

ATTACHMENT 1

Certified Mail or Hand Delivered with Agency-Initiated Copy Returned

July 30, 2014

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Senior Employee and Labor Relations Specialist
Federal Transit Administration
U.S. Department of Transportation
Room E44-304
1200 New Jersey Avenue SE
Washington, DC 20590
202-366-5196
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Re: Overtime Grievance for FLSA and other violations

This Grievance is filed on behalf of all bargaining unit employees at the US Department of Transportation, Federal Transit Administration (Agency) represented by the American Federation of Government Employees, Local 3313 (Union), including past employees who were in the bargaining unit at any time during the three (3) year period prior to the filing of the Grievance and all of those employees who will join the Bargaining Unit at any time during the pendency of this Grievance (any language in this Grievance which is in the past tense is meant to be construed as also referring to "future" claims, including those arising after the filing of the Grievance, up until the resolution of this Grievance). The Union is available and requests a Grievance meeting immediately. Upon receipt in writing of the Agency's agreement to stay the timeframes associated with this Grievance, the Union agrees to the same to allow the Agency time to gather and provide the information requested in the Union's 7114 RFI. This stay may be revoked at any time in writing by the Union, with reasonable advance notice to the Agency.

This Grievance is filed under Article 47, Section 8(A) of the Collective Bargaining Agreement, as defined under Article 47, Section 1(B)(2) and (3)(b).

The Union alleges that the Agency violated the Fair Labor Standards Act, Title V, FEPA, OPM and DOL Regulations, the Collective Bargaining Agreement, including, but not limited to, Article 22 Section 2, along with other relevant and applicable laws, rules, regulations and agreements when it:

1. Failed to properly designate bargaining unit employees as FLSA nonexempt;
2. Failed to pay proper compensation for overtime worked to bargaining unit employees (exempt, nonexempt and wrongfully exempt);
3. Failed to allow bargaining unit employees a choice of compensatory time

or overtime (exempt, nonexempt and wrongfully exempt); and

4. Failed to pay suffer or permit overtime to employees (nonexempt and wrongfully exempt).

As relief, the Union requests the following:

1. The Agency redesignate all improperly designated bargaining unit employees, retirees and past employees as FLSA non-exempt, retroactive three (3) years prior to the date of filing of this Grievance or three (3) years prior to the date when the Agency knew or should have known that these employees were improperly designated, whichever is earlier;
2. **FLSA Overtime** - The Agency pay backpay under the collective bargaining agreement, Back Pay Act and FLSA for the difference in pay for any overtime paid for overtime worked by wrongfully designated bargaining unit employees under Title 5 or other pay schedule and the true time and one-half to which the employees were entitled. The Agency will pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to the difference in pay between what the employee received in "capped" overtime pay and true time and one-half for all overtime worked during the relevant time period;
3. The Agency pay **suffer or permit overtime** retroactive at least three years prior to the filing of the instant Grievance and continuing up through the resolution of this Grievance;
4. **Compensatory Time (used)** - The Agency pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used;
5. **Compensatory Time (unused)** - The Agency pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $1 \frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and not used, which "fell off the books" or were otherwise deleted or lost from the Employee's Comp Time balance with the Agency;
6. **Compensatory Time - Nonexempt Employees** - The Agency pay each employee who was/is already nonexempt at any point during the entire Grievance timeframe backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation,

equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used, for Comp Time the employee earned and was not given a choice of overtime pay versus Comp Time while said employee was nonexempt;

7. **Compensatory Time -- Properly Exempt Employees** - The Agency pay each properly exempt employee at or below the pay rate of a GS-10 Step 10 backpay for a period from six years prior to the filing of the instant Grievance until the date of final resolution, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used, for Comp Time the employee earned and was not given a choice of overtime pay versus Comp Time;
8. The Agency pay **standby pay or on-call pay**, as appropriate;
9. **Title V Overtime -- Properly Exempt Employees** - The Agency pay each properly exempt employee backpay for a period from six years prior to the filing of the instant Grievance up to the date of final resolution, equal to the employee's overtime rate of pay as reflected at www.opm.gov, for time the employee worked that was "ordered and approved" but for which the employee was not paid or otherwise compensated;
10. The Agency pay **liquidated damages** in an amount equal to all unpaid or underpaid overtime, comp time and other damages;
11. The Agency pay **interest** on all damages, if greater than liquidated damages or if liquidated damages are not available or not awarded; and
12. The Agency pays reasonable **attorney fees, costs and expenses**.

