

NAPS NATIONAL CONVENTION 2021

NAPS V. USPS LAWSUIT



THE EAS “SANDWICH”



SUPERVISOR RIGHTS TO FAIR PAY AND CONSULTATION



Postal Reorganization Act of 1970

Congress recognized the “vital role” of supervisory personnel

Protected supervisory rights through participatory management

Required pay differential and pay comparable to private sector pay

TIMING OF PAY CONSULTATION AND PAY DECISION

Pay consultation begins NLT 45 days after USPS reaches a collective bargaining agreement with the largest postal union (currently NALC).



TIMING OF PAY CONSULTATION AND PAY DECISION



BUT ... the start of pay talks may be delayed, potentially by years, due to its linkage to the completion of union pay negotiations.

NAPS'S EXPERIENCE IN PAY CONSULTATION AND FACTFINDING



FY2011-2015 Pay Decision

FY2016-2019 Pay Decision

FY2020-2023 Pay Decision

NAPS CONSULTATION RE: FY2016-2019 PAY DECISION



Under Title 39, pay consultation should conclude within 90 days.

Consultation between USPS and NAPS started late and took 10 months.

September 2017: USPS submitted its pay proposal to NAPS

June 28, 2018: Nearly two years into pay package, USPS issued its pay decision for "Field" EAS personnel.

NAPS REJECTED USPS PAY DECISION, INVOKED FACTFINDING



NAPS Executive Board rejected the decision and requested FMCS creation of a factfinding panel.

USPS ignored Title 39's statutory substantive and procedural requirements.

NAPS'S CONCERNS WITH FY2016-2019 USPS PAY DECISION



USPS ignored Title 39's substantive and procedural requirements.

No Supervisory Differential adjustment for many supervisors

- ☐ No private pay comparability
- ☐ Limited to only "Field employees"

NAPS REPRESENTATION OF POSTMASTERS

Over 4,100 postmasters are NAPS members.

October 1, 2018: NAPS requested Postal Service to recognize NAPS representation of postmasters.

February 25, 2019: USPS refused to recognize NAPS as representative of postmasters.



NAPS INVOKES FACTFINDING

July 6, 2018: NAPS requested the Federal Mediation and Conciliation Service to establish a factfinding panel.

Factfinding is distinctly different than Arbitration.

December 10-11, 2018 – Two-day hearing.

April 30, 2019: Unanimous FMCS panel issued its factfinding report and recommendations.



FACTFINDING PANEL FINDINGS AND RECOMMENDATIONS



UNITED STATES OF AMERICA
FEDERAL MEDIATION AND CONCILIATION SERVICE
PURSUANT TO 39 U.S.C. §1004(f).

IN THE MATTER OF:)
UNITED STATES POSTAL SERVICE)
AND)
NATIONAL ASSOCIATION OF)
POSTAL SUPERVISORS)
FMCS: #180706-06229)

ISSUED: April 30, 2019

FACTFINDING REPORT AND RECOMMENDATIONS

PANEL MEMBERS:

Susan E. Halperin, Neutral Chair
Robert S. Hite, Neutral Member
Joshua M. Javits, Neutral Member

APPEARANCES:

FOR THE UNITED STATES POSTAL SERVICE:

Katherine S. Attridge, Manager, Collective Bargaining & Arbitration
Bruce A. Nicholson, Manager, Labor Relations Policy Administration
Erin E. Lynch, Chief Counsel, Labor Law
Terence F. Flynn, Labor Counsel

FOR THE NATIONAL ASSOCIATION OF POSTAL SUPERVISORS:

BROWN, GOLDSTEIN & LEVY, LLP
Andrew D. Freeman
Jean M. Zachariasiewicz

The panel agreed with NAPS that the Postal Service's 2016–2019 Pay Package violated the PRA by:

- Failing to take into account private sector compensation and
- Failed to provide adequate pay differentials between supervisors and staff.

