

UNITED STATES DISTRICT COURT FOR
FOR THE DISTRICT OF NEW JERSEY
TRENTON VICINAGE

DOROTHY M. STEWART, on behalf of herself and all others similarly situated, Plaintiff,	:	Jury Demand
	:	
	:	Civil Action
	:	
v.	:	No.
	:	
MEGAN J. BRENNAN, Postmaster General, United States Postal Service, Defendant.	:	<u>Class Action</u>
	:	

COMPLAINT

Parties

1. Plaintiff, Dorothy M. Stewart ("Stewart"), is a citizen of the United States and a resident of the town of Florence, State of New Jersey.

2. Defendant, Megan J. Brennan, Postmaster General U.S. Postal Service ("Agency" or "USPS" or "Postal Service"), is the duly appointed and acting official charged with the administration of laws and implementing regulations, instructions and directives affecting the Agency and its organizational components, in the area of job discrimination under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, the Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. § 621 *et seq.*, the Rehabilitation Act of 1973, 29 U.S.C. §791, *et seq.*, or other applicable anti-discrimination laws.

Jurisdiction

3. This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 2000e-16(c) which provides, in pertinent part, that a party must file a civil action within 90 days of receipt of final action taken by the U.S. Equal Employment Opportunity Commission (EEOC) upon an appeal from an agency decision on a complaint of discrimination under Title VII or other anti-discrimination laws within the jurisdiction of the EEOC.

Venue

4. The United States District Court for the District of New Jersey is the appropriate venue for this action pursuant to 28 U.S.C. §§ 1391(e)(2) and (e)(3), in that a substantial part of the events or omissions giving rise to Stewart's claim occurred in this judicial district and Stewart resides in this judicial district.

Structure of Complaint

5. Each cause of action asserted in this complaint is in addition, and in the alternative, to every other cause of action asserted.

6. Every fact, paragraph and allegation set forth in this complaint is incorporated by reference in each and every cause of action and count asserted in this complaint.

Relevant Facts

7. Stewart was formerly a Postal Service employee who held a Letter Carrier position.

8. On December 17, 2012, Stewart filed a class action mixed case appeal (**Exhibit A**) to the U.S. Merit Systems Protection Board ("MSPB") alleging that she/they had been constructively suspended or removed without procedural due process and that she/they had been had been discriminated against on the basis of her/their disabilities when the Postal Service denied her/them the opportunity to continue, even though she/they was/were ready, willing and able to work, and work was available, and that

- a. the Postal Service violated the Stewart's and all other class members' fundamental due process rights to notice and opportunity to challenge the constructive suspensions, constructive removals and/or removals;
- b. the Postal Service committed harmful procedural error adversely affecting Stewart and all other class members by denying them the procedural rights set forth in 5 U.S.C. Chapter 75 and 5 C.F.R. Part 752;
- c. the Postal Service violated the Rehabilitation Act and the ADA, as amended, by refusing to permit the Stewart and all other class members the opportunity to work as individuals with disabilities;
- d. the Postal Service's due process violations affecting the Stewart and all other class members constituted discrimination because of their veterans status;
- e. the Postal Service violated the rights of the Stewart and all other class members under the Rehabilitation Act of 1973, the ADA as amended, and any other applicable law;
- f. the Postal Service violated the Rehabilitation Act and the ADA, as amended, by failing to adhere to the privacy rights of Stewart and all other class members concerning their medical conditions; and
- g. the Postal Service breached the Privacy Act by violating

the privacy rights of the Stewart and all other class members.

9. A mixed case appeal is an appeal filed with the MSPB that alleges that an appealable agency action was effected, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, disability or age. 29 C.F.R. § 1614.302(a)(2).

10. Stewart's MSPB appeal was captioned *Dorothy M. Stewart v. U.S. Postal Service*, MSPB Docket No. PH-0752-13-0132-I-1.

11. In an initial decision issued on October 28, 2014 and which became final on January 2, 2015, the MSPB administrative judge dismissed Stewart's appeal on jurisdictional grounds only - due, in part, to her alleged status as a class member in the EEOC administrative litigation captioned *Pittman, et.al. v. Donahue*, EEOC Hearing No. 541-2008-00188x class action settlement.

12. Stewart contends that she is not a *Pittman* class member as it concerned the allegations set forth in her MSPB appeal.

13. Since the MSPB administrative judge dismissed Stewart's MSPB appeal on jurisdictional grounds, Stewart contacted the Postal Service on January 27, 2015 to seek EEO counseling on her class action discrimination claims through the statutory administrative process at 29 C.F.R. Part 1614. **Exhibit B.**

14. Specifically, pursuant to 29 C.F.R. § 1614.302(b),

If a person files a mixed case appeal with the MSPB instead of a mixed case complaint and the MSPB dismisses the appeal for jurisdictional reasons, the agency shall promptly notify the individual in writing of the right to contact an EEO counselor within 45 days of receipt of this notice and to file an EEO complaint, subject to §

1614.107. The date on which the person filed his or her appeal with MSPB shall be deemed to be the date of initial contact with the counselor.

15. On April 18, 2016, Stewart filed a formal complaint, pursuant to 29 C.F.R. § 1614.106, which complaint was docketed as Agency Case No. 4C-080-0069-16.

16. On May 23, 2016, the Postal Service dismissed Stewart's formal complaint, and alleged that claims comprising Stewart's formal complaint were identical to the claims comprising an earlier discrimination complaint filed by Stewart on December 23, 2011 and docketed as Agency Case No. 4C-080-0140-11. **Exhibit C**.

17. The Postal Service, in an Acceptance for Investigation document, issued on January 12, 2012, identified the accepted issue in Stewart's earlier-file complaint (Agency Case No. 4C-080-0140-11) as:

[Stewart] alleges discrimination based on disability (Left-Leg, Stress) when, on September 2 and 9, 2011, she was told by management that there was no work available and instructed to clock out and leave in a humiliating manner in front of co-workers.

