

OFFICIAL NOTICE that the United States Court of Federal Claims has certified a class action concerning your right to recover a Supplemental Lump-Sum Payment for unused annual leave that the federal government may owe you

*THE UNITED STATES COURT OF FEDERAL CLAIMS, IN KANDEL V. UNITED STATES, CASE # 06-872C, HAS APPROVED THE PRESENTATION OF THIS NOTICE TO FORMER FEDERAL EMPLOYEES OF CERTAIN AGENCIES;
THIS IS NOT A SCAM OR A SOLICITATION BY AN ATTORNEY.*

To: (1) Former employees of certain federal agencies who retired, separated (or died), from October 14, 1993 to September 6, 1999; and

(2) If you received a lump-sum payment for unused annual leave when you retired or separated (or when your relative died who was a federal employee);

**(3) But you did not receive a supplemental lump-sum payment for any cost of living or locality pay increase that you would have received if you had remained as a federal employee until the expiration of your unused annual leave instead of retiring or separating when you did;
AND/OR**

(4) You were paid Sunday Premium Pay in the Pay Period immediately before your retirement or separation, but the Sunday Premium Pay was not included in the lump-sum payment for unused annual leave; AND/OR

(5) You retired or separated in a foreign area and you had been paid a foreign post housing allowance immediately before your retirement or separation, but the foreign post housing allowance was not included in the lump-sum payment for unused annual leave;

(6) You may be eligible to receive a significant supplemental lump-sum payment if you file your “opt-in claim form” on time. Please read the remainder of this Official Notice from the United States Court of Federal Claims in Washington, D.C.

YOU CAN FILE YOUR “OPT-IN CLAIM FORM” SAFELY AND SECURELY ONLINE NOW BY GOING ON THE INTERNET AND CLICKING

ON www.fedlumpsum.com. If an eligible former federal employee has died, his or her surviving spouse, or heirs, can file an “opt-in claim form.”

You must file your “opt-in claim form” by the Internet or by mail no later than August 27, 2015.

Your privacy, and the protection of the information you file online or by mail, is guaranteed by strict confidentiality agreements that have been filed with the United States Court of Federal Claims in Washington, D.C.

YOUR SOCIAL SECURITY NUMBER IS SAFE AND SECURE WITH THE PROFESSIONAL CLASS ADMINISTRATOR WHO HAS BEEN APPOINTED BY A FEDERAL JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS TO SAFEGUARD YOUR CLAIM AND YOUR PERSONAL INFORMATION.

You may be able to use a computer at a public library to file your “opt-in claim form.” Or, if you want to receive a claim form by mail, please call 1-866-329-5558 as soon as possible and a form will be mailed directly to you. Fill it out and send it back by mail to the independent Class Administrator as you must file your “opt-in claim form” no later than August 27, 2015.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

ASK TO BE INCLUDED	Be included in this lawsuit. Await outcome. Give up certain rights. By asking to be included in this lawsuit, you acquire rights to any money that may come from a trial if and when the Court finds that your agency violated the law, or from a settlement of this case. You will not have to pay any lawyer’s fee or any expenses. If you are included in this lawsuit, you will be bound by the outcome, whether favorable or unfavorable to you. However, you give up any rights to sue the federal government on your own, and at your own expense, for the same legal claims that have been alleged by the plaintiffs in this lawsuit and denied by the defendant.
DO NOTHING	Get no benefits from the lawsuit. Keep rights to sue the federal government on your own and at your own expense. By doing nothing, you will not be included in this lawsuit and you will have no rights forever to any money that may come from a trial or settlement of this case. However, you keep the right to sue the federal government on your own, and at your own expense, about the same legal claims alleged in this lawsuit by the plaintiffs and denied by the defendant.

