

EEOC Awards of Emotional Distress Damages Over \$100,000.00

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This article discusses the over 100 decisions by the EEOC Office of Federal Operations awarding \$100,000 or more for emotional distress. The EEOC uses the term “non-pecuniary” when awarding emotional distress damages because the term was used to describe emotional distress damages in the 1991 amendment to the Civil Rights Act.

An award for emotional distress should reflect the “extent, nature, and severity of the harm suffered; and the duration or expected duration of the harm”. **Fonda-Wall v. Dep’t of Justice**, EEOC Appeal No. 0720060035 (July 29, 2009). The more inherently degrading or humiliating the defendant's action is, the more reasonable it is to infer that a person would suffer humiliation or distress from that action. **Lopez-Rosende v. U.S. Postal Service**, EEOC Appeal No. 0120102789 (November 30, 2010). The Commission instructs that “not all harms are amenable to a precise quantification, the burden of limiting the remedy, however, rests with the employer.” *Id.* citing **Chow v. Dep’t of the Army**, EEOC Appeal No. 01982308 (Feb. 12, 2001). An award of emotional distress damages should be consistent with the amount awarded in similar cases. **Ward-Jenkins v. Dep’t of the Interior**, EEOC Appeal No. 01961483 (Mar. 4, 1999).

Evidence from a health care provider or other expert is not a mandatory prerequisite for recovery of compensatory damages for emotional harm. **Meachum & Abbott, v. Social Security Administration**, EEOC Appeal No. 0720120003 (September 9, 2013). Objective evidence of compensatory damages can include statements from a complainant concerning emotional pain or suffering, inconvenience, mental anguish, loss of enjoyment of life, injury to professional standing, injury to character or reputation, injury to credit standing, loss of health, and any other non-pecuniary losses that are incurred as a result of the discriminatory conduct. *EEOC MD-110, Ch. 11, VII,(B)*; See *Compensatory and Punitive Damages Available Under Section 102 of the Civil Rights Act of 1991*, EEOC Notice No. N915.002 (July 14, 1992). Statements from others including family members, friends, health care providers, other counselors (including clergy) could address the outward manifestations or physical consequences of emotional distress, including sleeplessness, anxiety, stress, depression, marital strain, humiliation, emotional distress, loss of self-esteem, excessive fatigue, or a nervous breakdown. **Williams v. U. S. Postal Service**, EEOC Appeal No. 0120130887 (May 31, 2013). A complainant's own testimony, along with the circumstances of a particular case, can suffice to sustain his burden in this regard. *Id.* An agency is not liable for the harm caused by a preexisting condition, but the agency will be responsible for the aggravation of the condition as well as any additional harm an employee experiences as a result of its discriminatory harassment. **Lauralee C. v. Dep’t of Homeland Security**, EEOC Appeal No. 0720150002 (September 25, 2017).

The present-day value of comparable cases is to be considered when determining an award of emotional distress damages. **Lara G. v Postmaster General**, EEOC Req. No. 0520130618 (June 9, 2017) citing **EEOC V. AIC Security Investigations, Inc.** 55 F.3d 1276 at 1286 (7th Cir. 1995)(“comparability of awards must be adjusted for the changing value of money over at time”). “An Administrative Judge may take into consideration the age of the comparable awards and adjust the current award according.” **Lara G. v Postmaster General**, EEOC Req. No. 0520130618 (June 9, 2017). The amount of each award discussed below is adjusted to the present-day value¹. **Lara G. v Postmaster General**, EEOC Req. No. 0520130618 (June 9, 2017).

The cases discussed below that were issued before May 2017 have been updated to their present-day value. The amount of the awards in cases after May 2017 provide the amount of the award when issued. The present-day value calculations of EEOC awards can be determined with the Dep’t of Labor Bureau of Labor Statistics, Inflation Calculator. **Lara G. v Postmaster General**, EEOC Req. No. 0520130618, p. 2, (June 9, 2017). The Dep’t of Labor Bureau of Labor Statistics, Inflation Calculator can be easily located with a Google search.

I. Awards Adjusted for Present-Day Value That Exceed the Statutory Ceiling of \$300,000 for Emotional Distress Damages.

Gay v. Dep’t of the Navy, EEOC Appeal No. 07A20089 (October 9, 2003). The Administrative Judge awarded \$300,000 which when is now valued at **\$396,865**² as adjusted by the Consumer Price Index Inflation Calculator at the Department of Labor Bureau Labor Statistics. (Hereafter “CPI Adj.”). The Agency’s appeal was held to be untimely. The Commission declared that it would make no determination as to the appropriateness of the AJ’s finding of discrimination or of the amount awarded in compensatory damages. The Commission’s decision did not discuss the facts the Administrative Judge determined supported the emotional distress award.

Munno v. Dep’t of Agriculture, EEOC Appeal No. 01A01734 (February 8, 2001)(**\$348,027** CPI Adj./\$250,000 award for emotional distress damages). Complainant was a manager whose emotional injury was extreme, but who was capable of performing her duties and qualified for promotion to a senior management position. Complainant’s psychiatric expert witness testified that Complainant’s ability to work was a huge source of self-esteem and self-worth. Complainant’s depression had a severe major impact on her functioning in her home, her personal life, her husband, her daughter and her church. Complainant’s sense of self was tied to being able to work. Work was how Complainant got herself out of a negative situation from her childhood, so to have her work disrupted was devastating to her. Complainant’s psychological injury required treatment for an indefinite period.

² The number in bold type is the present-day value of the award in May 2017 as determined by the Inflation Adjustment Calculator at the US Department Labor Bureau of Labor Statistics. The number not in bold type is the amount awarded in the initial decision. In cases issued after May 2017, the bold print indicates the amount of the award on the date the appeal decision was issued.

II. Emotional Distress Awards When Adjusted for Inflation Remain Below the \$300,000 Statutory Ceiling for Emotional Distress Compensation.

Sebek v. Attorney General, EEOC Appeal No. 07A00005 (March 8, 2001)(\$277,790 CPI Adj./\$200,000 award for emotional distress damages). The Administrative Judge's compensatory damages award was upheld by the Commission because the agency failed to provide the Commission the evidentiary record that was before the EEOC Administrative Judge.

Mack v. Dep't of Veterans Affairs EEOC Appeal No. 01983217 (June 23, 2000) *request for reconsideration denied*, EEOC Request No. 05A01058 (October 26, 2000)(\$262,610 CPI Adj./\$185,000 award for emotional distress damages). Complainant left homeless after being fired based on his development of AIDS. The Complainant became "unable to work for years to come."

Glockner v. Dep't of Veteran's Affairs, EEOC Appeal No. 07A30105 (Sept. 23, 2004)(\$257,749 CPI Adj./\$200,000 award for emotional distress damages). The Complainant was harassed at work for nearly five years and diagnosed as suffering depression, anxiety, exhaustion, migraine headaches, irritable bowel syndrome and other gastrointestinal disorder. Complainant did not take medication for depression, but demonstrated depression through testimony.

Taunya P. v. Postmaster General, United States Postal Service, EEOC Appeal No. 0720180022 (September 27, 2019)(Upholding AJ award of \$250,000 for emotional distress damages.) Due to the Agency's failure to accommodate Complaint, she suffered nerve damage, exacerbated her back pain, and had leg pain and other leg problems. Complaint also had other neurologic damage to the motor part of her nerve. The record indicated that Complainant experienced "jolting pain," that did not respond to pain killers. Complainant's doctor's testimony supported the AJ's determination that the Agency's failure to reasonably accommodate Complainant's disability, resulted in a December 2011 accident, that caused the new condition of lumbar disc and nerve impingement with motor and sensory stigmata. The AJ found that this ultimately rendered Complainant incapable of carrying a pregnancy. The doctor testified that this information was a devastating prognosis for Complainant, as she had hoped to have a child of her own with her husband. After Complainant's injury on December 2011 injury, she experienced ongoing pain, spasms, stiffness, occasional difficulty with urination, numbness, tingling, burning and weakness. The doctor further testified that in April 2012, "after four [4] months of not being accommodated by the Agency, [Complainant] was 'in a lot of pain.'" He added that by June 2012, Complainant was "despondent," after being required to work outside of her restrictions for the past seven (7) months. Finally, the doctor testified that Complainant reached "maximum medical improvement" in September 2016, "and still suffers from pain, spasm, stiffness, and occasional giving way of the legs," with a "guarded" prognosis. With regard to the physical harm, Complainant testified that for seven (7) months "she worked in a state of constant pain," with the pain so bad at times that she had to go the emergency room. In addition, she maintained that the pain was so bad at times that even while carrying mail, she would lie down wherever she was to try to get relief from the pain. From October 2012 until June 2013, she was incapable of working. She also testified that the Agency's failure to accommodate her physical disabilities from November 2011 to June 2012 rendered her no longer capable of engaging in activities she had been able to do in the past, "such as housework, walking her dog,

dancing, going to the movies on a regular basis, going to amusement parks, and riding horses." Her husband also testified to the cessation of activities based on her injuries. Complainant also testified about learning that she was unable to carry a baby. Complainant, her husband, and her mother all testified to the "profoundly detrimental effect" this had on them. Specifically, Complainant's husband testified with regard to his wife not being able to carry a baby that: " ... [I]t was hard, you know, because we both, you know, wanted a kid. We always talked about how it would be, you know, a cute little baby. And, you know, for her mother, you know, she's the only one to have a child from her mother's side and, you know, I'm the only male in my family, so the name, you know, I don't get to carry on that name anymore. So, it's something I still think about until now."

Looney v. Dep't of Homeland Security, EEOC Appeal No. 07A40124, 01A53252 (May 19, 2005)(\$245,488 CPI Adj./\$195,000 award for emotional distress damages). The length of hostile work environment was not stated in EEOC decision, but appears to have been less than two years. Complainant's permanent emotional injury was based only on Complainant and her husband's testimony. Complainant suffered bouts of crying; humiliation; depression; destruction of her spirit and confidence; feelings as if she had no purpose in life; fluctuating weight problems; rashes; anxiety; nightmares relating to her supervisor; difficulty coping with life; being tense and unable to sleep when she lays next to her husband in bed; and was disinterested in sexual intercourse. As a result of medication taken for the emotional distress, complainant felt clumsy, shaky, considered herself to be unsafe operating a motor vehicle, and a nervous wreck. Complainant's husband testified that complainant was extremely stressed, experienced mood swings, became sick more often, kicked the bed while sleeping, and was exhausted to the point where she remained in bed for twenty hours during the day. He testified that complainant is unable to deal with any negativity and is extremely self-conscious about her communication skills, interaction with others, and loss of professional reputation and standing in the community. Complainant's friends testified to complainant's change in appearance, including significant aging in short amount of time, facial appearance being swollen and sunken, and complainant becoming withdrawn. Complainant's psychologist testified that complainant suffered from a significant amount of depression.

