

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FILED

JAN 11 2002

**NATIONAL TREASURY EMPLOYEES
UNION, et al.,**

**NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT**

Plaintiffs

v.

Civil Action No. 83-0279 (JGP)

**KAY COLES JAMES, Director,
Office of Personnel Management,**

Defendant

MEMORANDUM

The history of this class action is set forth in the decisions of this Court and the Federal Circuit and need not be repeated here. *See NTEU v. Horner*, 1987 WL 8704 (D.D.C. Mar. 13 1987), *aff'd in part, vacated in part, and remanded*, 869 F.2d 571 (Fed. Cir. 1989) and *NTEU v. King*, No. 83-0279 (D.D.C. Mar. 5, 1996), *aff'd in part, rev'd in part, and remanded*, 132 F.3d 736 (Fed. Cir. 1998). Suffice it to say that this litigation involves Special Pay Rate Employees of the federal government. Over the years, in addition to litigating the claims submitted by the members of the class, the parties have also made many attempts to resolve this litigation. With the consent of the parties, the Court referred the case for mediation. From time to time the parties reported to the Court for extensions of time because it appeared that progress was being made. Finally, on January 3, 2002, the mediation ended successfully and the parties entered into a settlement agreement of this class action.

The case is back before the Court on the **Joint Motion to Transfer Case to The United**

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States Court of Federal Claims for that court to enter an order preliminarily approving the Settlement Agreement and scheduling a fairness hearing. The transfer to the Court of Federal Claims would be made pursuant to 28 U.S.C. 1631 and is necessary because some members of the class have claims that exceed \$10,000, the jurisdictional limit for this court under the "the Little Tucker Act." As counsel explained during the hearing on January 11, the Court of Federal Claims is the only court which has jurisdiction over all of the claims.

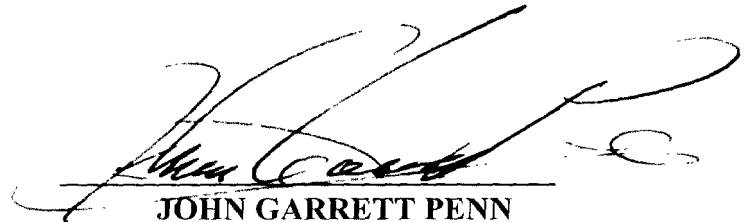
In response to questions posed by the Court with respect to jurisdiction, the parties cited the Court to *Smith v. Orr*, 855 F.2d 1544 (Fed. Cir. 1988). After reviewing that case, the Court is satisfied that this case should be transferred to the Court of Federal Claims. It is clear that court has jurisdiction. Although this Court originally had jurisdiction, over the years the amounts the class members are entitled to received have increased and at least some now have claims exceeding \$10,000. In view of these factors, the Court will transfer the case to the Court of Federal Claims.

The Court extends its thanks for the important service rendered in this case by the Alternative Dispute Resolution Program¹. The Court also expresses its appreciation to the mediator, who under the program guidelines is unknown to the Court and who successfully brought this litigation to an end provided that the settlement is approved by the Court of Federal Claims.

¹ The Director of the Program is Nancy E. Stanley and the Deputy Director is Michael A. Terry.

This case will be transferred to the United States Court of Federal Claims. An appropriate order has been entered.

JAN 11 2002



JOHN GARRETT PENN
United States District Judge