BASIC INFORMATION

1. Why did I get this Notice?

The federal government’s records show that you retired or separated from a federal agency (that is listed below) at some point from October 14, 1993 to September 6, 1999. The purpose of this notice explains that the Court has allowed, or “certified,” a class action lawsuit brought against the federal government. As a former federal employee, you may be eligible to participate in the class action lawsuit by filing a

timely “opt-in claim form.” If an eligible former federal employee has died, his or her surviving spouse, or heirs, will be able to participate also by filing an “opt-in claim form.” The “opt-in claim form” is available on the website www.fedlumpsum.com or by calling 1-866-329-5558 to get the form by mail so that you can fill it out and return it to the independent Class Administrator. The attorneys for plaintiffs (Class Counsel) have been permitted to send this Notice by the United States Court of Federal Claims. However, the court is not encouraging individuals to join this lawsuit, nor is the court discouraging individuals from doing so. The court has appointed an independent Class Administrator, Epiq Systems, Inc. of Portland, Oregon, to collect and administer all of the “opt-in claim forms” that are submitted by those former federal employees who choose to be included in the class. The court has required the Class Administrator to protect the privacy and security of any former employee who files a form by not releasing any personal information or social security number.

2. What is this lawsuit about?

This lawsuit is about whether your former federal agency violated federal pay statutes by failing to pay a supplemental lump-sum payment to former federal employees after an annual COLA increase or other pay increase went into effect during the period of the former employee’s unused annual leave (projecting forward from the date of retirement, separation, or death the number of days of unused annual leave). The Plaintiffs in the lawsuit claim that certain federal agencies did not include in a supplemental lump-sum payment for unused annual leave the pay increase that the employee would have earned if he or she had remained a federal employee for the period of their unused annual leave from October 14, 1993 to September 6, 1999.

This Notice also applies to former federal employees who retired, separated, or died between October 14, 1993 and September 30, 1997 who were paid Sunday premium pay in the pay period immediately before they retired, separated, or died, but the Sunday premium pay was not included in the former employee's lump-sum payment for unused annual leave as required by law.

Also, this Notice applies to former federal employees who retired or separated in a foreign area who had been paid a foreign post housing allowance immediately before his or her retirement or separation, but the foreign post housing allowance was not included in the former employee’s lump-sum payment for unused annual leave as required by law.

3. What is a Class Action and who is involved?

In a class action lawsuit, one or more people called “Class Representatives” (in this case, several retired federal employees) sue on behalf of other employees who have similar claims. The former employees who “opt-in” are called a “Class,” or “Class Members.” The people who sued – and all Class Members like them – are the “Plaintiffs.” The United States is called “Defendant.” In a class action in the United States Court of Federal Claims in Washington, D.C., one court resolves the issues for all Class Members who choose to join the lawsuit.

4. Why is this lawsuit a class action?

The Court decided that this lawsuit can be a class action and move towards a trial because it meets the requirements of Rule 23 of the Rules of the United States Court of Federal Claims, which governs class actions in the United States Court of Federal Claims. Specifically, the court found that:

- The potential Class is so numerous that joinder of all members is impracticable;
- There are legal questions and facts that are common to each Class Member’s claims;
- The Class Representatives’ claims are typical of the claims of the rest of the Class;

- The Class Representatives and their Class Counsel, Ira M. Lechner and Steven M. Winton, will fairly and adequately represent the interests of the Class;
- The common legal questions and facts are more important than questions affecting only individual Class Members; and
- This class action will be more efficient than having many individual lawsuits.

For more information, see the Court’s Order, which is available on the website www.fedlumpsum.com.

THE CLAIMS IN THE LAWSUIT

5. What does this lawsuit complain about?

The Plaintiffs are asking for money damages for the amount of a supplemental lump-sum payment for unused annual leave that they claim was not paid to all eligible former employees who file an “opt-in claim form” as Class Members depending on your pay grade, the date that you retired, or separated (or the date of death of your family member who was a federal employee), and how many hours of unused annual leave you had in your account on that date. This means that if you retired or separated from the federal government with unused annual leave, you may be eligible for a significant supplemental lump-sum payment when and if the court finds that your agency did not comply with the law **if you file an official “opt-in claim form.”** Some Class Members may be entitled to more or less depending on their individual circumstances.

