

Thomas & Solomon LLP
THE EMPLOYMENT ATTORNEYS

Greetings:

EMERGENCY ALERT! Our records indicate that you have submitted a claim form in the Postal Service NRP class action and you retained our law firm to represent you. We need more information from you immediately in order for you to support your claim for relief. **We need you to send us this information by March 25, 2019.**

The EEOC Judge in this case recently issued an Order requiring each claimant to provide additional claim information very quickly. We have prepared a Declaration form (enclosed) to help you satisfy this requirement. For most people, the Declaration can be completed in less than one hour. It is imperative for you to complete this Declaration form **and return it to us** for filing with the Judge.

The terms of the contingency fee retainer agreement that you already signed remain in effect. There is no payment due from you at this time in order for us to continue representing you in the claim submission and review process. We will complete a claim submission package on behalf of all Claimants who have retained us.

You have come too far in this process to quit now. If you quit now, the Postal Service will get away with causing you harm, and justice will not be served. It is fair and right for you to seek relief for the harm caused to you by the Postal Service.

You should complete, sign and return the enclosed Declaration to us **as soon as possible. At the very latest, you must complete, sign and return the form to us by March 25, 2019.**

Even if you do not have complete information, submit all information you have by the deadline. If possible, scan and email the completed, signed form to us at this email address: **NRPclassaction@theemploymentattorneys.com**. If it is not possible for you scan the form via email, you may fax your form to 585-272-0574 or mail the form to us at this address: Thomas & Solomon LLP, 693 East Avenue, Rochester, NY 14607. Be sure to keep a copy of your completed, signed Declaration.

BEFORE FILLING OUT THE DECLARATION, READ ALL OF THE INSTRUCTIONS AND GUIDANCE BELOW.

1. Review all parts of the Declaration form, and complete all parts that relate to you. If a part of this form does not apply to you, leave that part blank or write "N/A" (or "not applicable"). Your responses are under oath and subject to penalty of perjury. Make sure that the information you provide is accurate, and be sure to sign the form on the last page.
2. The form is designed to apply to the most common scenarios for class members. However, you may have supporting information that does not fit neatly into any of the questions in this form. If that is your situation, please submit all the information that you believe will support your claim for individual relief, including additional information in attached pages.
3. Class members are entitled to claim monetary damages in connection with the discrimination at issue in this case. The EEOC Judge will award monetary damages for the proven harm caused by the NRP. But the EEOC Judge will NOT award monetary damages for harm that is not caused by the NRP. In other words, if the harm in your case was caused by the Department of Labor, or a car accident, or some other independent event, then the EEOC Judge will NOT award monetary damages for that harm. Therefore, when you fill out this form, it is important for you to identify the harm that you experienced as a result of the NRP. Put another way, when you are filling out this form, it is not appropriate to identify harm that occurred prior to the NRP, or was caused by problems unrelated to

the NRP (such as problems with the Department of Labor, or problems from a car accident). Again, you should submit information showing that you experienced harm as a result of the NRP, or as a consequence of the NRP.

4. In this form, we provide the descriptions of harm that are most commonly reported by class members in this case, in order to help you accurately recall all of the harm that you experienced as a result of the NRP. If a description of harm applies to you, be sure to include it, but if it doesn't apply to you, do not include it.

5. When the EEOC analyzes the amount of money to award for damages, the EEOC considers the duration of harm and the severity of harm. In other words, how long did the harm last, and how bad was the harm. EEOC damage awards are typically higher if the EEOC determines that the harm lasted for many years; but damage awards are lower if the harm was temporary or short in duration. EEOC damage awards are also typically higher if the EEOC concludes that the harm was very severe or extreme; but damage awards are lower if the harm was minor or average.

6. The EEOC has repeatedly stated that it is not necessary to provide medical support in order to obtain an award of compensatory damages. However, medical information can help support your claim for damages. If you have medical information related to the harm you experienced as a result of the NRP, you should submit that medical information now if possible. The EEOC does not require any particular format for medical information; medical reports, medical receipts, print-outs from your pharmacy, and medical notes may all be provided.