Exhibit D

18. Stewart timely appealed the Postal Service's Dismissal decision (**Exhibit C**) to the EEOC, which issued a decision on October 7, 2016 (**Exhibit E**), affirming the Postal Services's dismissal of Stewart's class action discrimination complaint (Agency Case No. 4C-080-0069-16).

Class Action Allegations

19. This is a class action brought by the Stewart on her own behalf and on behalf of all others similarly situated.

20. The class Stewart purports to represent is defined as:

all preference eligibles employed by the Postal Service who had documented impairments and who were involuntarily denied the opportunity to work for more than 14 consecutive days or longer and who were not accorded their fundamental due process rights to notice and an opportunity to challenge the Postal Service's decisions to deny them work.

21. The class is believed to exceed 1000 members nationwide and is so numerous that joinder of all members is impracticable.

22. The Postal Services's actions alleged in this Complaint are applicable to all members of the class.

23. Stewart has no interest antagonistic to other members of the class.

24. Stewart can adequately represent the interest of other members of the class.

25. Stewart's claims are typical of claims of other members of the class who are subject to the same deprivation of their rights by the Postal Service as hereinafter alleged.

26. The prosecution of separate actions by individual members of the class would be impracticable because:

a. inconsistent adjudications regarding individual members of the class would establish incompatible standards of conducts for the Postal Service, whose actions apply

generally to any and all members of the class; and

- b. adjudications with respect to individual members of the class would be dispositive of the interest of other members not parties to the suit, since the Postal Service's actions apply generally to any and all members to the class.

27. There are questions of law or fact common to the members of the class that predominate over questions only affecting individual members, including

- a. whether the Postal Service violated the Stewart's and all other class members' fundamental due process rights to notice and opportunity to challenge the constructive suspensions, constructive removals and/or removals;
- b. whether the Postal Service committed harmful procedural error adversely affecting Stewart and all other class members by denying them the procedural rights set forth in 5 U.S.C. Chapter 75 and 5 C.F.R. Part 752;
- c. whether the Postal Service violated the Rehabilitation Act and the ADA, as amended, by refusing to permit the Stewart and all other class members the opportunity to work as individuals with disabilities;
- d. whether the Postal Service violated the rights of the Stewart and all other class members under the Rehabilitation Act of 1973, the ADA as amended, and any other applicable law;
- f. whether the Postal Service violated the Rehabilitation Act and the ADA, as amended, by failing to adhere to the privacy rights of Stewart and all other class members concerning their medical conditions; and
- g. whether the Postal Service breached the Privacy Act by violating the privacy rights of the Stewart and all other class members.

28. Questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action

is superior to other available methods for the fair and efficient adjudication of the controversy since the individual members were deprived of essentially the same rights by the Postal Service's actions, and differ only in collateral aspects of their factual situations.

29. The claims of Stewart, the representative party, are typical of the claims of the class, and the representative party will fairly and adequately assert and protect the interests of the class.

30. The maintenance of the action as a class action will be superior to other available methods of adjudication in promoting the convenient administration of justice.

Violations of Law

31. A Postal Service employee may file an MSPB appeal challenging a constructive suspension of more than 14 consecutive days or a constructive removal, provided the employee is covered by 39 U.S.C. § 1005(a) or 5 U.S.C. § 7511(a)(1)(B).

32. Postal Service employees may appeal constructive suspensions in excess of 14 calendar days or constructive removals only if the employee: (1) is a preference eligible, a management or supervisory employee, or an employee engaged in personnel work in other than a purely nonconfidential clerical capacity; and (2) has completed 1 year of current continuous service in the same or similar positions.

33. 5 U.S.C. § 2108(3)(B) defines "preference eligible" to include a "veteran" as defined by 5 U.S.C. § 2108(1)(B). Section 2108(1)(B) defines "veteran"

as an individual who

served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred after January 31, 1955, and before the date of the enactment of the Veterans' Education and Employment Assistance Act of 1976, not including service under section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve; and who has been separated from the armed forces under honorable conditions.

34. A Postal Service preference-eligible employee's involuntary absence for more than 14 consecutive days may constitute a constructive suspension appealable to the MSPB under 5 U.S.C. §§ 7512(2) and 7513(d).

35. The Postal Service denied Stewart the opportunity to work within her medical restrictions beginning mid-September, 2011, by informing her that there was no work available for her to perform within her medical restrictions.

36. The Postal Service also denied other class members the opportunity to work within their medical restrictions beginning mid-September, 2011, by informing them that there was no work available for them to perform within her medical restrictions.

37. Stewart remained fully capable of performing work within her medical restrictions and communicated her willingness to work on a daily basis, but the Postal Service did not permit her to work.

38. Other class members remained fully capable of performing work within

their medical restrictions, were ready willing and able to perform work within their medical restrictions, but the Postal Service did not permit them to work.

39. Stewart and other class members consistently were capable of performing work within her/their medical restrictions, and the Postal Service, bound by law and policy to offer available work to her/them, failed to do so for periods of time in excess of 14 consecutive days.

40. Stewart, being a preference eligible, was entitled to receive her due process rights to challenge the Postal Service's refusal to return her to work status.

41. Other class members, having preference eligible status, were entitled to receive their due process rights to challenge the Postal Service's refusal to return them to work status for periods of time in excess of 14 consecutive days.

42. The Postal Service denied Stewart and other class members her/their minimal statutory due process rights under 5 U.S.C. § 7701(c)(2)(A) and regulatory rights under the applicable provisions of 5 C.F.R. Part 752.

43. The Postal Service denied Stewart and other class members her/their statutory rights under the Rehabilitation Act.

44. The decision of the MSPB, that Stewart and other class members did not have causes of actions for constructive suspensions/removals, as she/they were bound by the provisions of the *Pittman, et.al. v. Donahue*, EEOC Hearing No. 541-2008-00188x class action settlement agreement, in is not supported by substantial evidence and is otherwise not in accordance with law.

