

1 Julia Parish (SBN 279065)  
E-Mail: jparish@legallaidatwork.org  
2 Katherine Wutchiett (SBN 308240)  
E-Mail: kwutchiett@legallaidatwork.org  
**LEGAL AID AT WORK**  
3 180 Montgomery Street, Suite 600  
San Francisco, CA 94104  
4 Tel: (415) 864-8848  
5 Fax: (415) 593-0096

6 Wendy E. Musell (SBN 203507)  
E-Mail: wmusell@stewartandmusell.com  
**STEWART & MUSELL, LLP**  
7 2200 Powell St., Ste. 440  
Emeryville, CA 94608  
8 Tel: (415) 593-0083  
9 Fax: (415) 520-0920

10 Attorneys for Plaintiffs  
May Thin Zar  
Phyu Castillo

11  
12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
14

15 MAY THIN ZAR and PHYU CASTILLO, )  
16 Plaintiffs, )  
17 v. )

Case No. 19-cv-250  
**PLAINTIFFS' COMPLAINT FOR  
DAMAGES AND DECLARATORY  
AND INJUNCTIVE RELIEF**

18 MEGAN J. BRENNAN, POSTMASTER )  
19 GENERAL OF THE UNITED STATES )  
20 POSTAL SERVICE, )  
21 Defendant. )

1. Discrimination and Harassment  
based on sex – Title VII  
(42 U.S.C. § 2000e, et seq.);  
2. Retaliation – Title VII  
42 U.S.C. § 2000e, et seq.);

22 **DEMAND FOR JURY TRIAL**  
23 )  
24 )

1 Plaintiffs May Thin Zar and Phyu Castillo allege as follows:

2 **INTRODUCTION**

3 1. Plaintiffs May Thin Zar and Phyu Castillo (“Plaintiffs” or “Ms. Thin Zar” and  
4 “Ms. Castillo”), are employees of the United States Postal Service (“Defendant” or “U.S.P.S”) in  
5 Daly City, California. They bring this Title VII action for sexual harassment and sex  
6 discrimination perpetrated by their supervisor and co-employee, Ronald Caluag. Mr. Caluag’s  
7 harassing conduct included restraining Plaintiffs against their will; engaging in unwelcomed  
8 offensive touching, grabbing, and kissing; and making unwelcomed lewd, sexual, and aggressive  
9 comments. This sexually harassing conduct was both severe and pervasive and created a hostile  
10 work environment for Plaintiffs. Although aware of Mr. Caluag’s conduct, the U.S.P.S failed to  
11 adequately protect Plaintiffs. Plaintiffs also bring a claim for retaliation.

12 2. Plaintiffs seek an injunction that prohibits the U.S.P.S. from assigning Mr. Caluag  
13 to any facility at which the Plaintiffs are working and that requires the U.S.P.S. to take all steps  
14 necessary to protect Plaintiffs and other female employees from sexual harassment and  
15 discrimination by Mr. Caluag. Plaintiffs also seek an award of compensatory damages for pain  
16 and suffering, reasonable attorneys’ fees, and costs.

17 **JURISDICTION AND VENUE**

18 3. This court has jurisdiction over the subject matter pursuant to 28 U.S.C. §§ 1331,  
19 1343(a)(4). This action arises under federal law: Title VII of the Civil Rights Act of 1964, 42  
20 U.S.C. § 2000e, *et seq.*

21 4. Venue is proper in the Northern District of California pursuant to 28 U.S.C. §  
22 1391(e), because the unlawful practices alleged in this complaint occurred in the Northern  
23 District of California.

24 **INTRADISTRICT ASSIGNMENT**

25 5. Assignment of this action to the San Francisco Division of this Court is proper  
26 pursuant to Local Rule 3-2(c) and (d) because the events giving rise to this action occurred in  
27 San Mateo County, California.

28

**PARTIES**

6. Plaintiff May Thin Zar is, and at all relevant times was, a resident of the Northern District of California and employed by Defendant U.S.P.S. at its Post Office in Daly City.