6. How does the United States answer to plaintiffs’ complaints?

Defendant denies plaintiffs’ allegations. Specifically, defendant asserts that there has been no systematic failure by the federal government to properly pay its former employees who retired, separated, or died the proper lump-sum payment for their accumulated, unused annual leave.

7. Has the court decided who is right?

The Court has not decided whether the United States or the plaintiffs are correct as to the issues of a supplemental lump-sum payment due and payable by the government if the plaintiffs’ allegations as to supplemental lump-sum payment are proven. By establishing the Class and issuing this Notice, the court is not suggesting that the plaintiffs will win or lose the case. The plaintiffs must prove their claims at trial. This litigation is currently in the pretrial stage.

8. What are plaintiffs asking for?

Plaintiffs seek a supplemental lump-sum payment for unused annual leave that they claim was not paid by certain agencies of the federal government. Plaintiffs also seek attorney fees and costs.

9. Is there any money available now?

No money is available now because the court has not yet decided whether the United States did anything wrong, and the two sides have not settled the case. There is no guarantee that money ever will be obtained. If money is obtained, and you decide to become a part of this Class Action, you will be notified about your share.

WHO IS IN THE CLASS ACTION

10. Am I part of this Class Action?

You will need to decide whether you wish to be included in this Class Action. You are not included in the case unless and until you fill out the “opt-in claim form” located on the website www.fedlumpsum.com, or by calling 1-866-329-5558 to request that a form be mailed directly to you. The Rules of the federal court require that Class Members choose to “opt-in” to a class action. If you fit the description in the next question, you may opt-in and join this Class Action. If you choose to do nothing and to be excluded from the Class, you will be forever excluded from receiving any supplemental payment from this lawsuit if and when any money is available.

11. Who can be part of this action?

The Court decided that the Class consists of:

All civilian employees who retired, died, or separated on October 14, 1993, and before September 7, 1999, from employment by all from one of the agencies, boards, commissions, or other establishments or instrumentalities of the United States: Administrative Office of U.S. Courts, Commodity Futures Trading Commission, Consumer Products Safety Commission, Corporation for National & Community Service, Corporation for National & Community Service; Department of Education, Equal Employment Opportunity Commission, Export-Import Bank, Federal Communications Commission, Federal Deposit Insurance Commission, Federal Emergency Management Agency, Federal Labor Relations Authority, Federal Trade Commission, Inter-American Foundation, Interstate Commerce Commission, National Archives & Records Administration, National Capital Planning Commission, National Endowment for the Arts, National Endowment for the Humanities, National Labor Relations Board, Nuclear Regulatory Commission, Office of Navajo and Hopi Indian Relocation, Panama Canal Commission, Securities & Exchange Commission, Selective Service System, Smithsonian Institution, U.S. Agency for International Development, U.S. Commission on Civil Rights, U.S. Information Agency, U. S. Railroad Retirement Board, and U.S. Tax Court; and

- (a) who were entitled to a lump-sum payment pursuant to 5 U.S.C. § 5551, received a lump-sum payment for unused annual leave upon retirement, death or separation; and/or
- (b) whose pay rate would have increased as a result of any across-the-board annual adjustment and locality pay adjustment or general system-wide pay increase that would have become effective for that employee had the employee remained in service for the period of his or her unused annual leave, but such increased rate was not included in a supplemental lump-sum payment for unused annual leave or in the calculation of his or her initial lump-sum payment for unused annual leave; and/or,
- (c) who regularly received twenty-five percent (25%) of his or her rate of basic pay for work performed during a regularly scheduled, basic eight-hour tour of duty pursuant to 5 U.S.C. § 5546(a) during the period from October 14, 1993 to September 30, 1997 as evidenced by payment of Sunday pay pursuant to 5 U.S.C. § 5546(a) in the pay period immediately before he or she retired, or separated, or died, and whose lump-sum payment did not include such Sunday pay for the period of his or her unused annual leave; and/or

- (d) who received a foreign post allowance under 5 U.S.C. 5924(1) as authorized by the U.S. Department of State's Standardized Regulations (Government Civilians, Foreign Areas) immediately prior to retirement, death, or separation in the foreign area but such allowance was not included in the calculation of the lump-sum payment for unused annual leave.