7. You may want to also consider obtaining written statements from friends and family members who observed a change in your personality or emotional state after the NRP. We have included a sample witness statement form for your use.

8. You can also include additional documents that support your claim. For example, if you claim that you suffered from insomnia as a result of the NRP, it may be helpful to provide a copy of receipts showing that you purchased sleep medication after the NRP.

9. Once you return to us a signed completed Declaration form and any other documents supporting your claim, **we will prepare a complete claim package for submission to the EEOC Judge.** The complete claim package will include: a legal brief presenting arguments and legal support for your claim; the Declaration signed by you and documents you send us; the documents you previously sent to us; and additional exhibits that relate to the NRP review of you that we have on file. (References in the Declaration form to "Class Exhibits" and "Exhibits 1-2" relate to documents already in our possession, and we will include these documents in the claim package for submission to the EEOC Judge.) To repeat: we will submit any documents that you previously sent to us.

10. The "cap" on compensatory damages available to you is \$300,000. This "cap" does not include lost pay or past out-of-pocket costs. The EEOC may award you all of your lost pay, plus full reimbursement of out-of-pocket costs, plus up to \$300,000 in proven emotional distress damages caused by the NRP. But the EEOC does not have any authority to award "punitive damages" against the Postal Service, even in cases where the EEOC finds that the Postal Service acted willfully.

If you have questions related to filling out this form, please **email us at NRPclassaction@theemploymentattorneys.com** or call us at **585-272-0540**. Before calling, please review the instructions carefully and be sure to check **www.NRPclassaction.com**, because the answer to your question may be answered there. There are over 25,000 class member claimants, and you may encounter a delay in getting through to us at this busy time.

Thank you for your prompt attention to this important task.

Very truly yours,
THOMAS & SOLOMON LLP

Sworn Declaration In Support of Claim For Individual Relief

I, the undersigned Class Member Claimant, do hereby declare and state as follows:

My full name is _____.

My Claim Number (if known) is M-_____.

My address is _____.

The last four numbers of my Social Security Number are XXX-XX-_____.

I am included in the NRP class action. I have been informed that, according to the EEOC Final Decision issued on March 9, 2018 (EEOC Final Decision), this case "concerns a class of Agency employees consisting of rehabilitation and limited-duty injured-on-duty (IOD) employees whose positions were assessed by the Agency's National Reassessment Program (NRP) between May 5, 2006 and July 1, 2011." I fall within this class description.

I have been informed that the NRP was sometimes referred to in different ways in different locations. It is my belief and understanding that I or my position was assessed or evaluated under the NRP between May 5, 2006 and July 1, 2011. In other words, it is my belief and understanding that I was subjected to an evaluation under the NRP between May 5, 2006, and July 1, 2011.

The Class Exhibits and Exhibits attached to my Statement show that I was subjected to the NRP.

SECTION 1. CONSEQUENCES OF NRP

As a result of the NRP (with **all boxes** checked that apply to me):

- I received a total or partial "no work available" determination.
- I separated, resigned, or retired.
- I received a new limited-duty or rehabilitation assignment.
- I was reassigned to a different location.
- My work hours or shift assignments were changed.
- I received no change in my limited-duty or rehabilitation assignment.

The Class Exhibits and Exhibits 1-2 to my Statement help show the consequences to my employment that resulted from the NRP.

SECTION 2. UNLAWFUL MEDICAL INQUIRY AND UNAUTHORIZED ACCESS TO MY CONFIDENTIAL MEDICAL INFORMATION

I have been informed that the EEOC determined that, for **all class members**, "Phase I of the NRP ... constituted an unlawful medical inquiry." I have also been informed that the EEOC found that the standard procedures of the NRP "mandated" improper disclosure of medical records for **all class members**. I have also been informed that the EEOC held that "[a]ll class members are eligible for relief under this provision."