By way of explanation, the Union is seeking to redesignate all FLSA exempt employees/positions to FLSA nonexempt, and seeks damages on behalf of:

- 1) employees wrongfully designated as FLSA exempt;
- 2) employees always designated as FLSA nonexempt;
- 3) employees properly designated as FLSA exempt, who are paid at or below the pay rate of a GS-10, Step 10; and
- 4) employees properly designated as FLSA exempt.

There are at least five types of damages that the Union seeks on behalf of all or some of the above groups of people:

- 1) capped overtime damages (for group #1);
- 2) ordered and approved overtime damages (for groups #1, 2, 3 and 4)
- 3) comp time damages (for groups #1, 2 and 3);
- 4) suffer or permit damages (for groups #1 and 2);
- 5) Standby pay or on-call pay (for groups #1, 2, 3 and 4);
- 6) liquidated damages (for groups #1, 2 and 3);
- 7) interest, if larger than liquidated damages or if liquidated damages are not awarded or available (for groups #1, 2, 3 and 4); and
- 8) attorney fees (for groups #1, 2, 3 and 4);

Further information can be provided in the Grievance meeting, upon request.

The Union hereby appoints the following individual to be the point of contact for, and agent of, the Union in all matters touching upon or concerning this Grievance and the associated Request for Information.

Michael J. Snider, Esq.
Snider & Associates, LLC
600 Reisterstown Road, Suite 700
Baltimore, MD 21208
410-653-9060 phone
410-653-9061 fax
m@sniderlaw.com email

As a courtesy, please send me a copy of any correspondence with the Union's attorneys.

Sincerely,

Sheila J. Wilson

July 30, 2014

Anna Williams
National Highway Traffic Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590
202-366-6607
anna.williams@dot.gov

Re: Overtime Grievance for FLSA and other violations

This Grievance is filed on behalf of all bargaining unit employees at the US Department of Transportation, National Highway Traffic Safety Administration (Agency) represented by the American Federation of Government Employees, Local 3313 (Union), including past employees who were in the bargaining unit at any time during the three (3) year period prior to the filing of the Grievance and all of those employees who will join the Bargaining Unit at any time during the pendency of this Grievance (any language in this Grievance which is in the past tense is meant to be construed as also referring to "future" claims, including those arising after the filing of the Grievance, up until the resolution of this Grievance). The Union is available and requests a Grievance meeting immediately. Upon receipt in writing of the Agency's agreement to stay the timeframes associated with this Grievance, the Union agrees to the same to allow the Agency time to gather and provide the information requested in the Union's 7114 RFI. This stay may be revoked at any time in writing by the Union, with reasonable advance notice to the Agency.

This Grievance is filed pursuant to Article 31, Section 6 (a) of the Agreement, as defined under Article 31, Section 2 (b) and (c).

The Union alleges that the Agency violated the Fair Labor Standards Act, Title V, FEPA, OPM and DOL Regulations, the Collective Bargaining Agreement, including, but not limited to, Article 11, 14, 17, along with other relevant and applicable laws, rules, regulations and agreements when it:

1. Failed to properly designate bargaining unit employees as FLSA nonexempt;
2. Failed to pay proper compensation for overtime worked to bargaining unit employees (exempt, nonexempt and wrongfully exempt);
3. Failed to allow bargaining unit employees a choice of compensatory time or overtime (exempt, nonexempt and wrongfully exempt); and
4. Failed to pay suffer or permit overtime to employees (nonexempt and wrongfully exempt).

