

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:22-cv-20254-JEM

YADIRA DOMINGUEZ,

Plaintiff,

DEMAND FOR JURY TRIAL

v.

ALEJANDRO MAYORKAS,
in his official capacity as Secretary
of the U.S. Department of Homeland
Security,
ROBERT KENNEDY,
in his official capacity,
CARLTON AYOUNG, and
in his official capacity,

Defendants.

AMENDED COMPLAINT

Plaintiff Yadira Dominguez (“Dominguez”), for her first amended complaint against Defendants Alejandro Mayorkas, in his official capacity as Secretary of the United States Department of Homeland Security (“Defendant DHS”), Robert Kennedy (“Defendant Kennedy”), in his official capacity, and Carlton Ayoung (“Defendant Ayoung”), in his official capacity (collectively, “Defendants”), alleges the following:

1. Dominguez commenced this action seeking redress for the unlawful acts of discrimination and retaliation taken against her by Defendants over the course of nearly four years, which has: (a) created a hostile work environment for female employees like Dominguez; and (b) inflicted significant economic and non-economic harm upon Dominguez.

2. Dominguez is a Hispanic female, a mother of two minor children, and a long-time employee of the United States Citizenship and Immigration Services (“USCIS” or “Agency”). USCIS is the federal agency under the United States Department of Homeland Security (“DHS”) that is charged with administering the nation’s naturalization and immigration system.

3. Since joining USCIS in 2008, Dominguez has been regarded as a stellar employee by supervisors, colleagues, and external stakeholders, underscored by her numerous professional accolades, including performance-related awards, outstanding or excellent job performance reviews, and countless scores of positive reviews and recognition from the United States Attorney’s Office for the Southern District of Florida and the Homeland Security Investigations.

4. USCIS is required by Defendant DHS to promote a safe environment for *all employees* and the visiting public, and to work with employees to maintain a work environment that is free from violence, harassment, intimidation, and other disruptive behavior. By its own accord, USCIS prohibits any form of unlawful harassment, retaliation, or intimidation against any employee for making good faith reports concerning allegations of discrimination, harassment, or any other allegations of inappropriate conduct in the workplace.

5. After making a good faith complaint in December 2018 about inappropriate conduct on the part of Defendant Kennedy—her first-line supervisor—Dominguez has been forced to endure a hostile and toxic work environment replete with acts of racism, sexism, misogyny, intimidation, humiliation, discrimination, and retaliation perpetrated by Defendants Kennedy and Ayoung. Defendants’ conduct consisted of, among other things:

- a) Showing up unannounced to Dominguez’s personal residence during the middle of the workday to “check” on her;
- b) Making offensive and disparaging statements about female managers in the Kendall Field Office, namely women of color;
- c) Making offensive statements about Latino and Hispanic workers;
- d) Manipulating Dominguez’s time and attendance records;

- e) Assigning Dominguez disproportionate amounts of work relative to her coworkers;
- f) Repeatedly denying Dominguez's requests to use accrued sick leave while allowing other employees to use the same;
- g) Repeatedly charging Dominguez with absence without leave ("AWOL") instead of allowing her to use accrued sick leave or annual leave;
- h) Placing Dominguez on leave restrictions without any legitimate reason for doing so;
- i) Revoking Dominguez's telework privileges in the middle of the COVID-19 pandemic without any legitimate reason for doing so;
- j) Treating Dominguez less favorably than other similarly-situated employees when it comes to employee benefits and flexible work policies;
- k) Requiring Dominguez to log onto her computer each day prior to starting the workday; and
- l) Scrutinizing Dominguez's work product in an excessive and unjustified manner relative to the same work product submitted by other similarly situated employees.

6. Dominguez's claims arise under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e to 2000e-17.

JURISDICTION AND VENUE

7. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1343 because this case involves questions of federal law and because Dominguez seeks damages for violations of her civil rights.

8. Venue is proper in this judicial district under 42 U.S.C. § 2000e-5(f)(3) because the unlawful employment practice was committed in this judicial district, the relevant employment records are maintained in this judicial district, and there is no other judicial district that has substantial connection to Dominguez's claims. Venue is also proper in this judicial district under 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims herein occurred within this judicial district.

THE PARTIES

9. Plaintiff Yadira Dominguez is employed by USCIS as an Immigration Officer in the Agency's Fraud Detection and National Security Directorate ("FDNS"). She has worked in

the FDNS at the USCIS Kendall Field Office in Miami, Florida since 2012. She is a Hispanic female, a mother of two minor children, and resides in Miami-Dade County, Florida.

