

Compensation Claim Decision
Under section 3702 of title 31, United States Code

Claimant: [name]

Organization: U.S. Department of Commerce

Claim: Failure to comply with terms and conditions of settlement agreement and improper application of personnel management regulations

Agency decision: N/A

OPM decision: Denied; Lack of Jurisdiction

OPM file number: 09-0020

//Judith A. Davis for

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability

3/24/2009

Date

The claimant is a former employee of the U.S. Department of Commerce (DOC). Based on information in the record, her employment with DOC ended effective August 1, 2008. In her February 11, 2009, letter, claimant requests action by the U.S. Office of Personnel Management (OPM) to obtain the following "relief":

I am requesting that the agency appropriately adhere to Office of Personnel Management Regulations [sic] regarding Settlement Agreements making all necessary and required revisions, adhere to the Terms and Conditions of the Settlement Agreement, and pay attorney fees in full in the amount of \$15,000.00

OPM received a faxed copy of the claim request without attachments on February 11, 2009, a copy of the settlement agreement from the claimant's former employing agency on February 13, 2009, and additional information from the claimant consisting of her February 26, 2009, letter and its attachments. For the reasons discussed herein, we do not have jurisdiction to consider this claim.

The record shows the claimant entered into a settlement agreement in the matter of [claimant] v. Guitierrez, Secretary of Commerce, Civil Action [number], before the U.S. District Court for the [district/division]. The claimant and DOC filed a stipulation of dismissal with prejudice pursuant to the settlement agreement, and the Court dismissed the case with prejudice on July 16, 2008. The claimant now asks OPM to provide the aforementioned relief under the compensation and leave claims settlement provisions of part 178 of title 5, Code of Federal Regulations (CFR).

The claimant's attempt to file a claim under 31 U.S.C. § 3702(a)(2) is misplaced. Claimant has already litigated this matter in court, and agreed to settlement and dismissal of the case. As such, the U.S. District Court retains jurisdiction over the matters at issue in the implementation of the settlement, including complaints asserting violation of the above cited settlement agreement entered into under the court's authority. Therefore, OPM has no jurisdiction to intervene in a dispute over the content and implementation of the settlement agreement between the claimant and DOC. These issues are properly raised with the U.S. District Court.

This settlement is final. No further administrative review is available within OPM. Nothing in this settlement limits the employee's right to bring an action in an appropriate United States court.