

# National Association of Letter Carriers

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## Memorandum

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To: All National Officers

Subject: Administrative Leave for Processing  
OWCP Third-Party Actions

As background, it should be noted that the FECA provides, in part, at 5 USC 8131(a):

"An employee required to appear as a party or witness in the prosecution of ... (a third-party) action is in an active duty status while so engaged."

On July 24, 1980, OWCP issued an advisory to all Federal agencies stating that because of "the potential monetary benefits that may accrue to agencies from the recoupment of monies upon favorable settlement of third-party actions ... agencies should grant administrative leave for any activity that the employee can show to be reasonably related to the pursuit of the third-party action."

The Postal Service flatly refused to follow the OWCP advisory — however, their refusal has since been moderated to some extent and is currently expressed in a revision of 545.882 of the ELM (published in Postal Bulletin 21587 of October 2, 1986) — which provides essentially as follows:

- An employee who appears as a witness in a third-party action which has been assigned to the Postal Service, is in official duty status for the time spent in court and for the time spent traveling between the court and the work site.
- An employee who prosecutes a third-party action in his or her own name is not entitled to official duty status, however, for administrative purposes the employee will be compensated for court appearances and travel time between the court and the work site "as if he (or she) is in an official duty status.
- In either of the above situations, time spent traveling between the court and the employee's home is considered commuting time and the employee is not in official duty status or treated as if in official duty status.

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Also, and while not stated in the ELM, the Postal Service continues to maintain that an employee who is prosecuting a third-party action in his or her own name is not treated as if in an official duty status for the time spent developing the case. Any time spent preparing the case within an employee's regular work schedule is charged in accordance with the procedures for annual leave or LWOP.