



ASSOCIATION
of LABOR RELATIONS
AGENCIES

ALRA Advisor



November 2021

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Submit all material to

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Special thanks to

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Board

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Executive Assistant,
Washington State Public
Employment Relations
Commission

FROM THE PRESIDENT

Greetings from New York City!



Susan
Panepento

I am excited to begin my one-year term as ALRA President. I have been involved with ALRA for nearly twenty years and continue to be a great fan of this organization. ALRA provides a valuable opportunity for staff at every level of our member agencies to meet and discuss common issues and those that are unique. ALRA's programming is focused on members sharing skills and expertise, as well as educating members on broad and important issues in the profession. This programming is not duplicated anywhere. But most important, as an active ALRA participant, I am inspired by interacting with such a fine group of intelligent, committed, and skilled labor relations professionals.

I encourage you to take a leap and become more active in ALRA. To volunteer, you just need to be on staff at a member agency and have the support of the agency's leadership. We have working committees that plan the conference program and professional development, conference arrangements, virtual professional development programs, finance, and membership. (A full list of officers, board members, and committee chairs can be found later in this issue.) For the time being, our committees are functioning by phone and through videoconference, so most involvement does not require a lot of time or travel. If you would like to become more involved, please send me an email at spanepen@ocb.nyc.gov. Gaining some new participants in ALRA—whether they are volunteers or new member agencies—increases the value of the organization to everyone. Please join us!

In addition to increasing participation, I am hoping to continue the periodic virtual presentations like those ALRA presented in 2020 and the early part of 2021. The accessibility of this type of content makes it an added value to all ALRA members. Currently, experienced presenters Natalie Zawadowsky, from the Canada Industrial Relations Board, and Marjorie Wittner, Chair of the Massachusetts Commonwealth Employment Relations Board, are co-chairing our virtual programming professional development committee. I am also hoping to improve ALRA administration by expanding the use of administrative professionals to provide technical and administrative support. This will also allow us to maximize use of our volunteers for their labor relations expertise. Last, I am looking for "thought leaders" to help inspire ALRA to provide more value easily to its members. This new initiative is being co-chaired by myself and Travis Kearns from the Ontario Labour Relations Board. If nothing else, the pandemic has taught us that getting together in a hotel conference room is not the only way to communicate and learn from each other. We need to better leverage technology and our current resources to maintain and encourage membership.

Finally, I hope you had the opportunity to join our virtual conference in July. A recap can be found in this issue. Currently, we plan to gather in the very lovely city of Vancouver, British Columbia, on July 23–26, 2022. Mark your calendars—I hope to see you there.

—Susan Panepento

ALRA'S 2021 CONFERENCE HELD VIRTUALLY

THE 69TH ANNUAL ALRA CONFERENCE TOOK PLACE ON JULY 27-28, 2021

July 27th

The virtual conference kicked off with our keynote speaker, Dr. Jim Stanford, Canada's best-known economic commentator. He served 20 years as lead economist and Director of policy with Unifor, Canada's largest private-sector trade union. The focus of his address was on debunking five myths about robots, end of work, and the nature of the gig economy:

1. Work is not going to disappear. Robots and artificial intelligence are simply new types of tools that may change how and where we work but are unlikely to make work disappear.
2. There is no visible acceleration of labour-saving technology. A review of economic data demonstrates that labour productivity is not accelerating and capital investments in technology is in fact declining.
3. The biggest impact of technology on jobs is experienced through the employment relationship more than through production. Technology is used to create more digital management tools that allow for just-in-time production and delivery and more precarious work (e.g., Uber or Eats platforms).
4. There is nothing new about gig jobs. Piecework compensation, lack of commitment, worker responsibility for using own tools, and triangulated work relationships are concepts that have existed since the 18th century.
5. Skills can help workers adjust to changing jobs but are not a silver bullet. Training and education can facilitate mobility but what is also required is investment in the creation of good jobs.

While recognizing that the implementation of new technologies can certainly cause disruption and reallocation of work, Stanford concluded that we should not be concerned about robots leading to mass unemployment. Rather, the

future of technology and innovation in the world of work is very much up to all of us to ensure they lead to economic fairness.

Collective Bargaining in Education on COVID Issues

Peter Simpson moderated a panel on the impact of the pandemic on bargaining in the education sector. The panel, entitled "Collective Bargaining in Education on COVID Issues," looked at the many ways the education sector was forced to confront a rapidly changing regulatory framework while in the midst of negotiations. We were lucky to be joined by counsel for the teachers and the school systems: Laurie Houle from the Massachusetts Teachers Association and Tim Gardner, employer counsel from Thrun Law in Michigan. They clearly identified the challenges each side faced in overcoming the barriers to conventional bargaining preparation and issues management, and the limitations imposed by virtual meetings (both within each caucus and in the classroom). The panel was also joined by Jacquie de Aguayo, Chair of the British Columbia Labour Relations Board. Jacquie described the unique role her Board was able to play amidst the volatility, including bringing the parties together in expedited hearings to help clear impediments to bargaining created by the shifting regulatory models. While panelists were at times enthusiastic about the agility of the bargaining process under often severe limitations, they shared a concern for the impact the stress and challenges this period will have on participants, many of whom are effectively volunteers.

July 28th

The second day of the conference began with newly elected ALRA president Susan Panepento thanking the outgoing President, Scot Beckenbaugh, for his service to ALRA and acknowledging his many contributions to the organization. (See summary of the remarks on page 6 of this issue.)

The day's first program was entitled "Back to Work in the Future—Implementing Agency Back to Work Policies" and was moderated by the Chair of the NYC Board of Collective Bargaining, Susan Panepento. The panelists included Peter Simpson, Director General, Canada Federal Mediation and Conciliation Service; Javier Ramirez, Executive Manager, Division of Agency Initiatives, US Federal Mediation and Conciliation Service; and Christine Lucarelli-Carneiro, General Counsel of the New Jersey State Public Employment Relations Commission. The panelists briefly summarized how they continued operations in the early part of the pandemic and then engaged in a lively discussion of the return of employees to the office. Panelists noted that while there was some varying degree of in-person contact going on, uniformly video conferencing has been a highly successful tool to accomplish mediation, arbitration, and other hearings and there has not been an overwhelming demand to resume all in-person services. Some agencies are considering employee preferences for work locations (office vs. remote) for the first time and intend to adjust location demands based on these preferences. The panelists discussed their approaches to determining employee work location based on job function and generally rejected the notion that all employees need to be present in the office if only some jobs require office work. Some agencies are seeing positive results from increasing work from home opportunities such as employee morale and job satisfaction, quality/quantity of work, space-savings, and quality of job applicants. The panelists described different tools needed to effectively supervise remote work but agreed that ultimately performance indicators are the same and are largely based on the quality of the product and whether the work is completed on time. The audience weighed in on several questions relevant to the discussion: 75 percent of those attending responded that a return to the office was not necessary to maintain full agency operations; 60 percent of attendees responded that they prefer a hybrid work from home/office schedule; and 50 percent reported that they required a dedicated office space if they were only required to work in the office part-time.

