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LIMIT



A REPORT BY:

TIM ROMINE

National Business Agent

Maintenance Craft

Eastern Region-APWU

AND

JEFF KEHLERT

National Business Agent

Clerk Craft

DE -- NJ -- PA

American Postal Workers Union, AFL-CIO

Memorandum

Telephone
(856) 427-0027 Office
(856) 795-7143 Fax

10 Melrose Avenue
Suite 210
Cherry Hill, NJ 08003



From the Office of JEFF KEHLERT
National Business Agent
Clerk Division
Eastern Region

The most difficult task of a union steward in successfully prosecuting grievances is being able to PROVE his/her allegations. Just stating some incident caused a violation of our contract is not enough. In disciplinary instances, stating the charges are not true and are not for just cause is not enough; the steward must successfully refute Management's allegations.

With experience and time, our stewards usually learn the hard way (by losing) what is required to win a grievance when the Employer violates the Collective Bargaining Agreement. However, many good stewards never get that far because frustration and failure become too heavy a burden to bear. In this process, many bona fide grievances are lost because we did not prove our cases.

When the Union trains new stewards, we instill in them high expectations. To one degree or another, we tell them their rights as stewards. However, no matter how emphatically we convey to new stewards the enormous authority they possess to obtain almost all information and evidence needed to DOCUMENT and PROVE a grievance, knowing their rights and believing in them still creates a difference which hampers stewards' successes.

For these reasons, we believed it would be useful to prepare a report specifically designed to show new stewards their rights in obtaining information; even information believed impossible to unilaterally obtain (ie. medical) for a grievance. If a steward knows such documentation is accessible, no doubt will remain as to the Union's right to ANY other evidence of a less sensitive nature. The enclosed should prove useful and beneficial in enforcement of the Collective Bargaining Agreement.

Yours in Unionism,

Tim Romine

National Business Agent
Maintenance Division
Eastern Region

Jeff Kehlert

National Business Agent
Clerk Division
Eastern / Northeast Regions

M E D I C A L

A major concern of many locals is difficulty in obtaining release of Medical information from Management which is necessary for grievance determination and subsequent investigation and processing. Management or a Medical Office often responds that certain information is "unavailable", "protected", or cannot be released without the employee's permission or cannot be released according to regulations. Particularly acute is this circumstance when it pertains to a Letter Carriers' reassignment to the Clerk Craft under the provisions of Article 13 in our Collective Bargaining Agreement.

The truth is, there are specific contractual provisions providing for the release of Medical Information/records which can be used to our advantage in the grievance/arbitration process. To begin, Section 353.326 of the Administrative Support Manual, "Disclosing Information about individuals ... to Collective Bargaining Agents", states:

"Information about individual employees is released to certified collective bargaining agents, consistent with appropriate provisions of applicable collective bargaining agreements and other statutory obligations, when permitted as a routine use of the system of records. If in doubt as to the obligation or the permissibility of a disclosure, obtain the advice of Regional Labor Counsel.

This general language specifically provides for the release of information "consistent with the appropriate provisions of applicable collective bargaining agreements..." In the case of medical information, the appropriate provisions are included in Chapter 2 of the EL-806, Health and Medical Service Manual. That manual specifically requires the release of information to be granted to collective bargaining representatives under the guidelines provided therein. Under the Protection/Disclosure (220) Provision, we find 222.13, "Degree of Disclosure", which states:

"Medical personnel are responsible for determining what information on file is relevant to satisfying the request, except when the requester is a collective bargaining unit representative, a USPS attorney, or a court of law. In the event of a

dispute, the medical officer will contact the Regional Medical Director, who will determine what information is relevant for disclosure. Relevance may not be unduly influenced by any postal official. In all cases, no more information may be disclosed than that required to satisfy the need.

This means a medical officer can make no determination with regard to relevancy of a request when that request is made by a collective bargaining representative. The complete regulations concerning release of employee medical records to a collective bargaining representative are cited in Sections 222.3 through 222.341 of the EL-806.