10. Defendant Alejandro Mayorkas is the Secretary of the United States Department of Homeland Security, the federal agency responsible for safeguarding the nation. Secretary Mayorkas is the proper party in actions against USCIS that allege violations of civil rights in the workplace.

11. Defendant Robert Kennedy is employed by USCIS as a Supervisory Immigration Services Officer. Defendant Kennedy has been Dominguez's first-line supervisor at the Kendall Field Office since January 2016. Upon information and belief, Defendant Kennedy resides in Miami-Dade County, Florida.

12. Defendant Carlton Ayong is employed by USCIS as the Chief of the FDNS for District S24 (formerly referred to as District 9). Defendant Ayong is Dominguez's second-line supervisor, and he is Defendant Kennedy's first-line supervisor. Upon information and belief, Defendant Ayong resides in Broward County, Florida.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

The First EEO Complaint

13. On January 29, 2019, Dominguez initiated contact with an Equal Employment Opportunity ("EEO") counselor.

14. On April 17, 2019, USCIS notified Dominguez of her right to file a formal complaint following the conclusion of the EEO counseling.

15. On April 26, 2019, Dominguez filed a formal complaint with USCIS alleging claims of unlawful discrimination, retaliation, and hostile work environment (Agency Case No.

HS-CIS-00673-2019; EEOC Case No. 510-2020-00037X) (hereinafter referred to as the “First EEO Complaint”).

16. On September 21, 2021, an Administrative Law Judge with the Equal Opportunity Commission issued a Recommended Decision in favor of the Agency, without a hearing, on Dominguez’s First EEO Complaint. The Agency subsequently adopted the Recommended Decision and entered a Final Agency Decision on or about November 4, 2021.

The Second EEO Complaint

17. On October 3, 2019, Dominguez initiated contact with an EEO counselor regarding her claims of unlawful harassment, hostile work environment, and retaliation based on sex and national origin.

18. On November 20, 2019, USCIS notified Dominguez of her right to file a formal complaint following the conclusion of the EEO counseling.

19. On November 29, 2019, Dominguez filed a second formal complaint with USCIS alleging claims of unlawful discrimination, hostile work environment, and retaliation on the basis of sex and national origin, as well as unlawful retaliation (Agency Case No. CIS-00046-2020; EEOC Case No. 510-2020-00221X) (hereinafter referred to as the “Second EEO Complaint”).

20. On January 11, 2022, the EEOC Administrative Judge entered a Recommended Order in favor of the Agency.

The Third EEO Complaint

21. On or about November 18, 2021, Dominguez initiated contact with an EEO counselor to report additional claims of unlawful harassment, hostile work environment, and retaliation based on sex and national origin.

22. On December 15, 2021, Dominguez filed a third formal EEO complaint for unlawful discrimination based on sex, national origin, and parental status, in addition to claims of unlawful retaliation (Agency Case No. HS-CIS-00340-2022) (hereinafter referred to as the “Third EEO Complaint”).

23. The Agency has not yet entered a final decision on the Third EEO Complaint. Dominguez may now properly seek relief in federal district court on the Third EEO Complaint because more than 180 days have elapsed since the date the complaint was filed.

24. Dominguez has fully complied with all prerequisites for this Court to assume jurisdiction over this action.

BACKGROUND FACTS

25. In 2008, Dominguez began working for USCIS as an Immigration Services Officer, Level 2.

26. In 2012, Dominguez began working as an Immigration Officer with the FDNS in the Kendall Field Office. Her main job responsibilities are identifying and pursuing suspected immigration benefit fraud, public safety, and national security concerns. Dominguez also serves as a liaison to law enforcement and intelligence agencies where she participates in investigations by inter-agency task forces and partner agencies to combat fraud, and deter and detect national security and public safety threats.

27. From 2008 through 2018, Dominguez received exceptional performance reviews as well as numerous performance-based awards and incentives. Notably, Dominguez received USCIS’s Vanguard Award in 2015 superior achievement in promoting national security and ensuring integrity in the immigration system, and she received the Outstanding Law

Enforcement Award in 2016 from the United States Attorney's Office for her work in uncovering a major conspiracy scheme.

28. In 2016, Defendant Kennedy began working as a supervisor for the FDNS in the Kendall Field Office. He was Dominguez's first-line supervisor.

