

CASE DIGEST: *U.S. Marine Corps, Marine Corps Air Ground Combat Ctr., Twentynine Palms, Cal.*, 74 FLRA 541 (2026) (Member Wagner dissenting)

The Arbitrator issued an award sustaining a grievance, and the Agency filed exceptions (the arbitration exceptions). President Trump issued Executive Order 14251 (EO 14251) excluding the Agency from the coverage of the Federal Service Labor-Management Relations Statute (the Statute), based on his determinations that (1) the Agency has as a primary function intelligence, counterintelligence, investigative, or national-security work, and (2) the Statute cannot be applied to the Agency in a manner consistent with national-security requirements and considerations. In response to an Authority order, the Agency stated that EO 14251 applied to it and, consequently, deprived the Authority of jurisdiction over the arbitration exceptions. The Union did not file a reply and, thus, did not provide any reasons why EO 14251 did not apply.

Separate from the Authority's proceedings, six unions filed a complaint in the Northern District of California seeking to enjoin EO 14251, and the District Court issued an injunction. During the early stages of that external litigation, the Authority placed the arbitration exceptions in abeyance. Later, the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) vacated the injunction, finding the six unions were unlikely to succeed on the merits of their challenge. As the parties before the Authority were located within the Ninth Circuit's jurisdiction, and because neither party was currently involved in any other litigation in which that party challenged EO 14251 or its implementation, the Authority took the case out of abeyance and dismissed the arbitration exceptions for lack of jurisdiction, based on EO 14251.

Member Wagner dissented, stating that she believed the most prudent course of action is to keep cases covered by EO 14251, as amended by Executive Order 14343, in abeyance until the litigation over those orders reaches a definitive conclusion – including any actions by the U.S. Supreme Court. She noted that, in doing so, she expressed no view on the merits of the executive orders or how the majority applied them in this case.

This case digest is a summary of an order issued by the Federal Labor Relations Authority, with a short description of the issues and facts of the case. Descriptions contained in this case digest are for informational purposes only, do not constitute legal precedent, and are not intended to be a substitute for the opinion of the Authority.