Conclusion and Prayer for Relief

WHEREFORE, Plaintiff, Dorothy M. Stewart, individually and on behalf of other class members described herein, respectfully requests that the Court find that U.S. Postal Service, by and through its employees, constructively suspended and/or removed them without due process of law, and also discriminated against them in violation of the Rehabilitation Act, and that the U.S. Postal Service be ordered to pay all elements of damages and provide all equitable relief to which they are entitled to recover under law, including, but not limited to, reinstatement, if applicable, back pay, compensatory damages, costs and reasonable attorney fees.



DENNIS L. FRIEDMAN, ESQUIRE
Attorney for Plaintiff
1515 Market Street, Suite 714
Philadelphia, PA 19102-1907
(215) 567-4600



MERIT SYSTEMS PROTECTION BOARD FORM 185-2

Appeal of Agency Personnel Action or Decision (Non-retirement)

Complete this form and attach it to MSPB Form 185-1 if you are appealing an agency personnel action or decision (other than a decision or action affecting your retirement rights or benefits) that is appealable to the Board under a law, rule, or regulation. If the personnel See 5 CFR 1201.3(a) for a list of appealable personnel actions and action or decision is appealable to the Board, you should have received a final decision letter from the agency that informs you of your right to file an appeal with the Board.

Please type or print legibly.

OMB No. 3124-0009

Please submit only the attachments requested in this form at this time. You will be afforded the opportunity to submit detailed evidence in support of your appeal later in the proceeding.

Name (last, first, middle initial) Stewart, Dorothy

Check the box that best describes the personnel action or decision taken by the agency you named in MSPB Form 185-1 that you are appealing. (If you are appealing more than one action or decision, check each box applies.) Attach a copy of the decision letter (if any). If an SF-50 or its equivalent was issued and is available, attach it now; however, DO NOT delay filing your appeal because you do not have an SF-50. You may submit the SF-50 when it becomes available.

Termination of Employment (You may select only one of the following four personnel actions.)

- Removal (Termination after probationary or initial service period)
- Termination during probationary or initial service period
- Reduction in grade or pay
- Separation, demotion, or furlough for more than 30 days by reduction in force (RIF)
- Denial of within-grade increase
- Negative suitability determination
- Other action
- Involuntary Resignation
- Involuntary Retirement
- Suspension for more than 14 days
- Furlough of 30 days or less
- Failure to restore/reemploy/reinstate or improper restoration/reemployment/reinstatement

2. Date you received the agency's proposal letter (if any) (month, day, year)	3. Date you received the agency's final decision letter (if any) (month, day, year) (Attach a copy)	4. Effective date (if any) of the agency action or decision (month, day, year) 09/14/2011
-------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------

5. Prior to filing this appeal, did you and the agency mutually agree in writing to try to resolve the matter through an alternative dispute resolution (ADR) process?

Yes No

6. Explain briefly why you think the agency was wrong in taking this action or making this decision.

See Continuation Sheet for Response.

7. What action would you like the Board to take in this case (i.e., what remedy are you asking for)?

Reversal of adverse action, reinstatement, if applicable, backpay, compensatory damages, attorney fees and all other relief to which appellant is entitled under law.

Exhibit A



MERIT SYSTEMS PROTECTION BOARD FORM 185-2

Appeal of Agency Personnel Action or Decision (Non-retirement)

Please type or print legibly.

8. With respect to the agency personnel action or decision you are appealing, have you, or has anyone on your behalf, filed a grievance under a negotiated grievance procedure provided by a collective bargaining agreement?

Yes

No

9. If your answer to question 8 is "Yes," on what date was the grievance filed (month, day, year)?

NOT APPLICABLE

10. If your answer to question 8 was "Yes," has a decision on the grievance been issued?

NOT APPLICABLE

11. Select all the additional claims you would like to file with this appeal.

No Additional Claims

File a claim for harmful procedural error

File a claim for not in accordance with law

File a claim of prohibited discrimination

File a claim of prohibited personnel practices

File a Whistleblower claim

Request a whistleblower stay

File a USERRA claim

File a veteran's preference claim

Exhibit A

Appeal Number: 201205142

Submission Date: 12/17/2012 5:11:46 PM

Confirmation Number: 41885

Merit Systems Protection Board Form 185-2 Appeal of Agency Personnel Action or Decision (Non-retirement)

Continuation Sheet

6. Explain briefly why you think the agency was wrong in taking this action or making this decision.

1. The Postal Service violated the appellant's and all other class members' fundamental due process rights to notice and opportunity to challenge the constructive suspensions, constructive removals and/or removals.
2. The Postal Service committed harmful procedural error adversely affecting appellant and all other class members by denying them the procedural rights set forth in 5 U.S.C. Chapter 75 and 5 C.F.R. Part 752.
3. The Postal Service violated the USERRA rights of appellant and all class members by failing to apprise them of their due process rights concerning constructive suspensions, constructive removals and removals.
4. The Postal Service violated the Rehabilitation Act and the ADA, as amended, by refusing to permit the appellant and all other class members the opportunity to work as individuals with disabilities.
5. The Postal Service's due process violations affecting the appellant and all other class members constituted discrimination because of their veterans status.
6. The Postal Service violated the rights of the appellant and all other class members under the Rehabilitation Act of 1973, the ADA as amended, and any other applicable law.
7. The Postal Service violated the Rehabilitation Act and the ADA, as amended, by failing to adhere to the privacy rights of appellant and all other class members concerning their medical conditions.
8. The Postal Service breached the Privacy Act by violating the privacy rights of the appellant and all other class members.

Exhibit A



MERIT SYSTEMS PROTECTION BOARD FORM 185-4A

Claims of Mistakes in Procedures or Violations of Law

Please type or print legibly.

OMB No. 3124-0009

Name (last, first, middle initial) Stewart, Dorothy

Harmful error is defined in the Board's regulations as: "Error by the agency in the application of its procedures that is likely to have caused the agency to reach a conclusion different from the one it would have reached in the absence or cure of the error." See 5 C.F.R.

