

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION

LEGAL FIELD LETTER

NO. 17

SUBJECT: LITIGATION POLICY--SUITS BY EMPLOYEES WHERE RESTITUTION
HAS BEEN MADE BY EMPLOYER.

It is advisable to define the policy of the Division with regard to suits instituted by employees after employers have made restitution.

1. In cases where settlement has been made under our supervision or with our approval and only simple restitution paid (i.e. liquidated damages or attorney's fees not included) and no facts are later disclosed indicating that the Division was misled in the computation of restitution, the Division will not, except in the presence of special circumstances, be interested in urging that accord and satisfaction is not a proper defense nor will it be interested in aiding in any other manner the contention that additional damage is due.
2. In cases where restitution was made without our approval and was inadequate or was affected with coercion the Division will be interested in aiding the court by filing a brief calling to the attention of the court authority to the effect that such claims cannot be compromised. A memorandum of law will soon be distributed on this point.

Except as set forth above, our policy still stands of aiding employees in litigation which they wish to bring. The extent to which such aid should be given is generally set forth in Field Letter Series FO-10.

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