Fonda-Wall v. Dep't of Justice, EEOC Appeal No. 0720060035 (July 29, 2009)(The Commission increased an Administrative Judge's award for emotional distress damages from \$150,000 to **\$227,287** CPI Adj./\$200,000). Complainant was in constant fear of the supervisor's retaliatory acts. The rumors about her mental health were detrimental to her reputation. The Agency's actions caused her to be transferred and suffer in her family and financial life. Complainant's emotional harm manifested itself into physical harm over a period of 8 years. In addition to the \$200,000 emotional distress award, EEOC awarded pecuniary damages for wear and tear on Complainant's vehicle in the amount of \$8,859.16; trailer rental and storage costs in the amount of \$ 3,484.19; moving expenses in the amount of \$ 1,136.00; lodging costs in the amount of \$ 244.08; lost profit on the sale of Complainant's home in the amount of \$65,600.00; tutoring costs for Complainant's children due to readjustment after being involuntarily moved twice in the amount of \$ 32,000.00; attorney's fees incurred for child custody issues arising from Complainant taking children out of state in the amount of \$ 3,000.00; cell phone costs in the amount of \$ 4,628.59; fees paid to a special advocate for Complainant's children in the amount of \$ 5,000.00; plane fare for children to visit their father in her former work location in the

amount of \$1,289.00; office supply costs in connection with this complaint in the amount of \$3,000.00; and past and future psychological care for Complainant's children's separation anxiety from their father and stepfather in the amount of \$12,996.60.

Blount v. Dep't of Homeland Security, EEOC Appeal No. 0720070010 (October 21, 2009), *request for reconsideration denied* EEOC Request No. 0520100148 (April 16, 2010)(\$226,419 CPI Adj./\$200,000 award for emotional distress damages). Complainant testified that due to the loss of his job, his ex-wife sued for custody of his children, and he was unable to satisfy his child and spousal support obligations. Complainant stated that the agency's actions brought him to the brink of "financial ruin."

Shameka M. v. Dep't of Veterans Affairs, EEOC Appeal No. 0120172281 (April 4, 2019) (Agency FAD award for emotional distress damages increased from \$30,500 to **\$225,000**; pecuniary damages increased from \$37.75 to \$51,787). Complainant subjected to severe sexual harassment for two years by verbal remarks, conduct and offensive touching. The sexual harassment and reprisals significantly worsened Complainant's pre-existing depression. The duration of Complainant's suffering from sexual harassment was thirteen years.

Forensic psychologist (FP) report references numerous notations in Complainant's past medical records where she raised concerns of sexual harassment in the workplace and connects symptoms to the harassment including comments about suicide ideations, wanting to quit her job, panic symptoms, headaches, the harassment reminding her of the sexual abuse that she experienced as a child; excessive worry, anxiety, difficulty concentrating, with irritability, muscle tension, sleep disturbance, accelerated heart rate, shortness of breath and chest pain.

Following his evaluation, the FP concluded that Complainant showed signs of severe symptoms of depression, that included an almost constant depressed mood, low energy, frequent crying, decreased interest in most activities and feelings of worthlessness, helplessness and hopelessness. Additionally, she described symptoms of panic attacks whenever she went to work or thought about work at home. FP also noted that Complainant has intrusive thoughts of work and being molested. FP further indicates that the objective assessments of Complainant's cognitive functioning showed severe impairment of concentration, and moderately severe impairment of memory. In addition, FP noted that Complainant has been too depressed to take care of her youngest child, and as a result the child is exhibiting developmental delays.

The Commission held the FAD award of only co-pays for medical expenses was inadequate. A complainant may recover the full charge for medical expenses without regard to payments by a complainant's health insurance provider.

(We are including in this list of EEOC decisions a noteworthy decision by the U.S. Federal Labor Relations Authority upholding an arbitrator's **\$216,844** CPI Adj./\$200,000 award for emotional distress damages). **Dep't of the Treasury, Internal Revenue Service, Wage and**

Investment Division, Austin, Texas and NTEU, Chapter 72, 65 FLRA No. 198 (June 27, 2011). The Agency's discriminatory actions resulted in the deterioration of the grievant's health and led to his developing chronic obstructive pulmonary disease (COPD). Grievant's doctor reported that "anxiety leads to flare-ups; flare-ups make controlling the asthma extremely difficult or impossible; poor control of severe asthma leads to COPD; COPD results in irreversible lung damage." The deterioration of the grievant's health "forced [him] into . . . medical retirement" at approximately age forty-five, with irreversible lung damage.

Akiko L. v. U.S. Postal Serv., EEOC Appeal No. 0720120027 (April 2, 2014)(\$216,786 CPI Adj./\$210,000 award for emotional distress damages). Complainant, her husband and her psychologist demonstrated that Complainant became deeply troubled, anxious, depressed, lonely, suspicious, mentally unfocused, and highly emotional. She experienced weight loss, hair loss, difficulty sleeping, suicidal thoughts and chest pain. This harm continued for at least two years. Complainant, who had anticipated being an Olympic runner, became dispassionate about competing. The Commission noted that management's behavior and actions were particularly egregious. It was well known by management that Complainant's Supervisor was harassing and assaulting her, yet no action was taken for some time, and management reported Complainant's allegations of harassment to other employees. When upholding the compensatory damages award the Commission considered Complainant's emotional distress from two events not related to the hostile work environment: a miscarriage by the Complainant while working in the hostile work environment and the death of Complainant's sister a year after the hostile work environment ended.

McCormick v. Dep't of Justice (Federal Bureau of Investigation), EEOC Appeal 0720100040 (November 23, 2011)(\$216,357 CPI Adj./\$200,000 award for emotional distress damages). The Commission held the Agency's inept actions to accommodate complainant's disability were not in good faith. The Agency engaged in egregious, substantial discriminatory and retaliatory conduct that increased the physical pain and damage to complainant's neck and shoulder, and caused her to suffer severe depression. The Agency's negative memorandums circulated about complainant caused her emotional distress in that she feared the Agency was trying to fire her rather than accommodate and help her. The emotional distress led to permanent spasms that further damage to the discs in her back. Complainant suffered from migraines, lack of sleep, and severe and chronic pain. Her professional reputation was damaged by the portrayals as an insubordinate employee who refuses to do assignments. Complainant suffered a loss of enjoyment of life that is ongoing; changes in her demeanor, outlook, and physical and mental conditions that imperiled her marriage, hindered her ability to properly care for her young child; created a serious and potentially permanent rift with a child in college. She has withdrawn socially from friendships.

Booker v. Dep't of Defense, EEOC Appeal No. 07A00023 (August 10, 2000)(\$212,441 CPI Adj./\$150,000 award for emotional distress damages). Complainant suffered severe depression, attempted three suicides and was voluntarily hospitalized. The duration of emotional distress was not put into evidence.

Franklin v. United States Postal Service, EEOC Appeal No. 07A00025; 01A03882 (January 19, 2001)(\$209,651 CPI Adj./\$150,000 award for emotional distress damages). Complainant's

“whole world had been built around this job.” Once complainant forced into disability retirement, he became withdrawn, gloomy, purposeless and depressed. He was unable to find comparable work and became estranged from his wife and children and moved into a different part of the house.

Estate of Nason v. Postmaster General, EEOC Appeal No. 01A01563 (June 21, 2001)(\$206,235 CPI Adj./\$150,000 award for emotional distress damages). Complainant, after two suicide attempts, successfully committed suicide and left behind a note that blamed the Post Office for "all the stress that they have caused me leading to this action." The Commission explained its decision in Estate of Nason, stating: "a tortfeasor takes its victims as it finds them."

Valencia L. v. Dep't of Homeland Sec., EEOC Appeal No. 0720130039 (August 7, 2014)(\$205,785 CPI Adj./\$200,000 award for emotional distress damages) Complainant was discriminated against on the basis of sex with regard to her working conditions and when she was terminated from her job. Witnesses described the deterioration of Complainant's physical appearance and the decline of her day-to-day happiness into a state of anxiety and desperation. Complainant felt humiliated, angry, helpless, and hopeless, and her marriage ended. Complainant also experienced sleeplessness, weight loss, and damage to her skin and hair. The Commission considered evidence regarding the emotional impact of Complainant's economic hardship caused by the discrimination. Complainant was the chief income earning parent for her children, and she faced difficulties locating work after she was terminated.

Lauralee C. v. Dep't of Homeland Security, EEOC Appeal No. 0720150002 (September 25, 2017)(\$200,000 award for emotional distress damages) Complainant was previously diagnosed with PTSD and she experienced some emotional harm from circumstances unrelated to her job with the Agency. While her conditions may have been exacerbated by the Agency's actions, the Agency was not the sole cause of Complainant's emotional and psychological harm. Complainant was diagnosed with several new medical conditions, as well as "reactivation of a previously diagnosed condition," after the Agency began subjecting her to discriminatory harassment. Some of the conditions with which Complainant was diagnosed have only one known significant contributing factor or cause, i.e., stress. Complainant was diagnosed with depression, reactivation of post-traumatic stress syndrome (PTSD), insomnia, gastrointestinal distress, pancreatitis, irritable bowel syndrome (IBS), and temporomandibular joint disorder (TMJ). As a result of the discrimination Complainant suffers from emotional pain, and that she feels "hollow, exhausted, hopeless and helpless." Complainant cries all the time, and that she cannot exercise anymore due to severe anxiety resulting in panic attacks. Complainant lives in constant fear which resulted in her inability to leave her house unless she is attending a medical appointment or purchasing groceries. Complainant questioned whether she will be able to trust or rely upon anyone again. She complained of having her reputation harmed, and of a loss of interest in interacting with others and sustaining personal relationships.

Kloock v. Postmaster General, EEOC Appeal No. 01A31159 (Feb. 5, 2004)(Agency FAD award of emotional distress damages increased from \$5,000 to \$197,153 CPI Adj./\$150,000). An agency's discriminatory removal of complainant resulted in him having to withdraw support of his son's ambitions to become a professional hockey player and the complainant ultimately told his son to leave home. Complainant submitted evidence of non-pecuniary damages through his

affidavit, as well as affidavits from a friend and his son. Complainant provided several psychological reports. Prior to May 1994, complainant was a stable, well-adjusted and relatively happy individual. Complainant described his relationship with his son before May 1994 as exceptional and had good friendships and a rewarding life. Just prior to May 1994, complainant was in the process of buying a new home and had been pre-approved for a mortgage. Prior to May 1994, complainant had been very active with his union and the local youth hockey community....).

Dionne W. v. Dep't of the Air Force, EEOC Appeal No. 0720150040 (Mar. 27, 2018)(Commission affirmed AJ's award of **\$185,000** in damages). For two years, Agency officials and co-workers subjected the complainant to derogatory remarks such as “Blonde Bimbo”, her work ethic was criticized, HR posted false information on the internet damaging her professional reputation, she was denied training, not selected for a promotion a promotion and received an adverse reassignment. Complainant experienced humiliation, embarrassment, uncontrollable crying, emotional distress, stress, anguish, sadness, anger, loss of interest in doing things she previously enjoyed, loss of laughter, and suffering damage to her career, reputation, professionalism and integrity.

Goodridge v. Social Security Administration, EEOC Appeal No. 07200500261 (November 15, 2006) *reconsideration denied* 0520070216 (February 27, 2007)(**\$180,390** CPI Adj./\$150,000 damages award for emotional distress). Complainant suffered anxiety, depression, humiliation, sleep deprivation and began a medication regimen which included Valium, Prozac, Paxil, Wellbutrin, and Hydroxyzine. At the time of the hearing, complainant continued to suffer from crying spells, saw no relief in sight, and had withdrawn socially from friends and family. Complainant's husband, sister, and friend corroborated complainant's testimony and reported complainant suffered from anxiety, depression, and was no longer the outgoing person she had been. Complainant submitted medical records from her physicians, and noted that she had been diagnosed with an anxiety disorder. Complainant suffered from depression, loss of enjoyment of life, interference with family relationships, permanent diminishment in quality of her life, and physical symptoms.