If you believe that the agency made a error(or error) in applying required procedures in connection with the action or decision you

Agency failed to provide appellant and all other class members of their procedural due process rights required by statute and regulations.

2. Explain how the error you in response to question 1 above caused the agency to reach a conclusion different from the one it would have

Appellant and others class members would not have suffered adverse actions had they been accorded their fundamental due process rights.

An appealable action will be reversed as being "not in accordance with the law" if the agency's action is unlawful in its entirety, i.e., if there is no legal authority for action

3. If you believe that the agency action or decision you are appealing, was "not in accordance with law," please explain.

Appellant and other class members not apprised of their rights, as veterans, to challenge the unlawful constructive suspensions, constructive removals and removals.

4. If you believe a specific law was violated, please identify the law and describe how the law you identified was violated.

5 U.S.C. Chapter 75
5 C.F.R. Part 752
38 U.S.C. 4311(a)

Appellant and other class members were denied their fundamental due process rights to notice before suffering adverse actions.

Exhibit A

Appeal Number: 201205142

Submission Date: 12/17/2012 5:11:46 PM

Confirmation Number: 41885

MSPB Form 185-4A (6/1/2002)
5 CFR Parts 1201



MERIT SYSTEMS PROTECTION BOARD FORM 185-4B

Claims of Prohibited Discrimination



Please type or print legibly.

OMB NO. 3124-0009

Name (last, first, middle initial) Stewart, Dorothy

Discrimination - An allegation of discrimination is not an independent source of Board jurisdiction. The underlying action must first be within the Board's jurisdiction before an allegation of discrimination may be considered by the Board. See 5 CFR 1201.151.

1. Check the appropriate box (or boxes) below to indicate the basis (or bases) of your claim that you are discriminated against by the agency in connection with the action or decision you described in MSPB Form 185-2 or MSPB Form 185-3.

- | | | | |
|-------------------------------------------------------------------------------------------------|------------------------------------------|------------------------------------------------|-----------------------------------|
| <input type="checkbox"/> Discrimination based on marital status or political affiliation | <input type="checkbox"/> Race | <input type="checkbox"/> Color | <input type="checkbox"/> Religion |
| <input type="checkbox"/> Sex(Title VII of the Civil Rights Act of 1964) | <input type="checkbox"/> National Origin | <input checked="" type="checkbox"/> Disability | <input type="checkbox"/> Age |
| <input type="checkbox"/> Sex(sexual harassment under Title VII of the Civil rights Act of 1964) | | | |

2. If you believe you were discriminated against by the agency, in connection with the matter appealed, because of your race, color, religion, sex, national origin, disability, or age, explain why you believe it to be true.

The Postal Service denied the appellant and all other class members the opportunity to continue working, when the appellant and all other class members were ready, willing and able to work and work was available.

Have you filed a formal discrimination complaint with your agency concerning the action you are appealing?

- Yes No

If your answer to question 3 is "Yes", enter the place where the complaint was filed if different from your answer to question 5 on MSPB Form 185-1:

NOT APPLICABLE

Date filed (month, day, year):

NOT APPLICABLE

Has a decision been issued?

NOT APPLICABLE

Are you requesting an award of compensatory damages in connection with your discrimination claim? See 5 CFR 1201.202(c).

- Yes No

Exhibit A

Appeal Number: 201205142

Submission Date: 12/17/2012 5:11:46 PM

Confirmation Number: 41885

MSPB Form 185-4B (6/1/2002)
5 CFR Parts 1201

DENNIS L. FRIEDMAN

MEMBER OF THE PENNSYLVANIA
NEW JERSEY AND FLORIDA BARS

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January 27, 2015

Via Fax (813) 739-2098
and First Class Mail

NEEOISO
EEO Contact Center
U.S. Postal Service
P.O. Box 21979
Tampa, FL 33622-1979

Re: *Dorothy Stewart v. United States Postal Service*
MSPB Docket No. PH-0752-13-0132-I-2

Dear Sir/Madam:

Please be advised that I am the attorney for Dorothy Stewart. Ms. Stewart was formerly a Postal Service employee who held a Letter Carrier position. On December 17, 2012, Ms. Stewart filed a mixed case appeal to the MSPB alleging that she had been wrongfully constructively suspended/removed and that she had been discriminated against on the basis of her disability when the Postal Service denied her the opportunity to continue working beginning September, 2011, even though she was ready, willing and able to work, and work was available. A mixed case appeal is an appeal filed with the MSPB that alleges that an appealable agency action was effected, in whole or in part, because of discrimination on the basis of race, color, religion, sex, national origin, handicap or age. 29 C.F.R. § 1614.302(a)(2). Ms. Stewart's MSPB appeal was captioned *Dorothy M. Stewart v. U.S. Postal Service*, MSPB Docket No. PH-0752-13-0132-I-1. See Exhibit A (copy of Ms. Stewart's MSPB appeal).

In an initial decision issued on October 28, 2014 (**Exhibit B**), the MSPB administrative judge dismissed Ms. Stewart's appeal on jurisdictional grounds,

Exhibit B

NEEOISO
EEO Contact Center
U.S. Postal Service
January 27, 2015
Page 2

due, in part, to her alleged status as a class member in the *Pittman et.al. v. Donahue*, EEO Hearing No. 541-2008-00188x class action settlement. Ms. Stewart contends that she is not a *Pittman* class member. See Exhibit C (letter, dated September 30, 2014, from *Pittman* class action counsel informing Ms. Stewart that she is not a *Pittman* class member).

