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Official's Lawsuit Claims Discrimination Against Men at U.S. Immigration Agency

By **KIRK SEMPLE**

A discrimination and retaliation lawsuit has embroiled the upper reaches of the federal government's [immigration](#) enforcement agency, contributing to a sense of turmoil in a bureaucracy that has been suffering major labor conflicts between senior officials and employees.

The lawsuit, filed by a top federal immigration official in New York, alleges that he was shunted out of a high-level position in the agency in favor of a less-qualified woman because he was a man.

The official, James T. Hayes Jr., also accuses the agency's chief of staff, Suzanne Barr, of "sexually offensive behavior" that contributed to a discriminatory work environment for male employees.

Last week, Ms. Barr stepped down from her post and voluntarily left the agency on paid leave pending the outcome of an internal review of the misconduct allegations, a spokesman said.

The charges by Mr. Hayes have added to a sense of unrest in the agency, [Immigration and Customs Enforcement](#), an arm of the [Department of Homeland Security](#).

The union that organizes more than 7,000 enforcement agents, the [National ICE Council](#), has been openly critical of the leadership of the agency's director, John Morton, and resistant to policy changes he has introduced. The head of the union has accused Mr. Morton, who was appointed in 2009, of failing to consult with agents in the field about the effect of the new policies.

Last week the union posted a [petition](#) on its Web site asking for public support for ICE officers who are "upholding the law." As of Tuesday morning it had more than 55,000 [signatures](#)

The discrimination lawsuit, which names [Janet Napolitano](#), the Homeland Security secretary, as the sole defendant, was filed in May by Mr. Hayes, special agent in charge of immigration at the agency's New York office.



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In the lawsuit, Mr. Hayes claims he was shoved out of a senior-level management position to make way for a less-qualified woman and then suffered retaliation when he threatened to file a discrimination complaint.

In addition, he accuses Ms. Barr of contributing to a sexualized office culture hostile to men.

Ms. Barr, the lawsuit alleges, “created a frat house-type atmosphere that is targeted to humiliate and intimidate male employees.”

Men make up a majority of the leadership at ICE.

Mr. Hayes’s lawyer, Morris Eli Fischer, said other ICE employees had filed affidavits in support of Mr. Hayes’s lawsuit, also alleging inappropriate behavior by Ms. Barr. Until Mr. Hayes’s lawsuit, however, no employee had filed a sexual harassment complaint against Ms. Barr, said a federal official who requested anonymity because he was not authorized to speak on the record about the case.

Mr. Hayes first accused the agency of discrimination last year in a formal complaint to its Equal Employment Opportunity office, according to court documents. That complaint, however, did not include any sexual harassment allegations.

Brian Hale, director of public affairs for ICE, said the agency “will respond directly and strongly to this lawsuit in court.” He added that the misconduct allegations were referred to internal affairs investigators at Homeland Security and ICE.

Federal lawyers filed a motion last week to dismiss the lawsuit on grounds that it failed to present sufficient facts to justify the claims.

Mr. Hayes began his federal career in 1995 as a border patrol agent in Texas and quickly ascended the ranks of the federal immigration bureaucracy. In September 2008, he was promoted to head the agency’s detention and removal operations, managing a staff of 8,500 and a budget of about \$2.5 billion, according to the lawsuit.

But Mr. Hayes contends that he was soon supplanted in meetings by Dora B. Schriro, who was appointed in February 2009 as a special adviser to Ms. Napolitano for detention and removal operations.

Mr. Hayes contends that he was “being replaced in his duties” in part because “he was not female,” according to the lawsuit, which was filed in the United States District Court for the District of Columbia.

Mr. Hayes claims that Ms. Schriro was unqualified for the job because she lacked federal law enforcement experience. Ms. Schriro had previously served as head of both Missouri's and Arizona's correction departments. She left Homeland Security in 2009 and is currently the commissioner of the New York City Department of Correction.

Mr. Hayes sought a transfer to Los Angeles, the lawsuit contends, but his request was denied.

When he threatened to file an internal discrimination complaint, the lawsuit says, the agency opened four misconduct investigations against him and reopened two others "to intimidate him," the lawsuit says.

He was eventually transferred to New York in late 2009 "at a substantial financial loss," he claims, and is suing to recover \$335,000 in moving costs, unpaid relocation bonuses and lost wages. Mr. Hayes, Ms. Barr nor Ms. Schriro could be reached for comment, though a spokesman for Mayor Michael R. Bloomberg said in a statement that Ms. Schriro's appointment at ICE was "based on merit."

Julia Preston contributed reporting.