



7400-01-P

MERIT SYSTEMS PROTECTION BOARD

Oral Argument

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of the scheduling of oral argument in the matters of: James C. Latham v. U.S. Postal Service, MSPB Docket Number DA-0353-10-0408-I-1; Ruby N. Turner v. U.S. Postal Service, MSPB Docket Number SF-0353-10-0329-I-1; Arleather Reaves v. U.S. Postal Service, MSPB Docket Number CH-0353-10-0823-I-1; Cynthia E. Lundy v. U.S. Postal Service; MSPB Docket Number AT-0353-11-0369-I-1; and Marcella Albright v. U.S. Postal Service, MSPB Docket Number DC-0752-11-0196-I-1.

DATE AND TIME: Tuesday, December 13, 2011, at 10 a.m.

PLACE: The United States Court of Appeals for the Federal Circuit, Room 201, 717 Madison Place, NW, Washington DC.

STATUS: Open.

FOR FUTHER INFORMATION CONTACT: Matthew Shannon, Merit Systems Protection Board, Office of the Clerk of the Board, 1615 M Street, NW, Washington, DC, 20419; (202) 254-4477 or (202) 653-7200; mspb@mspb.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 5 CFR 1201.117(a)(2), the Merit Systems Protection Board ("MSPB" or "Board") will hear oral argument in the matters of James C. Latham v. U.S. Postal Service, MSPB Docket Number DA-0353-10-0408-I-1; Ruby N. Turner v. U.S. Postal Service; MSPB Docket

Number SF-0353-10-0329-I-1; Arleather Reaves v. U.S. Postal Service, MSPB Docket Number CH-0353-10-0823-I-1; Cynthia E. Lundy v. U.S. Postal Service; MSPB Docket Number AT-0353-11-0369-I-1; and Marcella Albright v. U.S. Postal Service, MSPB Docket Number DC-0752-11-0196-I-1. Latham, et al. raise the following legal issues: (1) May a denial of restoration be “arbitrary and capricious” within the meaning of 5 C.F.R. § 353.304(c) solely for being in violation of the agency’s own internal rules; and (2) what is the extent of the agency’s restoration obligation under its own internal rules, *i.e.*, under what circumstances do the agency’s rules require it to offer a given task to a given partially recovered employee as modified work? The Board requested and received an advisory opinion from the Office of Personnel Management (OPM) in this matter, see 5 U.S.C. § 1204(e)(1)(A), and the Board invited amicus curiae to submit briefs. See 76 FR 44373, July 25, 2011. The Board also has invited OPM and the amici curiae to present oral argument along with the parties. The briefs submitted by the parties, OPM, and the amici curiae are available for viewing on MSPB’s website at <http://www.mspb.gov/oralarguments/>. A recording of the oral argument will also be made available on the website. The public is welcome to attend this hearing for the sole purpose of observation. Persons with disabilities who require reasonable accommodation to participate in this event should direct the request to MSPB’s Director of Equal Employment Opportunity at (202) 254-4405 and V/TDD users should call via relay. All requests should be made at least one week in advance.

William D. Spencer
Clerk of the Board
[Billing Code 7400-01-P]

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