Neutrality Buffet Recap

At the conference, we decided to reprise the neutrality buffet from the 2019 ALRA Conference. Participants at registration were asked to pick two topics and everyone got one of their picks. We did a longer session—30 minutes—to allow for a more robust discussion. Below is a list of the topics and presenters. A big thanks to all of our presenters for their work in putting together this program!

Topic	Presenter
Hosting a Webinar	Tom Clairmont
Privacy	Jillian Bertrand
Basic Virtual Hearing	Monu Singh
Advanced Virtual Hearing	Judge Jeffrey Wedekind
Drafting Tips	Athan Hadjis
Diversity, Equity, Inclusion	Mike Sellars
Using Technology in Post-Pandemic Mediations	Christy Yoshitomi and Shane Davis
How to Prevent Detachment in Virtual Services	Sidney McBride
Virtual Editing	Sarah Cudahy

If you have ideas for a future buffet topic, please let us know!

Agency Updates Recap

In this segment, Sarah Cudahy, General Counsel of the US Federal Mediation and Conciliation Service, and Natalie Zawadowsky, Legal Counsel at the Canada Industrial Relations Board, put attendees through a virtual quiz to test their knowledge of recent events in US and Canadian labour relations. Given that the summer Olympics was happening at the time, the quiz had a bit of an Olympic flavour. Unfortunately, the questions were difficult, and few attendees reached the podium. Better luck next year in Vancouver!

Ethics Panel

Using case scenarios, Lindsay Foley of the Canada Industrial Relations Board and Eileen Hennessey of the National Mediation Board led a discussion of the ethical dilemmas mediators, adjudicators, and attorneys may encounter professionally.

Topics covered included:

- Conflicts of interest between public employment and “outside activities.”
- Proceedings involving *pro se* filers/complainants.
- Ethical issues arising during virtual proceedings.
- Potential ethical pitfalls arising from social media use by public employees. ■

RECOGNIZING SCOT BECKENBAUGH

By Susan Panepento

I have the honor of recognizing Scot Beckenbaugh of the US Federal Mediation and Conciliation Service (FMCS) and his decades of service to ALRA. I don't expect Scot to be leaving ALRA any time soon. Nevertheless, he just completed two years as President—one of which was unexpected and possibly unprecedented—(we did not hold executive board elections last year due to the pandemic) and it seemed like a great time to let everyone know just how much of his time and energy Scot has devoted to ALRA thus far.

Scot is currently the Deputy Director and National Representative for FMCS. He is a highly accomplished and experienced mediator, having served at FMCS since 1988 and successfully resolved mainly complex and high profile labor-management disputes.

Scot has been involved with ALRA for nearly as long as he has been with FMCS. In a volunteer organization like ALRA there is little, if any, written record of all the people who have served the organization and their contributions. So, I had to do a bit of mining to fill in some details of Scot's ALRA service. Luckily, ALRA has consistently published the Advisor news bulletin that provided me with most of what you need to know.

I began participating in ALRA about twenty years ago, 2001-ish. At that time Scot had already been an active ALRA volunteer. He had been involved in numerous training programs, had served on the Conference Program and Professional

Development Committees, and had been a frequent conference presenter.



He began serving on ALRA's executive Board in July 2001. In or around 2005, he became ALRA Vice President of Finance and he served in that capacity until 2019 when he became this organization's president. In addition to his executive board duties he continued to be deeply involved in the election committee, conference planning, and presenting. We consistently count on him to recruit high-profile speakers, and he was instrumental in obtaining significant joint labor management sponsorships for our annual conference. And by the way, he earned the eternal gratitude of the Canadian agencies when his mediation skills saved the hockey season in 2013.

Scot is well known for a few signature phrases like “and by the way ...” but most could not be repeated here.

Scot has been a teacher and mentor, a participant and leader, and, most important, a good friend to everyone at ALRA. Over decades his warmth, smile, humor, great stories, and love of a night cap or two has made him an integral part of this organization. Thank you so much for your service, Scot Beckenbaugh, from everyone at ALRA. ■

ALRA EBOARD AND COMMITTEES 2021–2022

OFFICERS

President	Susan Panepento, NYC OCB	spanepen@ocb.nyc.gov or spanepento@gmail.com
President Elect	Mike Sellars, Washington PERC	mike.sellars@perc.wa.gov
Immediate Past President	Scot Beckenbaugh, FMCS US	sbeckenbaugh@fmcs.gov
Vice-President Administration	Eileen Hennessey, NMB	hennessey@nmb.gov
Vice-President Finance	John Wirenius, NYS PERB	JWirenius@perb.ny.gov
Vice-President Professional Development	Natalie Zawadowsky, CIRB	natalie.zawadowsky@tribunal.gc.ca

BOARD MEMBERS AT LARGE

Terms Expire 2022

Lucie Morneault, Federal Public Service Labour Relations and Employment Board	Lucie.Morneault@tribunal.gc.ca
Kathy Peters, Federal Mediation and Conciliation Service – Canada	kathy.peters@labour-travail.gc.ca
Sidney McBride, Michigan Employment Relations Commission	McBrideS2@michigan.gov

Terms Expire 2023

Travis Kearns, Ontario Labour Relations Board	travis.kearns@ontario.ca
Lindsey Harrington, Nova Scotia Department of Labour and Advanced Education	Lindsey.Harrington@novascotia.ca
Todd Doncavage, Minnesota Bureau of Mediation Services	todd.doncavage@state.mn.us

COMMITTEES

Audit	Eileen Hennessey Todd Doncavage
Professional Development [non-conference]	Natalie Zawadowsky
Membership	Mike Sellars
Nominations	Scot Beckenbaugh Ginette Brazeau
Publications and Communications [ALRA Advisor]	Eileen Hennessey Lucie Morneault
Technology [web site]	Mike Sellars

2022 Non-Conference Professional Development Committee	Co-chairs: Natalie Zawadowsky and Marjorie Wittner Travis Kearns
2022 Conference Program Committee	Co-chairs: Sylvie Guilbert [Sylvie.Guilbert@cirb-ccri.gc.ca] and John Wirenus Scot Beckenbaugh Ginette Brazeau Roxanne Rothschild
2022 Conference Professional Development Committee	Co-Chairs: Sarah Cudahy and Lindsay Foley [Lindsay.Foley@tribunal.gc.ca] Eileen Hennessey Lindsay Harrington Natalie Zawadowsky Lucie Morneault Tom Melancon Jean-Daniel Tardif
2022 Conference site/ Arrangements Committee	Trevor Craig [Trevor.Craig@tribunal.gc.ca] Kathy Peters [kathy.peters@labour-travail.gc.ca] Christy Yoshitomi [cyoshitomi@fmcs.gov]
2022 ALRA Academy	Ginette Brazeau [Ginette.brazeau@cirb-ccri.gc.ca] Tim Noonan [Tim.Noonan@vermont.gov]
2023 Conference Site/ Arrangements Committee	Sidney McBride Mike Sellars Kathy Peters Todd Doncavage
New Initiatives: Administration <i>This committee will focus on improving and streamlining internal ALRA functions. Areas of focus will include centralizing documents/ access; historical information; legacy admin functions: Advisor publishing, Membership: current lists, dues solicitation/reminders</i>	Chair: Susan Panepento Christy Yoshitomi Lindsay Harrington Susan Panepento Sarah Cudahy Eileen Hennessey
New Initiatives: Communication/ Membership <i>This committee will focus on generating and implementing ideas to improve the organization's value to members, communication including the website content and access, new member generation and outreach.</i>	Co-chairs: Susan Panepento and Travis Kearns Jean-Daniel Tardif