As relief, the Union requests the following:

1. The Agency redesignate all improperly designated bargaining unit employees, retirees and past employees as FLSA non-exempt, retroactive three (3) years prior to the date of filing of this Grievance or three (3) years prior to the date when the Agency knew or should have known that these employees were improperly designated, whichever is earlier;
2. **FLSA Overtime** - The Agency pay backpay under the collective bargaining agreement, Back Pay Act and FLSA for the difference in pay for any overtime paid for overtime worked by wrongfully designated bargaining unit employees under Title 5 or other pay schedule and the true time and one-half to which the employees were entitled. The Agency will pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to the difference in pay between what the employee received in "capped" overtime pay and true time and one-half for all overtime worked during the relevant time period;
3. The Agency pay **suffer or permit overtime** retroactive at least three years prior to the filing of the instant Grievance and continuing up through the resolution of this Grievance;
4. **Compensatory Time (used)** - The Agency pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used;
5. **Compensatory Time (unused)** - The Agency pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $1 \frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and not used, which "fell off the books" or were otherwise deleted or lost from the Employee's Comp Time balance with the Agency;
6. **Compensatory Time - Nonexempt Employees** - The Agency pay each employee who was/is already nonexempt at any point during the entire Grievance timeframe backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used, for Comp Time the employee earned and was not given a choice of overtime pay versus Comp Time while said employee was

nonexempt;

7. **Compensatory Time – Properly Exempt Employees** - The Agency pay each properly exempt employee at or below the pay rate of a GS-10 Step 10 backpay for a period from six years prior to the filing of the instant Grievance until the date of final resolution, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used, for Comp Time the employee earned and was not given a choice of overtime pay versus Comp Time;
8. The Agency pay **standby pay or on-call pay**, as appropriate;
9. **Title V Overtime – Properly Exempt Employees** - The Agency pay each properly exempt employee backpay for a period from six years prior to the filing of the instant Grievance up to the date of final resolution, equal to the employee's overtime rate of pay as reflected at www.opm.gov, for time the employee worked that was "ordered and approved" but for which the employee was not paid or otherwise compensated;
10. The Agency pay **liquidated damages** in an amount equal to all unpaid or underpaid overtime, comp time and other damages;
11. The Agency pay **interest** on all damages, if greater than liquidated damages or if liquidated damages are not available or not awarded; and
12. The Agency pays reasonable **attorney fees, costs and expenses**.

By way of explanation, the Union is seeking to redesignate all FLSA exempt employees/positions to FLSA nonexempt, and seeks damages on behalf of:

- 1) employees wrongfully designated as FLSA exempt;
- 2) employees always designated as FLSA nonexempt;
- 3) employees properly designated as FLSA exempt, who are paid at or below the pay rate of a GS-10, Step 10; and
- 4) employees properly designated as FLSA exempt.

There are at least five types of damages that the Union seeks on behalf of all or some of the above groups of people:

- 1) capped overtime damages (for group #1);
- 2) ordered and approved overtime damages (for groups #1, 2, 3 and 4)
- 3) comp time damages (for groups #1, 2 and 3);
- 4) suffer or permit damages (for groups #1 and 2);

- 5) standby pay or on-call pay (for groups #1, 2, 3 and 4);
- 6) liquidated damages (for groups #1, 2 and 3);
- 7) interest, if larger than liquidated damages or if liquidated damages are not awarded or available (for groups #1, 2, 3 and 4); and
- 8) attorney fees (for groups #1, 2, 3 and 4);

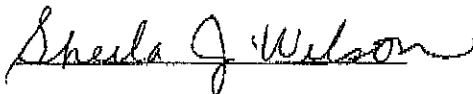
Further information can be provided in the Grievance meeting, upon request.

