



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

[REDACTED]
Gino T.,¹
Complainant,

v.

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

Appeal No. 0120182066

Hearing No. 450-2015-00040X

Agency No. 4G780008414

DECISION

On May 30, 2018, 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 May 10, 2018, final order 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 VACATES the Agency's final order, and REMANDS the matter in accordance with this decision and the ORDER below.

ISSUE PRESENTED

The issue presented is whether the Administrative Judge properly issued a decision without a hearing finding that the Agency did not discriminate against Complainant, nor subjected him to harassment, based on his disability, national origin, or in reprisal for protected EEO activity.

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.

BACKGROUND

At the time of events giving rise to this complaint, Complainant worked as a City Carrier at the Agency's Copper Mountain Station in Killeen, Texas.² He reported to his supervisors S1 (Dominican/Latino, unspecified disability status, unspecified EEO activity), and S2 (Black, unspecified disability status, unspecified EEO activity).

In February 2014, Complainant stated that S2 changed his start time by fifteen (15) minutes, from 8:00 a.m. to 8:15 a.m. Report of Investigation (ROI) at 192. Complainant stated that since February 1, 2014, S1 and S2 have denied him overtime work, despite his being on the Overtime Desired List (ODL). He stated that he was only offered overtime work on June 6-7, 2014. Complainant added that the managers were not following the proper procedure to match the overtime work with those on the ODL. ROI at 198-200.

On February 4, 2014, Complainant was issued a Letter of Warning citing Unacceptable Work Performance for failure to follow instructions. ROI at 233. Complainant filed a grievance, and the parties settled the matter on February 8, 2014. The letter and all supporting documentation were expunged from Complainant's file. ROI at 366. On February 14, 2014, Complainant stated that S1 followed him during his route. At one point, Complainant stated, S1 yelled at him in front of customers. ROI at 202. On February 18, 2014, Complainant initiated the instant EEO complaint. ROI at 120.

On March 7, 2014, after Complainant returned from his 9-hour shift, S2 instructed him to go back out. Complainant stated that when he informed S2 that he had a 9-hour medical restriction, she responded that it had expired. Complainant worked an additional 55 minutes. ROI at 206. On March 31, 2014, Complainant was issued a Letter of Warning for unacceptable attendance. ROI at 247-248. Complainant filed a grievance and the matter was settled on June 7, 2014. Among other remedies, the letter and all supporting remedies were expunged from Complainant's file. ROI at 249-257.

In April 2014, Complainant learned that his transfer request to the Orlando, Florida Post Office was denied. The Acting Complement Coordinator informed Complainant that the selecting official denied his request due to an unacceptable attendance record.³ ROI at 261. On April 25, 2014, Complainant learned that his paycheck was incorrect because he had been paid for 11 hours of overtime he had not worked, and had not requested leave without pay from April 12, 2014, through April 18, 2014. ROI at 215, 263.

² Complainant has since transferred to the Bluebonnet Station in Austin, Texas.

³ The selecting official was not identified in the record.

On May 31, 2014, Complainant filed an EEO complaint alleging that the Agency subjected him to harassment on the bases of national origin (Hispanic),⁴ disability (unspecified), and reprisal for prior protected EEO activity under Title VII when:

1. in February 2014, his start time was changed by fifteen (15) minutes;
2. on February 4, 2014, he was issued a Letter of Warning;
3. since February 1, 2014, he was denied overtime;
4. on February 14, 2014, S1 followed him into the street where he yelled at, intimidated, and embarrassed Complainant in front of customers;
5. on March 7, 2014, S2 forced him to work beyond his nine-hour medical restriction;
6. on March 31, 2014, he was issued a Letter of Warning;
7. on April 14, 2014, he was denied a transfer to Orlando, Florida; and
8. on April 25, 2014, his paycheck did not accurately reflect his work hours.

At the conclusion of the investigation, the Agency provided Complainant with a copy of the report of investigation and notice of his right to request a hearing before an EEOC Administrative Judge (AJ). Complainant timely requested a hearing.

