

In the United States Court of Federal Claims

NOT FOR PUBLICATION

No. 05-1043C

(Filed June 12, 2007)

JORGE A. DELPIN APONTE, et al.,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

ORDER

As the Court ruled from the bench at today's hearing, the government's motion to dismiss any claims for interest and for retirement pay is **GRANTED** as such claims are not within this Court's jurisdiction. Pursuant to Rule 56(f) of the Rules of the United States Court of Federal Claims, defendant's motion for summary judgment is **DENIED** without prejudice. Plaintiffs shall be given the opportunity to conduct limited discovery relating to the formula used by the United States Postal Service ("USPS") to calculate overtime and other pay and the application of that formula to determine the pay received by plaintiffs. This discovery may include written or oral depositions of relevant USPS personnel. Counsel for the parties shall confer and submit a Joint Status Report on or by Thursday, June 14, 2007, proposing a schedule for this limited discovery. Once this limited discovery relating to the compensation formula is completed, defendant may renew its motion for summary judgment. Plaintiffs shall have twenty-eight days from the date the renewal notice is served to file any supplemental opposition to the motion, and the government may reply to that paper within fourteen days. In their supplemental papers, the parties should address whether the Fair Labor Standards Act or any other statute, or regulations promulgated thereunder entitle USPS employees to any particular levels of basic pay and pay differentials.

IT IS SO ORDERED.

s/ Victor J. Wolski

VICTOR J. WOLSKI

Judge