I was subjected to an unlawful medical inquiry, and the confidentiality of my medical information was compromised as part of the NRP. The Class Exhibits help show that I was subjected to the NRP Phase I unlawful medical inquiry, and that unauthorized officials were given access to my medical information.

I suffered harm as a result of the NRP unlawful medical inquiry and failure to protect the confidentiality of my medical records, as demonstrated below (I have checked **all boxes** for statements that apply to me):

- The NRP caused me to be very concerned about USPS handling my medical information.*
- I became concerned that inappropriate personnel gained access to my medical information.*
- I worried that this might have a negative impact on my career and reputation at USPS.*
- I worried that USPS might make incorrect assumptions about my medical status or abilities.*
- I had no choice about giving my medical information to USPS, and it makes me angry to know about USPS mishandling my medical information.*
- I was subjected to the NRP because I was injured on the job, and it makes me angry to know that I was subjected to an unlawful medical inquiry just because I got hurt while working.*

After the NRP unlawful medical inquiry, I became (I have checked **all boxes** for statements that apply to me):

- Worried* *Angry* *Irritated* *Stressed* *Other* _____

See also harm identified in Section 9 below.

(If I have additional information on this topic, I provide it on the continuation sheet, attached.)

SECTION 3. QUALIFIED INDIVIDUAL WITH A DISABILITY

I have been informed that, for some categories of relief, I must establish that I met the definition of a qualified individual with a disability at the time of my evaluation under the NRP. **At the time of the NRP, I was a qualified individual with a disability.** I had a physical or mental impairment that substantially limited one or more of my major life activities; and/or I had a record of a disability; and/or I was regarded as having a disability. I satisfied the requisite skill, experience, education and other job-related requirements of the USPS position in which I worked (or could have worked) at the time of the NRP review of me.

Exhibits I-2 to my Statement help show that I was a qualified individual with a disability.

(If I have additional information on these topics, I provide it on the continuation sheet, attached.)

SECTION 4. WITHDRAWAL OF REASONABLE ACCOMMODATION

I have checked **all boxes** for statements that apply to me:

- My modified job assignment (or other accommodation) was withdrawn from me during the period of the NRP (between May 5, 2006 and July 1, 2011).*
- My modified job assignment (or other accommodation) was reduced or modified during the period of the NRP (between May 5, 2006 and July 1, 2011).*

The Class Exhibits and Exhibits I-2 to my Statement help show the consequences to my accommodation that resulted from the NRP. The harm I experienced due to this action is described below.

(If I have additional information on these topics, I provide it on the continuation sheet, attached.)

SECTION 5. HARASSMENT

I have been informed that: many class members experienced harassment in connection with the NRP; some class members have described managers or co-workers saying things like “they should fire all the IODs,” “IODs don’t pull their weight,” or “welcome to Wal-Mart” at the time of the NRP; other class members have described being escorted out of the workplace as a result of the NRP, as if they had done something wrong; and other class members have described co-workers applauding or cheering when the NRP was announced during a stand-up meeting. I have been informed that the EEOC determined that assignment to a standby room during the NRP was not a form of discriminatory harassment; accordingly, my claim does not include assignment to a standby room.

I have checked **all boxes** for statements that apply to me during the time period May 5, 2006 and July 1, 2011:

- I experienced harassment in connection with the NRP.
- I experienced harassment, such as the comments described above, in connection with the NRP.
- I was harmed as a result of harassment in connection with the NRP.
- I directly heard managers and/or co-workers make negative comments about me in connection with my disability or injured status.
- I indirectly learned that managers and/or co-workers made negative comments about me in connection with my disability or injured status.
- I directly heard managers and/or co-workers make negative comments about Rehabilitation or injured employees.
- I indirectly learned that managers and/or co-workers made negative comments about Rehabilitation or injured employees.
- I experienced these additional types of harassment in connection with the NRP:

- Before I experienced harassment in connection with the NRP, I considered myself a productive member of the team at USPS, but afterward I felt less useful and less important.