On April 3, 2018, the AJ assigned to the case issued a Notice of Intent to Issue Summary Judgment, outlining the Agency's articulated legitimate, nondiscriminatory reasons for its actions. For claim 1, the AJ noted that the Agency has the authority to change the start time of employees, up to one hour. With respect to claim 2, Complainant was issued a Letter of Warning because he took overtime when his mail volume did not warrant the extra time. For claim 3, the Agency did not call Complainant for overtime on his non-scheduled work days. Regarding claim 4, S1 followed Complainant to inform him that he could not work overtime because his workload did not justify the extra time; S1 denied yelling at him. For claim 5, the Agency averred that Complainant had no medical restrictions in his files. With regard to claim 6, the AJ stated that the Agency denied issuing him a Letter of Warning. For claim 7, the Agency stated that Complainant's transfer was denied due to his unacceptable attendance record. Regarding claim 8, the Agency noted that Complainant's hours were incorrectly recorded, but corrected once the error was caught. The AJ instructed the parties to respond citing specific evidence which would create a factual dispute regarding a material issue in the case.

Complainant timely responded, arguing that the Agency's explanations were inadequate, and that there are credibility issues. For example, S1 denied yelling at Complainant, while Complainant claims that S1 verbally, and almost physically, assaulted him. Additionally, Complainant alleged that his medical issues were disclosed to the selecting official in Florida, who denied his transfer request. Complainant concluded that there were material facts in dispute, and that a summary judgment decision was not appropriate.

⁴ Although Complainant alleged discrimination on the basis of race (Hispanic), the Commission notes that it considers the term "Hispanic" to denote a national origin rather than a racial group.

The AJ issued a decision without a hearing on April 20, 2018, granting summary judgment in favor of the Agency.⁵ The AJ concluded that in viewing the evidence in the light most favorable to Complainant, he did not offer any evidence to show that the Agency's articulated reasons for its actions were pretext for discrimination. The Agency subsequently issued a final order adopting the AJ's finding that Complainant failed to prove that the Agency subjected him to discrimination as alleged.

Complainant filed the instant appeal and submitted a statement with his appeal. The Agency responded to Complainant's appeal on July 31, 2018.⁶

CONTENTIONS ON APPEAL

On appeal, Complainant argues that the AJ did not consider all that facts in the record, and highlights discrepancies in the evidence. For example, Complainant states that S1 and S2 provided inconsistent responses for claim 1. While S2 stated that she changed Complainant's work schedule due to "unsatisfactory performance," S1 stated that it was done due to Complainant's "medical restrictions."

For claim 4, Complainant alleges that a witness provided a statement contradicting S1's claim that he did not yell at Complainant. With regard to claim 5, Complainant states that it was not true that his medical documentation was expired. For claim 6, Complainant notes that S1 responded "no" and that S2 responded "unknown" when asked if Complainant was issued a Letter of Warning on March 31, 2014. However, the record contains the Letter of Warning with the signatures of both S1 and S2. With regard to claim 7, Complainant states that S2 admitted to discussing his medical condition with the selecting official who denied his transfer request to Florida.

The Agency argues that the AJ's summary judgment decision in favor of the Agency was appropriate, and that Complainant did not provide evidence showing that the Agency's reasons were pretext for discrimination.

⁵ The Agency filed a Motion for Findings and Conclusions Without a Hearing on April 20, 2018, and a reply to Complainant's response on April 24, 2018.

⁶ The Commission's regulations provide that "any statement or brief in opposition to an appeal must be submitted to the Commission ... within 30 days of receipt of the statement or brief supporting the appeal, or, if no statement or brief supporting the appeal is filed, within 60 days of receipt of the appeal." 29 C.F.R. §1614.403(f). In this case, it is not clear if Complainant sent the Agency notice of his appeal and his statement. We will assume that Complainant did not do so; and that the Agency first received notice of Complainant's appeal from the Commission on June 11, 2018. Accordingly, we will consider the Agency's brief to be timely.

