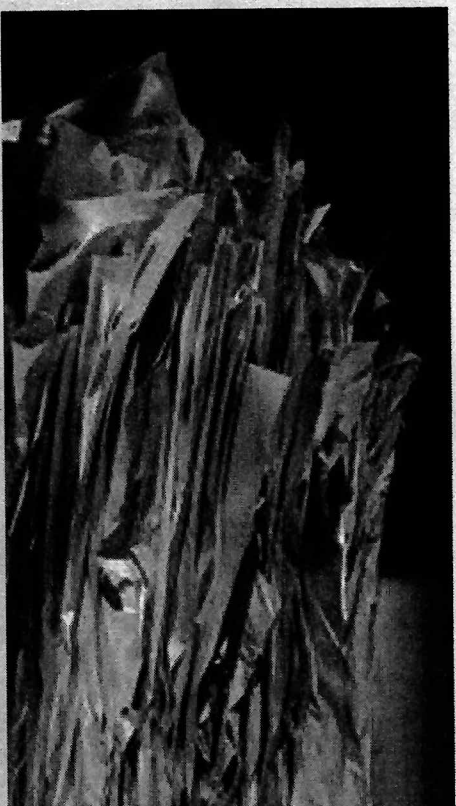




ORGANIZING YOUR GRIEVANCE FILE

Do your grievances look like this?



Organization is the key

- Assists the next level with determining what's important
- Proper organization helps you tell your story

Basic order

- Table of contents
- PS Form 8190 – all 3 pages
- Attachments to PS Form 8190
 - Undisputed facts
 - Union contentions and requested remedy
 - Management contentions
- Triggering documents
- Documentary evidence
- Investigatory notes
- Contractual cites
- Prior settlements or decisions on similar issues
- Miscellaneous items



ATTACHMENTS - TABLE OF CONTENTS

LOCAL GRIEVANCE #:

*After to PS Form 8190, USSS – NALC Joint Step A Grievance Form

ITEM 16: Undisputed Facts:

TOTAL Pages: _____

16-A: _____

16-E: _____

16-B: _____

16-F: _____

16-C: _____

16-G: _____

16-D: _____

16-H: _____

ITEM 17: UNION'S Facts and Contentions:

TOTAL Pages: _____

17-A: _____

17-E: _____

17-B: _____

17-F: _____

17-C: _____

17-G: _____

17-D: _____

17-H: _____

ITEM 18: MANAGEMENT'S Contentions:

TOTAL Pages: _____

18-A: _____

18-E: _____

18-B: _____

18-F: _____

18-C: _____

18-G: _____

18-D: _____

18-H: _____

TOTAL Number of Pages: _____

Most Common Mistakes:

- ETC or TACs Reports – Not Provided.
- No ODL list
- Make Step B Team guess why certain documents are in the file.
- Duplicates (Both Union and Management).
- Include Documents that have nothing to do with a case.

Continuation | Evidence

More Common Mistakes

- No Table of contents
- 8190 not signed OR completed
- Pages not numbered
- Heavy on contentions – light on evidence

Don't Confuse the reviewing authorities

- Include one copy of a document.
- Avoid writing on, marking, altering or adding to an original piece of documentary evidence.
- Never, deface an original document.
- Refer to such documents in undisputed facts or contentions.



ISSUE STATEMENTS

ISSUE STATEMENTS

Framing the Issue Statement

Page 2 of the PS Form 8190 provides examples on framing issue statements.

15

Frame the issue statement in the form of a question. For example:

- Was there just cause for the letter of warning dated 7/15/2011 issued to the grievant for unsatisfactory work performance, and if not, what is the appropriate remedy?
 - Did management violate Article 8.5.G when the grievant was required to work overtime on 8/15/2011, and if so, what is the appropriate remedy?
 - List specific contractual or handbook provisions that apply to the grievance.
- If discipline is involved:
- Always indicate the type of discipline (letter of warning, 7-day suspension, indefinite suspension, etc.) in the issue statement.

The union steward may write a suggested issue in Item 15 when appealing to Formal Step A. The parties at Formal Step A are responsible for defining the issue as they see fit.

ISSUE STATEMENTS

Frame the issue statement in the form of a question.
Examples:

- Was there just cause for the (any discipline) dated (any date) issued to the grievant for (any alleged violation), and if not, what is the appropriate remedy?
- Did management violate Article 8.5.G when the grievant was required to work overtime on 3/15/2002, and if so what is the appropriate remedy?

****Remember:**

If discipline is involved, always indicate the type of discipline (letter of warning, 7-day suspension, indefinite suspension, etc.), the date on the discipline, and the charge in the issue statement.

If it is a contract grievance, always list the specific contractual or handbook provisions involved in the grievance. Don't state did management violate the entire National Agreement.

Issue Statements should be clear and simple. Do not argue case in the issue statement.



UNDISPUTED FACTS

UNDISPUTED FACTS

What are they?

