

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

---

## CHAIRMAN'S LETTER

**NOVEMBER 14, 2012**

The National Mediation Board (NMB) is an independent federal agency charged with collective-bargaining, representation and grievance disputes in two of the nation's key transportation sectors: the railroads and airlines. The agency is headed by a three-member board, nominated by the President and confirmed by the Senate.

Much of the agency's Representation work during FY 2012 involved taking steps to implement amendments made to the Railway Labor Act by the Federal Aviation Administration Modernization and Reform Act of 2012. A public hearing was held in June, 2012, and comments were accepted until August 6, 2012. The Office of Representation Services continued to process investigations and elections in a timely manner, and provided legal assistance to President Obama's Presidential Emergency Board, noted below.

In the face of extraordinary circumstances, the Office of Mediation Services has continued to manage mediation and alternative dispute resolution cases well within the agency's performance targets. Complex merger and bankruptcy situations involving some of the nation's largest airlines have made work with the airlines challenging, and the railroads' national handling of collective bargaining offered another challenge. In cases involving the five largest U.S. railroads and numerous short-line and regional railroads, President Obama named a Presidential Emergency Board, the actions of which led to agreements, avoiding critical and widespread railroad-service interruptions. All of these challenges notwithstanding, the NMB Mediation staff closed 46 cases in FY 2012, the highest number since FY 2007.

The agency's Arbitration department continued to implement processes and technologies aimed at reducing the number of aged cases. In this regard Grievance Mediation was actively promoted and successfully utilized as an alternative to arbitration. FY 2012 saw the full implementation of the online Arbitrator Workspace, creating an easy-to-access portal for the arbitrators and the parties, and bringing the NMB into compliance with GAO determinations regarding arbitration case management. Arbitration cases pending at the end of FY 2012 were the fewest in NMB history.

During FY 2012, key and on-going areas of administrative improvement included NMB hiring and new-hire verification procedures; moving the agency's information-technology operations to Internet-based facilities; and moving to a newer and more robust budget and accounting system.

This Performance and Accountability Report includes a comprehensive set of performance Goals and Results pursuant to the Government Performance and Results Act. Also incorporated, as required, are the NMB Financial and Management Assurances reports. Because the NMB is not subject to the CFO Act, this Annual Report may not contain some of the information required of CFO Act agencies.



