

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

DONALD D. MARTIN, JR., <i>et al.</i> ,	)	
	)	
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 13-834C
	)	(Chief Judge Campbell-Smith)
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	

**JOINT STATUS REPORT**

Pursuant to the Court’s Order, dated December 5, 2013, the plaintiffs, Donald Martin, Jr., Patricia Manbeck, Jeff Roberts, Jose Rojas, and Randall Sumner, and defendant, the United States, respectfully submit the following joint status report.

Plaintiffs filed their complaint on October 24, 2013, alleging, among other things, that the Government had violated the Fair Labor Standard Act (FLSA) in connection with its failure to pay the minimum wage or overtime wages on their regularly scheduled pay days to Government employees who were deemed “essential” during the Government shut-down from October 1, 2013, to October 17, 2013, and who worked for the Government between October 1, 2013 and October 5, 2013. On November 1, 2013, the Court suspended proceedings and directed the Government to inform the Court as to the “status of proposed Congressional legislation concerning federal employees back pay and its potential relevancy, if any, to this case.” On December 5, 2013, the Court issued an order continuing the suspension and directing the parties to file a joint status report, on or before February 4, 2014, informing the Court of the “status of proposed legislation concerning federal employees back pay” and any other relevant matters.

The parties respectfully submit this joint status report as directed by the Court.

The parties have reviewed the congressional legislation and report that Continuing Appropriations Act, 2014, was approved October 17, 2013, and contained the following provision:

Employees furloughed as a result of any lapse in appropriations which begins on or about October 1, 2013, shall be compensated at their standard rate of compensation, for the period of such lapse in appropriations, as soon as practicable after such lapse in appropriations ends.

Continuing Appropriations Act, 2014, § 15(a) Pub. L. 113-46 (2013).

Plaintiff alleges as follows:

This provision affected the compensation of “furloughed” employees, not the compensation of the employees who are the subject of this lawsuit, that is, employees who were deemed “essential” and who actually worked between October 1, 2013 and October 5, 2013. Although the essential employees were eventually provided back pay, they were not timely paid on their regularly scheduled paydays nor were they provided the other relief sought in this case such as liquidated damages resulting from the late payment of their wages.<sup>1</sup>

Defendant alleges as follows:

This provision required that all “employees” (without distinction as to whether they were classified as “essential,” or otherwise) would be compensated for the period of the lapse in appropriations starting on or about October 1, 2013, and that employees would be paid “as soon as practicable” after the lapse in appropriations ended. Defendant understands that all furloughed Government employees, whether they worked during the shut-down or not, were paid for the period of the shut-down soon after the lapse of appropriations ended.

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<sup>1</sup> FLSA exempt employees allege that they are entitled to time and one-half overtime compensation for any overtime worked during October 1, 2013 and October 5, 2013. Plaintiffs allege that these employees have not been compensated the back pay for this claim.

The parties are unaware of any other legislation or pending bill addressing the “essential” employees’ claims in this case.

The parties are not aware at this time of any other reason to continue the suspension of the case.

Plaintiffs intend to file an amended complaint that adds over 1,000 opt-in plaintiffs to the litigation. The parties respectfully propose that defendant shall file a response to the complaint, on or before February 10, 2014.

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January 22, 2014

Respectfully submitted,

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