Chere S. v. Gen. Serv. Admin., EEOC Appeal No. 0720180012 (Nov. 30, 2018)(Commission Affirmed AJ's Award of **\$180,000** for emotional distress Damages). Complainant was in a hostile work environment where she suffered physical, mental and emotional distress, including feeling confused and numb, being terrified she would not be able to feed her children, and suffering from headaches and stomach problems. She also experienced a loss of self-esteem and contemplated suicide. Complainant presented statements from family members, friends, and co-workers describing Complainant's physical and emotional deterioration to the point at which they had to take care of Complainant's children. Complainant's symptoms and condition were severe and lasted more than six years.

Tyner v. Dept. of Veterans Affairs, EEOC Appeal No. 0720060032 (October 23, 2007)(**\$175,699** CPI Adj./\$150,000 damages award for emotional distress). Sexual harassment over seven months with crude sexual language by a co-worker and supervisor. Complainant suffered difficulty sleeping, nightmares and panic attacks; aggravation of pre-existing psychological injury due to observing sexual abuse of a sibling by a family member; diagnosis of

a major depressive disorder, post-traumatic stress disorder and agoraphobia (fear of leaving home), panic attacks, problems with her appetite, feeling sad and tearful, problems with memory comprehension and thinking clearly, and problems with self-esteem and self-confidence. Complainant became withdrawn and was spending most of the day in bed during her visits to her parent's home. Complainant awarded restoration of 273 hours of sick leave, 31.75 hours of annual leave and three hours of compensatory time.

Brown-Fleming v. Dep't of Justice, EEOC Appeal No. 0120082667 (October 28, 2010)(Agency's FAD award for emotional distress damages increased from \$40,000 to **\$167,846** CPI Adj./\$150,000). Complainant suffered from depression, anxiety, stress, insomnia, difficulty concentrating, disassociation, crying spells, social isolation, damage to her professional reputation, withdrawal from relationships, and short-term memory loss. In addition, Complainant experienced nightmares, panic, worsening abdominal pain, worsening hypertension, weight loss, and worsening psoriasis brought on by stress. The Commission stated that despite Complainant's pre-existing conditions and additional stressors, the Agency's discriminatory termination was the proximate cause of her emotional and physical problems. The Commission also found that Complainant was entitled to payment of \$39,121.59 in pecuniary damages representing foregone interest and penalties incurred as a result of the withdrawal of funds from her Thrift Savings account.

Estate of Roop v. Dep't of Homeland Security, EEOC Appeal No. 0720090056 (October 21, 2010)(**\$167,846** CPI Adj./\$150,000 damages award for emotional distress). Complainant lost twenty pounds, could not keep food down, and had episodes of vomiting. His emotional and mental anguish were exacerbated by the severe financial hardship resulting from the complainant's employment termination. Complainant and his family had no income for a time, forcing them to seek food from social organizations, not heat their home in the winter, and go without prescription medications. Feeling that his family would be better off without him, complainant intentionally overdosed on high blood pressure medication in an effort to cause a heart attack and end his life. There was no evidence that these events would have occurred absent the discrimination. The Commission rejected the Agency's argument that \$150,000 was excessive for two years of emotional suffering.

Lopez-Rosende v. U.S. Postal Service, EEOC Appeal No. 0120102789 (November 30, 2010)(Administrative Judge's award of emotional distress damages increased from \$35,000 to **\$167,776** CPI Adj./\$150,000). Complainant suffered seven years of sexual harassment and did not submit medical evidence in support of her emotional distress claim. Testimony demonstrated the harassment made it difficult for complainant to sleep, made her depressed, resulted in nightmares, and caused her to scream and yell at her children. Complainant experienced chest pains, sought counseling with an Agency psychologist, went to a physician who prescribed medication for anxiety. Complainant "was constantly worried" the sexual harasser would come to her work area.

Furch v. Dep't of Agriculture, EEOC Appeal No. 07A40094 (Aug. 5, 2005)(**\$186,914** CPI Adj./\$150,000 damages award for emotional distress). The employee saw a psychologist for 6-8 months, and continued to see a Licensed Social Worker through the agency's Employee Assistance Program. At the hearing, the employee testified she suffered from weekly crying

spells, saw no relief in sight and was withdrawn socially from friends and family. The employee's daughter and co-workers corroborated complainant's testimony and reported complainant suffered from stomach problems, anxiety, and is no longer the outgoing person she once was. The employee submitted medical records from her physician, psychologist, and psychiatrist, stating a diagnosis of Generalized Anxiety Disorder.

Cleland v. Dep't of Veteran Affairs, EEOC Appeal No. 01970546 (August 9, 2000)(Agency FAD damages award for emotional distress award increased from \$45,000 to **\$177,034** CPI Adj./\$125,000). Complainant suffered severe depression, anxiety, irritable bowel syndrome, interference with marital and social life, and numerous other post-traumatic stress disorder symptoms. The discrimination exacerbated complainant's pre-existing learning disabilities. Complainant prescribed numerous tranquilizers and antidepressants. Complainant required indefinite future treatment to correct the effects of the physical and emotional damage caused by the discrimination. Complainant's psychologist and vocational counselor, who had worked with complainant prior to his employment with the agency, stated that the agency's discrimination caused severe setbacks to complainant's ability to overcome his learning disabilities. He further stated that subsequent to the discrimination, he has worked over three years with complainant to overcome the effects of the discrimination. He believed further work was necessary to enable complainant to return to his pre-discrimination state. Complainant's wife stated her husband became lethargic and very irritable and suffered from anxiety, emotional distress, depression, shame, loss of self-confidence and irritable bowel syndrome. She stated that they have neither slept in the same bed nor had marital relations since 1992. She further provided that complainant does not socialize or participate in any hobbies. A friend of complainant provided a statement expressing that after complainant's experience with the agency, he appeared depressed with a changed outlook on life. She stated that he stopped rowing with her and others friends, and after a period of time completely stopped socializing all together.

Alene S., v. United States Postal Service EEOC Appeal No. 0720150033 (April 6, 2016)(**\$204,574** CPI Adj./\$200,000 emotional distress award). Agency discriminatory conduct aggravated a pre-existing condition preventing Complainant from ever returning to work. Complainant's treating psychiatrist and psychologist concurred that Complainant had become "permanently totally disabled." Complainant's sister testified that Complainant was "a happy and open person", but changed following the sexual harassment. The sister moved in with Complainant, and lived with her for two years, to help her care for her son. Thereafter, she lived across the street. By late 2011, according to Complainant's sister, Complainant was "smiling more, laughing, going to movies, trying to get back to doing normal things " But after the events in 2012, "[a]ll of a sudden, bam, another traumatic event", caused Complainant to lose weight, become forgetful, untrusting of others, and disconnected from her children. When Complainant's son went to the Emergency Room with food poisoning, Complainant was unable to go to him. Even with medication, over the last year and a half, Complainant still suffers from severe hives. When asked whether she believed Complainant would regain her mind, Complainant's sister testified "I don't see that happening."

Ervin B v. U.S. Postal Serv. EEOC Appeal No. 0720150029 (March 15, 2016)(**\$197,836** CPI Adj./\$192,500 emotional distress award). The Commission found that the AJ did not abuse her discretion in admitting certain depositions when considering the issue of damages. The

Commission acknowledged that the discrimination was only one factor causing Complainant's diabetes to be uncontrolled, and the evidence did not show that Complainant's later separation was caused by the discrimination. The Commission determined, however, that Complainant's pain and suffering and damage to his reputation supported the award of \$192,500. Among other things, the harassment resulted in Complainant being arrested, invasively stripped searched and put in a holding cell. Complainant then had repeated hysterical crying spells and feared losing everything while waiting for his criminal hearing and the resulting finding that he was not guilty. Further, he was humiliated, his sense of himself was damaged, and he sustained extreme anxiety, despondency, sleeplessness, nightmares, depression, PTSD, and a lessening of control of his diabetes as a result of the discrimination.

Cahn v. United States Postal Services, EEOC Appeal No. 0720060029 (September 5, 2008)(\$195,756 CPI Adj./\$175,000 emotional distress award). The Agency's discrimination exacerbated the Complainant's PTSD and he suffered significant emotional distress over a three year period. Complainant had insomnia, migraines, decrease in his ability to concentrate, think, focus or recall information, extreme stress and inability to complete projects or organize. He became secluded due to heightened anxiety and was separated from his wife. The damages were supported by the Complainant's testimony, written documentation from his wife, co-worker's testimony and medical documentation.

Cook v. Postmaster General, EEOC Appeal No. 01950027 (July 17, 1998)(\$194,946 CPI Adj./\$130,000 emotional distress award). Complainant disabled from future employment. The Commission awarded \$80,000 in damages for daily harassment that lasted about 14 months and sporadic incidents of harassment that occurred over the next 14 months. The Commission also awarded \$50,000 in emotional distress damages caused by the complainant's future inability to work. The Commission considered that the complainant prolonged her recovery by failing to take prescribed medication. The award was tempered by the fact that more than half of the total period of harassment—33 months—occurred before the effective date of the 1991 Civil Rights Act.

VanDesande v. Postmaster General, EEOC Appeal No. 07A40037 (Sept. 28, 2004)(Administrative Judge's award for emotional distress damages reduced from \$200,000 to \$193,312 CPI Adj./\$150,000). The judge had not accounted for the fact that despite complainant's mental condition, the complainant was able to train successfully as a firefighter/EMS and complete his probationary period. The complainant presented evidence that he would continue to need psychiatric treatment and medication for depression, anxiety disorder and Post Traumatic Stress Disorder for at least five years after the close of the hearing. However, the Commission reduced the award because there was no evidence the psychological conditions interfered with his training or subsequent job performance.

Lemons v. Dep't of Justice, Bureau of Prisons, EEOC Appeal No. 0120102516 (November 16, 2011)(Agency FAD emotional distress damages award increased from \$25,000 to \$189,312 CPI, Adj./\$175,000). Complainant physically sexually assaulted by prison inmate and suffered a Cervicothoracic Sprain which caused her extreme pain in her neck and back. Complainant in "excruciating agony" unable to perform basic activities, such as walking, driving or laying down. Complainant stated that while her pain is not nearly as bad as it was the first several months after

the attack, she still feels pain. Complainant's psychiatrist diagnosed Complainant with post-traumatic stress disorder and major depression. Complainant could not focus, was extremely afraid that something would happen to her, had difficulty concentrating, low energy, difficulty enjoying things, and tearfulness. She had insomnia and recurrent intrusive thoughts of the sexual assault. Complainant was prescribed medication for her depression. Complainant suffered severe difficulties with concentration, sleep, anxiety and depression. The Psychologist testified that her condition was not likely to improve, even with treatment, for at least a year. Complainant had not left the house in a month, and no longer leaves the house to go to church, the gym, or even to meet her new 6 month old grandson. Complainant's ex-boyfriend stated that Complainant's moods go from depressed to hyper, she breaks down crying at a moment's notice, and she gets mad at everyone for no reason. Complainant stated that she cries "over the stupidest things," has low energy, sleeps half the day, gets uncomfortable around other people, does not trust anyone, cannot stay focused, has feelings of hopelessness and paranoia, and she still has dreams of the sexual assault. The doctor noted Complainant has post traumatic stress disorder and agoraphobia (an anxiety panic disorder in which there are repeated attacks of intense fear and anxiety). Complainant's children described Complainant as still experiencing flashbacks and nightmares of what happened to her. She stated that she also has panic attacks and experiences feelings of being trapped, breathlessness, and rapid heartbeat. Additionally, her husband was unable to deal with all of the problems that resulted from the sexual assault, and the strain on her marriage resulted in a divorce. Complainant also noted that while the physical pain is not as severe as it was a few years ago, she still experiences back pain from the sexual assault. Complainant's youngest son stated that his mother changed from a loving, caring, respectful and trusting person into what is now a shell of her former self. The son explained that after the assault his mother became weary of people, lost respect for authority, and had feelings of betrayal, fear, and sadness. He testified that after the sexual harassment and assault his mother was "not the same mother that I grew up to know and love." He stated that he has never seen his mother in such bad shape, that she wakes up every day with no reason to live and is spiritually dead.

