

STATEMENT OF THE FACTS

The ALJ cited in her Recommended Decision and Order.... "I also note that on August 26, 1999, the parties participated in a hearing on the issue of the Claimant's dismissal before a Hearing Examiner hired by the Board of School Commissioners, who made a recommendation to the Board. At the hearing, the Claimant and Respondent presented evidence and examined witnesses. The transcript of this hearing was submitted by the Claimant as CX 281, and testimony from this hearing, referred as the "dismissal hearing," is cited frequently in this opinion. In addition, the exhibits submitted at this hearing by the Claimant as CX 278 and CX 279." (ALJ. Decision p. 2). Likewise, the Claimant requests that the Administrative Review Board (hereinafter "ARB") allow her to rely on the testimony and the transcript of the witnesses at the dismissal hearing (which was held on the 26th and 27th of August 1999) as well as the exhibits and the Hearing Examiner's 11-page Findings of Fact, Conclusions of Law and Recommendation in presenting her rebuttal of the ALJ's recommended decision and order in her initial Brief.

The hearing before the ALJ stems from an Appeal by the Respondent of a Federal OSHA's ruling which merited the Claimant's complaint of discrimination against the Respondent. (CX 277). And according to the Federal OSHA, the ALJ's opinion, the Claimant's lengthy testimonies at both hearings, and by the substantial evidence that is in the record before the ALJ, dating from 1996 to 1999, the Claimant has been involved in numerous protected activities under the various statutes applicable to this case. (CX 7a, CX 7b, CX 8, CX 30, CX 32-CX 34, CX 82-CX 92, CX 150, CX 156-CX 158,

public and to the media about her concerns of there being lead-based paint and/or asbestos

hazards at FHHS in November of 1996. (CX281 pp. 145-165)

Further, Mr. Elam made inconsistent and erroneous statements in his testimony in

regard to the number of lead dust wipe samples that reveal lead dust on the floors,

window sills, window wells, and on the tops of lockers at FHHS that were higher than the Housing and Urban Development (hereinafter HUD) guidelines for a safe amount of lead dust on such horizontal surfaces as the floors, window sill, and window wells. Also, Mr. Elam, who claimed at the hearing before the ALJ that he was an Inspector, should have

known that 45 samples for lead dust sampling were insufficient and unacceptable sampling for a school the size of FHHS, but more importantly, Mr. Elam who also claimed that he

was a risk assessor should have known that the sampling process for lead dust wipes as

outlined by HUD guidelines or MDE guidelines require that two (2) samples per room be

taken, and for a school the size of FHHS which has at least 3 levels with at least 25 rooms

on each level (not including the basement and sub-basement at FHHS), there should have

been at least 150 lead dust wipe sample taken for this facility in order to find out just how

widespread the lead dust was throughout the facility and how many classrooms floors,

window sills, or window wells, or any other horizontal surface had lead dust levels higher than the acceptable standards by HUD or MDE. In fact, COMAR 26.16.02.03 (Code of

Maryland Regulation) states the following in reference to lead dust wipe sampling and the protocol to doing such sampling, namely that:

...(4)... "The lead paint inspector or lead paint risk assessor shall:

(a) Select dust sample locations which best characterize the potential for lead exposure within a dwelling unit and shall include areas in which any of the following conditions are identified:

(i) Deteriorating paint,

P-910

(9) The lead paint inspection contractor shall provide 24-hour advance notice to the Department that a dust will be performed. (CX 278 [Claimant Exhibit 11 pp. 1291 thru 1292 from the dismissal hearing]).

(8) If the risk reduction standard for the dust test has not been satisfied, the property owner may perform the HEPA vacuum and phosphate wash required by COMAR 26.16.01.11 in the room from which the failed dust sample was collected and retest that room in accordance with &B(4) of this regulation.

(7) If the property owner has elected to meet the risk reduction standard by passing the test for lead-contaminated but, the Department may collect, in the performance of a spot check or other investigation under Environment Article, &6-851, Annotated Code of Maryland, dust samples for laboratory analysis to confirm that the risk reduction standard has been satisfied.

(6) The lead paint inspection contractor shall submit a copy of the certificate, with a report of all inspection results, to the Department within 10 calendar days following receipt of laboratory analysis of dust samples.

(5) An accredited lead paint inspection contractor may not issue a certificate of a satisfactory lead dust inspection if any tested sample is determined to contain lead-contaminated dust.

(iii) From each room in which all windows are lead-free replacement windows, there shall be at least one dust sample taken from either a window sill or the floor.

