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For Publication

**IN THE SUPERIOR COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**SYLVAN ATALIG, FRANCISCA  
BARCINAS, ROBERT CALVO,  
ESPERANSA CRUZ, MARIA  
MANGLONA, the Estate of MARTIN  
QUITGUA, FRANCISCO TAGA, and  
RAY TAITAGUE**

Plaintiffs,

v.

**ROTA MUNICIPAL Council, RICHARD  
MANGLONA, JEFFREY MANGLONA  
and BALBINA TAISACAN,**

Defendants.

**CIVIL ACTION NO. 04-0012-CV**

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

THIS MATTER was last before the Court for a bench trial which concluded on December 13, 2004 - with closing arguments occurring on December 29, 2004. Plaintiffs were represented by Michael W. Dotts and Joseph Horrey and Defendants by Benjamin Sachs. The Court, after reviewing all of the evidence in this case, and in consideration of the testimony of the witnesses called, documentary evidence submitted, and the briefs and arguments of counsel, now enters these Findings of Fact and Conclusions of Law, which shall serve as final judgment in this matter.

**FINDINGS OF FACT**

1. Plaintiffs in this action are eight individuals who all worked for Defendant Rota Municipal Council in various capacities from at least early January 2000 until January 17, 2002. Each of the Plaintiffs were working under a contract, which was to expire on or about January 12, 2002.

1 2. On May 24, 2000, a legal opinion was issued by then counsel for the Municipal Council for  
2 Saipan and the Northern Islands, David A. Wiseman which opined that employees of that  
3 municipal council were covered by the Commonwealth Civil Service Act, 1 CMC §§ 8101, *et seq.*,  
4 and so were subject to the Rules and Regulations promulgated by the Civil Service Commission  
5 (“CSC”). An opinion was later issued by legal counsel for the CSC, John F. Cool, that agreed with  
6 Mr. Wiseman’s conclusions.

7 3. As a result of these opinions, then Chairman of the Rota Municipal Council, Mr. Abraham  
8 M. Ogo, requested a Desk Audit from the Office of Personal Management (“OPM”) so that the  
9 employees of the Rota Municipal Council (“the Council”) could be converted to the Civil Service  
10 system. At the same time, Chairman Ogo notified the employees of the Council, including  
11 Plaintiffs, that they would be processed for conversion to Civil Service. While this process was  
12 ongoing, Plaintiffs remained in their respective positions and continued to work.

13 4. The Desk Audit requested by the Council was completed by December 2001. In a memo,  
14 addressed to Rosita A. Hocog of OPM, dated December 28, 2001, the Council determined that  
15 Plaintiffs in this action would hold the following positions of employment within the Civil Service  
16 system:

17	Sylvan T. Atalig	Auto Mechanic	Dept. of Public Works
18	Francisca S. Barcinas	Laborer II	Community & Cultural Affairs
19	Robert S. Calvo	Medical Referral Asst.	Dept. of Public Health
20	Esperansa Cruz	Administrative Officer I	Municipal Council
21	Maria O. Manglona	Laborer II	Municipal Council
22	Martin Q. Quitugua	Labor Foreman	Dept. of Public Works
23	Francisco A. Taga	Labor Foreman	Municipal Council
24	Ray Julian Taitague	Fire Cadet	Dept. of Public Safety

25 The paperwork necessary to convert Plaintiffs to the positions listed above was routed to the various  
26 agencies involved to obtain the necessary signatures. These agencies included the Department of  
27 Finance, the OPM, and the CSC. The completed paperwork was returned to the Council on January  
28

1 14, 2002.

2 5. On January 16, 2002, three new members were installed as the Rota Municipal Council:  
3 Richard Manglona, Jeffrey Manglona, and Balbina Taisacan - the individual Defendants in this  
4 action. They were elected by the people of Rota to serve a two-year term. Either shortly before or  
5 shortly after assuming office (the testimony on this point conflicted), Richard Manglona requested  
6 and received all of the Civil Service conversion papers. He then kept the papers. They were not  
7 delivered to Rosita Hocog at OPM, which would have been the final step to convert Plaintiffs into  
8 Civil Service employees.