**HARRY R. HOGLANDER**  
Chairman

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

---

## TABLE OF CONTENTS

### ABOUT THE NMB

---

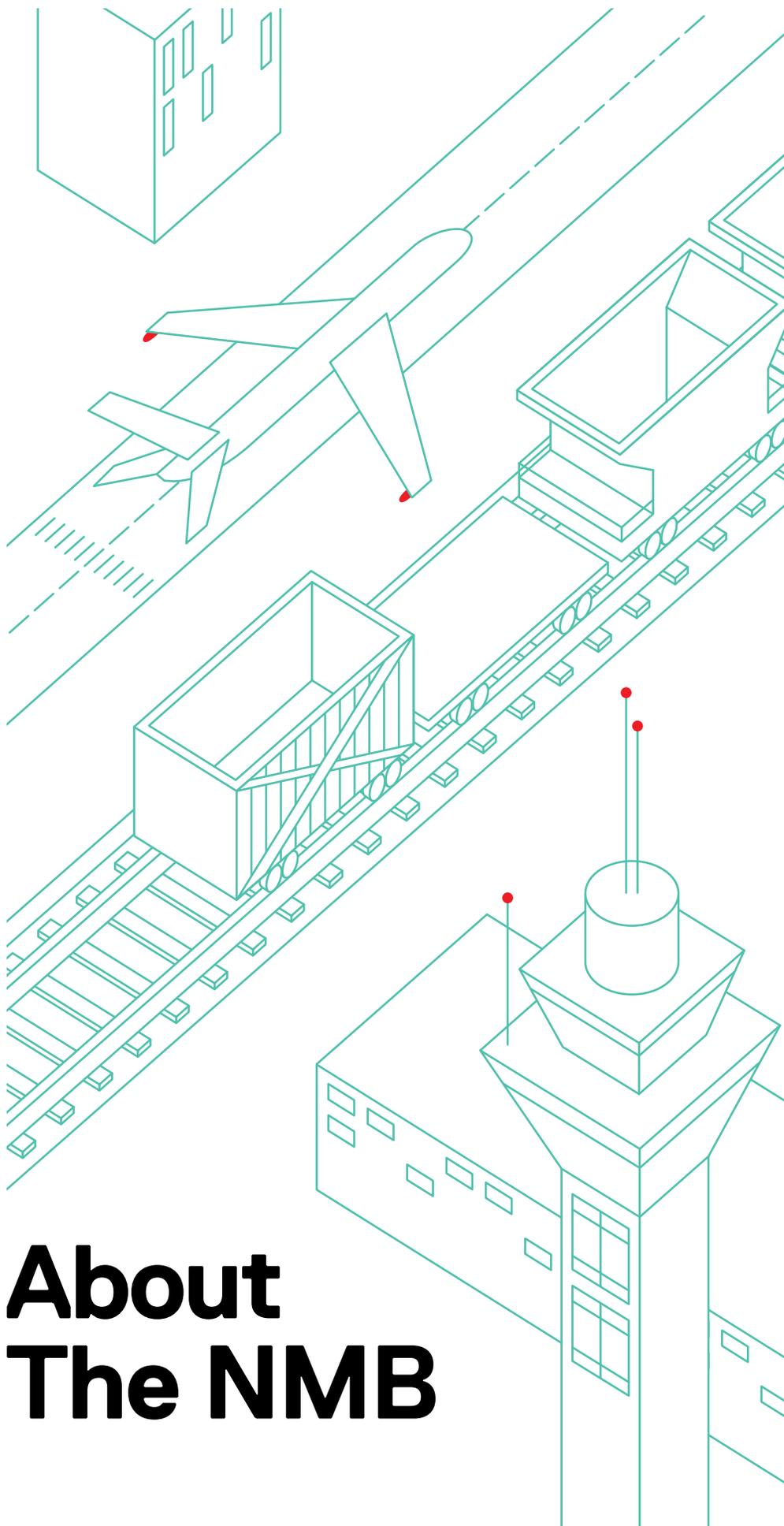
2

---

<b>03</b>	<b>ABOUT THE NMB</b>
04	Mission Statement
05	NMB Structure
06	Board Members and Directors
11	Registry of Board Members
<b>12</b>	<b>MANAGEMENT DISCUSSION &amp; ANALYSIS</b>
13	Chief of Staff Letter
14	Mediation and ADR
23	Arbitration
29	Administration
32	Performance Plan and Results
<b>36</b>	<b>REPRESENTATION &amp; PEBS</b>
38	Representation
44	Presidential Emergency Boards
<b>46</b>	<b>FINANCIAL REPORTS &amp; MANAGEMENT ASSURANCES</b>
47	CFO Letter
47	Audit Reports
52	Financial Statements
65	Management Assurances
<b>70</b>	<b>RAILROAD GRIEVANCE ARBITRATION</b>
71	NRAB Members and Referees
72	Section 3 Tribunals
75	Online Arbitration Reports
<b>76</b>	<b>SUPPORTING REPORTS &amp; TABLES</b>
77	Case Tables
86	Case Record
96	Glossary
100	Acronyms

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012



- 
- 04 MISSION STATEMENT
  - 05 NMB STRUCTURE
  - 06 BOARD MEMBERS AND DIRECTORS
  - 11 REGISTRY OF BOARD MEMBERS

# About The NMB

## MISSION STATEMENT

The National Mediation Board (NMB) was established by the 1934 amendments to the Railway Labor Act (RLA) of 1926. It is an independent, federal agency performing a central role in facilitating harmonious labor-management relations within two of the nation's key transportation sectors: the railroads and airlines.

The NMB is headed by a three-member board nominated by the President and confirmed by the Senate. The members self-designate a Chairman typically on a yearly basis.

