

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CYNTHIA GLASS,)	
)	
Plaintiff,)	
)	Civil No. 08-1516 (CKK)
v.)	
)	
MARY PETERS,)	
Secretary, U.S. Department of Transportation,)	
)	
Defendant.)	
)	

JOINT STATUS REPORT OF THE PARTIES

Pursuant to Local Rule 16.3, the parties hereby submit the following report and brief statement of the case:

This is an action, brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., in which Plaintiff, an African-American female, alleges that Defendant discriminated against her based on her race and sex and retaliated against her for protected activities. Specifically, Plaintiff's claims are based upon her non-selection for the position of Division Chief in the Office of Defects Investigation of the Correspondence Research Division of the National Highway Traffic Safety Administration and the denials of her requests for a non-career ladder, grade-level promotion to GS-14. Defendant denies any discrimination or reprisal. Defendant submits that the selectee was selected for the Division Chief position because he was deemed better qualified for the position, and that this decision was not based in any way on any unlawful or intentional discrimination. Defendant further submits that the denials of Plaintiff's requests for a GS-14 grade-level promotion are because she has not demonstrated the potential to perform work consistent with a GS-14 level employee, and that this

decision also was not based in any way on any unlawful or intentional discrimination.

The following information is provided consistent with Local Rule 16.3(c):

1) Resolution By Dispositive Motion: Defendant does not anticipate filing a dispositive motion in advance of discovery, but believes this case may ultimately be resolved by a dispositive motion. Plaintiff disagrees and believes that a trial will be necessary.

2) Amendment of Pleadings: The parties believe that any motion to amend the pleadings should be filed within 45 days of the commencement of discovery, which should await a 60-day period during which the parties may explore settlement.

3) Assignment to a Magistrate Judge: The parties do not consent to the assignment of this case to a Magistrate Judge, except for potential alternative dispute resolution (“ADR”).

4) Settlement Possibility: The parties are willing to consider and discuss a potential settlement should the opportunity arise.

5) ADR: Counsel for Defendant has discussed with an agency representative the issue of ADR and counsel for Plaintiff has discussed the issue with Plaintiff. The parties believe that this matter would benefit from ADR procedures and propose that this matter be referred to a Magistrate Judge for a period of 60 days to discuss settlement possibilities before discovery is commenced.

6) Resolution on Summary Judgment: Defendant believes that this matter may be subject to resolution through a dispositive motion after discovery is complete and proposes that such a motion be filed within 45 calendar days after the completion of discovery. The parties agree that Plaintiff should have 30 calendar days to oppose any dispositive motions and that Defendant should have 21 calendar days to reply after service of Plaintiff’s opposition.

7) Initial Disclosures: The parties believe that initial disclosures should be exchanged, but propose that the date for the exchange of such information be established at 20 days following the completion of the referral for ADR.

8) Extent of Discovery: The parties believe that discovery can be completed within four months of the completion of the ADR process. The parties agree to standard discovery, i.e., interrogatories (limited to 25), requests for production of documents (limited to 25), depositions (limited to 10), and requests for admissions (limited to 25). The parties agree to follow the Federal Rules of Civil Procedure in regards to the limits on discovery, except as otherwise provided in this paragraph. If a protective order is needed consistent with the Privacy Act, 5 U.S.C. § 552a(b)(11), the parties will work together to reach agreement by stipulation, but, should the parties be unable to stipulate, a motion will be filed seeking a protective order from the Court.

9) Expert Witnesses: The parties do not anticipate the need for expert witnesses in this case, but submit that if any are determined needed, the proponent shall submit its 26(a)(2) report within 60 days of the completion of the ADR period and the opponent shall submit its 26(a)(2) report 30 days thereafter.

10) Class Action Issues: Not relevant.

11) Bifurcation Of Liability And Damages: Neither Plaintiff or Defendant believes that bifurcation of either the trial or discovery is necessary in this case.

12) Date for Pretrial Conference: The parties agree that the setting of a date for a pretrial conference should be delayed until after resolution of the discovery period and any dispositive motions that may be filed upon the completion of discovery.

13) Trial Date: The parties agree to delay the setting of a trial date until after the resolution of any dispositive motions.

14) Other Matters: The parties are committed to working together to stipulate to the entry of a protective order needed to guarantee the confidentiality of, and to permit the discovery and disclosure of, confidential information, including information covered by the Privacy Act, 5 U.S.C. § 522a, deliberative work, the Health Insurance Portability and Accountability Act, 42 U.S.C. § 1320d et seq., and other statutes affecting privacy and confidentiality of parties and witnesses in litigation of this nature, and to take account of scheduling conflicts and other issues that may arise during the course of this case that are not presently foreseen.

15) Electronic Discovery: The parties do not believe that this case is likely to involve a substantial amount of discovery of electronically stored information.

16) Clawback Agreement: The parties believe that a clawback agreement and order, whereby a party may request the return of inadvertently produced privileged information without waiving any privilege thereof, may be beneficial and will work to include such an agreement in the aforementioned stipulated protective order.

Dated: January 23, 2009

Respectfully submitted,

/s/

GARY T. BROWN
Gary T. Brown & Associates
1111 Fourteenth St., N.W., Suite 1000
Washington, D.C. 20005
(202) 393-4900

/s/

JEFFREY A. TAYLOR, D.C. Bar #498610
United States Attorney

/s/

RUDOLPH CONTRERAS, D.C. Bar#434122
Assistant United States Attorney

/s/

MICHELLE LO
Assistant United States Attorney
Civil Division
555 4th Street, N.W.
Washington, D.C. 20530
Tel: (202) 514-5134 Fax: (202) 514-8780
Michelle.Lo2@usdoj.gov