29. Defendant Kennedy is well-known by employees for making disparaging and offensive remarks about the females working in upper management at the Kendall Field Office, all of whom are minorities. Defendant Kennedy repeatedly refers to the female managers as "bitches," negatively referred to the female Field Office Director as "Big Mama," and has made offensive statements regarding Hispanic and/or Latino cultures.

30. On more than one occasion, Defendant Kennedy told Dominguez that he felt as though she did not need him because of all the recognition Dominguez was receiving in connection as a high performing Immigration Officer.

Dominguez's Workplace Troubles Begin

31. On December 3, 2018, at approximately 7:30 a.m., Dominguez sent Defendant Kennedy an email notifying him that she did not feel well and would not be coming into work that day. Dominguez requested sick leave for the day. Dominguez followed the office's custom or practice for requesting sick leave.

32. Despite receiving Dominguez's email, Defendant Kennedy decided to visit Dominguez's personal residence that afternoon—in the middle of the workday—to "check" on her. Defendant Kennedy brought two other employees with him to Dominguez's residence. At the time, Dominguez was at the pharmacy with her two minor children, who were also feeling under the weather.

33. Defendant Kennedy had not previously visited the home of any male employee under his supervision to check on the employee during the workday.

34. Defendant Kennedy contended that the home visit was justified because of an alleged organized crime threat against Dominguez. The justification is false and pretextual. The alleged threat was not discussed with the Special Agent from Homeland Security Investigations who was assigned to handling the matter, nor were any law enforcement officers dispatched to Dominguez's residence.

35. Later that day, Dominguez sent Defendant Kennedy an email to relay her concerns about the inappropriateness and invasiveness of the visit. Dominguez also requested that a portion of her sick leave be restored since she had to spend a significant amount of time addressing questions and concerns about the incidents that occurred on December 3, 2018. Defendants Kennedy and Ayoung denied Dominguez's leave restoration request.

36. On December 4, 2018, Dominguez contacted Defendant Ayoung to discuss the December 3rd home visit. Defendant Ayoung informed Dominguez that he was aware of the situation because he had authorized the visit. Dominguez informed Defendant Ayoung that she felt offended and violated that her personal address was shared with coworkers without her permission.

37. Defendant Ayoung had not previously authorized a similar home visit to check on any male employee under either his supervision or the supervision of Defendant Kennedy.

38. On December 6, 2018, upon returning to work, Defendant Kennedy summoned Dominguez into his office to discuss a matter unrelated to the home visit. Dominguez shifted the conversation to her concerns about the December 3rd home visit, at which point Defendant Kennedy positioned his face within inches of Dominguez's face and began yelling profusely at

her. During the hostile encounter, Defendant Kennedy told Dominguez that, as her supervisor, he can show up at her residence whenever he sees fit and that she is never to question his authority in the future. Defendant Kennedy also demanded that Dominguez “show him where in the ‘regs’ it says that he cannot show up at her home unannounced.” Dominguez eventually left the office because she felt extremely uncomfortable and unsafe.

39. Shortly after leaving Defendant Kennedy’s office, Dominguez sent Defendant Ayong an email to express her concerns about the hostile encounter she had with Defendant Kennedy. Defendant Ayong informed Dominguez that he would respond later that same day, but never did so.

40. On December 11, 2018, Dominguez notified Defendants Kennedy and Ayong that Defendant Kennedy had placed an “AWOL” notation in her time and attendance records without her knowledge. AWOL is a non-pay status that is charged to an employee in connection with an absence from duty that was not approved. In the email, Dominguez made clear that she believed Defendant Kennedy was retaliating against her for the complaints she recently made against him.

41. On December 20, 2018, Dominguez filed an administrative grievance against Defendant Kennedy alleging a violation of privacy, abuse of power, and retaliation in connection with: (a) the December 3rd home visit; (b) the hostile office encounter; and (c) the “AWOL” leave notation.

42. On January 10, 2019, Defendant Ayong abruptly cancelled a meeting that Dominguez previously requested for the purpose of discussing the ongoing workplace issues she was experiencing with Defendant Kennedy.

43. On January 11, 2019, Defendant Kennedy refused to listen to or address the concerns Dominguez had regarding Defendant Kennedy's instructions for the processing of cases involving confirmed or possible national security concerns.

44. On January 16, 2019, Dominguez contacted Defendant Ayoung again in an effort to discuss the ongoing workplace issues she was experiencing with Defendant Kennedy.

