



ELFVIN, KLINGSHIRN, ROYER & TORCH, LLC

*Representing Individuals and Companies in Employment and Business Disputes*

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April 22, 2019

To: Tschappat v. OSHA – Class Members

**Re: Tschappat, et al. v. DOL/OSHA**, EEOC Case No. 531-2018-00316X,  
Agency Case No. 98-05-115 – Our File Ref. 1119.6

I have continued to work through the data in this case and it does not change my opinion that there is merit to the claims presented in this class case. I have posted notices on the webpage and emailed all of the class members that I have contact emails for in the past.

This message will confirm to members of the class that while my personal plans to continue winding down my practice may take up to another year, I cannot meet the demands of litigating this case without additional assistance. In every instance that I have had a discussion or emails with a class member, several have indicated that he or she would be willing to become a Class Agent, but none have indicated that they have sought out or retained additional counsel to work on this case. The AJ denied my motion for a stay of further proceedings for 45 days to allow me to have any class members interested in becoming Class Agents to come forward. I have been working on the discovery responses and attempting to verify and supplement information from class members. It is apparent to me that there are no class members that I have spoken with that are willing to come in as Class Agents. And especially with any additional counsel.

Class Agents are needed that were GS-12s seeking promotion to GS-13 positions in OSHA to cover all parts of the class certification from November of 1994 through the present. There is a need to have a Class Agent or Agents for GS-13s seeking GS-14 positions in OSHA for the period 2009 to the present. As class counsel, I am concerned that the AJ may cut the class back if we do not have additional Class Agents step forward and appear in the class case. Each class member doing this should file in this case in the EEOC's Baltimore Office Federal Hearings Unit.

Part of the difficulty with this case is that it was pending on appeal for about nine (9) years and after reversal by the EEOC's Office of Federal Operations the case was not assigned to a judge for about a year and a half. These were events outside my control or the original Class Agent's control. It is now up to class members to come forward. The Class Agent is William Tschappat, who retired in 2009. He recently turned 85 years old and cannot continue with this case.

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Class Members

The AJ has made it clear that she expects to have Class Agents to cover not only the 2009 and beyond period for GS-14 applicants, but also Class Agents to cover the GS-13 applicant group from 1994 to the present. A new Class Agent could be retired or still employed. Any class member that responds or talks with class counsel is engaging in attorney-client communications.

I will bring this case to a conclusion. I have communicated with many different class members and I regret that I will not continue on this case. I have decided that I cannot fight alone. I welcome each of you to consider what you can or wish to do, I personally believe that this case has merit, but I cannot bring this case to trial without additional assistance.

Thank you for your support and consideration of my requests. The next telephone hearing date is May 24, 2019 and I intend to advise the AJ and Agency of my intent.

Sincerely,

*s/ Bruce B. Elvin*  
Bruce B. Elvin