

Sample Request for a Hearing

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON FIELD OFFICE
1400 L Street, Suite 200
Washington, DC 20005**

IN THE MATTER OF:]	Current EEO File No.:
]	EEOC 123-45-6789X
Ive Ben Wronged,]	
]	
Complainant,]	
]	
vs.]	
]	AGENCY #1-H-234-4567-89
Daniel Glickman,]	
Secretary, Department of Agriculture,]	OFO Appeal #01234567
]	
Agency.]	

MOTION TO CONSOLIDATE CASES MOTION FOR SANCTIONS REQUEST FOR A HEARING

Complainant requests that all of her outstanding cases be consolidated for hearing, and that the Agency be Sanctioned for repeated and unjustified failures to process EEO Complaints # 987654, # 654321, #321000 as well as failure to process eleven additional informal EEO complaints dating back many years.

FACTUAL HISTORY

Complainant, Ms. Ive Ben Wronged, has been engaged in a long process against the Agency for numerous EEO actions based primarily upon disability discrimination, failure to accommodate and retaliation. Her complaints commenced September 28, 1995, with the filing of Complaint No. #987654. She later brought two other complaints, #654321, dated April 30, 1996, and #321000, commenced July 23, 1996.

With respect to the first action, that pertained to a breached settlement agreement which was subsequently appealed (see exhibit #1). The Office of Federal Operations ruled that the agency had in fact breached several provisions of the agreement and afforded Complainant the remedy of her complaint's reinstatement.

The second and third actions were eventually consolidated and there were several mediation orders (see exhibit "4"). Upon failure to obtain a settlement, the actions were

to be turned back to an Administrative Judge for hearing. Years went by and Complainant heard nothing from the Agency or the EEOC regarding the hearing. Complainant did virtually everything in her power to obtain information regarding the hearing, including having her Congressman, investigate the matter.

In addition to the three formal complaints filed by Complainant, she filed eleven informal complaints. These were pursued by a prior attorney in a letter dated, February 15, 2001. Ms. Wronged was never given to right to file formal complaints with respect to each of these, even though she requested same.

After reviewing complainant's file, by new Counsel, Snider & Associates, LLC., Complainant sought a formal inquiry into the status of the complaints and requested that the agency consent to consolidation of all the matters for a hearing (see exhibit "7"). Such correspondence was sent November 4, 2003 and later follow-up was sent advising of Complainant's intention to bring a motion. No written response was received. In January 2004, Complainant sent a Motion for Sanctions and a Request for a Hearing to the Chief Administrative Law Judge at the EEOC in Washington, DC, which, to date, has not been responded to by Defense Counsel or the Court.

APPLICABLE LAW

29 C.F.R. Section 1614(f) (3) states

“When the complainant, or the agency against which a complaint is filed, or its employees fail without good cause shown to respond fully and in timely fashion to an order of an administrative judge, or requests for the investigative file, for documents, records, comparative data, statistics, affidavits, or the attendance of witness(es), the administrative judge shall, in appropriate circumstances:

(i) Draw an adverse inference that the requested information, or the testimony of the requested witness, would have reflected unfavorably on the party refusing to provide the requested information;

(ii) Consider the matters to which the requested information or testimony pertains to be established in favor of the opposing party;

(iii) Exclude other evidence offered by the party failing to produce the requested information or witness;

(iv) Issue a decision fully or partially in favor of the opposing party; or

(v) Take such other actions as appropriate.”

In the case at bar, the least Complainant's counsel should be entitled to is written correspondence from the Agency, acknowledging receipt of its representation and cooperation in setting forth a plan of action to either: (1) consolidate the complaints for a single hearing; (2) providing a detailed account of the status of the informal complaints filed; and (3) provide correct information regarding the status of the latter two formal complaints.

There also exists an issue as to the timeliness of the reinstated complaint with respect to completing a timely investigation. The regulations mandate that the Agency must conduct the investigation within 180 days of the complaint's filing. The agency is also required to develop complete and factual records upon which to make findings in on the matters raised by the written complaint. Thus far, the only Agency communication acknowledging its duty to investigate her is the aforementioned August 2003 letter, describing a previous letter with Complainant on August 8, 2003, indicating that her complaint had been reinstated. However, there was considerable time, years that went by, in which no investigation had been completed. Instead, the Agency hid behind an allegation that Complainant had held up the process through her failure to return the \$99,000.00 compensatory damage award, which she never accepted.

While the Agency may argue that the 180 day requirement has not passed, by virtue of its August Correspondence, Counsel for Complainant would have no way of knowing what, if any, investigation was performed or if the Agency was planning on completing one, due to its lack of response to Complainant's simple request for acknowledgement. Motions such as this only become necessary due to this lack of cooperation.

Finally, given that Complainant's actions have dragged on for some eight to nine years, it is unfair to her to further wait for an Agency response. Instead, Counsel respectfully requests that the Chief Administrative Law Judge investigate this matter in order to get the complaints processed, hearings scheduled and arrange for possible consolidation.

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