

*This is not a solicitation from a lawyer. Important Legal Notice – Please read carefully*

**NOTICE OF RESOLUTION AND PRELIMINARY APPROVAL –  
SETTLEMENT OF CLAIMS FOR ALLEGED RESTRICTION OF WORK HOURS  
AGAINST THE UNITED STATES POSTAL SERVICE BY PERMANENT  
REHABILITATION EMPLOYEES**

**DATE: JUNE 17, 2013**

**If you suffered a job related injury or illness and reached maximum medical improvement (MMI) and/or were provided a permanent rehabilitation assignment at the U.S. Postal Service between March 24, 2000 and December 31, 2012, your rights may be affected by a Settlement of all claims in *Walker v. Donahoe*.**

- The Settlement Agreement resolves all claims of Potential Class Members in the Administrative Class Complaint known as *Walker v. Donahoe*, EEOC Case No. 541-2008-00188X, before the Equal Employment Opportunity Commission (EEOC).
- The Assigned EEOC Administrative Judge Kathleen Mulligan issued an Order Granting Preliminary Approval of the Settlement Agreement on May 17, 2013.
- The class complaint in this case alleges the United States Postal Service (USPS) violated the Rehabilitation Act of 1973, 29 U.S.C. §§ 791 et seq., as amended (Rehabilitation Act) by restricting the duty hours of employees with disabilities in permanent rehabilitation positions or assignments during some portion of the time beginning March 24, 2000 through December 31, 2012 (the Class Period).
- Individuals who worked as a Permanent Rehabilitation Employee between March 24, 2000 and December 31, 2012 are potentially eligible to receive compensation. A Permanent Rehabilitation Employee, for purposes of this Settlement Agreement, is any current or former USPS employee whose USPS employment records reflect that they have an Office of Workers' Compensation Programs accepted claim arising from a workplace injury, they reached maximum medical improvement, and they participated in the USPS Injury Compensation Program.
- **According to USPS records, you were listed as a Potential Class Member and may be eligible to receive monetary compensation under the Settlement.** If the EEOC grants final approval of the Settlement Agreement you will be sent a Claim Form and Release. To receive your share of the Settlement, you must return the Claim Form and Release to the Class Administrator, an independent third party retained to administer the Settlement, at an address you will be provided.
- Your rights will be affected whether you act, or don't act. Read this Notice of Resolution carefully.

## YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT NOW

RETURN THE CLAIM FORM AND RELEASE	USPS records show that you are a Potential Class Member and may be eligible to receive compensation as part of the Settlement. If the EEOC grants final approval of the Settlement Agreement, you will be provided a Claim Form and Release with directions for submitting a claim. To receive your share of the Settlement, you must timely mail a signed Claim Form and Release to the Class Administrator as directed.
DO NOTHING	If you do nothing, you will not receive any compensation under the Settlement, and the Administrative Judge will decide whether the Settlement is fair without your input.
OBJECT	Write to the EEOC Administrative Judge about why you believe the Settlement is objectionable, postmarked by <b>July 22, 2013</b> .

- These rights and options—and the deadlines to exercise them—are explained in this Notice of Resolution.
- The Settlement Agreement must receive Final Approval by EEOC Administrative Judge Kathleen Mulligan in order to go forward. If approved, you will receive a Claim Form and Release with submission instructions. Please be patient if you return a Claim Form and Release for a share of the Settlement. Settlement Award checks will not be mailed out until three hundred (300) days or longer after the Notice of Final Agency Action and Claim Form and Releases are issued, depending on whether an appeal or federal court complaint is filed that challenges the validity of the Settlement.

## BASIC INFORMATION

### 1. Why did I get this notice package?

You are receiving this Notice of Resolution because you were identified by the USPS as a Potential Class Member in the EEOC case known as *Walker v. Donahoe* pending before Administrative Judge Kathleen Mulligan. USPS records show that you may have been a Permanent Rehabilitation Employee between March 24, 2000 and December 31, 2012.

