

This material is part of a collection that documents the harassment, discrimination, and retaliation perpetrated against Alaska's women research scientists by their supervisor, with full knowledge (and arguably, "tacit approval") of their federal employer, the USDA Agricultural Research Service (ARS)

U.S. Equal Employment Opportunity Commission
EEOC Seattle Field Office
909 1st Avenue, Suite 400, Seattle, WA 98104
Telephone: (206) 220-6884; Fax: (206) 220-6911, 1-800-669-4000

USPS tracking confirmed that this injunctive relief was received by EEOC in Seattle, but Judge Gaffin never replied.

CYNTHIA BOWER, Ph.D.)
Complainant)
)
v.)
)
Thomas Vilsack)
Secretary,)
Agriculture, Department of,)
Agency)
_____)

EEOC No. 551-2009-00074X
Agency No. ARS-2008-00696

**STEVEN R. GAFFIN
ADMINISTRATIVE LAW JUDGE**

Date: December 22, 2009

As expected, unlawful retaliation by my supervisor and other USDA personnel continued to be perpetrated against me.

Since I was not provided injunctive relief, my supervisor was allowed to deplete the resources I needed for my job, transfer me to an Alaskan island, and continue harassing me and attacking my career.

Complainant's Request for Preliminary Injunctive Relief with Accompanying Exhibits

Complainant, Cynthia Bower, Ph.D., respectfully requests Preliminary Injunction pursuant to 29 CFR 1614.109(a) [Hearings] whereby an administrative judge assumes full responsibility for the adjudication of an EEOC complaint, and 42 U.S.C. sec. 2000e-5(f)(2) [Enforcement provisions] and Title 29 CFR 1601.23(b) [Preliminary or temporary relief] whereby delegated EEOC officials can transmit a recommendation for preliminary relief directly to the Attorney General when prompt judicial action is necessary in a case involving a governmental agency, pending final disposition of the original EEOC complaint. This request is in accordance with 29 CFR 1601.23(c), which allows private individuals to exercise their rights to seek temporary or preliminary relief on their own motion, and in support thereof, the Complainant alleges as follows:

In August 2010, I was forced to quit my job (due entirely to the USDA ARS's unlawful actions and despite no wrongdoing on my part).

If I had been unwilling to quit, the USDA was requiring that I continue to be supervised by Alberto Pantoja, despite all of his previous unlawful activities against me.

1. The Complainant is employed by the USDA Agricultural Research Service (ARS) in Fairbanks, Alaska and has been subjected to discrimination on the basis of gender from 2004 to present in violation of Title VII of the Civil Rights Act of 1964 as amended in 42 U.S.C. sec. 2000e.
2. Complainant's current discrimination complaint has a reasonable probability of success on the merits [Exhibit A].
3. Complainant is being subjected to retaliatory events by her supervisor and other ARS administrators in violation of 42 U.S.C. § 2000e-3(a), and in violation of 29 C.F.R §1614.102(a), which requires ARS personnel to identify and eliminate discriminatory practices and policies. [Exhibit B].
4. Complainant attempted to resolve the harassment, discrimination, and hostile work environment (that she and all other ARS women research scientists in Alaska were experiencing) by filing six administrative grievances, numerous communiqués, an informal EEO complaint, a formal EEO complaint, an EEOC complaint and an offer of settlement with USDA; however, the Agency has consistently refused to grant relief, and refused to assign an annual appraisal rating of "Does Not Meet Fully Successful" to culpable ARS supervisory and administrative personnel (in accordance with 29 CFR 1614.102(a)(6), which requires federal agencies to "Take appropriate disciplinary action against

employees who engage in discriminatory practices”) even after EEOC complaints had been filed by all ARS female research scientists in Alaska.

