

12/09/2010 14:07

UC PROSECUTOR'S OFFICE Fax: 908-527-4625

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#1581 P.008 /014

P.08

Barbara Sullivan

From: Glenn Grusinski
 Sent: Tuesday, November 02, 2010 06:36 PM
 To: Gregory Clay; Ana Zsak; Antonio Rino; Brendan Sullivan; Brian O'Malley; Bridget Lawrence; Carl Riley; Carlos Rodriguez; Cassie Kim; Christopher Gulbin; Daniel Fay; Daniel Selb; David Nechamkin; Dean Marcantonio; Deborah Baum; Edward Hanewald; Edward Koanig; Glenn Grusinski; Greg Masterson; Gregory Kowalczyk; Guy Steward; Harvey Barnwell; James Russo; James Weinberg; Jameson Antonio; Janet Lopez; Jeony Principato; John Deluca; Johnny Ho; Jordan Jeffer; Jorge Jimenez; Jose Martinez; Jose Vendas; Joseph DeBlase; Joseph Genna; Joseph Koury; Justin Marranca; Karen Rivera; Keith Johnson; Kevin G. Foley; Kevin Grimmer; Kevin Kolbeck Jr.; Lester Swick; Magaly Meoqui; Margarita D'Avella; Martin Lynch Jr; Mary Hillongos; Michael Burns; Michael Hoose; Michael Manochio; Michael Triarsi; Oliver Kalebota; Patricia Gusmano; Paul Han; Peter Klaskin; Ricardo Osborne; Richard Gregory; Richard Stamler; Robert Meoqui; Robert Santilli; Ronald G. Reale; Sofia Santos; Stephen McGuire; Suzanné Deegan; Ted Merced; Timothy Durkin; Tracy M. Diaz; Vincent Gagliardi; Vito Coladitti; Walter Johnson; William Mannix
 Subject: FW: Message from the PBA President

Message from Our PBA President

From: Stephen McGuire
 Sent: Tuesday, November 02, 2010 5:27 PM
 To: Glenn Grusinski
 Subject: Message from the PBA President

ARBITRATOR HARTIGAN SAYS "FILL 'ER UP"
PBA SCORES HUGE VICTORY IN GAS ARBITRATION

THE AWARD

"Based on the above discussion and analysis, I find that a past practice has existed within the Office of allowing officers to use their County vehicle for commuting purposes and that the blanket exclusion of "commuting mileage" from consideration of additional gas requests violates said past practice and as such is an unreasonable denial. Additionally, the denials of fuel to Detectives Rivera, Deegan and Lynch, and Sergeants Kowalczyk and Osborne were unreasonable. While management has a right to determine reasonable criteria or standards for "appropriate justification", the Office has failed to provide officers with a clear understanding of what is required to meet an "appropriate justification". The Office has also been inconsistent in its approval and denial of requests for additional gasoline as outlined above. Therefore, the Office is directed to approve the above noted requests and make the stated individuals whole for any out-of-pocket expenses incurred in providing gas for their County vehicle with suitable proof of purchase."

The Analysis

The initial analysis of the award is easy: "You're denied because we said so" obviously did not work at all. The portions of the award that I have highlighted confirm what we have been saying for the last 2 years, that the denials of gasoline were completely unreasonable and the approval of gasoline was nothing short of inconsistent, and in many cases, completely and unfairly selective. Furthermore, we have stated from day one that providing fuel for commuting was an established past practice and could not just be completely discounted when approving Detectives for additional gasoline. That argument was obviously 100 percent valid.

Throughout Arbitrator Hartigan's 21 page decision, there are many arguments that were broken down and addressed individually, including memos from members of the administration, memos from our members and certifications submitted by both sides. The following is a breakdown of the relevant issues.

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* The following is in reference to the memo issued by Chief Buccino regarding the gas allotment for the year.

"The Chief added the restriction that 'commuting mileage will not be considered as a appropriate justification for additional fuel.' This restriction is not mentioned in the settlement agreement and runs counter to the long standing practice of allowing officers to use their vehicle for commuting purposes. While officers were required to sign the memorandum, many did so while also noting their disagreement with it".

That is exactly why I encouraged every member to include the paragraph stating they disagreed with the initial memo when they signed it. We knew it was a violation and this decision proves it.

* "As noted Detective Rivera made a request for additional fuel in November of 2008 and attached her on-call schedule. This request was approved. In May 2010 she made the same request with the same documentation but was denied. Detective Rivera met the requirement for appropriate justification by providing the same documentation as had been previously accepted. Additionally, nothing in the settlement agreement indicates a requirement for any officer to justify how quickly they use their initial allotment of fuel".

The reason I included this is because it makes reference to the letter that the Prosecutor sent to our membership back in June. As you all recall Prosecutor Romankow had a whole litany in there about how I was spewing venom. In the letter I wrote to D/C Clay regarding his request for Detective Rivera to tell him how she used her additional allotment of fuel. In that letter I told him that she didn't have to explain to him how she used her initial fuel allotment. Looks like we were right there too. It also appears that the Prosecutor and this administration seem to get really upset when we're right.

