

## **PRESIDENT'S REPORT**

**By  
JEMMAYEN MACARAEG**

### **Emotional injuries and OWCP, Part 2: In-house injuries and the employee's burden of proof**

Last month's article made a distinction between in-house and out-of-house emotional injuries. This month's article will focus on inhouse emotional injuries that arise from the injured worker's interactions with USPS management and will focus on those injuries that result from harassment or abusive behavior.

Workers' compensation law does not apply to each and every illness that is somehow related to a worker's employment. The Employees' Compensation Appeals Board (ECAB) made this statement in *Lillian Cutler*, 28 ECAB 125, the watershed case on emotional conditions that arise within the workplace<sup>1</sup>. And while *Lillian Cutler* established the compensability of workplace-generated emotional injuries, it also imposed a specific burden of proof on the employee claiming such an injury.

#### **Establishing the first three basic elements of an in-house emotional reaction claim**

- 1) Time
- 2) Civil Employee
- 3) Fact of injury—is fairly straightforward.

OWCP will readily accept in these claims both the fact that an incident or series of incidents occurred at work (fact of injury/work component) and a diagnosed emotional condition (fact of injury/medical component). The hard part comes with the fourth basic element: performance of duty.

According to *Lillian Cutler*, when an employee experiences emotional stress in carrying out assigned employment duties, or has fear and anxiety regarding the employee's ability to carry out these duties, a resulting injury (or occupational disease) is considered to have "arisen out of and in the course of employment" and comes within the coverage

of the Federal Employees' Compensation Act (FECA). This is known as the *Cutler* rule. But in *Cutler*—a case where the employee became upset over not receiving an anticipated promotion—the ECAB held that the resulting disability was not compensable because her emotional reaction was self-generated and did not relate to her employment duties. In short, a self-generated reaction takes the employee out of performance of duty.

In the wake of *Lillian Cutler*, the ECAB in hundreds of cases has established the principle that in order for an emotional injury related to the conduct of the employer to be covered by FECA, the employee assumes an additional burden of proof to provide evidence that the injury resulted from agency error or abuse, and hence within performance of duty. Absent such evidence, OWCP will treat the emotional injury as self-generated.

**So how does a claimant meet their burden of proof to establish** agency error or abuse in emotional injury cases? First, claimants should be aware that OWCP is highly reluctant to be the party that determines whether or not agency error or abuse has occurred. Any NALC shop steward who has worked on Joint Statement, dignity and respect, or harassment grievances knows that these grievances can involve complex histories of interpersonal interactions, conflicting he said/she said statements, and mountains of evidence. It often takes an arbitrator sifting through the evidence, weighing conflicting statements, and observing the demeanor of witnesses to resolve the grievance. Witness statements are crucial to winning these grievances.

Not so with OWCP. It determined long ago that it does not have the time or resources to be the arbiter of workplace disputes. Even though ECAB precedent requires OWCP to develop the case file and obtain witness statements in order to establish fact of injury<sup>2</sup>, it gives witness statements little probative weight in determining performance of duty<sup>3</sup>. It wants someone else—a neutral fact-finder in another forum, such as the grievance procedure, the Equal Employment Opportunity Commission (EEOC) or the Merit Systems Protection Board—to establish whether or not agency error or abuse has occurred.

**(Continued on Page 3)**

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## ATTENDANCE CHART BRANCH MEETINGS

| MONTH         | J  | F  | M  | A  | M  | J  | J  | A | S | O | N |
|---------------|----|----|----|----|----|----|----|---|---|---|---|
| MAIN OFFICE   | 4  | 5  | 6  | 7  | 6  | 3  | 3  |   |   |   |   |
| ENCINO        | 2  | 1  | 1  | 2  | 3  | 1  | 1  |   |   |   |   |
| PANORAMA CITY | 4  | 4  | 6  | 2  | 3  | 3  | 3  |   |   |   |   |
| SHERMAN OAKS  | 8  | 5  | 7  | 9  | 6  | 4  | 5  |   |   |   |   |
| SUN VALLEY    | 0  | 0  | 0  | 0  | 0  | 0  | 0  |   |   |   |   |
| TARZANA       | 1  | 3  | 2  | 1  | 1  | 1  | 1  |   |   |   |   |
| RETIREE'S     | 8  | 4  | 7  | 7  | 6  | 6  | 5  |   |   |   |   |
| TOTAL         | 27 | 27 | 29 | 28 | 25 | 21 | 18 |   |   |   |   |