The Settlement Agreement resolves all Potential Class Members' claims regarding the Challenged Practice in this case. The Challenged Practice in this case is that the USPS allegedly restricted the duty hours of disabled Permanent Rehabilitation Employees in violation of the Rehabilitation Act, between March 24, 2000 and December 31, 2012. On May 17, 2013, EEOC Administrative Judge Kathleen Mulligan issued an Order Granting Preliminary Approval of the Settlement Agreement, but the Settlement will not be final and effective until the EEOC Administrative Judge grants Final Approval, the Agency issues its Notice of Final Agency Action, and all related actions and appeals have been resolved.

This Notice of Resolution describes the Settlement Agreement. Under the Settlement Agreement, each Potential Class Member may file a Claim Form and Release to receive compensation. According to the USPS' records, you are a Potential Class Member who may be eligible to receive compensation under the Settlement.

Your rights may be affected if final approval of the Settlement Agreement is granted by EEOC Administrative Judge Mulligan. This is your only time to submit any objections you may have to the terms of the Settlement Agreement. If you want to object to the Settlement, your written objections must be mailed within thirty (30) days of receipt of this Notice of Resolution. If EEOC Administrative Judge Mulligan issues an Order granting final approval of the Settlement Agreement, you will be sent a Claim Form and Release asking you for information to establish your entitlement to monetary relief. To receive monetary compensation under the Settlement Agreement, you must timely submit a complete and signed Claim Form and Release to an address that will be provided postmarked within forty-five (45) calendar days of receipt of the Claim Form and Release. Within three hundred (300) days of the Notice of Final Agency Action, the Class Administrator will mail Settlement Award checks to

individuals who are eligible to receive a share of the Settlement and who have submitted a timely Claim Form and Release — this will take up to a year or longer.

This Notice of Resolution explains the Settlement Agreement and your legal rights. Additional information, including the Settlement Agreement, can be found at [www.Walkerclass.com](http://www.Walkerclass.com). You may also call 1-800-280-8301 toll free, or send a facsimile to 303-927-3860 to speak with Class Counsel. **DO NOT CONTACT THE EEOC** for additional information regarding this Case.

## **2. What is this administrative action about?**

Edmond Walker, the individual who brought the EEOC Administrative Class Complaint, claims that for a number of years the USPS violated the Rehabilitation Act by restricting the duty hours of disabled Permanent Rehabilitation Employees beginning March 24, 2000.

In 2005, the EEOC certified the class complaint in this Case (the Walker Class Complaint). The EEOC defined the class as follows:

All permanent rehabilitation employees whose duty hours have been restricted, from March 24, 2000, to the present, allegedly in violation of the Rehabilitation Act of 1973. For purposes of this litigation, permanent rehabilitation employee includes any rehabilitation program employee whose USPS employment records reflect an employee status code of LDC 69 and/or an employee status code of RC and/or RD.

In 2008, the EEOC's Office of Federal Operations (EEOC OFO) affirmed the certification of the "class comprised of individuals with disabilities in permanent rehabilitation positions who had their duty hours restricted beginning on March 24, 2000."

## **3. What claims are not included within the Walker Class Complaint?**

The Walker Class Complaint does not include work hour restriction claims, including denial of overtime, resulting from Phase 2 of the National Reassessment Process (NRP). These claims are the subject of a separate class action in *McConnell v. Donahoe*, EEOC No. 520-2010---280X (McConnell Class Action). Any monetary award you receive as a result of this Settlement will not include duty hour restrictions resulting from Phase 2 of the NRP. Restriction of duty hour claims during the Class Period, including denial of overtime and "no work available" determinations of Permanent Rehabilitation Employees, occurring before and after Phase 2 of the NRP however, remain within the scope of the Walker Class Complaint. Information regarding the McConnell Class Action may be found at <http://www.nrpclassaction.com>. **DO NOT CONTACT THE EEOC** for additional information regarding the McConnell Class Action.

## **4. Why is there a Settlement?**

In this case, Class Counsel sought monetary relief to compensate disabled Permanent Rehabilitation Employees whose duty hours were restricted in violation of the Rehabilitation Act, as amended.

