:

- I. Restore Complainant’s sick leave used from March 3, 2017, through April 18, 2017.<sup>5</sup>

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<sup>5</sup> Complainant’s grievance led to the restoration of his sick leave from April 19, 2017, through July 7, 2017. ROI at 204-210.



- II. To the extent that it has not already done so, provide Complainant with a reasonable accommodation at the Oxnard Post Office, which allows him to work a full-time schedule.
- III. Within ninety (90) days of receipt of this Order, the Agency shall conduct a supplemental investigation with respect to Complainant's claim of compensatory damages, attorney's fees, and costs. The Agency shall allow Complainant to present evidence in support of his compensatory damages claim. See Carle v. Dep't of the Navy, EEOC No. 01922369 (Jan. 5, 1993). Complainant shall cooperate with the Agency in this regard. The Agency shall issue a final decision addressing the issues of compensatory damages, attorney's fees, and costs no later than thirty (30) days after the completion of the investigation.
- IV. Within ninety (90) days of receipt of this Order, the Agency shall provide eight (8) hours of in-person or interactive EEO training for S1 and PM2 on the Rehabilitation Act. The training shall emphasize the Rehabilitation Act's requirements with respect to an Agency's duties to maintain the confidentiality of an employee's medical information; engage in the interactive process; and to provide a reasonable accommodation to ensure that similar violations do not occur.
- V. Within sixty (60) days of receipt of this Order, the Agency shall consider taking appropriate disciplinary action against S1 and PM2. If the Agency decides to take disciplinary action, it shall identify the action taken. If the Agency decides not to take disciplinary action, it shall set forth the reason(s) for its decision not to impose discipline. If any of the responsible management officials have left the Agency's employ, the Agency shall furnish documentation of their departure date(s).
- VI. The Agency shall post a notice in accordance with the paragraph below.

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." The report shall be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Further, the report must include supporting documentation of the Agency's restoration of leave and grant of a reasonable accommodation to Complainant, including evidence that the corrective action has been implemented.

#### POSTING ORDER (G0617)

The Agency is ordered to post at its Oxnard Post Office copies of the attached notice. Copies of the notice, after being signed by the Agency's duly authorized representative, shall be posted **both in hard copy and electronic format** by the Agency within 30 calendar days of the date this decision was issued, and shall remain posted for 60 consecutive days, in conspicuous places, including all places where notices to employees are customarily posted.

The Agency shall take reasonable steps to ensure that said notices are not altered, defaced, or covered by any other material. The original signed notice is to be submitted to the Compliance Officer as directed in the paragraph entitled "Implementation of the Commission's Decision," within 10 calendar days of the expiration of the posting period. The report must be in digital format and must be submitted via the Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g).

#### ATTORNEY'S FEES (H1016)

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

#### IMPLEMENTATION OF THE COMMISSION'S DECISION (K0719)

Under 29 C.F.R. § 1614.405(c) and §1614.502, compliance with the Commission's corrective action is mandatory. Within seven (7) calendar days of the completion of each ordered corrective action, the Agency shall submit via the Federal Sector EEO Portal (FedSEP) supporting documents in the digital format required by the Commission, referencing the compliance docket number under which compliance was being monitored. Once all compliance is complete, the Agency shall submit via FedSEP a final compliance report in the digital format required by the Commission. See 29 C.F.R. § 1614.403(g). The Agency's final report must contain supporting documentation when previously not uploaded, and the Agency must send a copy of all submissions to the Complainant and his/her representative.

If the Agency does not comply with the Commission's order, the Complainant may petition the Commission for enforcement of the order. 29 C.F.R. § 1614.503(a). The Complainant also has the right to file a civil action to enforce compliance with the Commission's order prior to or following an administrative petition for enforcement. See 29 C.F.R. §§ 1614.407, 1614.408, and 29 C.F.R. § 1614.503(g). Alternatively, the Complainant has the right to file a civil action on the underlying complaint in accordance with the paragraph below entitled "Right to File a Civil Action." 29 C.F.R. §§ 1614.407 and 1614.408. A civil action for enforcement or a civil action on the underlying complaint is subject to the deadline stated in 42 U.S.C. 2000e-16(c) (1994 & Supp. IV 1999). **If the Complainant files a civil action, the administrative processing of the complaint, including any petition for enforcement, will be terminated.** See 29 C.F.R. § 1614.409.

STATEMENT OF RIGHTS - ON APPEAL  
RECONSIDERATION (M0617)

The Commission may, in its discretion, reconsider the decision in this case if the Complainant or the Agency submits a written request containing arguments or evidence which 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 to reconsider, with supporting statement or brief, must be filed with the Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. A party shall have **twenty (20) calendar days** of receipt of another party's timely request for reconsideration in 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). All requests and arguments must be submitted to the Director, Office of Federal Operations, Equal Employment Opportunity Commission. Complainant's request may be submitted via regular mail to P.O. Box 77960, Washington, DC 20013, or by certified mail to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, the request to reconsider shall be deemed timely filed if it is received by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604. The agency's request must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). The request or opposition must also include proof of service on the other party.

Failure to file within the time period will result in dismissal of your request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. Any supporting documentation must be submitted with your request for reconsideration. The Commission will consider requests for reconsideration filed after the deadline only in very limited circumstances. See 29 C.F.R. § 1614.604(c).

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

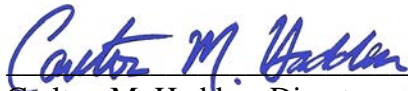
This is a decision requiring the Agency to continue its administrative processing of your complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. In the alternative, you may file a civil action **after one hundred and eighty (180) calendar days** of the date you filed your complaint with the Agency or filed your appeal with the Commission. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by his or her full name and official title.

Failure to do so may result in the dismissal of your case in court. “Agency” or “department” means the national organization, and not the local office, facility or department in which you work. **Filing a civil action will terminate the administrative processing of your complaint.**

RIGHT TO REQUEST COUNSEL (Z0815)

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

FOR THE COMMISSION:

A handwritten signature in blue ink, reading "Carlton M. Hadden", is written over a horizontal line.

Carlton M. Hadden, Director  
Office of Federal Operations

July 24, 2019

Date