The Union hereby appoints the following individual to be the point of contact for, and agent of, the Union in all matters touching upon or concerning this Grievance and the associated Request for Information.

Michael J. Snider, Esq.
Snider & Associates, LLC
600 Reisterstown Road, Suite 700
Baltimore, MD 21208
410-653-9060 phone
410-653-9061 fax
m@sniderlaw.com email

As a courtesy, please send me a copy of any correspondence with the Union's attorneys.

Sincerely,



July 30, 2014

Lacy Muir
Employee and Labor Relations Specialist
Office of the Secretary
Office of Human Resource Management
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590
202-366-9444
lacy.muir@dot.gov

Re: Overtime Grievance for FLSA and other violations

This Grievance is filed on behalf of all bargaining unit employees at the US Department of Transportation, Office of the Secretary (Agency) represented by the American Federation of Government Employees, Local 3313 (Union), including past employees who were in the bargaining unit at any time during the three (3) year period prior to the filing of the Grievance and all of those employees who will join the Bargaining Unit at any time during the pendency of this Grievance (any language in this Grievance which is in the past tense is meant to be construed as also referring to "future" claims, including those arising after the filing of the Grievance, up until the resolution of this Grievance). The Union is available and requests a Grievance meeting immediately. Upon receipt in writing of the Agency's agreement to stay the timeframes associated with this Grievance, the Union agrees to the same to allow the Agency time to gather and provide the information requested in the Union's 7114 RFI. This stay may be revoked at any time in writing by the Union, with reasonable advance notice to the Agency.

This Grievance is filed under Article 25, Section C of the Collective Bargaining Agreement.

The Union alleges that the Agency violated the Fair Labor Standards Act, Title V, FEPA, OPM and DOL Regulations, the Collective Bargaining Agreement, specifically, but not limited to, Article 2, Section A, along with other relevant and applicable laws, rules, regulations and agreements when it:

1. Failed to properly designate bargaining unit employees as FLSA nonexempt;
2. Failed to pay proper compensation for overtime worked to bargaining unit employees (exempt, nonexempt and wrongfully exempt);
3. Failed to allow bargaining unit employees a choice of compensatory time or overtime (exempt, nonexempt and wrongfully exempt); and

4. Failed to pay suffer or permit overtime to employees (nonexempt and wrongfully exempt).

As relief, the Union requests the following:

1. The Agency redesignate all improperly designated bargaining unit employees, retirees and past employees as FLSA non-exempt, retroactive three (3) years prior to the date of filing of this Grievance or three (3) years prior to the date when the Agency knew or should have known that these employees were improperly designated, whichever is earlier;
2. **FLSA Overtime** - The Agency pay backpay under the collective bargaining agreement, Back Pay Act and FLSA for the difference in pay for any overtime paid for overtime worked by wrongfully designated bargaining unit employees under Title 5 or other pay schedule and the true time and one-half to which the employees were entitled. The Agency will pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to the difference in pay between what the employee received in "capped" overtime pay and true time and one-half for all overtime worked during the relevant time period;
3. The Agency pay **suffer or permit overtime** retroactive at least three years prior to the filing of the instant Grievance and continuing up through the resolution of this Grievance;
4. **Compensatory Time (used)** - The Agency pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used;
5. **Compensatory Time (unused)** - The Agency pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $1 \frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and not used, which "fell off the books" or were otherwise deleted or lost from the Employee's Comp Time balance with the Agency;
6. **Compensatory Time - Nonexempt Employees** - The Agency pay each employee who was/is already nonexempt at any point during the entire Grievance timeframe backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned

and used, for Comp Time the employee earned and was not given a choice of overtime pay versus Comp Time while said employee was nonexempt;

