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PRESS RELEASE

FOR IMMEDIATE RELEASE

March 26, 2009

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**ARBITRATOR RULES THAT EEOC VIOLATES OVERTIME LAW:
MODEL EMPLOYER WILLFULLY SQUEEZES MORE WORK OUT OF LESS STAFF**

On March 23, 2009, Arbitrator Steven M. Wolf ruled that the Equal Employment Opportunity Commission (EEOC) willfully violated the Fair Labor Standards Act by engaging in a nationwide pattern that results in suffered and permitted overtime for its own employees. The Arbitrator stated, “the case before me, in my view, demonstrates action that went beyond mere negligence,” finding that the violations were willful and also subject to liquidated damages.

According to Gabrielle Martin, President of the National Council of EEOC Locals, No. 216, AFGE/AFL-CIO, the Union representing EEOC employees, “This overtime ruling against the EEOC is vindication that the ‘model employer’ should not be exploiting the dedication of its hardworking employees.”

Since 2001, the EEOC has lost 25% of its workforce, with most of its losses to the frontline positions affected in this case, i.e., investigators, mediators, and paralegals. Employee testimony, which was acknowledged by the Arbitrator, was that “management knew employees continued to work beyond their regular hours, but their interest was in making sure production goals were reached.” Despite the law that covered employees must have a true choice to elect overtime, the Arbitrator concluded that the agency was “inclined, as a matter of policy, to deny it” and had a practice of “forcing compensatory time,” making the choice a “fiction.” The most glaring examples cited by the Arbitrator were agency forms used to approve additional hours that had been altered so employees could not exercise their right to claim overtime pay.

Arbitrator Wolf rejected the EEOC’s audacious claims that “most extra hours [worked] were either without the knowledge of the manager or were completely voluntary and at the request of the employee for his or her convenience or personal desires.” Rather, the Arbitrator accepted the testimony of rank and file employees that the extra hours were: a “forced volunteering activity;” a necessity because “just look at what’s on your desk;” and required since the work cannot be completed during regular hours, but the successful conduct of the job is “about the numbers.”

The timeframe of the arbitration deals with a continuing violation. According to Barbara Hutchison, the Union’s attorney, “The unfortunate reality is that EEOC continues its deplorable overtime violations to this day.” President Martin agrees, “The EEOC should stop balancing its resource constraints on the backs of its employees, but it is the nation’s workers who will continue to suffer until the agency sees increases to its budget and addresses staffing shortfalls.”

The full Arbitration decision can be found at www.council216.org.