

David Sanford, Esq.
September 11, 2023
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David Sanford, Esq.
Sanford & Heisler Sharp LLC.
700 Pennsylvania Ave., SE, Suite 300
Washington, DC 20003

Dear David

I write to you as a friend, the named Class Representative, one of the fifteen (15) class Agent/Representatives and the class “*spokesperson*” identified in our recent settlement negotiations involving *Matthew Fogg v Merrick Garland*, a U.S. Equal Employment Opportunity Commission (“EEOC”) case against the U.S. Marshals Service (“USMS”) under the supervision of the U.S. Department of Justice (“USDOJ”) that names as defendant, the United States Attorney General (“USAG”).

I contacted your firm in 2004 to find adequate legal representation for the Class Complaint I filed ten years earlier (1994), depicting well-documented and systemic racial (Black) discrimination that was ongoing and coincided with my “Individual” claims filed in 1985 against the USMS.

The battle against the nation's premier law enforcement agency has been long and arduous, involving most of my 32-year career and retirement. While the USDOJ was mandated as the "Justice Integrity Agency," it has proven to be everything but justice and integrity for many Black employees and citizens for decades.

As a remnant of my 1985 claim erroneously adjudicated in 2008, this federal government litigation against race discrimination has survived under seven U.S. Presidents and twelve U.S. Attorney Generals. This exemplifies America's non-partisan, racially hostile environment in the criminal justice system for approximately 10,000 African-American USMS personnel, job applicants, plus all the victims we swore to serve and protect who are not named in this class.

The USMS being the country's oldest Federal law enforcement agency, this case is dubiously the United States' most extended Civil Rights litigation in history.

Thank you and your firm's outstanding team of lawyers and legal support personnel led by the late Tom Henderson, who tenaciously navigated through all the USDOJ patented opposition motions to bring this class to EEOC Certification. The nearly three decades involving this matter is direct proof of the long-awaited need for racial equity in America's Federal Criminal Justice System that has sent the wrong equity and inclusion message to Black government workers and communities of color by Federal, state, and municipal law enforcement departments across America and around the world.

In 2020, USMS/USDOJ spent two days in settlement mediation, though the agency's representations were not in good faith. The mediation was held with USMS officials, some of the

class agents/representatives, and your firm's former lead attorney, Mr. Tom Henderson, who suddenly passed away in the COVID era in October 2021.

In January 2022, the Washington Post published a story on the front page ¹. The report spoke of the longevity of litigation against the USDOJ and how the case would soon go before the EEOC for a hearing. Following the *Washington Post* article, which garnered national exposure, the USMS again came to the settlement table, asking to resolve the matter.

In February 2022, you conducted a Zoom meeting with all the class agents. As law firm chair, you advised the class agents/representatives that you would lead the settlement negotiations since Tom's passing. During the Zoom meeting, you informed class agents of the following:

- You met at your home with Biden during his Campaign for President, substantially donated to his Campaign, and "told him to pick Kamala Harris as his running mate."
- You were concerned about having "so many" 15-class agents.
- Your firm's financial experts told you this case "was not worth as much as your firm had previously assessed."
- You and your firm attorneys will begin negotiating without the past practice of having the class agents/representatives present at the settlement table.

Additionally, while in the Zoom meeting, you stated, and I paraphrase, the following:

- *"Some class members will get paid, and some will get nothing. That is how Class Complaints work."* [Paraphrased]
- *"Undoubtedly, some of the class Members will face further retaliation following the settlement."* [Paraphrased]
- *'You know what's best for this case and that If Matthew Fogg disagrees with your assessment, you could make a motion to remove Matthew Fogg's name as a Class Agent.'*
- *"Your goal is to resolve this matter by immediately negotiating with the defendant's monetary relief and, subsequent, programmatic relief and submit a settlement package to the Administrative Judge (AJ). If Matthew Fogg or any other class member opposes our*

¹*"Marshals Service employees have alleged racism for decades. Their case may finally be heard,"* The Washington Post, January 23, 2022,
<https://www.keepandshare.com/doc17/27783/washington-post-racism-in-usms-1-26-22pdf-538k?dn=y&dnad=y>

package, they would have an opportunity to inform the AJ in writing why they opposed the settlement.” [Paraphrased]

Before your first settlement meeting with USMS Officials, I advised you via email and a phone call that class agents appointed me as their “spokesperson” and that we wanted it to be clear that

you would not commit to a settlement dollar amount with the DOJ representatives before allowing the class agents’ collective approval.

Following that conversation, on the same morning, you spoke directly with me before you met with the defending agency representatives. Your attorneys also verified my email proclamations and verbal statements by contacting other class agents. Those class agents you spoke to agreed that I was appointed by the class agents as their “spokesperson” to make the assertions that I made to you. Nevertheless, despite the class agents’ direction, you decided on a 15-million-dollar settlement that included attorney fees.

After reviewing your signed March 8, 2022, [Memorandum of Understanding](#) for settlement with the USMS General Counsel (a Principal Agency Witness, also known as the Alleged Discriminating Official), I advised you and the firm in writing that the settlement was unacceptable, null, and void according to the class agents’ previous direction.

Furthermore, in subsequent meetings (including class agents/representatives only without you or firm attorneys), the class agents vehemently questioned why you negotiated such an inexplicably low amount given the firm’s earlier settlement discussions and legally knowing this monetary settlement would set a devastating Civil Rights precedent, one the government would use against other civil rights class litigants in the future and underscores Black lives don’t matter in the USMS.