The Court's description of Class Members was written for the sole purpose of determining the identity of those persons who wish to be involved in this Class Action. The fact that the court wrote the description of the Class does not mean that the court has decided whether the United States has done anything wrong.

You may be eligible to file an "opt-in claim" form if you retired or separated (or your relative died who was a federal employee) from one of the following federal agencies from October 14, 1993 to September 6, 1999:

Administrative Office of U.S. Courts; Commodity Futures Trading Commission; Consumer Products Safety Commission; Corporation for National & Community Service; Corporation for National & Community Service; Department of Education; Equal Employment Opportunity Commission; Export-Import Bank; Federal Communications Commission; Federal Deposit Insurance Commission; Federal Emergency Management Agency; Federal Labor Relations Authority; Federal Trade Commission; Inter-American Foundation; Interstate Commerce Commission; National Archives & Records Administration; National Capital Planning Commission; National Endowment for the Arts; National Endowment for the Humanities; National Labor Relations Board; Nuclear Regulatory Commission; Office of Navajo and Hopi Indian Relocation; Panama Canal Commission; Securities & Exchange Commission; Selective Service System; Smithsonian Institution; U.S. Agency for International Development; U.S. Commission on Civil Rights; U.S. Information Agency; U. S. Railroad Retirement Board; and U.S. Tax Court.

12. Who should I contact if I am not sure if I can be part of the Class Action?

If you are not sure whether you can be included in this Class Action, you can contact the Class Administrator in this case by toll free telephone at 1-866-329-5558 or by mail at the address provided in the answer to question 13.

13. How can I join the Class Action?

You can either file your "opt-in claim form" directly online now with the independent Class Administrator at www.fedlumpsum.com, or you can download and print out the "Opt-In Claim Form" and mail it directly to the Administrator, or you can call 1-800-329-5558 toll free to have a form mailed directly to you which you can send back by mail. The quickest, easiest, and more cost effective way to file your form is to do so now directly by the Internet through this website. If you file your form by the Internet on the website or by mail, you must do so no later than August 27, 2015. Do not delay.

The name and address of the Class Administrator is:
LUMP-SUM CLAIM Administrator
P.O. Box 3560
Portland, OR 97208-3560.

The Administrator's EMAIL ADDRESS is: info@fedlumpsum.com

The toll free telephone number to request that an “opt-in claim form” be mailed to you is 1-866-329-5558.

If you mail your “opt-in claim form”, you must put the appropriate amount of postage stamps on the envelope in order to file your claim. Your “opt-in claim form” must be postmarked no later than August 27, 2015. If you mail your “opt-in claim form” and it is not postmarked by August 27, 2015, you will be permanently excluded from the Class in this case and you will not be able to recover any payment from this case forever if and when the court finds that your agency violated the law.

14. What happens once I join this Class Action?

As a member of the Class your rights in this litigation will be represented by the Class Representatives and Class Counsel. You will receive the benefit of, and be bound by, all rulings, orders, or judgment entered or any settlement approved by the Court, whether favorable or unfavorable. **If you choose to participate in this case by submitting an “opt-in claim form” either by the Internet by filing directly online or by calling toll free 1-866-329-5558 to get a form by mail that you can fill out and send back to the Class Administrator, you will not be required to pay any attorneys’ fees or costs related to the case.**

15. Does joining the Class Action cost any money?

No.

16. What happens if I do not join this Class Action?

If you do not submit an “Opt-In Claim Form” directly by the Internet no later than August 27, 2015, or by mail postmarked on or before August 27, 2015, you will be barred from participating as a Class Member in this case and you will not receive any monetary recovery from either a trial or settlement. However, you retain the right to sue the federal government on your own about the same legal claims that have been alleged in this lawsuit and you will not be legally bound by the Court’s judgment in this class action. If you decide to pursue your claim independently, outside this class action, you are encouraged to do so immediately and consult with your personal attorney immediately because certain statutes of limitations may bar or limit your claims. You are entitled to enter an appearance in this matter through private counsel if you desire. If you choose to hire your own lawyer, you will personally have to pay that lawyer.