PROFESSIONAL DEVELOPMENT COMMITTEE UPDATES

This year the Professional Development Committee Co-Chairs are:

- **Conference:** Lindsey Foley, Canada Industrial Relations Board; and Sarah Cudahy, US Federal Mediation and Conciliation Service
- **Outside Conference:** Natalie Zawadowsky, Canada Industrial Relations Board; and Marjorie Wittner, Massachusetts Department of Labor Relations

The Professional Development Committee has been working hard to better serve member agencies.

- **Programming outside the Conference.** Over the past year and a half, the Professional Development Committee has brought four free webinars to our members. This programming allows member agencies to connect throughout the year and allows those who may not be able to attend conferences to still partake in professional development. This year, the Professional Development Committee has been split, with one committee in charge of conference programming and one committee in charge of programming outside the conference. We are still in need of members for the committee in charge of programming outside the conference. Please contact an ALRA officer if you are interested.
- **Joint programming!** On August 19, ALRA teamed up with the National Academy of Arbitrators and the State and Local Government Bargaining and Employment Law Committee of the American Bar Association to hold a first ever joint webinar. See more details at the right. Did you miss it? No problem! You can watch for free at <https://www.youtube.com/watch?v=cmOYLKTU138>.

The Future of Virtual Hearings

In this program, the panelists discussed what impact there might be on the practice now that virtual hearings continue to be an option at the practitioner's disposal. They explored whether there are certain circumstances under which online hearings are preferred. Panelists also shared their experiences, expectations, and "best practices" for conducting hearings, eliciting witness testimony, and handling exhibits as well as what advocates and neutrals hope to see in future online hearings. Finally, panelists addressed what impact, if any, the option of virtual hearings will have on arbitrator selection.

Moderator/Panelist

Keith D. Greenberg, Arbitrator and Mediator, National Academy of Arbitrators Board of Governors, Rockville, Maryland

Panelists

- **Jeanne Charles, Esq.**, Arbitrator and Mediator, National Academy of Arbitrators Board of Governors, Fort Lauderdale, Florida
- **Kimkea Harris**, Illinois Fraternal Order of Police Labor Council, Western Springs, Illinois
- **Jason Patterson**, Franczek, P.C., Chicago, Illinois
- **Monu Singh**, New York City's Office of Collective Bargaining, New York, New York

CANADA



CONCILIATION AND MEDIATION SERVICES—NOVA SCOTIA

CMS-NS Grievance Trends Webinar

Conciliation and Mediation Services – Nova Scotia (CMS-NS) hosted a free webinar on Friday, November 19th. Over 70 labour relations professionals joined the virtual event to learn about grievance trends in the province and across Canada. Panelists included labour representative Shawn Fuller, Executive Director of the province's largest union, the NSGEU; employer representative, Noella Martin, partner with a leading employer-side law firm, Wickwire Holm; and CMS-NS Mediation and Conciliation Officer, Rick Rose.

Each panelist provided insights into grievance trends from their unique perspective, and a Q&A followed. Of particular interest were the current role of vaccine mandates and a recent [Supreme Court of Canada ruling](#) that an employment discrimination dispute involving a unionized worker should be settled by a labour arbitrator, appointed under the collective agreement, not a human rights adjudicator. Also, up for discussion were social media and social justice related grievances.

Based on the success of the event, CMS is already planning its next webinar. ■

ALRA MEMBER UPDATES

UNITED STATES



FEDERAL LABOR RELATIONS AUTHORITY

Chairman Ernest DuBester Designated as FLRA Chairman and Renominated to a Fourth FLRA Term

On January 21, 2021, President Joseph R. Biden, Jr. designated Ernest DuBester as Federal Labor Relations Authority (FLRA) Chairman. Then, on June 25, 2021, President Biden announced his intent to renominate, and subsequently nominated, Chairman DuBester to a fourth FLRA term.

Initially appointed and renominated by President Barack Obama, renominated again by President Donald Trump, and unanimously confirmed by the U.S. Senate to all three terms, Chairman DuBester has served as an FLRA Member since August 2009. Before his current, third turn as FLRA Chairman, he also served as FLRA Chairman from January to November 2013 and in January 2017.

Chairman DuBester was previously nominated by President William J. Clinton and served as Chairman and Member of the National Mediation Board (NMB) from 1993 to 2001. Subsequently, he served as a staff mediator with the NMB.

Chairman DuBester has over 45 years of experience in labor-management relations. He began his career at the National Labor Relations Board (NLRB), serving as counsel to former Chairman and Member John Fanning. He also served as a Union attorney with the firm of Highsaw & Mahoney and as legislative counsel to the AFL-CIO. He previously taught collective bargaining and arbitration at the Catholic University of America School of Law.

In addition, Chairman DuBester served as Professor and Director of the Dispute Resolution Program at George Mason University School of Law (now Antonin Scalia Law School). During his time at the Law School, he also worked as an arbitrator and mediator of labor and employment matters, including many federal-sector cases.

Chairman DuBester received his undergraduate degree from Boston College; his law degree from the Catholic University of America School of Law, where he was Recent Developments Editor of the Law Review; and his Masters of Law in Labor Law from the Georgetown University Law Center.

Susan Tsui Grundmann Nominated to be Member of the FLRA

On August 4, 2021, President Biden announced his intent to nominate Susan Tsui Grundmann to be a Member of the FLRA.

Susan Tsui Grundmann currently serves as the Executive Director and Chief Operating Officer of the Office of Congressional Workplace Rights, where she oversees the administrative-dispute-resolution process and provides education to both employing offices and labor unions that represent employees in the legislative branch. Previously, President Obama nominated her to serve as a Member and Chairman of the Merit Systems Protection Board.

Ms. Grundmann has served as General Counsel to the National Federation of Federal Employees

(NFFE), which represents 100,000 federal workers nationwide and is affiliated with the International Association of Machinists and Aerospace Workers. At NFFE, she successfully litigated cases in the U.S. District Court for the District of Columbia and the U.S. Court of Appeals for the District of Columbia. She represented NFFE and the United Department of Defense Workers Coalition, which consists of 36 labor unions, and served on the Coalition's litigation team in a coordinated response to proposed personnel changes at the Department of Defense (DoD). In addition to DoD employees, Ms. Grundmann represented employees in the Forest Service, Department of Agriculture, Passport Service, Veterans Administration, General Services Administration, and some 25 additional federal agencies.