7. Plaintiff Phyu Castillo is, and at all relevant times was, a resident of the Northern District of California and employed by Defendant U.S.P.S. at its Post Office in Daly City.

8. Defendant Megan J. Brennan is Postmaster General of the U.S.P.S. and is therefore head of the relevant executive agency. Accordingly, Ms. Brennan is named as defendant in this action pursuant to 28 U.S.C. § 2000e-16(c). Defendant is sued in her official capacity only.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES**

9. Plaintiff May Thin Zar filed an informal EEO complaint on December 8, 2017, followed by a formal EEO complaint on approximately March 20, 2018. In mid-April, Ms. Thin Zar responded to the Acceptance for Investigation, requesting that the EEO investigate all complaints alleged in her complaint. The EEO investigated and issued its final agency decision on November 13, 2018.

10. Plaintiff Phyu Castillo filed an informal EEO complaint on approximately January 9, 2018, which she amended on or about February 28, 2018, followed by a formal EEO complaint on approximately April 4, 2018. The EEO investigated and issued its final agency decision on October 18, 2018.

11. Plaintiffs have fully exhausted their administrative remedies and are entitled to file in the district court.

**FACTS**

**May Thin Zar**

12. Ms. Thin Zar is female. She began working for the U.S.P.S. at its Daly City location in September 2016 and continues to be employed there. Her primary job duties include preparing and delivering mail.

13. Soon after beginning her employment, Ms. Thin Zar noticed that Mr. Caluag watched her and tried to stay in close proximity to her. Shortly thereafter, almost every shift that he supervised Ms. Thin Zar, approximately once weekly, Mr. Caluag started telling her that he liked

1 and loved her and wanted to go on a date with her. Ms. Thin Zar would tell Mr. Caluag that she was  
2 married, that she was not interested in him, and that she did not want a relationship with him. Ms.  
3 Thin Zar worried about being alone with Mr. Caluag and asked a coworker to stay with her at the  
4 end of their shift. On at least one occasion, Mr. Caluag asked the coworker to leave, so that he could  
5 drive Ms. Thin Zar home alone.

6 14. In early to mid-2017, the coworker that stayed with Ms. Thin Zar transferred to  
7 another office. Mr. Caluag began touching, sniffing, smelling, and kissing Ms. Thin Zar's hair and  
8 attempting to kiss her cheek during almost every shift that he supervised her. This was frightening  
9 and offensive to Ms. Thin Zar. Because of Mr. Caluag's conduct, Ms. Thin Zar asked other  
10 coworkers to wait for her at the end of their shift and leave with her. She told some of these  
11 coworkers that the reason for her request was that she did not want to be alone with Mr. Caluag,  
12 because he would try to touch or kiss her.

13 15. In around June 2017, Mr. Caluag asked Ms. Thin Zar to help him with a task in a  
14 private office. Because Mr. Caluag was Ms. Thin Zar's supervisor, she said yes. Once they were  
15 inside the office, he closed the door, restrained her, and kissed her. Ms. Thin Zar was terrified. She  
16 turned her head so that he could only kiss her cheek, yelled, struggled to get away, broke free, and  
17 ran out of the room.

18 16. Mr. Caluag started asking Ms. Thin Zar to go into private offices with him almost  
19 every shift that he supervised her, approximately once weekly. On one occasion, soon after the June  
20 attack, Mr. Caluag grabbed Ms. Thin Zar's wrist and tried to drag her back into a private office. Ms.  
21 Thin Zar yelled and struggled free, but injured her wrist in the process.

22 17. On or about October 29, 2017, Mr. Caluag waited for Ms. Thin Zar near the exit at  
23 the end of her shift. Ms. Thin Zar told Mr. Caluag that she wanted to go home, but Mr. Caluag came  
24 toward Ms. Thin Zar and grabbed her, wrapping his arms around her, kissing her aggressively with  
25 his tongue, causing her to fall down, and then falling on top of her. Through the entire incident, Ms.  
26 Thin Zar struggled to get away. Eventually, she escaped and left. Ms. Thin Zar reported this  
27 incident to her supervisor on or about the next day. She was afraid for her job, but believed that if  
28

1 she did not do something, the sexual attacks against her would continue to escalate and Mr. Caluag  
2 would rape her.