Pursuant to the Railway Labor Act\*, the Agency's integrated dispute-resolution processes are designed to promote the following three statutory goals, enabling the National Mediation Board to effect its mandate to minimize work stoppages in the railroad and airline industries:

- 01 The resolution of disputes arising out of the negotiation of new or revised collective bargaining agreements;
- 02 The effectuation of employee rights of self-organization where a representation dispute exists; and
- 03 The resolution of disputes over the interpretation or application of existing collective bargaining agreements.

In order to realize these goals, the NMB Chief of Staff oversees an Office of Administration and two offices that house program areas: (1) Office of Mediation and ADR Services, and (2) Office of Arbitration Services. The Office of Legal Affairs constitutes the third program area. For further information, see the Management Discussion and Analysis section of this Annual Report.

### \*THE RAILWAY LABOR ACT

The Railway Labor Act (RLA) provides a comprehensive statutory framework for the resolution of labor-management disputes in the airline and railroad industries. Enacted in 1926 as a collaborative effort of labor and management, the RLA succeeded several previous federal statutes dating back to 1888. The 1926 Act provided for mandatory Mediation and voluntary Arbitration of railroad disputes in contract negotiations, as well as for Presidential Emergency Boards to enhance dispute resolution. Key amendments to the Act in 1934 established a three-member National Mediation Board (NMB) and authorized the resolution of employee Representation disputes by the NMB. In 1936, the jurisdiction of the RLA was expanded to include the airline industry. The 1981 amendment to the Act permitted the creation of specialized Presidential Emergency Boards for collective bargaining disputes at certain commuter railroads.

**NOTE** A complete list of acronyms is given at the back of this Annual Report.

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

## NMB STRUCTURE

### ABOUT THE NMB

### MEMBERS OF THE BOARD

Harry Hoglander <sup>I</sup> <b>CHAIRMAN</b>	Linda Puchala <sup>II</sup> <b>MEMBER</b>	Elizabeth Dougherty <sup>III</sup> <b>MEMBER</b>
Robin Stein <b>CA TO CHAIRMAN HOGLANDER</b>	Libby Angelopoulos <b>CA TO MEMBER PUCHALA</b>	Layton Griffin <sup>IV</sup> <b>CA TO MEMBER DOUGHERTY</b>

### CHIEF OF STAFF

Daniel Rainey  
**CHIEF OF STAFF**

Samantha Williams  
**SPECIAL ASSISTANT TO COS**

Donald West  
**PUBLIC INFORMATION OFFICER**

Charles Montague  
**SUPERVISORY PROGRAM ANALYST**

Dean Wagner  
**PROGRAM ANALYST**

Interns<sup>V</sup>

### GENERAL COUNSEL

Mary Johnson  
**GENERAL COUNSEL**

### OFFICE OF ARBITRATION SERVICES

Roland Watkins  
**DIRECTOR**

**SUPERVISORY  
ARBITRATION  
SPECIALIST**  
Carol Conrad

**PARALEGAL  
SPECIALIST**  
Darrell Dancer

**PROGRAM  
MANAGEMENT  
SPECIALIST (ARB)**  
Tia Little

**PROGRAM  
MANAGEMENT  
ASSISTANTS (ARB)**  
Kimberly McCann  
Linda Gathings

### OFFICE OF MEDIATION AND ADR SERVICES

Larry Gibbons  
**DIRECTOR**

**SENIOR  
MEDIATORS**  
Pat Sims  
Terri Brown

**SENIOR MEDIATOR  
(ADR)**  
Denise Hedges

**MEDIATORS**  
Jack Kane  
John Livingood  
Anthony Tosi  
Gerry McGuckin  
James Mackenzie  
Victoria Gray  
C. Anthony Iannone<sup>VI</sup>  
Michael Kelliher  
Walter Darr  
Andrew Nordgren