The harassment I experienced in connection with the NRP caused me to feel

(I have checked all boxes that apply to me):

- Deeply hurt
- Angry
- Degraded
- Isolated from co-workers
- Embarrassed
- Devastated
- Hopeless
- Other _____

See also harm identified in Section 9 below.

(If I have additional information on these topics, I provide it on the continuation sheet, attached.)

SECTION 6. TOTAL OR PARTIAL NO-WORK-AVAILABLE DETERMINATION

I have been informed that those class members who were given a total or partial no-work-available (NWA) determination as a result of the NRP may claim additional damages and equitable relief. I have been informed that some class members received formal notifications of NWA, while others were simply informed that their hours were being reduced or eliminated.

I have checked **all boxes** for statements that apply to me.

As a result of the NRP and sometime during the time period May 5, 2006 and July 1, 2011:

- I was given a total or full-day NWA determination.
- I was given a partial NWA determination.
- I was sent home after being told that there was "no work available" for me.
- I was placed into OWCP (workers' compensation).
- My work hours were reduced or eliminated.

The Class Exhibits and Exhibits 1-2 to my Statement help show the consequences to my employment that resulted from the NRP. The harm I experienced due to this action is described below.

(If I have additional information on these topics, I provide it on the continuation sheet, attached.)

SECTION 7. SEPARATED, RESIGNED, OR RETIRED

I have been informed that those class members who separated, resigned, or retired in connection with the NRP may claim constructive discharge in order to seek additional damages and equitable relief. I have also been informed that the EEOC found, "[t]o prevail in a constructive discharge claim, the claimant must establish that the National Reassessment Program evaluation or any consequences flowing from that evaluation made his or her working conditions so difficult that a reasonable person in his or her position would have felt compelled to separate, resign, or retire."

I have checked **all boxes** for statements that apply to me.

- I separated, resigned, or retired in connection with the NRP.
- I separated, resigned, or retired because the NRP evaluation or any consequences flowing from that evaluation gave me no reasonable option other than separation, resignation, or retirement.
- I was sent home after being informed that there was no work available, and I was not allowed to return to work, indicating to me that I had no reasonable option other than separation, resignation, or retirement.
- I was informed that my full schedule of work was not available, and I was not allowed to return to my full schedule of work, thus reducing my compensation, and indicating to me that I had no reasonable option other than separation, resignation, or retirement.
- USPS personnel involved in the NRP (or other supervisory personnel) indicated that my best option would be to separate, resign, or retire.
- USPS personnel involved in the NRP (or other supervisory personnel) refused to provide me with work assignments within my medical restrictions at that time, which left me no reasonable option other than separation, resignation, or retirement.
- USPS personnel informed me that the NRP would lead to me losing my modified position, indicating to me that I had no reasonable option other than separation, resignation, or retirement.
- USPS personnel subjected me to harassment in connection with the NRP and/or my disability or injured status, which left me with no reasonable option other than separation, resignation, or retirement.

The Class Exhibits and Exhibits 1-2 to my Statement help show the consequences to my employment that resulted from the NRP. The harm I experienced due to this action is described below.

(If I have additional information on these topics, I provide it on the continuation sheet, attached.)

SECTION 8: DISPARATE TREATMENT

I have been informed that the EEOC determined that the Agency discriminated by classifying **all class members** (who were qualified individuals with disabilities) "in a way that adversely affected their opportunities and their status." As part of the NRP, I was subjected to this discriminatory treatment.

The Class Exhibits and Exhibits 1-2 to my Statement help show the consequences to my employment that resulted from the NRP. The harm I experienced due to this action is described below.

(If I have additional information on these topics, I provide it on the continuation sheet, attached.)