223.3 Union Representative

.31 Requirement

In certain cases, employee medical records may be provided without an employee's authorization to a postal union official under the collective bargaining agreement to which the USPS is a party.

.32 Restriction

Requests from postal union representatives without an employee's authorization must be carefully reviewed. Information that is relevant and material to collective bargaining is available to an authorized representative only when acting officially.

.33 Determination

.331 Required Documentation

When a union representative submits a request to inspect an employee's restricted medical records without the employee's authorization, the installation head instructs the appropriate labor relations official to obtain specific answers from the union representative to the following questions (if not provided in the request letter):

- (a) What is the precise bargaining issue, grievance, or contemplated grievance involved?

(b) Why does the union claim that the information being sought is relevant and material to resolving the issue or dispute?

.332 Information Refused

If the Union representative provides a response to the above questions that the labor relations official believes to be inadequate, the installation head should be advised to deny the request.

.333 Information Provided

If the Union representative provides sufficient response and the labor relations official agrees that the medical information is relevant and material, the official will forward the Union request to the medical facility where the record is maintained for a disclosure decision.

.34 Action

.341 Medical personnel may ask the labor relations official to assist in a joint decision of relevancy and give the union representative a summary of the necessary information.

Management must adhere to these regulations when a collective bargaining union representative does submit a detailed request as outlined in 223.331 making certain the request letter specifically answers the a. and b. questions found in 223.331. We can expect Management to deny any request that fails to contain the required specific answers relating to the nature of the issue and the relevancy of the request to the stated issue.

I N F O R M A T I O N A F T E R G R I E V A N C E
H A S B E E N P R O C E S S E D

Many times it becomes necessary for additional information after a grievance has been processed to a higher step. It may be this information is requested by a union official to prove contentions the steward believed were agreed to by both parties or that new issues and/or rebuttals were raised at a higher step or in preparation for arbitration. No matter the reason, when additional documentation or interviews are requested, the enclosed Step 4 grievance decision clearly demonstrates your contractual rights to obtain requested information.



JUN 18 1975

EMPLOYEE AND LABOR RELATIONS GROUP
Washington, DC 20200

June 17, 1975

Mr. Michael J. Cullen
President, Special Delivery Craft
American Postal Workers Union, AFL-CIO
817 - 14th Street, N. W.
Washington, D. C. 20005


Re: E. Schultz
Des Plaines, Illinois
AB-C-4422/3CHI-502
APWU - #4422

Dear Mr. Cullen:

This refers to your letter of May 20, 1975 concerning a request for information relating to APWU case #4422. You attached a copy of a letter showing that the Postmaster denied the request because the grievance had been processed beyond that step of the procedures, and therefore was out of the local Post Office jurisdiction.

A request for relevant and reasonable information should not be denied solely because the grievance has been processed beyond a particular step of the grievance procedure. The Postmaster is being so advised by copy of this letter.

Sincerely,


Robert B. Hubbell
Labor Relations Department

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In instances where other documentation/information is requested or interviews are necessary, the following index of Step 4 resolutions and arbitration awards is provided as a tool to be utilized in the grievance arbitration process:

REVIEW SUPERVISORS' DISCIPLINARY RECORDS	7A-7B
PTF/CASUAL STAFFING RECORDS	8A
CASUAL APPOINTMENT (DURATION) RECORDS	8B
PS FORMS 2608 AND 2609	9A-9B
FINANCIAL AUDITS	10A
3971s/LEAVE RECORDS	11, 12A-12B
OUT-OF-SCHEDULE 204B RECORDS	13A-13B
RESTRICTED SICK LEAVE REQUEST	14



UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260

October 24, 1983

ARTICLE	17
SECTION	INFO.
SUBJECT	REQUEST
SUPERVISOR	
DISCIPLINE	
RECORD	

Mr. Kenneth D. Wilson
Assistant Director
Clerk Division
American Postal Workers
Union, AFL-CIO
817 14th Street, N.W.
Washington, D.C. 20005-3399

Re: Class Action
Athens, GA 30601
E1C-3D-C 24168

Dear Mr. Wilson:

On October 4, 1983, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The question in this grievance is whether management violated Article 17 of the National Agreement by denying a union steward's request for a copy of a letter of warning issued to a supervisor.