9 6. Instead, on January 17, 2002, Richard Manglona, acting as Chair of the Rota Municipal  
10 Council, sent a letter to each of the Plaintiffs ordering them not to return to work, "until such time  
11 that all Personnel Actions are completed." Most of the Plaintiffs stopped working immediately.  
12 However, Sylvan Atalig and Martin Quitugua continued to work for approximately 3 more pay  
13 periods, and Robert Calvo continued to work for a considerably longer period. None of these three  
14 were paid for their work. According to Richard Manglona, he sent the letter because he wanted  
15 Plaintiffs out of those positions, as he and the other board members preferred to fill them with  
16 people of their choosing.

17 7. Subsequently, Richard Manglona was told on at least two occasions that he needed to re-  
18 employ Plaintiffs. In a memo dated January 23, 2002, Rosita Hocog warned him that CSC had  
19 determined that Plaintiffs had Civil Service rights and that their employment could not be terminated  
20 without incurring liability for the government. Norbert Sablan, then Acting Personnel Officer  
21 similarly advised Richard Manglona in a letter dated February 4, 2002.

22 8. In late February 2002, the Council attempted to convince Plaintiffs to waive conversion to  
23 Civil Service in exchange for a lump-sum payout of their annual leave. Some of the Plaintiffs signed  
24 the waiver, while others did not.

25 9. In July 2002, the Office of the Attorney General, at the request of Juan I. Tenorio, the Acting  
26 Director of Personnel, issued a legal opinion regarding Plaintiffs. In that opinion, then Deputy  
27 Attorney General Ramona V. Manglona concluded, (with then Attorney General Robert T. Torres  
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1 concurring), that Plaintiffs had acquired Civil Service status and that they were entitled to continued  
2 employment after the conclusion of their excepted service contracts. Attorney General Legal  
3 Opinion No. 02-08 (July 2, 2002). The opinion also concluded that the waivers executed by some  
4 of the Plaintiffs were not valid.

5 10. Despite these numerous opinions, the Council failed to re-employ Plaintiffs. However, by  
6 January 1, 2003, all of the Plaintiffs except Richard Calvo had found employment. Plaintiff  
7 Francisca S. Barcinas was re-employed by the Council, at a lower salary, on March 12, 2002, while  
8 most of the others found work in December 2002. Mr. Calvo remained unemployed for more than  
9 another year, before reaching retirement age and retiring.

10 11. For reasons set forth below, the Court concludes that the conduct of Defendants caused  
11 compensable injury to Plaintiffs and thus awards each damages in an amount described below.

#### 12 CONCLUSIONS OF LAW

##### 13 **I. The Plaintiffs were Commonwealth Employees.**

14 Plaintiffs argue that they were subject to rules of the Civil Service system and the jurisdiction  
15 of the CSC. The CSC was mandated by the Commonwealth Constitution, Article XX, Section 1.  
16 The authority of the CSC is to “extend to positions other than those filled by election or by  
17 appointment of the governor in the departments and agencies of the executive branch and in the  
18 administrative staffs of the legislative and judicial branches.” N.M.I. Const. art. XX, § 1. Only the  
19 Legislature was empowered to exempt employees of the Commonwealth government from the  
20 jurisdiction of the CSC, and only by as provided by law. *Id.*

21 In this case, Plaintiffs’ personnel actions were regularly processed through central  
22 Commonwealth government channels, Plaintiffs were paid with central Commonwealth government  
23 funds, and Plaintiffs contributed to the CNMI Retirement Fund. In addition, the Plaintiffs were  
24 detailed out to work at various agencies of the CNMI government. Though they were employed by  
25 the Council, this Court must agree with the previous opinions issued by John F. Cool, David A.  
26 Wiseman, and Robert T. Torres and Ramona V. Manglona, that Plaintiffs were employees of the  
27 Commonwealth government. As such, they had a property right to continued employment.