SECTION 9: REQUEST FOR COMPENSATORY DAMAGES DUE TO NRP

I claim the maximum allowable award of monetary damages in this case for the harm caused to me by the NRP and its consequences (\$300,000). I believe that this award of damages is appropriate due to the extent of harm, severity of harm, and duration of harm established by the evidence associated with my claim. I have checked **all boxes** for statements that apply to me.

- The NRP was very frustrating to me.*
- The NRP made me angry.*
- The NRP led to me being escorted out of the workplace, as if I had done something wrong.*
- The NRP led me to worry that I could not be useful at work.*
- The NRP caused embarrassment to me.*
- The NRP caused me the harm of not working.*
- The NRP separated me from the workplace and co-workers.*
- The NRP prevented me from giving everything that I had to offer to the USPS.*
- The NRP sent me home, but I wanted to work.*
- The NRP reduced my overall pay and benefits.*
- The NRP caused money problems for me.*
- The NRP caused money problems for my family.*
- I worried about the money problems that were caused by the NRP and its consequences.*
- My credit rating was harmed due to the money problems caused by the NRP and its consequences.*
- I had to change my spending habits due to the money problems caused by the NRP and its consequences.*
- I had to take out loans due to the money problems caused by the NRP and its consequences.*
- I had to move due to the money problems caused by the NRP and its consequences.*
- I had to sell my home due to the money problems caused by the NRP and its consequences.*
- I took pride in my work for the Postal Service, but this was taken away by the NRP and its consequences.*

In addition to the above, I experienced the following types of harm as a result of the NRP (I have checked **all boxes** for statements that apply to me):

- | | | |
|---|--|--|
| <input type="checkbox"/> <i>Emotional pain</i> | <input type="checkbox"/> <i>Devastation</i> | <input type="checkbox"/> <i>Sleeplessness</i> |
| <input type="checkbox"/> <i>Suffering</i> | <input type="checkbox"/> <i>Injury to professional standing</i> | <input type="checkbox"/> <i>Anxiety</i> |
| <input type="checkbox"/> <i>Inconvenience</i> | <input type="checkbox"/> <i>Injury to character and reputation</i> | <input type="checkbox"/> <i>Stress</i> |
| <input type="checkbox"/> <i>Mental anguish</i> | <input type="checkbox"/> <i>Injury to credit standing</i> | <input type="checkbox"/> <i>Depression</i> |
| <input type="checkbox"/> <i>Loss of enjoyment of life</i> | <input type="checkbox"/> <i>Loss of health</i> | <input type="checkbox"/> <i>Marital or family strain</i> |

- | | | |
|---|--|--|
| <input type="checkbox"/> Humiliation | <input type="checkbox"/> Crying | <input type="checkbox"/> Excessive worry |
| <input type="checkbox"/> Emotional distress | <input type="checkbox"/> Significant weight gain or weight loss | <input type="checkbox"/> Hopelessness |
| <input type="checkbox"/> Loss of self-esteem | <input type="checkbox"/> Embarrassment | <input type="checkbox"/> Sadness |
| <input type="checkbox"/> Excessive fatigue | <input type="checkbox"/> Change in social activities | <input type="checkbox"/> Misery |
| <input type="checkbox"/> Nervous breakdown | <input type="checkbox"/> Withdrawal from relationships with family and friends | <input type="checkbox"/> Gloom |
| <input type="checkbox"/> Ulcers | <input type="checkbox"/> Isolation | <input type="checkbox"/> Spiritual despair |
| <input type="checkbox"/> Gastrointestinal disorders | <input type="checkbox"/> Irritability | <input type="checkbox"/> Sorrow |
| <input type="checkbox"/> Hair loss | | <input type="checkbox"/> Reduced interest in physical activities |
| <input type="checkbox"/> Headaches | | <input type="checkbox"/> Reduced interest in hobbies |
| <input type="checkbox"/> Nightmares | | |

(If I have additional descriptions of my harm, I provide it on the continuation sheet, attached.)