3 18. After Ms. Thin Zar reported what had happened and her fear that Mr. Caluag would  
4 attack her, she continued to be required to work with him. Mr. Caluag would glare at her when he  
5 saw her around the office and laugh. This was frightening to Ms. Thin Zar and demonstrated that  
6 Mr. Caluag did not take her complaints seriously and that he was untouchable. Ms. Thin Zar is  
7 informed and believes that Mr. Caluag told her coworkers that she would be fired for reporting him.  
8 During the investigation of her complaint, management warned Ms. Thin Zar to “be careful”  
9 because Mr. Caluag had complained about her. Ms. Thin Zar continued working, afraid both for her  
10 safety and her job.

11 19. The trauma of the attacks and subsequent fear for her safety have caused Ms. Thin  
12 Zar to experience severe distress, for which she has sought medical care. Ms. Thin Zar felt  
13 humiliated and degraded by the sexual attacks and worries how they will impact how she is viewed  
14 in her community. Ms. Thin Zar continues to fear that Mr. Caluag will attack her while she is  
15 delivering the mail.

16 **Phyu Castillo**

17 20. Ms. Castillo began working for the U.S.P.S. around 2001. By 2003, she transferred  
18 to the Daly City Post Office. Her primary job duties include preparing and delivering mail.

19 21. At the Daly City Post Office, Ms. Castillo worked with Mr. Caluag. When Mr.  
20 Caluag and Ms. Castillo were alone together, Mr. Caluag would leer at Ms. Castillo’s breasts and  
21 make salacious comments like, “mmmmm,” or “I want some of this,” on about a weekly basis.

22 22. This continued through 2009, when Mr. Caluag’s behavior escalated. He began  
23 touching Ms. Castillo and suggesting that they perform sexual acts together. Often, he would grab  
24 her hand and try to drag her into a bathroom or private space.

25 23. In or around 2016, Mr. Caluag became a supervisor. He became yet more  
26 aggressive, frequently commenting on Ms. Castillo’s breasts and asking her for kisses.

27 24. In or around September 2017, Ms. Castillo approached Mr. Caluag to ask him about  
28 a union matter. In response, Mr. Caluag suggested that they go downstairs to smoke. When Ms.

1 Castillo and Mr. Caluag got down the stairs and were isolated, Mr. Caluag grabbed her, pressed his  
2 erect penis against her body, held her, and tried to kiss her. Ms. Castillo struggled free, repeating,  
3 “No!” and escaped to the parking lot. At the time, Ms. Castillo was afraid to report Mr. Caluag,  
4 because he was a supervisor and had held positions of power at work and in the union. Mr. Caluag’s  
5 abusive sexual behavior was open and notorious in the workplace for years and it appeared that  
6 U.S.P.S. took no effective actions to prevent or end it.

7 25. In November of 2017, Ms. Castillo learned that Mr. Caluag had assaulted her  
8 coworker, Ms. Thin Zar. Ms. Castillo was terrified for her own safety and that of her coworkers.  
9 Ms. Castillo reported what had happened to her to the Postmaster and explained that she did not feel  
10 safe at work.

11 26. Ms. Castillo continued to be required work shifts which could overlap with Mr.  
12 Caluag’s. When he saw her, Mr. Caluag glared or stared at Ms. Castillo. Ms. Castillo learned that  
13 Mr. Caluag had told other U.S.P.S. employees and supervisors that he felt sorry for Ms. Castillo and  
14 that Ms. Castillo had only reported him to get out of having to work. There appeared to be no  
15 consequences for this retaliatory conduct. Ms. Castillo felt afraid for her safety and reported Mr.  
16 Caluag’s statements to the Postmaster Charles Bolton.