1 **II. Defendants Violated the Plaintiffs' Civil Rights.**

2 Plaintiffs have asserted that Defendants violated their civil rights by stopping them from  
3 working on January 17, 2002. The Civil Rights Act, 42 U.S.C. § 1983, provides in relevant part:

4 Every person who, under color of [law] subjects, or causes to be subjected, any  
5 citizen of the United States or other person within the jurisdiction thereof to the  
6 deprivation of an rights, privileges, or immunities secured by the Constitution and  
7 laws, shall be liable to the party injured in an action at law, suit in equity, or other  
8 proper proceeding for redress . . . .

9 To establish a prima facie case for violation of the Civil Rights Act, Plaintiffs must establish that  
10 (1) "person[s]", (2) acting under "color of law," caused (3) "the deprivation of a right."

11 In this case, the individuals who were sued clearly are persons. The Council itself is also a  
12 person under the terms of the Civil Rights Act, and may be sued as such for violations of civil rights.  
13 *Monell v. Dep't of Social Services of the City of New York*, 436 U.S. 658, 690, 98 S. Ct. 2018, 2035-  
14 36, 56 L. Ed. 2d 611, 635 (1978) (Holding that Section 1983 applies to municipalities and other local  
15 government units.). However, the Council has argued that the current Council, the 10th Rota  
16 Municipal Council, cannot be held liable for the actions at issue here, because they occurred during  
17 the term of the 9th Rota Municipal Council. (The 10th Council took office in January of 2004). The  
18 Court finds this argument unconvincing. Certainly, it would not serve justice if the Council could  
19 avoid all of its obligations every two years when a new election is held. The Court concludes that  
20 all the Defendants, including the Council, are persons within the meaning of the Act.

21 In addition, Defendants here clearly acted under "color of law." Richard Manglona used his  
22 position to obtain, and then withhold, the paperwork that would have converted Plaintiffs into the  
23 Civil Service System employees. In addition, on January 17, 2002, Richard Manglona, on  
24 Municipal Council letterhead, with his name signed above the title "Chairman," and with consent  
25 and agreement of the rest of the Council, ordered Plaintiffs to stop work. *See McDade v. West*, 223  
26 F.3d 1135, 1141 (9th Cir. 2000) ("It is firmly established that a defendant in a § 1983 suit acts under  
27 color of state law when he abuses the position given to him by the State.").

28 Finally, it is clear that Plaintiffs have been deprived of a property right. Had Richard  
Manglona not withheld their papers, Plaintiffs would have been converted into Civil Service

1 employees and would have been entitled to continue their employment. This is well settled even  
2 though Plaintiffs were, prior to their termination, working under contracts that expired on or about  
3 January 12, 2002. In *Sonoda v. Cabrera*, 255 F.3d. 1035 (9th Cir. 2001), the Ninth Circuit  
4 considered a case originating in the CNMI that was directly on point. Sonoda, an employee of the  
5 Division of Customs Services, was not allowed to continue employment after his contract term  
6 expired. *Id* at 1038. Sonoda argued that he was entitled to continued employment under the  
7 protections of the Civil Service Act despite his limited term contract. *See id.* The Ninth Circuit  
8 agreed, reasoning that: “[a]t the time of Sonada’s . . . termination, his position . . . was not one of  
9 the . . . statutorily exempted positions. Therefore, . . . regardless of the employment contract he  
10 signed, Sonada was a civil service employee. . . . His termination without cause, notice, or  
11 opportunity to be heard violated his due process rights.” *Id* at 1041-42 (footnotes omitted).

12 Similarly, in this case, Plaintiffs had positions that were not statutorily exempted from the  
13 Civil Service Act at the time of their employment and termination. They therefore had a  
14 constitutionally protected property interest in their continued employment. Because they were  
15 terminated without cause and without notice and the opportunity to be heard, they were deprived of  
16 a property interest without due process of law. This is a violation of Plaintiffs’ civil rights. This  
17 finding does not, by itself, establish that Defendants must compensate Plaintiffs, however. First,  
18 Defendants may escape the duty to compensate if they can show that Plaintiffs would still have been  
19 terminated, even if appropriate due-process procedures had occurred. Second, the individual  
20 Defendants may escape liability if they can show they are entitled to the protections of qualified  
21 immunity. Third, Defendants may escape liability if they can show that Plaintiffs improperly failed  
22 to exhaust administrative remedies before turning to the Court.

