

In The United States Court of Federal Claims

No. 04-1335C

(Filed: October 14, 2010)

JOSEPH BARNES,
KAYLENE HOLUB,
SOCORRO YOSUICO, *et al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

ORDER

On October 8, 2010, the parties filed a joint motion to approve the settlement agreement as to attorney fees, costs and expenses. The court will consider the parties' joint motion as a RCFC 54(d)(2) motion for attorneys fees and costs. *See* RCFC 23(h)(1). Pursuant to RCFC 23(h), notice of the motion must be made to all parties, and class members must be given the opportunity to object. Accordingly, the court adopts the parties' proposed schedule for class notification and objections, as set forth below:

1. On or before November 12, 2010, class counsel shall mail the Notice to all class members, pursuant to RCFC 23(c). The attached Notice has been approved for this purpose;
2. All objections by class members to the proposed settlement of attorney fees, costs and expenses must be postmarked on or before December 10, 2010, in order to be considered by the court. Objections that are received on time by the court will be available at the courthouse for inspection and copying; and
3. On or before January 7, 2011, class counsel and defendant shall file with the court their responses to any objections received from class members.

Pursuant to RCFC 23(h)(3), it is within the court's discretion to hold a hearing. After all objections and responses have been filed with the court, the court will determine whether a hearing is necessary.

IT IS SO ORDERED.

s/ Francis M. Allegra
Francis M. Allegra
Judge

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NOTICE OF PROPOSED CLASS SETTLEMENT AS TO ATTORNEY FEES, COSTS AND EXPENSES

TO: [class member]

A lawsuit pending in the Court of Federal Claims involves a claim by Joseph Barnes and other non-military employees of the Department of the Navy (“Navy”) who have worked at a Navy hospital or medical facility, alleging that the Navy violated federal pay statutes by failing to pay night differential pay in two situations: (1) when employees were excused from duty on officially authorized holidays; and/or (2) when employees took paid leave for periods of less than eight (8) hours within a pay period. On November 3, 2005, the court ruled that this case was to be maintained on behalf of a class consisting of those who returned the opt-in form included with the mailed notice of class certification dated January 4, 2007.

You are receiving this notice because you returned an opt-in form and are a member of the certified class. The purpose of this notice is to advise you of the status of the lawsuit,

including a statement of your rights with respect to a proposed settlement of attorney fees, costs and expenses incurred in this case.

TERMS OF PROPOSED SETTLEMENT

On May 7, 2010, the Court approved the settlement agreement concerning the individual amounts the United States will pay to class members to settle their claims under the Back Pay Act. Class counsel and the United States have now agreed to settle the remaining claims for attorney fees, costs and expenses for payment by the United States of \$390,000. These payments will be in final settlement of all claims by class members against the United States. The United States does not admit any wrongdoing or liability on its part; the proposed settlement is a compromise of disputed claims and does not mean that the United States is guilty of the charges made by the plaintiffs.

OBJECTIONS TO THE SETTLEMENT

Objections to the proposed settlement by class members will be considered by the court, but only if such objections are filed in writing with the clerk by mail postmarked before December 10, 2010. **Specific requirements for written objections are set forth on the last page of this Notice.** Class members who support the proposed settlement do not need to appear at the hearing or take any other action to indicate their approval.

If objections are received, the court may hold a hearing in Washington, D.C. Attendance at this hearing will not be necessary; however class members wishing to be heard orally in opposition to the proposed settlement should indicate in their written objection their desire to appear at a hearing if the court chooses to hold one.

FURTHER PROCEEDINGS

If the settlement is approved by the court, further procedures will be established to ascertain any information needed to distribute the individual amounts due class members as previously approved by the Court.

If the settlement is not approved, the case will continue to be prepared for judicial resolution of claims and defenses as to attorney fees, costs and expenses.

ADDITIONAL INFORMATION

Any questions you have about the matters in this notice should not be directed to the court, but may be directed by telephone or in writing to:

Robert W. Brownlie, Esq.
DLA Piper LLP (US)
401 B Street, Suite 700
San Diego, CA 92101
Phone: (619) 699 - 2700

You may, of course, seek the advice and guidance of your own attorney if you desire. The pleadings and other records in this litigation, including a complete copy of the proposed settlement agreement as to attorney fees, costs and expenses, are available on the internet at <http://pacer.psc.uscourts.gov>, or may be examined and copied during regular business hours at:

Clerk of the Court
U.S. Court of Federal Claims
717 Madison Place, NW
Washington D.C. 20005
Phone: (202) 357-6400

REQUIREMENTS FOR WRITTEN OBJECTIONS

If you wish to object to the proposed settlement, you must submit your written objection with the clerk of the court by mail **postmarked on or before December 10, 2010**, along with

any request to be heard orally at the hearing. Objections should be made in a letter format, and should include the following information in the subject line:

Barnes v. United States, No. 05-1355C - Settlement Objection.

Objection letters should be mailed to the Clerk of the Court at the above-referenced address.