

CFC Dismisses Some Back-Pay Claims as Untimely

The Court of Federal Claims recently granted the Government's partial motion to dismiss in *Jones v. United States*, a back-pay case, holding that some of the Plaintiffs' claims were barred by the six-year statute of limitations for claims under the Tucker Act even though the Back Pay Act itself and some agency guidance appeared to state the contrary.

In 2009 the Federal Circuit held that part-time Government employees, like full-time employees, are entitled to twenty-five-percent premium pay for regularly scheduled Sunday work. Several agencies issued memoranda authorizing back-payment of this premium pay to 2003—six years prior to the agency decision. Two years later, in 2011, a group of part-time employees who had not been paid sued for back Sunday premium pay owed. The Government's motion to dismiss argued that the Tucker Act's six-year statute of limitations allowed recovery only back to 2005 (six years from filing suit), while the plaintiffs argued that the Back Pay Act entitled them to pay back to 2003 (six years from the date of the agency decision).

Granting the Government's motion for partial dismissal, the trial court held that even if the Back Pay Act applied to these claims, and even if the six-year provision of the Back Pay Act was triggered by the Federal Circuit's decision, that provision did not alter the six-year statute of limitations:

[E]ven if the claims here are somehow predicated upon the Back Pay Act, and even if section 5596(b)(4) [the 6-year provision] is triggered, the latter provision plainly does not serve to alter or extend the statute of limitations established by section 2501. By its terms, section 5596 only limits the application of other laws, indicating that "in no case may pay . . . be granted . . . for a period beginning more than 6 years before . . . the date of the administrative determination."

The full opinion can be read [here](#).

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