23 **III. Defendants Have Not Shown that Plaintiffs Would Have Been Terminated for Cause.**

24 Where an employee’s due process rights have been violated by a public employer, the  
25 employer bears the burden of proof to show that the termination was nonetheless lawful. The  
26 employer may do so by establishing “by a preponderance of the evidence that the discharge would  
27 have occurred even if an appropriate pre-termination hearing had been held.” *Brewer v. Chauvin*,

1 938 F.2d 860, 864 (8th Cir. 1991), *accord*, *Mt. Healthy City Sch. Dist. Bd. of Education v. Doyle*,  
2 429 U.S. 274, 287, 97 S. Ct. 568, 576, 50 L. Ed. 2d. 471, 484 (1977); *Alexander v. Polk*, 750 F.2d  
3 250, 263 (3rd Cir. 1984); *Fraternal Order of Police Lodge No. 5 v. Tucker*, 868 F.2d 74, 81 n.9 (3rd  
4 Cir. 1989); *Franklin v. Aycock*, 795 F.2d 1253, 1263 (6th Cir. 1986); *Wheeler v. Mental Health and*  
5 *Mental Retardation Auth.*, 752 F.2d 1063, 1071 (5th Cir. 1985). In this case, Defendants have not  
6 even approached the necessary showing. Instead, Defendants simply argued that they did not  
7 consider Plaintiffs to be Civil Service employees and that they would prefer to hire their own  
8 employees. Defendants have not shown that, after proper due process, Plaintiffs would have been  
9 terminated for cause.

#### 10 **IV. Defendants are Not Entitled to Qualified Immunity.**

11 In addition, the individual Defendants could escape liability if they could show they are  
12 entitled to qualified immunity. A court evaluating a claim of qualified immunity must first consider  
13 whether a constitutional right was violated. *Sonoda*, 255 F.3d. at 1040 (*citing Wilson v. Layne*, 526  
14 U.S. 603, 609, 119 S. Ct. 1692, 1697, 143 L. Ed. 2d 818, 827 (1999)). If such a violation is  
15 established, a court must then determine “whether the right was clearly established at the time of the  
16 alleged violation.” *Id.* ( *quoting Conn. v. Gabbert*, 526 U.S. 286, 290, 119 S. Ct. 1292, 1295, 143  
17 L. Ed. 2d 399, 405 (1999)). Finally, a court must decide “whether a reasonable [defendant] could  
18 have believed his conduct was lawful. *Id.*

19 In this case, the violation of a constitutional right is plain. Plaintiffs’ employment was  
20 governed by the Civil Service Act. As such, Plaintiffs had a property right in continued  
21 employment. When they were deprived of this interest without due process of law, their right to due  
22 process under the 14th Amendment to the U.S. Constitution was violated.

23 Furthermore, at the time Defendants chose to stop the Plaintiffs from working, Defendants  
24 were aware that two legal opinions existed stating that Plaintiffs were entitled to Civil Service  
25 protection and should be allowed to remain in their positions. In addition, they were aware or  
26 should have been aware that the Ninth Circuit had ruled in *Sonada* that persons apparently serving  
27 under excepted service (limited-term) contracts were entitled to Civil Service protection, and a right  
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1 to continued employment after their contract conclude, unless they occupied a position specifically  
2 exempted from Civil Service by the Legislature. *Sonoda*, 255 F.3d at 1041-42. The Court concludes  
3 that the right not to be denied continued employment under the Civil Service system even if the  
4 employee is putatively serving under an excepted service contract, (except where the position is  
5 specifically exempted by the legislature), without due process of law, was clearly established at the  
6 time the individual Defendants violated Plaintiffs' right to due process. Finally, the Court  
7 concludes that reasonable officials in Defendants' position would have recognized their duty to  
8 continue to employ Plaintiffs. Defendants knew at the time they assumed office that the previous  
9 administration had already concluded that Plaintiffs were entitled to continued employment based  
10 on two legal opinions. In addition, Defendants knew or should have known that the Ninth Circuit,  
11 in *Sonoda*, had found that Civil Service protections must be granted even to employees serving  
12 under contracts that are for excepted service on their face.<sup>1</sup> Therefore, under the "full set of  
13 circumstances," the Court must conclude that a reasonable official in the individual Defendants'  
14 position would not believe their conduct was lawful. *See Sonoda* 255 F.3d at 1043. The Court  
15 concludes that the individual Defendants here are not entitled to qualified immunity.