Since the MSPB administrative judge determined that Ms. Stewart's appeal was not a mixed case appeal, she is proceeding with her discrimination claim through the statutory administrative process at 29 C.F.R. Part 1614. Once the MSPB dismissed the mixed case appeal for lack of jurisdiction, the matter became "unmixed" and "amenable to processing through the EEO process." *Borghese v. Department of Defense (Defense Logistics Agency)*, EEOC Request No. 05920734 (November 27, 1992); *Phillips v. Department of the Army*, EEOC Request No. 05900883 (October 12, 1990); 29 C.F.R. § 1614.302(b). Consequently, the Postal Service is required to process Ms. Stewart's discrimination complaint as a non-mixed case EEO complaint. See 29 C.F.R. § 1614.302(c)(2)(ii). *Seely v. U.S. Postal Service*, EEOC Appeal No. 01943812 (2/23/95). Specifically, pursuant to 29 C.F.R. § 1614.302(b),

If a person files a mixed case appeal with the MSPB instead of a mixed case complaint and the MSPB dismisses the appeal for jurisdictional reasons, the agency shall promptly notify the individual in writing of the right to contact an EEO counselor within 45 days of receipt of this notice and to file an EEO complaint, subject to § 1614.107. The date on which the person filed his or her appeal with MSPB shall be deemed to be the date of initial contact with the counselor.

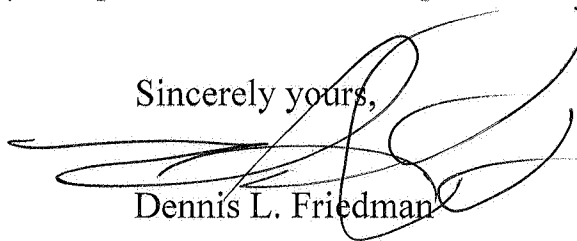
Ms. Stewart is pursuing her discrimination claim as a non-mixed EEO complaint and is seeking commencement of her discrimination claim either at the EEO counseling stage or at the formal complaint stage. Please acknowledge your receipt of this claim and provide further processing information. Additionally, if the Postal Service deems this submission to be deficient in any respect or misdirected,

Exhibit B

NEEOISO
EEO Contact Center
U.S. Postal Service
January 27, 2015
Page 3

kindly apprise me immediately and provide me with the specific reasons.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Dennis L. Friedman", is written over the typed name. The signature is stylized with large loops and a long horizontal stroke.

Dennis L. Friedman

DLF/mem
Enclosures
cc: Ms. Dorothy M. Stewart

Exhibit B



**UNITED STATES POSTAL SERVICE
EQUAL EMPLOYMENT OPPORTUNITY
IN THE MATTER OF:**

Dorothy Stewart
203 West 6th Street
Florence, NJ 08518-2318
Complainant,

USPS Tracking - Complainant:
9114 9999 4431 4619 3355 36

USPS Tracking Representative:
9114 9999 4431 4619 3355 43

v.

Agency Case Number: 4C-080-0069-16

Megan J. Brennan
Postmaster General
United States Postal Service
Eastern Area Operations
Agency.

Date Formal Filed: April 18, 2016

DISMISSAL OF IDENTICAL CLAIM

The agency acknowledges the receipt of your April 18, 2016 EEO complaint. In it, you allege that you were subjected to discrimination based on your disability when, beginning in September of 2011, you were denied the opportunity to continue working. This claim was the subject of a previous request for pre-complaint counseling on September 4, 2015 which the agency declined to process because it was identical to a claim determined by an Administrative Judge to have been subsumed into a class action which had been settled. Your current submission makes the same unwarranted claim that you have the right to pursue this claim because the Merit Systems Protection Board had concluded that it had no jurisdiction to hear your constructive suspension mixed-case appeal. Your complaint is unauthorized, ignores your previous complaint history, and is based on an improper interpretation of the mixed-case regulations.

Chronology

Your current submission claims that you had filed an appeal with the Merit Systems Protection Board on December 17, 2012, that the Board had determined that it lacked jurisdiction to entertain your appeal, and that contrary to the mixed-case regulations, the agency had failed to advise you that you could pursue an EEO complaint. You claimed that you wished to pursue a discrimination claim "as a non-mixed EEO complaint" either as a request for counseling or a formal complaint. In support of this submission, you provided a typewritten statement. Your statement and the rest of your submission are notable for what they do not say.

- -2

The chronology of this claim begins on September 2, 2011 when you requested pre-complaint counseling. Your December 23, 2011 formal complaint, assigned Agency Case Number 4C-080-0140-11, alleged that you had been discriminated against because of your disability when, beginning in September of 2011, you had been advised that there was no work available within your medical limitations and had been told to clock out and leave the facility. That complaint was fully investigated and the report of the investigation was transmitted to you on April 4, 2012. On April 17, 2012, you requested a hearing before an Administrative Judge appointed by the Philadelphia District Office of the EEOC. While your case was pending a hearing, two important events occurred that are relevant to your current submission; you filed an MSPB appeal on the same matter and you submitted a Claim and Release in connection with a pending EEO class action.

The MSPB Appeal

On December 12, 2012, you chose to file an appeal with the Merit Systems Protection Board (Docket Number PH-0752-13-0132-I-1) claiming that you had been constructively suspended beginning in September of 2011. In an October 28, 2014 Initial Decision, the Supervisory Administrative Judge found that the Board did not have jurisdiction to consider your appeal under any of the theories you presented. The decision specifically made note of the fact that your claim was involved in the settlement of a class action EEO complaint, *R.J. Pittman et al. v. Patrick R. Donahoe*, EEOC Number 541-2008-00188X. The full Board denied your petition for review on July 29, 2015, a decision which you failed to include with your formal complaint. The Board corrected the appeal rights for filing a civil action improperly granted in the Initial Decision. There was no reason at this point to advise you of your right to pursue an EEO complaint because you were already pursuing an EEO complaint on the same issue.

