

Non-pecuniary damages must be limited to the sums necessary to compensate the injured party for actual harm, even where the harm is intangible, see *Carter v. Duncan Hogans, Ltd.*, 727 F.2d 1225 (D.C. Cir. 1994), and should take into account the severity of the harm and the length of time that the injured party has suffered the harm.

Objective evidence of compensatory damages can include statements from the complainant concerning her 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. 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? Evidence from a health care provider or other expert is not a mandatory prerequisite for recovery of compensatory damages for emotional harm. A complainant's own testimony, along with the circumstances of a particular case, can suffice to sustain her burden in this regard. 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; consequently, somewhat more conclusory evidence of emotional distress will be acceptable to support an award for emotional damages. Nevertheless, the absence of supporting evidence may affect the amount of damages appropriate in specific cases.

Harris v. Dept. of Agriculture, EEOC Appeal No. 01966746, 1998 WL 897680, *4 December 11, 1998.), citing, *Lawrence v United States Postal Service*, EEOC Appeal No. 01952288 (April 18, 1996).

Complainant alleged she was harassed. Whether true or not, Complainant was clearly upset about the situation. The Agency, instead of following Agency procedure, set about a course of conduct designed to discredit and humiliate the Complainant. The Agency's actions in this regard exacerbated complainant's problems. Her supervisor spoke openly about the merits of her allegations. Her supervisor attempted to comfort her alleged harasser and confide in him that he did not believe her allegations. Complainant was removed from her ordinary place of work and forbidden to eat lunch where she desired. She was forced to undergo a FFD examination, when none was necessary. She was subsequently temporarily removed from employment. She was humiliated.

Complainant's emotional damages were extensive. Changes in her emotional state since the beginning of her ordeal are documented by several witnesses and appear throughout the record (ROI, pp. 221-235), including the Damage Hearings Exhibits. Most notably, Xxxxx Xxxxx, MSW, LCSW, documented the Complainant's need for emergency telephone therapy and her need to be absent from work. Xxxxx also described the conditions experienced by the Complainant- anxiety, depression and insomnia. Although complainant took a short break from therapy, it is evident that her emotional problems

had been ongoing. As late as, September 2000, Xxxxx documented that the Complainant began crying while recalling the Agency's actions, and as late as of the third day of the hearing in this matter the Agency's retaliatory conduct continued.

The Commission recognizes that a proper award must meet two goals: that it not be "monstrously excessive) standing alone and that it be consistent with similar awards made in similar cases. See *Cygnar v. City of Chicago*, 865 F.2d 827, 848 (7th Cir. 1989). In other employment discrimination cases, federal courts have awarded compensatory damages in a wide range of amounts depending on the facts of the particular case. In *Rowlett v. Anheuser-Busch, Inc.*, 832 F.2d 194 (1st Cir. 1987), the court held that a jury's decision to award the plaintiff \$123,000.00 for emotional distress was not improper based on the testimony from the plaintiff, who noted the stress caused by his discriminatory termination from the defendant, and corroboration from a psychiatrist, who also noted that the plaintiff suffered from anxiety and some depression. The court noted that the amount awarded was not "'grossly excessive' compensation for the emotional distress that would accompany several years of discrimination at work and a significant period of unemployment." *Id.* at 205. In *Kientzy v. McDonnell Douglas Corp.*, 990 F.2d 1051 (8th Cir. 1993), the court upheld an award of \$150,000.00 in sex discrimination case based on the testimony of plaintiff and psychiatrist of emotional damages. In *Moody v. Pepsi- Cola Bottling Co.*, 915 F.2d 201 (6th Cir. 1990), the court upheld a \$ 150,000 award on a wrongful discharge/age discrimination case based on testimony of plaintiff, who testified to shock, humiliation, and adverse effect on family, and of his wife, who testified that plaintiff was upset to the point of crying. In *Lussier v. Runyon*, 3 A.D. Gas. (BNA) 223 (D. Me. 1993), an award of \$75,000.00 was upheld where the defendant's actions "caused severe and substantial injury to [plaintiffs] mental health, self-esteem and status within his family and the community."

In this case, the Complainant suffered prolonged mental anguish, depression, humiliation, and insomnia. I find that an award of \$ 50,000 sufficiently compensates her for the damages directly attributable to the Agency's conduct. I also find that this amount is not excessive given the amount of harm she suffered as indicated in the record. Furthermore, this award is in line with the award in comparable cases.