From 2003 to 2009, she was a regular instructor on federal sector labor and employment law at the William W. Winpisinger Education and Technology Center in Hollywood, Maryland. Prior to joining NFFE, Ms. Grundmann served as General Counsel to the National Air Traffic Controllers Association. She began her legal career as a law clerk to the judges of the Nineteenth Judicial Circuit of Virginia, and later worked in both private practice and at the Sheet Metal Workers' National Pension Fund.

Chairman Grundmann earned her undergraduate degree at American University and her law degree at Georgetown University Law Center.

Charlotte A. Dye Appointed FLRA Acting General Counsel

On March 24, 2021, President Biden announced the appointment of Charlotte A. Dye as the Acting General Counsel of the FLRA.

The General Counsel has direct authority over, and responsibility for, all employees in the FLRA's Office of the General Counsel (OGC), including those in FLRA's regional offices. The OGC is the FLRA's independent investigative and prosecutorial component. Through its five regional offices, the OGC investigates, settles, and prosecutes unfair labor practice charges; resolves representation disputes, including

the conduct of secret-ballot elections; and provides training to union and management representatives.

Acting General Counsel Dye has 30 years of experience in federal labor-management relations. Ms. Dye began her career with the FLRA in 1992 in the Dallas Regional Office, where she served in a number of roles, such as Dispute-Resolution Specialist, Regional Attorney, and the final Regional Director of the Dallas Regional Office. In March 2019, Ms. Dye moved to the headquarters office of the OGC to serve as the Deputy General Counsel.

A native of Casper, Wyoming, Ms. Dye received her B.A. degree from the University of Texas in 1988, her J.D. degree from Texas Tech University School of Law in 1991, and her M.P.A. degree from Texas Tech University Center for Public Service in 1991. She is admitted to the State Bar of Texas.

Prior to Ms. Dye's appointment as Acting General Counsel, the position of General Counsel had been vacant since January 20, 2017, although under the Vacancies Act, there had been an Acting General Counsel through November 16, 2017. As a result of there being no General Counsel or Acting General Counsel since November 2017, large backlogs of unfair labor practice appeals and complaint recommendations accumulated. Since Ms. Dye's appointment, the OGC has been able to resume processing those cases.

Kurt Rumsfeld Nominated to Be FLRA General Counsel

On August 4, 2021, President Biden announced his intent to nominate, and subsequently nominated, Kurt Rumsfeld to be General Counsel of the FLRA.

As discussed above, the General Counsel leads the OGC, the independent investigative and prosecutorial component of the FLRA. The OGC, through its regional offices, investigates and prosecutes unfair labor practice charges; addresses representation petitions, including conducting secret-ballot elections for exclusive representation; and provides training

to employees and union and management representatives.

Mr. Rumsfeld is currently the Chief Counsel to FLRA Chairman DuBester. From September 2013 through February 2019, Mr. Rumsfeld served as the Assistant General Counsel for Operations and Legal Policy for the FLRA's OGC. His responsibilities in that role included assisting the General Counsel and Deputy General Counsel in managing the OGC's regional operations and providing legal advice pertaining to the administration of the FLRA's governing statute.

Before joining the FLRA, Mr. Rumsfeld practiced labor and employment law with a private law firm for over 17 years, and he began his career in labor law as an attorney-advisor with the U.S. Department of Labor.

Mr. Rumsfeld received his B.A. in political science from Williams College and his law degree from Northeastern University Law School. He also has an LL.M. degree in Labor and Employment Law from Georgetown University Law Center.

New Federal Service Impasses Panel Chair and Members Appointed and Sworn In

On August 23, 2021, President Biden announced his intention to appoint ten individuals to the Federal Service Impasses Panel (the Panel or FSIP), and on September 14, 2021, FLRA Chairman DuBester swore them in. The Panel, an independent entity within the FLRA, resolves impasses between federal agencies and unions representing federal employees arising from negotiations over conditions of employment under the Federal Service Labor-Management Relations Statute and the Federal Employees Flexible and Compressed Work Schedules Act. The Panel Chair and Members serve on a part-time basis. The new FSIP Chair and Members are as follows:

Martin H. Malin, Chair

Martin H. Malin is Professor Emeritus at Chicago-Kent College of Law, Illinois Institute of Technology, where he taught for 41 years, founded the Institute for Law and the Workplace, and served as Director of the Institute for 25

years. He joined the Chicago-Kent faculty in 1980 after serving as law clerk to United States District Judge Robert E. DeMascio in Detroit and on the faculty of The Ohio State University. A renowned scholar on the law governing the workplace, he has published more than 80 articles and seven books on labor law.

Professor Malin has served as National Chair of the Labor Relations and Employment Law Section of the Association of American Law Schools, Secretary of the ABA Section on Labor and Employment Law, member of the Executive Committee of the Labor Law Group, member of the Board of Governors and Vice President of the National Academy of Arbitrators (NAA), and member of the Board of Governors of the College of Labor and Employment Lawyers.

In October 2009, President Obama appointed Professor Malin as a member of the FSIP. President Obama reappointed Professor Malin in 2014 and Malin served until May 2017. In 2016, the ABA presented Professor Malin with the Arvid Anderson Award for lifetime contributions to public sector labor law.

He has a B.A. from Michigan State University and a J.D. from George Washington University.

Wynter Patrice Allen, Member

Wynter Patrice Allen is a Partner at the Alden Law Group, PLLC in Washington, D.C. where she practices labor and employment law. Ms. Allen has also served as a Commissioner on the District of Columbia's Commission on Human Rights since 2017. From 2011 until 2013, Ms. Allen served as the Chair of the District of Columbia's Public Employee Relations Board. From 2006 until 2010, Ms. Allen was a Staff Attorney at the International Brotherhood of Teamsters. Ms. Allen has served as an Adjunct Professor for the Elon Law School Externship Program and Howard University School of Law. Ms. Allen has a law degree from Wake Forest University School of Law and a B.A. from the University of Chicago.

Jeanne Charles, Member

Jeanne Charles resides in Florida with a multi-state ADR practice including arbitration,

mediation, and fact-finding predominantly in the areas of workplace disputes. She earned her Juris Doctorate degree from DePaul University College of Law in Chicago and maintains her law license in Illinois. Ms. Charles currently serves as a labor and employment arbitrator on various public and private sector panels including professional sports. She is on the rosters of the American Arbitration Association (AAA), Federal Mediation and Conciliation Service (FMCS), and NMB. As a Special Magistrate for the Florida Public Employees Relations Commission for a number of years, Ms. Charles has helped labor and management organizations resolve bargaining impasse disputes regarding issues such as pay, benefits, and safety. She has served as an adjunct professor at Penn State University's School of Labor and Employment Relations where she has taught a graduate course in Human Resources and Employment Relations, as well as the University of Arizona School of Law, where she has taught advanced negotiations. Prior to becoming an arbitrator, Ms. Charles practiced as staff counsel for a federal sector labor union in Chicago and in private practice. Prior to becoming an attorney, she had ten years of corporate experience and was certified in Total Quality Management and Problem Solving.