5. Complainant’s co-worker (Dr. Loretta Winton, EEOC No. 551-2009-00076X) recently terminated her employment with ARS (September 2009) to escape ongoing harassment and retaliation, thereby leaving the Complainant as the sole female target of retaliation co-located in Fairbanks with Dr. Alberto Pantoja.
6. Complainant has attempted to voluntarily separate herself from her supervisor by requesting entry into the ARS Telework program [Exhibits C, D] and by depleting her annual leave when Telework was denied by her supervisor [Exhibit E].
7. Complainant: has lost professional stature, promotions, and awards; currently suffers from loss of joy-of-life due to employment discrimination and retaliatory events by her supervisor; was diagnosed with Post-Traumatic Stress Syndrome [Exhibit F] after being deposed in the presence of her supervisor during the EEOC discovery phase; has required in excess of 165 hours of sick leave [Exhibit E] due to stress-related illnesses since filing with EEOC; and will continue to suffer irreparable harm by denial of injunctive relief [Exhibit G].
8. Complainant and all other ARS employees currently engaged in the Federal EEO process in Alaska have no adequate remedy at law.

9. The Agency will not suffer any appreciable injury if this request is granted, because the request is based on statutorily mandated requirements and the Agency will merely be restrained from ongoing retaliatory violations of Complainant's civil rights under Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. § 2000e).

Wherefore, Complainant respectfully requests granting of a Preliminary Injunction restraining the Agency from:

1. allowing any of Complainant's original nine EEO Respondents from serving as supervisor, Rating Official, Reviewing Official, or in any other capacity that facilitates the unlawful practice of retaliation against the Complainant until after EEOC has ruled on the merits of her case, [Named Respondents are: Dr. Alberto Pantoja, Complainant's supervisor; Dr. Edward Knipling, ARS Administrator; Dr. Antoinette Betschart, ARS Associate Administrator, retired; Karen Brownell, ARS Director of Human Resources, retired; Dr. Dwayne Buxton, ARS Pacific West Area Director, retired; Dr. Andrew Hammond, ARS Pacific West Area Director; Dr. Robert Matteri, ARS Pacific West Area Associate Director; Dr. Molly Kretsch, ARS Pacific West Area acting Associate Director in 2008; James Bradley, ARS Deputy Administrator].
2. transferring Complainant's research program (without her consent) before the EEOC has had the opportunity to rule on the complaint (EEOC No. 551-2009-00074X).

3. decreasing Complainant's research funding without demonstrating that the funding of Complainant's male co-worker was similarly garnished.
4. diminishing Complainant's research standing in the scientific community through unequal opportunities to transfer new technologies through conference presentations and published manuscripts.

It is not necessary to rule on the validity of the original EEO complaint in order to grant Complainant's request for preliminary injunction to protect her from suffering irreparable harm from continued discrimination and retaliation by her employer, the USDA ARS.

Dated 22 December 2009

Respectfully submitted,

Cynthia Bower, PhD (Complainant)

Research Food Technologist

USDA Agricultural Research Service

(907) 474-6732

Six Attachments:

Exhibit A) Complainant's case has a reasonable probability of success on the merits

Exhibit B) Retaliation against Complainant since EEOC complaint was filed

Exhibit C) Email exchange discussing Telework

Exhibit D) EAP counselor, Dr. Lawrence Gooding

Exhibit E) Current Leave Requests (Sick Leave and Annual Leave)

Exhibit F) EAP counselor, Dr. Elizabeth Kraska

Exhibit G) Complainant will suffer irreparable harm by denial of injunctive relief

CERTIFICATE OF SERVICE

For timeliness purposes, it shall be presumed that the parties received the foregoing Notice within five (5) calendar days after the date it was sent via first class mail or immediately upon e-mail delivery or confirmation of receipt by facsimile. I certify that on 22 December 2009 the foregoing Motion for Preliminary Injunction was sent via First Class Mail to the following:

EEOC Seattle Field Office
Federal Office Building
909 First Avenue, Suite 400
Seattle WA 98104-1061

Mr. Robert Hardin, USDA/OGC/CRD
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