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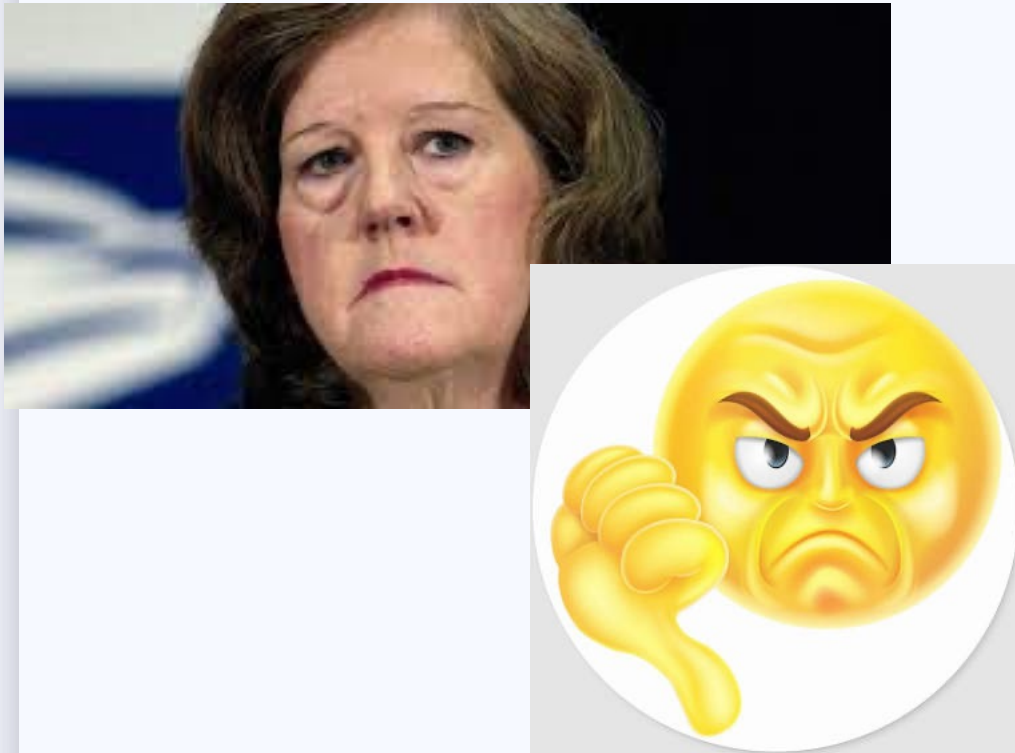
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- EAS compensation was not comparable to private sector pay
- The USPS pay-for-performance system was “seriously flawed”
- The Supervisory Differential was unreasonably calculated and inadequate
- The panel found these problems impacted supervisory retention.

USPS REJECTION OF FACTFINDING PANEL'S RECOMMENDATIONS



May 15, 2019: USPS rejected most of the factfinding panel's recommendations.

No changes to supervisory differential

No retroactive salary increases

NAPS SUES USPS IN FEDERAL COURT



July 26, 2019: NAPS sues USPS for failure to pay supervisors, managers, postmasters in accord with federal law.

And challenged USPS's refusal to recognize the NAPS's right to represent postmasters and headquarters and area personnel.

DISTRICT COURT DISMISSES NAPS'S LAWSUIT



July 17, 2020: U.S. District Court granted USPS and UPMA motions to dismiss NAPS' lawsuit.

Notably, the court did not rule on the merits of NAPS's case against the USPS.

NAPS APPEALS TO D.C. CIRCUIT APPEALS COURT



September 11, 2020. NAPS appealed the U.S. Circuit Court of Appeals for the District of Columbia.

Spring, 2021. NAPS and USPS filed briefs with the court.

September 21, 2021. Oral argument will be held before a 3-judge panel

December 2021 or later. An Appeals Court decision is expected.

NAPS LAWSUITS AGAINST USPS

NAPS has faced-off against USPS in federal court **SIX TIMES** over pay issues:

1973 - NAPS v. USPS (D.C. District Court)

1975 – NAPS v. USPS (D.C. District Court)

1976 – NAPS v. USPS (D.C. District Court)

1979 – NAPS v. USPS (D.C. Appeals Court)

2019 – NAPS v. USPS (D.C. District Court)

2020 – NAPS v. USPS (D.C. Appeals Court)



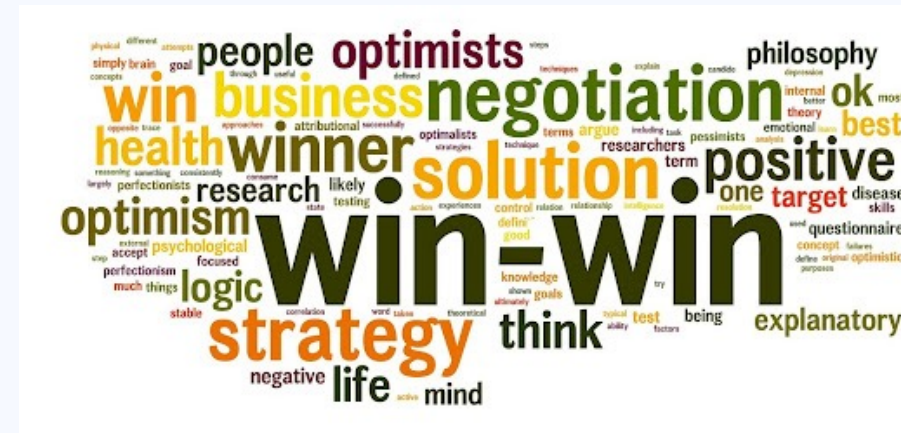
POSSIBLE OUTCOMES FROM APPEALS COURT



AUGUST 23, 2021: FY2020-FY2023 PAY DECISION

USPS and NAPS successfully concluded consultation on the FY2020-2023 pay decision.

Remarkably different in the consultation process and results, compared to the 2018-19 pay talks.



WE CONTINUE ON THREE FRONTS ...



- Lawsuit challenging 2016-2019 pay package & confirming NAPS's representation of postmasters.
- Implementation of 2020-2023 pay decision and work team activity
- In Congress, advocating for fairness in the pay consultation process (HR 1623, HR 3077)