For claims 2, and 6, the Agency states that Complainant filed a grievance for both letters, which were then withdrawn. The Agency argues that matters settled in a grievance cannot be raised again before the Commission. With regard to claim 3, the Agency argues that Complainant has not provided any names of carriers who were granted overtime. For claim 4, the Agency assumed, for the sake of argument, that S1 yelled at, intimidated, and embarrassed Complainant in front of customers, but that Complainant did not show that the unwelcome conduct was due to his protected classes. Moreover, the Agency states that the conduct was not severe or pervasive.

With respect to claim 5, the Agency argues that its regulations stipulate that employees are to provide medical documentation every 90 days, and that Complainant's most recent medical documentation was dated November 6, 2013, and therefore was expired. For claim 7, the Agency states that the selecting official in Orlando was not aware of Complainant's race, disability, and/or prior EEO activity. The Agency argues that Complainant's transfer request was denied due to his poor attendance record, which he created himself. For claim 8, the Agency argues that Complainant stated that he had "no idea" if he lost any money, and he did not provide any details to substantiate his claim.

With respect to Complainant's reprisal claim of discrimination, the Agency argues that Complainant did not file his EEO complaint until February 18, 2014, and that claims 1 through 4 predate his EEO activity. For claims 5 through 8, the Agency argues that Complainant is not able to show that his managers were aware of his EEO activity. The Agency states that S1 and S2 denied knowledge of Complainant's EEO activity at the time of the alleged adverse actions against him. Further, the Agency claims that the EEO Counselor's interview with S1 and S2 "must have taken place after May 21, 2014," because the Initial Management Inquiry Process (IMIP) "was reviewed for appropriate action by Manager Post Office Operations...on 5/21/14."

STANDARD OF REVIEW

In rendering this appellate decision, we must scrutinize the AJ's legal *and* factual conclusions, and the Agency's final order adopting them, de novo. See 29 C.F.R. § 1614.405(a) (stating that a "decision on an appeal from an Agency's final action shall be based on a de novo review . . ."); see also Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9, § VI.B. (Aug. 5, 2015) (providing that an administrative judge's determination to issue a decision without a hearing, and the decision itself, will both be reviewed de novo). This essentially means that we should look at this case with fresh eyes. In other words, we are free to accept (if accurate) or reject (if erroneous) the AJ's, and the Agency's, factual conclusions and legal analysis – including on the ultimate fact of whether intentional discrimination occurred, and on the legal issue of whether any federal employment discrimination statute was violated. See id. at Chap. 9, § VI.A. (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").

ANALYSIS AND FINDINGS

Decision without a Hearing

We must determine whether it was appropriate for the AJ to have issued a decision without a hearing on this record. The Commission's regulations allow an AJ to issue a decision without a hearing when he or she finds that there is no genuine issue of material fact. 29 C.F.R. § 1614.109(g). This regulation is patterned after the summary judgment procedure set forth in Rule 56 of the Federal Rules of Civil Procedure. The U.S. Supreme Court has held that summary judgment is appropriate where a court determines that, given the substantive legal and evidentiary standards that apply to the case, there exists no genuine issue of material fact. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). In ruling on a motion for summary judgment, a court's function is not to weigh the evidence but rather to determine whether there are genuine issues for trial. Id. at 249. The evidence of the non-moving party must be believed at the summary judgment stage and all justifiable inferences must be drawn in the non-moving party's favor. Id. at 255. An issue of fact is "genuine" if the evidence is such that a reasonable fact finder could find in favor of the non-moving party. Celotex v. Catrett, 477 U.S. 317, 322-23 (1986); Oliver v. Digital Equip. Corp., 846 F.2d 103, 105 (1st Cir. 1988). A fact is "material" if it has the potential to affect the outcome of the case.

