

2. I, Michael McCray, am over twenty-one (21) years of age and am competent to testify as to matters described herein based on upon personal knowledge, information and belief.

3. I am an attorney at law duly admitted to practice before the Courts of the State of New York and am in good standing therein.

4. I reside at 6307 Ridgewood Drive, Pine Bluff Arkansas and have done so since 2003. I can be reached at (870) 543-0024.

5. I was previously employed as a Rural Development Specialist at USDA from 1994 to 1998 in the Washington, DC Office.

6. I served with distinction first as a Student Intern, then as an Outreach Specialist, Team Leader, Desk Officer, Webmaster and Systems Administrator.

7. I became the victim of continuous discrimination and retaliation, and a conspiracy by USDA managers (Victor Vasquez, J. Norman Reid and John Dean) to deprive me of my civil rights and constitutional liberties.

8. I am an African-American and I have engaged in prior EEO activity at USDA.

9. I was employed at Rural Business Services, Rural Development Mission Area, Office of Community Services, and Federal Empowerment Zone (EZ/EC) Initiative - located at 701 Reporter's Building, 300 Seventh, St., SW, Washington, DC 20024.

10. I left government service as a result of a hostile work environment and constructive termination.

11. I possess prior EEO claims that have never been adjudicated on the merits (USDA Complaint Numbers 980439, 970691 and 980194).

12. USDA was reprimanded over and over for repeatedly violating mandatory EEOC rules and regulations in the previous EEO investigation.

13. I also possess other EEO claims, which have never been processed at all (USDA Complaint No 990026).

14. USDA managers violated my privacy and disclosed my prior EEO activities to my subsequent employer, which resulted in my termination and blacklisting from subsequent employment.

15. I applied for employment as a Supervisory Business and Industry Analyst (Energy Programs) on April 20, 2009.

16. I am a well-qualified applicant, however my employment application was never acknowledged, processed, evaluated or considered.

17. On April 21, 2009, Secretary Tom Vilsack publically admitted that USDA has over 14,000 EEO complaints including 3,000 unprocessed EEO claims dating back to the 1990s.

18. After receiving no acknowledgement, correspondence or response, I filed a Freedom Of Information Act request about the vacancy announcement, selection process and candidate slate on May 27, 2009.

19. I have applied for other USDA positions and promotions and have been singled out by USDA managers. To this date NONE of my applications for employment are ever processed or considered.

20. USDA failed and refused to fully comply with my FOIA request and I filed the instant EEO complaint on October 27, 2009.

21. The EEO Specialist (David Williams) missed three scheduled interviews with my EEO Representative (Matthew Fogg) and me due to holiday travel.

22. I offered to voluntarily extend the informal review process by two weeks to accommodate the interview.

23. USDA arbitrarily and unreasonably refused my offer to extend the informal review process and conduct the interview.

24. During the informal complaint stage, I raised the instant Employment Discrimination Charge and included a separate Class Action

Count (alleging due process violations on 3,000 unprocessed claims and disparate treatment in ADR resolutions) on December 2, 2009.

25. The informal review stage for the instant matter closed on December 3, 2009.

26. On April 23, 2010 the Agency accepted the Employment Discrimination Charge but refused the Class Action Count for formal investigation.

27. On May 4, 2010 Matthew Fogg objected to the dismissal and requested reconsideration and reinstatement of the Class Action Count on my behalf.

28. On May 7, 2010, Senator Blanch Lincoln (D-AR) supported the request for reconsideration and reinstatement of the Class Action Count filed on my behalf.

29. Having received no reply from USDA, Matthew Fogg filed a formal appeal of the rejection of the Class Action Count with the EEOC (Washington Field Office) on May 18, 2010.

30. I subsequently, meet with Rural Development officials (John Montgomery) regarding Senator Blanch Lincoln's request who also confirmed that all of my prior EEO complaints remained open as of May 15, 2010.

31. My EEO Representative (Matthew Fogg) and I meet with Rural Development Civil Rights Director (Thelma Floyd) and staff, and we requested that all of my unprocessed EEO claims be immediately investigated and processed.

32. I requested a formal hearing before the EEOC on the instant case on January 6, 2011.

33. However, Administrative Judge (Kurt Hodges) did not issue an Acknowledgement Order for the instant case until September 18, 2012.

34. On oral argument at the May 8, 2013, Status Conference USDA (Brandi Peters) argued that my prior EEO claims were closed due to an

Agency FAD and OFO Appeal Decision dated May 18, 1998 and September 9, 1999 respectively.

35. I discovered the purported FAD and OFO Appeal Decision on the EEOC website following the status conference on May 8, 2013.

36. Neither of these documents existed or were included in the record prior to April 21, 2009.

37. These documents were never served on my previous EEO representative or me as required by EEO MD-110.

38. Neither my previous EEO representative nor I ever filed an appeal to the EEOC Office of Federal Operations.

39. The Agency FAD and OFO Appeal Decision appear to be fabricated documents placed in the record to eliminate the backlog of 3,000 unprocessed claims at USDA.

40. I requested for formal hearing before the EEOC on February 3, 1998; therefore any Agency FAD issued on May 18, 1998 is invalid.

41. The Administrative Judge (Rebecca Dickinson) remanded my case back to the Agency on January 3, 2000; therefore any OFO Appeal Decision dated September 9, 1999 is also invalid.

42. I filed a Federal District Court civil action on March 2, 2000; therefore, the FAD and OFO Appeal Decision would be invalid even if they had been dated May 18, 2000 and September 9, 2001 respectively.

43. USDA Assistant Secretary for Civil Rights (Joe Leonard) provided testimony to the EEOC stating that he was proud of the dramatic increase in the number of Agency FADs, which proved increased confidence in the Office of Civil Rights.

44. I filed a timely objection to the denial of my Class Action complaint from processing by the USDA on September 25, 2012.

45. During the status conference, USDA (Brandi Peters) also claimed that USDA had not denied my Class Action allegation, but

instead that they had referred the class action complaint to the EEOC on April 23, 2010.

46. Neither my EEO Representative (Matthew Fogg) nor myself were ever served with a copy of this class action referral letter as required by EEO MD-110.

47. USDA (Brandi Peters) claimed that USDA has repeatedly asked the EEOC (Mindy Weinstein) to process the Class Action allegations.

48. The EEOC (Mindy Weinstein) has never acknowledged receiving the Class Action referral from USDA or initiated an investigation.

49. It appears that USDA fabricated evidence (the referral letter), which was never served on the EEOC (Mindy Weinstein), my EEO Representative (Matthew Fogg) or myself in any effort to cover up the Class Action complaint.

50. This is merely the latest injury in a pattern of CONTINUOUS discrimination and retaliation against me in an ongoing conspiracy and intentional violations of my civil and constitutional rights that I have endured since 1994.

51. I am the Arkansas state representative for the USDA Coalition of Minority Employees, which has received similar complaints the USDA fabricated and backdated Agency FADs for other women and minority employees at USDA

52. The USDA and EEOC Inspectors General, and General Accounting Office should investigate the fabrication of evidence, cover up and backdating of potentially thousands of government documents to unlawfully deny due process and appeal rights to thousands of EEO claimants.

I have read this statement consisting of ___ pages and I have made all necessary corrections and additions, and have initialed every page.

Initials MM

I hereby declare under a penalty of perjury that the forgoing statement is true and correct to the best of my knowledge and belief.

The signature of Affiant: Michael McCray

Date: July 17, 2013

Subscribed and sworn to before me this ____ day of _____ 2013:

The signature of Notary Public/Witness

Initials MM