7. **Compensatory Time -- Properly Exempt Employees** - The Agency pay each properly exempt employee at or below the pay rate of a GS-10 Step 10 backpay for a period from six years prior to the filing of the instant Grievance until the date of final resolution, equal to ½ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used, for Comp Time the employee earned and was not given a choice of overtime pay versus Comp Time;
8. The Agency pay **standby pay or on-call pay**, as appropriate;
9. **Title V Overtime -- Properly Exempt Employees** - The Agency pay each properly exempt employee backpay for a period from six years prior to the filing of the instant Grievance up to the date of final resolution, equal to the employee's overtime rate of pay as reflected at www.opm.gov, for time the employee worked that was "ordered and approved" but for which the employee was not paid or otherwise compensated;
10. The Agency pay **liquidated damages** in an amount equal to all unpaid or underpaid overtime, comp time and other damages;
11. The Agency pay **interest** on all damages, if greater than liquidated damages or if liquidated damages are not available or not awarded; and
12. The Agency pays reasonable **attorney fees, costs and expenses**.

By way of explanation, the Union is seeking to redesignate all FLSA exempt employees/positions to FLSA nonexempt, and seeks damages on behalf of:

- 1) employees wrongfully designated as FLSA exempt;
- 2) employees always designated as FLSA nonexempt;
- 3) employees properly designated as FLSA exempt, who are paid at or below the pay rate of a GS-10, Step 10; and
- 4) employees properly designated as FLSA exempt.

There are at least five types of damages that the Union seeks on behalf of all or some of the above groups of people:

- 1) capped overtime damages (for group #1);
- 2) ordered and approved overtime damages (for groups #1, 2, 3 and 4)

- 3) comp time damages (for groups #1, 2 and 3);
- 4) suffer or permit damages (for groups #1 and 2);
- 5) Standby pay or on-call pay (for groups #1, 2, 3 and 4);
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- 8) attorney fees (for groups #1, 2, 3 and 4);

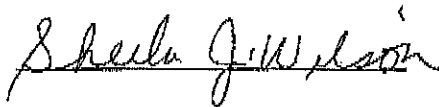
Further information can be provided in the Grievance meeting, upon request.

The Union hereby appoints the following individual to be the point of contact for, and agent of, the Union in all matters touching upon or concerning this Grievance and the associated Request for Information.

Michael J. Snider, Esq.
Snider & Associates, LLC
600 Reisterstown Road, Suite 700
Baltimore, MD 21208
410-653-9060 phone
410-653-9061 fax
m@sniderlaw.com email

As a courtesy, please send me a copy of any correspondence with the Union's attorneys.

Sincerely,



July 30, 2014

Laura Stanley
Chief, L&E Relations
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
Room W64-304
1200 New Jersey Avenue SE
Washington, DC 20590
laura.stanley@dot.gov

Re: Overtime Grievance for FLSA and other violations

This Grievance is filed on behalf of all bargaining unit employees at the US Department of Transportation, Federal Motor Carrier Safety Administration (Agency) represented by the American Federation of Government Employees, Local 3313 (Union), including past employees who were in the bargaining unit at any time during the three (3) year period prior to the filing of the Grievance and all of those employees who will join the Bargaining Unit at any time during the pendency of this Grievance (any language in this Grievance which is in the past tense is meant to be construed as also referring to "future" claims, including those arising after the filing of the Grievance, up until the resolution of this Grievance). The Union is available and requests a Grievance meeting immediately.

This Grievance is filed pursuant to Article 22, Section 8 (a) of the Master Labor Agreement, as defined under Article 22, Section 2 (b) and (c).

The Union alleges that the Agency violated the Fair Labor Standards Act, Title V, FEPA, OPM and DOL Regulations, the Master Labor Agreement, including, but not limited to, Article 9 Sections 8 and 11, Article 13 Sections 1 and 4, Article 14 Sections 1, 2, 3, 6, 7 and 8 and Article 32 Sections 1, 3 and 4, along with other relevant and applicable laws, rules, regulations and agreements when it:

1. Failed to properly designate bargaining unit employees as FLSA nonexempt;
2. Failed to pay proper compensation for overtime worked to bargaining unit employees (exempt, nonexempt and wrongfully exempt);
3. Failed to allow bargaining unit employees a choice of compensatory time or overtime (exempt, nonexempt and wrongfully exempt); and
4. Failed to pay suffer or permit overtime to employees (nonexempt and wrongfully exempt).

