

NATIONAL COUNCIL OF EEOC LOCALS No 216, AFGE, AFL-CIO

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PRESS RELEASE

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ARBITRATOR RULING IMPOSES OVERTIME LIABILITY ON EEOC: CLOCK TICKING

On March 23, 2008, Arbitrator Stephen Wolf issued his decision in an arbitration case brought by the National Council of EEOC Locals, No. 216, AFGE/AFL-CIO on behalf of Investigators and Mediators at the Equal Employment Opportunity Commission. EEOC had classified these employees as exempt under the Fair Labor Standards Act, thereby excusing the EEOC from having to pay these employees when they worked overtime. Because EEOC refused to do the right thing by its employees, the National Council filed the grievance in April of 2006 and pursued the matter to arbitration.

Levi Morrow, Chief Negotiator for the National Council says, "EEOC is a small agency that traditionally has been short on cash, especially these past five years when it has limped along on level funding." Since 2001, EEOC has lost 25% of its workforce to a multi-year hiring freeze. EEOC rarely replaces these departing employees. EEOC's FY07 year end statistics demonstrate that staffing losses have resulted in staggering backlogs and longer case processing times. Yet, employees work through lunch, stay late, take work home, and work weekends. According to Morrow, "Instead of hiring, the agency just squeezes more work out of the skeleton crew we have left, then tries to get out of paying overtime."

Morrow states, "The agency saved money by misclassifying these employees as exempt. For a government agency that often has to tell other employers to follow the law, this decision should be an embarrassment. Saddling these already overwhelmed employees with additional duties, and refusing to pay them jeopardizes the American dream. EEOC has exploited the very workers whose job it is to ensure that America's workers get a fair shot at jobs and promotions."

While this decision is not yet the end of a long journey for EEOC's employees, it should send a signal to EEOC that it is not above the law. Hearings to determine the EEOC's financial liability began in January and are continuing. Although Arbitrator Wolf directed the parties to meet to arrive at a resolution of the appropriate remedy, Morrow says that the National Council is doubtful. "EEOC has had numerous opportunities to correct a bad decision and has declined to do so. Therefore, the clock continues to tick on damages." The arbitrator's decision affects approximately 600 plus Investigators at grades 9 through 12 and approximately 100 Mediators at grades 12 and 13.

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