

**BEFORE  
SEAN J. ROGERS  
ARBITRATOR**

In the Matter of Arbitration between:

**AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES,  
COUNCIL 222, AFL-CIO**

*Union*

**and**

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

*Agency.*

**SCHEDULING ORDER - PROCEDURES**

**I. BACKGROUND**

On August 14, 2007, the American Federation of Government Employees, Council 222, AFL-CIO's (AFGE) counsel, Michael J. Snider, Esq., sent an e-mail to the Arbitrator in the above-captioned dispute with a copy to the Department of Housing and Urban Development's (HUD) counsel Daniel Abrahams, Esq. AFGE requested "to move forward with the issue of further hearings; in particular, damages hearings for GS-10 and below and GS-950's, which have been pending now for one year and 18 months, respectively."

On August 14, 2007, HUD responded by e-mail to the Arbitrator with a copy to AFGE:

With due respect, HUD would like you to first rule on the series 360 damages and then schedule proceedings as appropriately thereafter. The series 360 proceedings are the oldest item on the agenda. And a ruling on damages and the motions related thereto will be the best use of your time (rather than further hearings), and will likely give the most clarity to the parties.

On August 15, 2007, the Arbitrator responded by e-mail to the Parties' counsels in pertinent part:

2. We have not completed the hearing in the 950 and the GS-10 and below Damages cases. It is my understanding that we would continue with hearings. The Parties agreed to a continual dispute resolution process and I find that is the best approach. Therefore, I find that the Parties to take the next steps are to schedule the completion of the record in the 950 and GS-10 and below Damages cases.

3. I request that the Parties' counsels review my available 2007 dates below and discuss scheduling hearings to complete the record in the 950 and GS-10 and below Damages cases.

September 4, 5, 6, 11, 12, 27, 28;  
October 9, 12, 15, 22, 23, 24, 30;  
November 6, 7, 8, 27, 28, 29;  
December 4, 5, 6, 11, 12, 13, 18, 19, 20, 27, 28, 2007.

4. The Parties' counsels are to agree on hearing dates. Absent agreement, I will conduct a conference call to set dates.

On August 20, 2007, HUD restated its August 14, 2007 argument opposing further hearings in greater detail in a letter to the Arbitrator. Also, on August 20, 2007, AFGE responded by e-mail to HUD's letter. AFGE asserted that HUD: had refused to consult over hearing dates; was in non-compliance with the Arbitrator's order; and AFGE desired to proceed to hearing *ex parte*. On August 23, 2007, AFGE sent another e-mail to the Arbitrator restating its desire to move forward to hearing as outlined by the Arbitrator in his August 15, 2007 e-mail to the Parties' counsels.

## II. DISCUSSION

The Parties are unwilling or unable to reach agreement on the next steps in the resolution of this dispute. Both Parties recognize the magnitude of the dispute which covers the entire bargaining unit represented by AFGE at HUD, yet meaningful, conciliatory and efficient communication on mere procedural matters eludes the Parties' representatives. The Arbitrator has preferred to have the Parties develop the dispute resolution procedures, rather than dictate a process, in the hope that by agreeing on step-by-step procedures to resolve this dispute the Parties might find other common ground on the merits as well.

In the early stages of the litigation, the Parties reached several procedural agreements on the conduct of the resolution process. Among those agreements was an understanding that, given the magnitude of the dispute, arbitration hearings would proceed in a logical, incremental process based on the employee-grievants' job series and/or HUD's functional organizational structure. The Arbitrator intends to adhere to that agreement. My ORDER below reflects that intention.

### III. ORDER

The Parties are **ORDERED** to adhere to the following procedures regarding scheduling:

1. The next steps in the resolution of the two Grievance of Parties which are the basis of this dispute is to complete the hearings in the Series 950, Legal Interns proceedings and the GS-10 and below damage proceedings. Following the completion of these hearings, the Parties will be offered the opportunity to agree to the next group of employee-grievants to schedule for dispute resolution hearing. Absent agreement on the next group of employee-grievants for hearing, the Arbitrator will immediately identify and define the group. The Parties are encouraged to develop a comprehensive schedule for the resolution of this dispute.
2. The Parties' counsels must immediately review the Arbitrator's offer of available 2007 dates below. The Parties' counsels must confer and discuss scheduling hearings to complete the record in the 950 and GS-10 and below Damages cases in light of these dates.

September 11, 12, 27, 28;  
October 9, 12, 15, 22, 23, 24, 30;  
November 6, 7, 8, 27, 28, 29;  
December 4, 5, 6, 11, 12, 13, 18, 19, 20, 27, 28, 2007.<sup>1</sup>

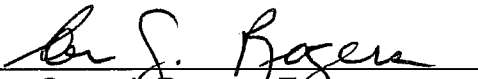
4. The Parties' counsels must confer and attempt in good faith to agree on hearing dates by close of business September 4, 2007. Absent agreement, the Parties' counsels must provide the Arbitrator with their available dates from September, 2007 through February 2008. Thereafter, the Arbitrator will conduct a conference call September 10, 2007 at 10:00 a.m. to set hearing dates.<sup>2</sup>

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<sup>1</sup> These dates are not all of the Arbitrator's available date for the remainder of 2007. The Parties' counsels are encouraged to discuss and agree on other hearing dates between each other even into 2008 and then involve the Arbitrator. These dates offered are in recognition of the Arbitrator's schedule and the completion of the drafting of the Series 360 Award.

<sup>2</sup> The Parties' counsels will be responsible for arranging the conference call provider.

5. The Parties' counsels must confer and attempt in good faith to agree on the order of presentation and number of days for completing the Series 950, Legal Intern and GS-10 and below Damages hearings. Absent agreement, the Parties' counsels must provide the Arbitrator with their proposed order of presentation and number of days for completing the hearings. Thereafter, the Arbitrator will set the order of presentation and number of days for the hearings, subject to motions at the hearings for reasonable extensions of time to present a Parties' case.
  
6. Absent agreement between the Parties on further dispute resolution procedures the Arbitrator will ORDER procedures from time to time as the Arbitrator deems necessary to conduct the arbitration. It bears repeating that the Parties are encouraged to develop a comprehensive schedule for the resolution of this dispute.
  
7. Pursuant to the Parties' collective bargaining agreement at Article 23, **Arbitration, Section 23.04 - Arbitration Fees and Expenses**, the Arbitrator's fees and expenses regarding the preparation of this ORDER shall be shared equally.



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Sean J. Rogers, Esq.  
Leonardtown, Maryland  
August 27, 2007