

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

STEPHEN ADAMS, <u>et al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 90-162C
)	and Consolidated Cases
THE UNITED STATES,)	(Judge Lynn J. Bush)
)	
Defendant.)	

JOINT STATUS REPORT

Pursuant to the Court’s Order of May 16, 2012, plaintiffs respectfully submit the following joint status report on behalf of all parties. Counsel for the parties have conferred regarding the filing of this document, and counsel for defendant has authorized counsel for plaintiffs to state that defendant concurs in the contents of this status report.

1. The parties have conferred and continue to confer with regard to various remaining matters in this litigation including but not limited, to the following:
2. As stated in previous joint status reports, the parties continue to discuss the FLSA exemption status of certain plaintiffs who occupied GM-13 positions.
3. With respect to plaintiffs who worked for the Office of Personnel Management as Series 1810 background investigators, the parties have reached a tentative agreement on the amount of back pay and liquidated damages due each of the approximately 50 plaintiffs who occupied such position. The amount due each plaintiff is subject to plaintiffs’ review and approval. Upon receipt of plaintiffs’ approval to settle, plaintiffs’ counsel will submit a settlement proposal to defendant for approval by the authorized representative of the Attorney General.
4. As stated in the parties’ previous joint status reports, the parties exchanged proposals and counterproposals during 2011 regarding settlement of the claims asserted by approximately 60 plaintiffs arising from their transfer to Opa Locka Airport upon the closing of Homestead Air Force

Base following Hurricane Andrew. On March 14, 2012, plaintiffs responded to defendant's November 14, 2011 letter concerning these claims, and defendant responded to plaintiffs' March 14 letter on March 26, 2012. After further discussions concerning these claims, the parties believe they are close to a resolution of this matter.

5. Other claims and issues that are under discussion between the parties include the following:

a. Technicians and other plaintiffs in non-1811 positions at the Department of Homeland Security ("DHS") and the Drug Enforcement Administration. There are two principal groups awaiting settlement: (a) approximately 31 plaintiffs who were technical employees at the United States Customs Service, and (b) approximately 30 plaintiffs in technical positions with DHS in Customs & Border Protection. Plaintiffs submitted settlement proposals for both groups on March 19, 2010. Since then, the parties have exchanged information concerning the amount of overtime worked by these plaintiffs. Defendant has computed back pay amounts in connection with these two groups, and has provided these computations to plaintiffs. Additional computations are necessary for some plaintiffs but the parties believe that they are close to resolution of these claims.

b. Defendant submitted a proposal to resolve claims for Sunday premium pay that plaintiffs are currently reviewing.

c. Plaintiffs proposed a resolution of the claim of Michael Banas, Defense Security Service Background Investigator and Customs Import Specialist, and are awaiting a response from defendant to their proposal.

d. Erroneous withholdings from deceased plaintiffs.

e. USSS1802 (Randy Espinoza, Scott Curtis, and Tom Radtke).

g. Approximately five plaintiffs who worked as criminal investigators with

the Defense Criminal Investigative Service who assert claims for the underpayment of Administratively Uncontrollable Overtime in addition to FLSA. Plaintiffs are in the process of constructing a settlement offer to defendant.

6. The parties propose that they submit a joint status report on or before September 19, 2012, to apprise the Court of the status of the resolution of the above-discussed matters.

Respectfully submitted,

OF COUNSEL:
Linda Lipsett

s/Jules Bernstein
Jules Bernstein (Counsel of Record)
Bernstein & Lipsett
1920 L Street, N.W., Suite 303
Washington, D.C. 20036
(202) 955-1390
(202) 296-7220 facsimile

s/Edgar James
Edgar James
James & Hoffman
1130 Connecticut Avenue, N.W., Suite 950
Washington, D.C. 20036
(202) 496-0500
(202) 496-0555 facsimile

Attorneys for Plaintiffs

Dated: July 17, 2012

CERTIFICATE OF FILING

I hereby certify under penalty of perjury that on this 17th day of July 2012, a copy of the foregoing "JOINT STATUS REPORT" was filed electronically. I understand that notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/Jules Bernstein