## NEXT MEETING TUESDAY AUGUST 5th 2025 6:30 p.m. BRANCH OFFICE

DEADLINE DATE FOR THE NEXT  
ISSUE OF "THE MAIL CALL" IS

**Aug 10, 2025**

WEB PAGE.... [WWW.NALCBRANCH2462.ORG](http://WWW.NALCBRANCH2462.ORG)  
BRANCH OFFICE.....818-786-8505  
O P C PERSONNEL OFFICE.....818-374-5600  
[E-Mail.....Branch2462nalc@gmail.com](mailto:Branch2462nalc@gmail.com)

### "RETIREE CORNER" ATTENTION: !!!!

Our Saturday Retiree Breakfasts are over for this year. The next Retiree Event will be the annual Frank Brash Retiree Luncheon which will be held on October 19, 2025, at Monterey at Encino, watch for further information in the MailCall Thank You

## Retirement Facts

**By Tia Wilson**

### What is the FERS Supplement?

This is a benefit paid to federal employees, in the FERS retirement system, who retire before they reach the age of 62. It is one part of the total federal retirement package. You must be eligible for full retirement to be able to receive the supplement, and you cannot take a deferred retirement. Full retirement is the minimum age, based on your year of birth, plus 30 years of service or age 60 with 20 years. It will only be paid out through the month when you turn 62, and then it will stop. The benefit is paid through OPM not Social Security and will come in the same check as your annuity. You can check your estimated supplement and annuity on Lite-Blue under e-retire.

### MRA

|                                |                                 |
|--------------------------------|---------------------------------|
| Born in 1965 = 56 and 2 months | Born in 1968 = 56 and 8 months  |
| Born in 1966 = 56 and 4 months | Born in 1969 = 56 and 10 months |
| Born in 1967 = 56 and 6 months | Born in 1970 = 57               |

There was concern that the supplement would be eliminated but that is not going to happen. It was removed from the bill before it was passed by the Senate.

## E A P INFORMATION

**By Paul Jeffrey**

### Don't Let it Get You Down

With everything going on in this country politically speaking, we thought now would be a good time to remind everyone about an important benefit to which all active-duty carriers are entitled. The Employee Assistance Program, EAP for short, is a program that can provide a range of services to identify & help resolve personal, family and workplace concerns.

Everyone has their own unique challenges and needs in life. Trying to balance family and personal needs while working in a physically demanding job can be tough. We all understand that. Keep in mind that your fellow workers, Union brothers & sisters, are each dealing with family & personal issues that they may not share with everyone. Treating each other with respect and understanding is key to minimizing workplace stress.

If you feel that you are becoming overwhelmed, it is important to remember that a referral to EAP is 100% free & confidential. You can attend your first session on the clock. Hopefully, they can help you identify a plan to work on resolving these issues and point you in the right direction to get that assistance.

Of special note are our many employees and families that have experienced current or previous Military Service. EAP is here to help access support for issues such as:. You can reach out through the website at [EAP4YOU.com](http://EAP4YOU.com) or you can contact them by phone at 800-327-4968 (800-EAP-4YOU). They can get you a referral, on the clock, and it is completely confidential. They will not share your information with the Postal Service.

Please remember, these are difficult times for a lot of us out there, brothers & sisters. Treat each other with the dignity & respect we all deserve.

## President's Report (Continued from Page 2)

Because of this, letter carriers filing in-house emotional injury claims should pursue parallel grievances and/or EEO cases. The decisions and settlements from these other venues should specifically and unequivocally find that the alleged error or abuse did, in fact, occur. For example, OWCP would give little weight to a grievance settlement involving dignity and respect where the parties generically agree that "management will cease and desist violating the M-39 115.4 mandate to maintain an atmosphere of mutual respect." It requires something more specific along the lines of "the parties agree that the Agency erred when it allowed the abusive language to continue." Similarly, an effective EEO settlement should be fully citable and specifically find that agency error or abuse occurred.