As explained below, the Settlement Agreement achieves this goal. The Settlement Agreement provides substantial compensation to tens of thousands of Potential Class Members whose duty hours may have been restricted between March 24, 2000 and December 31, 2012, in violation of the Rehabilitation Act.

Since 2000, this Class Claim has been litigated by the Parties in this case. The litigation included an extensive discovery process in which millions of pages of documents were produced by the USPS and reviewed by Class Counsel. The liability hearing in this matter was underway at the time Settlement was reached and the EEOC Administrative Judge and the Parties heard approximately six (6) weeks of witness testimony, including over a week of testimony from both sides' expert witnesses. A total of four (4) expert witnesses and forty-five (45) fact witnesses, including over thirty (30) anecdotal Class witnesses and approximately fifteen (15) Agency management witnesses testified. Additionally, the Parties conducted a sampling exercise to

analyze five hundred (500) randomly selected Potential Class Members in greater detail. According to USPS records, over the twelve (12) year class period, there are approximately 40,876 Potential Class Members.

If this matter were to proceed through completion of the liability hearing and, if there were a finding of liability against the USPS, EEOC regulations require a claims process to determine each of the thousands of Potential Class Members' monetary damages. It could take years, possibly decades, to fully resolve the tens of thousands of potential damage claims. Moreover, to obtain any damages, within 30 days of receiving notice *each* Potential Class Member would have to file an individual claim demonstrating that he or she was disabled as that term is defined under the Rehabilitation Act and that his or her rights were violated under the Rehabilitation Act. Each Potential Class Member would also have to demonstrate specifically how he or she was damaged, including the specific incidents and dates on which duty hours were improperly restricted.

If the facts would lead the EEOC Administrative Judge to conclude that either you were not disabled OR that you could not perform the essential functions of the job, with or without reasonable accommodation, then you would not be entitled to any monetary relief. Similarly, if the EEOC Administrative Judge would conclude that either your duty hours were not restricted or that the Agency had a legitimate, non-discriminatory reason why your duty hours were restricted, you would not be entitled to any monetary relief. The liability and damages hearing processes are far more complex, time consuming, and burdensome than the Settlement Agreement, which sets forth a simple and efficient process for tens of thousands of Potential Class Members to receive compensation by returning a Claim Form and Release in the mail.

In addition, the EEOC's individual damages claims process would subject Potential Class Members to numerous other uncertainties, including the likelihood that many more Potential Class Members would receive no compensation even after a substantial period of delay. In contrast, under the Settlement, Potential Class Members may be entitled to receive compensation by returning a Claim Form and Release in the mail.

Class Counsel recommends the Settlement Agreement because it allows the greatest number of Potential Class Members to receive compensation in this EEOC Administrative Action and without the delay or risk of further litigation.

## SETTLEMENT BENEFITS--WHAT YOU MAY GET

### 5. What does the Settlement provide?

**Under the Settlement, the USPS will pay \$17.25 million to settle the case. Specifically, over \$12 million will be distributed to Eligible Class Members who participate in the Settlement claim process.**

**According to USPS records, you ARE a Potential Class Member. After the EEOC has considered all objections and granted final approval of the Settlement Agreement, each Potential Class Member may be entitled to receive compensation by returning a Claim Form and Release as part of the Settlement claim process.** Each Potential Class Member — approximately 40,876, based on USPS records — will receive a Claim Form and Release after the EEOC has considered all objections and if EEOC grants final approval of the Settlement Agreement. By returning the Claim Form and Release on a timely basis, each Eligible Class Member may receive a share of the Settlement. The approximately \$12 million Class Fund to be distributed to Eligible Class Members was agreed to after negotiations between counsel for the USPS and the Class, based on their assessment of the likelihood of delay, the risk of further litigation (including the risk of no or limited recovery for individual class members), and their assessment of individuals' potential claims.

The amount of money you may recover is dependent on several factors, including, but not limited to, the number of years you were a Permanent Rehabilitation Employee, the points you receive in the claims process, and the number of eligible claims made in this process. Therefore, it cannot yet be determined how much money each person may receive.