As you know, I questioned you and the firm attorneys several times, querying the settlement progress, including your briefings on subsequent “Programmatic Relief” discussions. I also contested your firm’s refusal to honor my e-mail request for all current class members’ contact information in your possession.

Therefore, having established by EEOC policy and mandate that your firm works for [the class agents/representatives who have a fiduciary responsibility to advise all other members on the progress of all class proceedings](#), this is the last time that I will request this information and make the following demands below for your firm to adhere:

- (1) Advise White House and USAG Officials, not USMS Officials, unless it involves the presence of USMS Director Ronald Davis, that other class agents and I would like a sitdown meeting to work out the parameters to settle this class action, including effective

monetary and programmatic relief. Also, we will discuss USMS resolutions involving racial profiling and excessive force in USMS enforcement operations that significantly have racial disparate impact on African Americans, communities of color, and National Security.

- (2) Advise the White House and USAG Officials that our settlement discussions will include monetary relief commensurate with the outrageous number of 29+ years this matter has been delayed and expanded to 10,000 potential Class members. Previous assertions by your firm and case law signal the current class settlement figure should be between \$300 million and 500 million dollars, if not more. See examples below. EX: <https://www.washingtonpost.com/wp-srv/pmextra/mar00/22/A60221-2000Mar22.html> **Justice to Pay \$508 Million in Discrimination Suit Involving 11,00 Women for ‘Voices of America’** EX: <https://legaltimes.typepad.com/blt/2008/10/us-marshals-ser.html> **Sanford Heisler Sharp law firm files \$300 Million Black USMS Class Action Lawsuit in Federal Court.** EX: <https://www.nytimes.com/2005/10/06/us/national-briefing-washington-commerce-dept-accused-ofsystemic-bias.html> **Sanford Heisler Sharp file \$500 Million U.S. Department of Commerce Discrimination Class Action in DC Federal Court – New York Times (potentially 5,000 employees)** EX: <https://www.npr.org/sections/thetwo-way/2017/01/18/510396659/secret-service-agents-settle-overracial-discrimination-allegations> **Black U.S. Secret Service Agents settle Class Action for \$24-million With just 99 Agents.** EX: In September 2021, your firm came to the mediation table initially asking for \$80 and later discounted to 40 million dollars

- (3) We will insist the Biden Administration assign an independent Special Master and team to this historic matter with full settlement authority to ensure that **any** class member identified will receive a substantial award due to the longevity of this case. **Every** member must be made whole in these negotiations now that the litigation appears nonexistent. And the settlement will address post-settlement retaliation.

- (4) *Due to the “justice delayed is justice denied”* concept – in addition to the programmatic relief your firm has sought for promotions and hiring – our new joint negotiations will also include a total revamping of the USMS Offices of Internal Affairs Division (IAD) and General Counsel’s Office for accountability by establishing an independent oversight office. This request is because IAD and OGC are weaponized with a racially disparate impact on Black employees and White USMS witnesses. These reprisals are the impetus for my filing this 1994 class action because most claimants placed their lives in the line of fire for blowing the whistle on systemic racism inside the USMS.

- (5) As part of our negotiations, we will ask the Biden Administration, including the USAG, to augment President Biden's recent [Executive Order 10474](#) involving changes in Federal law enforcement coinciding with the failed Congressional George Floyd Protection Act, to institute special whistleblower protections for any law officer in the United States whose department receives Federal dollars and is willing to report rogue COP procedures and operations in their rank and file which is tantamount to organized crime personified.
- (6) We strongly suggest the administration consider instituting Federal Civilian Review Boards for Federal law enforcement misconduct where death and Felony charges involve allegations of racial profiling and excessive force, [especially in USMS enforcement operations](#).
- (7) Reduce Qualified Immunity Coverage for Racism and Reckless Law Enforcement Behavior.

In 1963, I was present on the grounds of the Lincoln Memorial when Dr. Martin Luther King Jr. (MLK) gave his iconic, *I Have A Dream* speech, and ironically coinciding with the date of this letter, I was present at Ground Zero in New York City as a *First Responder* immediately following the terrorist attacks on September 11.

My goal and dream when I filed my 1985 individual EEO Complaint and later the 1994 Class Action Complaint was to serve and protect this nation above and beyond the call of duty. I wanted to root out the racism that MLK dreamed would end but, unbelievably, still exists today in the USMS/USDOJ, state, and municipal departments. We must make whole any victims of this ageless and horrific American crime against humanity by Federal law enforcement agents.

My USMS Black class motto has always been - "*All for one and one for all.*" The motto includes law enforcement agents [and civilians whom the internal USMS racist culture has victimized](#). The USMS is today, as in 1997 when the New York Post documented the abuse, an agency inundated with [Bigots With Badges](#).

Finally, should you disagree with the directives in this letter, I don't believe your firm can adequately represent this Class henceforth because of inherent conflicts of interest in several ways, as mentioned in this letter and previous communications. Although your firm will still be paid for time and service, we must seek new attorneys to resolve this matter. Please forward this letter to all the Class Members in your database to familiarize them with our communications.

Dr. Matthew Fogg
Named Complainant/Spokesperson Fogg v
U.S. Attorney General / U.S. EEOC