- Basic facts that both parties agree are true
 - Who?
 - What?
 - Where?
 - When?

Why are Undisputed Facts Important?

- Normally, the more information that both parties agree is undisputed in a grievance file, the more likely the grievance will be resolved at the Informal or Formal A level.
- They help in focusing the case for parties at the next level, and they narrow the scope of disagreement in a grievance.
- This can be helpful later in the grievance process if management tries to back out of an undisputed fact.

Are Undisputed Facts Required?

- NO
- If there you and your management counterpart are unable to agree to any undisputed facts in a grievance, make sure all relevant facts are proven with documentary evidence.

UNDISPUTED FACTS

Don't agree to undisputed facts that hurt your case.



A black and white photograph of a wooden fence with several wooden planks lying on the ground in front of it. The fence is made of vertical wooden posts and horizontal rails. The planks on the ground are of various lengths and are positioned in front of the fence, some overlapping each other. The background is a light, textured surface, possibly a wall or a large piece of paper.

DISPUTED FACTS & CONTENTIONS

Disputed Facts & Contentions

In order for a grievance to have the best chance of success, stewards should be able to answer "yes" to each of the five questions below:

1. Is there a violation of the National Agreement?
2. Did we properly frame the issue?
3. Did we determine all the facts of the case **and document each one**?
4. Do our contentions clearly explain the documented facts and how the National Agreement was violated?

Disputed Facts & Contentions

- Write down all the facts of the case
- Restate the contract provisions involved
- Explain how the facts of the case constitute the violation of the National Agreement you are claiming in your contentions.
- You must be able to prove what you say
- Contentions and documentation go hand in hand

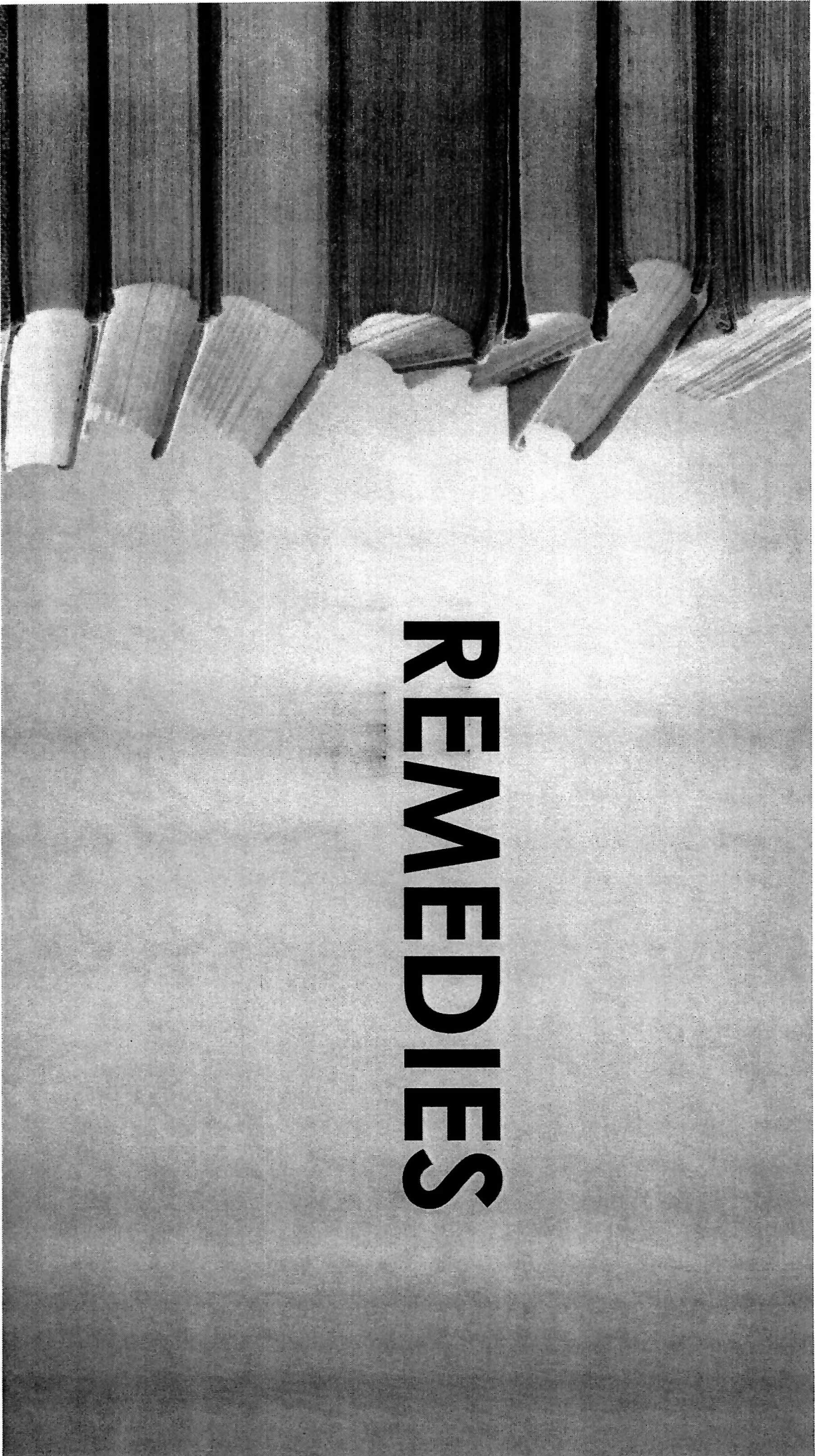
Contentions

The contentions should tell a story, i.e., the who, what, when where and why.

