



UNITED STATES POSTAL SERVICE  
475 L'Enfant Plaza, SW  
Washington, DC 20260

SEP 14 1984

Mr. Francis J. Connors  
Vice President  
National Association of  
Letter Carriers, AFL-CIO  
100 Indiana Avenue, N.W.  
Washington, D.C. 20001-2197

ARTICLE	19
SECTION	ELM
SUBJECT	THIRD PARTY RECOVERY

Dear Mr. Connors:

On September 6 you met with Frank Dyer in prearbitration discussion of H8N-3W-C 24612, Miami, Florida. The question in this grievance is whether management violated the National Agreement by not providing paid compensation to employees who seek third-party recovery in court from on-the-job injuries.

It was mutually agreed to full settlement of this case as follows:

1. The Federal Employees' Compensation Act (5 USC, 8101, et seq.) provides that, if injury or death for which compensation is payable under the Act is caused by a third party, the U.S. Department of Labor may require an employee receiving benefits under the Act either to assign to the United States any rights to action against the third party or to prosecute the action against the third party in his or her own name. The act also provides that an employee who is required to appear as a party or witness in the prosecution of a third-party court action is in an active-duty status while so engaged (5 USC, 8131(a)(2)); therefore, such an employee is entitled to be paid for the time spent in court.
2. A postal employee who appears as a witness in a third-party action, which has been assigned to the Postal Service, is in an official duty status for the time spent in court (ELM 516.4) and for the time spent traveling between the court and his or her work site (ELM 438.13). Any time spent traveling between an employee's residence and the court is considered commuting time and, therefore, is not compensable.
3. An employee who prosecutes a third-party action in his or her own name is not entitled to official duty status, as defined in Section 516.41 of the ELM. For administrative purposes, however, those employees will be compensated for court appearances and travel time "as if in an official duty status."


Mr. Francis J. Conners


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4. An employee who is prosecuting a third-party action in his or her own name is not treated as if in an official duty status for the time spent developing the case. Any time spent preparing the case within an employee's regular work schedule is charged in accordance with the procedures for annual leave or LWOP.

Please sign and return the enclosed copy of this letter acknowledging your agreement with this settlement, withdrawing H8N-3W-C 24612 from the pending national arbitration listing.

Sincerely,

  
\_\_\_\_\_  
William E. Henry Jr.  
Director  
Office of Grievance and  
Arbitration  
Labor Relations Department

  
\_\_\_\_\_  
Francis J. Conners  
Vice President  
National Association of  
Letter Carriers, AFL-CIO

9/18/84  
Date

Enclosure