



Contact: Matthew Shannon
(202) 254-4477
TDD/Videophone Users:
Please Call Via Relay

FOR IMMEDIATE RELEASE
November 29, 2011

**U.S. MERIT SYSTEMS PROTECTION BOARD (MSPB) TO
CONDUCT ORAL ARGUMENT IN *LATHAM ET AL.* ON DECEMBER 13, 2011**

On Tuesday, December 13, 2011, MSPB will hear oral arguments 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.*). The proceedings will take place at 10:00 a.m. at the United States Court of Appeals for the Federal Circuit, Room 201, 717 Madison Place, N.W., Washington, D.C. See [76 FR 73691](#), November 29, 2011.

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 U.S. Postal Service’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\(e\)\(1\)\(A\)](#). The Board also invited and received *amicus curiae* briefs. See [76 FR 44373](#), July 25, 2011.

The parties and the two *amici curiae* who asked to participate in oral argument will be allotted time to present oral argument in this matter. The briefs submitted by the parties and the *amici curiae*, as well as OPM’s advisory opinion, are available for viewing on MSPB’s website at <http://www.mspb.gov/oralarguments/>. The MSPB will also make a recording of the oral argument available on its 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 the MSPB 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.

This is the third time that MSPB has conducted an oral argument in the past 15 months after not hearing oral arguments for over 20 years. The MSPB continues to utilize oral argument in appeals like *Latham et al.* that present issues of special significance because of their broad potential impact on the Federal civil service and merit systems.

The U.S. Merit Systems Protection Board (MSPB) is an independent, quasi-judicial agency that protects Federal merit systems and the rights of individuals within those systems. The MSPB also conducts studies of the civil service and other merit systems in the Executive Branch.