



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
Website: www.eeoc-nrpphase2.com

SANDRA M. McCONNELL, et al.	:	EEOC Nos.: 520-2010-00280X
a/k/a/ VELVA B.	:	520-2019-00271X
	:	
Class Agent,	:	Agency No.: 4B-140-0062-06
	:	
v.	:	
	:	Administrative Judge
LOUIS DEJOY,	:	Monique J. Roberts-Draper
Postmaster General,	:	
United States Postal Service,	:	Date: June 1, 2023
	:	
Agency.	:	

NOTICE OF INTENT TO DISMISS UNTIMELY CLAIMS OF RELIEF

The Office of Federal Operations (OFO) issued a decision finding discrimination on behalf of the class on September 25, 2017, requiring the Agency to notify class members to file claims of relief within 30 days of receipt. Pursuant to 29 C.F.R. §1614.204(l)(3), when discrimination is found in the final order and a class member believes he or she is entitled to individual relief, the class member must file a written claim with the head of the agency or its EEO Director within 30 days of receipt of the notification by the agency of its final order. The claim must include a specific detailed showing that the claimant is a class member who was affected by the discriminatory policy or practice, and that this discriminatory action took place within the period for which class-wide discrimination was found in the final order.

After a review of the submissions, the Administrative Judge has determined that these claims for relief appear to be untimely and therefore appropriate for dismissal under 29 C.F.R. §1614.204(l)(3). Specifically, the Agency mailed out notices on March 19, 2018; March 23, 2018; March 24, 2018, and March 26, 2018, *see* Excel Spreadsheet entitled, *March 2018 Notifications*, attachment A. The Agency further supports its contention by providing a Certificate of Service, dated April 12, 2018, which avers that the “*Notice to Employees Pursuant to Order of the Equal Employment Opportunity Commission*” was mailed to 130,874 individuals previously identified as class members in this litigation. *See* Certificate of Service from Jose A. Perez, Postmaster, attachment B.

In further compliance with OFO’s decision, the Postal Service posted the “*Notice to Employees Pursuant to Order of the Equal Employment Opportunity Commission*” at its facilities and on its website. *See* Declarations from Human Resource Managers, attachment C. The Agency provided the Commission with its Report of Compliance on October 31, 2019. *See* Compliance Report, attachment D. With these measures the Postal Service argues that it has met its burden regarding notification to these individuals; therefore, their claims of relief are untimely and should be dismissed.

THEREFORE, unless Claimants/Class Counsel can establish that their claims were timely or demonstrate good cause as to why the claim is untimely, such claim for relief will be dismissed. Both parties may submit a response to this Notice of Intent within thirty (30) days from receipt.¹ A copy of the response must be sent to the other party.

Responsive documents² should be organized into electronic files under claimant number and name and shared electronically *via* SharePoint or DropBox to the undersigned judge and Assistant GC for Technology, Maria Salacuse at maria.salacuse@eeoc.gov. Please use the attached Excel spreadsheet entitled *Supporting Documents_Untimely* to briefly identify and describe the documents produced. See Attachment E. Parties **must** list the name of the document, date, whether such document was previously produced to the Commission (*i.e.*, as an exhibit to a motion, discovery document, etc.) and when and what the document purports to establish.

Documents received after the deadline will not be considered.

It is SO ORDERED.



Monique J. Roberts-Draper
Administrative Judge

Attachments:

- A. Excel spreadsheet entitled *March 2018 Notifications*.
- B. Certificate of Service from Jose A. Perez, Postmaster.
- C. Declarations from Human Resource Managers.
- D. Report of Compliance dated October 31, 2019.
- E. Excel spreadsheet entitled *Supporting Documents_Untimely*

¹ This order will be issued electronically to the parties; therefore “30 days from receipt” will be interpreted to mean 30 days from June 1, 2023

² The parties should make every effort **not to submit** copies of documents believed to already be in the record. Such documents should be recorded on the attendant spreadsheet as per the above instructions.

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 **June 1, 2023**.

Counsel via email only

Michael J. Kator, Esq.
Jeremy D. Wright, Esq.
Kator, Parks, Weiser & Harris, PLLC
mkator@katorparks.com
jwright@katorparks.com

David Weiser, Esq.
Kator, Parks, Weiser & Harris, PLLC
1609 Shoal Creek Blvd., Suite 201
Austin, TX 78701
dweiser@katorparks.com

Jessica Lukasiewicz, Esq.
Thomas & Solomon, PLLC
Jlukasiewicz@theemploymentattorneys.com

Agency Counsel via email only

Sean Powers, Esq.
Eve G. Burton, Esq.
U.S. Postal Service Law Department
Denver Program Office
600 17th Street, Suite 1705-S
Denver, CO 80202-5402
Eve.g.burton@usps.gov
Sean.m.powers@usps.gov

