

**MSPB NOMINATION HEARING TESTIMONY
CATHY ANN HARRIS
CHAIR, U.S. MERIT SYSTEMS PROTECTION BOARD
SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL
AFFAIRS**

September 22, 2021

Good morning Chairman Peters, Ranking Member Portman, and members of the committee. I am very thankful for this opportunity to appear before you today as you consider my nomination as Chair of the U.S. Merit Systems Protection Board. I am deeply honored by President Biden's nomination of me to this position, as it is one that I consider essential to maintaining a fair, equitable, and merit-based Federal workforce. I am a firm supporter of the Board's statutory missions to protect the merit system principles and promote an effective civil service free of prohibited personnel practices.

I want to introduce my family who are with me here today: my wife, Cheryl, my daughter Rosie, and my father, Jack. I am very grateful for their support throughout this process. I also want to thank the MSPB staff who helped prepare us for this hearing and my co-nominees, Raymond Limon and Tristan Leavitt, who have been a pleasure to work with and with whom I look forward to working closely if confirmed. I am particularly appreciative that we each bring different experiences to the table, and am confident that we would be a great team together.

For more than twenty years, I have litigated on behalf of both federal employees and agencies before the MSPB, the Equal Employment Opportunity Commission and in the federal courts. My cases have covered most of the substantive issues considered by the Board. I have extensive experience in litigating complex class actions before the EEOC on behalf of federal employees, and consolidated cases before the MSPB, one of which culminated in one of the lengthiest hearings in the Board's history with over 100 appellants.

Through this experience, I have gained a deep understanding of federal-sector employment law and the great importance of our merit system in enhancing and improving the Federal workforce. Having the experience of representing a wide range of employees and management from large and small agencies, I have developed a balanced view of the issues facing the civil service. Employees and agencies rely upon the MSPB for prompt, fair adjudications. The MSPB is one of the pillars of good government, helping us keep the civil service free from discrimination, political coercion, and corruption. I look forward to being able to apply my knowledge in impartially adjudicating matters that come before the Board. After many years in private practice, I am also looking forward to returning to public service. I started my legal career as an Assistant District Attorney in the New York County District Attorney's Office, where I gained invaluable courtroom experience and a deep appreciation for public service.

As you are aware, because the Board has lacked a quorum for the past four years, it has been unable to fulfill its statutory duties. Despite this challenge, I understand that the staff at the MSPB has been working tirelessly to prepare for a new Board and I am so thankful for their

dedicated service. A large backlog of cases has amassed because decisions could not be issued without Board members. If confirmed, I will make it my utmost priority to reduce the backlog so that the employees and agencies may finally receive decisions. The stakes involved in the cases are quite serious for the litigants. From the employee-side, it may be due to a termination that has caused a loss of income for the employee for several years, the denial of disability retirement benefits to a worker, or a non-selection of a veteran who claimed violations of veterans preference rules. So, too, whistleblowers have been without recourse in some instances as they await adjudication of their matters at the Board level. From the agencies' perspective, agencies await determinations that will affect staffing, retention, and disciplinary matters. Both employees and agencies deserve finality, and thus, I commit to work with my fellow Board members to develop an effective triage plan to adjudicate the cases swiftly and fairly.

The Board also has a statutory duty to conduct and report objective studies regarding the merit system. During the lack of a quorum, studies have been conducted but have not been able to be approved. As these studies are important to Congress, other federal agencies, and the public in understanding and improving the merit system, I will work to review and release the studies as soon as possible, if confirmed.

Thank you again for considering my nomination. I look forward to answering any questions the committee may have.