CASE DIGEST: *U.S. DHS, U.S. CBP, El Paso, Tex.*, 71 FLRA 49 (2019) (Member DuBester dissenting)

This case concerned the Union's motion asking the Authority to reconsider its decision in *U.S. DHS, U.S. CBP, El Paso, Texas*, 70 FLRA 501 (2018) (*DHS I*) (Member DuBester dissenting). In *DHS I*, the Authority overturned precedent holding that there is no substantive difference between the terms "conditions of employment" and "working conditions," as used in 5 U.S.C. § 7103(a)(14). Specifically, the Authority found that those different terms – one of which Congress used to define the other – cannot mean the same thing.

In the motion, the Union argued that the Authority misapplied the U.S. Supreme Court's decision in *Fort Stewart Schools v. FLRA*, 495 U.S. 641 (1990) (*Fort Stewart*). However, the Authority stated that it based its conclusion in *DHS I* on the plain wording of § 7103(a)(14) – not *Fort Stewart*. Moreover, the Authority noted that in *Fort Stewart* the Court recognized that "conditions of employment" and "working conditions" *are* susceptible to distinct interpretations. Thus, the Union's motion failed to establish extraordinary circumstances warranting reconsideration of *DHS I*, and the Authority denied it.

Member DuBester dissented, asserting that he would have granted the motion for the reasons expressed in his dissent in *DHS I*.