Once the injured employee has met their burden of proof demonstrating agency error or abuse to establish that they were within performance of duty, they will still need their attending physician to provide a causal explanation as to how that error or abuse caused or contributed to their diagnosed emotional condition in order to establish the fifth basic element of their claim: causal relationship.

Referenced: Postal Record May 2025, Regional Worker' Compensation assistant Coby Jones

<sup>1</sup> Note that if the claim involves a CA-2 occupational disease—as is the case for most in-house injuries—the medical evidence must come from a psychiatrist or licensed clinical psychologist.

<sup>2</sup> "[OWCP's] procedures require that, in development of an emotional condition claim, it must obtain statements from witnesses, coworkers and supervisors, among others, before it makes a determination of whether the incidents alleged by a claimant occurred and whether such incidents or factors constitute compensable factors of employment." A.K. and U.S. Postal Service Docket No. 13-0079 (2013).

<sup>3</sup> That being said, witness statements are very helpful in establishing the background optics of the abusive behavior and should be added to the OWCP file.

### **USPS announces implementation date for advanced annual leave provisions for CCAs and PTFs in accordance with Arbitrator Nolan's March 21, 2025, interest arbitration award**

Effective July 12, 2025 (Pay Period 16-2025), city carrier assistant (CCA) and part-time flexible (PTF) carriers meeting the criteria will receive advanced annual leave.

In accordance with the National Agreement Memorandum of Understanding (MOU) Re: *PTF Advanced Annual Leave*, 40 hours of annual leave will be advanced to PTF employees, prorated to the end of the leave year for their first

leave year as a PTF, and annually thereafter, unless and until the employee converts to full-time status.

Similarly, in accordance with the MOU Re: *CCA Advanced Annual Leave*, upon completion of an initial 360-day appointment as a CCA, and immediately upon reappointment to any subsequent appointments thereafter, CCAs will be advanced 40 hours of annual leave. Upon initial implementation, CCAs will receive annual leave prorated to the end of their 360-day term.

Eligible CCAs and PTFs should see the credit to their annual leave balance reflected on the Pay Period 16-2025 earnings statement.

### **USPS announces implementation dates for CCA wage increases and pay table changes in accordance with Arbitrator Nolan's March 21, 2025, interest arbitration award CCA pay increases**

Effective June 14, 2025 (PP 14-2025), all city carrier assistants (CCAs) pay rate will be increased to reflect an additional \$0.50 per hour. This increase is in addition to their cumulative general wage increases.

### **Pay table modifications**

Also, effective June 14 (PP 14-2025), all city carriers currently in Step P in Tables 1 and 2 will receive a one-time pay increase to an amount that is equal to a flat dollar amount of \$1,000. Carrier technicians will receive \$1,021. These increases are in addition to the general wage increases and COLAs.

The Postal Service expects the eliminations of Table 2 Steps AA and A to be effective July 12, 2025 (PP 16-2025). In conjunction with the elimination of Steps AA and A, all city carriers in those steps will be advanced to Step B and begin a new 46-week waiting period to be completed before advancing to the next step.

### **Retroactive (back pay) provisions**

USPS indicates that back-pay calculations are ongoing and expects payment in August 2025. The retroactive pay will include the Nov. 18, 2023, and Nov. 16, 2024, general wage increases (plus the 1 percent additional increases for CCAs on those dates) and the first four COLAs for career carriers.



