

To: MSPB Washington Regional Office
Fr: David W. Noble, Jr.
Re: Dkt. No. DC-0752-11-0880-I-1
Dt: November 2, 2011
By fax: 703-756-7112

Attached for filing are *Offers of Proof as to Witnesses Clark, Batista, Williams, Seawright, and Maddox*, and a certificate of service.

cc: Stephen W. Furgeson

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Offers of Proof as to Witnesses Clark, Batista, Williams, Seawright, and Maddox.

I, David W. Noble, Jr., make this declaration based on personal knowledge:

Randy Williams

1. The Postal Service has been blocking my access to the grievance procedure more or less continuously since December 2007. Since then I have twice filed unfair labor practice charges with the National Labor Relations Board ("NLRB") concerning the blocking. The NLRB twice issued complaint against the Postal Service for the blocking, and the NLRB and the Postal Service twice agreed to settlements concerning the blocking. Those settlements both included a requirement that the Postal Service post multiple notices in Zone 20016, where I work, in which the Postal Service promised to stop the blocking. The second notice was required by a *Consent Order* of the United States Court of Appeals for the District of Columbia Circuit.

2. The Postal Service's blocking of my access to the grievance procedure has interfered with my ability to seek remedies for the Postal Service's near-constant violations of my rights under the collective bargaining agreement. Those violations include the Postal Service's without-notice cancellation of my health benefits in February or March of 2010, the Postal Service's refusal to pay me holiday leave pay for which I was eligible, the Postal Service's long delay in paying me for the leave approved in January 2011, the Postal Service's refusal to provide me with the assistance I require in order to complete my assignment within eight hours, near-continuous disrespectful treatment by supervisors and other Postal Service representatives, the Postal Service's actions in forcing me to work beyond the collective bargaining agreement's ten-hour-limit, the Postal Service's refusal to adjust my route to eight hours, and a multitude of others.

3. I have been a union representative for 21 of the 36 years I have been employed by the Postal Service. As a result of that experience, I know that processing grievances is the union's primary activity. During my 36 years of postal employment I have never before experienced (or even heard of) a situation in which the Postal Service blocked an employee's access to the grievance procedure.

4. The Postal Service's blocking of my access to the grievance procedure relates to *Douglas* Factor No. 11, "mitigating circumstances . . . such as unusual job tensions, . . . harassment, or bad faith, malice . . . on the part of others involved in the matter." It also relates to my contention that the Postal Service made my working conditions intolerable.

5. Randy Williams is a union steward in Zone 20016. He has been a letter carrier for about 30 years. If permitted to testify Williams would aver that he approached Bill French and Antonio Jones in early February of 2011 to obtain information about why I had not been paid for

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the annual and sick leave that French had approved in early January, but that both Jones and French refused to speak with him about it. French also refused to permit Williams to initiate a grievance concerning the Postal Service's refusal to pay me for the approved leave.

6. Williams' testimony shows that the Postal Service continues to block my access to the grievance procedure, even after two NLRB complaints, settlements, and postings.

7. No other witness can testify to Williams' interactions with French and Jones (except, of course, French and Jones, both of whom I expect to testify falsely).

8. I expect Williams' testimony to take less than ten minutes.

Terence Seawright

9. The Postal Service has held my route far out of adjustment for more than six years. I have never been able to complete more than half of my route in eight hours, and can usually carry only a third of it.

10. Terence Seawright is a letter carrier in Zone 20016. He has been a letter carrier for about 25 years. As part of his bid assignment he works on my bid assignment – Route 16011 – on my off-day each week. Therefore, he is familiar with my assignment. If permitted to testify Seawright would aver that he cannot complete Route 16011 in anything close to eight hours, and that on September 6, 2011 it took him and another carrier more than 16 hours to complete.

11. No other witness can testify to Seawright's experience with Route 16011.

12. Seawright would also testify that in his whole career he has never been short-paid for five holidays in a row, and that he has never had to wait for two months to be paid for approved leave.

13. Seawright's testimony relates to *Douglas Factor No. 11*, "mitigating circumstances . . . such as unusual job tensions, . . . harassment, or bad faith, malice . . . on the part of others involved in the matter." It also relates to my contention that the Postal Service made my working conditions intolerable.

14. I estimate that Seawright's testimony would take less than five minutes.

Justin Batista

15. On July 29, 2010 Sterling Colter approached me shortly after I clocked in and gave me an impossible-to-comply-with instruction concerning the timely completion of my route. After we talked for about a minute he instructed me to leave the premises because he was suspending me pursuant to Article 16, Section 7 of the collective bargaining agreement. I left the

station as directed.

