



*VIA FACSIMILE AND U.S. CERTIFIED MAIL*  
*#7005 0390 0005 7226 0547*

October 4, 2005

Mr. Jerome Whittaker  
State Compensation Insurance Fund  
655 North Central Avenue  
Glendale, CA 91203

**RE: Grievance of All Affected Staff Counsel  
SCIF- Glendale, Legal Unit B**

Dear Mr. Whittaker:

CASE is filing the attached grievance with you for resolution at the first level. CASE was granted an extension in which to file this grievance.

I can be reached at (916) 669-5869 or [mminer@calattorneys.org](mailto:mminer@calattorneys.org).

Sincerely,

Monica Miner  
CASE Labor Relations Representative

Enclosures

cc: Raquel Silva- CASE Executive Director  
Holly Wilkens- CASE President

**EMPLOYEE CONTRACT GRIEVANCE**

STD 630 (Rev 7/00)

BARGAINING UNIT NAME AND NUMBER (Grievant's Bargaining Unit)

**BU 2 - Attorney and Administrative Law Judges**

GRIEVANT'S NAME (Person Effected)

HOME TELEPHONE NUMBER

All Affected Staff Counsel- Glendale, Legal Unit B

MAILING ADDRESS (NUMBER/STREET)

(CITY)

(ZIP CODE)

655 North Central Avenue

Glendale

91203

DEPARTMENT

DIVISION OR FACILITY

SECTION, BRANCH, UNIT ETC.

State Compensation Insurance Fund

Legal

POSITION CLASSIFICATION

NORMAL WORKING HOURS

WORK TELEPHONE NUMBER

Staff Counsel

**REPRESENTATION INFORMATION (COMPLETE IF APPLICABLE)**

REPRESENTATIVE'S NAME

TELEPHONE NUMBER

ORGANIZATION OR AFFILIATION

Monica Miner

(916) 669-5869

CASE

**TRACKING INFORMATION**

DEPARTMENTAL TRACKING NUMBER

DEPARTMENTAL SECOND TRACKING NUMBER

UNION TRACKING NUMBER

**Please Refer to The Bargaining Unit Contract  
For Specific Information Regarding Employee  
Grievance Procedures and Time Frame Requirements for That Unit.**

**GRIEVANCE INFORMATION**

DATE OF ACTION CAUSING GRIEVANCE

DATE OF INFORMAL DISCUSSION WITH IMMEDIATE SUPERVISOR

DATE OF INFORMAL RESPONSE

Ongoing

CLEAR CONCISE STATEMENT OF GRIEVANCE (ATTACH ADDITIONAL SHEETS IF NECESSARY)

See Attached.

SPECIFIC ARTICLE(S) AND SECTION(S) OF CONTRACT ALLEGEDLY VIOLATED

4.3, 6.3, any and all other applicable sections.

SPECIFIC REMEDY SOUGHT

1. CASE requests that SCIF cease and desist from imposing "core hours" on Unit 2 employees;
2. CASE requests that SCIF remove any disciplinary document, either informal or formal, from each and every Unit 2 member's Official Personnel file and/or supervisory file and/or any other file kept on Unit 2 employees regarding the failure of that Unit 2 employee to keep "core hours" in violation of the Unit 2 MOU;
3. CASE requests that SCIF withdraw any active formal allegations against each and every Unit 2 employee for failure to comply with the "core hours" in violation of the Unit 2 MOU;
4. CASE requests that SCIF take immediate steps to make whole any Unit 2 employee who received any formal discipline for their failure to keep "core hours" in violation of the Unit 2 MOU;
5. CASE requests that SCIF cease and desist from requiring Staff Counsel from reporting absences to their secretaries;
6. CASE requests that Staff Counsel not be expected to be at the work location by an assigned time;
7. CASE requests any and all other applicable remedies.

