

GERALDINE A. REILLY
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MICHAEL T. GREASON
GEORGE FRIEDMAN
JAMES S. ALES
RANDALL T. DOUGLAS
MEMBERS



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Appeal Board**

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CHIEF ADMINISTRATIVE LAW JUDGE

TERESA A. DeMEO
CHRISTOPHER M. TATE
MATTHEW J. TIERNEY
PRINCIPAL ADMINISTRATIVE LAW JUDGES

Minutes of Board Meeting of Wednesday, January 13, 2016

Board Members Present: Geraldine A. Reilly, Chair; Board Members George Friedman, James S. Alesi, and Randall T. Douglas; Jayson S. Myers, Chief Administrative Law Judge, Christopher Tate, Principal Administrative Law Judge and Susan Borenstein, Executive Secretary

Board Member Absent: Board Member Michael T. Greason was excused because of a death in his family

Agenda:

- Welcome and Call to Order
 - Reading and adoption of agenda
 - Adoption of Minutes – June 10, 2015 meeting
 - Director’s report
 - Chief ALJ report
 - Report – Principal ALJ for Appeals
 - Executive Session
 - Return to Public Session
 - Other business
 - Adjourn
1. Welcome and Call to Order
 - At 11am Board Chair Geraldine Reilly called the meeting to order presiding from the UIAB Troy location, 49 Fourth Street, Troy, New York. In brief comments Chair Reilly expressed her gratitude and thanks to Governor Andrew Cuomo for Chamber’s support of the work of the Board. She thanked the Executive Director and Chief Administrative Law Judge for their work. Chair Reilly also expressed her gratitude to her fellow Board members, to the Executive Management team and the UIAB judicial and administrative staff for their effective and hard work since the last Board meeting.
 - Chair Reilly recognized each of the Board members in attendance in Brooklyn and Troy.
 - Introduction of Board Members and Executive Staff: Each member of the Board introduced him/herself, as did the Chief Judge and Executive Director and Principal Judge.
 2. Reading and adoption of the agenda
 - Chair Reilly called for the adoption of the agenda
 - Board Member Douglas made a motion to adopt the agenda; Member Friedman seconded the motion to adopt
 - Agenda adopted by unanimous vote

3. Reading and Approval of the Minutes of the September 2015 Board Meeting:
 - Board Member Alesi moved to suspend reading of the minutes and to approve the minutes of the last Board meeting which was held on September 19, 2015.
 - Board Member Friedman seconded the motion.
 - The motion to approve the minutes and to suspend the reading was adopted unanimously.
4. Report of Executive Director Susan Borenstein:
 - On behalf of the Board extended condolences to Board Member Michael Greason on the death of his mother, Mary Twomey Greason
 - Noted the many successes of the Board even faced with the reduction of staff; now 143
 - Current projects and recent developments were summarized including two LEAN initiatives in partnership with the Unemployment Insurance Division – a project to expedite Non-Monetary determinations and improve their quality (Judge Kathleen Mannix on behalf of the Board); and a second project to expedite the processing and transmission of Appeal Board case files; and the completion of Phase 1 for an electronic case file
 - The Board continues to exceed all Lower Authority timeliness regulations; the average case age at the end of 2015 was 27 days; 66% of hearing decisions were mailed within 30 days and 83% within 45 days again exceeding USDOL timeliness regulation. Higher Authority average case remains slightly elevated to 50 days resulting from the transfer of three Appeal Review ALJs to work on the remaining original class MLC cases.
 - The UIAB's Federal Quality Review score for the Third Quarter 2015 was 97.5% illustrative of the professional standing and quality of ALJs working at the Board.
 - Thanked DOL Deputy Commissioner Nathaalie Carey for the invitation to participate in the newly formed DOL intake and governance Board whose work is to monitor and recommend ITS projects. Kathy Gangaware, Board Business Systems Analyst is the Board representative.
 - The Director noted that the Board is a "learning organization" as illustrated in numerous and continual training. A "team training" for the administrative and judicial staff in Troy and Brooklyn in conjunction with OSOD, the DOL training is planned for this spring. Chief Judge Jayson Myers will elaborate on additional training.
 - Chair Reilly asked for comments and questions and thanked Executive Director Borenstein for her work. There were no questions or comments.
5. Report of Chief Administrative Law Judge Jayson Myers:
 - Commented on the excellent work and product of both hearing and appeal review judges
 - Reviewed the new training paradigm including the recently completed training on credibility and decision writing which focused on the need to recognize and analyze credibility issues in hearings and the need to document same in hearing decisions.
 - Discussed a training planned for March 2016 in conjunction with the UI Division's Claimant Advocate's Office being prepared by training coordinator Deborah Esrick.

The training in the form of a panel discussion is a follow-up to the theme of the last training conference on empathy and engaging the parties in hearings. The purpose of the training is to emphasize the need of pro se (unrepresented) claimants to understand the hearing process and for judges to understand the challenges that claimants face. In addition, Senior ALJ Deborah Esrick is working with individual judges to improve their hearing skills.

- Discussed an upcoming training in “cross examination” based upon the notion that judges must assist pro se claimants when they have difficulty cross examining the opposing party.
- Chief Judge Myers traveled to both Long Island office and to observe hearings and meet with the judicial staff. He was pleased to note the very positive attitude of the Senior ALJs and ALJs he encountered toward their work auguring well for the future. Weather permitting he would like to take similar trips to other UIAB locations.
- Finally discussed the development of a specialized training on how to uniformly craft language when describing due process errors on audited cases and he noted the mismatch between the number of appeal requests at our Brooklyn location and the number of judges. As a result every week at our workload meeting, cases are sent from Brooklyn to other locations.
- Chair Reilly asked for questions or comments and thanked the Chief Judge for his work.

6. Report by Principal Administrative Law Judge Christopher Tate

- Principal ALJ Christopher Tate summarized five Board cases three of which were affirmed and two reversed by the Appellate Division.
- The cases summarized were:
 - i. Matter of Upham, 132 AD3d 1221 decided October 29, 2015. Affirmed
 - ii. Matter of Connerton, 132 AD3d 1210, decided on October 29, 2015, reversed.
 - iii. Matter of Suchocki, 132 AD3d 1222, decided October 29, 2015, affirmed.
 - iv. Matter of Brown, 133 AD3d 1146, decided on November, 252015, reversed.
 - v. Matter of Mitchum, 133 AD3d 1156, decided on November 25, 2015, affirmed.
- Chair Reilly thanked Principal Judge Christopher Tate for the summary and his work.
- Member Randall Douglas also thanked Judge Tate for readily assisting him and answering his questions on many occasions. He thanked him for being his “go to” person.

7. Chair Reilly called for a motion to adjourn to an Executive Session at 11:40AM

- Member Friedman so moved. No one opposed.

8. Chair Reilly entertained motion to return to the public session at 12:06 PM

- Member Alesi moved to return to public session and Member Douglas seconded
- Approved

9. Chair Reilly asked for any new business and hearing none entertained a motion to adjourn
 - Board Member Alesi made a motion to adjourn
 - Board Member Douglas seconded the motion
 - Unanimous vote to adjourn at 12:15 pm

Submitted by: Susan Borenstein, January 15, 2016