As relief, the Union requests the following:

1. The Agency redesignate all improperly designated bargaining unit employees, retirees and past employees as FLSA non-exempt, retroactive three (3) years prior to the date of filing of this Grievance or three (3) years prior to the date when the Agency knew or should have known that these employees were improperly designated, whichever is earlier;
2. **FLSA Overtime** - The Agency pay backpay under the collective bargaining agreement, Back Pay Act and FLSA for the difference in pay for any overtime paid for overtime worked by wrongfully designated bargaining unit employees under Title 5 or other pay schedule and the true time and one-half to which the employees were entitled. The Agency will pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to the difference in pay between what the employee received in "capped" overtime pay and true time and one-half for all overtime worked during the relevant time period;
3. The Agency pay **suffer or permit overtime** retroactive at least three years prior to the filing of the instant Grievance and continuing up through the resolution of this Grievance;
4. **Compensatory Time (used)** - The Agency pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used;
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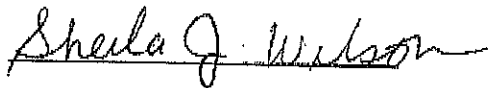
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Michael J. Snider, Esq.
Snider & Associates, LLC
600 Reisterstown Road, Suite 700
Baltimore, MD 21208
410-653-9060 phone
410-653-9061 fax
m@sniderlaw.com email

As a courtesy, please send me a copy of any correspondence with the Union's attorneys.

Sincerely,



July 30, 2014

Rhonda Malloy
Human Relations Specialist
Pipeline and Hazardous Materials Safety Administration
U.S. Department of Transportation
Room E22-227
1200 New Jersey Avenue SE
Washington, DC 20590
202-366-4430
rhonda.malloy@dot.gov

Re: Overtime Grievance for FLSA and other violations

This Grievance is filed on behalf of all bargaining unit employees at the US Department of Transportation, Pipeline and Hazardous Materials Safety Administration (Agency) represented by the American Federation of Government Employees, Local 3313 (Union), including past employees who were in the bargaining unit at any time during the three (3) year period prior to the filing of the Grievance and all of those employees who will join the Bargaining Unit at any time during the pendency of this Grievance (any language in this Grievance which is in the past tense is meant to be construed as also referring to "future" claims, including those arising after the filing of the Grievance, up until the resolution of this Grievance). The Union is available and requests a Grievance meeting immediately. Upon receipt in writing of the Agency's agreement to stay the timeframes associated with this Grievance, the Union agrees to the same to allow the Agency time to gather and provide the information requested in the Union's 7114 RFI. This stay may be revoked at any time in writing by the Union, with reasonable advance notice to the Agency.

This Grievance is filed pursuant to Term 9, Section 9 of the Interim Labor-Management Agreement, as defined under Term 9, Section 2(b) and (c).

The Union alleges that the Agency violated the Fair Labor Standards Act, Title V, FEPA, OPM and DOL Regulations, the Labor Management Agreement, and all other relevant and applicable laws, rules, regulations and agreements when it:

1. Failed to properly designate bargaining unit employees as FLSA nonexempt;
2. Failed to pay proper compensation for overtime worked to bargaining unit employees (exempt, nonexempt and wrongfully exempt);
3. Failed to allow bargaining unit employees a choice of compensatory time or overtime (exempt, nonexempt and wrongfully exempt); and
4. Failed to pay suffer or permit overtime to employees (nonexempt and

wrongfully exempt).

