



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

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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 16, 2023
	:	
Agency.	:	

NOTICE OF INTENT TO DENY AGENCY’S DEFENSE OF UNTIMELINESS AND INCLUDE ADDITIONAL CLAIMS OF HARM

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(1)(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.

The Agency represented to the Commission that it has taken all reasonable steps to notify all identified claimants. Specifically, the Agency mailed notices to individuals between March and June 2018 and provided the Commission a Certificate of Service, dated April 25, 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, attachment A. Additionally, in further compliance with OFO’s decision, the Agency posted the “*Notice to Employees Pursuant to Order of the Equal Employment Opportunity Commission*” at its facilities and on its website. *See* attached Declarations of Manager Human Resources, attachment B. Finally, the Agency also provided Commission with its Report of Compliance on October 31, 2019. *See* Compliance Report, attachment C. With these measures the Agency argues that it has met its burden of notification to these individuals; therefore, their claims of relief are untimely and should be dismissed.

However, upon careful review, several hundred claimants identified by the Agency were never notified yet the Agency acknowledges that it has received claim forms from these individuals. *See* Spreadsheet, “*Untimely_NoAgencyNtce2023*,” Attachment D. It should also be noted that these

individuals ***are not*** a part of the 859 individuals the Agency argues were never identified as class members during Phase I.

THEREFORE, unless the Agency can establish that it specifically notified these claimants such claims for relief will be found timely and included into the class for adjudication. Both parties may submit a response to this Notice of Intent within thirty (30) days from receipt. A copy of the response must be sent to the other party.

Responsive documents¹ 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@eoc.gov. Please use the attached Excel spreadsheet entitled *Supporting Documents_ Untimely* to briefly identify and describe the documents produced. 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 proports to establish.

Documents received after the deadline will not be considered.

It is SO ORDERED.



Monique J. Roberts-Draper
Administrative Judge

Attachments:

- A. Certificate of Service from Jose A. Perez, Postmaster.
- B. Declarations from Human Resource Managers.
- C. Report of Compliance dated October 31, 2019.
- D. Excel spreadsheet entitled, "*Untimely_NoAgencyNtice2023.*"
- E. Excel spreadsheet entitled, "*Supporting Documents_ Untimely.*"

¹ 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 16, 2023.

Counsel via email only

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