The Pittman Class Claim

The settlement in *Pittman et al. v. Donahoe* was reached on April 3, 2014 and covered the claims based on disability of permanent rehabilitation employees between March 24, 2000 and December 31, 2012. The record shows that on June 14, 2014, you submitted a Claim and Release to the Class Representative who wrote you back on September 30, 2014 requesting additional documentation. You never confirmed to the EEOC Administrative Judge assigned to preside over the hearing in Agency Case Number 4C-080-0140-11 whether or not you had followed up and provided the documentation requested by the Class Representative. In any event, whatever EEO remedy you had based on your disability claim was included within the class claim. If you failed to follow up on the Class Representative's request, that is not a proper basis for allowing you, essentially, to opt out of the class to which you properly belonged

Exhibit C

- -3

The Administrative Judge's Decision

On June 12, 2015, EEOC Administrative Judge Dawn M. Edge dismissed Agency Case Number 4C-080-0140-11 from the hearing stage of the EEO complaint process as subsumed in the *Pittman* class action. The Administrative Judge held that your submission of the *Pittman* Order and Settlement Agreement Claim Form and Release and the *Pittman* Claim Form established that you did not object to the settlement, that you identified yourself as a class member/permanent rehabilitation employee, and that you had executed a Claim Form and Settlement Release releasing "...all claims arising from any restriction of duty hours by the USPS between March 24, 2000 and December 31, 2012, allegedly in violation of the Rehabilitation Act." The agency fully implemented the decision on July 31, 2015. You appealed the agency's Notice of Final Action to the EEOC's Office of Federal Operations on August 31, 2015. That matter is still pending on appeal before the Office of Federal Operations under EEOC Appeal Number 0120152841.

Analysis and Conclusion

29 C.F.R. §1614.107(a)(1) provides that prior to a request for a hearing in a case, the agency shall dismiss an entire complaint that fails to state a claim under 29 C.F.R. §1614.103 or 29 C.F.R. §1614.106(a) or that states the same claim that is pending before or has been decided by the agency or the Commission.

There can be no doubt that the claim presented in your September 4, 2015 request for pre-complaint counseling and your April 18, 2016 formal complaint (4C-080-0069-16) is identical to that which is the subject of Agency Case Number 4C-080-0140-11 which has been decided by an Administrative Judge and is currently pending on appeal at the Office of Federal Operations. Your September 4, 2015 and April 18, 2016 submissions allege that beginning in September of 2011, you were not permitted to continue working based on your disability. Your request for pre-complaint counseling and formal complaint in Agency Case Number 4C-080-0140-11 identify your claim as disability discrimination, beginning in September of 2011, and being denied work and being told to leave the facility. The investigation of the complaint disclosed that you had not been returned to work. Your December 17, 2012 MSPB appeal, which challenged your placement off work beginning in September of 2011, acknowledged that your absence had been continuing and included an allegation of disability discrimination. Your *Pittman* disability claim was also predicated on your placement off work in September of 2011, a fact recognized by the Supervisory Administrative Judge assigned to your MSPB appeal and the Administrative Judge who presided over Agency Case Number 4C-080-0140-11 at the hearing stage of the EEO process. Both of their decisions determined that your membership in the *Pittman* class prevented you from pursuing an individual claim before the Board or the EEOC. In short, the claims are unequivocally identical.

Exhibit C

- -4

The Office of Federal Operations has affirmed the dismissals of complaints where the matters raised are identical to those raised in a previous complaint or request for pre-complaint counseling. See generally *Terhune v. U.S. Postal Service*, EEOC Request No. 05950907 (July 18, 1997). See *Rainville v. U.S. Postal Service*, EEOC Appeal No. 01A51952 (May 4, 2006) (identical issue settled in a previous complaint) and *Porter v. U.S. Postal Service*, EEOC Appeal No. 01A02013 (February 12, 2003) (identical issues previously decided by the Commission). See also, *Hogan v. U.S. Postal Service*, EEOC Appeal No. 01A24892 (January 30, 2003) and *Smith v. U.S. Postal Service*, EEOC Appeal No. 01A14221 (November 5, 2002) (termination claims identical to those raised in complaints under investigation); *Mozev v. U.S. Postal Service*, EEOC Appeal No. 01A20805 (October 16, 2002) and *Bailey v. U.S. Postal Service*, EEOC Appeal No. 01A20804 (October 11, 2002) (continuing denial of a requested accommodations identical to previous accommodation complaints).

Therefore, the record shows that your complaint is identical to a previous complaint and is subject to dismissal in accordance with 29 C.F.R. §1614.107(a)(1) as stating the same claim that is pending before or has been decided by the agency or Commission.

Your reliance on 29 C.F.R. 1614.302(b) as authorization for access to the EEO complaint process under the circumstances described above is misplaced and your statement in support of your September 4, 2015 request for pre-complaint counseling is misleading. Nowhere do you mention that you had filed an EEO complaint (4C-080-0140-11) on the same issue concerning being denied work beginning in September of 2011 long before you had filed your MSPB appeal. You also failed to mention that this prior complaint had been the subject of a hearing request, a decision by an Administrative Judge, and your appeal to the Office of Federal Operations, all of which had occurred by the time you faxed your September 4, 2015 request for counseling. The agency believes that this was not simply an unfortunate oversight. In any event, 29 C.F.R. 1614.302(b) would not grant you the right to re-file an identical complaint already filed (4C-080-0140-11) and pursued to the appellate stage of the EEO process, especially when that complaint predated the MSPB appeal. This would apply no matter what the theories you chose to advance before the Board since the underlying facts of the claim originally pursued in the EEO process as Agency Case Number 4C-080-0140-11 and now pending at OFO are the same as the underlying facts which would support any theory presented before the Board. Your interpretation of the mixed case regulations is specious and without merit.


If you are dissatisfied with this decision you may appeal to the Equal Employment Opportunity Commission **within 30 calendar days** of the date of your receipt of the Agency's final action, or, if you are represented by an attorney, **within 30 calendar days** of your attorney's receipt of this action. The appeal must be in writing and filed with the Director, Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 77960, Washington, D.C. 20013-8960, or facsimile to (202) 663-7022. The

Exhibit C

- -5

complainant should use EEOC Form 573, Notice of Appeal/Petition, (attached to the agency's decision) and should indicate what he or she is appealing. Any supporting statement or brief must be submitted to the EEOC within 30 calendar days of filing the appeal. A copy of the appeal and any supporting documentation must also be submitted to the agency's designated office: National EEO Investigative Services Office, P.O. Box 21979, Tampa, FL 33622-1979. In or attached to the appeal to the EEOC, you must certify the date and method by which service of the appeal was made on the agency's office.