17 27. The trauma of the attacks and subsequent fear for her safety have caused Ms.  
18 Castillo to experience severe distress, for which she has sought medical care. Ms. Castillo felt  
19 humiliated and degraded by the attack. Ms. Castillo continues to fear that Mr. Caluag will attack her  
20 while she is delivering the mail.

21 28. Upon information and belief, Mr. Caluag has sexually assaulted and harassed other  
22 female U.S.P.S. employees. Despite multiple women, including Plaintiffs, coming forward at great  
23 risk to themselves and describing the sexual attacks against them, the U.S.P.S. has refused to take  
24 prompt or effective action, brushing off the sexual assaults, requiring Plaintiffs to work with Mr.  
25 Caluag, and refusing to take adequate actions to address the harassment and discrimination against  
26 Plaintiffs. The U.S.P.S. keeps Mr. Caluag working in positions of actual or perceived authority  
27 where he has access to women he can exploit and abuse in the workplace.  
28

**FIRST CLAIM FOR RELIEF**  
**Sexual Harassment and Sex Discrimination**  
**(Title VII, 42 U.S.C. §§ 2000e, et. seq.)**  
**[On Behalf of Both Plaintiffs]**

29. Plaintiffs incorporate by reference each and every allegation contained in the preceding paragraphs as though fully stated here.

30. Title VII prohibits Defendant U.S.P.S. from discriminating against any employee on the basis of sex. Discrimination on the basis of sex includes sexual harassment.

31. In perpetrating the above-described acts and omissions, Defendant, its agents, servants, and/or employees, engaged in unlawful sexual harassment and discrimination in violation of Title VII.

32. Defendant, its agents, and employees engaged in targeted harassment against Plaintiffs because of their sex. Defendant subjected Plaintiffs to unwelcome sexual comments and sexual attacks and acts that were terrifying, humiliating, harmful, and degrading. Mr. Caluag’s sexual harassment caused Plaintiffs pain, stress, and anxiety. Plaintiffs obtained medical care for these conditions. The above-mentioned unwelcomed acts were severe or pervasive and created a hostile work environment for Plaintiffs.

33. Plaintiffs perceived the working environment to be abusive or hostile, which caused Plaintiffs sufficient stress and anxiety to require medical care.

34. Because Mr. Caluag acted as Plaintiffs’ supervisor, U.S.P.S. is strictly liable for Mr. Caluag’s sexual harassment of Plaintiffs.

35. Additionally, U.S.P.S. knew or should have known of Mr. Caluag’s sexual harassment and the resulting hostile work environment, but nevertheless failed to take prompt and effective remedial action. Accordingly, U.S.P.S. is liable for Mr. Caluag’s sexual harassment even if he was not acting as a supervisor. Plaintiffs were harmed because of the foregoing described conduct of Defendant, which was a substantial factor in causing Plaintiffs harm.

36. As a direct and proximate result of the actions alleged herein, Plaintiffs have and will suffer damages including, but not limited to pain, suffering, humiliation, shame, anxiety,

1 embarrassment, mortification, hurt feelings, physical harm, and emotional distress, all in an  
2 amount to be proven at trial.

3 37. Plaintiffs are entitled to statutory attorneys' fees and costs, and other appropriate  
4 relief as determined by this court.

5 **SECOND CLAIM FOR RELIEF**  
6 **Retaliation**  
7 **(Title VII, 42 U.S.C. §§ 2000e, et seq.)**  
8 **[On Behalf of Both Plaintiffs]**

9 38. Plaintiffs incorporate by reference each and every allegation contained in the  
10 preceding paragraphs as though fully stated here.

11 39. Title VII prohibits Defendant from retaliating against any employee because she  
12 engaged in a protected activity. Resisting and/or complaining of sexual harassment is a protected  
13 activity under Title VII.

14 40. Defendant and its agents, servants, and/or employees, engaged in unlawful  
15 retaliation in violation of Title VII.

16 41. Plaintiffs engaged in protected activity by resisting and complaining of sexual  
17 harassment and requesting to be protected from Mr. Caluag.

