

MAR 14 2008



Transportation  
Security  
Administration

USPS Certified Mail Receipt No.  
70052570000191881770 (R. Sparks)  
70051820000235678682 (M. Swanson)

**AMENDED AND CORRECTED**

Robert Sparks, Esq.  
Robert Sparks Law Office  
1552 Noble Street  
Fairbanks, Alaska 99701

Re: Partial Acceptance for Investigation of the Discrimination  
Complaint of [REDACTED] vs. Michael Chertoff,  
Secretary, Department of Homeland Security  
Case No. HS-07-TSA [REDACTED]

Dear Mr. Sparks:

This letter is in regard to the above-referenced formal complaint of discrimination filed by your client [REDACTED] (Complainant), on October 2, 2007 (postmark date). Please include this case number on all future correspondence or other documents regarding this complaint.

Following a review of your client's complaint, the EEO Counselor's Report, your letter of January 25, 2008, requesting reconsideration of our October 31, 2007 partial dismissal decision of your client's formal complaint, your amendment requests dated January 31, 2008 and February 29, 2008 and in accordance with Title 29 Code of Federal Regulations (C.F.R.), Part 1614, the following claims are accepted for investigation:

Claim A. Whether the Complainant, a TSO at the Fairbanks International Airport, Fairbanks, Alaska, was discriminated against on the bases of sex (female), disability and reprisal (reporting the act of sexual harassment), when she was subjected to a hostile work environment. The following are some events which Complainant has provided as examples to support this claim:

1. On June 14, 2007, Complainant was issued a Letter of Guidance by her supervisor.

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2. On June 28, 2007, Complainant was subjected to intimidation by her supervisor while she was attending an Equal Employment Opportunity class.
3. On January 22, 2008, your client was charged 2 hours of Absent Without Leave (AWOL).
4. On January 31, 2008, your client's supervisor contacted her and demanded that she show up to receive her disciplinary action for the Deadhorse incident.
5. On February 12, 2008, your client's supervisor notified her that she was being suspended for three days.
6. On February 12, 2008, your client's supervisor notified her that she had been placed on AWOL status for January 25 and 26, 2008.

Claim B. Whether the Complainant, a TSO at the Fairbanks International Airport, Fairbanks, Alaska, was discriminated against on the basis of sex (female) and disability, when she was subjected to sexual harassment. The following are some events which Complainant has provided as examples to support this claim:

1. Approximately February 28, 2007, Complainant's supervisor grabbed her by her belt and pulled her close to him, made a "mmmmmmmmmm" sound and thrust his hips at her.
2. On March 8, 2007, Complainant's supervisor exposed his genitals to her, hugged and kissed her without permission and asked to have sex with her in the break room.

Please note that Claim B was originally dismissed due to untimely counseling contact. However, after reviewing your January 25, 2008 correspondence, which we received on January 29th, alleging that Complainant did in fact report her allegations of sexual harassment to management; Claim B is now accepted for investigation. In addition, Claim A, examples three, four, five and six are being accepted as additional examples of a hostile work environment.

After our review of the letter you submitted, dated February 29, 2008, it is our determination that the information provides additional clarification to support the existing accepted claim of hostile work environment (Claim A). Please note that the timeframe for the allegations is now from June 2007, to February 2008.

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If you believe that your client's claims have not been correctly identified, please provide me written clarification within five (5) calendar days after your receipt of this letter, specifying why you believe the claims have not been correctly identified. The allegations must be limited to the claims discussed with your client's EEO Counselor. If you do not reply within the specified time period, I will consider that you and your client agree with the claims as defined above.

An EEO investigator will be assigned to thoroughly investigate all aspects of the claims accepted for processing. The investigator has the authority to administer oaths and to require employees to furnish affidavits under oath or affirmation without a promise of confidentiality or, alternatively, by written statements under penalty of perjury. You and your client have a responsibility to cooperate with the investigator by timely scheduling an appointment, meeting with the investigator, and providing necessary written statements. Failure to do so may result in the dismissal of the complaint for failure to cooperate.

Once the investigator is assigned, he/she will contact you and inform you of the date when the investigation is expected to begin. When the investigation is concluded, you and your client will be provided a copy of the investigative file along with rights and responsibilities regarding the further processing of the complaint. If your client does not wish to pursue the complaint, she may withdraw it at any time by completing and returning the enclosed withdrawal form.

You also need to be aware that 29 C.F.R. § 1614.603 states that parties shall make reasonable efforts to voluntarily settle the complaint throughout the process. For information regarding Transportation Security Administration's (TSA's) Alternative Resolutions to Conflict (ARC) program, or other resolution methods available to your client, please contact the EEO Specialist listed below. Please note that the terms of any resolution/settlement, should one be reached, will be reduced to writing, and you will be provided a copy.

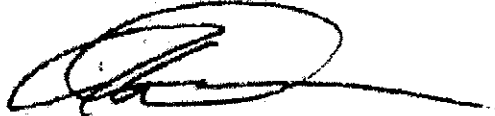
Because the investigation of your client's complaint has already begun, we are requesting that you sign and return the attached agreement to extend the time to complete the investigation from 180 days to 270 days.

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If you have any questions regarding this matter, please contact Gem Tolentino, EEO Specialist, at (571) 227-1538 or at our toll free number (877) 336-4872.

Sincerely,



Raymond A. Desmone  
Manager, Formal Complaints Division  
Office of Civil Rights and Liberties

Enclosure: Withdrawal of Complaint Form  
Notice to EEO Complainant Seeking Compensatory Damages

cc: TSA Office of Chief Counsel

[REDACTED]  
[REDACTED]  
[REDACTED]

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