

FEDERAL MEDIATION AND CONCILIATION SERVICE

Arbitrator Stanley Michelstetter II

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
LOCAL 683,

Union,

and

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

Agency.

FMCS Case No. 10-03191
(Meal Period Grievance)

Arbitrator Carrie Belle Washington

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES,
LOCAL 683,

Union,

and

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

Agency.

FMCS Case No. 10-03193
(Portal-to-Portal Grievance)

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made by and between the U.S. Department of Justice, Bureau of Prisons, FCI Sandstone ("Agency") and the American Federation of Government Employees Local 683 ("Union") in resolution of the grievances filed by the Union on February 24, 2010 concerning the Agency's alleged

failure to pay overtime compensation pursuant to the Fair Labor Standards Act ("FLSA") for time spent performing work before and/or after scheduled shift start and stop times (FMCS Case No. 10-03193), and during scheduled, duty-free meal periods (FMCS Case No. 10-03191). In full and complete settlement of the above-referenced grievances, the parties by and through their undersigned representatives, freely and voluntarily agree to the terms outlined in this Agreement.

1. Coverage

The Grievant is the Union at FCI Sandstone, Minnesota. The Union is the certified representative of all bargaining unit employees at FCI Sandstone. The Grievant covered by this Agreement warrants and represents that no other action or suit with respect to the claims that are set forth in the grievances covered by this 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 Agreement, the Grievant agrees to waive any right or entitlement to pursue or collect payment for any FLSA claim asserted in the grievances covered by this Agreement for the time period February 24, 2007 through the date the Agreement is fully executed.

2. Lump Sum

Without constituting an admission of liability or any wrongdoing upon the part of either the Agency or the Grievant, the Agency agrees to pay, through the Grievant's attorneys Woodley & McGillivray, the lump sum settlement amount of \$600,000.00 to resolve all claims for FLSA overtime pre-shift and post-shift work performed and work performed during their duty-free meal periods by bargaining unit employees at FCI

Sandstone through the date the Agreement is fully executed. This lump sum covers all backpay, liquidated damages, interest and attorneys' fees and costs (*i.e.*, "damages"), which may have been claimed by the Grievant on behalf of present and former bargaining unit members of the Bureau of Prisons with a duty station at FCI Sandstone, and, for the damages portion of the grievance, those current and former bargaining unit members who have identified themselves as performing uncompensated work by previously completing the paperwork required by the Union to demonstrate that they were willing to participate in the damages portion of the grievance ("participating damages recipients"). The Union shall determine how to distribute the lump sum amount among the participating damages recipients.

3. Payment Timetable and Method for Payment of Lump Sum

The Agency shall make the lump sum payment of \$600,000 to the law firm of Woodley & McGillivray at 1101 Vermont Ave, NW, Suite 1000, Washington, DC 20005 by an electronic funds transfer or a single check made payable to "Woodley & McGillivray" on or before March 10, 2012. Woodley & McGillivray on behalf of the Grievant will be responsible for distributing to each participating damages recipient his/her respective share of the lump sum amount. The parties agree that this Agreement does not determine the amount of any income tax or any other taxes for which the Grievant, participating damages recipients, or beneficiaries may be liable now or in the future as a result of this Agreement. The Union agrees that the participating damages recipients will be responsible for any federal, state, or local tax liability arising from the payment of the amounts set forth in the Agreement, 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 Grievant, participating damages recipients, or other beneficiaries, all required forms will be submitted by Woodley & McGillivray on behalf of the Union to the Internal Revenue Service (IRS) for each Grievant, participating damages recipient, or beneficiary. Woodley & McGillivray on behalf of the Union will be responsible for distributing all required federal tax forms to the Grievant, participating damages recipients, or beneficiaries. 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 \$600,000 on or before March 10, 2012, interest shall begin to accrue on the amount owed beginning on March 11, 2012. 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 Grievant 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 grievances covered by this Agreement for the time period February 24, 2007

through the date the 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 and/or Title 5 overtime compensation for the time spent by bargaining unit employees at FCI Sandstone for the claims asserted in FMCS No. 10-03191 and FMCS No. 10-03193 covered by this agreement for the time period February 24, 2007 through the date the Agreement is fully executed.

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 these grievances (FMCS Case Nos.: 10-03191 and 10-03193). 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.

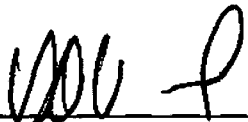
9. Completeness of Agreement

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

10. Authority of the Parties

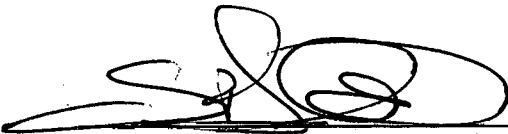
The parties agree that they have full authority to enter this Agreement and to make the promises, obligations and considerations contained herein.

The Grievant's representative of record represents that he is authorized to enter into this Agreement on behalf of AFGE Local 683 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 Sandstone, which has full authority to enter into this Agreement and to make the promises, obligations and considerations contained herein.



Xavier Villarreal
President AFGE Local 683

Date: 1-27-12



Scott P. Fisher
Warden, FCI Sandstone

Date: 1.27.12