**MEDIATOR (ADR)**  
LoValerie Mullins

**PROGRAM  
ANALYST**  
April Dawson

**MEDIATION  
PROGRAM  
SPECIALIST**  
Karen Burton

### OFFICE OF ADMINISTRATION

June D.W. King  
**DIRECTOR**

**SUPERVISORY  
ADMIN & MGT.  
SPECIALIST**  
Michael Alston<sup>VII</sup>

**PROGRAM &  
MANAGEMENT  
ANALYST**  
Denise Murdock

**BUDGET &  
FINANCIAL  
ANALYST**  
Eric Johnson<sup>VIII</sup>

**SUPPORT SERVICE  
SPECIALISTS**  
Bruce Conward, Jr.  
Terran Walker

**RECEPTIONIST**  
Florine Kellogg

### OFFICE OF LEGAL AFFAIRS

Kate Dowling  
**ASSOCIATE GC**

**COUNSEL**  
Norman Graber  
Eileen Hennessey  
Susanna Parker  
Cristina Bonaca  
Angela Heverling

**PROGRAM  
SUPPORT  
SPECIALISTS**  
Nikisha McKinney<sup>IX</sup>  
Tonya Kirksey  
Elijah Crayton

<sup>I</sup> Became Chairman on July 1, 2012.

<sup>II</sup> Served as Chairman in this fiscal year through June 30, 2012.

<sup>III</sup> Left agency on June 2, 2012; position vacant.

<sup>IV</sup> Left the agency on June 2, 2012; position vacant.

<sup>V</sup> Katherine Whitson, Lalana Gunaratne.

<sup>VI</sup> Left the agency on January 31, 2012; position vacant.

<sup>VII</sup> Joined NMB on January 1, 2012; replaced Amandeus Watkins.

<sup>VIII</sup> Joined NMB on September 23, 2012; replaced Stephen Thomas.

<sup>IX</sup> Joined NMB on August 26, 2012; replaced Timothy Sweeney.

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

## BOARD MEMBERS

**HARRY HOGLANDER**  
Chairman



Chairman Hoglander was first confirmed as member of the NMB by the United States Senate on August 1, 2002, reconfirmed for a second term on December 8, 2006, and a third term on July 24, 2009. He has been named four times as Chairman of the Board, most recently from July 1, 2012 through June 30, 2013.

Prior to joining the Board, Mr. Hoglander served as a Legislative Specialist in the office of Congressman John Tierney of Massachusetts with responsibilities in Transportation issues including aviation, rail and maritime, Labor, Defense and Veterans Affairs.

Chairman Hoglander has an extensive background in the aviation industry and labor relations, having flown as a Captain for Trans World Airline (TWA) and being elected Master Chairman of TWA's Master Executive Council. He was also elected Executive Vice-President of the Air Line Pilots Association. After leaving TWA, Mr. Hoglander was named Aviation Labor Representative to the United States Bi-Lateral Negotiating Team by then Secretary of State James Baker.

Mr. Hoglander was also a pilot in the United States Air Force, retiring with the rank of Lt. Colonel. He graduated from Suffolk University Law School and is a member of the Florida Bar.

Mr. Hoglander and his wife Judith reside in Magnolia, Massachusetts. They have six grown children and twelve grandchildren.

**LINDA PUCHALA**  
Member



Nominated by President Barack Obama, Ms. Linda A. Puchala was confirmed as Member of the National Mediation Board by the United States Senate on May 21, 2009. She was sworn in on May 26, 2009, completing the term of her predecessor as Chairman through June 30, 2009. She most recently served as Chairman from July 1, 2011 through June 30, 2012.

Prior to becoming a Member, Ms. Puchala served 10 years at the National Mediation Board as a Mediator, Sr. Mediator(ADR) and the Associate Director of Alternative Dispute Resolution Services. Ms. Puchala's prior labor relations experience includes work as International President of the Association of Flight Attendants-CWA, AFL-CIO and Staff Director, Michigan State Employees Association, AFSCME, AFL-CIO.

Ms. Puchala resides in Glen Burnie, Maryland, and holds a Bachelor's degree in Business Administration from Cleary University in Howell, Michigan. She has two daughters, Jennifer Adams and Jessica Puchala.