During our discussion, we agreed that, as provided in Article 17.3, the steward, chief steward, or other union representative may request and shall obtain access through the appropriate supervisor to review the documents, files and other records necessary for processing a grievance or determining if a grievance exists. We agreed that under certain unique circumstances, a letter of warning issued to a supervisor or another employee could become a necessary document.

We further agreed that the question of whether the letter of warning in this case is a necessary document, as described above, is not a matter that requires national level interpretation by rather application of Article 17.3 to the fact circumstances.

Accordingly, as agreed, this case is hereby remanded to the parties at Step 3 for further processing and arbitration, if necessary,

~~Kenneth D. Wilson~~

Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to remand this case.

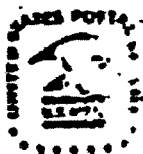
Sincerely,

Margaret H. Oliver

Margaret H. Oliver
Labor Relations Department

Kenneth D. Wilson

Kenneth D. Wilson
Assistant Director
Clerk Division
American Postal Workers
Union, AFL-CIO



UNITED STATES POSTAL SERVICE
475 L'Entant Plaza, SW
Washington, DC 20260

AUG 2 5 1983

ARTICLE	<u>17</u>
SECTION	_____
SUBJECT	_____

- Info Request
- Casual Hrs

Mr. Kenneth D. Wilson
Assistant Director, Clerk Division
American Postal Workers Union, AFL-CIO
817 14th Street, N.W.
Washington, D.C. 20005-3399

Re: Class Action
Des Moines BMC, IA 50900
E1C-4K-C 17972

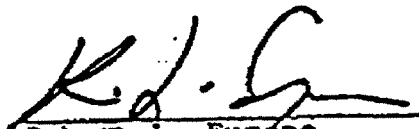
Dear Mr. Wilson:


On July 26, 1983, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

We mutually agreed that documents, files, and other records requested by a steward must be relevant and necessary for the processing of a grievance or determining if a grievance exists. Such requests shall not be unreasonably denied. In the instant case, the record does not support the management position that the steward's request for information relative to PTP and casual staffing was irrelevant and unreasonable. The requested information shall be provided in accordance with Article 17, Section 3.

Please sign and return the enclosed copy of this decision as your acknowledgment of agreement to resolve this case.

Sincerely,


Robert L. Eugene
Labor Relations Department


Kenneth D. Wilson
Assistant Director
Clerk Division
American Postal Workers Union,
AFL-CIO

Enclosure



EMPLOYEE AND LABOR RELATIONS GROUP
Washington, DC 20260

AUG 26 1977

Mr. Richard I. Wevodau
Executive Vice President
Maintenance Craft
American Postal Workers Union, AFL-CIO
817 Fourteenth Street, N. W.
Washington, DC 20005

Re: G. Hughes
Des Moines, IA
AC-C-15,566/5-DSM-296
APWU-15,566

Dear Mr. Wevodau:

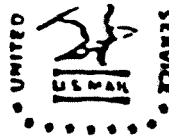
On August 10, 1977, we met with you to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The matters presented by you as well as the applicable contractual provisions have been reviewed and given careful consideration.

Based on information with the case file the Union Steward requested specific casual employees' personnel files to ascertain if they were employed in excess of their two authorized 89-day appointments. When his investigation did, in fact, confirm that violations had occurred, his request to review all the files of casuals employed during the calendar year 1976 is not deemed to be unreasonable. The postmaster is hereby directed to allow the Steward access to the personnel files for all casuals employed at the Des Moines, Iowa Post Office during the calendar year 1976.

Sincerely,

James L. Tessier
Labor Relations Department



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UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260

November 5, 1982

art 17

Mr. Kenneth D. Wilson
Assistant Director
Clerk Division
American Postal Workers Union, AFL-CIO
817 - 14th Street, NW
Washington, DC 20005

ARTICLE	<u>17</u>
SECTION	
SUBJECT	
<u>SUB STEP 1</u>	
<u>WORKSHEET</u>	

2608-2609

Re: Class Action
Austin, TX 78710
H1C-3U-C-6106

Dear Mr. Wilson:

On October 22, 1982, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The matters presented by you as well as the applicable contractual provisions have been reviewed and given careful consideration.