Make certain to reference the documentary evidence in your contentions to prove a violation of the National Agreement.

Fact vs. Contentions

Exercise



REMEDIES

Remedies

- A remedy is what the union asks for as a resolution to the grievance.
- **REMEDIES ARE NOT AUTOMATIC!**
- Appropriate remedies must be requested and rationalized

remedy[noun]

1. That which relieves or cures a disease;
2. That which corrects or counteracts an evil of any kind;
3. (Law) The legal means to recover a right, or to obtain redress for a wrong.

REMEDY

- The remedy is just as important as the description of the grievance. Stewards should be sure to request everything he/she believes will be needed to satisfy the offense committed by management.
- It is extremely important that this be done, since sometimes an arbitrator will base an award on the original request.

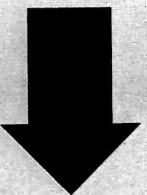
REMEDY

THE REMEDY SHOULD MAKE THE
GRIEVANT WHOLE.

Arbitrators agree that a normal
remedy should include placing a
harmed grievant in the same financial
position he or she would have been in,
absent the contract violation.

REMEDY

The remedy should
fit the violation.



There must be a
logical connection
between the
violation and the
remedy requested.

REMEDY

THE REMEDY SHOULD BE REASONABLE.

Requested remedies that are unreasonable usually have the opposite effect. Arbitrators will normally be negatively influenced by a remedy that is unreasonable.

BEYOND “MAKE-WHOLE”

DO NOT SEEK
“PUNITIVE”
REMEDIES!

(Definition: Relating to, involving, or with the intention of inflicting punishment).

- It is almost always a mistake to ask for a “punitive remedy” or for management to be “punished”.
- Most arbitrators will avoid “punishment” remedies.

BEYOND “MAKE-WHOLE”

ADDITIONAL COMPENSATORY REMEDIES

- The union makes the strongest case for additional compensatory remedies by demonstrating that the violations were deliberate, repeated or egregious (Show a history, e.g., a timeline of violations (include all previous settlements))
- The complete B Team decision, not just page 1.
- ADDITIONAL COMPENSATORY REMEDIES are not “punitive”.

Three Part Remedies

The standard remedy request in a contract case should be three parts:

WRITE THESE DOWN

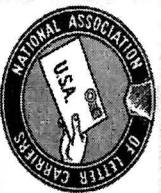
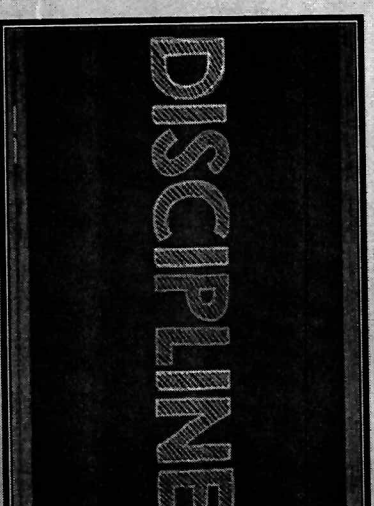
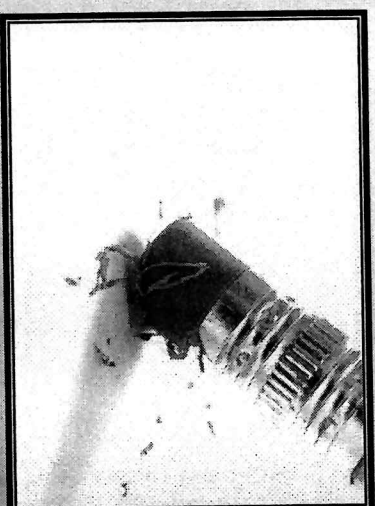
1. "cease and desist"
2. "make the grievant whole"
3. "...or whatever remedy the Step B team or an arbitrator deems appropriate."

EXAMPLES OF REMEDIES IN CONTRACT CASES

- **Cease and desist**
- **Abide by contracts & manuals**
- **Make whole in every way, including...**
- **Expunge the Letter of Demand and waive the debt**

EXAMPLES OF REMEDIES IN DISCIPLINE CASES

- Remove and expunge
- Grievant made whole in every way, including...



NALC
Region 9