45. On January 17, 2019, Defendant Kennedy told Dominguez that her input and feelings are none of his concern, and that she was acting in an insubordinate manner.

46. On January 18, 2019, Dominguez reached out to Defendant Ayoung and Mark Dolan, the Southeast Regional Director, requesting help to remedy the persistent acts of intimidation, harassment, and hostility being taken against her by Defendant Kennedy. In her email, Dominguez states that "she would like to come to work and be treated [] fairly, with dignity and respect[,] and allowed to perform [her] duties in a professional environment." In response, Defendant Ayoung scheduled a meeting for January 24th to discuss the ongoing issues.

47. On January 23, 2019, Defendant Ayoung cancelled the meeting scheduled for January 24th. That same day, Dominguez asked Defendant Ayoung if she could report directly to him in an effort to avoid the unwelcomed conduct she was receiving from Defendant Kennedy.

48. On January 29, 2019 and February 6, 2019, Dominguez sent emails to Defendant Ayoung requesting a meeting to resolve the ongoing workplace issues.

49. On January 19, 2019, Dominguez received a message from the Tampa Chief of Staff confirming that he would be conducting a management inquiry.

50. On March 5, 2019, Defendant Ayoung notified Dominguez that she had been temporarily reassigned to Supervisory Immigration Officer Ben Jacob. While under the

supervision of Mr. Jacob, Dominguez did not experience any workplace issues. Mr. Jacob also allowed Dominguez to telework two days during a pay period.

51. On April 17, 2019, the Agency issued Dominguez a Notice of Right to File a Complaint of Discrimination letter. The letter notified Dominguez that she had 15 days to file a formal complaint.

52. On April 26, 2019, Dominguez filed the First EEO Complaint.

53. On May 31, 2019, the Division Chief of the Office of Equal Opportunity and Inclusion sent a memorandum to Linda Swacina, the District Director of the Miami District Office, informing her that Dominguez had filed a complaint of discrimination against individuals in Ms. Swacina's office.

54. At some point thereafter, Ms. Swacina informed Defendants Kennedy and Ayoung that Dominguez had filed a formal EEO complaint against them.

55. On June 26, 2019, Defendant Ayoung informed Dominguez that she would be immediately returning to the supervision of Defendant Kennedy. In response, Dominguez expressed her concerns about the decision given that there had not been a meeting to address her prior complaints of discrimination and retaliation against Defendant Kennedy. Defendant Ayoung ignored Dominguez's concerns.

56. Defendant Ayoung made the decision to return Dominguez to Defendant Kennedy's supervision in retaliation for Dominguez filing the First EEO Complaint.

57. On September 23, 2019, Defendants Kennedy and Ayoung reduced Dominguez's ability to telework from two days per pay period to one day per pay period. Defendants did not impose the same restriction on any of the male employees under Defendant Kennedy's supervision.

58. On or about October 2, 2019, Defendant Kennedy issued Dominguez a Notice of Leave Restriction, which restricted Dominguez's ability to take leave. The Notice indicated that Dominguez's leave usage "continues to pose a problem to the efficiency of [the Kendall Field Office] and causes undue hardship on [Dominguez's] coworkers." Defendant Kennedy placed Dominguez on a leave restriction because she had engaged in a pattern of maintaining a low leave balance. Several employees under Defendant Kennedy's supervision, and Defendant Kennedy himself, routinely maintained low leave balances during the relevant time periods at issue. USCIS does not have a policy or rule that restricts an employee's right to maintain a low leave balance. Defendant Kennedy did not discipline any other employee under his supervisor for maintaining low leave balances.

59. The leave restriction materially altered the terms and conditions of Dominguez's employment with the Agency by requiring Dominguez to: (a) call Defendant Kennedy for all unscheduled leave requests within one hour of her work start time; (b) submit sick and annual leave requests at least twenty-four hours in advance of any scheduled medical appointments; and (c) produce medical documentation to Defendant Kennedy for any medical appointments Dominguez attended on behalf of others (e.g., her children) or when taking sick leave due to an illness. Defendants instructed Dominguez that if she failed to abide by the aforementioned leave restriction terms, she would be charged with Absence Without Leave ("AWOL").

60. Defendants did not place any other employees under Defendant Kennedy's supervision on a leave restriction for maintaining a low leave balance.

61. The leave restriction constituted a disciplinary action that resulted in the immediate termination of Dominguez's ability to telework—a benefit that all other employees

under Defendant Kennedy's supervision continued to enjoy. Defendants did not modify the telework schedule for any other employees under Defendant Kennedy's supervision.