**In addition to paying over \$12 million to Eligible Class Members, the USPS will:**

*(1) Pay \$4,312,500 in attorneys' fees and an amount for recoverable costs that do not exceed \$750,000 to Class Counsel, subject to the EEOC Administrative Judge approving the attorneys' fees and costs.* These fees and costs represent a smaller sum than Class Counsel's hourly rates for performing legal services on behalf of the class for over 12 years. Class Counsel will seek, and USPS will not oppose an award of recoverable costs that does not exceed

\$750,000 and \$4,312,500 in attorneys' fees to be paid out of the settlement. Class Counsel has agreed to submit an acceptable written accounting of their recoverable costs, including a breakdown of the nature and amount for all costs to the EEOC Administrative Judge and counsel for the Postal Service. Class Counsel's request for an award of attorneys' fees and recoverable costs will be reviewed and approved by the EEOC Administrative Judge.

(2) Pay for an annuity in the amount of \$30,000 for the benefit of Complainant Edmond Walker.

(3) Pay up to a total of \$150,000 to other Class Members who materially assisted in the Class' prosecution of its Claims.

After funds have been distributed to Eligible Class Members, any remaining funds (after paying the actual cost of administering the Settlement) shall be contributed to an endowed scholarship fund for disabled students at Hampton University, Hampton, Virginia, as recommended by Class Counsel and approved by the EEOC Administrative Judge.

## 6. What will the Class Agents and Other Class Members Actively Involved in this Case Receive?

Class Agent Edmond Walker, who filed this Class Complaint, and other Class Members, have dedicated a substantial amount of time and energy to assist the Class. For his critical service to the Class and for a full release of his claims against the USPS, Edmond Walker will receive a Class Agent Award in the form of an annuity valued at \$30,000.

Furthermore, sixty (60) class members who actively participated in this Case (i.e., through deposition and/or hearing testimony) will receive \$2,500 per person as a Service Award for their important service to the Class. If you have been designated as one of the sixty (60) class members who actively participated in the litigation, the Class Administrator will notify you of this fact via a letter.

## OBJECTING TO THE SETTLEMENT

### 7. If I don't agree with the terms of the Settlement, how do I tell the Administrative Judge?

If you are a Potential Class Member, you may object to the Settlement Agreement if you don't agree with the terms of any part of the Settlement Agreement. Your objection should state why you think the EEOC Administrative Judge should not approve the Settlement Agreement. The EEOC Administrative Judge will consider your views. To object, you must send a letter saying that you object to the Settlement Agreement in *Edmond Walker, et al., v. Patrick Donahoe, Postmaster General U.S. Postal Service, EEOC Case No. 541-2008-00188X; Agency Case No. CC-800-0359-03*. Your letter should state your objection and the reasons for your objection. Be sure to include your name, address, telephone number, e-mail address, your signature, and the reasons you object to the Settlement Agreement.

To object, you must mail a copy of the objection to **both** of the following addresses within thirty (30) days of your receipt of this Notice of Resolution:

**Class Administrator**

Walker v. Donahoe Class Administrator  
PO Box 869  
Tallahassee, FL 32302-0869

**EEOC Administrative Judge Kathleen Mulligan**

EEOC – Los Angeles District Office  
255 E. Temple St., 4<sup>th</sup> Floor  
Los Angeles, CA 90012

Objections that are submitted late will only be considered if the Administrative Judge finds that good cause is demonstrated as to why the objection was filed after the thirty (30) day deadline.

## **8. If I do not wish to file an objection am I required to do anything?**

If you are a Potential Class Member and do not wish to lodge an objection to the Settlement Agreement, you are not required to do anything. If the EEOC grants final approval of the Settlement Agreement you will receive a Claim Form and Release in the mail with instructions on how, when and where to timely submit your completed Claim Form and Release in order to ensure your claim to monetary relief under the Settlement.