(ii) From each room in which there is at least one window that is not a lead-free replacement window, at least two dust samples shall be taken, one of which shall be collected from the window well of a window that is not lead-free and one of which shall be from a window sill or the floor.

(i) From each room in which there is no window, at least one dust sample shall be collected from the floor.

(b) Collect at least one dust sample from each room in the dwelling unit as follows:

(iii) Activity areas for children:

(ii) Accumulations of dust or debris, or

Certainly, Mr. Elam, who claims to be an Inspector and Risk Assessor, should have recognized as an "Inspector" and "Risk Assessor" that the 45 lead dust wipe samples that were taken by the industrial hygiene company, Spotts, Stevens & McCoy, (who were hired by the Balto. City Public Schools) were insufficient and not in accordance to protocol as set by COMAR, Title 26 standards from HUD or MDE's standards; thus, the lead dust wipe sampling should have been deemed unacceptable and inaccurate by Mr. Elam and the Balto. City Public School System. Instead, Mr. Elam used the results of the 45 lead dust samples taken by Spotts, Steven & McCoy to distort the widespread distribution of lead dust throughout FHHS and to falsely state that there were only three (3) lead dust wipe samples that were above HUD's guidelines when, in fact, although the 45 lead dust wipe samples were not adequate or sufficient according to the protocol specified by COMAR, Title 26, six (6) of the 45 lead dust wipe samples were above HUD's guidelines. Also, it is highly possible that if a more efficient and accurate lead dust sampling protocol was undertaken there would have been more lead dust samples that had levels that were higher than HUD's or MDE's standards; and, thus a more accurate assessment of the amount of lead dust throughout FHHS would have been more recognizable had the proper protocol for lead dust sampling been applied. (CX 278 [Claimant Exhibit 15 from the dismissal hearing which are the lead dust wipe sampling by Spotts, Steven, and McCoy]). Consequently, Mr. Elam used the distorted, insufficient, inaccurate, and unreliable results from the 45 lead dust wipe samples of FHHS taken by Spotts, Steven, & McCoy (CX 96) to make such inconsistent, erroneous statements in his testimony. (CX 281 pp. 289-290).

Still too, Mr. Elam should have known as an Inspector and Risk Assessor that HUD requires that if there is a failure in the lead dust wipe sampling, the contractor must go back and re-clean the entire area and take more lead dust wipe samples to make sure the

f-912

lead dust on the horizontal surfaces in this re-cleaned area is below HUD's or MDE's standards before occupancy or re-occupancy of the facility; consequently there is no "election" to clean the building as testified by Mr. Elam, but the protocol to re-clean the entire area where the lead dust samples failed the lead dust test is mandated by these agencies. Also, the cleaning must be done in accordance to HUD guidelines or a more stringent protocol must be in place. And, there were more than one or two areas or "hot spots" as stated by Mr. Elam in his testimony that had tremendously high levels of lead dust on the floors, window sills, and window wells, and tops of lockers at FHHS and, consequently, needed to re-cleaned in accordance with a MDE acceptable protocol.

After further re-examination by the Claimant and the Hearing Examiner in the dismissal hearing, Mr. Jack Elam admitted in his testimony that the cleaning in July and August of 1996 in which he initially testified was performed by lead abatement contractors was really just part of the summer cleaning by the custodial staff that is done routinely at the end of the school year and was just "routine cleaning". Therefore, Mr. Elam was, again, forced to change his testimony and admit that no lead abatement contractor had been hired during the summer months of July and August of 1996 to clean up lead dust created from the the general contractor impacting lead-based painted surfaces from the major mechanical, electrical, and plumbing work during the summer of 1996. Further, Mr. Elam was coerced to testify that this "routine cleaning" by the custodial staff was not the protocol for cleaning up lead dust as required by HUD and MDE to insure a lead-safe environment for occupancy or re-occupancy of the facility, and thus the Claimant, other staff persons, pregnant females, headstart children and other students were exposed to lead dust when they entered FHHS for the 1996-1997 school year and remained exposed to lead dust until some time after the Claimant went public with her concerns about the potential

exposure of lead-based paint and/or asbestos hazards at FHHS in November of 1996.

(CX 281 pp. 291 - 294).

Moreover, Mr. Elam initially testified that "...there are no guidelines for lead based cleaning in buildings, commercial buildings or school facilities," and that the HUD

guidelines or protocol for cleaning up lead dust was only used for dwellings and

residences (CX 281 p. 297 lines 9 thru 13); however, through further examination by the Claimant at the dismissal hearing who asked Mr. Elam did he know ... " that HUD calls

specifically for commercial properties, public facilities to either use their guidelines or use guidelines that are more stringent"; Mr. Elam response was "yes", indicating that he was

aware of this guideline by HUD. Thus, again, Mr. Elam was well aware of the fact he had erred and was erroneously testifying in his previous testimony, namely that "there are no

guidelines for lead based cleaning in buildings, commercial buildings or school facilities."

