

Samuel A. Vitaro  
ARBITRATOR / MEDIATOR / FACT -FINDER

[REDACTED]

October 3, 2005

Iilir M. Tsungu  
Chief, L&ER Policy Section  
Bureau of Immigration and Customs Enforcement  
Department of Homeland Security  
800 K Street, Northwest, Suite 5000  
Washington, D. C. 20536

Joe Goldberg, Assistant General Counsel -Litigation  
AFGE (A.FL-CIO)

[REDACTED]

Re: AFGE and NINSC / FLSA Grievance / Sept. 30, 2005 Conf. Call/Summary

(E-MAILED TO MR. TSUNGU at [Iilir.tsungu@dhs.gov](mailto:Iilir.tsungu@dhs.gov) AND FAXED TO MR. GOLDBERG ON October 4, 2005)

Dear Joe and Iilir:

Thank you for participating in the September 30, 2005 telephone conference and thank you to the Agency for arranging that call. There were several others on the line with us. They were Jim Bonnette, Wayne Coleman and Alithea Smalls. There were several matters discussed and addressed as follows:

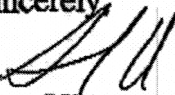
- Disputes as to Calculated Amounts -Ms. Smalls has received and passed on to NFC objections or questions by claimants as to calculated overtime. Some but not all have received letters from Ms. Smalls acknowledging their inquiry. Ms. Smalls will provide a list of the inquiries that have come to her attention and provide that list to the Union and to the arbitrator. Please provide that list by October 7 (or let us know about any delay). The Union will attempt to make clear to disputants that they should only call 202-344-3705, and not other Agency numbers, to lodge their dispute. Also, Joe will telephone Iilir, as to any inquiries that he receives about the purported incorrect calculated amount (and confirm by letter to Iilir and the arbitrator, as well). The parties recognize that some disputes will have to be resolved by hearing. However, the Union has suggested and the agency will consider a joint management-union committee (of equal members) to weed out and resolve some of the disputes) without a hearing.

- How the Agency Intends to Process Suffer or Permit Claimants, entitled to back pay -The Agency has contacted and has an initial agreement with CBP to process these claims in house, with information received from NFC. Ilir has unsuccessfully attempted to contact NFC, as to process of providing the information (to include whether they can simply provide information as to all suffer or permit claimants, even before entitlement is determined as to some). Ilir will report on those efforts during the next conference call.

Information Provided by the Agency as to Specific Claimants - Those responses were: - 4903 (entitled to \$ / for some reason hasn't gotten check / NFC will have to be contacted); -6615 (wife erroneously received check / apparently worked out); -5106 (apparently not entitled to \$ but hasn't received calculation letter). The Union also provided the Agency with the name (Christman) and telephone number of another claimant who requires a call back. In turn, Joe was not aware of an inquiry from another claimant (Gorham).

- Back overtime possibly attributed to current year's limits - The Union provided the Agency with the name of a CIS employee in Dallas who had concerns. The Agency will check with that organization. Absent a stronger indication that this is a widespread or more systemic problem, I rejected the Union's suggestion that the Agency send out a global notice, as to this matter.
- As to new claimants who have not yet been determined as class members, the Union had previously provided information as to some. It is collecting additional information as to some of the others, which it intends to move into evidence. The Agency has indicated that it will object on the basis of untimeliness (and perhaps for other reasons as well). This matter is premature. When and if the Union moves additional information, the parties will be provided an opportunity to argue for or against admission.
- We will talk by conference call on October 27, 2005 at 11:00 am, EST (and 8:00 am, PST). The Union will initiate that call. (Of course, the Agency should notify the Union of who will participate in that call besides Ilir and the telephone numbers for them). The Agency will attempt to gain the participation of NFC for this conference call.

Please let me know if the above does not comport with your recollection or notes.

Sincerely,  
  
Sam Vitaro