The question in this grievance is whether the Postal Service must grant the Union's request for copies of the PS Forms 2608 and 2609 (Grievance Summaries - Step 1 and Step 2).

During our discussion, we agreed that the disclosure provisions set forth in Article 17 of the National Agreement intend that any and all information which the parties rely on to support their positions in a grievance is to be exchanged between the parties' representatives at the lowest possible step. This will include the PS 2608 when management's representative at Step 2 or above of the grievance procedure utilizes the form to support their decision. Also, this will include the PS 2609 when utilized by management's representative at Step 3 or above. Since the PS 2608's and 2609's are not prepared until after the Step 1 or Step 2 meetings, these documents cannot be supplied until the Step 2 or Step 3 meeting, respectively.


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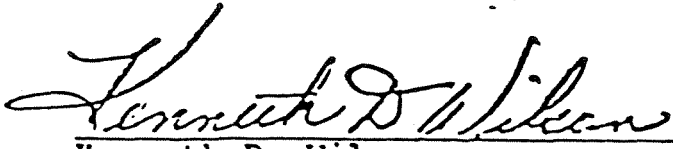
Mr. Kenneth D. Wilson

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Please sign and return the attached copy of this decision as your acknowledgment of agreement to settle this grievance.

Sincerely,


A. J. Johnson
Labor Relations Department


Kenneth D. Wilson
Assistant Director
Clerk Craft
American Postal Workers Union,
AFL-CIO



10.

UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260

October 14, 1981

OCT 15 1981

INDUSTRIAL
RELATIONS

Mr. John P. Richards
Director, Industrial Relations
American Postal Workers Union, AFL-CIO
817 - 14th Street, NW
Washington, DC 20005

Re: *AP-W-2266*
Local
Portland, OR 97208
B8C-5D-C 18942

Dear Mr. Richards:

On September 23, 1981, we met with you to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The matters presented by you as well as the applicable contractual provisions have been reviewed and given careful consideration.

We mutually agreed that financial audit information acquired under the guidelines of Part 170 of the F-1 Handbook will be provided to the Union upon request where the information is relevant and necessary for collective bargaining or the enforcement, administration or interpretation of the National Agreement.

As the remedy to this grievance, the Postal Service will provide the local with the relevant portion of the special audit conducted at Federal Station. This resolution does not deal with any criminal investigation, if any, that may have resulted from the audit.

Please sign the attached copy of this decision as your acknowledgment of agreement to resolve this case.

Sincerely,

Robert L. Eugene
Labor Relations Department

John P. Richards
Director, Industrial Relations
American Postal Workers
Union, AFL-CIO

I N T E R P R E T A T I O N

Page 83

A8-W-2255/2256
H8C-5K-C-17508/17499
San Diego, CAFORMS 3971'S TO BE FURNISHED UNION WHEN NECESSARY IN
PROCESSING A GRIEVANCE

Article 32, Section 2:

"The Employer will make available for inspection by the Union all relevant information necessary...including information necessary to determine whether to file or to continue the processing of a grievance..."

At issue in this case is whether or not the local Union has the right to review the Form 3971's for all employees in a particular pay location during the course of a grievance investigation.

The local shop steward submitted a request to management to review all 3971 Forms of all employees working in the same pay location as the employee who had received a removal notice.

Local management only released for review the forms where individuals had signed a third party disclosure release. Further management's position was Article 17, Section 3 and Article 31, Section 2 were adhered to within the confines of the Privacy Act.

Step 4 resolution 10/14/81:

"We mutually agreed to resolve this grievance in the following manner.