(CX281 pp. 297-299).

Now, in terms of school safety for occupancy or re-occupancy at FHHS, at the

dismissal hearing, the Hearing Examiner reiterated that the School System had

acknowledged lead-based problems at FHHS. However, Mr. Elam had previously

testified that there was lead-based paint hazards at FHHS but that these lead-based paint hazards had been addressed and resolved by November of 1996. Also, the attorney that

was representing the School System at the dismissal hearing stated in this examination that ... "We announced that there was a problem and that it was addressed." (CX 281 p. 301

lines 19-20) But, through the further examination of Mr. Elam by the Claimant and the

Hearing Examiner, it was obvious that Mr. Elam was evading questions and tried to avoid answering the question in regard to a specific date in which the lead-based problems at

FHHS were addressed and resolved by giving irrelevant responses to direct and specific

questions from the Claimant and the Hearing Examiner; However, through persistent and

continued examination by the Claimant and the Hearing Examiner, Mr. Elam's testimony about the that the lead-based paint hazards at FHHS being addressed and resolved in November of 1996 was impeached, and Ms. Haskins was proven to have erred in her statement as well. (CX 281 pp. 301-313).

Thus, Mr. Jack Elam, the School Systems Safety Officer, who testified that he was an "Inspector" and "Risk Assessor" and who visited FHHS two to three times a week during the entire renovation process which lasted almost two and a half years, also testified that he never noticed the lead-based paint hazards (chipping, peeling, and flaking lead-based paint) in the boys' and girls' bathrooms at FHHS, which were areas of the building that were being used by the students at FHHS. However, as part of inspecting a facility, any certified and accredited "Inspector" or "Risk Assessor" would routinely inspect all common areas such as the bathrooms and hallways for lead-based paint hazards. In fact, HUD's and MDE's guidelines require and Inspector or a Risk Assessor to visually inspect such areas in assessing lead-based paint hazards in any dwelling. And, since the Claimant has been certified and/or accredited by MDE as a Visual Inspector, Inspector Technician, Risk Assessor, Supervisor, Project Designer, Lead Abatement Contractor, and has been recognized by COMAR 26 as a Lead Expert since 1977, the Claimant is very knowledgeable and knows that MDE mandates that a visual inspection of any facility requires that an inspection and assessment of the bathroom is absolutely necessary in inspecting for lead-based paint hazards in the dwelling.

Thus, regarding FHHS being safe for occupancy or re-occupancy after being identified and documented as having lead-based paint hazards, there are lead laws, regulations, and strict guidelines that determine if a dwelling is lead safe and ready for occupancy or re-occupancy after the dwelling has been identified and documented as having a lead-based paint hazard. The Maryland Department of the Environment is the agency that

P-915

enforces Maryland laws, regulations, and guidelines, regarding lead-based paint hazards in dwellings, has established certain requirements before declaring a dwelling to be lead safe and thus free from lead-based paint hazards and ready for occupancy or re-occupancy. Again, at the dismissal hearing, Mr. Elam and the attorney for the School System testified that there were lead-based paint hazards at FHHS. But, that these "problems were addressed and resolved." However, MDE requires HUD's protocol to be followed if there is a lead-based paint hazard in a facility or that the protocol in place be a more stringent protocol than HUD's, even for commercial or public facilities with lead-based paint hazards. MDE requires that after a building has been identified as a having a lead-based paint hazard (which includes lead dust, chipping, peeling, or flaking lead-based paint, or the disturbance of more than 3 square feet of lead-based painted surfaces) a certified and accredited contractor must be hired by the owners of the facility to reduce or abate the lead-based paint hazard. Again, as a certified and accredited lead abatement contractor by MDE since 1997, the Claimant is very cognizant of the protocol established by MDE and HUD for reducing lead-based paint hazards and the documentation necessary for a facility to be declared by MDE as lead safe and ready for occupancy or re-occupancy. Wet scraping and cleaning up of lead dust are methods accepted by MDE for reducing lead-based paint hazards, thereby not permanently eliminating the lead based paint or abating the lead-based paint. Also, MDE requires that the certified and accredited lead abatement contractor do the wet scraping or lead dust clean-up using HUD's guidelines or a more stringent guideline. MDE requires the lead abatement contractor to take at least two (2) dust wipe samples per room of the dwelling from the floor, window sill, and/or window well after he has finished abating or reducing the lead-based paint hazard. The dust wipe samples are taken to determine how much lead dust is left on these horizontal surfaces after the clean-up. MDE requires the lead abatement contractor to send these

