

October 21, 2005

Monica Miner
Labor Relations Representative
CASE
2495 Natomas Park Drive, Suite 550
Sacramento, CA 95833

Re: Core Hours Grievance Dated October 4, 2005

Dear Ms. Miner:

The above grievance was received on October 5, 2005. State Fund was granted an extension in which to prepare this response. The grievance is based the assertion that an e-mail I sent on July 14, 2005, violates Articles 4.3 (Entire Agreement) and 6.3 (Hours of Work and Work Schedules) of the current Unit 2 Contract.

My purpose in sending the e-mail in question was to iterate the ongoing practice concerning attorneys' work schedules. I will address your expressed concerns in the order in which you present them.

You claim that directing attorneys to let their secretaries know when they are on calendar is a violation of Article 6.3, in that this constitutes establishment of a reporting relationship whereby attorneys are reporting to non-management employees. This is not changing attorneys' reporting relationships with their supervisor. It certainly does not create a reporting relationship granting a Legal Secretary any authority over an attorney's schedule. Rather, it is merely an expedient means of keeping "management reasonably apprised of their whereabouts," by asking the Legal Secretaries to keep current calendars for the attorneys in the office. This arrangement has been in place for a long period of time and has been the accepted practice.

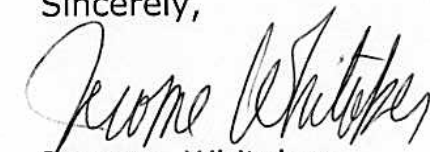
I also addressed the issue of normal business hours in my e-mail. You suggest that setting such parameters and expecting attorneys to be in the office when not at hearings or depositions is in effect establishing

"core hours," and directly violates Article 6.3. I reminded my staff that normal business hours for State Fund are 8:00 A.M. to 5:00 P.M., and as they work in reliance on Claims staff, it is reasonable to expect them to be accountable during the same hours when other State Fund employees are available. In so doing, they will comply with Article 6.3 by accomplishing their assignments and fulfilling their responsibilities (my emphasis). Your likening this to a "time clock" whereby attorneys "punch in" at 8:00 A.M. and "punch out" at 5:00 P.M. is contrived. This reminder does not constitute treating them as hourly employees, as they are not being tracked hour for hour, rather, they are simply expected to be accountable during normal business hours. My reading of Article 6.3 does not preclude this expectation on Legal management's part.

I do believe I have the right to expect Staff Counsel to be at work locations at specific times as a part of their job duties. For example, they are required to be on time at all court appearances to which they are assigned, depositions to which they are assigned, training sessions in which they are enrolled, meetings with employers, staff meetings, etc. Failure to attend any and all of these could potentially be grounds for discipline."

I do agree wholeheartedly with your statement concerning attorneys' professionalism and timeliness. By and large, the attorneys on my staff have and continue to complete their work assignments on a timely and professional basis. The e-mail of July 14th was not sent with the intent of questioning my staff's professional integrity. It was intended as a general reminder. I do not find that it violates provisions of the Unit 2 Contract. Therefore, I am denying this grievance.

Sincerely,


Jerome Whitaker
Attorney-In-Charge
Glendale Legal, Unit B

Enclosures

cc: Steve Bloom, Assistant Chief Counsel
Kathy McDonald, HR Consultant