



NAPS v. USPS

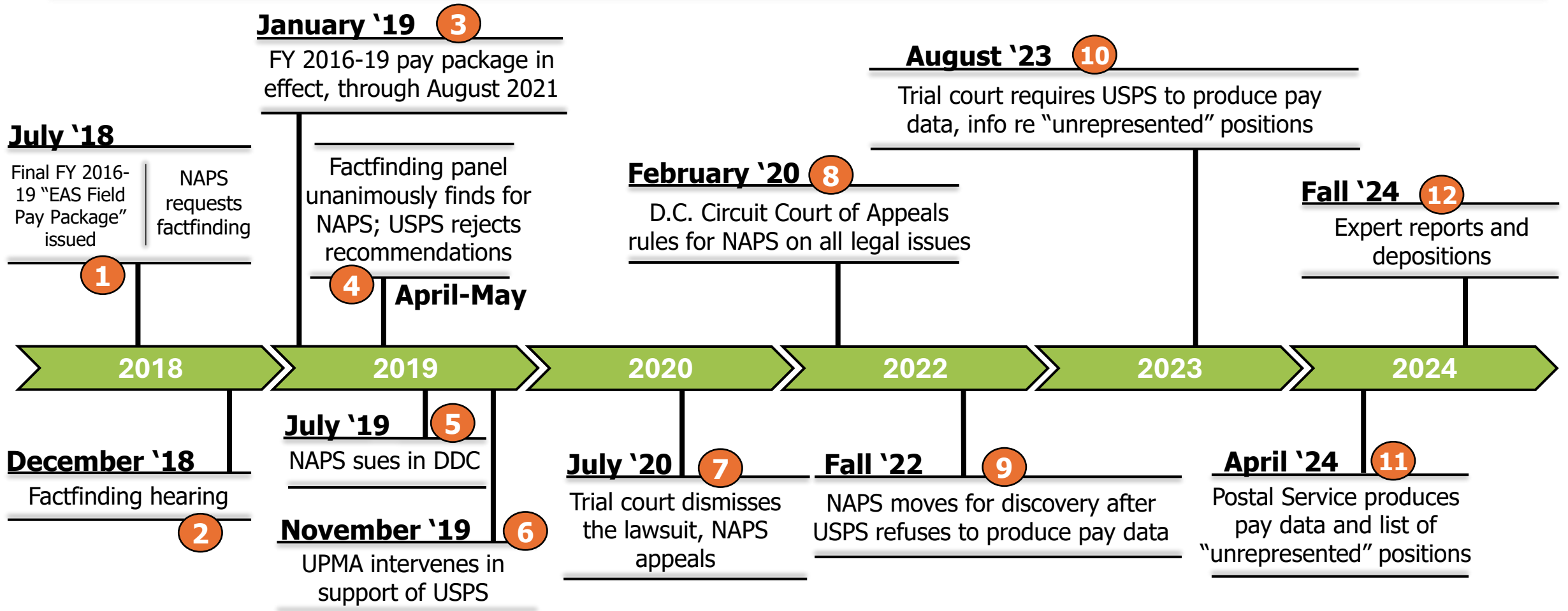
Litigation Update
Andrew Freeman
October 2024



**Brown
Goldstein
& Levy**

Timeline of lawsuit

The wheels of justice turn slowly



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The wheels of justice turn slowly

