

**IN THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
WASHINGTON FIELD OFFICE**

<b>MATTHEW FOGG, et al.</b> <b>Class Agents</b>	)	
	)	
v.	)	<b>EEOC No. 570-2016-00501X</b>
	)	
<b>MERRICK GARLAND,</b>	)	
<b>U.S. Attorney General,</b>	)	
<b>Department of Justice,</b>	)	
	)	
<b>Agency.</b>	)	
	)	<b>Date: March 19, 2024</b>

**COMPLAINANT'S NOTIFICATION OF DISTRICT COURT FILING**

COMES NOW Matthew Fogg (“Complainant”), in the above-entitled action against the Attorney General of the United States in his official capacity as head of the Department of Justice (“DOJ” or “Agency”), and NOTIFIES the parties that Fogg, still aggrieved, filed a complaint in the United States District Court for the District of Columbia today, based on the claims in *Fogg et al. v. Garland* (EEOC Appeal No. 0120073003, Hearing No. 570-2006-00483X; Agency No. M946376). Accordingly, the EEOC no longer has jurisdiction over the complaint, and all proceedings, including any pending discovery requests and the fairness hearing scheduled to decide whether a preliminary settlement agreement is lawful, are hereby CANCELLED in accordance with 29 CFR 1614.407.

Fairness hearings are a critical part of the settlement process, ensuring that any agreement reached is not only in the best interest of the complainant(s) but also meets legal standards for fairness and adequacy. This procedural safeguard is essential to protect the rights of all parties involved and to facilitate judicial review and approval of settlement agreements in class actions and collective suits.

Regulation 29 CFR 1614.407 outlines that an individual complainant, or a class agent or claimant, who has filed an administrative complaint alleging violations as defined under Title VII, ADEA, or the Rehabilitation Act, may transition to filing a civil action under specified conditions, including the timeline following the agency's final action or inaction. As 180 days have elapsed since the formal complaint with no satisfactory resolution, and given the complexities and potential implications of the proposed preliminary settlement agreement, proceeding to Federal Court presents an avenue for seeking a more comprehensive adjudication.

This decision is underscored by principles established in cases such as *Nichols v. Ashcroft*, 256 F. Supp. 2d 1 (D.D.C. 2003), where the court emphasized the importance of thorough judicial scrutiny in the context of EEOC settlements to ensure they adequately address the rights and grievances of the parties.

Given the gravity of the claims and the potential impact of the settlement on the class members, moving forward with a Federal Court filing allows for a more detailed examination and determination of fairness, beyond the scope of what may be achieved through administrative processes alone.

Therefore, in pursuit of justice and a fair resolution in line with legal standards, Matthew Fogg has elected to proceed with a civil action in the United States District Court for the District of Columbia, seeking a venue where the merits of the case and the legality of any future settlement agreement that makes the class whole can be fully evaluated.

In the enduring quest for justice that marks *Fogg et al. v. Garland*, Matthew Fogg, acting with the weight of decades upon his shoulders, hereby notifies all concerned parties of a significant turn in the course of this legal odyssey. After enduring over 29 years since the original filing—years marked by silence, inaction, and disregard—Fogg has been compelled to

invoke what might be seen as a 'nuclear option,' filing a complaint in the United States District Court for the District of Columbia. This decisive step reflects not just a procedural necessity but a profound disillusionment with a process that seems to have forsaken the very principles of equity and justice it was designed to uphold.

The precipitating cause for this drastic measure lies in the handling of settlement discussions by Class Counsel and the oversight—or lack thereof—by the Administrative Judge. The settlement proposed, characterized by compensatory damages so nominal as to be an affront to the very notion of justice, serves not the interests of the aggrieved class whom Fogg has a duty to protect and uphold, but seemingly, the coffers of those appointed to advocate on their behalf. Such an outcome, where the architects of resolution appear to benefit more than the victims of injustice, necessitates not merely objection but action.

In tandem with this judicial recourse, Fogg has initiated a Bar Complaint against the current counsel representing the class, alleging various violations of the Codes of Professional Responsibility. This action is not undertaken lightly but emerges from a deep-seated belief in the sanctity of legal ethics and the duty of those in the legal profession to serve not their interests but those of their clients zealously, especially when those clients form a class marginalized and aggrieved for nearly **3 DECADES**.

As this chapter unfolds in both court and the DC Bar, it does so under the aegis of a faith that has long counseled patience in the face of adversity, and resilience in the pursuit of right. In this spirit, we recall the words that have fortified many through trials less legal than moral: "Justice will roll down like waters and righteousness like an ever-flowing stream" (Amos 5:24). In the exercise of what some might deem a nuclear option, there is found not despair but hope; not a challenge to faith but its affirmation.

For in the long journey from grievance to justice, from the shadows of neglect to the light of scrutiny, there lies not merely a legal battle but a testament to the enduring belief that long-suffering is indeed redemptive. This belief, rooted in the teachings of Jesus Christ, guides us not to seek victory for its sake but justice for the sake of all. And so, with a faith both tested and steadfast, we move forward, not in anger but in the solemn assurance that even the longest night yields to dawn, and from the crucible of trial emerges the steel of conviction, tempered but shining bright for all to see..

Respectfully Submitted on this 19th day of March, 2024,

/s/  
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Dr. Matthew Fogg  
Named Class Complainant  
Class Agent Spokesperson  
Chief Deputy U.S. Marshal, Ret.



## CERTIFICATE

I certify, under penalty of perjury, on 03/19/2024, that the statements in the foregoing NOTICE are true to the best of my knowledge, information and belief.

## CERTIFICATE OF SERVICE

I certify, under penalty of perjury, on 03/19/2024, that I served a copy of the foregoing Notice on the EEOC by emailing a copy of the same to the Supervisory Administrative Judge Sharon Alexander, at [sharon.alexander@eoc.gov](mailto:sharon.alexander@eoc.gov) and [FoggClassAction@eoc.gov](mailto:FoggClassAction@eoc.gov), and emailed an electronic copy of the same to Agency Representatives at the following email addresses:

Susan Amundson: [Susan.Amundson2@usdoj.gov](mailto:Susan.Amundson2@usdoj.gov)

Elizabeth Bradley: [EBradley@fortneyscott.com](mailto:EBradley@fortneyscott.com)

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and emailed an electronic copy of the same to the Class Representatives at the following email addresses:

Saba Bireda: [sbireda@sanfordheisler.com](mailto:sbireda@sanfordheisler.com)

Christine Dunn: [cdunn@sanfordheisler.com](mailto:cdunn@sanfordheisler.com)

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/s/

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Dr. Matthew Fogg

Date: 04/19/2024