If a case can only be resolved by weighing conflicting evidence, issuing a decision without holding a hearing is not appropriate. In the context of an administrative proceeding, an AJ may properly consider issuing a decision without holding a hearing only upon a determination that the record has been adequately developed for summary disposition. See Petty v. Dep't of Def., EEOC Appeal No. 01A24206 (July 11, 2003). Finally, an AJ should not rule in favor of one party without holding a hearing unless he or she ensures that the party opposing the ruling is given (1) ample notice of the proposal to issue a decision without a hearing, (2) a comprehensive statement of the allegedly undisputed material facts, (3) the opportunity to respond to such a statement, and (4) the chance to engage in discovery before responding, if necessary. According to the Supreme Court, Rule 56 itself precludes summary judgment "where the [party opposing summary judgment] has not had the opportunity to discover information that is essential to his opposition." Anderson, 477 U.S. at 250. In the hearing context, this means that the administrative judge must enable the parties to engage in the amount of discovery necessary to properly respond to any motion for a decision without a hearing. Cf. 29 C.F.R. § 1614.109(g)(2) (suggesting that an AJ could order discovery, if necessary, after receiving an opposition to a motion for a decision without a hearing).

As an initial matter, we note that the record shows that claims 2 and 6 were settled after Complainant filed a grievance. Accordingly, claims 2 and 6 will be dismissed as discrete claims of discrimination.⁷ However, they will be considered as background information for Complainant's overall harassment allegation.

We find that a decision without a hearing was not appropriate in this case because there is a need to make credibility determinations; there are material facts in genuine dispute; and the record is not fully developed.

We find that a hearing is necessary to determine the credibility of the managers. The courts have been clear that summary judgment is not to be used as a "trial by affidavit." Redmand v. Warrener, 516 F.2d 766, 768 (1st Cir. 1975). The Commission has noted that when a party submits an affidavit and credibility is at issue, "there is a need for strident cross-examination and summary judgment on such evidence is improper." Pedersen v. Dep't of Justice, EEOC Request No. 05940339 (February 24, 1995). We find that S1 and S2 provided statements that are inconsistent with other evidence in the record, and a strident cross-examination is needed.

For example, S1 stated that he did not yell at Complainant, but the record contains a statement from a customer who witnessed their exchange on February 14, 2014. The witness stated that he saw S1 "yelling" and "screaming" at Complainant; and that he believed that S1 would "assault" Complainant. ROI at 290. While we recognize that this was not a sworn statement, this evidence, along with other evidence in the record, raises a question about S1's credibility. In his affidavit, S1 stated that Complainant was not issued a Letter of Warning on March 31, 2014, and he denied issuing it. ROI at 320. However, the record shows S1's signature on the Letter of Warning. ROI at 248. We note that S1 has an illegible, but very distinct signature; and that the signature on the Letter of Warning matches the signature from S1's affidavit.

Further, S1's statement contains conflicting responses. S1 stated that he was "unaware" if Complainant suffered from a medical condition or impairment, but also stated that he had received medical documentation about Complainant's knee injury. S1 responded "no" when asked if Complainant's medical condition affected his ability to perform his work assignment, but then stated that Complainant had a "9 hour medical restriction knee injury." ROI at 302-304.

Additionally, S2 responded "unknown" when asked if Complainant was issued the March 31, 2014, Letter of Warning, despite her signature on the letter attesting to be a witness that Complainant refused to sign the letter. ROI at 346. For these reasons, we find that cross-examinations of S1 and S2 are needed at a hearing to question them about their responses in their affidavits, and to make credibility determinations.

⁷ On appeal, Complainant argues that the March letter has not been expunged from his record. We note that the proper forum to challenge the Agency's non-compliance of a grievance settlement is through the negotiated grievance process.

With regard to claim 1, we find that there is a genuine issue of material fact regarding the reason Complainant's schedule was changed. S2 changed his schedule and stated that she did so because of his "unsatisfactory performance," and the "expansion of office and street time factors." ROI at 340. However, S1 stated that S2 changed Complainant's schedule due to his "medical restriction; needs of the service." ROI at 306. For claim 5, S2 stated that Complainant's medical documentation had "expired," and did not consider his 9-hour medical restriction to be valid. Complainant counters that there is no expiration for his medical documentation. We find that the medical documentation does not indicate that there is an expiration date.⁸ ROI at 265. To the extent that the Agency argues that its regulations stipulate that medical documentation expires after 90 days, it has not identified any specific regulation, nor shown where this regulation is in the record. Accordingly, we find that there are material facts in genuine dispute regarding the reasons why S2 changed Complainant's work schedule and instructed Complainant to work beyond his nine-hour restriction.