Questions regarding the status of the case should be directed to the Class website at [www.Walkerclass.com](http://www.Walkerclass.com). You may also call 1-800-280-8301 toll free, or send a facsimile to 303-927-3860 to speak with Class Counsel. **DO NOT CALL THE EEOC REGARDING THE STATUS OF THE CASE**

## **HOW CAN I RECEIVE COMPENSATION UNDER THE SETTLEMENT?**

### **9. How do I file a claim to receive compensation?**

If the EEOC grants final approval of the Settlement Agreement, you will be mailed a Claim Form and Release with instructions on how, when and where to timely submit your completed form in order to ensure your claim to monetary relief under the Settlement. Untimely Claim Forms will not be accepted, except that Eligible Class Members, who file timely appeals of the Final Approval to the EEOC OFO, can file Claim Forms and Releases postmarked within ten (10) days of the issuance of an EEOC OFO Decision disposing of the appeal. The Class Administrator (an independent third party) will make a final and binding decision whether you are a Potential Class Member who filed a timely Claim Form and Release.

If you received this Notice of Resolution you will receive a Claim Form and Release if the EEOC grants final approval of the Settlement Agreement. Questions regarding the status of the case should be directed to the Class' website at [www.Walkerclass.com](http://www.Walkerclass.com). You may also call 1-800-280-8301 toll free, or send a facsimile to 303-927-3860 to speak with Class Counsel. **DO NOT CONTACT THE EEOC TO ASK FOR A CLAIM FORM AND RELEASE.** Claim Forms and Releases will not be issued until after final approval of the Settlement Agreement.

### **10. How much money will I receive and when will I receive it?**

If the EEOC grants final approval of the Settlement Agreement and you are a Potential Class Member who filed a timely Claim Form and Release, you may be eligible to receive a Settlement Award, along with all other Potential Class Members who file timely Claim Forms and Releases. That Share will be determined in the following manner.

- i. Only Potential Class members who affirmatively allege that their overtime hours or their work/duty hours were restricted during the Class Period while working as a Permanent Rehabilitation Employee and who timely return their Claim Form and Release (Eligible Class Members) shall be entitled to a share of the Class Fund.
- ii. For Eligible Class Members, one point shall be awarded for each full calendar year worked as a Permanent Rehabilitation Employee between March 24, 2000 and December 31, 2012, except .75 point shall be awarded for the period March 24, through December 31, 2000. Partial years of service may be pro-rated for the number of months worked. Points awarded shall be based on the information provided in the Claim Form and Release. No points shall be awarded for a decrease in duty hours resulting directly from the Agency's placement of a Potential Class Member into a new assignment/position with fewer hours or a decision to send a Potential Class Member home in whole or in part for no work available, pursuant to Phase 2 of the NRP.
- iii. Class Counsel reserves the right to verify any information in the Claim Form and Release with any personnel data provided to Class Counsel by the Agency during the course of this litigation. The Agency will not be required to provide any additional information or documentation, other than one update of the USPS Form 50 data provided previously, pursuant to Section 6(D) herein. If Class Counsel has questions, they may contact any Potential Class Member to verify eligibility. Class

Counsel may also request additional information or documentation from the Potential Class Member to explain any discrepancies between the information provided in the Claim Form and Release and any personnel data in Class Counsel's possession.

- iv. Eligible Class Members who timely return a Claim Form and Release affirmatively alleging that their overtime hours or their work/duty hours were restricted during the Class Period while working as a Permanent Rehabilitation Employee (Eligible Class Members) shall be awarded a minimum of one (1) point.
- v. Each Eligible Class Member's Settlement Award shall be the ratio between his/her points and the total points awarded to Eligible Class Members.
- vi. Each Class Member's Settlement Award shall then be determined by multiplying his/her share against the total amount of the Class Fund, minus any Service Awards. Class Counsel's statistical expert shall calculate each Eligible Class Member's Settlement share and Award.
- vii. Eligible Class Members have no right to appeal or contest Settlement Award determinations.
- viii. The USPS shall have no right to object or contest any Claim, Eligible Class Member's Settlement Award Determination or the share determination process.

