

EMPLOYMENT LAW NEWS

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SETTLEMENT APPROVED IN CITY “TEMPORARY” EMPLOYEE CASE *City To Pay \$11.5 million for Lost Benefits*

SEATTLE, WA – King County Superior Court Judge Douglas D. McBroom gave final approval to a settlement today in the “permatemp” lawsuit filed in 2002 by a group of “temporary” employees against the City of Seattle.

The settlement was announced by Bendich, Stobaugh and Strong, the law firm representing the temporary employees. Under the agreement, the City agrees to end using long-term temporary employees without benefits and will pay \$11.5 million for lost benefits.

This is the *second* time that the City has been subject to class actions challenging its “temporary” employee practices. An earlier class action case, *Scannell v. City of Seattle*, was brought by the same law firm and settled in 1989. The *Glaser* case settlement announced today covers the period from October 1996 to May 2005.

The *Glaser* settlement establishes new processes to ensure that ongoing City employees working half-time or more will receive benefits, including health insurance. Key provisions include:

- ***New Employee Classifications*** - The City will create objective employee classifications based on the employee's actual work circumstances, particularly hours worked. There will be two new categories of non-benefited employees—true temporary employees working less than one year, and less-than-half-time employees. There will be a new category of term-limited employees assigned to specific projects of 1 to 3 years who will receive the same

compensation and fringe benefits as regular employees, but who will not be in the civil service.

- ***Centralized Monitoring and Compliance*** - The City will establish a centralized monitoring and compliance review process for all temporary and less-than-half-time assignments, and will maintain a detailed tracking system to assure compliance in the future. If temporary and less-than-half-time assignments appear ongoing and more than half time, the City will create new regular positions or new term-limited assignments. The temporary employees working in those jobs will then receive the same pay and benefits as a regular employee pending the creation of the regular position.
- ***Appeals Process*** – Employees who believe they have been inappropriately classified will have the right to appeal the decision to a Hearing Examiner or neutral arbitrator.
- ***Creation of New Regular Jobs*** – After the lawsuit was filed, the City created over 223 new regular positions to perform work previously done by temporary employees.
- ***Sick Leave for Former Temps Now in Regular Positions*** – Eligible class members in regular positions will also receive 25% of the sick leave they would have earned if they had been regular employees.

The Court found that ***“the Settlement Agreement thus achieves the central goal of the litigation, an end to the practice of having long-term more-than-half-time employees who do not receive employee benefits.”***

In 1989 the City entered into the *Scannell* settlement agreement with a class of temporary employees and agreed to pay temporary employees up to 25% premium in lieu of benefits for the future and \$5 million for lost benefits. That Agreement eliminated the hourly restriction on temporary employment, but work done by temporary employees was supposed to be reviewed to assure they were not doing ongoing work, and new positions were to be created if they did. The new Settlement Agreement reinstates one year and 1040 hour restrictions and provides better procedures for correcting misclassification of workers, including employee rights, which were not part of the earlier settlement.

The *Glaser* settlement includes \$11.5 million to compensate about 2,000 employees who did not receive benefits (particularly health insurance), from October 1, 1996 through May 31, 2005. This amount does not include the value of new regular positions created for previously “temporary” employees, and other non-cash benefits. The fund will be prorated and distributed according to a formula based on the amount of time class members worked for the City during the period October 1996 to May 2005.

The *Glaser* case was brought to enforce the 1989 settlement agreement in the *Scannell v. City of Seattle* class action lawsuit, which allowed the City to use temporary employees for temporary work only, not for ongoing full-time work. In addition, the case was brought under a recent state law that makes it an unfair practice to misclassify any long-term public employee as a “temporary” to deny such employees employment-based benefits.

The plaintiffs filed the class action lawsuit in October 2002. The named plaintiffs are Larry Glaser, Scott Roberts, Kenneth Williams, and John Taylor. When the case was filed, Larry Glaser and Scott Roberts had worked full-time for over four years as “temps” at various City-owned golf courses. Kenneth Williams worked full-time for eight years as a “temporary” employee — at the Mayor’s Office of Senior Citizens and at Seattle Public Utilities at the time the case was filed, and John Taylor worked for over two years as a “temp” job counselor for the City.

The tentative agreement defines class members as “City of Seattle employees who worked over one year (26 consecutive two-week pay periods) at least half time (916 hours) or more, and did not receive some or all of the compensation, benefits and/or status received by the City’s regular employees.”

Note to reporters: Copies of the Settlement Agreement (and Judge McBroom’s order) are available on the Bendich, Stobaugh and Strong website at www.bs-s.com. Please refer your audience to that website for more information instead of calling the law office. The website also has a history of the case and a class member address information update form. Copies of the settlement agreement are also be available from the City of Seattle Clerk's Office.

Bendich, Stobaugh and Strong, P.C. represents employees in employment and benefit issues.

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