

**FEDERAL LABOR RELATIONS AUTHORITY  
WASHINGTON, D.C.**

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**U.S. DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**(Agency)**

**AND**

**NATIONAL ASSOCIATION OF IMMIGRATION JUDGES  
INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL  
ENGINEERS JUDICIAL COUNCIL 2**

**(Union)**

**No. WA-RP-19-0067-REC**

**AGENCY'S WITHDRAWAL OF  
REPRESENTATION PETITION**

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The U.S. Department of Justice, Executive Office for Immigration Review (Agency) respectfully submits this withdrawal of the Representation Petition. Because this filing is not expressly authorized by the regulations of the Federal Labor Relations Authority (Authority), it is accompanied by a separate request for leave to submit same under 5 C.F.R. §§ 2424.27 and 2429.26.

## I. Procedural Background

On or about August 9, 2019, the Agency filed the Representation Petition herein with the FLRA Washington Regional Director seeking unit clarification and a determination that the bargaining unit of Immigration Judges was inappropriate because IJs are management officials under 5 U.S.C. § 7103(a)(11). In its “Decision and Order on Review” dated November 2, 2020, the Authority ruled that the Agency’s Immigration Judges are management officials under the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7101, *et seq.* On November 17, 2020, Respondent filed its Motion for Reconsideration.<sup>1</sup> On November 24, 2020, the Agency filed its opposition to the Motion for Reconsideration. On June 21, 2020, the Respondent filed its Motion for Leave, Motion for Remand and for Stay. On June 25, 2021, the Agency withdrew its Opposition to the Respondent’s Motion for Reconsideration, and with respect to Respondent’s Motion for Leave, Motion for Remand and for Stay, the Agency stated that it did not oppose remand.<sup>2</sup>

## II. Withdrawal of Representation Petition

The Agency’s Representation Petition, which sought clarification regarding the appropriateness of the IJs’ bargaining unit status, was supportable given the prior Administration’s policy views and existing legal authorities. However, in light of the Executive Order on Worker Organizing and Empowerment (EO) dated April 26, 2021, the Agency has revisited its position. In support of the Administration and its EO, the Agency respectfully withdraws its Representation Petition. In the meantime, unless and until the FLRA rules

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<sup>1</sup> *Amicus curiae* briefs in support of Respondent’s Motion for Reconsideration were filed by the Association of Administrative Law Judges, International Federation of Professional Employees, AFL-CIO, on November 16, 2020, and the American Federation of Government Employees, AFL-CIO, on December 15, 2020. The Agency filed an opposition to the Association of Administrative Law Judges’ *amicus* brief on November 24, 2020.

<sup>2</sup> The Agency also respectfully withdrew its opposition to the *amicus curiae* brief filed by the Association of Administrative Law Judges.

otherwise, the Agency will continue to abide by the FLRA's decision that Immigration Judges are management officials.

Respectfully submitted,

Date: July 19, 2021

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STATEMENT OF SERVICE

This is to certify in accordance with 5 C.F.R. § 2422.4 and § 2429.27 that this Agency's Withdrawal of Representation Petition was served on July 19, 2021, via electronic mail (as indicated) and first class mail, postage prepaid, on the following recipients:

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