P-916

dust wipe samples to a certified EPA laboratory who will determine just how much lead dust is in each dust wipe sample. The amount of lead dust in the dust wipe sample must be below pre-determined standards set by HUD or MDE. Once, the certified laboratory completes the testing of the dust wipe samples, the lead abatement contractor receives a copy of the results. And, if the dust wipe samples are below MDE's or HUD's standards, then the facility is considered to be lead safe, and thus the occupants can enter or re-enter the facility or that part of the facility that underwent the lead abatement or lead hazard reduction. However, before, occupancy or re-occupancy by the tenants, the lead-abatement contractor would have to submit the EPA certified lead dust sample results to MDE. Then, MDE would issue the lead abatement contractor a copy of document which confirms that the facility has passed a "clearance testing" for occupancy or re-occupancy. Finally, the lead abatement contractor would give the owners of the facility a copy of the document indicating the facility has passed a "clearance testing" and is certified by MDE that the facility is lead safe and is, thus, ready for occupancy or re-occupancy. However, if the lab results indicate that any one of the dust wipe samples had a higher level of lead dust in it than acceptable by MDE's or HUD's standards, then the lead abatement contractor has to re-clean the entire area according to protocol in the areas where the dust wipe sample was higher than the standard and take at least two more dust wipe samples in each area that failed the previous dust wipe test and was re-cleaned. Again, these dust wipe samples must be submitted to a certified EPA lab for testing. (CX278 [Claimant exhibits 11 and 12 from the dismissal hearing]).

Subsequently, through further examination, the Claimant and the Hearing Examiner questioned Mr. Elam thoroughly to determine: (1.) If FHHS has ever been determined by any Federal, State, or Local agency to be lead safe since the identification and documentation of the lead-based paint hazards at the school in 1996. (2.) If FHHS has

P-917

ever received a "clearance testing" for the identified lead-based paint hazards since the Claimant's concerns about the lead-based paint and/or asbestos hazards at FHHS, starting in September of 1996 to the present. (3.) If FHHS ever received a "clearance testing" for the lead-based paint hazards since the Claimant went out on sick leave which resulted in the Claimant being absent over 80 days from her job as a Mathematics teacher at FHHS during the 1996-1997 school year (from November of 1996 to March of 1997 and from April of 1997 to November of 1997). During this time, the Claimant was suffering from major depression associated with the fear of herself and other staff, but especially the pregnant females, the Morgan State Headstart children and the other high school students being exposed to lead poisoning from the lead dust that was being spread throughout FHHS during the major renovation project as well as from other lead-based paint and/or asbestos hazards that were present also. During this time as well as during the 1998-1999 school year, the Claimant was under the care of her treating physician and had been under the care of her treating for almost two and a half years.(CX109-CX128; CX131-CX132; CX187). And, the principal at FHHS, the principal at SEMS, the Baltimore Teachers Union (hereinafter "BTU"), and other employees for the BCPSS were aware of the fact that the Claimant was under the care of her treating physician. (CX 111; CX113; CX114; CX119; CX121; CX122; CX126; CX133; CX137). However, prior to the Claimant's involvement in "protected activity" beginning in 1996, the Claimant had at least a 90 percent attendance and has never received an unsatisfactory rating. Still too, included in the Claimant's evidence before the ALJ is the Claimant's evaluations from the Baltimore City Public School System since the Claimant's first year of employment with the School System, namely, 1981. (CX 206 - CX 226 [which are the Claimant's evaluations from 1981 to 1998]). Further, the Claimant has presented into evidence before the ALJ substantial documentation from her treating physician, who believed that since December