Santiago v. Dep't of the Army, EEOC Appeal No. 01955684 (October 14, 1998) (**\$186,534** CPI Adj./\$125,000 emotional distress award.). Complainant harassed and then terminated. Complainant suffered depression and other emotional and mental disorders, and severe chest and stomach pains, digestive problems and incidents of shortness of breath for approximately 1½ years due to three years of verbal abuse by her supervisor.

(We are including in this list of EEOC decisions a noteworthy decision by an Administrative Judge of the Merit Systems Protection Board. The Agency did not appeal the **\$185,903** CPI Adj./\$175,000 emotional distress award). **Marcus Smith v. Dep't of Transportation**, MSPB Docket No. AT-0752-05-0901-P-1, 2012 MSPB Lexis 4948 (August 24, 2012). The MSPB Administrative Judge applied the principle that "a tortfeasor takes its victim as it finds them" citing **Wallis v. United States Postal Service**, EEOC Appeal No. 01950510, (November 13, 1995) and held that the employee's prior diagnosis of depression did not defeat his claim of entitlement to compensatory damages. The employee's emotional state significantly deteriorated after the agency began discriminatory proceedings against him. The Agency's discriminatory actions resulted in the employee suffering severe emotional problems, including, but not limited to, depression, panic attacks, loss of enjoyment of life, loss of libido, erectile dysfunction,

withdrawal from family, friends, church and social situations, and crying spells. The employee's condition was severe, long-term, and with no indication that the employee will completely recover in the near future.

Padilla v. U.S. Postal Service, EEOC Appeal No. 0120090062 (September 21, 2010)(Administrative Judge's emotional distress damages award of \$15,000 increased to **\$184,861** CPI Adj./\$165,000). The Agency subjected Complainant to a discriminatory hostile work environment and the Complainant's termination was at least partially motivated by discriminatory animus. Complainant experienced emotional and physical suffering. He lost custody of his daughter because of testimony at the custody hearing by Agency officials regarding his termination. Complainant lost friendships, slept in his car, frequently did not have food, could not afford medical care, and did not have medical insurance.

Durrell Williams v. U.S. Postal Service, EEOC Appeal No. 0120130887 (May 31, 2013)(Agency FAD emotional distress damages award increased from \$30,000 to **\$183,855** CPI Adj./\$175,000). Complainant suffered from depression prior to his termination. Complainant's psychiatrist and psychologist opined that the discrimination he suffered significantly worsened his depressive disorder. Complainant, among other things, experienced poor sleep, stress, suicidal thoughts, and had trouble maintaining gainful employment. Complainant was prescribed psychiatric medication. Complainant's psychiatrist opined that the termination contributed to the Complainant losing his home and becoming homeless with his two children, a thirteen-year-old son and an eight-year old daughter.

Debra Meachum & Teresa Abbott, v. Social Security Administration., EEOC Appeal No. 0720120003 (September 9, 2013)(Two awards of **\$182,910** CPI Adj./\$175,000 for emotional distress to two Complainants). At the time of the hearing Complainant Meachum continued to experienced anxiety attacks. Complainant Meachum's testimony was corroborated by her husband who testified that the harassment changed their marriage and she experienced anxiety attacks, difficulties sleeping, problems with her weight and depression. The Commission reduced Complainant Meachum's emotional distress award from \$200,000 to \$175,000 to account for evidence that she experienced stress due to her mother's illness. Complainant Abbott's \$175,000 award was upheld. Abbott suffered for a shorter period of time, but was more sensitive and suffered similar mistreatment until she retired. Abbott described feeling intimidated, afraid and constantly fearful of being fired. She sought assistance from an EAP counselor as a result of her treatment, and the AJ found that she "re-experienced" some of the pain and humiliation when she testified at the hearing.

Maryanne S. v. Dept. of Justice, Bureau of Prisons, EEOC Appeal No. 0720140028 (Dec. 20, 2015)(**\$174,500** emotional distress damages award). Complainant suffered a series of reprisal actions over 18 months. Complainant diagnosed with anxiety disorder and had therapy with two counselors. The second counselor referred Complainant to a psychiatrist for more intensive therapy and psychotropic medication. Complainant experienced high levels of stress and anxiety which culminated in panic attacks at work and home. Even with medications, Complainant continued to suffer from symptoms of depression, including poor sleep, poor appetite, fatigue and difficulty making decisions. Due to the Agency's reprisal actions, Complainant lost the camaraderie and friendship of her co-workers and was miserable and

constantly experienced anxiety. Complainant remained in therapy and on medication with no end date estimate by the care providers.

Solomon v. Dep't of the Navy, EEOC Appeal No. 0720070071 (March 3, 2008)(\$171,921 CPI Adj./\$150,000 award for emotional distress). The Complainant's disposition changed, she lost her self-confidence, withdrew from friends and felt her reputation had been soiled. She returned from work crying, upset and appearing depressed. She had migraines and sleeplessness. Complainant's Psychiatrist testified she had depression and anxiety from harassment occurring over a one year period.

Anvari v. Dep't of Veterans Affairs, EEOC Appeal No. 01996155 (March 21, 2002) *reconsideration denied*, Request No. 05A20546 (July 15, 2002)(\$171,094 CPI Adj./\$125,000 award for emotional distress). The Commission considered the nature, severity, and lengthy duration of the discrimination (over five years), as well as the nature and severity of complainant's emotional pain and suffering. Two treating psychiatrists described complainant's major depression and need for medical treatment for a period of years. The Agency's Director's behavior towards complainant was particularly egregious. Complainant's professional reputation was damaged due to the lasting effects of the facility's formal investigation.

Hendley v. Attorney General, EEOC Appeal No. 01A20977 (May 15, 2003)(Agency FAD award for emotional distress damages increased from \$15,000 to \$166,711 CPI Adj./\$125,000). Complainant's psychological harm was severe and psychological treatment required for at least two years. The Commission noted:

. . . Complainant in her affidavit statements credibly recounted that she had an initial severe reaction to the agency's decision to discipline her for the incidents of sexual harassment that she reported to the agency in October 1994. Prior to that time she had been seeing a psychiatrist for the emotional harm from the sexual assault just months before, but was improving and was ready to return to work. She stated she shook with anger and pain became extremely distraught and filled with anxiety. Complainant stated she cried uncontrollably for long periods of time and she was filled with despair and depression. This continued for the next six years. Complainant stated that she became fearful and paranoid that prison officials would come to her house and attack her, she became anti-social, developed an eating disorder, experienced sleeplessness and nightmares. Her professional life suffered because she stated she was unable to return to work in her chosen field of law enforcement. She felt "deeply humiliated and embarrassed" because the agency concluded that she was responsible for the behavior about which she complained. Complainant also described deterioration in family relationships which her husband corroborated in his affidavit.

Brinkley v. U.S. Postal Service, EEOC Appeal No. 01953977 (Jan. 23, 1998) (\$166,588 CPI Adj./\$110,000 award for emotional distress) Complainant hospitalized and suffered feelings of hopelessness, loss of energy, agoraphobia, loss of interest in living, depressed mood, impaired memory and concentration, insomnia, agitation, and loss of interest in routine activities and personal self-care.

Read v. Dep't of Homeland Security, EEOC Appeal No. 01A50353 (March 29, 2005)(Affirming Agency FAD award of **\$164,590** CPI Adj./\$130,000 for emotional distress to a complainant who was not represented by an attorney). Coerced sexual contact by supervisor in the office on two occasions resulted in Complainant's pregnancy. Complainant's husband went to the doctor to determine whether his vasectomy from the year before somehow failed. He learned that he was indeed sterile. Complainant told her husband that she got pregnant from her supervisor after coerced sexual encounters. Complainant's supervisor urged complainant to have an abortion. Complainant and her husband made the decision to abort the pregnancy. After the abortion, complainant continued to receive unwelcome sexual comments from her supervisor despite her explicit desire that he stop. The sexual harassment continued until May 2000, when she initiated EEO Counselor contact. However, complainant was still made to work in the same office with the supervisor until she accepted a transfer. Complainant suffered from hives, severe stomach problems, heartburn, burning in her stomach and rectal bleeding. She suffered from acid reflux disease, sleep disturbance, weight gain, fatigue, vertigo and feelings of guilt over the abortion. She did not want her husband to touch her and lost desire for intimacy. She also was evaluated as "suicidal with a concrete plan."

George v. Dep't of Health & Human Serv., EEOC Appeal No. 07A30079 (July 21, 2004)(**\$161,518** CPI Adj./\$125,000 award for emotional distress). Complainant's rheumatologist testified that as a result of the agency's discriminatory conduct "complainant's rheumatoid arthritis and lupus worsened substantially," which also resulted in depression and anxiety, and the need for aggressive treatment (i.e., chemotherapy) to address these concerns. Complainant would "not be able to have children with her husband;" "there was a marked difference in complainant's life;" "complainant became emotionally destroyed;" "she did not want to go anywhere;" "her self-confidence was undermined;" and "her relationship with her stepson was affected." The duration of the harassment appears to have lasted approximately one year.

Coopwood v. Dep't of Transportation, (Federal Aviation Administration), EEOC Appeal No. 0120083127 (May 2, 2012)(Agency's FAD damages award for emotional distress increased from \$35,000 to **\$159,736** CPI Adj./\$150,000 for emotional distress damages). Complainant subjected to a hostile work environment for two and a half years suffered severe depression, vomiting in the office, uncontrollable crying spells; difficulty concentrating; frequent panic attacks; fear of her safety; nightmares; insomnia; loss of enjoyment of life; withdrawal from relationships; social isolation; significant injury to her professional standing and reputation; humiliation and loss of health (dramatic weight fluctuation, worsening stomach problems).

Rivers v. Dep't of the Treasury, EEOC Appeal No. 01992843 (January 16, 2002)(Agency FAD award of \$15,000 increased to **\$158,917** CPI Adj./\$115,000 for emotional distress). Complainant had a preexisting condition, but the harm extended over a significant period of time. Complainant's disability not accommodated, substantial time off work, employee granted disability retirement by OPM.

Garcia v. Dep't of Justice (Drug Enforcement Administration), EEOC Appeal No. 0120122033 (June 7, 2013)(Administrative Judge's emotional distress damages award to a class action representative increased from \$125,000 to **\$157,213** CPI Adj./\$150,000 for emotional distress damages). After repeated non-selections, Complainant's emotional distress manifested in

anger, frustration, sadness, anxiousness, humiliation, and embarrassment. Complainant cut herself off from her coworkers, friends, and family, suffered depression. Complainant cried frequently and suffered from physical manifestations: severe gastro-intestinal problems, lack of sleep, fatigue, migraines and hair loss, which caused her a great deal of embarrassment and self-consciousness in her appearance. Complainant personality changed drastically. Her body language, facial expressions, and tone of voice all manifested her anger, frustration, bitterness, and confusion. Complainant became very sad, disheartened, and depressed. Witnesses testified Complainant was obsessed with her problems at work and “no longer fun to be around.” The discrimination damaged Complainant’s marriage. Interactions with her husband were one sided and always about her work problems leading to the couple to “the brink of formal separation many times.” Complainant endured pain, suffering, anxiety and depression for more than nineteen years and only improved when she retired in May 2008. Even after retirement she has the same awful feelings when she is reminded of the discrimination and continued to have physical manifestations when reminded of the discrimination in the form of severe stomach episodes even after her retirement in 2008.