Finally, within three hundred (300) days of the Notice of Final Agency Action, the Class Administrator will mail all Settlement Award checks to those Eligible Class Members, unless the Settlement Agreement is voided or challenged by appeal to the EEOC or by the filing of a complaint in federal court.

If you are one of the sixty (60) class members who is entitled to receive a Service Award under this Settlement Agreement, your Service Award check will be mailed to you at the same time that Settlement Award checks are mailed—three hundred (300) days after the date of the Notice of Final Agency Action, unless the Settlement Agreement is voided or challenged by appeal to the EEOC or by the filing of a complaint in federal court.

No taxes will be withheld out of Settlement Awards, Service Awards, or the Class Agent Award and the Parties make no representations regarding the tax consequences of any amounts received under this Settlement Agreement. You will be responsible for paying federal and/or state taxes, if any, which are required by law. You may want to consult a tax professional regarding the tax consequences of any Settlement Award, Service Award, or the Class Agent Award you receive.

**If the Settlement Agreement is not approved or is voided, you will not receive a Claim Form and Release, a Settlement Award, a Service Award, or the Class Agent Award. If the Settlement Agreement is not approved or is voided, your Claim will remain pending before the EEOC Administrative Judge.**

## **11. What if an Eligible Class Member is deceased?**

If a Potential Class Member is deceased, his or her estate may claim the Potential Class Member's Settlement Award and Service Award by submitting an SF Form 1153 to the Class Administrator when filing a timely Claim Form and Release. This form can be obtained on the web site: [www.Walkerclass.com](http://www.Walkerclass.com).

## **12. What am I giving up by submitting and Claim Form and Release to obtain a Settlement Share?**

If the EEOC grants final approval of the Settlement Agreement as proposed by the Parties, you will forfeit your right to initiate or pursue any individual claim arising out of the Challenged Practice during the Class Period that is similar to the claims contained in this Case. This means that, as of the date the EEOC grants final approval of the Settlement, any similar claims that you may have will be extinguished; and the Postal Service will be forever released from liability to you for those claims.

However, this Release of Claims against the Postal Service will apply regardless of whether you submit a Claim Form and Release. While your claims will be released whether or not you submit a Claim Form and Release, as noted above, you will *forfeit* your right to any money damages under the terms of this Settlement Agreement unless you submit a Claim Form and Release. If the EEOC does not approve the Settlement Agreement, you will not receive a Claim Form and Release, nor will you receive any compensation pursuant to the Settlement Agreement.

## THE LAWYERS REPRESENTING YOU

### 13. Do I have a lawyer in this case and how will they be paid?

The EEOC has appointed John Mosby, Marilyn Cain Gordon, Elisa Moran and John Davis, to represent you and other Class Members. These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense. As part of the Settlement Agreement, the USPS has agreed, subject to final approval by the EEOC Administrative Judge, to pay Class Counsel \$4,312,500 in attorneys' fees and an award of recoverable costs in an amount not to exceed \$750,000, for performing legal services on behalf of the class for over 12 years. These fees represent a smaller sum than Class Counsel's hourly rates for litigating this class action and bringing it to settlement.

### 14. Can I exclude myself from the Settlement Agreement if it is approved?

Pursuant to the EEOC regulations, there is no right to exclude yourself from the Class in this Case or the Settlement. However, the EEOC does not require that you participate in the Settlement.

## IF YOU DO NOTHING

### 15. What happens if I do nothing at all?

There is no requirement that you take any action now, unless you want to object to the Settlement. You do not need to do anything right now to preserve your claims or to continue to participate in this class. If the Settlement Agreement is approved, you will receive a Claim Form and Release. If the Settlement Agreement is not approved or is voided, your Claim will remain pending before the EEOC Administrative Judge.

## GETTING MORE INFORMATION

### 16. How do I get more information?

The complete Settlement Agreement and related documents are posted at [www.Walkerclass.com](http://www.Walkerclass.com). If you have questions, you can visit [www.Walkerclass.com](http://www.Walkerclass.com) or call the Class Counsel toll-free at 1-800-280-8301. **DO NOT CALL THE EEOC FOR ANY INFORMATION.**