Failure to file within the 30-day period could result in the EEOC's dismissal of the appeal unless you explain, in writing, extenuating circumstances which prevented filing within the prescribed time limit. In this event, extending the time limit and accepting the appeal will be discretionary with the EEOC.


EEO Services Analyst
NEEOISO

Date: May 23, 2016

Enclosure – Counselor's Report
EEOC Form 573

cc: Dennis L. Friedman, Esq.
1515 Market Street Suite 714
Philadelphia, PA 19102-1907

Exhibit C



**UNITED STATES POSTAL SERVICE
EQUAL EMPLOYMENT OPPORTUNITY
IN THE MATTER OF:**

DOROTHY STEWART
P. O. Box 1059
Trenton, NJ 08606-1059
Complainant,
v.

Delivery Confirmation Complainant:
0308 2040 0001 4942 7622

PATRICK R. DONAHOE
Postmaster General
United States Postal Service
Eastern Area
Agency.

Agency Case No. **4C-080-0140-11**
Date Filed Formal: December 23, 2011

ACCEPTANCE FOR INVESTIGATION

Receipt of your formal complaint of discrimination filed on December 23, 2011 is herein acknowledged. Your complaint has been accepted for investigation. The scope of the investigation will include the following issue(s) only:

Specific Issue(s): Complainant alleges discrimination based on Disability (Left-Leg, Stress) when:

- 1) On September 2 and 9, 2011 she was told by management that there was no work available and instructed to clock out and leave the building in a humiliating manner in front of co-workers.

NOTE: If your complaint involves an allegation of age discrimination, the Postal Service is required by the Age Discrimination in Employment Act of 1967, as amended, to advise you that you may consult with an attorney should you desire to do so before signing any agreement resolving your complaint of age discrimination.

If you do not agree with the defined accepted issue(s), you must provide a written response specifying the nature of your disagreement within seven (7) calendar days of receipt of this letter to the EEO Services Analyst at the address below. You are reminded that any notification of disagreement with the defined accepted issues is not an opportunity or forum to raise additional, unrelated allegations of discrimination. Additional unrelated issues must be pursued through established procedures with your local EEO Office.

Your case will be assigned for investigation. Please be prepared to go forward with your case and provide an affidavit when the Investigator contacts you in the near future.

- 2 -

The investigation of the accepted issues will be completed within 180 calendar days of the date of your filing of the complaint, except that the complainant and the Postal Service may voluntarily agree, in writing, to extend the time period up to an additional 90 calendar days. Should you seek to amend the complaint, the amendment will extend the time for processing an additional 180 days from the date of the amendment with the total allowable time for processing the complaint and all amendments no more than 360 days.

If you have a grievance pending on the same issue(s) as those addressed in your complaint of discrimination, the agency may, at its discretion, defer the processing of this complaint until the grievance procedure has run its course and there has been a final resolution of the grievance. When an investigation is deferred, pending the outcome of the grievance process, the 180-day time period for processing the complaint is stopped temporarily, and does not restart until the grievance is resolved. If your complaint is deferred, you will be notified, in writing, of the options which may be available to you as a result.

When the investigation is completed, you will receive a copy of the investigative report, and you will be notified of your right to a hearing before an Equal Employment Opportunity Commission (EEOC) Administrative Judge or of your right to a final decision by the agency head or designee without a hearing. You may request a final agency decision without a hearing, at the appropriate time, by writing the NEEISO-FADS, P.O. Box 21979, Tampa, FL 33622-1979.

You may request a hearing by an EEOC Administrative Judge by notifying, in writing, the District Director of the EEOC at the following address:

Chief Administrative Judge
Philadelphia District Office
801 Market Street, # 1300
Philadelphia, PA 19107-3127

You must make your hearing request within 30 calendar days of your receipt of the investigative report and you must provide the Manager NEEISO-Hearings, P.O. Box 21979, Tampa, FL 33622-1979 with a copy of that hearing request. If you do not receive your investigative report and notification concerning your appeal rights within 180 calendar days from the date on which you filed your formal complaint, you may request a hearing by writing directly to the EEOC District Office shown above, with a copy to the Manager NEEISO-Hearings, P.O. Box 21979, Tampa, FL 33622-1979.

If you are dissatisfied with the Postal Service's final agency decision where there has been no hearing, or with the Postal Service's final action on the decision of an Administrative Judge following a hearing, you have certain appeals rights. You may appeal to the Office of Federal Operations, Equal Employment Opportunity Commission (EEOC), at the address shown below, within 30 calendar days of the date of your receipt of the final agency decision or you may file a civil action in the appropriate U. S. District Court within 90 calendar days of your receipt of the decision.

Exhibit D

00097

- 3 -

You may also appeal a final action by the Postal Service implementing a decision of an Administrative Judge following a hearing within 30 calendar days of the date of your receipt of that final action or you may file a civil action in an appropriate U. S. District Court within 90 calendar days of the date of your receipt of the final action. Finally, you may respond to an appeal by the Postal Service in connection with its final action not to implement a decision of an Administrative Judge following a hearing or you may file a civil action in an appropriate U. S. District Court within 90 calendar days of the date of your receipt of the final action and appeal.

Any appeal to the EEOC should be addressed to the Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 77960, Washington, D.C. 20013-8960. Along with your appeal, you must submit proof to the EEOC that a copy of the appeal and any supporting documentation were also submitted to NEEOISO-FADS, P.O. Box 21979, Tampa, FL 33622-1979.

After 180 calendar days from the date of filing your formal complaint, you may file a civil action in an appropriate U. S. District Court if the Postal Service has not issued a final decision on your complaint or if no final action has been taken on a decision by an Administrative Judge.

