

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

[REDACTED]	:	
Plaintiff	:	
	:	
v.	:	[REDACTED]
	:	
MEGAN BRENNAN -POSTMASTER	:	
Defendant	:	Jury Trial Demanded
	:	

**Amended and Supplemental Complaint Pursuant to FRCP 15,
Prior to Service of Process**

COMES NOW THE PLAINTIFF, [REDACTED], and in support of this Amended Complaint for her civil action filed on [REDACTED] against the United States Postal Service, states as follows:

I. INTRODUCTION

- 1) **This mixed-motives discrimination civil action** against the Defendant is for discrimination, harassment, retaliatory hostile workplace environment based on Plaintiff's sex (female), in violation of Plaintiff's rights protected under Title VII; and for employment wrongs against Plaintiff due to Defendant's additional other motives.

- 2) Plaintiff [REDACTED] was hired at the Lafayette, Louisiana postal service as a temporary employee ("causal") [REDACTED] Plaintiff's reliability, promptness, and beyond satisfactory work performance is why the Lafayette postal agency kept re-hiring her after each six-month terms; and Plaintiff was led to believe that she would be promoted to a permanent career position. Plaintiff's expectation and hopes for permanent employment status is why

initially Plaintiff said she waited before speaking up after workplace hostility and apparent discrimination started occurring in late 2014.

3) Furthermore, although Plaintiff was certain that she was being discriminated against, and in particular, she was singled out by postal manager [REDACTED] (a male), she did [“NOT” inadvertently omitted] know enough about what is required for Title VII charges. Also, Plaintiff feared it would operate against her, and risk promotion chances if she raised discrimination charges, and since she lacked “similarly-situation” information.

4) But even though Plaintiff was unable to assert Title VII motives, Plaintiff repeatedly made hostile work environment claims. Not until in February 2018, after Plaintiff learned about the [REDACTED] postal service Facebook page, and postings from manager [REDACTED], was it manifest that [REDACTED] created, promoted, encouraged, workplace sexuality, hostility, as well as other appalling Lafayette postal service employment conditions. Below this complaint, are Lafayette Facebook excerpts of shockingly abhorrent, molesting, desolate, obscene, vulgar, sexual, hostile postings that confirms the existence of motives other than Title VII for the repugnantly unfair postal treatment that the postal service inflicted upon Plaintiff [REDACTED]. Outrageous, unconstitutional treatment of [REDACTED] occurred before [REDACTED] terminated Plaintiff’s employment, as well as during Plaintiff’s relentless efforts to obtain Title VII relief by means of the entities that are paid by the postal agency for carrying out the agency’s EEOC program.

5) In the spring of 2015, [REDACTED] raised concerns with Plant Manager, [REDACTED] about hostile work environment and discrimination pertaining to personnel decisions, job tasks, and assignments. Later, [REDACTED] raised concerns about reporting schedules. Both, Plant Manager, [REDACTED]’s and Manager, [REDACTED]’s responses were aggressive, evasive, even though [REDACTED] has

the legal right to enquire about employment disparities, opportunities, vacancies, work assignments, reporting schedules, operating the machines!!! Thereafter, [REDACTED] and [REDACTED] began engaging in BULLYING, HUMILIATING, retaliation against [REDACTED]. . . .inordinate scrutiny . . . adverse, threatening, harassing acts against her culminating in [REDACTED] being terminated from employment on September 15, 2016. [REDACTED] has and continues to suffer economic deprivations, humiliation, physical and emotional distress.

II. JURISDICTION AND VENUE

6) Jurisdiction for this case is pursuant to 28 U.S.C. § 1331, and Title VII of the Civil Rights Act of 1964 (as amended), 42 USC §2000 et seq. Unlawful employment practices against this Plaintiff were committed in the State of Louisiana, [REDACTED], Louisiana. Venue in this Court is proper.

III. PARTIES

7) Plaintiff, [REDACTED] is a black, female who was employed with the United States Postal Service [REDACTED], a position she had held from [REDACTED], 2012 to [REDACTED] 2016, until she was wrongfully terminated.

8) The United States Postal Service (“Defendant”) is an entity of the United States government; it provides mail service in the United States; and is an “employer” within the meaning of the statute and regulations at issue. At all times relevant, Plaintiff was employed by the Defendant.