THE MAIL CALL  
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**Branch Meeting Minutes**  
**July 1, 2025**  
By  
**Steve Seyfried, Secretary**

The Meeting was held at the Branch 2462 Union Hall 6910 Hayvenhurst Ave, #104 Van Nuys California. It was called to order by PRESIDENT MACARAEG at 7:11 p.m.  
The Pledge of Allegiance was led by SGT-AT-ARMS GODDARD

**MOMENT OF SILENCE--In Memory all Active & Retired members who have passed this year.**

**ROLL CALL OF OFFICERS**

**PRESENT**--MACARAEG, SEYFRIED, MULLINAX, WILSON, GODDARD, VALENZUELA, DOLABSON, JEFFREY, MARISCAL

**ABSENT**—BURTON, MORALES

**VACANT**—VICE PRESIDENT

**MINUTES ACCEPTED AS PRINTED IN MAILCALL**

**APPLICATION FOR MEMBERSHIP**

**LEJON SIFFORD, SHANE BURK, CARLOS CASTILLO, DAVID ESTRADA, TEVIN EVANS, DONOVIN PHAM, CHANELLE McCLELLAND, ANDREA SAVARINO, ANWAR POLLYDORE.**

**COMMUNICATIONS READ**

**BILLS READ--NONE**

**COMMITTEE REPORTS**

AUDIT & BUDGET—TRUSTEES Next Audit will be on July 23, 2025 & Budget on Jan 8, 2026.

SAFETY & HEALTH Both Panorama City and Sherman Oaks stations had incidents of Carriers being assaulted. The Sherman Oaks robbery involved a gun. Weather is getting hot as summer is here, remember to stay hydrated and with kids out of school the chances of dogs getting loose increase. Carriers need to be vigilant and cautious as there are many dangers lurking.

RETIREES 5 Retiree's present tonight.  
MDA FUND--GODDARD \$ 1797.00 in the fund  
HBR—BURTON No Report  
MDA—BURTON Bowl-a-Thon will be held on Saturday, July 26<sup>th</sup>, at Santa Clarita lanes. Sign-up sheets are at all stations, Jamba Juice cards are still available, buy 1 and get 1 free.

MBA—MORALES No Report  
POLITICAL—JEFFREY The new tax bill did pass, both houses of Congress and will be signed into law on July 4<sup>th</sup>. Look for my article in the MailCall for further information.

MBA—MORALES No Report  
EDITOR—MARISCAL Thanks to TIA WILSON for mailing the paper and to all who helped with the preparation.  
FINANCE REPORT—MULLINAX Newest retirees are DAN TRAN and PAULINO AVILAR congrats to both.  
TREASURERS REPORT-WILSON Financial Reports read.  
Motion to accept Financial Reports as read M/S/C

**PRESIDENT MACARAEG**

Newly converted full time Carriers are ANGELICA PLATAS from Tarzana and AKBAR RENZAI & RICARDO GOMEZ both from Panorama City. We will have a Delegate meeting following the August Meeting to distribute checks, Air reservations and Room assignments for the State Convention. All delegates should plan to be in attendance to receive your Convention packet. Thanks to PEDRO MORALES for volunteering to serve on the new EAP Committee. DOGE is now trying to force the Post Office into terminating Carriers with over 10 years of service and who have permanent restrictions and are not working. President explained the details of the new pay schedule, which begins on July 16<sup>th</sup>. Back pay is supposed to be ready to be paid in August. CCA's & PTF's will be eligible for Leave Advancement starting in July. Local Negotiations for Memo of Understanding have been completed at all facilities, thanks to all who helped in the negotiations.

**OLD BUSINESS—NONE**

**NEW BUSINESS**

MOTION—Move that the Branch renew the Certificate of Deposit maturing on July 12<sup>th</sup> at First Internet Bank. Duration of deposit and rate will be reported at the August Regular meeting. M/S/C

MOTION—Move that the Branch send 12 Members to the State Training & State Convention, to be held on Aug 20-23, 2025 in Burlingame, CA. Cost not to exceed \$ 11,400.00 M/S/C

**UNDERLINED INDICATES UNANIMOUS VOTE**

**GOOD OF THE ASSOCIATION**

**We wish Brother KEVIN GODIN a speedy recovery from his recent surgery.**

**MDA DRAWING**

\$ 4.00 OSCAR CORTEZ—MAIN OFFICE—DONATED  
\$ 4.00 RAFAEL PEREZ—PANORAMA CITY  
\$ 5.00 OSCAR CORTEZ—MAIN OFFICE--DONATED

**Meeting Adjourned 8:39 PM**