Nenville v. Dep’t of the Air Force (National Guard Bureau), EEOC Appeal No. 072011023 (August 1, 2013)(Administrative Judge’s emotional distress award of \$92,000 increased to **\$156,962** CPI Adj./\$150,000). Complainant suffered severe physical pain over three years and continuing as a result of the Agency not assigning her to light duty. Complainant became “a shell of the woman she used to be.” Complainant lost self-confidence, lost her independence and saw herself as a burden to those around her. Complainant was diagnosed with depression and referred to a psychiatrist. Complainant began taking prescribed anti-depressant and anti-pain medications that made her sleepy and interfered with her ability to drive, which resulted in her rarely leaving the house. Complainant became withdrawn, her personality changed, her temperament changed and she began to have anxiety attacks and required assistance of a service dog. Complainant became homebound, secluded, her interpersonal relationships deteriorated. Complainant could no longer take care of the house, the property, or prepare a meal for herself. Her friend attempted to help with Complainant by taking extra jobs, but her friend eventually moved out of their hours due to the burden of caring for the Complainant.

Brendon L. v. U.S. Postal Serv., EEOC Appeal No. 0120141161 (February 3, 2015)(Commission increased Agency FAD emotional distress damages award from \$13,000 to **\$156,397** CPI Adj./ \$150,000). Complainant was subjected to nearly daily discriminatory harassment by co-workers and management officials for almost two and one-half years. Complainant’s had not recovered a year after the harassed ended. Complainant skipped family dinners, became less communicative, had difficulty sleeping, and became isolated at work and home. He had panic attacks which created problems with his blood pressure. Complainant experienced embarrassment, humiliation, panic attacks, anxiety, and sleeping problems, and withdrew from his family and co-workers. Complainant's wife provided an affidavit stating that Complainant described the situation as "torture." Complainant’s emotional injury extended over three years and was ongoing at the time of the Agency’s FAD.

Winkler v. Dep’t of Agriculture, EEOC Appeal No. 01975336 (June 7, 2000)(**\$156,152** CPI Adj./\$110,000 award for emotional distress). Complainant experienced feelings of “fright, shock, humiliation, embarrassment, loss of enjoyment of life, grief, anxiety, loss of self-esteem,

isolation, loss of marital harmony, and depression as a result of the agency's discrimination." A psychiatrist concluded Complainant's condition will continue for at least two years.

Burton v. Dep't of Interior, EEOC Appeal No. 0720050066 (March 6, 2007)(\$154,930 CPI Adj./\$130,000 award for emotional distress). Complainant was out of work for three years. Complainant suffered from depression, loss of enjoyment of life, interference with family relationships, permanent diminishment in quality of life, and physical symptoms. She suffered anxiety, depression, humiliation, sleep deprivation and began a medication regimen, which included Prozac and Paxil. Complainant "saw no relief in sight, thought about suicide, and had withdrawn socially from friends and family." Complainant's husband testified the complainant suffered from anxiety, depression, and was no longer the outgoing person she had been. Complainant submitted medical records from her physicians, and noted that she had been diagnosed with post-traumatic stress disorder, major depression disorder, non-epileptic seizures, panic attacks and memory loss. Complainant suffered migraines, stomach problems, nervousness, trembling, emotional issues and contemplated suicide.

Finlay v. U.S. Postal Service, EEOC Appeal No. 01942985 (April 20, 1997)(\$152,767 CPI Adj./\$100,000 emotional distress award). Awarded for severe psychological injury over four years with harm expected to continue for an indeterminate period of time. Post-traumatic stress disorder. Complainant's symptoms included ongoing depression, frequent crying, concern for physical safety, loss of charm, lethargy, social withdrawal, recurring nightmares and memories of harassment, a damaged marriage, stomach distress and headache.)Complainant off work for three years.

Emiko S. v. Dep't of Transp., EEOC Appeal No. 0120161130 (July 19, 2016) reconsideration denied, No. 0520160486 (November 2, 2016)(Commission increased an Administrative Judge's emotional distress damages award of \$50,000 to **\$152,558** CPI Adj./\$150,000). The Agency discriminated against Complainant on the basis of disability. The denial of reasonable accommodation and failure to conduct an individualized assessment resulted in Complainant not receiving a position for which she had been conditionally selected. Complainant provided statements from herself, friends, and family members concerning how the Agency's discrimination affected her physically, emotionally and financially; how it impacted her socially; and how it affected her interest in figure skating, which was a passion for her. After the Agency revoked the job offer, Complainant felt "derailed." Her life became characterized by "professional insecurity and financial instability." She became distant from her family and suffered from personal anxiety. Complainant stated that she suffered severe, long-term emotional, social and financial hardship, including loss of enjoyment of life, and damage to her relationships over seven years.

Fellows-Gilder v. Dep't of Homeland Security, EEOC Appeal No. 0720070046 (January 31, 2008)(\$150,726 CPI Adj./\$130,000 award for emotional distress). Complainant suffered from a pre-existing condition, of anxiety and depression was significantly exacerbated by the discrimination. Complainant began to cut herself, which she had not done before, and was admitted to a psychiatric hospital under a suicide watch. After the discrimination, complainant sought public assistance for the first time in her life, and lost her health insurance, which had

been her link to a support network that provided her with funding for prescription medication and therapy.

Tod P. v. Dep't of the Navy, EEOC Appeal No. 0720120013 (March 12, 2014)(\$150,179 CPI Adj./\$145,000 award for emotional distress). Complainant demonstrated the Agency denied him reasonable accommodation, his mental state and depression worsened, he felt isolated, and experienced increased stress and mental anguish. Complainant's psychiatrist testified that these conditions affected Complainant's chemical balance, and, as a result, Complainant went out on stress leave and then retired. At the time of the hearing, Complainant was still unable to perform certain activities that he performed before the harassment commenced at his workplace.

Miguel G. v. U.S. Postal Serv., EEOC Appeal No. 2020000182 (Mar. 4, 2020)(Commission Affirmed AJ's Award of \$150,000 in Compensatory Damages). Following a hearing, the AJ determined that the Agency discriminated against Complainant when it failed to provide him a reasonable accommodation for his hearing impairment, and did not select him for the position of Postmaster. The Commission determined that the AJ's past pecuniary damages award was proper because Complainant endured a significant financial burden in commuting 177 miles each way and renting an apartment during the workweek during the time he was reassigned to a temporary position as the result of his non-selection. The AJ's nonpecuniary damages determination was supported by substantial evidence. In this regard, the award was consistent with previous awards for emotional distress in cases lacking documentary evidence of medical treatment. Complainant presented evidence of severe distress, and the near dissolution of his marriage. The AJ emphasized the severity of the emotional distress, stating that Complainant took steps toward committing suicide shortly after learning of his non-selection. The AJ also noted the ongoing nature of the distress, based on the pain Complainant exhibited during his testimony, and Complainant's wife's testimony that the nonselection caused a permanent "crack" in their marriage.

Amina W. v. Dep't of Educ., EEOC Appeal No. 0120150644 (Apr. 19, 2018)(Commission Awarded Complainant \$150,000 in Non-Pecuniary Damages & Found No Estoppel Due to Complainant's Bankruptcy Filing). The Commission previously found that the Agency sexually harassed Complainant and later retaliated against her by involuntarily reassigning her. The Agency subsequently determined that Complainant was judicially estopped from pursuing her claim for compensatory damages because she filed for bankruptcy and such interest lies with the bankruptcy trustee. The Commission disagreed with the Agency's assertions, noting its public policy interest of enforcing anti-discrimination laws and remedying employment discrimination. Thus, the Commission awarded Complainant \$150,000 in non-pecuniary damages and \$3,400.97 in past pecuniary damages. Complainant experienced panic attacks, chest pains, heart palpitations, dizziness, humiliation, insomnia, anxiety, depression, fear of termination, migraines, miscarriage, hair loss, acne, loss of enjoyment of activities, weight gain, and financial hardship. Her mother, sister and friends provided statements supporting Complainant's claims, and noted that Complainant did not experience depression before the unlawful harassment. The witnesses also noted that Complaint's work stress resulted in weight gain, acne leaving scars, and significant thinning and hair loss.

Taylor G. v. U.S. Postal Serv., EEOC Appeal No. 0120120164 (Apr. 17, 2018)(Commission Increased Award of Non-Pecuniary Damages to \$150,000 & Found No Estoppel Due to

Complainant's Bankruptcy Filing). The Commission previously found that the Agency discriminated against Complainant based on race when it terminated his employment, and ordered the Agency, among other things, to investigate his claim for damages. The Agency subsequently issued a decision finding that Complainant was judicially estopped from pursuing a claim for compensatory damages because he failed to properly disclose his EEO complaint in his bankruptcy proceedings. In the alternative, the Agency stated that, assuming Complainant was not judicially estopped, he should be awarded \$20,000 in non-pecuniary damages. On appeal, the Commission initially noted that it has a public policy interest in enforcing antidiscrimination laws and remedying discrimination, and, therefore, the Commission is not judicially estopped from seeking victim-specific relief such as compensatory damages, even if Complainant himself is foreclosed from obtaining such relief. The Commission specifically found the Agency liable for Complainant's discriminatory termination and ordered the Agency to remedy the discrimination. With regard to the award of non-pecuniary damages, Complainant averred that he endured "unimaginable hardship" due to his termination which caused a great deal of emotional distress and sleepless nights. He lost his home to foreclosure, had to file for bankruptcy, and borrowed money from his family. Complainant stated the anxiety and hardship affected his marriage and he was unable to provide for his family leaving him humiliated, disappointed, anxious and stressed. He sought help from the Employee Assistance Program. The Commission stated that, given the nature of the Agency's behavior, Complainant's own statements along with the financial hardship he suffered due to his termination supported an award of \$150,000. The Commission agreed with the Agency that Complainant did not show evidence of entitlement to pecuniary damages for the foreclosure of his home.

Kelly v. Dep't of Veterans Affairs, EEOC Appeal No. 01951729 (July 29, 1998)(\$149,958 CPI Adj./\$100,000 emotional distress award). Awarded where subjection of aggrieved individual to hostile work environment caused her to develop severe psychological injury, from which she was still suffering at the hearing.

Sanford v. Postmaster General, EEOC Appeal No. 01A31818 (May 13, 2004)(\$148,832 CPI Adj./\$115,000 award for emotional distress). Complainant was stalked and sexually harassed by a co-worker for several years, and the Agency failed to protect the Complainant. The Complainant was not absent from work as a result of the discriminatory actions, but reported nausea, a lump in the throat, sweating not brought on by heat, itching all over her body, intensifying of her asthma, clammy hands, dizziness, tingling in fingers and toes, difficulty catching her breath, diarrhea, pain in the stomach, a pit in the stomach, jelly legs, hot and cold flashes, crying, disturbances in sleeping, nightmares/daydreams, shivers, and intrusive thoughts and images related to the violence she experienced. The Complainant's psychiatrist reported the complainant suffered from post-traumatic stress and would need 10 years of treatment to recover from the effects of the harassment.