SIGNATURE OF GRIEVANT

DATE FILED

- *Monica Miner for all Affected* 10/14/05

**GRIEVANCE REVIEW--LEVEL I**

|               |                  |                                      |
|---------------|------------------|--------------------------------------|
| DATE RECEIVED | DATE OF RESPONSE | LEVEL I DECISION TO BE ENTERED BELOW |
|---------------|------------------|--------------------------------------|

|  |   |                               |
|--|---|-------------------------------|
| SIGNATURE OF LEVEL I REVIEWER<br><br>—   | PRINTED NAME AND TITLE  | TELEPHONE NUMBER              |
| <input type="checkbox"/> I CONCUR AND DO NOT APPEAL TO THE SECOND REVIEW LEVEL | <input type="checkbox"/> I DO NOT CONCUR AND APPEAL TO THE SECOND REVIEW LEVEL (IF CHECKED, STATE REASON BELOW) | GRIEVANT'S SIGNATURE<br><br>— |
| REASON FOR APPEAL  |   | DATE                          |

**GRIEVANCE REVIEW--LEVEL II**

|   |  |  |      |
|---|--|--|------|
| DATE RECEIVED   | DATE OF RESPONSE   | <input type="checkbox"/> DECISION ATTACHED |      |
| SIGNATURE OF LEVEL II REVIEWER<br><br>—                                       |  | PRINTED NAME AND TITLE                     |      |
| <input type="checkbox"/> I CONCUR AND DO NOT APPEAL TO THE THIRD REVIEW LEVEL | <input type="checkbox"/> I DO NOT CONCUR AND APPEAL TO THE THIRD REVIEW LEVEL (IF CHECKED, STATE REASON BELOW) | GRIEVANT'S SIGNATURE<br><br>—              | DATE |
| REASON FOR APPEAL   |  |  |      |

**GRIEVANCE REVIEW--LEVEL III**

|  |   |  |      |
|--|---|--|------|
| DATE RECEIVED  | DATE OF RESPONSE  | <input type="checkbox"/> DECISION ATTACHED |      |
| SIGNATURE OF LEVEL III REVIEWER<br><br>—                                       |   | PRINTED NAME AND TITLE                     |      |
| <input type="checkbox"/> I CONCUR AND DO NOT APPEAL TO THE FOURTH REVIEW LEVEL | <input type="checkbox"/> I DO NOT CONCUR AND APPEAL TO THE FOURTH REVIEW LEVEL (IF CHECKED, STATE REASON BELOW) | GRIEVANT'S SIGNATURE<br><br>—              | DATE |
| REASON FOR APPEAL  |   |  |      |

**GRIEVANCE REVIEW--LEVEL IV**

|   |                  |  |  |
|---|------------------|--|--|
| DATE RECEIVED                           | DATE OF RESPONSE | <input type="checkbox"/> DECISION ATTACHED |  |
| SIGNATURE OF LEVEL IV REVIEWER<br><br>— |                  | PRINTED NAME AND TITLE                     |  |

## STATEMENT OF FACTS- SCIF, GLENDALE LEGAL UNIT B

SCIF is in violation of Section 4.3 and 6.3 of the Memorandum of Understanding between the Union and the State per an email that Attorney In Charge Jerry Whitaker, Glendale Legal Unit B, sent to all Unit 2 members on July 14, 2005. (See Attached). First, the email is a violation of the MOU as it requires Unit 2 members to report their whereabouts to their secretary. This is a violation of 6.3 of the MOU which states that "employees are responsible for keeping management reasonably apprised of their schedule and whereabouts." Secretaries are not management and therefore Staff Counsel should not be reporting to them.

Second, Staff Counsel are expected to be in the office between 8 a.m. to 5 p.m. on weekdays. The email states that Staff Counsel are accountable for the time between 8 am and 5 pm. However what is being enforced is that they are required to be in the office when not at hearings or depositions. By Mr. Whitaker's requirement, SCIF is imposing "core hours" on the Staff Counsel at Glendale Legal Unit B in violation of the MOU, and treating Unit 2 employees as hourly employees.