16 **V. Plaintiffs are Not Required to Exhaust Administrative Remedies.**

17 Defendants have raised the affirmative defense of failure to exhaust administrative remedies.  
18 However, the exhaustion of administrative remedies is not a prerequisite to the filing of a civil rights  
19 action under Section 1983. The text of the statute itself makes this clear when it provides that any  
20 person who deprives another of his civil rights under color of state law "shall be liable to the party  
21 injured in an action at law, suit in equity, or other proper proceeding for redress." 42 U.S.C. § 1983.  
22 The available remedies are explicitly listed in the disjunctive - one may institute an "action at law"  
23 or pursue "other proper proceedings." There is no requirement that proper administrative  
24 proceedings be pursued before the action at law becomes available.

25 The Supreme Court has addressed this issue squarely in *Patsy v. Board of Regents of State*  
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27 <sup>1</sup> Indeed, a year later, in a Resolution passed by the Council, Defendants admitted that their conduct was  
28 unlawful, but still refused to address Plaintiffs' claims.



1 of Florida, where the Court reviewed the legislative history and prior case law thoroughly and  
2 concluded that “exhaustion of state administrative remedies should not be required as a prerequisite  
3 to bringing an action pursuant to § 1983.” 457 U.S. 496, 516, 102 S. Ct. 2557, 2568, 73 L. Ed. 2d  
4 172, 188 (1982). The Court recently reaffirmed this position in *Porter v. Nussle*, stating:  
5 “[o]rdinarily, plaintiffs pursuing civil rights claims under 42 U.S.C. § 1983 need not exhaust  
6 administrative remedies before filing suit in court.” 534 U.S. 516, 523, 122 S. Ct. 983, 987, 152 L.  
7 Ed.2d 12, 20 (2002). Naturally, this Court is inclined to agree with the Supreme Court - Plaintiffs  
8 were not required to exhaust administrative remedies before bringing this lawsuit and their failure  
9 to do so is no defense against it. Therefore, having found that Defendants violated the Constitutional  
10 rights of Plaintiffs, and having found that no valid defense exists, this Court must, and will, award  
11 compensatory damages to each Plaintiff. However, before calculating damages, the Court must  
12 consider an additional cause of action advanced by Plaintiffs.

#### 13 **VI. Intentional Infliction of Emotion Distress**

14 Plaintiffs seek to recover compensatory damages for what they allege was the intentional  
15 infliction of emotional distress. To prevail on such a claim, Plaintiffs must prove “(1) outrageous  
16 conduct by the defendant, (2) intention to cause or reckless disregard for the probability of causing  
17 emotional distress, (3) severe emotional suffering, and (4) actual and proximate causation of the  
18 emotional distress.” *Schneider v. TRW, Inc.*, 938 F.2d 986, 992 (9th Cir. 1991). The Court  
19 concludes that Plaintiffs have not met this burden on several counts. First, the Court does not  
20 believe that Defendants’ conduct was “outrageous.” Defendants did violate the rights of Plaintiffs.  
21 They knew or should have known that they could not terminate Plaintiffs’ employment without  
22 cause, but they did so anyway. However, their reason for doing so was their understandable desire  
23 to hire their own people for these positions. The Legislature recognized the importance of allowing  
24 each new municipal council to hire its own people when it exempted municipal council employees  
25 from the Civil Service system through the passage of Public Law 13-1, which amended 1 CMC §  
26 8131(a).<sup>2</sup> The Court simply cannot conclude that Defendants’ actions in this case are sufficiently

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28 <sup>2</sup> This law was passed on February 13, 2002 and so does not apply to Plaintiffs.

1 outrageous to justify a finding of intentional infliction of emotional distress.