Ms. Charles is a Fellow with the College of Labor and Employment Lawyers and has been inducted into the NAA where she serves on its Board of Governors. Ms. Charles was instrumental in helping the labor-management community adapt to virtual hearings by serving as the Chair of the NAA Videoconference Task Force over the last year. Ms. Charles is the proud mother of three adult daughters and is a member of various organizations in her community.

Howard Friedman, Member

Howard Friedman served 25 years in the federal government as an attorney and 23 years as President of the National Treasury Employees Union, Chapter 245, at the United States Patent and Trademark Office (USPTO). A former chief spokesperson and negotiator for the Trademark attorneys at the USPTO, Mr. Friedman is experienced in federal labor law, negotiating collective bargaining agreements,

labor-management and employee relations, government operations, and mediating and resolving workplace disputes. He was the labor co-chair of the USPTO and Department of Commerce labor-management forum.

A former President of the Society of Federal Labor & Employee Relations Professionals, Mr. Friedman teaches federal labor relations to human resource professionals, agency managers, mediators and arbitrators, and union officials. As a long-standing member of the USPTO Trademark Public Advisory Committee, he advised its director on improving operations, performance, budget, and fee structure policies. Mr. Friedman played an integral role in creating and growing the USPTO's well-known telework program, which started in 1997 with 18 Trademark examining attorneys and now has over 11,000 employees able to work from home. Mr. Friedman graduated from Delaware Law School and the University of Maryland.

Edward F. Hartfield, Member

Edward F. Hartfield has spent his 45-year career as an impartial third party in the roles of mediator, arbitrator, facilitator, election administrator, and neutral convenor. Previously, Hartfield was appointed by Presidents Obama and Clinton to serve as a Member of the FSIP. He has also served as Commissioner with the FMCS and Mediator for the New Jersey Office of Dispute Settlement.

Mr. Hartfield was appointed to the arbitration rosters of the FMCS, the NMB, the Michigan Employment Relations Commission, the Ohio State Employment Relations Board, and the Iowa Public Employment Relations Board.

Mr. Hartfield has been the International President of the Society of Professionals in Dispute Resolution and President of the Detroit Chapter of the Labor and Employment Research Association. Hartfield is adjunct faculty at the Michigan State University College of Law and Wayne State University. He received a Master's in International Relations from the University of Detroit and B.A. from Oberlin College.

Marvin E. Johnson, Member

Marvin E. Johnson is the Executive Director of the Center for Alternative Dispute Resolution, which he founded at Bowie State University in 1986. He was Associate Professor of Labor Relations, Law, and Dispute Resolution at Bowie State University and an Adjunct Professor at the Catholic University School of Law. Mr. Johnson has served three terms as a Member of the Federal Service Impasses Panel and one term as a Member of the Foreign Service Grievance Board. He has worked for the Department of Labor, the National Football League Players' Association, the FMCS, the FLRA, the National Treasury Employees Union, the National Academy of Conciliators and Accommod Associates. Mr. Johnson has served on numerous national dispute resolution boards, including the Association for Conflict Resolution, the ABA-Section of Dispute Resolution, and the International Academy of Mediators and has served on numerous national dispute resolution panels, including the AAA, the FMCS, JAMS the Resolution Experts, and the CPR Institute for Dispute Resolution. He received a B.B.A. from Kent State University, an M.S. from the University of Wisconsin, and a J.D. from the Catholic University Law School.

Mark Gaston Pearce, Member

Mark Gaston Pearce is a visiting professor and executive director of the Georgetown University Law Center, Workers' Rights Institute. He is also a panel labor arbitrator and mediator for AAA and FMCS. Formerly a Board Member and Chairman of the NLRB, he previously taught at Cornell University's School of Industrial and Labor Relations. He is a graduate of Cornell University and State University of New York at Buffalo Law School. He has more than 40 years of experience in the practice in labor and employment law. His extensive experience includes private sector practice and many years of public service with the NLRB and as a governor appointed Board member on the New York State Industrial Board of Appeals. Among other honors, he was named a Champion of Workplace Justice by the Employment Justice Center of Washington, D.C. and placed on the National Employment Law Project Honor Roll.

Pamela R. Schwartz, Member

Pamela Schwartz has over 20 years of experience in federal labor management relations. She held positions with increasing levels of authority within the Patent Office Professional Association, an independent federal labor union representing over 8,000 patent examiners and other patent professionals at the USPTO. This culminated in three years as Union President. During her years as chief negotiator, she represented the Union on interest-based and joint management/labor bargaining teams and led collective bargaining negotiations, including appearances before the FSIP. She served as a Patent Examiner with the USPTO for over 35 years. She received her BSChE degree from Drexel University and her Juris Doctor degree from George Washington University Law School.

Joseph E. Slater, Member

Joseph Slater is a Distinguished University Professor and the Eugene N. Balk Professor of Law and Values at the University of Toledo College of Law. He holds a B.A. from Oberlin College, a J.D. from the University of Michigan Law School, and a PhD in history from Georgetown University. Before coming to Toledo in 1999, he practiced labor and employment law in Washington, D.C. for over a decade. Since coming to Toledo, he has published numerous books and articles on labor and employment law, especially in the area of public-sector labor law.

In 2019, Professor Slater testified before Congress on the Public Service Freedom to Negotiate Act and the Public Safety Employer-Employee Cooperation Act. He has presented many papers on public-sector labor law at conferences of academics and of practicing lawyers. He has made numerous media appearances on public-sector labor issues. He is a member of the Labor Law Group, a group of labor and employment law scholars, and of the College of Labor and Employment Lawyers, a group of practitioners and academics specializing in labor and employment law.

Tamiko N.W. Watkins, Member

Tamiko Walker Watkins, Esq. is an Assistant General Counsel at the Millennium Challenge

Corporation (MCC). In this role, Mrs. Watkins serves as MCC's senior legal advisor on employment and administrative law and is responsible for managing the administrative law team. She also oversees the MCC's Freedom of Information Act program office and whistleblower protection program and serves as the Alternate Designated Agency Ethics Official. Prior to MCC, she served as a Senior Trial Attorney and Assistant Counsel for the Department of the Navy. She provided counsel and training on labor and employment law and represented the Navy in litigation. Mrs. Watkins began her legal career as a Trial Attorney for Allstate Insurance Company and Judicial Law Clerk for the Pennsylvania Court of Common Pleas.