1. The Postal Service acknowledges its obligation under Article XXXI of the National Agreement to provide the Union with information which is relevant and necessary for collective bargaining or the enforcement, administration or interpretation of the National Agreement.
2. The Postal Service agrees that relevant information within the meaning of Article XXXI, including requests for attendance information, will be provided to the Union, upon receipt, pursuant to the routine use provisions set forth in the description of the systems of records issued under the Privacy Act, 45 Fed. Reg. 1570, Section 050..020 (1980)

"As the remedy to this grievance, the P. S. agrees to promptly provide the local with the 3971's of the employees in the particular pay location requested."



UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260

October 14, 1981

OCT 15 1981

INDUSTRIAL
RELATIONS

Mr. John P. Richards
Director, Industrial Relations
American Postal Workers Union, AFL-CIO
817 - 14th Street, NW
Washington, DC 20005

Re: *A8-W-2255(JM)*
Local
San Diego, CA 92199
H8C-5K-C 17508

Dear Mr. Richards:

On September 29, 1981, we met with you to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The matters presented by you as well as the applicable contractual provisions have been reviewed and given careful consideration.


We mutually agreed to resolve this grievance in the following manner:

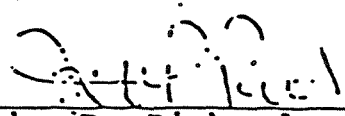
1. The Postal Service acknowledges its obligation under Article XXXI of the National Agreement to provide the Union with information which is relevant and necessary for collective bargaining or the enforcement, administration or interpretation of the National Agreement.
2. The Postal Service agrees that relevant information within the meaning of Article XXXI, including requests for attendance information, will be provided to the Union, upon receipt, pursuant to the routine use provisions set forth in the description of the systems of records issued under the Privacy Act, 45 Fed. Reg. 1570, Sec. 050.020 (1980).

As the remedy to this grievance, the P. S. agrees to promptly provide the local with the 3971's of employees in the particular pay location requested.

Please sign the attached copy of this decision as your acknowledgment of agreement to resolve this case.

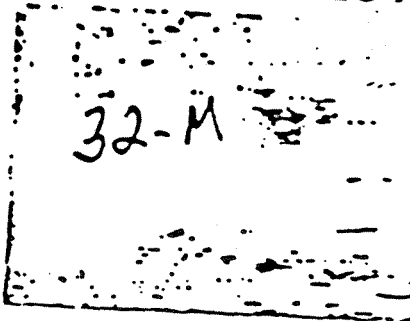
Sincerely,


Robert L. Eugene
Labor Relations Department


John P. Richards
Director, Industrial Relations
American Postal Workers
Union, AFL-CIO



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UNITED STATES POSTAL SERVICE
475 L'Enfant Plaza, SW
Washington, DC 20260

September 22, 1982

Mr. Kenneth D. Wilson
Administrative Aide, Clerk Craft
American Postal Workers Union, AFL-CIO
817 - 14th Street, NW
Washington, DC 20005

Re: Class Action
Lakeland, FL 33802
H1C-3W-C-8088

Dear Mr. Wilson:

On September 1, 1982, we met to discuss the above-captioned grievance at the fourth step of our contractual grievance procedure.

The matters presented by you as well as the applicable contractual provisions have been reviewed and given careful consideration.

We mutually agreed that there was no interpretive dispute between the parties at the National level as to the meaning and intent of Article 17 of the National Agreement, as it relates to requests for information in this particular case.

Union stewards may request and shall obtain access through the appropriate supervisor to review the documents, files and other records necessary for processing a grievance or determining if a grievance exists.

According to the factual evidence in this case, the Union contends that National Arbitrator Mittenthal's award in the "out-of-schedule pay for 204b's dispute" entitles all such employees who worked out-of-schedule, and were not compensated, to be paid retroactive to January 12, 1980. Although management disputes this, the Union has reasonable cause to pursue their argument by requesting documentation of the out-of-schedule work performed by 204b's from that time. The request, however, shall be specific as to the employee records needed.

Kenneth D. Wilson

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Please sign and return the enclosed copy of this letter as your acknowledgment of agreement to remand this case.

