

FEDERAL MEDIATION AND CONCILIATION SERVICE

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
LOCAL 4036

Union,
and

UNITED STATES
DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF PRISONS
FCI MARIANNA

Agency.

FMCS Case Nos.: 06-00865

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between the U.S. Department of Justice, Bureau of Prisons, FCI Marianna ("Agency") and the American Federation of Government Employees Local 4036 ("Union") in resolution of the grievance filed by the Union on September 29, 2005 concerning the Agency's alleged failure to pay overtime compensation pursuant to the Fair Labor Standards Act ("FLSA") for time spent by employees, as identified and defined in the grievance, for performing work during their thirty minute meal periods. In full and complete settlement of the above-referenced grievance, the parties by and through their undersigned representatives, freely and voluntarily agree to the terms outlined in this agreement.

1. Coverage

The Grievants are present and former bargaining unit members, as identified and defined in the grievance, of the Bureau of Prisons with a duty station of FCI Marianna, Florida. The Grievants covered by this settlement warrant and represent that no other action or suit with respect to the claims that are set forth in the grievance covered by this

settlement agreement will be filed in or submitted to any court or any administrative forum including but not limited to, the General Accounting Office or the Office of Personnel Management for the time period that this grievance covers. By agreeing to accept payment under this settlement, the grievants agree to waive any right or entitlement to pursue or collect payment for any FLSA claim asserted in the grievance covered by this settlement agreement for the time period September 29, 2002 through the date this settlement agreement is fully executed. The parties agree to comply with Article 6, section q of the Master Agreement.

2. Lump Sum Payment.

The Agency shall provide the Union, through the Union's attorneys Woodley & McGillivray, a lump sum settlement amount of \$500,000 to distribute to bargaining unit employees participating in the grievance. This lump sum constitutes a compromise for backpay and liquidated damages which accrued in fiscal years 2005, 2006, 2007 and 2008. This lump sum covers all backpay, liquidated damages, interest and attorneys' fees and costs owed to the grievants for the matter asserted in the grievance covered by this agreement. The Union shall determine how to distribute the lump sum amount among the grievants participating in the grievance.

3. Payment Timetable and Method for Payment of Lump Sum

The Agency shall make the lump sum payment of \$500,000 to the law firm of Woodley & McGillivray at Suite 400, 1125 15th Street, N.W., Washington, D.C. 20005 by an electronic funds transfer or a single check made payable to "Woodley & McGillivray" on or before February 5, 2009. Woodley & McGillivray on behalf on the Union will be responsible for distributing to each grievant his/her respective share of the

lump sum amount. The parties agree that this Settlement Agreement does not determine the amount of any income tax or any other taxes for which the Grievants or beneficiaries may be liable now or in the future as a result of this Agreement. The Union agrees that its individual members will be responsible for any federal, state, or local tax liability arising from the payment of the amounts set forth in the settlement, and that they will hold the Agency harmless from any liability for such taxes which may be owed on account of payment from this settlement. After making any distribution to the Grievants or their beneficiaries, all required forms will be submitted by Woodley & McGillivray on behalf of the Union to the Internal Revenue Service (IRS) for each Grievant or beneficiary. Woodley & McGillivray on behalf of the Union will be responsible for distributing all required federal tax forms to the grievants. These tax forms must be sent in accordance with Federal tax regulations.

4. Interest

In the event that the Agency fails to pay the amount of \$500,000 on or before February 5, 2009, interest shall begin to accrue on the amount owed beginning on February 6, 2009. Interest will accrue in accordance with the formula prescribed under the Back Pay Act, 5 U.S.C. §5596(b)(2)(A), and by the Office of Personnel Management in FPM Letter 550-78. The interest shall be computed at the rate or rates in effect under Section 6621(a)(1) of the Internal Revenue Code of 1986 and shall continue to accrue until the Agency transmits the lump sum amount to Woodley & McGillivray in accordance with paragraph 3 above.

5. Release From Claims Related to Settlement

The Union and the Agency understand and agree that in consideration for the

payment made by the Agency and the Agency's compliance with the terms of this Agreement, the Union remises, releases and forever irrevocably discharges the United States government, the Bureau of Prisons, the Agency and their officers, agents and employees, and each of them, separately and collectively, from the claim asserted in the grievance covered by this settlement agreement for the time period September 29, 2002 through the date this settlement agreement is fully executed.

6. Waiver

In consideration for the payments made and the promises provided herein the Union will not sponsor any arbitration or individual grievances seeking FLSA overtime compensation for the time period September 29, 2002 through the date this settlement agreement is fully executed for the time spent by employees, as identified and defined in the grievance, for performing work during their alleged uncompensated thirty minute meal periods.

7. Extensions

Any of the deadlines set forth in this agreement may be extended by mutual agreement of the Union and the Agency.

8. Precedent

This Agreement is made solely for the purpose of settling and permitting entry of final resolution of this grievance (FMCS No. 06-00865). The parties agree that this Agreement shall not be cited as precedent, and may not be cited, published, or referenced by either party as justification for their respective positions or referred to in any other proceeding, whether judicial or administrative, for any purpose other than to enforce the terms of this Agreement. The parties recognize that it is in their respective interests to

resolve this dispute through this settlement. By entering into this agreement, neither party is accepting or admitting to any liability and/or wrongful act or omission regarding the subject matter of the grievance covered by this settlement agreement.

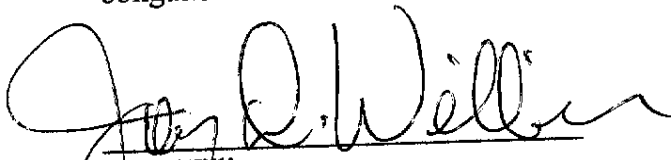
9. Completeness of Agreement

This document constitutes the complete terms of the settlement and supercedes any and all prior oral or written representations, understanding, or agreements between the parties to this agreement.

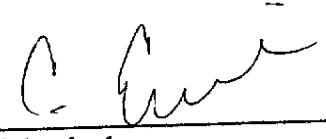
10. Authority of the Parties

The parties agree that they have full authority to enter this agreement and to make the promises, obligations and considerations contained herein.

The Union's representative of record represents that he is authorized to enter into this Agreement on behalf of AFGE Local 4036 which has full authority to enter into this agreement and to make the promises, obligations and considerations contained herein. The Agency's representative of record represents that he is authorized to enter into this Agreement on behalf of the U.S. Department of Justice, Bureau of Prisons, FCI Marianna, which has full authority to enter into this agreement and to make the promises, obligations and considerations contained herein.



Joey Williams
President AFGE Local 4036
Date: 1-6-09



C. Eichenlaub
Warden FCI Marianna
Date: 1/6/09