BACKGROUND and SUMMARY

9) Defendant, U.S. Postal Service refused to provide Title VII remedies by failing to comply with its obligation to furnish Plaintiff [REDACTED] with mandatory 29 C.F.R. § 1614.105(b)(1) “pre-

complaint counseling”; and refused to provide EEO MD-110, Chapter 2. (August 5, 2015) **“pre-complaint processing”** for Plaintiff’s hostile work environment, discrimination, sexual harassment, and retaliation claims. Defendant’s utter failure to provide Plaintiff with **indispensable pre-complaint counseling is why formal complaint processing and formal investigation was never lawfully triggered.**

10) Without furnishing mandatory “pre-complaint counseling” and mandatory “pre-complaint processing,” the Defendant improperly bypassed and improperly advanced to: (a) premature pretext formal complaint techniques;(b) pretext and untoward EEO investigations;(c) **pretext and blatantly unfair alternative dispute resolution (ADR) system** –despite that Fenelon neither lawfully nor knowingly signed ADR consent form;(d) **dissembled administrative hearings; and(e) **final agency decision (FAD).** The Defendant issued to [REDACTED] its FAD on [REDACTED]. Thus, federal court jurisdiction exist for this originally filed on [REDACTED] [REDACTED] civil action.**

11) The Defendant’s premature EEOC record of investigation (ROI) includes reports that were provided by **ADR Ernest Parfait** –in which Parfait asserted that he counseled [REDACTED] and investigated her claims. His report also makes it clear that Plaintiff [REDACTED] **never signed the ADR consent form** –as [REDACTED] could not have “knowingly” agreed to ADR since she **did not even know what is ADR.** [REDACTED] impermissible intrusion shows disregard for conflict of interest, his reports should be nullified, and should not trigger advancement of [REDACTED]’s EEO. Moreover, the **EEO MD-110 at Chapter 2** prohibits **ADR Parfait counseling and investigation:**

“An EEO Counselor, whether agency or contracted, may not serve as an investigator in a dispute in which s/he provided counseling to the aggrieved person. The role is compromised if the EEO Counselor also serves as an investigator of the complaint. . .”

12) ADR Parfait's unlawful intrusion and misconduct irreparably impeded Fenelon from even the possibility of Title VII relief, as well as other remedies available to Fenelon since her EEO case consists of **mixed-motives discrimination**. Further, Parfait's "reports" include untruthful and erroneous sketches of Fenelon's EEO claims; and a blatantly prejudiced, illogical, scowling description of Fenelon's discrimination averments in his "report." And rather than Parfait explain in his reports his hints, he gives neither identification nor clarification to which of Fenelon's EEO claims Parfait asserted as being untimely and without merit. **Even further, Parfait bad faith "report" is blatantly biased in favor of Lafayette postal managers Brandon Batiste and Michael Gardner; and it contains multiple artful, illogical assertions that demonstrate Parfait functioned in Fenelon's cases to impede her from any Title VII relief.** On information and belief, Lafayette postal agency's business dealings –as well as Batiste's personal affairs– are also motives for unlawful workplace terms and conditions to which Plaintiff was subjected.

13) Also, contrary to Parfait's esteeming depiction of the two Lafayette postal managers, both manager's EEOC Affidavits show disingenuousness. In fact, postal manager Brandon Batiste (the manager who wrongfully fired Fenelon) avowed that it was Batiste who "investigated" Fenelon's retaliatory hostile workplace environment claims (and absolved himself). On **Facebook, Batiste's postings establish he is a bully, and he referred to himself as "a BAMF!"** ██████'s admissions about conducting his own investigation of Fenelon's hostile environment claims proves Defendant postal service failed its § 1614.105(b)(1) responsibility. Batiste is not an EEO counselor.

14) Adding to the Defendant postal service's refusal to provide ██████ with Title VII relief, is the conflicting interest participation by New Orleans postal service management official and

former EEOC counselor – [REDACTED] ([REDACTED]'s childhood friend). In addition, AJ Graham ordered a hollow 'further development' of Liddiard's ROI. **Neither the AJ, nor the postal Defendant answered Plaintiff's request for a copy of what AJ Graham compiled.**

15) Further, the AJ had scheduled an **October 30, 2017** EEOC hearing for Plaintiff [REDACTED]'s case. For purposes of that hearing, [REDACTED] had prepared an EEOC motion, but the intended motion could not be filed because on October 16, 2017, the AJ suddenly and unfairly dismissed [REDACTED]'s entire EEOC case. The October 2017 **intended motion** evolved around: the record of investigation (ROI); August 5, 2015 EEOC Management Directive for 29 C.F.R. Part 1614 (EEO-MD-110); 29 C.F.R. § 1614; Postal Agency manual for processing EEO claims; emails and a limited amount of documents from the AJ' hearing process; statutes and caselaw.