As relief, the Union requests the following:

1. The Agency redesignate all improperly designated bargaining unit employees, retirees and past employees as FLSA non-exempt, retroactive three (3) years prior to the date of filing of this Grievance or three (3) years prior to the date when the Agency knew or should have known that these employees were improperly designated, whichever is earlier;
2. **FLSA Overtime** - The Agency pay backpay under the collective bargaining agreement, Back Pay Act and FLSA for the difference in pay for any overtime paid for overtime worked by wrongfully designated bargaining unit employees under Title 5 or other pay schedule and the true time and one-half to which the employees were entitled. The Agency will pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to the difference in pay between what the employee received in "capped" overtime pay and true time and one-half for all overtime worked during the relevant time period;
3. The Agency pay **suffer or permit overtime** retroactive at least three years prior to the filing of the instant Grievance and continuing up through the resolution of this Grievance;
4. **Compensatory Time (used)** - The Agency pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used;
5. **Compensatory Time (unused)** - The Agency pay each employee switched from exempt to nonexempt backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $1 \frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and not used, which "fell off the books" or were otherwise deleted or lost from the Employee's Comp Time balance with the Agency;
6. **Compensatory Time - Nonexempt Employees** - The Agency pay each employee who was/is already nonexempt at any point during the entire Grievance timeframe backpay for a period from three years prior to the filing of the instant Grievance until the date of prospective redesignation, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used, for Comp Time the employee earned and was not given a

choice of overtime pay versus Comp Time while said employee was nonexempt;

7. **Compensatory Time -- Properly Exempt Employees** - The Agency pay each properly exempt employee at or below the pay rate of a GS-10 Step 10 backpay for a period from six years prior to the filing of the instant Grievance until the date of final resolution, equal to $\frac{1}{2}$ the employee's regular hourly rate of pay (at the time the Comp Time was earned) times the number of compensatory time hours earned and used, for Comp Time the employee earned and was not given a choice of overtime pay versus Comp Time;
8. The Agency pay **standby pay or on-call pay**, as appropriate;
9. **Title V Overtime -- Properly Exempt Employees** - The Agency pay each properly exempt employee backpay for a period from six years prior to the filing of the instant Grievance up to the date of final resolution, equal to the employee's overtime rate of pay as reflected at www.opm.gov, for time the employee worked that was "ordered and approved" but for which the employee was not paid or otherwise compensated;
10. The Agency pay **liquidated damages** in an amount equal to all unpaid or underpaid overtime, comp time and other damages;
11. The Agency pay **interest** on all damages, if greater than liquidated damages or if liquidated damages are not available or not awarded; and
12. The Agency pays reasonable **attorney fees, costs and expenses**.

By way of explanation, the Union is seeking to redesignate all FLSA exempt employees/positions to FLSA nonexempt, and seeks damages on behalf of:

- 1) employees wrongfully designated as FLSA exempt;
- 2) employees always designated as FLSA nonexempt;
- 3) employees properly designated as FLSA exempt, who are paid at or below the pay rate of a GS-10, Step 10; and
- 4) employees properly designated as FLSA exempt.

There are at least five types of damages that the Union seeks on behalf of all or some of the above groups of people:

- 1) capped overtime damages (for group #1);
- 2) ordered and approved overtime damages (for groups #1, 2, 3 and 4)
- 3) comp time damages (for groups #1, 2 and 3);

- 4) suffer or permit damages (for groups #1 and 2);
- 5) Standby pay or on-call pay (for groups #1, 2, 3 and 4);
- 6) liquidated damages (for groups #1, 2 and 3);
- 7) interest, if larger than liquidated damages or if liquidated damages are not awarded or available (for groups #1, 2, 3 and 4); and
- 8) attorney fees (for groups #1, 2, 3 and 4);

Further information can be provided in the Grievance meeting, upon request.

The Union hereby appoints the following individual to be the point of contact for, and agent of, the Union in all matters touching upon or concerning this Grievance and the associated Request for Information.

Michael J. Snider, Esq.
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As a courtesy, please send me a copy of any correspondence with the Union's attorneys.

Sincerely,