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

**ELIZABETH DOUGHERTY**  
Member

ABOUT THE NMB

---

7

---



Ms. Elizabeth Dougherty, resigned from the agency on June 2, 2012. She had been a Member of the National Mediation Board (NMB) since December 13, 2006, and twice served as Chairman: from July 1, 2009 through June 30, 2010 and also from December 13, 2006 through June 30, 2007. She was nominated by President George W. Bush and subsequently confirmed by the U.S. Senate on December 8, 2006.

Prior to joining the Board, Ms. Dougherty had served as Special Assistant to the President for Domestic Policy at the White House, where she covered labor and transportation issues. Prior to that, she served as Chief Counsel for the United States Senate Subcommittee on Employment, Safety and Training. Earlier in her career, she was an Associate at Hogan & Hartson, practicing labor and employment law.

Ms. Dougherty received her bachelor's degree from Duke University and her JD from the University of Virginia. She currently resides in Washington, DC, with her husband, Paul, and their two children.

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

## EXECUTIVE DIRECTORS

### DANIEL RAINEY

Chief of Staff



Daniel Rainey is the Chief of Staff for the National Mediation Board. He joined the NMB from private practice in ADR and conflict management in April, 2001.

As Chief of Staff, he is responsible for managing the agency's internal programs, and he has full responsibility for implementing the Board's policies in all matters coming under its jurisdiction in the administration of the Railway Labor Act, except for those related to the Board's legal representation program and FOIA requests.

Immediately prior to coming to the NMB, Mr. Rainey was the owner/president of a consulting firm specializing in conflict management, conflict intervention, and training. From 1978 through 1990, he was a faculty member and administrative faculty member at George Mason University.

His memberships and associations include: the Association for Conflict Resolution, the American Bar Association Section of Dispute Resolution, the National Center for Technology and Dispute Resolution, and the Conflict Resolution Quarterly Editorial Board.

### MARY JOHNSON

General Counsel



Mary L. Johnson is General Counsel of the National Mediation Board. As General Counsel, she serves as the Chief Legal Officer of the agency and manages the Board's representation program and a legal program which includes litigation. In this role, Ms. Johnson provides legal advice to the Board Members and agency staff. In addition, she ensures compliance with the Freedom of Information Act, Government in the Sunshine Act, and other statutes.

Ms. Johnson received her Juris Doctor from the University of Connecticut School of Law and her A.B. from Barnard College. She is a member of the Connecticut Bar and public Co-chair of the Railroad and Airline Labor Committee of the Labor and Employment Law Section of the American Bar Association.

## DIRECTORS

### ROLAND WATKINS

Director, Office of  
Arbitration Services



Roland Watkins joined the National Mediation Board in February, 1980. During his career at the Board, he has been a Senior Hearing Officer and Legal Counsel. He has also served as counsel/special assistant to numerous Presidential Emergency Boards and Congressional Advisory Boards.

Currently, Mr. Watkins serves as the Director of Arbitration Services, responsible for all aspects of Grievance and Interest Arbitration in the airline and railroad industries. These responsibilities include administering railroad Public Law Boards, Special Boards of Adjustment and Arbitration Boards. He serves as the Administrator for the National Railroad Adjustment Board which is located in Chicago, Illinois.

Mr. Watkins received his B.A. degree in Economics from Lafayette College located in Easton, Pennsylvania, and his Juris Doctor from Cornell Law School in Ithaca, New York. He is a member of the Railroad and Airline Labor Committee and the Dispute Resolution Committee of the Labor and Employment Law Section of the American Bar Association.

### LARRY GIBBONS

Director, Office of Mediation  
and ADR Services



Larry Gibbons joined the Board in September, 1997 as a Senior Mediator. Currently, Mr. Gibbons is the Director of Mediation and ADR Services and has overall responsibility for the administration and management of mediation cases in the airline and railroad industries as well as the Agency's Alternate Dispute Resolution Program.