16) Also, [REDACTED] sent an email wherein she **asked AJ Graham if she could be appointed an attorney. AJ Graham's response was that a lawyer was not necessary. But AJ Graham's unlawful October 16, 2017 directive to [REDACTED] refutes the AJ's email reply. AJ Graham's October 16, 2017 misleading telephone directive to [REDACTED] was for [REDACTED] to ask the postal service for a "final agency decision" (FAD).** AJ Graham, who is the supervisor of EEO administrative judges, knew or should have known that an **employer's authority to issue a FAD does not come into play until after administrative judge's jurisdiction ends.–29 C.F.R. § 1614.109, § 1614.110.** Notably, after [REDACTED] wrote an email to AJ Graham within hours after the October 16, 2017 phone call to inform AJ Graham that [REDACTED] was confused about what AJ Graham instructed, and to provide [REDACTED]'s contact information as the replacement representative –**all on the same day of October 16, 2017, AJ Graham dismissed Fenelon's entire EEO case.** Also, **instead of telling Fenelon a lawyer wasn't needed, it would have been**

extremely helpful if AJ Graham had informed Plaintiff that anyone could represent her, and thus [REDACTED] could replace [REDACTED] much sooner. (Although [REDACTED] is not a lawyer, [REDACTED] thought [REDACTED] had permission.)

17) Unfair, biased, and improper EEOC maneuvers such as those described herein prove that [REDACTED] definitely had of both legal representation and protection. Indeed, [REDACTED] requested a hearing –as she was instructed by EEOC investigator Liddiard –and as instructed, she completed paperwork that Parfait mailed to her. She did so with belief that cooperation would result in progress for her timely-filed EEO claims she had been filing since April 2015.

18) The intended October 2016 EEOC motion was updated in February 2018 as a draft ‘Amended Complaint’ for proffering to the New Orleans law firm that Plaintiff and her mother had been consulting, in hopes of acquiring a much-needed amendment of [REDACTED]’s February 21, 2018 discrimination lawsuit that [REDACTED] had filed in proper person. Dozens of pages of documents and information were provided to the firm, as the time for service of process on the Defendant was expiring. Unable to continue paying the lawyer, Plaintiff researched and compared those documents with Plaintiff’s original facts and proof to help her amend her lawsuit. (In February, Plaintiff was experiencing extreme trauma from what happened at the Lafayette postal service; and it was too difficult for her and unbearable for her to make clear allegation. But, despite lack of allegations, she attached examples of printed pages from the Lafayette postal Facebook, that shows vulgar, outrageous, hostile postal service employment conditions.)

19) The above-stated facts and issues delineate: (1) the Lafayette postal service’s Facebook attests to mixed-motive discrimination; (2) the Facebook reveals that –inside as well as outside

of the Lafayette postal facility, [REDACTED] intentionally established, instigated, and encouraged a sexual, hostile environment; (3) [REDACTED] deliberately interfered with [REDACTED]'s right to oppose unlawful discrimination when [REDACTED] took it upon himself to investigate [REDACTED]'s retaliatory hostile workplace environment claims; (4) [REDACTED]'s Facebook portrayal and description of himself as "a BAMF"; declaration about "getting his sexy on"; pictures of himself in the women's restroom; and his "loop holes"(sic), demonstrate his workplace conduct is prompted by sex, his enormous ego, personal viewpoints, spite, and other hidden aims; (5) the purported EEOC investigation and supplementation of the investigation record that was ordered by AJ Graham is not valid.

20) Clearly, the postal agency Defendant unfairly disadvantaged and prejudiced Plaintiff [REDACTED] when it refused to lawfully process and investigate material allegations in Plaintiff's discrimination cases. Even further, prior to Batiste wrongfully terminating [REDACTED], the postal agency's refusal to lawfully address [REDACTED] Title VII claims forced [REDACTED] to continue working in unlawful workplace conditions (unless she chose to quit). Additionally, due to wrongful termination of [REDACTED]'s employment, [REDACTED] lacked financial means to pay for sorely-needed legal assistance and representation; and [REDACTED] lacked the emotional ability to attempt administrative hearing discovery.

