

Hull v. DOL (Freedom of Information Act) case
Final Ruling, Judgment and Settlement with Department of Labor

By order dated May 30, 2006, Chief Judge Lewis Babcock of the Denver Federal Court put an end to the two year old battle between AUSWR and the United States Department of Labor (DOL) in the Freedom of Information Act case known as *Hull v. Department of Labor*. The case resulted in a victory for AUSWR which had inquired into what was being accomplished by the federal agency with its ‘investigation’ of the Qwest Pension Plan.

Mimi Hull, President of AUSWR, submitted a FOIA request in March 2004 for the federal agency’s file concerning the investigation. Ms. Hull demanded the DOL disclose its entire Qwest Pension Plan investigation case file, consisting of about 6400 pages. The strong policy of the FOIA is that the public is most entitled to know what the federal government is doing and why. Nevertheless, contrary to FOIA, the DOL steadfastly refused to turn over any records until months after a formal lawsuit was underway in the Denver Federal Court. The case turned into a protracted ‘tug of war’, eventually resulting in the release of almost 6,000 pages of documentation. In this case, Chief Judge Babcock granted Hull and AUSWR the unusual step of conducting an *in camera* review of some of the disputed records the federal agency refused to produce. In December 2005, after privately reviewing certain records, he ordered production of some of the withheld papers and issued a ruling describing the history of the case up to that point in time. See his ruling at: www.uswestretiree.org/Order120205.pdf Even after that ruling, it was discovered the DOL had additional records which had not been disclosed and there was further litigation maneuvering resulting in AUSWR’s request for a judicial sanction against the DOL and an award of reimbursement of costs plus payment of attorney’s fees. See www.uswestretiree.org/Order120205.pdf Mimi Hull and AUSWR contended the DOL had engaged in obdurate behavior and bad faith. On May 31, 2006, a Final Judgment was entered against the DOL to pay costs of \$570, plus attorney’s fees of \$28,950. In his ruling directing a judgment against the DOL, Chief Judge made these observations about AUSWR:

“The AUSWR is a nonprofit organization of over 20,000 current and future retirees. In addition to advocating for its own members, it is part of a broader network of similar entities that advocate for the rights of retirees nationwide. . . The members of AUSWR have witnessed “unrecoverable disasters across the nation with respect to many defined pension plans. . .Under these circumstances, millions of Americans, and not just the 20,000 members of the AUSWR have an interest in the status of the QPP and the effectiveness of the DOL in ensuring that private pension plans remain solvent and viable.”

See this ruling at: www.uswestretiree.org/Docket53-OrderAwardingAttorney'sFees.pdf

On July 28, 2006, the DOL gave notice that it had commenced an appeal, a procedure that would have lasted several years. Therefore, several months later, the parties agreed to compromise and the DOL’s judgment was reduced to \$25,000. During the last week in December 2006, the DOL made full payment in that amount. AUSWR has been fully reimbursed all attorney’s fees and expenses incurred in this legal effort. *Curtis Z. Kennedy*