18 42. Defendant, its agents, and/or employees retaliated against Plaintiffs on the basis  
19 of their protected activity, and took material and adverse employment actions against them,  
20 including by creating and permitting a hostile work environment and requiring Plaintiffs to  
21 continue to work with Mr. Caluag even after they described sexual attacks against them that rise  
22 to the level of sexual assault and explained their fears of further attacks. U.S.P.S. led Plaintiffs to  
23 believe that Mr. Caluag was untouchable, and that they would never be able to safely work  
24 again. Mr. Caluag was permitted to spread gossip after Plaintiffs complained of harassment  
25 which caused Plaintiff Thin Zar to fear for her job and humiliated Ms. Castillo. Defendant failed  
26 to take effective remedial action such that the Defendant's action would deter a  
27 reasonable employee in the same situation from making a complaint.

28 43. As a direct and proximate result of the actions alleged herein, Plaintiffs have and  
will suffer damages including, but not limited to, pain, suffering, humiliation, shame, anxiety,



1 embarrassment, mortification, hurt feelings, physical harm, and emotional distress, all in an  
2 amount to be proven at trial.

3 44. Plaintiffs are entitled to statutory attorneys' fees and costs, and other appropriate  
4 relief as determined by this court.

5 **INJUNCTIVE RELIEF**

6 45. Plaintiffs incorporate by reference each and every allegation contained in the  
7 preceding paragraphs as though fully stated here.

8 46. Plaintiffs seek an injunction that prohibits the U.S.P.S. from assigning Mr. Caluag  
9 to any facility at which Plaintiffs are working, and that requires the U.S.P.S. to take all steps  
10 necessary to protect Plaintiffs and other female employees from sexual harassment and  
11 discrimination by Mr. Caluag.

12 47. Plaintiffs seek effective training that addresses sexual assault, sexual harassment,  
13 sexual discrimination, and retaliation in the workplace.

14 48. No previous application for injunctive relief sought herein has been made to this  
15 Court.

16 49. If this Court does not grant the injunctive relief sought herein, Plaintiffs will be  
17 irreparably harmed.

18 50. No plain, adequate, or complete remedy at law is available to Plaintiffs to redress  
19 the wrongs addressed herein.

20 **DECLARATORY RELIEF**

21 51. Plaintiffs incorporate by reference each and every allegation contained in the  
22 preceding paragraphs as though fully stated here.

23 52. An actual controversy has arisen and now exists relating to the rights and duties of  
24 the parties herein in that Plaintiffs contend that Defendant violated their rights not to be  
25 subjected to sexual harassment and retaliation. On information and belief, Defendant denies  
26 these allegations. Declaratory relief is therefore necessary and appropriate.

27 53. Plaintiffs seek a judicial declaration of the rights and duties of the respective  
28 parties.

**REQUEST FOR RELIEF**


WHEREFORE, Plaintiffs prays for relief as follows:

1. For declaratory judgment that the practices complained of in this complaint are unlawful and violate Title VII;
2. For injunctive relief, including but not limited to appropriate discipline and prevention of Mr. Caluag from working with Plaintiffs at the Daly City USPS office and requiring institutional adherence to reasonable sex harassment policies consistent with Title VII;
3. For compensation denied or lost to Plaintiffs by reason of the unlawful acts alleged herein, in an amount to be proven at trial;
4. For payment of compensatory damages for Plaintiffs' emotional pain and suffering, in an amount to be proven at trial;
5. For Plaintiffs' attorneys' fees and costs;
6. For payment of interest at the legal rate on such damages as appropriate, including pre- and post- judgment interest; and
7. For any further relief that the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs, hereby demand a trial by jury of each and every cause of action so triable.

DATED: January 14, 2019

By:   
Katherine Wutchiett

*Attorneys for Plaintiffs*  
*May Thin Zar & Phyu Castillo*

LEGAL AID AT WORK  
Julia Parish  
Katherine Wutchiett

STEWART & MUSELL  
Wendy Musell