62. On several occasions during this period, Defendant Kennedy instructed Dominguez to work during the late evening hours and on weekends to bolster her leave balance. USCIS did not have a policy or rule that required employees under Defendant Kennedy's supervision to maintain a minimum number of leave hours as a condition of their employment.

63. On October 4, 2019, Defendants Kennedy and Ayoung informed Dominguez that she was prohibited from using the Employee Assistance Program ("EAP") during work hours. Defendants Kennedy and Ayoung did not prohibit any other similarly situated male employees under Defendant Kennedy's supervision from using EAP during work hours.

64. On or about December 19, 2019, Defendant Kennedy denied Dominguez's leave request submitted for December 9th in connection with car problems she had been experiencing that day. Despite informing Defendant Kennedy of the car problems that day, Defendant Kennedy's requested that Dominguez provide documentation to prove that she had car problems. Dominguez provided Defendant Kennedy with proof that she had work performed on the vehicle at an auto parts store. Defendant Kennedy found the documentation to be insufficient and charged Dominguez with three hours of AWOL.

65. The similarly situated male employees under Defendant Kennedy's were not required to produce supporting documentation as a prerequisite to taking sick leave or annual leave.

66. On February 5, 2020, Dominguez emailed Defendant Kennedy that she desired to go home because she wasn't feeling well. Dominguez requested annual leave and went home. Upon returning to work the next day, Defendant Kennedy charged Dominguez with AWOL

instead of approving her annual leave request because Dominguez did not submit any medical documentation to prove that she wasn't feeling well. Dominguez provided a sworn statement from a coworker to substantiate her request for annual leave. Defendant Kennedy did not find the sworn statement provided to be sufficient.

67. On or about February 14, 2020, Defendant Kennedy informed Dominguez that he had denied the leave request she submitted on February 5th. Instead of granting Dominguez's request, Defendant Kennedy charged her with AWOL.

68. On February 20, 2020, Defendant Ayoung issued Dominguez a written reprimand for being AWOL. The letter explained that Dominguez failed to follow the terms of her leave restriction in connection with the leave request she submitted for December 9, 2019, namely that she failed to provide any supporting documentation. Dominguez provided supporting documentation to Defendants, as referenced in paragraph 64. Dominguez submitted a request for reconsideration to Defendant Ayoung upon learning that she was not required to be in the office on December 9th. Defendant Ayoung denied the request. Defendants Kennedy and Ayoung had not previously taken any disciplinary action against any other employee under their supervision for being AWOL.

69. In March 2020, Defendants issued a mandatory telework policy for employees at the Kendall Field Office due to the COVID-19 pandemic.

70. On June 26, 2020, Defendant Kennedy questioned Dominguez about her decision to participate in the Employee Assistance Program. Defendant Kennedy informed Dominguez that he needed the information to determine whether he would approve Dominguez's annual leave request.

71. Defendant Kennedy had not previously questioned any male employees under his supervision about their reasons for choosing to participate in the Employee Assistance Program.

72. On June 30, 2020, Defendant Kennedy informed employees that the Kendall Field Office had reopened to the public.

73. That same day, Dominguez submitted a request to continue teleworking because school was out for the summer and childcare services were not available.

74. On July 1, 2020, shortly after submitting the telework request, Defendant Kennedy assigned Dominguez a complex task that needed to be completed that same day, which required Dominguez to work extra hours to meet the short deadline. Defendant further informed her that she needed to report to the office beginning July 8th.

75. On July 2, 2020, Defendant Kennedy refused to certify Dominguez's time and attendance hours. Defendant Kennedy instructed Dominguez to revise the time and attendance hours she reported for the work performed on July 1, 2020 from 10 hours to 8 hours. Dominguez complied with Defendant Kennedy's instruction. Dominguez was not compensated for the extra hours she worked on July 1, 2020.

76. On July 16, 2020, Defendant Kennedy forced Dominguez to submit a request for emergency sick leave to care for her children.

77. On July 23, 2020 and August 3, 2020, Defendant Kennedy rejected Dominguez's work product and informed her that the work product lacked sufficient analysis. Defendant Kennedy accepted a similarly situated employee's work product that used the same or similar language to that Defendant Kennedy rejected in Dominguez's work product.