2 Similarly, because Defendants' actions were not directed towards harming Plaintiffs, the  
3 Court has difficulty concluding that Defendants acted with intent to cause harm, or with reckless  
4 disregard of the probability of causing harm. The Court finds that the individual Defendants had  
5 an honest belief, albeit a wholly unsupported one, that they were entitled to act as they did.<sup>3</sup>  
6 Therefore, the Court cannot find cannot conclude that Defendants here acted with the requisite intent  
7 or reckless disregard.

8 Finally, the Court does not believe that Plaintiffs suffered "severe emotional distress." With  
9 the exception of Mr. Calvo, none of the Plaintiffs were unemployed longer than a year, and Mr.  
10 Calvo had a military pension on which to rely. Certainly Plaintiffs suffered from their  
11 unemployment. However, the Court believes that this does not rise to the level of severe emotional  
12 distress. In addition, the Court concludes that the total damages awarded each Plaintiff here are  
13 sufficient to make them whole of their entire damages. Therefore, the Court finds in favor of  
14 Defendants on the claim of intentional infliction of emotional distress.

## 15 **VII. Damages**

16 Having found that Defendants violated Plaintiffs' rights under 42 U.S. § 1983, by depriving  
17 them of a property right without due process of law, the Court must determine what damages to  
18 award. The Plaintiffs seek awards of back pay and benefits for all Plaintiffs and "front pay" for  
19 some Plaintiffs.

### 20 **A. Back Pay and Benefits**

21 Back pay is the most basic remedy in a case involving wrongful termination. In this case,  
22 there was no substantial dispute as to the amount owed to each Plaintiff - their previous salary was  
23 known and their losses easily calculated. Defendants simply disputed that Plaintiffs were entitled

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25 <sup>3</sup> The Court notes that this does not prevent a finding that the individual Defendants are not entitled to qualified  
26 immunity. To defeat a qualified immunity defense, a plaintiff must show only that a right was violated, that the right  
27 was clearly established, and that a *reasonable official* would have recognized that their conduct violated that right. It  
28 does not require that the actual official in question recognize the conduct as culpable. In this case, the Court has  
concluded that the individual Defendants had an *unreasonable* belief that their actions were justified. This goes some  
way in saving them from a claim that they intentionally inflicted emotional distress, but in no way spares them from the  
consequences of violating Plaintiffs' civil rights.

1 to any back pay at all.<sup>4</sup> Therefore, the Court finds that Plaintiffs have proven to a preponderance  
2 of the evidence their entitlement to compensatory damages for lost back wages and lost benefits in  
3 the amounts listed in Table “A,” which is attached hereto and incorporated herein by reference.

4 In addition, the Court concludes that Plaintiffs are entitled to prejudgment interest on these  
5 damages. The amount of interest due through December 14, 2004, has already been calculated by  
6 Plaintiffs and submitted as Plaintiffs’ Exhibit 16 and the Court has relied on these figures. The  
7 Court has then calculated the interest due from that point until the date this judgment was entered,  
8 May 9, 2005, using the formula for simple interest  $I=prt$ .<sup>5</sup> The results of these calculations is  
9 reflected in Table “A.”

10 B. Front Pay

11 In situations where an employee is wrongfully terminated and then obtains new employment  
12 at a lower wage, courts frequently award “front pay.” See *Vernon v. Port Authority of New York and*  
13 *New Jersey*, 220 F. Supp.2d 223, 236-37 (S.D. N.Y. 2002); *Baker v. John Morrell & Co.*, 263 F.  
14 Supp.2d 1161, 1170 (N.D. Iowa 2003). In this case, the Court finds that four of the Plaintiffs have  
15 proven, to a preponderance of the evidence, their entitlement to compensatory damages for lost front  
16 pay in the amounts listed in Table “B,” which is attached hereto and incorporated herein by  
17 reference.

18 CONCLUSION

19 On Plaintiffs’ claim for violation of 42 U.S.C. § 1983, the Court finds in favor of each  
20 Plaintiff and against each Defendant and awards each Plaintiff the amount set forth above, with the  
21 Defendants being jointly and severally liable for each Plaintiffs’ damages.

