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July 31, 2017

Harold A. Schaitberger  
General President  
International Association of Fire Fighters  
1750 New York Avenue, NW  
Washington, DC 20005

Subject: Local F-33—Navy Region Southwest

Dear Harold:

We are pleased to inform you that, after a long-running battle on behalf of IAFF Local F-33 and its members against the Navy, in arbitration and before the Federal Labor Relations Authority, the case has been settled on favorable terms.

This was a Guardian Policy case involving grievances/ arbitration challenging the Navy's violation of minimum staffing standards by cross-staffing at two of the locations represented by the Local.

By way of background, in November 2011, the Navy began to cross-staff at two departments represented by Local F-33, in North Island and San Clemente Island in California. The cross-staffing led to the Aircraft Rescue Fire Fighting ("ARFF") vehicles being staffed by less than the minimum required number of fire fighters. Under Department of Defense Instruction ("DODI") 6055.06, *each* ARFF vehicle is required to be staffed by no less than 3 fire fighters. DODI 6055.06 establishes requirements regarding fire/rescue emergency services throughout Department of Defense components—Air Force, Navy, Army, Marine Corps, and the Defense Logistics Agency.

This matter proceeded to arbitration, and the hearing was held in January, 2014. Incredibly, the Arbitrator took 2 years and 9 months to finally issue a decision, despite repeated requests to do so. However, on September 4, 2016, the Arbitrator issued a favorable Award. She found that the Agency violated the minimum safety staffing requirements of the Department

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of Defense Instruction incorporated into the parties' Collective Bargaining Agreement (CBA) by reducing the ARFF vehicles to less than 3 fire fighters, without seeking or obtaining the requisite waiver from higher authority. The Arbitrator also referenced the "two in-two out" policy, noting there were not enough fire fighters to enter a burning plane and to remain outside. In addition, the Arbitrator found that the clear safety and staffing language of the CBA trumped the Agency's argument based on management's rights.

As a remedy, the Arbitrator ordered the Navy Command to staff the ARFF vehicles according to the minimum required staffing at both North Island and Clemente Island locations, and if the Navy still wishes to cross-staff, it must adhere to the requirement of justifying and obtaining a waiver from the Department of Defense, with proper notification to the Union.

The Agency then informed the Local F-33 President that it would not make any changes to staffing to comply with the Arbitrator's Award. The Agency did not, however, file any exceptions to the Award. On January 9, 2017, after the Union attempted to informally resolve the issue with the Agency, an unfair labor practice charge was filed with the Federal Labor Relations Authority (FLRA) over the Agency's failure to comply with the Arbitrator's Award. On May 12, 2017, a representative of the FLRA informally indicated that he considered the unfair labor practice charge to have merit. As a result, the FLRA initiated efforts to explore a settlement of this case.

A conference call was held on July 27, 2017 by the FLRA representative. Vice President Jim Johnson, Local President Massone, and Reid Coploff (from our office) participated on our side. An attorney and several officials represented the Navy Department. A positive settlement was achieved which provides, in pertinent part:

- That the Agency will stop cross-staffing the ARFFs and assign three (3) fire fighters to each ARFF by August 11, 2017.
- If the Agency wishes to reinstate cross-staffing, it will notify Local F-33 and give the Union an opportunity to bargain.
- If the Agency wishes to reinstate cross-staffing, it will follow the provisions of DODI 6055.06 regarding deviations.
- The Agency will post a Notice for 60 days at the fire stations (and email the Notice to the employees) acknowledging that it must comply with the final and binding arbitration award, it will stop the practice of cross-staffing ARFFs by August 11, 2017, and will not interfere with, restrain, or coerce employees who exercise their rights under the Federal Service Labor-Management Relations Statute.

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We are grateful to Vice President Jim Johnson and Local F-33 President Massone for their steadfast and active involvement in bringing this Guardian case to a successful conclusion.

Sincerely,

WOODLEY & MCGILLIVARY LLP



Thomas A. Woodley  
IAFF General Counsel

TAW/ks

cc: Jim Johnson, IAFF Vice President, 16<sup>th</sup> District  
Michael Massone, President, Local F-33  
Reid Coploff, Esq.  
Jim Lee, Chief of Staff  
Teresa Valenzuela, Executive Assistant the General President