If you decide to appeal to the Office of Federal Operations, EEOC, you may file a civil action in an appropriate U. S. District Court within 90 calendar days after your receipt of the Office of Federal Operation's decision. If you do not receive a decision on your appeal within 180 calendar days from the date of your appeal, you may file a civil action.

Deborah C. Robinson

Deborah C. Robinson
EEO Services Analyst

January 12, 2012

Date

Attachments: PS Form 2570 / CD Letter

Exhibit D

00098



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Office of Federal Operations

P.O. Box 77960

Washington, DC 20013

Dorothy M Stewart, a/k/a

Waneta F.,¹

Complainant,

v.

Megan J. Brennan,

Postmaster General,

United States Postal Service

(Eastern Area),

Agency.

Appeal No. 0120162136

Agency No. 4C-080-0069-16

DECISION

Complainant filed a timely appeal with this Commission from an Agency final decision, dated May 23, 2016, regarding a formal complaint of unlawful employment discrimination in violation of Section 501 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended, 29 U.S.C. § 791 et seq. The Commission accepts the appeal in accordance with 29 C.F.R. § 1614.405.

BACKGROUND

During the relevant time, Complainant worked as a City Carrier at the Agency's Trenton Carrier Annex in Robbinsville, New Jersey. On April 18, 2016, Complainant filed a formal complaint alleging that the Agency subjected her to discrimination on the basis of disability when:

beginning in September 2011, she was denied the opportunity to continue working.

In its final decision, the Agency dismissed the formal complaint for stating the same claim that is pending before or has been decided by the Agency or Commission. According to the Agency, on December 23, 2011, Complainant filed a formal complaint alleging she was subjected to disability discrimination when, beginning in September 2011, she was told there was no work within her limitations (Case No. 4C-080-0140-11). While that formal complaint was pending a hearing before an EEOC Administrative Judge (AJ), Complainant filed an MSPB (Merit Systems

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.

Exhibit E

Protection Board) appeal claiming she was constructively suspending in September 2011. The Agency stated that, in June 2014, Complainant also submitted a Claim and Release to the Pittman class representative. In October 2014, the MSPB found it lacked jurisdiction and noted that Complainant was part of the settlement of the Pittman class action. Thereafter, in June 2015, the EEOC AJ dismissed Case 4C-080-0140-11 as subsumed in the Pittman class. In a final decision issued on July 31, 2015, the Agency fully implemented the AJ's dismissal. Complainant appealed the matter to the Commission, EEOC Appeal No. 0120152841, which is still pending.

Complainant filed the instant appeal.

ANALYSIS AND FINDINGS

The regulation set forth at 29 C.F.R. § 1614.107(a)(1) provides that the agency shall dismiss a complaint that states the same claim that is pending before or has been decided by the agency or Commission.

The claims raised in the instant formal complaint are also the subject of Case No. 4C-080-0140-11, filed approximately four and a half years earlier. In Case No. 4C-080-0140-11, Complainant alleged that in September 2011 she was told there was no work available within her medical limitations and was sent home. Further, Commission records reflect that Case No. 4C-080-0140-11 is the subject for another appeal currently pending before our office as noted above, regarding an Agency final action issued on July 31, 2015. In that final action, the Agency implemented an EEOC AJ's dismissal of the complaint on the ground that Complainant is a member of the class in R.J. Pittman v. United States Postal Service and had submitted a Claim and Release when the class action was settled.

Consequently, we find that the Agency's dismissal, pursuant to 29 C.F.R. § 1614.107(a)(1), was proper.

CONCLUSION

Accordingly, the Agency's decision is hereby **AFFIRMED**.

STATEMENT OF RIGHTS - ON APPEAL RECONSIDERATION (M0416)

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:

Exhibit E

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 or **within twenty (20) calendar days** of receipt of another party's timely request for reconsideration. 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. The requests 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 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 (S0610)

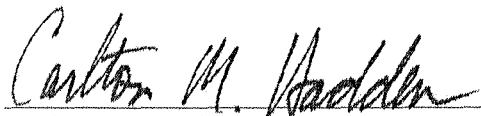
You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department 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. If you file a request to reconsider and also file a civil action, **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:



Carlton M. Hadden, Director
Office of Federal Operations

OCT 07 2016
Date

CERTIFICATE OF MAILING

For timeliness purposes, the Commission will presume that this decision was received within five (5) calendar days after it was mailed. I certify that this decision was mailed to the following recipients on the date below:

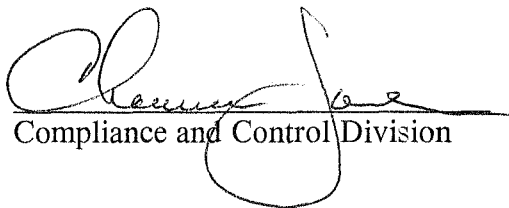
Dorothy M Stewart
203 W. 6th St.
Florence, NJ 03513

Dennis L Friedman, Esq.
1515 Market St. Suite 714
Philadelphia, PA 19102

U.S. Postal Service (Eastern Area)
NEEOISO - Appeals
U.S. Postal Service
PO Box 21979
Tampa, FL 33622-1979

OCT 07 2016

Date


Compliance and Control Division

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Dorothy M. Stewart

DEFENDANTS
Megan J. Brennan, Postmaster General,
United States Postal Service

(b) County of Residence of First Listed Plaintiff Burlington
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, Email and Telephone Number)
Dennis L. Friedman, Esquire
1515 Market Street, Suite 714
Philadelphia, PA 19102, friedman.dennis@gmail.com, (215) 567-4600

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	ROBBERY/REPLEVIN/LAW	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPER RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL BANK SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 Rehabilitation Act of 1973 (29 U.S.C. Section 791 et seq.)
 Brief description of cause:
 Employment Discrimination

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 100,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

01/10/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [U.S. Postmaster General Slapped with Civil Rights Class Action](#)