21) Regardless that EEO investigations and hearings (*unbeknownst to [REDACTED]*) were in fact premature, Defendant postal agency's repeated failures to comply with § 1614.105(b)(1) and EEO MD-110, Chapter 2, and Defendant's utterly defective ROI is what, if anything, caused the 'development of the record' situation. Therefore it should have been justifiable for the administrative judge to require that the agency bear also [REDACTED]'s costs pertaining to "further

I'm a BAMF! *”BAMF” means bad-a\$\$ mother f**ker.

- Posted by Batiste: “I do NOT miss this place. I need another vacation”
- Posted by [REDACTED] (DJ): “I’m ready to go bruh fuuuuccckkkkkkkk”
- Posted by Batiste: **“Bored at work”** post includes pictures of Batiste in a restroom.
[REDACTED] (MT): “What were you doing in the women's restroom?”
Batiste: “Lol that's not the women's restroom! I have been in the women's restroom since the police were called.”
MT: “I know...was hoping someone else would pick up on it but...”
- Posted by Batiste: “Another interview”
GM: Who were the other people applying?
- Posted by Batiste: **“This place will drive me to drinking”**
GM: “Let's go lil buddy. I'm. Ready !!!”
GM: “I'll buy the first round. Lets GO!”
Batiste: “Something strong...”
- Posted by Batiste: **“Stuck in prison”**
Thebreaker Ofwalls: “lol nah prisoners got free time **SOMETIMES hell more like it**”

ALLEGATIONS

- 25) Plaintiff, [REDACTED] incorporates all of the preceding paragraphs by reference herein.
- 26) For FOUR YEARS Plaintiff repeatedly was **re-hired for six-month terms which attests to her satisfactory work performance and attendance**. Exemplary record as an employee who continually exceeded expectations in all categories of her job duties, UNTIL she began being subjected to discriminatory terms and conditions of employment and harassment based on her sex ...
- 27) Plaintiff was wrongfully fired by [REDACTED].
- 28) Plaintiff has been denied equal opportunity employment in violation of Title VII of the Civil

Rights Act when [REDACTED] repeatedly harassed, persecuted, berated, punished Plaintiff for reasons of Plaintiff's sex and for mixed motives, some of which were concealed until in February 2018, Plaintiff was provided FACEBOOK POSTINGS as samples in this complaint reveal.

29) On or around July 10, 2015, Manager, **Batiste changed [REDACTED]'s schedule from a scheduled off day, while she was off, to reflect a newly scheduled workday, so that [REDACTED] was unable to report for duty due to Batiste's schedule change while [REDACTED] was off. The change caused [REDACTED] to be noted AWOL** as was reflected on her pay stub.

30) [REDACTED] and [REDACTED] **humiliated Plaintiff for not knowing how to operate machines in the clerk's craft, despite [REDACTED] was not trained** by neither [REDACTED] nor [REDACTED]. [REDACTED] was hired as a [REDACTED]. She did her best trying to satisfy management's clerk demands of her.

31) [REDACTED] went hours late to work not knowing the reporting time had changed. [REDACTED] was expected to report shortly after having ended her tour earlier same day. [REDACTED] did not know this.

32) Plaintiff was singled out as only employee **forced to work split shifts** by [REDACTED] and [REDACTED].

33) [REDACTED]'s **clock rings were changed**, yet, [REDACTED]'s pay never reflected accurate payment.

34) [REDACTED] (male) deliberately subjected Plaintiff to harassment, retaliation, persecution, intimidation, unfair assignment and reporting time because of Plaintiff's sex (female), and because of [REDACTED]'s concealed **mixed-motives**.

35) On or around February 16, 2016, Plaintiff asked [REDACTED] to consider that she had not missed work in over two years, then approaching year four, and asked [REDACTED] that he would excuse her tardy upon blowing her transmission en route to work. [REDACTED] hostilely said, **“So you can just stroll in here whenever you feel like it? No. Follow your schedule!”**

36) On February 20, 2016, member of management, 204-B, [REDACTED] informed Plaintiff during her tour Saturday evening (second half of her split shift): “[REDACTED], split-shifts are against postal policy. Management is not allowed to have you work split shifts because we can’t split your time, so we’re gonna have to change your off day to Friday, instead of Sunday.”