Terban v. Dep't of Energy, EEOC Appeal No. 0720040117 (April 3, 2008)(\$148,100 CPI Adj./\$130,000 award for emotional distress). Complainant endured two years of harassment which resulted in complainant's hospitalization, his becoming suicidal, and his receiving electro-shock treatment. As a result of the harassment, complainant became depressed and withdrawn and his relations with his children became severely strained.

St. Louis v. Dep't of Agriculture, EEOC Appeal No. 01985846 (October 6, 2000)(\$147,683 CPI Adj./\$105,000 award for emotional distress). Complainant developed post trauma stress disorder which resulted in feelings of estrangement, irritability, sleep problems, and difficulty concentrating. Complainant's psychiatrist's report stated complainant had a potential for partial recovery in ten years but was an unlikely full recovery. Complainant was unable to work and granted worker compensation benefits by the U.S. Department of Labor.

Durinzi v. U.S. Postal Service, EEOC Appeal No. 01A41946 (July 28, 2005) *reconsideration denied* 05A51158 (October 10, 2005)(Agency FAD award of \$10,000 increased to **\$147,429** CPI Adj./\$120,000 for emotional distress). The complainant and family members submitted affidavits without supporting medical documents:

Since August 1997, for over six years, as a result of the U.S. Postal Service denying me reasonable accommodations and no job, to say that my life has been turned upside down would be a gross understatement. The anxiety and pain that I have experienced as a result of the agency's actions has had a severe negative impact on my physical, emotional, mental, spiritual, and financial well-being. I have gone from being a person who was secure, organized, well adjusted, focused, happy with a bright future to a person who is irritable, agitated, worried, tired, anxiety-ridden, unable to stay focused, difficulty concentrating, angry, distressed and depressed feeling a sense of dread about life in general. The person that I once was is gone...The discriminatory action of the agency against me have caused me to even challenge my faith and religion, which has become a great source of pain, sorrow, and guilt for me. My faith has always carried me through life up until this time. However, the duration of time that this has gone on - six years - has caused me to become too overburdened and too overwhelmed for too long a period of time... I used to be a highly motivated individual. I now feel motionless most of the time... I have also experienced significant amount of weight loss... Six years ago, when the agency denied me reasonable accommodation and denied me work because of my disabilities, they threatened everything that meant anything to me (my health, my marriage, my livelihood, my dignity, my intelligence, my faith, my very being!!!) Not only to me personally, but it took a significant toll and put a tremendous amount of strain on my relationship with my husband and on our marriage. Our intimate marital relations, as a result, have become virtually non-existent.

Davis v. Dep't of Homeland Security, EEOC Appeal No. 0720060003 (June 18, 2007), request for reconsideration denied, EEOC Request No. 0520070778 (September 25, 2007)(\$146,826 CPI Adj./\$125,000 award for emotional distress). Complainant was subjected to sexual harassment by her supervisor's attempt to solicit sexual favors in exchange for employment advancement and his inappropriate comments. Complainant suffered severe emotional harm, stress, fear, depression and loss of self-esteem, as well as physical harm in the form of insomnia, headaches, weight fluctuations, and a stress-induced jaw disorder.

In the first **Chow** decision, **Chow v. Dep't of the Army**, EEOC Appeal No. 01981308 (August 5, 1999)(\$146,459 CPI Adj./\$100,000 award for emotional distress). Complainant suffered from abdominal and chest pains, headaches, and hair loss, had difficulty sleeping and stopped socializing with friends. Complainant had two years of psychotherapy and was projected to

complete psychotherapy with a total of 42 months in therapy. (**Complainant made no claim for time off work.**) Subsequently, in a second **Chow** decision, in the Commission granted reconsideration and modified the award based on an agreement by the parties placing a ceiling of \$93,031.01 on the amount of the compensatory damages.

Moore v. U.S. Postal Service, EEOC Appeal No. 0720050084 (March 6, 2007)(\$**143,012** CPI Adj./\$120,000 award for emotional distress). Complainant was unemployed for over four years and suffered ongoing significant physical pain, loss of health, emotional pain, mental anguish, loss of career opportunities, and loss of enjoyment of life as a result of retaliatory and discriminatory conduct by the agency. His pain was chronic, and he was not been helped by multiple surgeries or steroid injections. He became so depressed and nervous that he sought treatment by a psychiatrist. Complainant's orthopedist testified the complainant's shoulder injury did not improve despite surgery and injections of steroids and painkillers designed to reduce inflammation and stiffness. The complainant's shoulder injury resulted in significant burning pain and discomfort as well as tightness. The physical pain interrupted his sleep. He essentially could not use the arm for anything, but very small activities. Complainant's psychiatrist testified the complainant is in a vicious cycle of anxiety and depression caused by his ongoing orthopedic pain.

Champion v. United States Postal Service, EEOC Appeal No. 0720090037 (March 10, 2010). (\$**140,566** CPI Adj./\$125,000 award for emotional distress). Complainant was subjected to harassment for over two years. Complainant needed medication to sleep, had nightmares, was uninterested in things she used to do, and experienced severe stress. Complainant was prescribed several medications, was under the care of a psychiatrist and a psychologist, and was placed off work. She was diagnosed with major depressive disorder, anxiety disorder, and panic disorder.

Leatherman v. Dep't of the Navy, EEOC Appeal No. 01A12222 (December 14, 2001)(\$**138,501** CPI Adj./\$100,000 award for emotional distress). Complainant expressed suicidal ideations and was twice hospitalized – once for psychiatric treatment and once to treat physical ailments related to her emotional distress. Complainant's depression became so severe she stopped bathing, combing her hair or otherwise caring for herself and remained in bed.

Patel v. Dep't of the Army, EEOC Appeal No. 01980279 (Sept. 26, 2001)(\$**137,259** CPI Adj./\$100,000 award for emotional distress). Complainant required continuous medical treatment for five years, covering major depression, chest pains, palpitations, anxiety, and insomnia.

Janda v. Potter, Postmaster General, U.S.P.S. EEOC Appeal No. 07A10018 (March 4, 2002)(\$**136,875** CPI Adj./\$100,000 emotional distress award upheld by Commission in default case against the Agency, but there is no description of the emotional harm suffered by Complainant.)

Dunn v. Dep't of the Air Force, EEOC Appeal No. 0720110021 (February 10, 2012)(\$**134,372** CPI Adj./\$125,000 award for emotional distress). Complainant diagnosed with depression and anxiety which could continue for years. Complainant suffered humiliation and physical pain to her wrist because of the Agency's failure to accommodate her disability. Complainant had

nightmares and sleeplessness and takes multiple medications. Complainant's doctor stated that her elbow has increased symptoms due to overuse.

Aponte v. Dep't of Homeland Security, EEOC Appeal No. 0120063532 (June 11, 2008), *request for reconsideration denied*, EEOC Request No. 0520080673 (September 10, 2008)(Agency FAD award increased from \$12,000 to **\$134,213** CPI Adj./\$120,000 for emotional distress). Complainant suffered years of depression, anxiety, anger, shame, humiliation, marital strain, spiritual turmoil, sleep disturbances, and headaches. The Commission considered complainant's failure to respond to the agency's requests for medical documentation to support his claim in making the award, noting that complainant provided no evidence to support his claim of a possible breach of confidentiality if he did so. The Commission indicated that complainant's failure to provide supporting documentation weakened the credibility of a psychologist's diagnosis of Post-Traumatic Stress and Adjustment Disorder. Nevertheless, testimony of complainant, his wife and co-workers showed that he experienced substantial emotional distress as a result of the discrimination.

Hendley v. Dep't of Justice, EEOC Appeal No. 01A20977 (May 15, 2003) request for reconsideration dismissed, EEOC Request No. 05A30962 (January 14, 2004)(Agency FAD awarding \$11,250 for emotional distress damages increased from \$11,250 to **\$133,369** CPI Adj./\$100,000). Workplace sexual harassment aggravated complainant's preexisting psychological condition. Although complainant was on leave, she was ready to return to work when the agency suspended her. As a result of the suspension, the complainant's condition was severely exacerbated, requiring treatment for more than seven years.

Jackson v. Dep't of the Air Force, EEOC Appeal No. 0720110036 (March 13, 2012). (**\$133,359** CPI Adj./\$125,000 award for emotional distress). The Agency subjected Complainant to hostile work environment sexual harassment for over 19 months. Complainant suffered severe emotional distress including, embarrassment, humiliation and feeling powerless. A Social Worker treated complainant for acute stress, anxiety, depression, and post-traumatic stress disorder, and stated that Complainant experienced excessive crying, excessive sleeping, difficulty concentrating, feelings of fearfulness and helplessness, intrusive thoughts, guilt, hypervigilance, and paranoia. Complainant's husband stated that she lost interest in most things, became withdrawn, and did not socialize.

Holland v. SSA, Appeal No. 01A01372 (October 2, 2003)(**\$132,288** CPI Adj./\$100,000 award for emotional distress). Complainant and psychiatrist showed that he experienced a severe emotional injury when he continued to experience feelings of worthlessness and low self-esteem for a period of five years, after he was denied a reasonable accommodation and constructively discharged. Complainant constructively discharged.

Yasko v. Dep't of Army, EEOC Appeal No. 01A32340 (April 21, 2004)(**\$130,177** CPI Adj./\$100,000 award for emotional distress). Complainant started feeling depressed and anxious and was still in emotional distress when her psychologist wrote his statement four years later. It was expected the distress would last at least another four to eight months. Complainant feared for her life, and continued to do so at least until she stopped working. At times she was too anxious to go to work, and upon returning from work would frequently cry and vomit. The

harassment broke the complainant's spirit, and she changed from a lively affectionate person to a depressed and angry person. For months she was so depressed she had trouble getting out of bed, and when she was awake, was barely capable of conversation. She suffered from debilitating anxiety attacks for years, and was so jumpy she no longer drove. The anxiety attacks isolated the complainant, at first preventing much social contact, but later usually preventing extended social contact. She had ongoing problems with suicidal ideation, nightmares about the harassment, and insomnia. As a result of the harassment, she is distracted, and has trouble focusing and accomplishing tasks. As a result of the emotional injuries caused by the harassment, she has been incapable of working for a period of time.

Ellis-Balone v. Dep't of Energy, EEOC Appeal No. 07A30125 (December 29, 2004)(\$128,603 CPI Adj./\$100,000 award for emotional distress). For nine months, complainant suffered physical pain and depression, felt physically and emotionally drained.

Mika v. Dep't of the Air Force, EEOC Appeal No. 07A40113 (January 13, 2005)(\$128,334 CPI Adj./\$100,000 award for emotional distress). Complainant was wrongfully terminated from employment and started drinking so he could stay drunk and "sleep through it, [so he would not] have to worry about [being terminated]," and psychotherapy after termination.)

Vaughn C. v. Dep't of the Air Force, EEOC Appeal No. 0120151396 (April 15, 2016). (Agency's FAD award for emotional distress damages increased from \$20,000 to **\$127,858** CPI Adj./\$125,000). Complainant provided personal statements and statements from co-workers and a mental health counselor detailing the physical and emotional toll caused by the ongoing harassment. Complainant experienced increased anxiety, difficulty concentrating, a loss of appetite, high blood pressure and severe headaches, and stated that his physical and emotional relationship with his wife was negatively affected. Complainant's mental health counselor indicated that Complainant lost his motivation to work, felt anxious, developed insomnia, experienced a change in appetite and drinking resulting in a 15 to 20 pound weight gain, had difficulties with fatigue and focus, and had feelings of hopelessness. Complainant became paranoid that a co-worker would physically harm his family, even going to the extent of developing a "safety plan" in that eventuality.