THE LAWYERS REPRESENTING CLASS MEMBERS

17. Do I have a lawyer in this case?

The Court decided that Ira M. Lechner, Esq. and Steven W. Winton of the firm of the Winton Law Corp. are qualified to represent you and all Class Members. They are called “Class Counsel.” Mr. Lechner and Mr. Winton are experienced in handling similar cases against the United States and other employers. If you choose to file an “opt-in claim form,” you will have agreed to legal representation by Mr. Lechner and Mr. Winton in this case. Address all your questions only to the Class Administrator at the address noted in the answer to question 13. The court has requested that you do not call or write the United States Court of Federal Claims or the Clerk of the Court.

18. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, you are permitted to hire your own lawyer if you would like to do so. For example, you can ask him or her

to appear in Court for you if you want someone other than Class Counsel to speak for you. However, if you choose to hire your own lawyer, you will personally have to pay that lawyer.

19. How will the lawyer be paid?

If Class Counsel succeeds in recovering money for the Class, they will ask the Court for their fees and expenses. **You will not have to pay these fees and expenses directly.** If the Court grants Class Counsels’ request, the fees and expenses would either be deducted from any money obtained for the Class, and/or paid separately by the United States. If the Class Counsels’ fees and expenses are paid out of the money obtained for the Class, there will be a reduction in the amount available for distribution to Class Members, and it may reduce the amount of money you may be awarded. **If there is no recovery in this case, you will not be required to pay any attorneys’ fees or costs to Class Counsel, and if there is a recovery of money for the class in this case, you will NOT be asked to pay Class Counsel directly his fees and “out-of-pocket” costs.** However, as mentioned in the answer to question 18, if you choose to hire your own lawyer, you will personally have to pay your own lawyer.

THE PROCESS OF DETERMINING WHO IS RIGHT

20. How and when will the court decide who is right?

As long as the case is not resolved by a settlement or otherwise, Class Counsel will have to prove the Plaintiffs’ claims. No trial date has been set as this case is in the stage where the parties are exchanging information about the facts and circumstances of the case. There is no guarantee that the Plaintiffs will win or that they will get any money for the Class. The United States Court of Federal Claims will decide whether the federal government has violated the law, and if so, the Court will decide how much money is owed by the federal government to each one of the eligible employees who file an “opt-in claim form” indicating that he or she wants to be included in the lawsuit. Chief Judge Patricia Campbell- Smith of the United States Court of Federal Claims is overseeing this class action case. The lawsuit is known as *Kandel v. United States*, No. 06-872C. The Court has requested that you do not call or write the Court or the Clerk of Court for information.

21. Do I have to come to the trial?

You do not need to attend the trial. Class Counsel will present the case for plaintiffs, and the federal government will present its defenses. You, or your own lawyer, are welcome to come at your own expense.

22. Will I get any money after the trial?

If plaintiffs obtain any money as a result of the trial or a settlement, you will be notified of the amount of your award if you are eligible to receive a payment. The independent Class Administrator will send you a check. We do not know how long this will take.

GETTING MORE INFORMATION

23. Are more details available?

The pleadings and other records in this lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the United States Court of Federal Claims. The Court’s address is:

United States Court of Federal Claims
717 Madison Pl., N.W.
Washington, D.C. 20005

THE COURT HAS INSTRUCTED THAT YOU SHOULD NOT CONTACT THE CLERK'S OFFICE BY TELEPHONE OR BY MAIL FOR INFORMATION ABOUT THIS CASE.

For more information about this lawsuit, you may view the website maintained by Class Counsel at www.fedlumpsum.com , or you can contact the Administrator at 1-866-329-5558, or by mail at:

LUMP-SUM CLAIM Administrator
P.O. Box 3560
Portland, OR 97208-3560