Third, the email fails to take into account that the Staff Counsel are expected to work all hours necessary to complete the work assigned per section 6.3 of the MOU. The expectation is that they will work an average of 40 hours per week. Many Staff Counsel assigned to Unit B work well beyond the normal business hours of 8 a.m. to 5 p.m. including late into the evening. They are averaging well over 40 hours per week even though they are not physically present in the office. They are completing the work assigned on a timely and professional basis. The requirement that attorneys be in the office at 8 every morning and remain in the office until 5 every evening unless they are in a hearing or deposition, is in essence the same as requiring them to punch in and out, a "time clock", which is a violation of section 6.3 of the MOU. CASE did not agree to negotiate this provision which is included in the current MOU and is still being given effect per Government Code section 3517.8. SCIF's action also violates section 4.3 of the MOU.

## Susan Taeb

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**From:** Jerome P. Whitaker  
**Sent:** Thursday, July 14, 2005 11:10 AM  
**To:** Alan B. Fein; Alexandra M. Montgomery; Elizabeth Rifkin; Frank R. Burton; Gevik Anjirgholian; Gilberto Y. Moreno; Gustavo E. SanJose; Hagop H. Baronian; Jay K. Nakasone; Katherine Harvey-Edwards; Leslie B. Ferguson; Lila Mahooti; Lisa Bushin; Mark S. Poindexter; Patrick D. Bingham; Paul D. Bishop; Richard G. Adams; Robert A. Wilson; Romeo Y. Ybanez; Roxanne B. Paige; Sheronda L. Edwards; Shivonne N. Theresia; Susan Taeb; Victor C. Bolden; Zinnia C. Barrero; A. Lidia Castro; Alice M. Rosales; Armando Martinez; Carolyn A. Oconnor; Deborah A. Carpenter; Elizabeth Herrera; Erma Cisneros; Felisha Williams; Grazia Tangorra; JoAnn Mercado; Kate V. Addy; Linda L. Mercurio; Marcy R. Garcia; Mosi T. Odom; Peachy M. Valenciano; Samuel G. Agcaolli; Susan R. Lawrence; Tony D. Maranan  
**Subject:** Use of Time

I am beginning to notice that some of the attorney offices are beginning to be backed up on mail. Some instances of this may be due to secretarial problems and both Alice and I are aware of where this is true. I also recognize that we have recently have had some very heavy calendars. Nevertheless, many attorneys manage to get into their offices and do their mail timely. Thank you to those of you who do this. At the risk of sounding like a broken record, below is the official policy on use of attorney time:

- If you are not on calendar in the morning, you are expected to be in the office.
- If you are not on calendar in the afternoon, absent other considerations, you are expected to be in the office.
- You are accountable for your time during normal business hours Which is 8:00 AM to 5:00 PM. This is the time when adjusters, the WCAB, employers and your opposition expect to be able to contact you. If you cannot be in the office for some reason, e.g., you are held over at the Board, you are required to let your secretary know where you are.
- NOTE: you are not allowed to work at home during business hours instead of coming into the office without specific permission.

Finally, lets realize that we are all doing the Fund's work and need to be understanding with each other. The more harmony we have the better our work product will be.

Jerome Whitaker  
Attorney in Charge  
Glendale Legal Unit B  
Telephone (818)291-7373  
FAX (818)291-7536

**Monica**

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**From:** Jean A. Rowan [jarowan@scif.com]  
**Sent:** Wednesday, September 21, 2005 3:43 PM  
**To:** MMiner@calattorneys.org  
**Cc:** Kathy A. McDonald  
**Subject:** RE: Extension to file grievances

Monica,

The address is the same: 655 N. Central Avenue, Glendale, CA 91203.

Julie Mason - Legal Unit E  
 Jerry Whitaker - Legal Unit B

Thank you for allowing me time to look into the III percentages.