Sincerely,

Margaret H. Oliver

Margaret H. Oliver
Labor Relations Department


Kenneth D. Wilson

Kenneth D. Wilson
Assistant Director
Clerk Division
American Postal Workers
Union, AFL-CIO


SETTLEMENT AGREEMENT

The American Postal Workers Union and United States Postal Service agree to settle grievance H8C-5D-C-8083 (AR-W-0635) upon the following terms and conditions:

1. The Postal Service acknowledges its obligation under Article XXXI of the National Agreement to provide the Union with information which is relevant and necessary for collective bargaining or the enforcement, administration or interpretation of the National Agreement.
2. The Postal Service agrees that relevant information within the meaning of Article XXXI, including requests for restricted sick leave lists, will be provided to the Union, upon request, pursuant to the routine use provisions set forth in the description of the systems of records issued under the Privacy Act, 45 Fed. Reg. 1570, Sec. 120.070 (1980).
3. As the remedy to this grievance, the Postal Service agrees to promptly provide the Local with the restricted sick leave list requested.


WILLIAM E. HENRY, JR.
Director, Office of Grievance
and Arbitration
Labor Relations Department

April 14, 1981
Date


JOHN P. RICHARDS
Director, Industrial Relations
American Postal Workers
Union, AFL-CIO

April 14, 1981
Date

REPORTS BY JEFF KEHLERT

American Postal Workers Union ☎ 10 Melrose Avenue ☎ Suite 210 ☎ Cherry Hill, NJ 08003 ☎ (856) 427-0027

The following reports are available, upon request, from my office:

1. **Sky's the Limit**
Produced with former National Business Agent for the Maintenance Craft, Tim Romine. This report addresses our ability to obtain "restricted" forms of documentation necessary for enforcement of the Collective Bargaining Agreement with particular emphasis on medical records/information.
2. **Your Rights in Grievance Investigation and Processing**
An alphabetical compilation of Step 4 Interpretive Decisions on shop stewards' rights and related subjects.
3. **More Rights in Grievance Investigation and Processing**
A second volume of the Your Rights report including numerous Step 4 decisions.
4. **Grievances in Arbitration**
A compilation of arbitration decisions on various subjects with a brief synopsis of the awards included.
5. **Vending Credit Shortages and Other Issues**
A report on multiple subjects including the title subject, use of personal vehicles, Letters of Demand, etc.
6. **Letters of Demand - Due Process and Procedural Adherence**
A history in contractual application of the due process and procedural requirements of the Employer in issuing Letters of Demand including numerous arbitration decision excerpts and the application of the principle of due process to discipline.
7. **Ranking Positions to a Higher Level**
Utilization of Article 25 and Employee and Labor Relations Manual Part 230 to upgrade Bargaining Unit Positions to Higher Levels based upon work being performed. (With authoritative arbitral reference.)
8. **Winning Claims for Back Pay**
Applying Part 436 of the Employee and Labor Relations Manual in conjunction with our Grievance Procedure to obtain denied pay and benefits, up to six years in the past.
9. **Letters of Demand -- Security and Reasonable Care**
As Management corrects due process and procedural errors when issuing letters of demand, we must turn to other methods of prosecuting grievances for alleged debts. This report addresses F-1 and DMM regulations to enable us to prove security violations exist.
10. **Surviving the Postal Inspection Service**
This report brings together the crucial information (Situations, Questions and Answers, National APWU Correspondence) necessary for employees and shop stewards on what rights must be utilized when Postal Inspectors come calling. Its goal is to enable Postal Workers to Survive and not lose their livelihood.
11. **Out-of-Schedule Compensation, Strategies for Winning Pay When our Collective Bargaining Agreement is Violated.**
This report places into a readily accessible package the controlling Collective Bargaining Agreement provisions, arbitral reference, contractual interpretation and strategies necessary to pursue violations of the National Agreement in which out-of-schedule compensation would be an appropriate remedy.
12. **A Handbook: Defense vs. Discipline: Due Process and Just Cause in our Collective Bargaining Agreement**
The arguments, Collective Bargaining Agreement references, investigative interviews, and arbitral authority brought together to provide the best possible defenses when discipline is issued.