78. On each weekday from July 29, 2020 through August 12, 2020, Defendant Kennedy failed to inform Dominguez that there was no work in the office for her to pick-up. As

a result, Dominguez was forced to travel to and from work for no reason. Defendant Kennedy purposefully and maliciously withheld this information from Dominguez.

79. On several occasions between August 5, 2020 and August 26, 2020, Defendants Kennedy and Ayoung forced Dominguez to take Leave Without Pay to care for her children because they would not grant her telework request.

80. Defendants Kennedy and Ayoung did not force the male employees under their supervision to take Leave Without Pay instead of accrued annual leave or sick leave.

81. On August 25, 2020, Defendant Ayoung insisted that Dominguez produce medical documentation from an urgent care or emergency room despite her concerns that doing so may expose her children to COVID-19.

82. On November 2, 2020, Defendant Kennedy instructed Dominguez to report to work two days per week. Defendant Kennedy did not impose this requirement on any other employees under his supervision.

83. On November 3, 2020, Defendant Kennedy informed Dominguez that her work product was insufficient despite the fact that counsel for the Agency had previously deemed the same work product as sufficient.

84. On March 24, 2021, Defendant Kennedy denied Dominguez's request for annual leave. Defendant Kennedy did not have a legitimate reason to do so.

85. On October 26, 2021, Defendant Kennedy gave Dominguez a low rating (i.e., "Achieved expectations") on her annual performance appraisal for fiscal year 2021. The low rating was not justified. The available performance ratings, from lowest to highest, are: (a) Unacceptable; (b) Achieved Expectations; (c) Exceeded Expectations; and (d) Achieved

Excellence. Dominguez had previously received “Exceeded Expectation” or “Achieved Excellence” on her annual performance appraisals.

86. On November 10, 2021, Defendant Kennedy terminated Dominguez’s COVID-19 flexibilities and, in turn, placed her again on a leave restriction. Defendant Kennedy did not have a legitimate reason for terminating Dominguez’s COVID-19 flexibilities or for placing her on leave restriction.

87. On or about December 10, 2021, Defendant Kennedy questioned Dominguez about her compliance with office procedures for meeting a specific work-related deadline. In response, Dominguez asked why Defendant Kennedy was treating her different from every other employee. Defendant Kennedy responded with the following statement: “Don’t worry about what you can’t control.”

88. On or about January 1, 2022, Defendant Kennedy reassigned Dominguez to the duty officer role. The role had been routinely assigned to new Immigration Officers. Dominguez sought clarification from Defendant Kennedy about her duties and expectations in the duty office role. In response, Defendant Kennedy told Dominguez that she “must dance to the music that is being played and adjust our approach to accomplish the mission.”

89. On February 25, 2022, in response to a separate inquiry Dominguez raised about the unequal treatment she was receiving, Defendant Kennedy stated: “Rather than continuing to dance bachata when the DJ is playing merengue, we must adjust our approach to match the rhythm.” Dominguez informed Defendants that she found the email to be highly offensive and disparaging to individuals from Latino and Hispanic origins.

90. Defendant Kennedy did not make work-related statements about dancing to the male employees under his supervision. Defendant Kennedy did not make work-related statements about bachata or merengue to the non-Hispanic employees under his supervision.

91. On February 25, 2022, Dominguez informed her chain of command about the offensive statement made by Defendant Kennedy. Specifically, Dominguez informed Defendant Ayoung, Deputy District Director Eileen Lopez-Tomei, District Director Brett Rinehart, FDNS Associate Regional Director Kimberly Dean, Senior Counsel Daniel Renaud, and Associate Director Michael Valverde. No disciplinary action was taken against Defendant Kennedy in connection with the incident.

92. From March 21, 2022 through April 18, 2022, Dominguez was forced to take leave in connection with a work-related injury she sustained on the job because Defendants Kennedy and Ayoung had terminated her telework privileges. Dominguez was capable of performing her job duties while teleworking during this period of time.

93. From August 31, 2022 through September 6, 2022, Defendant Ayoung hindered Dominguez's ability to serve Defendant Kennedy with court documents.

HARM SUFFERED

94. As a result of Defendants' actions, Dominguez has been forced to endure a toxic work environment for nearly four years at the Kendall Field Office. She has suffered and continues to suffer severe emotional and mental anguish, as well as significant pecuniary losses.

95. To cope with the high levels of anxiety, depression, and trauma inflicted upon her by Defendants' unlawful conduct, Dominguez has been forced to seek professional therapy services, consume prescription medications, and undergo emergency medical treatment.