Winter-Spring '25

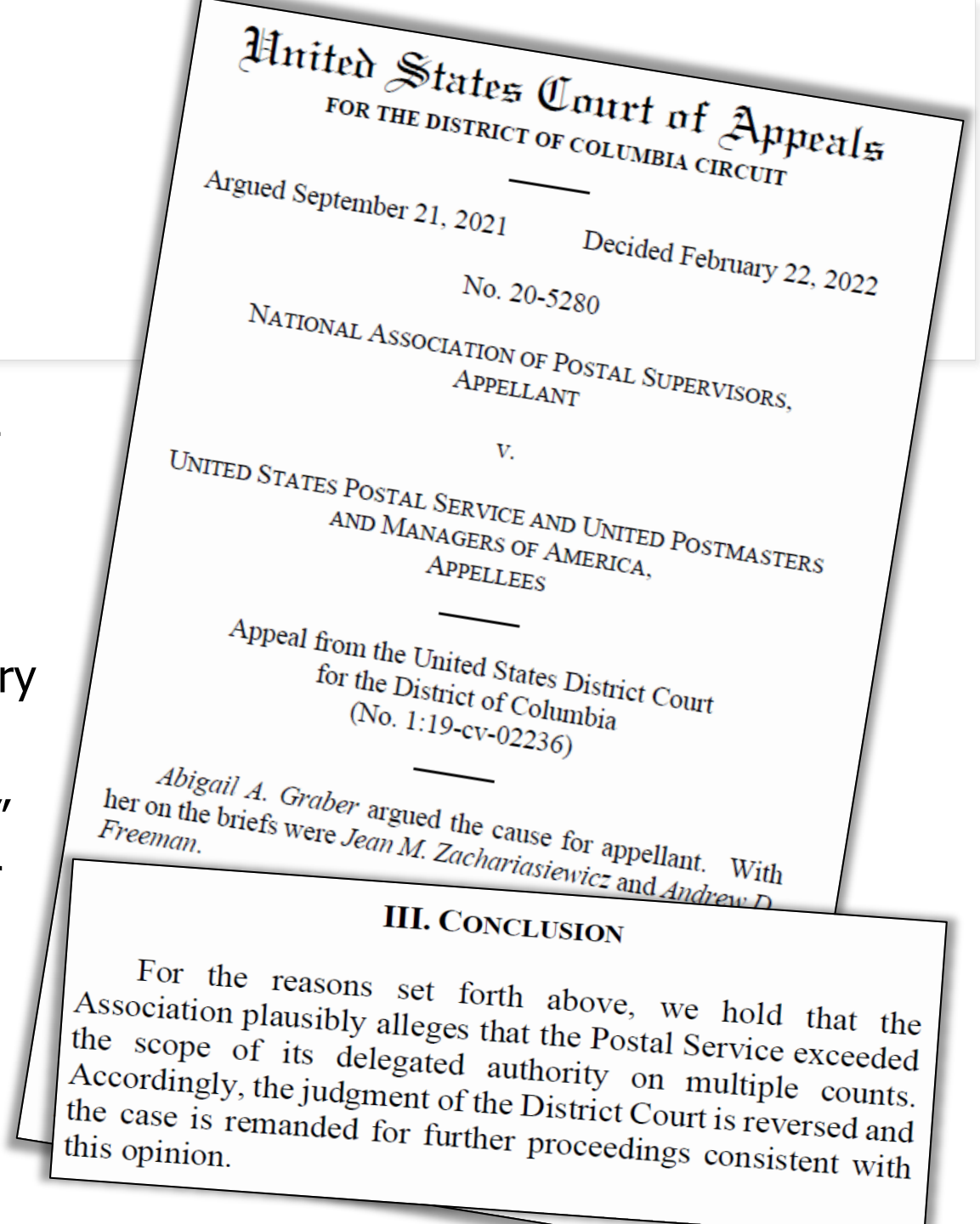
Briefing to trial court

2025



D.C. Circuit *Victory*

- ✓ NAPS has right to enforce the requirements of the Postal Reorganization Act in court.
- ✓ NAPS represents postmasters.
- ✓ NAPS represents all EAS unless not “supervisory or other managerial employee.”
- ✓ Postal Service must provide “*some* differential” in rates of pay between “supervisory and other managerial personnel” and “employees in the clerk and carrier grades.”
- ✓ Postal Service must consider private sector compensation.



Issues before the trial court

Supervisory Differential Adjustment (SDA): “provide **adequate and reasonable differentials in rates of pay between** employees in the **clerk and carrier grades** in the line work force **and supervisory and other managerial personnel**” 39 U.S.C. § 1004(a)

Scope of Representation: “provide a program for consultation with recognized **organizations of supervisory and other managerial personnel who are not subject to collective-bargaining agreements** . . . in the planning and development of pay policies . . . and other programs relating to supervisory and other managerial employees.” 39 U.S.C. § 1004(b)

Private Sector Comparability: “**maintain compensation and benefits** for all officers and employees **on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector** of the economy.” 39 U.S.C. § 1003(a) (see also § 101(c))

Problems with the FY 2016-2019 pay package (in effect from January 2019 to August 2021)

Supervisory Differential Adjustment: USPS based the SDA Minimum for Supervisors of Customer Service and others on a lower clerk salary (\$60,737 + 5% = \$63,774 in 2019; \$66,134 in 2020; \$67,427 in 2021) rather than the higher salaries of the carriers they supervised.

Scope of Representation: USPS refused to recognize NAPS's representation of postmasters and most Area and Headquarters EAS employees.

Private Sector Comparability: USPS conducted no market survey to determine whether EAS employees were compensated comparably to private sector employees.

Inadequate differential in pay between (a) supervisors and managers and (b) carriers and clerks

- The Supervisory Differential Adjustment (SDA) Minimum sets a floor for the base pay of supervisors and managers of carriers and clerks to assure they are paid more than their subordinates. The Postal Service has determined that a 5% differential in pay is adequate.
- The trial court will assess how many subordinates can be paid more than supervisors and managers.
- NAPS will present the court with two alternative calculations for the proper floor: (1) based on base pay and (2) based on hourly rates.

Failure to provide an adequate differential in pay

Comparison of base pay

- In January and February 2020 (the beginning of the second year the 2016-19 Pay Package was in effect), the Postal Service set the SDA Minimum (floor for base pay) at \$63,774. From March 2020 to January 2021 (the remainder of that pay year), the Postal Service set the SDA Minimum at \$66,134. From January 2020 to January 2021:
 - Almost 15,000 carriers had a base salary that, when the 5% differential is added, was more than \$76,000. 13,604 supervisors of carriers had a base salary less than \$76,000 and should receive an upward adjustment to at least that amount.
 - Almost 2,500 clerks had a base salary that, when the 5% differential is added, was more than \$69,000. 1,196 supervisors of clerks had a base salary less than \$69,000 and should receive an upward adjustment to at least that amount.

Failure to provide an adequate differential in pay

Comparison of hourly rates

From Jan. 2020 to Jan. 2021 (the second year the 2016-19 Pay Package was in effect):

- Over 9,500 carriers were paid an average hourly rate that, when the 5% differential is added, was at least \$34 an hour. 11,780 supervisors of carriers were paid less than \$34 an hour and should receive an upward adjustment to at least that rate.
- Over 2,700 clerks were paid an average hourly rate that, when the 5% differential is added, was at least \$33 an hour. 1,897 supervisors of clerks were paid less than \$33 an hour and should receive an upward adjustment to at least that rate.



Bottom Line

Many tens of thousands of carriers and clerks were paid more than over 15,000 employees in the EAS positions that supervise them. The disparity was even greater when the 5% minimum differential is added to the craft employees' pay. The underpaid supervisors and managers should receive an upward adjustment in their 2019-2021 pay (and in retirement pay based on those years) to compensate for the lack of an adequate differential.

Next Steps

Discovery regarding each side's expert's analysis

**Now-
January
2025**

Motions for Summary Judgment

**February
-April
2025**

NAPS will ask the court to require:

- Adequate SDA for Jan. 2019-Aug. 2021
- Consider pay comparability to private sector
- NAPS representation of all EAS