Mr. Gibbons brought to the Board 25 years of experience in personnel and labor relations, practicing under both the NLRA and RLA. Immediately prior to joining the NMB, he headed Human Resources and Labor Relations with ABX Air, Inc. (Airborne Express) for 12 years and for two years was an independent labor relations consultant. He is a past President and Member of the AIRCON Executive Board. Mr. Gibbons was also actively involved in community activities including serving on a Board of Directors for the United Way and an Adult Rehabilitation Workshop.

Mr. Gibbons earned a Bachelor of Science degree in Journalism from Ohio University, and he served as an officer in the United States Army.

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

**JUNE D.W. KING**  
Director, Office of  
Administration

ABOUT THE NMB

---

10

---



June D.W. King is currently the Director of Administration (OA) and Chief Information Officer (CIO) for the National Mediation Board. As the Director OA, she is responsible for the Board's administrative management functions, which include strategic planning and budgeting; accounting and finance; human resources management; procurement and contracting; and internal audit and evaluation. As the CIO, she has direct authority for the NMB's policies and practices of the Board's Information Technology Program.

She serves as the NMB's principal management official on all the Small Agency Councils Executive Committee. She is a member of all the small agency councils in all the areas within overall responsibility.

Mrs. King received her Bachelor's degree in Business Administration with a concentration in Accounting from the University of the District of Columbia.

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

## REGISTRY OF BOARD MEMBERS

### ABOUT THE NMB

11

NAME	START DATE	STATUS	END DATE
Linda A. Puchala	05-26-09	Active <sup>1</sup>	—
Elizabeth Dougherty	12-13-06	Resigned <sup>2</sup>	06-02-12
Read Van de Water	12-11-03	Term Expired	05-22-09
Harry R. Hoglander	08-06-02	Active <sup>3</sup>	—
Edward J. Fitzmaurice, Jr.	08-02-02	Term Expired	12-13-06
Francis J. Duggan	11-22-99	Retired	11-21-03
Magdalena G. Jacobsen	12-01-93	Retired	08-02-02
Ernest W. DuBester	11-15-93	Resigned	08-01-01
Kenneth B. Hipp	05-19-95	Resigned	12-31-98
Kimberly A. Madigan	08-20-90	Resigned	11-30-93
Patrick J. Cleary	12-04-89	Resigned	01-31-95
Joshua M. Javits	01-19-88	Resigned	11-14-93
Charles L. Woods	01-09-86	Resigned	01-15-88
Helen M. Witt	11-18-83	Resigned	09-18-88
Walter C. Wallace	10-12-82	Term Expired	07-01-90
Robert J. Brown	08-20-79	Resigned	06-01-82
Robert O. Harris	08-03-77	Resigned	07-31-84
Kay McMurray	10-05-72	Term Expired	07-01-77
Peter C. Benedict	08-09-71	Deceased	04-12-72
David H. Stowe	12-10-70	Retired	07-01-79
George S. Ives	09-19-69	Retired	09-01-81
Howard G. Gamser	03-11-63	Resigned	05-31-69
Robert O. Boyd	12-28-53	Resigned	10-14-62
Leverett Edwards	04-21-50	Resigned	07-31-70
John Thad Scott, Jr.	03-05-48	Resigned	07-31-53
Francis A. O'Neill, Jr.	04-01-47	Resigned	04-30-71
Frank P. Douglass	07-03-44	Resigned	03-01-50
William M. Leiserson	03-01-43	Resigned	05-31-44
Harry H. Schwartz	02-26-43	Term Expired	01-31-47
David J. Lewis	06-03-39	Resigned	02-05-43
George A. Cook	01-07-38	Resigned	08-01-46
Otto S. Beyer	02-11-36	Resigned	02-11-43
John M. Carmody	07-21-34	Resigned	09-30-35
James W. Carmalt	07-21-34	Deceased	12-02-37
William M. Leiserson	07-21-34	Resigned	05-31-39

<sup>1</sup> Term expired July 1, 2012.

<sup>2</sup> Term expired July 1, 2010.

<sup>3</sup> Term expired July 1, 2011.