Jean

-----Original Message-----

**From:** Monica [mailto:mminer@calattorneys.org]  
**Sent:** Wednesday, September 21, 2005 3:15 PM  
**To:** Jean A. Rowan  
**Subject:** RE: Extension to file grievances

Jean,

Thank you for the extension. I will file the 6.3 grievances with Mr. Whitaker and Ms. Mason. Is Ms. Mason at the same address as Mr. Whitaker?

As for the III issue, that is fine for you to research and get back to me. I will see what I can find out from my end.

Monica Miner  
 CASE Labor Relations Representative  
 2495 Natomas Park Road, Ste. 550  
 Sacramento, CA 95833  
 (916) 669-5869  
 (916) 669-4199 FAX

-----Original Message-----

**From:** Jean A. Rowan [mailto:jarowan@scif.com]  
**Sent:** Wednesday, September 21, 2005 3:03 PM  
**To:** MMiner@calattorneys.org  
**Subject:** RE: Extension to file grievances

Monica,

October 4th is acceptable. Are you going to filing the grievance(s) with Julie Mason and Jerry Whitaker? I want to let Kathy McDonald know, since I'll be out of the office that week.

I see better your approach on the IIIs. I'm not sure what the percentages are office by office, so if you'll allow me to do some research on this, I might be able to respond. Unfortunately, I won't be able to do so until the second week of October when I'll be back in the office.

Jean

-----Original Message-----

**From:** Monica [mailto:mminer@calattorneys.org]

**Sent:** Wednesday, September 21, 2005 3:05 PM

**To:** Jean A. Rowan

**Subject:** RE: Extension to file grievances

Jean,

Would Oct 4 be OK to file the 6.3 core hours grievance?

Also, I am looking into the issue about the cap on the Ills. My information is that the 55% cap is office by office at SCIF whereas CASE's position is that the attorney pool needs to be assessed by a department on a statewide basis. So what is happening is that people are not being promoted to the Ill position at their current office because the 55% cap is being invoked on the office. If however, the cap was evaluated at a statewide level then more attorneys could become Ills.

Monica Miner  
CASE Labor Relations Representative  
2495 Natomas Park Road, Ste. 550  
Sacramento, CA 95833  
(916) 669-5869  
(916) 669-4199 FAX

-----Original Message-----

**From:** Jean A. Rowan [mailto:jarowan@scif.com]

**Sent:** Wednesday, September 21, 2005 11:29 AM

**To:** MMiner@calattorneys.org

**Subject:** RE: Extension to file grievances

Monica,

I agree to an extension for filing a grievance over Article 6.3.C. Do you have an idea as to when you expect to be able to file it? Kathy McDonald is out of the office this week, and I will be out of the office from September 26 through October 7. It would just be helpful to have an idea when to expect it for response purposes.

With regard to the cap language, we didn't spend much time on that point, so perhaps you might provide a little more explanation as to how you believe State Fund has violated Article 15.1.

Jean

[Jean A. Rowan] -----Original Message-----

**From:** Monica [mailto:mminer@calattorneys.org]

**Sent:** Wednesday, September 21, 2005 11:18 AM

**To:** Jean A. Rowan

**Cc:** mminer@calattorneys.org

**Subject:** Extension to file grievances

Jean,

This is to confirm that we spoke on Monday and you have granted me an



extension to file grievances regarding the core hours issues arising out of the 2 Glendale locations.

Also, I spoke with you regarding the 55% cap on IIIs is being applied office by office as opposed to statewide. It is CASE's position that the cap is statewide per department as opposed to office by office. I would also like an extension in which to file so that you may have an opportunity to look into the matter.

Thank you.

Monica Miner  
CASE Labor Relations Representative  
2495 Natomas Park Road, Ste. 550  
Sacramento, CA 95833  
(916) 669-5869  
(916) 669-4199 FAX