Dildy v. Department of Veterans Affairs, EEOC Appeal No. 07A40115 (March 24, 2005), request to reconsider denied, EEOC Request No. 05A50787 (July 22, 2005)(\$126,607 CPI Adj./\$100,000 award for emotional distress) Complainant suffered extreme distress, irritable bowel syndrome, depression, loss of self-esteem, and deteriorating health requiring emergency medical care on several occasions.

Chastain v. Dep't of the Navy, EEOC Appeal No. 0120102409 (November, 17, 2010) *request for reconsideration denied*, EEOC Request No. 0520110240 (March 31, 2011)(Administrative Judge's \$15,000 emotional distress award increased to **\$125,943** CPI Adj./\$115,000). Complainant forced to resign in lieu of termination. Complainant suffered significant weight gain, an inability to sleep; nightmare; aggravation of physical injuries; stomach distress; change in personality; loss of enjoyment in life; withdrawal from family and friends; increased use of alcohol; lack of socialize; isolation; bouts of anger. Complainant saw a therapist twice a week until he could no longer afford the treatments. A clinical psychologist diagnosed Complainant as

suffering from Major Depression as a result of the Agency's actions and testified Complainant's prognosis for recovery was only "fair." Complainant's marriage deteriorated leading to divorce, and Complainant was only permitted to see his youngest daughter every other weekend and holiday. The Agency's discriminatory act occurred in March 2008 and Complainant's emotional injury was continuing at the time of the EEOC's decision on November 17, 2010.

Green v. Potter, Postmaster General USPS, EEOC Appeal No. 01A44490 (July 19, 2005) (\$125,247 CPI Adj./\$100,000 award for emotional distress). Complainant diagnosed with Post Traumatic Stress Syndrome, his social and occupational functioning had been significantly impaired, and his prognosis was poor. A clinical psychologist's stated complainant continued to display the symptom configurations associated with PTSD and major depression at severe levels. Complainant's prognosis was poor and that a global functionality assessment indicated a functionality of 50, which indicated serious impairment in social and vocational functioning. He had been on various psychotropic medications to control his symptoms, including, but not limited to Gabapentin, Citalopram Hydro bromide, Clonazepam, Quetiapine Fumarate, Trazodone, Nortriptyline, and Klonopin.

Kahn v. Dep't of the Interior, EEOC Appeal No. 07A50039 (September 28, 2005), the Commission awarded \$125,105 CPI Adj./\$100,000 in emotional distress damages despite the lack of medical testimony, where the complainant described harm involving: "avoidance of people, crowds, and intense distrust of White males; social isolation and withdrawal, including loss of friends and colleagues; joylessness and loss of sense of humor; distraction and withdrawal from family; relationship with husband severely strained; high levels of stress and anxiety; exacerbation of previously existing migraine, bronchitis, and asthma conditions; menstrual irregularities; gastro-intestinal disorders; cracking of the teeth due to excessive clenching and grinding; heart palpitations; 30 to 40 pound weight gain; foot problems; heartburn; difficulty sleeping; diagnosed with moderately severe depression and generalized anxiety; loss of appetite; diminished energy; and loss of self-esteem and self-respect."

Edie R. v. U.S. Postal Serv., EEOC Appeal No. 0120160784 (May 10, 2018)(Commission Affirmed Agency's Award of \$125,000). The AJ issued a decision finding that Complainant was subjected a hostile work environment based on her sex and disability, including repeated unwanted touching, as well as unwanted demeaning statements and criticism of her work by the Lead Manager of Distribution Operations. The AJ awarded Complainant \$125,000 in non-pecuniary damages, and \$6,000 in future pecuniary damages for one year of counseling. The Commission affirmed the AJ's award on appeal. The hostile work environment caused Complainant to suffer from migraines, panic attacks, and vertigo. Her diabetes was exacerbated, becoming "unmanageable." Moreover, Complainant had difficulty performing her job duties as the stress exacerbated her memory and concentration issues. The AJ found that although Complainant may have been fragile prior to the harassment, she was functional during that time. Accordingly, considering the nature, duration, and severity of Complainant's emotional harm and damage awards reached in comparable cases, the Commission found the AJ's award of \$125,000 in non-pecuniary compensatory damages was proper. Complainant did not challenge the award of future pecuniary damages on appeal.

Donita B. v. Department of Veterans Affairs, EEOC Appeal No. 0120160410 (October 18, 2017)(**\$125,000** award for emotional distress). Complainant was subjected to disability discrimination and a hostile work environment. The agency denied accommodation and discrimination for approximately five months until the physician stopped working. Complainant suffered from physical pain due to the agency's denial of accommodation. Complainant also suffered depression, anxiety, sleeplessness, suicidal thoughts, exhaustion, vocational distress, mood disturbances, and muscular tension.

Kendrick B. v. U.S. Postal Serv., EEOC Appeal No. 0720100036 (May 13, 2014)(Reducing an Administrative Judge's award to **\$123,446** CPI Adj./\$120,000 for emotional distress). Complainant suffered anxiety attacks, difficulty sleeping, fatigue, loss of appetite and weight loss, and withdrew from personal interactions. Two former employees stated that Complainant's demeanor changed after the reassignment. The AJ awarded Complainant differing amounts for various periods of time, but the AJ did not explain in any detail how he arrived at the amounts awarded. The AJ did not explain the reasoning for dividing the compensable period into separate timeframes, nor did he cite to specific evidence that he felt warranted the awards. Complainant filed additional EEO complaints during two of the periods for which the AJ awarded damages, but no discrimination was found in those matters.

Nicole D. v. U.S. Postal Serv., EEOC Appeal No. 0720130028 (June 10, 2015). (**\$123,064** CPI Adj./\$120,000 award for emotional distress) Complainant was subjected to sexual harassment causing her previously alleviated depression to return. She suffered from paranoia, anxiety, and insomnia. Complainant had difficulty with marital relations and sought assistance from the Agency's Employee Assistance Program.

Maeso v. Dep't of Homeland, EEOC Appeal No. 0720080003 (February 26, 2009)(**\$115,335** CPI Adj./\$100,000 award for emotional distress). Complainant submitted statements from friends and family members discussing her depression, exhaustion, sleeplessness, lack of self-esteem, stomach ailments, nervousness, and tearfulness because of the harassment. Her physician reported she "suffered from tension headaches, situational depression/anxiety, and mild panic attacks because of the hostile work environment."

Gray v. Dep't of Interior, EEOC Appeal No. 0120072136 (July 24, 2009). (Commission increased Agency FAD emotional distress award of \$10,000 to **\$113,643** CPI Adj./\$100,000 and a **\$6,100 tax enhancement on back pay**). Complainant had a massive weight gain to make herself less attractive to the sexual harasser. Complaint suffered hypertension, headaches, sleep disorder, depression, anxiety, nightmares, low self-esteem, increased alcohol usages and withdrew from relationships with her daughter, grandchildren and friends.

Sainz v. Dep't of the Treasury, EEOC Appeal No. 0720030103 (September 19, 2008)(**\$113,318** CPI Adj./\$100,000 award for emotional distress). For at least three years, Complainant's suffered ongoing depression, low self-esteem, reduction in his quality of life; financial difficulties, feelings of rejection, humiliation and isolation, and weight gain. Complainant was forced to sell a life-time collection of rare coins and currency that complainant considered irreplaceable.

Conrad v. Dep't of Justice, EEOC Appeal No. 0120090690 (April 9, 2010), *request for reconsideration denied* EEOC Request No. 0520100327 (February 4, 2011)(Agency FAD award of \$40,000 increased to **\$112,258** CPI Adj./\$100,000 for emotional distress). Complainant suffered from major depression, diminished enjoyment of life, withdrawal from family and friends, loss of concentration, memory loss, and weight fluctuation. Complainant was hospitalized as a result of the damages suffered from the discrimination.

Sorg v. Dep't of Commerce, EEOC Appeal No. 0720060065 (July 23, 2008), request for reconsideration denied, EEOC Request No. 0520080765 (December 17, 2008)(**\$111,260** CPI Adj./\$100,000 award for emotional distress). Complainant suffered both severe emotional and physical distress over a period of five years, and was diagnosed with irritable bowel syndrome, chronic depression, and anxiety. Complainant was to be treated for these conditions indefinitely.

Hayden K. v. Dep't of Def., EEOC Appeal No. 2018000020 (Feb. 11, 2020)(Commission increased Agency award of \$25,000 for emotional distress damages to **\$110,000**). In a prior decision, the Commission found that the Agency discriminated against Complainant when it terminated him during his probationary period, and ordered the Agency, among other things, to investigate his claim for damages. In addition to his own statement, Complainant provided statements from his physicians, friends, colleagues, pastor, and family members supporting his claim for damages. When Complainant was terminated, he was forced to move his family from South Korea to the United States, and Complainant stated that the termination caused him anxiety and depression which he continued to experience over a six-year period. His friends and colleagues noted a drastic change in his demeanor and personality. Complainant stated that he was diagnosed with anxiety, depression, and Post Traumatic Stress Disorder, for which he sought counseling. The Commission concluded that Complainant was entitled to an award of \$110,000. The Commission found no reason to disturb the Agency's award of \$4,150 in pecuniary damages.

Nia G. v. Department of Homeland Security, Immigration and Customs

Enforcement, EEOC Appeal No. 0120160716 (February 6, 2018)(Agency FAD of \$10,000 for emotional distress damages increased on appeal to **\$110,000**). Complainant worked as an Administrative Assistant, placed by a private staffing firm, at the Agency's Immigration and Customs Enforcement Service Processing Center in Florence, Arizona. The Federal government was held to be a joint employer of Complainant who was terminated as a reprisal action. After termination of her employment Complainant struggled to keep her home, lost her sole means of transportation, had to move in with her parents, could not find a full-time job locally, and had to commute 100 miles daily to a job that paid less than she made in her Agency position. Complainant slept and cried all the time, felt "worthless", experienced insomnia, and wanted to die. Complainant felt like she was going crazy and needed professional help, but she could not afford it. Complainant had to live on her savings and retirement withdrawals. Complainant's professional reputation was injured and caused her to be removed from Agency property as if she were a criminal. Complainant stated that she lives in a small town where everyone knows everyone else's business and she is humiliated. Complainant stated that she continues to be impacted by her discriminatory termination. Complainant's sister described Complainant as becoming "a completely different person" after her termination. Complainant's mother stated that Complainant lost her sense of identity, the ability to trust herself, and her self-esteem and,

"felt like I was losing my daughter." Complainant's former supervisor and friend stated that Complainant has been in great emotional pain and experienced a lot of humiliation over the years since her termination.

Scarlet M., Maxima R., Sharolyn S. v. Dep't of the Navy, EEOC Appeal Nos. 0120162856, 0120162855, 0120162816 (Jan. 30, 2017)(Commission Increased FAD award of \$30,000 for emotional distress to **\$110,000** for each of three Complainants). The Agency's Director violated Complainants' privacy by filming them while they used the bathroom which significantly affected them. Each Complainant indicated that, in the years since these events, they continue to have feelings of anxiety and fear that they are being watched. Two Complainants still work in the same building where the incidents occurred and still must use the same bathroom where their privacy was violated. One Complainant averred that she still fears using public restrooms for fear of being recorded. Another Complainant similarly stated that she has a hard time using public restrooms and continues to feel compelled to check for recording devices. The third Complainant averred that she covers herself when she uses the bathroom or a dressing room for fear of being recorded, and checks smoke detectors and mirrors to make sure that her privacy is not being violated. In addition, all three Complainants expressed the continued negative impacts of the event, some three years later, on their ongoing sense of mental well-being and their trust of others.