In addition, Mrs. Watkins is an Adjunct Law Professor at Howard University School of Law. She also has notable alternative dispute resolution experience. She served as a Mediator for the Superior Court of the District of Columbia, an Arbitrator for the District of Columbia Bar's Attorney/Client Arbitration Board, and an Arbitrator for the Pennsylvania Court of Common Pleas. She received her Master of Laws degree in Litigation and Dispute Resolution from the George Washington University Law School, Juris Doctor from Widener University School of Law, and Bachelor of Arts in Public Relations from Hampton University.

FLRA Chairman DuBester Restores Collaboration and Alternative Dispute Resolution Office

On February 16, 2021, FLRA Chairman DuBester restored the FLRA's Collaboration and Alternative Dispute Resolution Office (CADRO), which had been abolished under the prior Administration. CADRO is once again available to the federal-sector labor-management community to help voluntarily resolve FLRA cases, especially negotiability cases and arbitration exceptions pending before the FLRA's three Members (the Authority), as well as unfair labor practice (ULP) cases pending before FLRA administrative law judges. Michael Wolf returned as CADRO Director and ULP Settlement Official, and Merritt

Weinstein returned as the FLRA Senior Dispute Resolution Specialist.

CADRO offers high-quality training and facilitation services to help agencies and labor organizations more effectively prevent and manage conflicts that otherwise could erupt into litigation before the FLRA. As Chairman DuBester has noted, CADRO "is an essential part of our responsibility to exercise leadership under the Federal Service Labor-Management Relations Statute. Teaching active-listening techniques and problem-solving strategies often gives people a direct voice in workplace matters that they otherwise would never experience."

Because CADRO makes a difference in the quality of work life and the effectiveness of agency operations, there is often a waiting list seeking training from CADRO.

For more than 20 years, through almost every change in administration, the FLRA's ADR program has earned the support of federal agencies, labor organizations, and the FLRA itself. CADRO has become intrinsic to the fabric of the FLRA. "The real value of CADRO is that it drives more effective party engagement concerning matters covered by the Statute," said Chairman DuBester, "along with more effective and pragmatic labor-management problem-solving, rather than narrow resolution of legal disputes."

CADRO is important to parties while making good business sense for the FLRA. Hundreds of parties have sought the FLRA's voluntary ADR services in complex, sensitive, significant, and sometimes controversial litigation. Resolution rates are consistently in the range of 80 percent to more than 90 percent. FLRA data indicate that its ADR program requires far fewer resources per case compared to litigated results, and ADR enables the FLRA to close cases quicker and at a lower transaction cost than comparable, litigated matters.

CADRO is perched on a rich history of ADR in the U.S. government. In 1990, Congress passed the Administrative Dispute Resolution Act (ADRA), which authorized federal agencies to adopt

ADR policies, designate Dispute Resolution Specialists, institute ADR training for employees, and use ADR processes for the administrative resolution of issues in controversy. In 1996, Congress amended the ADRA to permanently reauthorize key provisions, make vital provisions mandatory, and delete an earlier sunset provision. In the ADRA as amended, Congress required all federal agencies to adopt ADR policies and emphasized that using ADR can offer "prompt, creative, efficient, and sensible" resolution to disputes. Shortly thereafter, the three components of the FLRA—the Authority, the Office of the General Counsel, and the Federal Service Impasses Panel—jointly established the FLRA's Collaboration and ADR Program.

CADRO Director Michael Wolf can be contacted at mwolf@flra.gov or (202) 218-7933.

The FLRA and the Office of Personnel Management (OPM) Hold Joint Virtual Presentation on Executive Order 14003, Protecting the Federal Workforce, and Bargaining over Matters under 7106(b)(1) of the Federal Service Labor-Management Relations Statute

On October 28, 2021, the FLRA and OPM held a joint virtual presentation entitled "Executive Order 14003, Protecting the Federal Workforce, and Bargaining over Matters under 7106(b)(1) of the Federal Service Labor-Management Relations Statute."

The presentation included:

1. A discussion of the Biden Administration's perspective regarding Executive Order 14003
2. An overview of collective bargaining, creating a context for 7106(b)(1)
3. An analysis of Authority 7106(b)(1) decisions
4. A discussion of best practices and advice regarding successful bargaining
5. Q & A

The session was subsequently posted on the FLRA YouTube Channel (www.youtube.com/c/FederalLaborRelationsAuthority). ■



FEDERAL MEDIATION AND CONCILIATION SERVICE

2022 FMCS National Labor-Management Conference (NLMC)

Typically hosted in Chicago, the NLMC was held virtually in 2020 and will be again in 2022 on July 12–13. The NLMC offers a wide variety of panels and workshops designed to reflect the great diversity of experiences and concerns in the contemporary workplace.

This year's theme is "Future@Work: Reimagining the Workplace."

NLMC is THE place for labor relations practitioners to get the most up-to-date information about sectoral trends, practical bargaining tools, and broad networking opportunities. At NLMC, labor and management experts provide valuable insights into current directions and trends focusing on practical tools and techniques for labor relations practitioners in a plethora of workshops, panels, and plenary sessions. Labor relations practitioners across the country rely on this FMCS signature event

for the latest information on best practices and to take advantage of the valuable networking opportunities with professional colleagues.

To learn more and get updates, visit <https://www.fmcs.gov/nlmc-info/>.

FMCS Director Retires—New Nominee Awaiting Confirmation

FMCS Director Richard Giacalone retired in January after more than a quarter-century of public service at FMCS. Deputy Director Gary Hattal has been serving as the head of the agency since Richard Giacalone's departure. In June, the White House announced the Administration's nomination of yet again one of FMCS's very own to lead the agency as our next Director—Mr. Javier Ramirez. While nominations for this position are at the sole discretion of the President, and the process for confirmation resides with the Senate, FMCS is pleased to know that once again leadership of this agency is being considered from within our own ranks.



 **FMCS** | FEDERAL MEDIATION & CONCILIATION SERVICE

Save the Date

National Labor-Management Conference 2022

Future@Work: Reimagining the Workplace

Join us to gain valuable insights into current directions and trends focusing on practical tools and techniques for labor relations practitioners in a plethora of workshops, panels, and plenary sessions.

  

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JULY 12-13TH
VIRTUAL EVENT

At this point, we do not have an expected timeline for when the Senate will consider Javier's nomination. A copy of the White House press release can be viewed here: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/09/president-biden-announces-five-key-nominations/>.

FMCS Co-Signs Partnership for Public Service's Proclamation of Public Service Recognition Week

In May, FMCS joined the Partnership for Public Service as one of 63 co-signatories to their proclamation of the 2021 Public Service Recognition Week (PSRW).

PSRW has been celebrated the first week of May for 36 years, with this year's week running from May 2–8. PSRW is designated by the President and Congress to honor the people who serve our nation as federal, state, county, local, and tribal government employees and recognize their accomplishments as they work tirelessly on behalf of all Americans.

The Partnership for Public Service 2021 Proclamation can be found at https://www.fmcs.gov/wp-content/uploads/2021/05/PSRW_CoChairLetter_2021.pdf.

