

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NEW YORK DISTRICT OFFICE
33 WHITEHALL STREET, 5th Floor
NEW YORK, NEW YORK 10004

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SANDRA N. McCONNELL, ET AL.,
a/k/a Velva B., Class Agent

Complainant,

v.

MEGAN J. BRENNAN, Postmaster General,
UNITED STATES POSTAL SERVICE,

Agency.

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EEOC Hearing No.: 520-2010-00280X
Previous Appeal Nos.: 0720160006, 0720160007, 0720080054
EEOC Request Nos.: 0520180094 & 0520180095
EEOC Appeal No.: 0120182505
Agency Case No.: 4B-140-0062-06

RULINGS & ORDERS

MISCELLANEOUS MOTIONS

Atty. Wallace's April 1, 2019 *Motion to Show Cause Regarding Sanctions against the Agency* is **DENIED**

Phase I Counsel's June 27, 2019 *Motion for Sanctions* against the Agency is **DENIED**

Requests for Extension of time appear to be now **MOOT** and will not be ruled upon.

RULING REGARDING NRP ACTIVITY FILES

It is undisputed that NRP Activity files were produced to Phase I Class Counsel during discovery. Such production took place over several months back in 2012 and 2013. Therefore, these activity files should already be in the possession of Phase I Class Counsel. To the extent that Complainants' counsel has requested that the Agency is to re-produce said files, such request is **DENIED**.

However, if it has not done so already, the Agency is **ORDERED** to produce the NRP Activity Files for all 28,000 claimants for which there are disputes to the AJ by September 6, 2019.

RULING REGARDING THE PRODUCTION OF TRANSCRIPTS OF STATUS CONFERENCES

Complainants' request that the Agency pay for and produce the transcripts of every status conference is **DENIED**. All of my **ORDERS** are sent to the parties via e-mail, thus the vast majority of complainants are aware of what I have ruled. I also receive numerous calls and e-mails from *pro se* litigants seeking clarification of my rulings and asking questions regarding the process, so they are aware of how the litigation is progressing. If a party wishes to secure a copy of a transcript they will bear the cost to do so.

DESIGNATION OF REPRESENTATION

Having read through the motions, the issue of Phase I Class Counsel's representation seems to keep coming up. The Agency's arguments that it cannot produce confidential information to Phase I Class Counsel without there being a clear, unambiguous designation of representation form is not only persuasive but a legitimate contention. I will not order the Agency to produce files which may contain confidential medical information for hundreds if not thousands of claimants to Phase I Class Counsel unless said claimants have expressly and voluntarily designated and authorized Counsel to act on their behalf.

THEREFORE, Phase I Class Counsel is **ORDERED** to produce a clear, simple designation of representation form for all claimants for which one has not already been presented to the Agency

Within 60 days of receipt of this **ORDER** Mr. Wright (Phase I Class Counsel) and Agency counsel will confer to determine which claimants are still in need of such a designation, once that is determined and the designations have been presented to the Agency, the Agency will produce all NRP files previously identified as corrupted.

PARTIALLY ACCEPTED/PARTIALLY DISPUTED CLAIMS

All claimants, regardless of whether the Agency partially accepted some of their claims, will be processed through the Phase II Damages/Remedial Adjudication.

THEREFORE, the Agency will have 60 days from receipt of this **ORDER** to file their statement in support of its decision to dispute a class member's claim, attaching all relevant supporting documents/evidence. A copy must be served on the complainants and their duly appointed representative.

Complainants, if they have not done so already, will submit a statement and any relevant documentation in support of their claim for relief. Claimants' submissions are due 60 days within receipt of the Agency's statement of dispute. A copy must be provided to the Agency.

The parties' submissions should be in accordance with my February 27, 2019 **ORDER**, pg. 3 (section on submissions).

SETTLEMENT

I will issue a separate order discussing my thoughts on settlement before the end of the week.

Our next status conference is scheduled for **Thursday, September 26, 2019 at 2pm.**
The Agency is instructed to create a dedicated conference line and send to all

SO ORDERED

Date: August 6, 2019

For the Commission:

/s/Monique J. Roberts-Draper

Monique J. Roberts-Draper

Administrative Judge

U.S. Equal Employment Opportunity Commission

Redacted

CERTIFICATE OF SERVICE

For timeliness purposes, it will be presumed that this **ORDER** was received immediately upon electronic transmission. I certify this **ORDER** was sent to the following parties on August 6, 2019:

Agency Counsel

Eve G. Burton, Esq.
U.S. Postal Service Law Department
Redacted

Counsel

Michael J. Lingle
THOMAS & SOLOMON, LLP
Redacted

Michael J. Kator
Jeremey D. Wright
KATOR, PARKS, WEISER & HARRIS,
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Elaine Wallace
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