

PROGRESS REPORT EFFECTIVE 04/10/01

CLAIMS REVIEW CONTINUES SLOWLY: ONE CLAIM AT A TIME

1. More Late Filed Claims.

Either OSRL or this firm has been contacted by about a dozen plaintiffs in the last month who asked if they could file claims late, or plaintiffs simply filed claims late with OSRL without getting permission to do so. I have filed three different requests with the Court for these plaintiffs. The Judge had unfettered discretion as to whether or not to allow for late filing of additional claims. To date, there have no rulings on those motions. I expect some in the next month.

2. Plaintiff's Claims Who Earned Compensatory Time

The State filed a motion requesting a "off set" for plaintiffs who earned straight time compensatory time. Needless to say, that off set would exceed the value of the remaining half time, considering the Court's ruling that in all cases plaintiffs are only owed the sliding scale, "half time."

I am filing a response urging the Court to order the State to pay the remaining half time to those plaintiffs who received compensatory time. Frankly, given the logic of the Court's ruling on damages at the "half time rate," I expect to lose this issue and will raise it on appeal.

3. The Claim Review Process.

It's going slowly. There is a very high percentage of claims that are being contested, some for as little as a one-hour discrepancy. In one case, the State contested a claim because the plaintiff claimed three hours less than the plaintiff was entitled. It seems since the Court order on attorney's fees has come out, that the percentage rate of claims contested to accepted has actually risen. No, agency personnel reviewers are not on my payroll. Most of the objections do seem to be well-founded. Approximately 1 out of 20 appear to be groundless. In those cases, I am referring the claims to arbitration.

To date, 425 claims have been finalized by OSRL and processed by the State. The State has initially accepted 92 claims and contested 333 claims.

Of the claims contested, we have been able to resolve 146. I have requested arbitration on 7 claims and settled 4 of those. The other 3 are still pending review by the State and further discussions.

4. The Appeals.

Please see last month's report for a description of the appeals. All appeals filed to date have been "interlocutory," which is before a final judgment is entered. The Court of

Appeals has unfettered discretion as to whether to accept or reject those appeals. The State is supportive of the Court's accepting the appeals. The first appeal, which was filed months ago, was over whether elected officials are employees. That is set for oral argument on May 22. After oral argument, the Court could decide the case in a matter of weeks, or up to a year and a half later. There are no time lines. On the issues of the calculation of the rate for overtime, prejudgment interest and penalty pay, we have not yet obtained a ruling from the Court as to whether those appeals are accepted. If they are not, I will be appealing the judgments that are being entered each and every month on behalf of plaintiffs, and then move to consolidate those appeals.

If plaintiffs have questions that are unanswered by this and previous postings, do not hesitate to contact my office by E-mail or phone.

Sincerely,

The Law Office of John Hoag, P.C.

JH:jlj