96. Dominguez has been deprived of several thousands of dollars in wages and other benefits as a result of Defendants' unlawful conduct.

97. Dominguez has expended more than \$90,000.00 on legal fees in her efforts to vindicate her civil rights before the Equal Employment Opportunity Commission.

98. Defendants' unlawful workplace conduct has not ceased despite Dominguez's multiple pleas and complaints to Defendants, other USCIS officials, and the EEOC.

99. Defendants failed to take adequate remedial measures to ensure that Dominguez worked in an environment free from unlawful discrimination, retaliation, or other inappropriate workplace conduct. As a result, Dominguez is entitled to recover damages and secure equitable relief against Defendants under Title VII of the Civil Rights Act of 1964, as amended.

COUNT I
**Defendants' Unlawful Discrimination Based on Sex
in Violation of Title VII of the Civil Rights Act of 1964**

100. Dominguez incorporates herein by reference the allegations set forth in paragraphs 1 through 99.

101. Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), makes clear that all personnel actions affecting employees in executive agencies "shall be made free from any discrimination based on race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-16(a).

102. USCIS and Defendant DHS are executive agencies within the meaning of 42 U.S.C. § 2000e-16.

103. Dominguez is a member of a protected class on the basis of her status as a female.

104. As a USCIS employee, Dominguez performed her job in a manner that was consistent with USCIS's legitimate business expectations.

105. On several occasions, Defendant Kennedy used derogatory terms to describe female managers employed by USCIS at the Kendall Field Office.

106. Several other employees under Defendant Kennedy's supervision described the work environment as hostile towards female employees because of Defendant Kennedy's conduct.

107. Defendant Kennedy subjected Dominguez to adverse employment actions by, among other things:

- (a) Placing Dominguez on a leave restriction without a legitimate reason for doing so;
- (b) Restricting Dominguez's ability to telework without a legitimate reason for doing so;
- (c) Prohibiting or significantly restricting Dominguez's ability to use accrued annual leave that she had earned;
- (d) Prohibiting or significantly restricting Dominguez's ability to use accrued sick leave that she had earned;
- (e) Refusing to grant Dominguez's annual leave requests unless she explained why she needed to attend the Employee Assistance Program;
- (f) Forcing Dominguez to work extra hours outside of her normal hours of duty;
- (g) Failing to compensate Dominguez for the extra hours of work she performed;
- (h) Unfairly scrutinizing Dominguez's work product relative to that of similarly situated employees;
- (i) Forcing Dominguez to take Leave Without Pay to care for her sick children;
- (j) Assigning Dominguez disproportionately heavy workloads relative to similarly situated employees; and
- (k) Taking disciplinary actions against Dominguez that adversely affect her opportunities for advancement.

108. Defendant Ayoung participated in or reaffirmed the actions taken by Defendant Kennedy against Dominguez.

109. Dominguez's status as a female was the determining factor that led to Defendants Kennedy and Ayoung treating her in a disparate manner relative to similarly situated male employees.

110. Defendant Kennedy treated the male employees under his supervision more favorably than Dominguez. Defendant Ayoung treated the male employees under his supervision more favorably than Dominguez.

111. Defendant Kennedy's actions were intentional, willful, malicious, or done with a reckless disregard to Dominguez's right to be free from unlawful discrimination in the workplace based on her sex.

112. Defendant Ayoung's actions were intentional, willful, malicious, or done with a reckless disregard to Dominguez's right to be free from unlawful discrimination in the workplace based on her sex.

113. As a direct and proximate cause of Defendants' workplace misconduct, Dominguez has suffered and continues to suffer severe emotional and mental anguish, as well as significant pecuniary losses.

COUNT II
Hostile Work Environment
in Violation of Title VII of the Civil Rights Act of 1964

114. Dominguez incorporates herein by reference the allegations set forth in paragraphs 1 through 99.

115. A work environment violates Title VII if it is permeated with discriminatory intimidation, ridicule, and insult, that is sufficiently severe or pervasive to alter the conditions of the victim's employment and creates an abusive working environment.

116. Defendants subjected Dominguez to a work environment that was permeated with unwelcome conduct based on her sex, and at least one incident involving unwelcome conduct based on her Hispanic national origin or ethnicity, including: (i) making offensive and disparaging statements about the female managers working in the Kendall Field Office; (ii)

unjustifiably taking disciplinary actions against Dominguez for conduct that similarly situated male employees were allowed to engage in without recourse; (iii) unfairly restricting Dominguez's telework privileges relative to that of similarly situated male employees; (iv) treating Dominguez less favorably than similarly situated male employees in the course of reviewing and approving leave requests; and (v) treating Dominguez less favorably than similarly situated male employees in connection with the use of or access to other employee benefits.