16. As is customary when emergency suspensions are given pursuant to Article 16, Section 7 I waited at home for a written notice. When after a couple of days I didn't get one I started sending emails to Brandon Toatley, at that time my immediate supervisor, reminding him of my right to a written notice and asking when I would be permitted to initiate a grievance concerning the suspension. On or about August 4th Toatley emailed me and said that nobody had suspended me and that I should return to work.

17. When I returned to work Toatley held a predisciplinary interview with me, saying that I had been AWOL since July 29th because Colter had not suspended me on that date. Colter joined the interview after it began and said that I would be disciplined for being AWOL beginning on July 29th. No such discipline was ever issued, however. I was not paid for the period that I missed work from July 29th until I returned to work after Toatley's email. That was my rent money, and I (and my family) had to live on the brink of eviction for several months until I could make it up.

18. Justin Batista is a letter carrier in Zone 20016 and works at the letter case directly behind mine. If permitted, he would testify that he heard Colter tell me to clock out and leave the premises early on the morning of July 29th.

19. Colter was the concurring official on the Notice of Proposed Removal issued to me on April 28, 2011.

20. Batista's testimony relates to *Douglas* Factor No. 11, "mitigating circumstances . . . such as unusual job tensions, . . . harassment, or bad faith, malice . . . on the part of others involved in the matter," and relates to my contention that the Postal Service made my working conditions intolerable. It also relates to Colter's credibility.

21. I estimate that Batista's testimony would take less than five minutes.

Chester Maddox

22. From May 2010 through December 2010 I brought back undelivered mail to the station every day that I worked, usually amounting to about two-thirds of my route..

23. On or about the afternoon of August 12, 2010 Chester Maddox and Sterling Colter came out to my route. Maddox was at that time an acting supervisor and Colter was the acting manager of Zone 20016. Colter approached me and asked how I was doing. I said that I was doing fine, and that I was trying to figure out how much undelivered mail I would have to bring back to the station. Colter, in front of Maddox and members of the public, then repeatedly shouted at me: "IF YOU BRING MAIL BACK TO THE STATION I WILL HAVE YOUR JOB BECAUSE I WILL NOT TOLERATE DELAY OF MAIL."

24. Colter made threats to me on other occasions, including on the morning of August 12, 2010.

25. Maddox would testify as to Colter's shouted threats on or about the afternoon of August 12, 2010.

26. Except for Colter and me, Maddox is the only person who can testify as to Colter's shouted threats on or about the afternoon of August 12th. I expect Colter to testify falsely.

27. Maddox's testimony relates to *Douglas Factor No. 11*, "mitigating circumstances . . . such as unusual job tensions, . . . harassment, or bad faith, malice . . . on the part of others involved in the matter," and relates to my contention that the Postal Service made my working conditions intolerable. It also relates to Colter's credibility.

28. I estimate that Maddox's testimony would take less than five minutes.

Chuck Clark

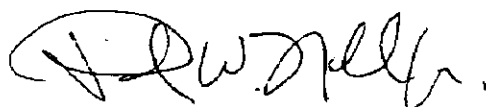
29. For the past several years the agency and the union have jointly adjusted city letter carrier routes.

30. Chuck Clark is the Vice President of the Rockville, Maryland branch of the union. As the result of an appointment by the national union president, he has also been one of the union representatives involved in the adjustment of letter carrier routes. In that capacity he has participated in at least hundreds of adjustments.

31. If permitted to testify, Clark would describe the procedure used to adjust letter carrier routes. He would also testify that it is not possible to make an adjustment of a route using the materials the agency provided to me during discovery.

32. I estimate that Clark's testimony would take less than 30 minutes.

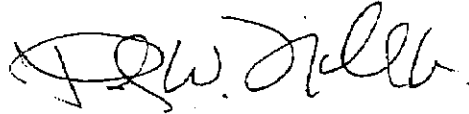
I declare under penalty of perjury that the foregoing is true and correct. Executed on November 2, 2011.



David W. Noble, Jr.

Certificate of Service

I certify that I sent on November 2, 2011 *Offers of Proof as to Witnesses Clark, Batista, Williams, Seawright, and Maddox* by facsimile transmission to Stephen W. Furgeson at 301.955-0701 and to the Honorable Daniel Madden Turbitt at the MSPB Washington Regional Office at 703.756-7112.



David W. Noble, Jr.