Lara G. v. U.S. Postal Serv., EEOC Appeal No. 0520130618 (June 9, 2017)(Awarding **\$110,000** in compensatory damages). This precedent setting case held the present-day value of awards in prior cases involving similar injuries may be considered when awarding compensatory damages. The Commission accepted updated values of prior awards by the Department of Labor Bureau of Labor Statistics, Inflation Calculator. Complainant's psychotherapist stated that Complainant "presented with a 4 year, 2 month history of severe stress symptoms and depression related to a work situation." A physician stated that Complainant spoke about a hostile work environment and felt "threatened, not only by the hostile environment but also due [to] the recent vandalism of her vehicle." The physician noted that Complainant worked at a substation that had "experienced an anthrax scare" in November 2001 and that Complainant had talked about the hostile work environment "[s]ince then." Complainant's psychotherapist stated on October 4, 2006, that Complainant could return to work but "needs to continue her weekly psychotherapy appointment schedule so that she can continue to work on her coping strategies and have an outlet to express any work related issues." The psychotherapist stated that Complainant experienced stress, anxiety, and depression "related to ongoing hostile work."

Mohar v. U.S. Postal Service, EEOC Appeal No. 0720100019 (August 29, 2011)(**\$108,028** CPI Adj./\$100,000 award for emotional distress). Complainant suffered major depression and post-traumatic stress disorder which was triggered by the work environment which the Agency took no action to address.

Auston, IV, v. Dep't of Veterans Affairs, EEOC Appeal No. 0120112574 (July 19, 2012)(Agency FAD award for emotional distress damages increased from \$40,000 to **\$106,821** CPI Adj./\$100,000). The Commission took into consideration that Complainant suffered from both an on the job injury and a car accident in the months prior to the discriminatory events. Damages evidence was presented by testimony of Complainant and his

wife. Complainant suffered severe emotional distress and was treated for anxiety and depression with psychotropic medication. Complainant lost his appetite, vomited constantly, had ulcers and lost twenty pounds. He suffered from worsened insomnia, irritability, and repeated asthma attacks. His family relations are quite strained, as his children worry about being homeless. Complainant's wife testified that she and her husband have been through life's "up's and down's," but nothing like the time period referenced in the complaint. She testified that the family went into enormous debt to keep their mortgage current and pay for their children's education. She states they no longer go on vacations, keep up their house, and their retirement is no longer secure. She states Complainant is sad and stressed, and has withdrawn from family functions. His sleep patterns and health have deteriorated, and marital friction has increased. According to Complainant's wife, Complainant no longer attends family functions, his children's sporting events, and no longer spends time with friends.

Guess v. Environmental Protection Agency, EEOC Appeal No. 0720110029

(June 12, 2012)(\$106,647 CPI Adj./\$100,000 award for emotional distress). Complainant suffered humiliation, embarrassment, loss of enjoyment of life, and emotional harm as well as for physical manifestations of that harm as described by her (anxiety, depression, chest pain, shortness of breath, insomnia, crying, swelling in the eyes and weight gain and she was prescribed the antidepressant Zoloft), her family, friends, co-workers and her doctor.

Fivecoat v. Dep't of the Air Force, EEOC Appeal No. 0720110035 (May 15, 2012)(\$106,491 CPI Adj./\$100,000 award for emotional distress). Complainant and one of Complainant's best friends' testimony concerning Complainant's emotional distress. Complainant suffered depression, digestive problems, sleep disturbance and nightmares, crying spells, and episodic high blood pressure. Complainant was a very sociable and outgoing person who enjoyed activities such as traveling, sightseeing, and quilting – but became angry, anxious, depressed, fearful, and stopped participating in the activities she had once enjoyed. Complainant's self-esteem "went downhill." Complainant rarely left the house, would sit around in her pajamas all the time, had "greasy" hair, and stopped cleaning her house to the point where it became "filthy." Complainant felt hopeless, slept all the time, withdrew from people, and started getting angry. Complainant did not make new friends and became "a recluse." Complainant's house "looked like she had started unpacking, and she had never finished." Complainant's health deteriorated and the fire department had to be called to check her blood pressure at work because it was so high.

Small v. U.S. Postal Service, EEOC, Appeal No. 0720100031 (April 5, 2012)(\$106,366 CPI Adj./\$100,000 award for emotional distress). Complainant, who was denied accommodation, suffered back pain that rendered him no longer capable of picking up his toddler daughter and now she mimics his complaints of back and neck pain; he had to stop playing his favorite sports of 18 years -- golf and softball; he cannot walk around as he did; he has difficulty writing or typing for any length of time, and he had to pass on many household duties to his wife. Complainant testified he suffered depression and was stressed about his inability to work and pay bills. Complainant testified that he suffered permanent back damage and has had panic attacks due to the stress imposed upon him and stomach problems. Complainant is receiving psychological counseling.

Spence v. Nuclear Regulatory Commission, EEOC Appeal No. 0120093196 (September 13, 2012) request for reconsideration denied, EEOC Request No. 0520130050 (March 15, 2013). (**\$105,758** CPI Adj./\$100,000 award for emotional distress). The Commission attributed many of Complainant's injuries to incidents outside the scope of the Agency's actions at issue. Complainant suffered three lumbar herniated discs and two cervical herniated discs with impingement, cervical spinal stenosis, thoracic outlet syndrome and permanent impairment to his upper and lower extremities requiring a variety of medications for his chronic pain. Complainant states that he will experience severe pain and mental anguish for the rest of his life. Complainant states that he is unable to exercise, cannot lift more than ten pounds, has experienced a loss of enjoyment of life, inconvenience and an inability to perform household chores.

Joannie V. v. Dep't of Homeland Security, EEOC Appeal No. 0720130010 (October 31, 2013)(**\$104,790** CPI Adj./\$100,000 award for emotional distress). Complainant, two co-workers, and Complainant's doctor testified regarding the effects of the harassment. Complainant stated that the harassment adversely affected her health, her sleep, and her attitude, and caused her anxiety, stress, chest pain, shortness of breath, and heart palpitations. Complainant's doctor testified that he discussed stressors at work with Complainant and prescribed medication for anxiety and high blood pressure. Complainant's co-workers confirmed the description of her symptoms. While Complainant had previously been diagnosed with depression and heart disease, the record showed that the discrimination significantly worsened Complainant's symptoms.

Samuel R. v. Dep't of Veterans Affairs, EEOC Appeal No. 0120140216 (February 25, 2015)(Commission increased Agency FAD \$30,000 emotional distress award to **\$104,265** CPI Adj./\$100,000). Complainant's asthma and depression predating the discrimination, was aggravated by the Agency's failure to provide accommodation. For five months Complainant's was exposed him to toxic irritants resulting in both physical and psychological harm. Complainant felt humiliated, depressed, and anxious, and experienced sleep disturbances and severe mood changes. Complainant's wife corroborated Complainant's symptoms.

Sana I. v. Social Security Administration, EEOC Appeal No. 0120132400 (February 19, 2014)(**\$104,238** CPI Adj./\$100,000 award for emotional distress). Complainant was denied reasonable accommodation for more than four years and the denial exacerbated her depression causing her to start taking antidepressants. The discrimination also resulted in anxiety, increased hair loss, sleep disturbances, and headaches. Complainant indicated that the symptoms required more frequent visits to her physician and therapist, and provided a letter from her physician to corroborate her assertions. The physician noted that Complainant had to be placed on additional medication due to the worsening of her medical conditions. Complainant did experience additional stress from other events which impacted her medical condition. The Commission stated, however, that the additional stress occurred only in the last six months of the period at issue, and both Complainant and her physician cited the Agency's failure to provide accommodation as the reason for the deterioration of Complainant's medical condition. Thus, the Commission concluded that the Agency's failure to accommodate Complainant caused greater harm to Complainant's well-being.

Margaret L. v. Dep't of Veterans Affairs, EEOC Appeal No. 0120150582 (Apr. 17, 2018)(Commission increased award of emotional distress damages to **\$100,000** & increased

award of past & future pecuniary damages). The Agency awarded Complainant \$60,000 in non-pecuniary compensatory damages, \$454.80 in past pecuniary damages, and \$89,442.62 for future pecuniary damages. On appeal, the Commission agreed with the Agency that Complainant was entitled to \$454.80 for documented costs for health insurance, and that Complainant was not entitled to reimbursement for parking expenses and wear and tear on her car as she failed to document those expenses. The Commission also found that while Complainant failed to sufficiently establish that she incurred most of the claimed expenses, she did show that she was entitled to additional reimbursement for costs associated with her visits to a psychiatrist and a Licensed Clinical Social Worker. The Commission increased the award of non-pecuniary damages to \$100,000, finding that amount was more appropriate and consistent with amounts awarded in similar cases. Complainant experienced insomnia and feelings of dread and isolation. She developed Post Traumatic Stress Disorder and required ongoing medication and therapy sessions. Medical statements indicated that she experienced emotional turmoil for several years and was diagnosed with major depression and recurrent, generalized anxiety disorder. The Agency found that Complainant sufficiently documented her estimate of future pecuniary damages related to treatment she was expected to incur, but reduced the damages to one third of the requested amount due to pre-existing mental health issues that pre-dated the discrimination. The Commission disagreed with the Agency's reduction, stating that the record reflected that Complainant's future treatment was significantly related to the Agency's actions. The Commission noted that documentation showed Complainant had experienced other stressors which she discussed with her medical professionals, and reduced the award of future pecuniary damages by one-half.

Stephanie A. v. Dep't of Def., EEOC Appeal No. 0120161052 (Jun. 5, 2018)(Commission increased award of emotional distress damages to **\$100,000** & increased award of pecuniary damages). The Commission increased the Agency's award of nonpecuniary compensatory damages from \$60,000 to \$100,000 after previously finding that the Agency was liable for subjecting Complainant to a discriminatory and retaliatory hostile work environment.

Complainant stated that she experienced severe emotional distress and humiliation by the harasser's actions which made her relive past abuse she suffered as a child. She also suffered nightmares, and developed stomach ulcers, anxiety, irritable bowel syndrome, and acid reflux. Family members and friends confirmed Complainant's health deteriorated as a result of the harassment and her ex-husband stated that their marriage became strained and Complainant withdrew from family and church activities. Complainant's son stated that when Complainant returned from work she would cry and she suffered from anxiety. Other friends and family described Complainant as fearful, stressed, and hyper-vigilant. In addition, the Commission modified the award of pecuniary damages from approximately \$3,000 to over \$107,000 to cover out-of-pocket expenses based on the evidence from health care providers that confirmed Complainant's condition including PTSD, anxiety, stress, sleeplessness and hypertension that was directly and proximately exacerbated by the discrimination and harassment. The amount was not reduced by what insurance covered, under the collateral source rule. The Commission denied compensation for a health and fitness program recommended by Complainant's doctor because there was an insufficient nexus between Complaint's condition and the program.

Demarcus I. v. Dep't of Def., EEOC Appeal No. 0120150529 (May 4, 2017)(Commission increased a FAD award of emotional distress damages from \$25,000 to **\$100,000**). Complainant

suffered from PTSD, anxiety, stress, and sleeplessness directly and proximately caused by the discrimination and harassment. Complainant suffered extreme emotional turmoil due to marital and familial strain, severe anxiety and stress, extreme humiliation and embarrassment, feelings of dread, insomnia, feelings of isolation and other PTSD symptoms necessitating weekly therapy sessions and medication.