



(May 10, 2016)

In order to further improve the lines of communication and to respond to the concerns between the National VA Council and you our members, I have established a National VA Council Briefing. This NVAC Briefing will bring you the latest news and developments within DVA and provide you with the current status of issues this Council is currently addressing. I believe that this NVAC Briefing will greatly enhance the way in which we communicate and the way in which we share new information, keeping you better informed.

Alma L. Lee
National VA Council, President

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**In This Briefing: MSPB Pandering, ALs & Mother-Daughter Damages-Fedsmill Article**  
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FEDSMILL - *"Respect for Employee Rights, Ideas, Insights, Participation and Unions Generates the Power to Improve Government"*

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MSPB PANDERS A TINY BIT LESS TO AGENCIES

One of the most disappointing precedents to ever roll out of the Board established that agencies need not meet the tough standard of proof required to fire an employee for falsification, namely, that the employee intentionally gave false information or intended to deceive. It told agencies that all they need do to avoid that long-established standard is change the wording of the charge from “falsification” to “lack of candor.” That, the Board said, “is a broader and more flexible concept whose contours and elements depend on the particular context and conduct involved.” In other words, even an unintentional false statement in an interview or on a form was enough to fire

an employee. That triggered the adverse action equivalent of a third world blood bath across government. According to [Cyberfeds.com](#), [Continue reading →](#)

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CONGRATS TO CAROL AND ERNIE!

There is another very good piece of good news coming out of the FLRA these days, and it is thanks to Carol Pope and Ernie Dubester. (Sorry for the “Dis” Patrick, but we are pretty sure you would zero out the budget and turn out the lights if Koch Headquarters so signaled.) For years the FLRA had one of the least productive ALJ corps imaginable—precisely the kind of mess the Heritage folks wail about. But thanks to some quiet changes from the Authority’s top leadership, it has had an almost 400% increase in productivity. Here are some hard numbers. [Continue reading →](#)

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EEOC PAYS EMPLOYEE FOR DAMAGED RELATIONSHIP WITH DAUGHTER

Employees victimized by illegal retaliation, harassment or other violations of the Civil Rights laws unrelated to compensation often do not have back pay claims. That could lead the victim to decide that fighting the matter is not worth the effort. But, as we have said before, “compensatory damages” can be awarded up to \$300,000 on top of any back pay or even without a back pay order. We won’t cover all the grounds for claiming these damages. Even though we have touched on examples in other posts, any employee considering a claim for damages needs someone to thoroughly research all possibilities. Nonetheless, we believe it is worth passing along some of the more surprising precedents in any field of employment law because the memory just might ring a bell in someone’s future. This week’s EEOC releases contained a case where a woman claimed damages from her discriminatory treatment by management for the harm done her relationship with her daughter. We thought that was one of those cases unusual enough that it should be stored in a few memories around the blogosphere. The following is an excerpt from the decision that gave the employee \$35,000 in damages. [Continue reading →](#)

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WHEN AN ORDER TO TELEWORK VIOLATES LAW

While the Telework Act clearly prohibits agencies from ordering employees to participate in telework, that is not the only liability an agency has if it orders an employee to work from home. EEOC pointed that out in Levi S. v. Dep't of the Navy, EEOC Appeal No. 0120151301 (November 25, 2015). In that case management ordered an employee to work from home because of its concerns about his repeated physical seizures which it said scared others and made them uneasy. When the agency argued that an order to telework was not an adverse employment action, the EEOC wrote, "We find that the change in Complainant's work location described in his complaint constitutes a viable allegation of harm to a term, condition or privilege of Complainant's employment." Unlike an alleged violation of the Telework Act prohibition against forcing employees to telework, a violation of the civil rights laws would make the employee eligible for tens of thousands in damages, not to mention back pay and attorney fees.

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UNIONS WATCH AS IRS REPORTS UNPAID ANNUAL TAXES RISE TO \$458 BILLION

The title of this posts comes from a simple but powerful New York Times story that recently explained why the federal government is understaffed, its employees often underpaid, its work largely undone, and its reputation less than stellar. The money that law says should be paid into the US Treasury is not being deposited thanks for a very healthy dose of tax cheats living among us. (This figure does not even include all the companies doing business in the US who rent lofts or just mailboxes in off-shore tax havens to "legitimately" avoid paying what they would owe if they operated as US companies.) If even half this was collected each year there would be far, far fewer worries about Medicare shortfalls, the cost of universal health insurance, crumbling bridges, unsafe drinking water, and zika-like plagues. On the other hand, the tax cheats would be very unhappy, and cut their political contributions to Congressional front men drastically. If an ISIS-connected syndicate was stealing this money from Americans each year, ships would be launched, drones fired up, and boots put all over the ground. But thanks to a few Congressional hitmen who almost daily blame the underfunded IRS for this, Americans move along unaware that this theft cheats every man, woman and child out of about \$1,500 a year in federal benefits. So, what can unions do about this? [Continue reading](#) →

