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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-201714 (MRV)

May 19, 1981

Lieutenant Colonel G. L. Comfort, FC
Command Finance and Accounting Officer
Department of the Army
Headquarters, 9th Infantry Division
and Fort Lewis
Fort Lewis, Washington 98433

Dear Colonel Comfort:

This is in response to your request dated November 17, 1980, concerning the entitlement of ~~Mr. Donnie Ray~~ to reimbursement of mileage for attending labor contract negotiations as a union representative.

(This claim) is based upon a policy statement issued by the Federal Labor Relations Authority, O-PS-3 and O-PS-6, 2 FLRA No. 31, December 19, 1979, which states that any employee who is on official time under the provisions of 5 U.S.C. § 7131 while representing an exclusive representative in the negotiation of a collective bargaining agreement is entitled to payment from the agency for travel and per diem expenses. This policy statement of the Authority has been reaffirmed by a recent ruling of the Authority, 4 FLRA No. 40, September 29, 1980, which upheld an unfair labor practice complaint against the Bureau of Alcohol, Tobacco and Firearms, Western Region.

We have been advised that the Authority's ruling against the Bureau of Alcohol, Tobacco and Firearms has been appealed by the Department of Justice to the U.S. Court of Appeals for the Ninth Circuit. Since



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it is our policy not to issue a decision on a matter that is pending in court, unless requested to do so by the court, we find it inappropriate for us to issue a decision on this question at this time. In view of the court's review of this matter, we believe you should defer any payment until the matter is resolved. >

Sincerely yours,

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel

cc: Colonel J. J. Reilly, Executive
Per Diem, Travel and Transportation
Allowance Committee
Hoffman Building 1, Room 836
2461 Eisenhower Avenue
Alexandria, Virginia 22331