117. As described above, Defendants' conduct was severe or pervasive and altered Dominguez's conditions of employment because the conduct, among other things: (i) occurred frequently; (ii) forced Dominguez to seek medical treatment, including professional therapy services; (iii) compelled Dominguez to take prescription medication to cope with the high levels of associated stress and anxiety; (v) negatively impacted Dominguez's mental and physical health; (vi) created an atmosphere of intimidation and humiliation that undermined the efforts of Dominguez and other female employees; (vii) made Dominguez feel unsafe and unwelcomed in the workplace; and (viii) significantly interfered with Dominguez's job performance.

118. As a direct and proximate cause of the hostile work environment created by Defendants' unlawful workplace conduct, Dominguez has suffered and continues to suffer severe emotional and mental anguish, as well as significant pecuniary losses.

COUNT III
Defendants' Unlawful Retaliation
in Violation of Title VII of the Civil Rights Act of 1964

119. Dominguez incorporates herein by reference the allegations set forth in paragraphs 1 through 99.

120. Employers are prohibited from retaliating against an employee because of the employee's opposition to any practice made an unlawful practice by Title VII, or the employee's participation in an investigation, proceeding, or hearing under Title VII.

121. Dominguez engaged in protected activity under Title VII by, among other things: (a) making good faith complaints concerning discrimination, harassment, and other inappropriate workplace conduct on the part of Defendants Kennedy and Ayoung; (b) submitting EEO-related complaints of unlawful discrimination and retaliation against Defendants Kennedy and Ayoung; and (c) making several EEO-related complaints about retaliatory actions taken against her on the part of Defendant Kennedy's retaliatory actions.

122. In response to the activities taken by Dominguez, referenced in paragraph 121, Defendants: (i) placed Dominguez on a leave restriction; (ii) terminated Dominguez's telework privileges; (iii) required Dominguez to produce medical documentation as a prerequisite to approving leave; (iv) repeatedly denied Dominguez's requests to use earned sick leave and annual leave; (v) assigned Dominguez disproportionately heavy workloads; (vi) unjustifiably issued reprimands to Dominguez that adversely impacted her opportunities for advancement; (vii) forced Dominguez to work under Defendant Kennedy's supervision despite the availability of reasonable alternative options; and (viii) assigning Dominguez a low rating on her annual performance appraisal.

123. Defendants' actions, referenced above, were motivated in part by Dominguez engaging in the actions referenced in paragraph 121.

124. Defendants' actions would likely dissuade a reasonable employee in Dominguez's position from engaging in activity protected under Title VII.

125. Defendants' actions were intentional, willful, malicious, or done with a reckless disregard to Dominguez's right to be free from unlawful retaliatory conduct in the workplace.

126. As a direct and proximate cause of Defendants' retaliatory conduct, Dominguez has suffered and continues to suffer severe emotional and mental anguish, as well as significant pecuniary losses.

PRAYER FOR RELIEF

WHEREFORE, Dominguez respectfully requests that the Court enter judgment on the Amended Complaint, in favor of Dominguez and against Defendants, as follows:

- A. Award Dominguez appropriate amounts of back pay and front pay, in fair and reasonable amounts to be determined at trial;
- B. Award Dominguez compensatory damages, in a fair and reasonable amount to be determined at trial;
- C. Award Dominguez pre-judgment and post-judgment interest;
- D. Award Dominguez the costs and fees she incurred in pursuing her civil rights claims, including her reasonable attorneys' fees;
- E. Enjoin Defendants from continuing to engage in conduct that violates Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e to 2000e-17;
- F. Order the United States Citizenship and Immigration Services to reassign Dominguez to supervisors other than Defendants Robert Kennedy and Carlton Ayong, and permanently enjoin the United States Citizenship and Immigration Services from assigning Dominguez to the supervision of Defendant Robert Kennedy and Carlton Ayong;

- G. Enter an injunction requiring managers and supervisors in the FDNS at the Kendall Field Office to complete annual employment discrimination training, in a manner and format approved by the U.S. Equal Employment Opportunity Commission; and
- H. Award Dominguez such other relief that the Court deems just and proper.

Dated: November 25, 2022


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