



U.S. Court of Appeals for the Federal Circuit
2012 Judicial Conference

U.S. Merit Systems Protection Board
Breakout Session

Thursday, May 17, 2012

Washington, D.C.

Panel 1: Views from the MSPB Board Members

This panel will address the many Board initiatives including the Board's recent review and proposed changes of its adjudicatory regulations, oral arguments, requests for amicus briefs, Merit Systems Principles of the Month, Prohibited Personnel Practices of the Month, non-precedential final orders, studies versus adjudication process, and the Board's Sunshine Act meeting regarding the MSPB's national research agenda.

Moderator:

Kimberly Moore, Circuit Judge, U.S. Court of Appeals for the Federal Circuit

Panelists:

Susan Tsui Grundmann, Chairman, U.S. Merit Systems Protection Board

Anne M. Wagner, Vice Chair, U.S. Merit Systems Protection Board

Panel 2: Discussion Regarding Significant Decisions of the MSPB and U.S. Court of Appeals for the Federal Circuit

This panel will discuss the recent significant decisions issued by the Federal Circuit and MSPB. The subject-matter areas covered will include:

MSPB jurisdiction

Wilder v. MSPB, No. 2011-3105 (Fed. Cir. April 9, 2012)

Roy v. MSPB, No. 2011-3107 (Fed. Cir. March 15, 2012)

Bennett v. MSPB, 635 F.3d 1215 (Fed. Cir. 2011)

Younies v. MSPB, 662 F.3d 1215 (Fed. Cir. 2011)

Arrington v. Dept. of the Navy, 117 M.S.P.R. 301 (2012)

Conyers v. DoD, 115 M.S.P.R. 572 (2010)

Due Process

Ward v. USPS, 634 F.3d 1274 (Fed. Cir. 2011)

Pickett v. Dept. of Agriculture, 116 M.S.P.R. 439 (2011)

McCauley v. Dept. of the Interior, 116 M.S.P.R. 484 (2011)

Whistleblower Protection Act

Parikh v. Dept. of Veterans Affairs, 116 M.S.P.R. 197 (2011)

Chambers v. Dept. of the Interior, 116 M.S.P.R. 17 (2011)

MacLean v. Dept. of Justice, 116 M.S.P.R. 562 (2011)

King v. Dept. of the Army, 116 M.S.P.R. 689 (2011)

Special Counsel ex. rel. Hardy v. Dept. of Health & Human Services, 117 M.S.P.R. 174 (2011)

Performance-based actions

Salmon v. SSA, 663 F.3d 1378 (Fed. Cir. 2011)

Muff v. Dept. of Commerce, 117 M.S.P.R. 291 (2012)

Misconduct

Doe v. PBGC, 2012 MSPB 42 (March 27, 2012)

Penalty

Hamilton v. Dept. of Homeland Security, 117 M.S.P.R. 384 (2012)

Suitability

Aguzie & Barnes v. OPM, 116 M.S.P.R. 286 (2011)

Scott v. OPM, 116 M.S.P.R. 356 (2011)

Restoration to duty

Bledsoe v. MSPB & USPS, 659 F.3d 1097 (Fed. Cir. 2011)

Latham, et al. v. USPS, 117 M.S.P.R. 400 (2012)

USERRA/VEOA

Erickson v. USPS, 636 F.3d 1353 (Fed. Cir. 2011)

Jarrard v. Dept. of Health & Human Services & DOJ, 669 F.3d 1320 (Fed. Cir. 2012)

Miscellaneous

This panel will also discuss the two cases pending at the Supreme Court involving Federal employees -- *Elgin v. Dept. of the Treasury, et al.*, No. 11-45, and *Kloeckner v. Solis*, No. 11-184.

Moderator:

James M. Eisenmann, General Counsel, U.S. Merit Systems Protection Board.

Panelists:

Matthew Dowd, Associate, Wiley Rein, LLP

Andy Grajales, Assistant General Counsel, AFGE

Joseph V. Kaplan, Founding Principal, Passman & Kaplan, P.C.

Jeff Rosenblum, Chief Counsel, Employee and Labor Relations Unit, Executive Office for Immigration Review, Office of the General Counsel, U.S. Department of Justice

Hillary A. Stern, Senior Trial Attorney, Commercial Litigation Branch, Civil Division, U.S. Department of Justice