



Robert MacLean <rjmaclean@gmail.com>

Fwd: RE: MacLean - Agency Position on Reinstatement

Thad Guyer <thad@guyerayers.com>

Thu, Apr 23, 2015 at 10:18 PM

To: Robert MacLean <rjmaclean@gmail.com>

Cc: Tom Devine <TomD@whistleblower.org>, Karen Gray <kareng@whistleblower.org>

Robert, attached is the Agency's statement of its continuing position that it will reinstate you only to your former position. Once again the Agency states it is [prepared to](#) do this unilaterally and soon. The agency wants to effectuate that pro forma reinstatement and just get our numbers on attorneys fees and back pay. Thad

----- Forwarded message -----

From: "Calaguas, Eileen <TSA OCC>" <Eileen.Calaguas@tsa.dhs.gov>

Date: Apr 24, 2015 9:04 AM

Subject: RE: MacLean - Reschedule Telecon

To: "Thad Guyer" <thad@guyerayers.com>Cc: "Tom Devine" <TomD@whistleblower.org>

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Settlement Discussions

Thad,

By now, I trust that you've communicated to Mr. MacLean that it would be inappropriate for me to respond to his emails, text, and phone message. Likewise, he should avoid contacting me directly again, so long as he has a designated representative.

While I certainly understand how Mr. MacLean would welcome some type of "interim relief" prematurely, the continued delay in calculating and paying his back pay is a result of the fact that he has not yet been reinstated. Again, the Agency is prepared to reinstate him and, at this point, even as early as May 1, 2015, and unilaterally so. But, for his part, Mr. MacLean eventually must provide the required information regarding his other income and deductions, all of which offsets the back pay amount – as a matter of law. In light of your use of an economist, there should be no further delay in disclosing and considering this type of information now, as a means of resolving this case.

As to your suggestion for the types of positions to which Mr. MacLean could be reinstated, Mr. MacLean would be entitled to return only to his former position, Federal Air Marshal at the I-band, should the MSPB ultimately find in his favor. Therefore, he should not expect reinstatement into another position, let alone one that does not currently exist. As a Federal Air Marshal, his job duties would be to fly missions, and I see no reason to negotiate further on this point. Rather, we must return to our initial discussions, which, if you recall, focused on ascertaining dollar figures without further litigation. To include Tom in such settlement discussions, let's talk on Monday, April 27 at 6 PM (PST). As an alternate, I can also be available on Wednesday, April 29 at 6 pm (PST). Please provide the breakdown in requested attorney fees prior to our telecon. Thank you. Eileen.

From: Thad Guyer [mailto:thad@guyerayers.com]**Sent:** Thursday, April 23, 2015 9:19 AM**To:** Calaguas, Eileen <TSA OCC>**Cc:** Tom Devine**Subject:** Re: MacLean - Reschedule Telecon

Eileen, I will be unable to have the followup telecon with you refernced in your email below. Tom Devine or I will get back with you to reschedule. Thanks. Thad

On Apr 22, 2015 3:57 AM, "Calaguas, Eileen <TSA OCC>" <Eileen.Calaguas@tsa.dhs.gov> wrote:

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Settlement Discussions

Thad,
Attached hereto is a draft joint motion. Please revise as you see fit and return the signature page with your signature via email. I will sign and file it upon receipt.

Also attached hereto is the Agency's guidance for administering back pay. I'm specifically including the checklist that will be applied in Mr. MacLean's case.

Finally, to try to move this along quicker, I'm including the preliminary calculation that I referenced in our telephone discussion. The amount reflected therein (\$891,709.20) is a ceiling, from which employment wages and other factors must be deducted. As you can see, our numbers are far apart, and it appears to me that your economist's calculation (\$1,260,000.00) does not include any such mandatory deductions, but I trust that we will work together towards reconciling this difference.

Please promptly forward a breakdown of the \$1.6 million in attorney fees requested, which you indicated was an accumulation of work performed by five different law firms. Let's talk on April 23, at 6 pm (PST) - call me at [415-503-4602](tel:415-503-4602), as I will remain in my office until I hear from you. Thank you.

Eileen Dizon Calaguas
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