

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY
WASHINGTON REGION**

Department of Justice
Executive Office of Immigration Review
Respondent

and

Case Nos. WA-CA-21-0146,
WA-CA-21-0147, and WA-CA-21-
0148

National Association of Immigration Judges
Charging Party

CONSOLIDATED COMPLAINT AND NOTICE OF HEARING

This Consolidated Complaint and Notice of Hearing is based on a charge filed by the National Association of Immigration Judges (Union). It is issued pursuant to Section 7118 of the Federal Service Labor-Management Relations Statute (Statute) and Section 2423.20(a) of the Rules and Regulations of the Federal Labor Relations Authority (Authority) and alleges that the Department of Justice, Executive Office of Immigration Review (Respondent) has violated the Statute as described below:

1. The Union filed the charges in Case Nos. WA-CA-21-0146, WA-CA-21-0147, and WA-CA-21-0148 on March 4, 2021, and copies were served on the Respondent.
2. These cases are consolidated because it necessary to effectuate the purposes of 5 U.S.C. §§ 7101-7135 and to avoid unnecessary costs or delay pursuant to Section 2429.2 of the Rules and Regulations of the Federal Labor Relations Authority (the Authority).
3. The Respondent is an agency within the meaning of Section 7103(a)(3) of the Statute.
4. The Union is a labor organization within the meaning of Section 7103(a)(4) of the Statute and is the certified exclusive representative of nationwide unit of employees (the unit).
5. At all times material, the following individuals held the position opposite their names and have been supervisors or management officials of the Respondent within the meaning of Section 7103(a)(10) and (11) of the Statute and agents of the Respondent acting upon its behalf:

Charles Barksdale

Acting Chief Counsel

Mary Cheng
James R. McHenry

Acting Principal Deputy Chief Immigration Judge
Director of Executive Office of Immigration Review

WA-CA-21-0146

6. Respondent and the Union are parties to a successor collective bargaining agreement (CBA) covering employees in the bargaining unit described paragraph 4, which has been effective since October 15, 2006.
7. Since November 5, 2020, Respondent has been failing and refusing to honor and abide by the terms of the parties' CBA described in paragraph 6.
8. By the conduct described in paragraph 7, Respondent has been repudiating the terms of the parties' CBA described in paragraph 6.
9. By the conduct described in paragraphs 7 and 8, Respondent has been refusing to negotiate in good faith with the Union and violating Section 7116(a)(1) and (5) of the Statute.

WA-CA-21-0147

10. On November 5, 2020, Respondent, by Cheng, sent an email to the entire bargaining unit stating that the CBA was no longer in effect, the Union could not represent employees before management, and the Union was not entitled to official time or to conduct activities in the workplace.
11. By the conduct described in paragraph 10, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7102 of the Statute and violating Section 7116(a)(1) of the Statute.

WA-CA-21-0148

12. On December 1, 2020, Respondent implemented Enhanced Case Flow Processing.
13. The impact of the change described in paragraph 12 is substantial.
14. Respondent implemented the change in unit employees' conditions of employment described in paragraph 12 without providing the Union with notice and an opportunity to negotiate over the procedures and appropriate arrangements of the change.
15. By the conduct described in paragraphs 12 and 14, Respondent has been refusing to negotiate in good faith with the Union in violation of Section 7116(a)(1) and (5) of the Statute.

Answer Requirement

Respondent is notified that, pursuant to Section 2423.20(b) of the Authority's Regulations, it must file an answer to the complaint. Respondent must file an original and four (4) copies of the answer with the Office of Administrative Law Judges, FLRA, 1400 K St., NW, Washington, DC 20424-0001 by **August 17, 2021**. See Sections 2429.24(d) and 2429.25(a) of the Authority's Regulations. Respondent must also serve a copy of the answer on the Region and Charging Party. See Section 2429.27 of the Authority's Regulations.

An answer may also be filed electronically through the Authority's web site. See Section 2429.24(f) of the Authority's Regulations. To file an answer electronically, go to **www.flra.gov**, select **eFile** under the **Filing a Case** tab and follow the instructions.

The answer must admit, deny, or explain each allegation of the complaint. A failure to file an answer or respond to any allegation will, absent a showing of good cause, constitute an admission.

Notice of Hearing

PLEASE TAKE NOTICE that on December 7, 2021 at 9:00 a.m., in a manner and at a location to be determined, a hearing on this complaint will be conducted before an Administrative Law Judge of the Federal Labor Relations Authority. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The hearing procedures are described in Sections 2423.30 to 2423.34 of the Authority's Regulations. The prehearing procedures are described in Sections 2423.20 to 2423.28 of the Authority's Regulations.



Douglas Guerrin
Acting Regional Director
Federal Labor Relations Authority
Washington Region
1400 K Street, NW, Second Floor
Washington, DC 20424-0001

Date: July 23, 2021

CERTIFICATE OF SERVICE
Case Nos. WA-CA-21-0146, WA-CA-21-0147, and WA-CA-21-0148

I hereby certify that on July 23, 2021, I served the foregoing CONSOLIDATED COMPLAINT AND NOTICE OF HEARING upon the interested parties in this case in the manner indicated below:

The Honorable David Welch
Chief Administrative Law Judge
Office of Administrative Law Judges
Federal Labor Relations Authority
1400 K Street, NW, 3rd Floor
Washington, DC 20424-0001
Telephone: (202) 218-7923
Fax: (202) 482-6629

U.S. Mail

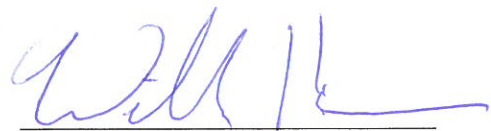
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William Kirsner