37) March 12, 2016: Saturday, March 12, 2016, as Plaintiff ended her tour (second half of her split shift), 204-B, [REDACTED] said to [REDACTED], “[REDACTED] to change your off day to Fridays. [REDACTED] But, Brandon said ‘No.’”

38) **Batiste’s personal “investigation” of [REDACTED]’s claims was set up to reach pre-determined outcomes favorable to Batiste personally and to the postal agency.**

39) The Defendant demonstrated practices and policies of depriving Plaintiff of EEO rights pursuant to 29 C.F.R. § 1614.105(b)(1), unjustifiably adversely impeded Plaintiff’s Title VII rights to relief.

40) As a direct result of Defendant’s unlawful employment practices, discrimination, and reprisals, Plaintiff suffered and will continue suffering serious physical, financial, and emotional harms. She is entitled to lawful and equitable remedies, compensatory and punitive damages, in an amount that is determined after trial.

41) Postal manager Brandon Batiste subjected to [REDACTED] potential danger, likely physical peril, oppressive reporting schedule requirements that he imposed upon [REDACTED], and job assignments that include Batiste's ordering [REDACTED] –without training– to operate mail processing machinery, and thereby publicly humiliating [REDACTED] for mistakes. Batiste has even ordered [REDACTED] to leave work after [REDACTED] could not operate machines to Batiste's satisfaction.

42) Batiste has admitted to altering and changing scheduled reporting times after scheduling times were posted and employees have viewed them. Fenelon's reporting times were often changed after she left the postal agency and had the time changed that was posted for her to report for duty.

43) Batiste **deleted Plaintiff's time and attendance clock rings**, in violation of Fair Labor Standards, despite that he had no grounds.

44) Batiste's subjection of [REDACTED] harm, as well as subjection to oppressive reporting schedules, work assignments, public humiliation had the direct and proximate consequence of making it appear that [REDACTED]'s job performance was unsatisfactory, as well as made it appear that [REDACTED] did not merit promotion from temporary to permanent employment.

45) Postal manager Brandon Batiste conducted himself either in a manner intended to cause emotional distress, or he should have known that his actions taken would result in emotional distress to [REDACTED].

46) Batiste's actions and conduct were outrageous, extreme, threatening, unlawful, and it is intolerable in society. [REDACTED] is entitled to punitive damages because of Batiste's abhorrent conduct.

47) As a direct and proximate result of Batiste's brow-beating and unlawful conduct, ██████ suffered and will continue to suffer serious mental anguish for which the postal service is liable.

48) The Postal Service failed its remedial obligation to act prompt and appropriate for remedial action after ██████'s claims of hostile workplace environment and harassment were brought to its attention.

49) The postal agency's repeated negligent failure and inappropriate responses to Plaintiff's Title VII claims, inflicted additional unconstitutional harms that continue to this day, upon Plaintiff.

50) For refusing to remedy and prevent the hostile work environment the management-level employees knew existed –should have known– the postal agency is liable.

PRAYER AND JURY DEMAND

WHEREFORE, Plaintiff, ██████ prays that this complaint be deemed good and sufficient, and after conclusion of due proceedings, that there be entry of judgment in her favor and against the Defendant as follows:

A. Issue a declaration that the Defendant's employment policies, procedures, conditions, practices, and customs violated Plaintiff's as secured under Title VII;

B. Issue and Order for Defendant to implement and execute practices and policies that provide equal employment opportunities that reduce and / or eliminate past and future outcomes that stem from Defendant's unlawful employment practices;

C. Order Defendant postal service to make Plaintiff whole as a result of the above-stated unlawful employment practices, by providing appropriate backpay and front pay; and by employing Plaintiff as a career rather a temporary employee.

D. Order the Defendant to compensate the Plaintiff for non-pecuniary losses, including pain, suffering, humiliation, in amounts determined at trial;

E. Grant to Plaintiff [REDACTED] further relief as it deemed necessary and proper by the Court.

F. Plaintiff is yet in the process of attempting to obtain an attorney. Accordingly, if so obtained, Plaintiff requests an award of costs and attorneys' fees and interest from the date of judicial demand on all monetary awards.

G. Plaintiff, [REDACTED], hereby requests a trial by jury on all issues herein this instant civil action.

Under penalty of perjury, I declare that the information given in this complaint is true and correct.

Date: _____

Respectfully Submitted,

[REDACTED]
[REDACTED]
[REDACTED]