22 On Plaintiffs’ claim for intentional infliction of emotional distress, the Court finds in favor  
23 of Defendants.

24 On Plaintiffs’ alternate theory of breach of implied contract and wrongful termination, the  
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26 <sup>4</sup> The only exception to this might be Plaintiff Robert Calvo, whom Defendants alleged failed to properly elect  
27 conversion to Civil Service. However, the Court concludes that Mr. Calvo did make a timely election and so is as  
entitled to damages as any other Plaintiff.

28 <sup>5</sup> For more information on how the interest was calculated, see footnote 7 below.

1 Court issues no finding - as the matter has been rendered moot by the Court's findings above.

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3 SO ORDERED this 9th day of May 2005.

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/s/  
JUAN T. LIZAMA, Associate Judge

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1 **TABLE "A"**

2 **Compensatory Damages for Lost Back Pay and Benefits**

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4 EMPLOYEE / MISSED 5 DAYS OF WORK	6 LOST BACK 7 PAY & 8 BENEFITS <sup>6</sup>	9 INTEREST <sup>7</sup>	10 TOTAL BACK PAY 11 DAMAGES
12 Sylvan T. Atalig / 250	\$19,691.53	\$708.90	\$20,400.43
13 Francisca S. Barcinas / 41	\$2,981.48	\$107.33	\$3,088.81
14 Robert Calvo / 718	\$106,407.61	\$3830.67	\$110,238.28
15 Esperanza Toves Cruz / 250	\$44,223.40	\$1592.04	\$45,815.44
16 Maria O. Manglona / 250	\$22,508.75	\$810.32	\$23,319.07
17 Martin Q. Quitugua / 250	\$22,965.84	\$826.77	\$23,792.61
18 Francisco Ayuyu Taga / 250	\$22,000.15	\$792.01	\$22,792.16
19 Ray Julian Taitague / 250	\$20,029.37	\$721.06	\$20,750.43
20 TOTAL	\$260,808.13	\$9389.10	\$270,197.23

21 **TABLE "B"**

22 **Compensatory Damages for Lost Front Pay**

23

24 EMPLOYEE	25 LOST FRONT PAY
26 Sylvan T. Atalig	\$4,037.01
27 Espenranza Toves Cruz	\$59,979.35
28 Maria O. Manglona	\$27,171.49
Ray Julian Taitague	\$15,062.72
TOTAL	\$106,250.57

24 <sup>6</sup> Lost benefits include sick leave and annual leave that would have accrued and lost contributions to the CNMI Retirement Fund. Where appropriate, income for other sources that is treated as mitigation has already been subtracted. This amount includes the 9% per annum interest accrued through and until December 14, 2004, as calculated by Plaintiffs and submitted as part of Plaintiffs' Exhibit 16.

25 <sup>7</sup> This is the Court's own calculation of interest accrued from December 14, 2004 through the date this judgment was entered, May 9, 2005. The formula used was Interest = principal x rate x time. The principal was treated as the amount due to Plaintiffs for back pay and benefits, including previously accrued interest, on December 14, 2004. The rate was 9% per annum, or .09, and time was 146 days/365 days.

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**TABLE "C"**

**Total Damages - Excluding Interest**

EMPLOYEE	TOTAL BACK PAY DAMAGES <sup>8</sup>	FRONT PAY <sup>9</sup>	TOTAL DAMAGES
Sylvan T. Atalig	\$20,400.43	\$4,037.01	\$24,437.44
Francisca S. Barcinas	\$3,088.81	\$0	\$3,088.81
Robert Calvo	\$110,238.28	\$0	\$110,238.28
Esperanza Toves Cruz	\$45,815.44	\$59,979.35	\$105,794.79
Maria O. Manglona	\$23,319.07	\$27,171.49	\$50,490.56
Martin Q. Quitugua	\$23,792.61	\$0	\$23,792.61
Francisco Ayuyu Taga	\$22,792.16	\$0	\$22,792.16
Ray Julian Taitague	\$20,750.43	\$15,062.72	\$35,813.15
TOTALS	\$270,197.23	\$106,250.57	\$376,447.80

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<sup>8</sup> As taken from Table A and including all prejudgment interest.

<sup>9</sup> As taken from Table B.