* "The UCPO has been arbitrary in its decisions on granting additional fuel requests."

Enough said.

* The following is in reference to certifications submitted to Arbitrator Hartigan by Tracy Diaz, Billy Mannix and I regarding the past practice of officers being provided fuel for commuting purposes.

"They and Detective McGuire have indicated that this practice was well known with the UCPO and actually fits within the requirements of the UCPO's procedures. Therefore, Chief Buccino's exclusion of 'commuting mileage' is a violation of past practice of the UCPO".

Is it me or have I heard that somewhere else over the last 2 years?

* "As noted above, a blanket exclusion of 'commuting mileage' violates the settlement agreement as it violates the past practice that existed at the time of the agreement. The exclusion also unfairly punishes those officers who live furthest from the office."

There's a biggie. So much for a bunch of people making \$140,000 plus dollars a year sitting in front of a computer and Google-ing everyone's home address and then coming up with random amounts of gasoline to issue. I only make \$93,000 dollars a year, you should've just come to me 2 years ago, I could've told ya that system wasn't gonna work and that it would bite ya later on. Better advice, and cheaper.

* "As well as requiring 'appropriate justification', the settlement agreement requires that these requests not be unreasonably denied. However, this is what has happened."

Again, no need to go any farther with that one.

* These last ones are just a few that are found towards the end of the decision that support our point.

"The above review shows no consistency in the approval or denial of requests for additional gasoline."

No.....really?

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"Based on the above review, I must conclude that the Employer has not provided a clear indication to the officers of what management believes is needed to justify additional gasoline nor has it consistently applied a standard for the officers to follow."

Repetitive, I know. But it all must be pretty important because Arbitrator Hartigan seems to be mentioning it quite a bit.

The last section of our brief addresses the issue of an SOA member, Brother Greg Clay, not being held to the terms of the settlement agreement seeing as how he is a bargaining unit member. Arbitrator Hartigan ruled that that the aforementioned is not a violation of the settlement agreement because D/C Clay is on call 24/7/365. Really? I'd love to compare how many times on-call Detectives in this office have been pulled away from their families in the middle of the night next to how many times he has been out after hours burning gasoline while working a job. We were fully expecting to lose this portion of our argument. I insisted it be included for a reason. Remember this; "A boss says 'Go'. A leader says 'Let's go.'" Leadership by example Brother Clay. If your people are doing something or being held to a standard, then you should be too. Period. Stand with your people. Be an example. Stop worrying about whether or not what you say is gonna aggravate the Prosecutor or put a smile on his face. Stand with your people no matter what the consequences or no matter what the outcome. Never, NEVER, ask your people to do something you would not do yourself. Respect is earned, not issued at a promotion ceremony.

Brothers and Sisters, this is a huge victory for us. I know some of you may be asking why he didn't raise the initial allotment number. The number was set in the binding settlement agreement, so he couldn't. That really doesn't matter to much. The language in this decision is much better protection for us than any number would be. The biggest victory here is the language regarding commuting. They have always given Detectives gasoline for commuting and they must continue to do so in the future. If we got nothing else other than the commuting language in this award, I would have been ecstatic. That's what this whole thing has been about for the last 2 years and we have gotten exactly what we set out to get. It took a long time but we got it.

Additionally, a lot of people over the last year have questioned why we settled for the 500 gallons in the first place. It's 2 fold, but it's simple. First, we did it in good faith at the Unfair Practice hearing in October 2009. We were assured by a member of this administration that it wouldn't be a problem. I assure you, none of us believed that. Second, we knew that they would inevitably screw this up and we'd be right where we are now getting exactly what we set out to get. We won this because we have been right all along and have never wavered on our position.

Lastly, the administration is not going to be happy about this decision folks. It is a huge setback for them. Whether or not they admit it, it is. I'm sure most of you have an idea of what may happen next. Here are a few tips; Make sure you are swiping in and swiping out. If you can't, make sure you do your "field call". Make sure the time from your morning swipe to the time of your afternoon swipe equals 8 hours. DO NOT parade around in your County vehicle off duty unless you are serving in an on-call capacity or you have permission to do so for a specific reason. DO NOT use your County E-Z Pass off duty 75 miles away from where you live. DO NOT accept inappropriate text messages from Brett Favre on you County issued cell phone or Blackberry. If you see a co-worker doing something that could get them in the jackpot, don't run and tell the Prosecutor, tell your co-worker your concern and let them fix the issue. Take care of yourselves and each other. We all know that this administration is not beyond any retaliation, threats or intimidation. None of these work unless any of you let them work. We are ready to react and respond to the worst, we always have been ready and always will be ready.

As always, if you have any specific questions or concerns, please contact me. I will be in touch with each member specifically mentioned in the decision individually to explain how we will proceed with getting you your additional fuel and also getting you reimbursed for any documented out of pocket costs.

Fraternally,

Steve McGuire