FMCS Launches New Electronic FOIA Processing System

Late last year, FMCS launched the new FOIAXpress software to process and track Freedom of Information Act (FOIA) requests and appeals.

FOIA provides individuals the right to access federal government records. While FMCS posts many agency documents as an information resource in the public online reading room, individuals can submit a FOIA request for other records that may be available. The FOIAXpress tracking and management software replaced the agency's previous in-house FOIA tracking system.

As part of FMCS's commitment to transparency, public participation, and accountability, FOIAXpress speeds up the processing of FOIA requests by allowing FMCS staff and FOIA requesters the ability to electronically exchange pertinent documents. FOIAXpress requesters can monitor their requests and appeals online in real-time via the public access link (PAL). ■



MICHIGAN EMPLOYMENT RELATIONS COMMISSION

MERC News

MERC Mediation Pilot Project

With the Commission's assent, the agency recently launched a pilot project offering voluntary mediation services on newly filed cases in the labor relations division. Under this new program, when a new unfair labor practice (ULP) charge is filed with the agency, the parties are given a chance to mutually agree to participate in case mediation to seek resolution. MERC Labor Mediators will facilitate the mediation sessions using virtual setup to expedite the process and maximize

conveniences for all involved. The mediation offer is included in the case initiation documents sent out by the agency. A 10-day window is allowed for parties to opt to participate in mediation. If all parties agree, a MERC Labor Mediator is promptly assigned and will contact the parties to schedule the initial virtual session. If parties do not respond, any party declines the offer, or if the preliminary mediation process does not resolve the case dispute, the ULP case is forwarded to the MOAHR Administrative Law Judge for further processing in the normal course. The intended goal of this program is to

expedite disposition of any ULP case where the involved parties are able to reach an amicable resolution with the use of the confidential mediation process. Doing so will reserve the schedules of the Administrative Law Judges for cases that may require a factual hearing or other adjudicative assistance.

Large Election Held

In late September 2021, the MERC Elections unit conducted one of its largest representation elections in the past 10 years. Without disclosing specific party names or details, the mail ballot election involved MERC staff sending ballots to over 6,000 employees eligible to vote. On count day, the processes used for ballot verification, open and sorting, and vote tallying occurred at multiple stations within a single location. Knowing that proper planning and execution was necessary to ensure that the full counting process could be completed within normal business hours, additional Bureau staff joined to help with the comprehensive process. At the conclusion, more than 4,000 ballots were received and processed. Final results were verified and announced by 4:00 p.m. All present—Bureau staff and party observers—were very satisfied that the process was accomplished efficiently and without error. Special recognition is extended to the Bureau staff that participated on and leading up to election count day and those union and employer observers who patiently accommodated the unusually creative setup used on count day.

Highlights of Cases Issued July 2021 through November 2021

Unilateral Changes and the “Covered By” Doctrine

University of Michigan (Medical Center) -and- Michigan Nurses Association, Case Nos. 19-D-0876-CE-2 & 19-I-1855-CE, issued July 16, 2021

The Commission found that a ULP may have occurred based on the unilateral changes made by the employer to the parking conditions of employees including in the bargaining unit. The Administrative Law Judge (ALJ) had concluded that the parking changes were “covered by” the

existing collective bargaining agreement. MERC disagreed and held the contract language was broad and non-specific and did not authorize the employer to unilaterally make the disputed parking changes that affected many bargaining unit members. The case was remanded for further factual findings by the ALJ.

Administrative Determinations on R Petitions

Regents of the University of Michigan, 21-C-0630-RC, issued July 13, 2021 and August 10, 2021.

The Commission unanimously directed a representation election following the Director's administrative determination on the sufficiency of the supporting show of interest. The case involved two unions—an incumbent and a spinoff independent group. The petitioner (independent group) filed multiple representation (R) petitions seeking to represent an existing bargaining unit represented by the incumbent union (incumbent). Prior to any filing with MERC, the independent group sought representation authority through an internal disaffiliation vote among the unit members. Subsequently an election petition was filed without a show of interest, relying instead on the disaffiliation vote. The Bureau Director dismissed that R petition for lack of a show of interest per MERC rules. The independent group then filed a second R petition along with a requisite show of interest. Notably, there was a slight difference in the name of the independent group listed on the R petition compared to what appeared on the show of interest materials.

The incumbent objected to the second petition moving forward on three grounds: (a) independent group's unauthorized use of the name variant, (b) possible confusion stemming from the similar names of the competing unions, and (c) the pending ULP cases related to these parties. After several subsequent filings and preliminary resolution efforts by the ALJ, the Bureau Director administratively determined that the matter should proceed notwithstanding the noted concerns. The Director reasoned that any likely confusion in signing the show of interest cards would easily be rectified with the voting process, and the ULP issues either fell outside the agency's authority or would not interfere

with the employees' ability to choose between either union. After concluding no remaining issues existed to merit an evidentiary hearing on the petition, the Commission issued its decision directing an election in the matter. The next day, the incumbent filed a reconsideration motion and requested the Commission stay its election order. MERC denied both requests indicating the supporting pleadings merely restated issues already addressed in the prior order and administrative determination.

Duty to Bargain re Change in Pay Period

City of Detroit (Dept of Transportation) -and- Amalgamated Transit Union Division 26, Case No. 20-A-0190-CE, issued September 14, 2021 and supplemental decision on November 12, 2021

The Commission affirmed the ALJ in part, agreeing that the employer had committed a ULP by refusing to bargain with the union regarding the switch from weekly to biweekly pay checks. The Commission disagreed with the ALJ's recommended order to return to the "status quo" of weekly pay periods. MERC found no evidence in any of the pleadings that the biweekly pay period change had been implemented as of the close of the ALJ record. After issuance of the initial MERC decision, the union requested reconsideration and reinstatement of the ALJ's recommendation to return to weekly pay periods. MERC rejected both requests. However, based on information contained in the reconsideration motion of an actual date that the pay period change had been implemented, MERC remanded a "spinoff" case to the ALJ on the issue of whether the implementation was proper or premature.

Contract Repudiation

City of Detroit (Law Department) -and- UAW 221, Public Attorneys Association, Case No. 20-D-0755-CE, issued September 9, 2021

The union alleged separate counts of contract repudiation due to the employer's failure to implement a contractual pay increase and its reduction in workforce due to alleged budget constraints. Affirming the ALJ, the Commission found the Employer's refusal to honor a contractual pay increase constituted a

repudiation of the contract and ULP violation. The Commission also agreed with the ALJ and dismissed the second repudiation claim concluding the "reduction in force" issue involved contract interpretation to be resolved through the contract's grievance procedure.

Prohibited Subjects and Grievance Arbitration

The Professional Personnel of Van Dyke -and- Van Dyke Public Schools, Case No. 20-C-0554-CE, issued October 12, 2021

The dispute involved the underlying purpose of a grievance related to a teacher who performed extra work on cafeteria duty. Although the ALJ found that the grievance was filed over the assignment of teachers, MERC disagreed and found that the grievance related to the compensation owed under the terms of the collective bargaining agreement and not the issue of "teacher assignments." The Commission also rejected the Employer's argument that the matter involved contract interpretation that should be heard by an arbitrator and not the Commission.

