

WAGE AND HOUR DIVISION
U. S. Department of Labor

LEGAL FIELD LETTER

NO. 16

SUBJECT: NEGOTIATIONS FOR CONSENT JUDGMENTS--SECURING WRITTEN COMMITMENTS

Field attorneys are sometimes confronted with a change of attitude on the part of employers or their attorneys after they have indicated a willingness to consent to judgment and before they have signed the pleadings. It is suggested that if the offer of the employer to consent to judgment is put immediately into some written form, a later change of attitude may be less likely.

Accordingly, field attorneys are authorized to secure tentative written commitments signed by employers, their attorneys or both indicating their offer to consent to the judgment and to pay restitution. Commitments may be in the form of a simple letter or informal statement or in the form of signatures to the proposed stipulation and judgment or the stipulation alone--the attorney can decide which is most advisable in the particular case.

Field attorneys are now sufficiently familiar with our policies to assure proper and discreet use of the above procedure. Care must be exercised to restrict it to cases where criminal prosecution is clearly not indicated and care must also be exercised regarding the substantive language of the commitment. Unless the proposed disposition of the case has been approved here, it should be made clear that it is subject to such approval; if the letter or statement are used, language to that effect should be included. If proposed pleadings are used, they should not be signed on behalf of the Government. The statement of facts required in Section 7(c) of Inspection Field Letter No. 3 should advise us whether there has been any written commitment on behalf of the employer and of the form thereof.

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