

LOCAL 3614, National Council of EEOC Locals, No. 216, AFGE, AFL-CIO  
C/O 10 S. Howard Street, Suite 3000, Baltimore, Maryland 21201, (410) 962-4220

Hand Delivered

February 5, 2003

Silvio G. Fernandez  
Acting Director  
Washington Field Office

**RE: Grievance on Fair Labor Standards Act and Comp Time Violations**

Dear Mr. Silvio Fernandez,

AFGE Local 3614 ("Union" or "AFGE") hereby files this **Grievance** regarding EEOC's violation of the Fair Labor Standards Act ("FLSA") and other violations of the Collective Bargaining Agreement, law, rule and regulation.

This **Grievance** is filed pursuant to the Agreement between the EEOC and the Union ("Agreement"). This **Grievance** is filed on behalf of all bargaining unit employees represented by AFGE.

The Union alleges that EEOC violated the FLSA, and all other applicable Articles, laws, rules and regulation in the following manner:

1. Since at least 1995, EEOC has failed to properly classify bargaining unit employees as non-exempt from the overtime pay requirements mandated by the FLSA.
2. Since at least 1995, EEOC has failed to pay bargaining unit employees the proper amount of overtime, by failing to pay employees the proper overtime rate mandated by the FLSA for the overtime hours for which the employees were paid, and by failing to pay employees for all of the hours of overtime they worked ("suffered and permitted overtime").
3. Since at least 1995, EEOC has failed to offer employees their guaranteed right to choose between compensatory time or overtime.

## REMEDY

As a remedy, the Union requests the following relief:

1. An order directing EEOC to retroactively and prospectively reclassify as non-exempt all bargaining unit employees improperly classified as exempt from the FLSA overtime requirements.
2. An order directing EEOC to pay back pay to all improperly classified employees in accordance with the following:
  - a. the difference between the amount of capped overtime paid to the employees in question and the amount of overtime mandated under the FLSA for the past three (3) years;
  - b. full compensation for all suffered and permitted overtime worked;
  - c. the greater of liquidated damages or interest; and
  - d. any and all emoluments, including, but not limited to, Thrift Savings Program contributions.
3. An order directing EEOC to pay reasonable attorneys' fees, costs and expenses.
4. An order directing EEOC to cease and desist failing to offer employees a choice between compensatory time and overtime.
5. An order directing EEOC to pay back pay, with interest, to all employees who were not given a choice between compensatory time and overtime, in the amount of the difference between the employees' hourly rate they were paid for compensatory time and the rate at which the employees should have been paid under the FLSA.
6. Any other relief deemed necessary and proper by the Union or Arbitrator.

### **Request for Information Pursuant to §7114(b) of the FLMR Statute**

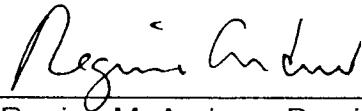
The Union requests the following information within thirty (30) calendar days, and in any case prior to the Grievance meeting requested below:

- a. A list of all bargaining unit employees represented by AFGE as of November 1, 1999, in electronic (spreadsheet) format and hardcopy.

- b. A list of all bargaining unit employees represented by AFGE as of November 1, 2000, in electronic (spreadsheet) format.
- c. A list of all bargaining unit employees represented by AFGE as of November 1, 2001, in electronic (spreadsheet) format.
- d. A list of all bargaining unit employees represented by AFGE as of November 1, 2002, in electronic (spreadsheet) format.
- e. A list of each above named employee, their position title, number and grade, and FLSA exempt or non-exempt status.
- f. The business phone number and address of each named employee.
- g. A copy of each position description for each named employee and a copy of the Factor Evaluation Statement for each named employee, in electronic (if available) and hardcopy form.
- h. A list of all information relied upon to classify each FLSA exempt employee as FLSA exempt, including the date the employee was exempted, the name of the person who made the decision to exempt, identification of all information relied upon to exempt the employee and copies of all documents relied upon to exempt the employee.
- i. The specific exemption(s) relied upon at the time each position was classified as FLSA exempt.
- j. A list of all overtime worked, by employee and pay period, to any bargaining unit employee represented by AFGE since November 1, 1999, indicating the employee's normal hourly rate of pay and the rate of overtime pay.
- k. A list of all compensatory time worked, by employee and pay period, by any bargaining unit employee represented by AFGE since November 1, 1996.

The above information is available and necessary for the Union to process this Grievance. The information will show that the Agency wrongfully classified employees under the FLSA, paid them the improper rate of overtime and failed to pay them properly for overtime/comp time. The Union will use the information in settlement discussions and/or at an arbitration hearing. The Union requests a formal meeting to discuss resolving this grievance, and appoints Regina Andrew, AFGE Local 3614 President, as its contact for all matters touching upon or concerning this Grievance:

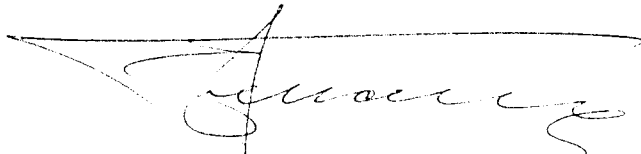
Respectfully Submitted,



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2-5-2003.-



SILVIO G. FERNANDEZ  
Acting Director