Severity of harm. On the scale below I have circled the appropriate number to indicate the level of emotional distress and other intangible harm I suffered as a result of the NRP. (On this scale, zero is no harm, and ten is extreme harm.)

(None) 0 1 2 3 4 5 6 7 8 9 10 (Extreme)

Duration of harm. The emotional distress and other intangible harm I experienced as a result of the NRP began with the NRP and lasted to [enter year or enter "the present"] _____.

In addition to the above, I experienced the following as a result of the NRP (I have checked **all boxes** for statements that apply to me):

- I continue to experience emotional distress and other intangible harm caused by the NRP.
- When I am reminded of the NRP, I re-live the emotional distress and other intangible harm.
- I have not fully recovered from the harm I experienced as a result of the NRP and its consequences.
- I needed medical assistance or treatment for emotional distress and other intangible harm as a result of the NRP and its consequences.
- I received counseling or pastoral care or other types of informal assistance for emotional distress and other intangible harm as a result of the NRP and its consequences.
- Medical costs. I incurred medical costs or medical out-of-pocket expenses for emotional distress and other intangible harm as a result of the NRP and its consequences. The types and amounts of the medical costs I incurred were: _____
- Other costs. I incurred other costs or out-of-pocket expenses as a result of the NRP and its consequences. The types and amounts of other costs I incurred were: _____
- I was prescribed medication for emotional distress and other intangible harm as a result of the NRP and its consequences. Examples of medication I was prescribed include: _____
- I increased my use of over-the-counter medication for emotional distress and other intangible harm as a result of the NRP and its consequences. Examples of such medication include: _____
- I increased my consumption of alcohol as a result of the NRP and its consequences.

(If I have additional information or additional descriptions regarding my claim for monetary damages, I provide it on the continuation sheet, attached.)

SECTION 10: LOST PAY AND BENEFITS

I seek recovery of all lost pay and benefits related to the NRP, past and future, including interest and restoration of all leave and correction of retirement benefits. Regarding any lost pay and benefits, I have been informed that USPS initially will determine the amount owed to me, and USPS will provide me with an opportunity to dispute the amount, if I so choose. I will cooperate with USPS efforts to compute the amount of back pay and benefits.

SECTION 11: OTHER RELIEF SOUGHT

I want the Postal Service to pay for the attorney's fees associated with my claim. I would not have needed to retain my attorneys in this proceeding if the Postal Service had not harmed me. Therefore, I ask the EEOC to order the Agency to pay the attorney's fees associated with this case to my attorneys. I confirm that the attorney's fees from the Agency should be paid directly to my attorneys: Thomas & Solomon; and Kator, Parks, Weiser & Harris. I also confirm that I have retained my attorneys pursuant to the terms provided to me in writing by my attorneys and any award shall be paid to the trust account of Thomas & Solomon LLP for distribution to me pursuant to those terms. In addition, if I am awarded back pay, I request monetary relief to offset the tax consequences associated with receiving back pay in a different year than the year it should have been received as compensation. Any payment of back pay must include interest and all appropriate adjustments.

SECTION 12: EXHIBITS

In addition to this sworn declaration, my claim for relief is supported by additional documentary evidence. The Class Exhibits help show that I was assessed by the NRP during the time period between May 5, 2006 and July 1, 2011, the consequences to my employment that resulted from the NRP, my medical limitations at the time of the NRP, and the USPS personnel who were involved in the NRP assessment of me (including review of my medical information). Exhibit 1 and any other exhibits to my submission provide additional evidence in support of my claim for relief.

It is my intention to claim all the relief to which I may be entitled (including damages) as a result of the NRP and its consequences. I **do not** claim any damages in this case for harm that happened to me before the NRP.

I declare under penalty of perjury that the statements in the foregoing Declaration (as well as any attached statements by me) are true and correct to the best of my knowledge, understanding and belief.

Signed Name

Date