Summary Dismissal from ALJ Hearing

Zeeland Education Association -and- Jason Jaloszynski, Case No. 21-C-0534-CU, amended decision issued November 12, 2021

Charging party (a teacher) argued that although he was a bargaining unit member, the union refused to represent him on several grievances because he was not a union member. At the start of the hearing before the ALJ, the employer moved for summary dismissal. Following brief oral argument, the ALJ found summary dismissal to be appropriate, concluding the charging party had failed to provide sufficient basis to support that a ULP violation had likely occurred by the union. The Commission disagreed with the ALJ's summary dismissal and remanded the matter for an evidentiary hearing on the charging party's claims. MERC concluded that the allegations had raised genuine issues of material fact that merited a hearing, including whether the union's denial to arbitrate the charging party's grievances was based on good faith reasons rather than his non-union status. ■



NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board Welcomes Two New Board Members

The National Labor Relations Board (NLRB) recently welcomed two new Board Members, Gwynne A. Wilcox and David M. Prouty. They join Chairman Lauren McFerran, Member Marvin E. Kaplan, and Member John F. Ring on the five-member Board.

Gwynne A. Wilcox was nominated to serve as a Member of the National Labor Relations Board by President Biden on May 27, 2021, and confirmed by the Senate on July 28, 2021. Her term will last until August 2023.

"I'm pleased to welcome Gwynne Wilcox back to the National Labor Relations Board. Her deep knowledge of the Act and her insights as a longtime labor law practitioner will be tremendously valuable to the agency. I know she will be an open-minded and thoughtful adjudicator and a fantastic colleague at Board," said Chairman McFerran.

Ms. Wilcox is the first Black woman to serve on the Board since its inception in 1935. She is also the first Board member to be sworn-in both in English and in Spanish, as the agency strives to be more inclusive, welcoming, and accessible for all workers.

"I am honored to be the first Black woman to serve as a Board Member during this critical moment in our country's history and hope that my appointment will be an inspiration to others. It is essential that the NLRB and other governmental agencies be representative of our country's diverse workforce," said NLRB Board Member Gwynne Wilcox. "As I return to the National Labor Relations Board, I am both excited and proud to work alongside dedicated colleagues at an agency that has the power to impact workplaces and the lives of workers, unions, and employers through enforcing the National Labor Relations Act."

Most recently, Ms. Wilcox worked as a senior partner at Levy Ratner, P.C., a New York City labor and employment law firm. There, she served as Associate General Counsel of 1199SEIU United Healthcare Workers East and as a labor representative to the NYC Office of Collective Bargaining. Prior to joining Levy Ratner, Wilcox worked as a Field Attorney at Region 2 of the National Labor Relations Board in New York City. Wilcox has a J.D. from Rutgers University School of Law-Newark and a B.A. from Syracuse University.



David M. Prouty was nominated to serve as a Member of the National Labor Relations Board by President Biden on June 23, 2021, and confirmed by the Senate on July 28, 2021. His term will expire on August 27, 2026.

"I'm delighted to welcome David Prouty to the National Labor Relations Board. David has represented so many different types of workers in so many different settings, dedicating his career to ensuring that all workers are treated with basic dignity and respect on the job, whoever they are and whatever they do for a living. I know he will be a wonderful colleague to work with, and a fantastic addition to the agency," said Chairman McFerran.

"I'm honored to serve as an NLRB Board member," said Member Prouty. "Throughout my career, I've advocated for a variety of workers—from clothing and textile workers, to baseball players, to property service workers—who have joined together to improve their workplaces. I am a firm believer in the rights the NLRA affords workers, and as a member I will diligently uphold the Act."

Most recently, Member Prouty served as General Counsel of Service Employee International Union (SEIU) Local 32BJ, the largest labor union for property service workers in the country with over 175,000 members. He served as General Counsel of the Major League Baseball Players Association (MLBPA) from 2013 to 2017 and as Chief Labor Counsel of the MLBPA from 2008 to 2013. Prior to June 2008, Member Prouty



was General Counsel of UNITE HERE, and was General Counsel of UNITE from 2001 to 2004. Before serving as General Counsel of UNITE and UNITE HERE, Member Prouty

was Southern Regional Counsel for UNITE and its predecessor union, the Amalgamated Clothing and Textile Workers Union, for 15 years. He received his AB *magna cum laude* from Bowdoin College in Brunswick, Maine in 1980; worked as a researcher and organizer for the American Federation of State, County and Municipal Employees from 1980 to 1983; and received his JD *cum laude* from Harvard Law School in 1986.

The National Labor Relations Board Welcomes Jennifer A. Abruzzo as General Counsel

The National Labor Relations Board recently welcomed Jennifer Abruzzo as General Counsel. Jennifer Abruzzo was nominated by President Biden on February 17, 2021, and was sworn in for a four-year term. The General Counsel is independent from the Board and is responsible for the investigation and prosecution of unfair labor practice cases and for the general supervision of the NLRB field offices in the processing of cases. This is the first time in NLRB history that women are serving as both Chairman and General Counsel.

"I am thrilled to rejoin the Agency and once again work with its talented board agents, who are committed to fully protecting the rights of workers to freely associate and act collectively to improve their wages and working conditions.

I am looking forward to partnering with them, as well as colleagues at other agencies to engage with and educate the public and to promote better enforcement of labor and employment laws," said General Counsel Jennifer Abruzzo. "I believe that vigorous enforcement of the Act will help level the playing field for workers and their freely chosen representatives, bring much needed equity to the historically underserved members of our communities, engender safe and productive workplaces, which is particularly critical right now as we fight a pandemic, and build a better economy for workers, families, and communities in this country."

Since being sworn in on July 22nd, Jennifer Abruzzo has been busy effectuating the NLRA. She has issued five significant General Counsel Memoranda setting forth her many initiatives to vigorously enforce the NLRA. Jennifer Abruzzo has quickly reestablished dormant internal and external relationships. On September 2nd, Jennifer Abruzzo signed a Letter of Arrangement with the Mexican Ambassador to strengthen the NLRB's relationship with the Mexican government to better protect workers' rights in the United States.

Jennifer Abruzzo most recently served as Special Counsel for Strategic Initiatives for Communications Workers of America (CWA). Prior to her work at CWA, Ms.

Abruzzo was Acting General Counsel and Deputy General Counsel at the NLRB. Ms. Abruzzo spent almost 23 years working for the NLRB in various capacities, including as Field Attorney, Supervisory Field Attorney and Deputy Regional Attorney in the Miami, Florida office, as well as Deputy Assistant General Counsel in the Division of Operations-Management in Washington, DC, where she oversaw Regional operations in the Northeast and Midwest. ■