We further find that the record is not fully developed regarding S1 and S2's knowledge of Complainant's EEO activity. Both S1 and S2 stated that they were aware of the instant complaint, but neither provided a response stating when they learned of Complainant's EEO activity. ROI at 305, 338. The Agency argues that because the IMIP was not reviewed until May 21, 2014, S1 and S2 could only have learned of Complainant's EEO contact after that date. However, we do not find that the record supports this assertion. The EEO Counselor issued the Notice of Right to File a formal complaint on May 20, 2014, in which he summarized his conversations with S1 and S2, showing that he spoke with them prior to May 20, 2014. ROI at 102. Given the close timing of Complainant's initial EEO contact and the subsequent claims, we find that the date when S1 and S2 learned of Complainant's EEO activity is a material fact with regards to motivation.

We also find that the record is not adequately developed for claim 7. Despite the Agency's assertion that the selecting official was not aware of Complainant's protected classes, the record does not contain an affidavit from the selecting official. Further, S2 stated that she spoke with the selecting official, and may have discussed Complainant's attendance record and provided his "supporting medical documentation." ROI at 348. We find that it is necessary to identify and question this selecting official with regards to his or her decision to deny Complainant's transfer request.

We find that a decision without a hearing was not appropriate in this case. The hearing process is intended to be an extension of the investigative process, designed to ensure that the parties have "a fair and reasonable opportunity to explain and supplement the record and, in appropriate instances, to examine and cross-examine witnesses." See EEO MD-110, 7-1; see also 29 C.F.R. § 1614.109(e). "Truncation of this process, while material facts are still in dispute and the credibility of witnesses is still ripe for challenge, improperly deprives complainant of a full and fair investigation of her claims."

⁸ The form notes an expiration date of October 31, 2014. However, this expiration date is applicable to the form itself, and not the information provided on the form.

Bang v. U.S. Postal Serv., EEOC Appeal No. 01961575 (March 26, 1998). See also Peavley v. U.S. Postal Serv., EEOC Request No. 05950628 (October 31, 1996); Chronister v. U.S. Postal Serv., EEOC Request No. 05940578 (April 25, 1995). Accordingly, we VACATE the Agency's final order, and REMAND the matter back to the Agency for further processing, in accordance with the ORDER below.

CONCLUSION

Based on a thorough review of the record and the contentions on appeal, including those not specifically addressed herein, we DISMISS claims 2 and 6. We find that a decision without a hearing was not appropriate, and VACATE the Agency's final order adopting the AJ's decision without a hearing, and REMAND the matter back to the Agency for further processing.

ORDER

The Agency is directed to submit a copy of the complaint file to the EEOC Dallas District Office Hearings Unit within fifteen (15) calendar days of the date this decision is issued. The Agency shall provide written notification to the Compliance Officer at the address set forth below that the complaint file has been transmitted to the Dallas District Office Hearings Unit. Thereafter, an Administrative Judge shall hold a hearing on Complainant's complaint, claims 1, 3-5, 7, 8, and an overall claim of harassment. At the hearing, Complainant shall have the opportunity to present his case and the opportunity to cross-examine all Agency witnesses, including S1, S2, and the unnamed selecting official who denied Complainant's transfer request. The Administrative Judge shall thereafter issue a decision in accordance with 29 C.F.R. § 1614.109, and the Agency shall issue a final action in accordance with 29 C.F.R. § 1614.110.

IMPLEMENTATION OF THE COMMISSION'S DECISION (K0618)

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)

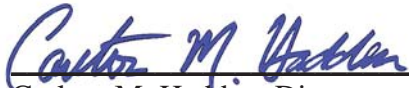
This is a decision requiring the Agency to continue its administrative processing of your complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this 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 9, 2019

Date