of 1996, the Claimant has suffered from major depression as a result of the Claimant's fear of everyone, especially the children, being exposed to lead-based paint and/or asbestos hazards at FHHS. (CX109 - CX130 which are letters and notes from Dr. Peck concerning the Claimant). And, although the Claimant testified at both hearings that her blood lead level revealed that her level of lead exposure was "normal", she provided evidence to support her claim that because of the amount of time that lapsed before she actually had her blood drawn to test for lead exposure in November of 1996, the majority of the lead probably penetrated to the her bones. And, as the Claimant testified at the dismissal hearing, she made her concerns about her fear of being to lead-based paint and/or asbestos hazards known to the principal at FHHS in late August of 1996, about 2 and a half months before she was tested for lead exposure. To support her claim of the lead penetrating to her bones after a certain period of time, the Claimant had submitted into evidence before the ALJ and at the dismissal hearing a video taping of the testimony of other lead experts from Johns Hopkins's Kennedy Krieger Institute who testified in regard to lead poisoning before the Baltimore City Council along with the Claimant. In April of 1997, Dr. Aveoli from Johns Hopkins testified in this video that lead only remains in the blood stream for about six weeks. Dr. Aveoli also testified that the lead that was initially in the blood stream goes to the bones and can remain in the bones for over thirty (30) years. (CX 7a; CX7b; CX 278 [Claimant's exhibit 13 from the dismissal hearing]). Thus, the Claimant has been trying to get the Respondent to give her the leg bone X-Ray test that is used to test for lead in the bones in order to see how much lead exposure she has in her body, especially since the Claimant has been teaching at this facility since the Respondent's knew about the lead-based paint hazards at the school in 1992-1993. (CX134; CX135). However, the Respondent has yet to provide the Claimant with the bone lead test, but the Claimant would still request that the Respondents give her this bone lead test.

Through the continuation of the examination at the dismissal hearing, the Claimant and the Hearing Examiner questioned Mr. Elam to determine if he or the owner of FHHS ever received anything in writing from the lead abatement contractor which would have indicated that MDE has declared that FHHS had passed the "clearance testing", thus making FHHS lead safe and ready for occupancy or re-occupancy. Thus, the final examination of Mr. Elam by the Claimant and the Hearing Examiner was to determine if there was any "Clearance testing" document give by MDE to Mr. Elam or to the owners of FHHS by December of 1996 or at any other time that would indicate that the school was lead safe and ready for occupancy or re-occupancy. Thus, again, through the continuously persistent examination of Mr. Elam by the Claimant and the Hearing Examiner, it was discovered that Mr. Elam's previous testimony was inconsistent and erroneously stated in that there was no "clearance testing" document given to Mr. Elam or the owners of FHHS by MDE that would indicate that the lead dust levels on the floors, window sills, window wells, and/or any other horizontal surface at FHHS were below the standards set by MDE, HUD, or any other state or local agency that must use the same standards as MDE or HUD or use more stringent ones. Consequently, there was no "clearance testing" document issued by MDE, indicating that FHHS was lead safe and thus ready for occupancy or re-occupancy by the Claimant, other staff persons, the pregnant females, the headstart children, or the other high school students. In other words, there was no "clearance testing" document given to Mr. Elam or the owners of this school after the lead-based painted surfaces were disturbed in July and August of 1996 by the major mechanical, electrical, and plumbing work that was being completed by a general contractor, who was not a certified lead abatement contractor. And, again, only a certified and accredited lead abatement contractor would be licensed by the state, local, and federal agencies to do this kind of major renovation work that certainly disturbed

more than three square feet of lead-based painted surfaces and created tremendous amounts of lead dust. The lead abatement contractor would be able to properly contain some of the lead dust and clean-up the remaining lead dust using the proper protocol mandated by MDE in order to insure that any lead dust from the lead dust wipe samples that are required to be taken would be below the MDE's or HUD's standards. FHHS is a pre-1950 property in that it was built around 1923 and is presumed by Federal, State, and Local laws to be an "affected property, and thus has lead-based paint. And, Mr. Elam ultimately admitted in his testimony that FHHS had lead-based paint hazards. (CX 281 pp. 146-165, 289-327; CX278 [Claimant Exhibit 33 from the dismissal hearing], CX279 [CEO Exhibit 14 from the dismissal hearing]). Still too, the results of lead tests given in correspondence and data by the Respondent indicated that there were very high levels of lead-based paint on the interior and exterior of FHHS (CX 7a; CX 7b; CX 194-CX197; CX 278 [Claimant's exhibits 1, 4, 6, 7, 14-23 and 29]. Also, although MOSH didn't issue citations for the lead-based paint hazards at FHHS when they inspected the school in 1996, MOSH did note that FHHS did have lead-based paint and lead-based paint hazards (lead dust, chipping, peeling, flaking, and deteriorating lead-based paint) and asbestos. (CX 278 [Claimant's Exhibit 6]). And, the Claimant testified at the dismissal hearing and at the hearing before the ALJ that she had evidence to prove that in 1993 MOSH had cited FHHS for having asbestos hazards and at least 11 asbestos abatement were undertaken at FHHS during the 1996-1997 school year alone. (CX 281; ALJ Tr.; CX 238). Still too, as a recognized lead expert by MDE, the Claimant can expertly and unequivocally state that the 18-month major renovation work which was not initiated or completed by a lead abatement contractor but by the general contractors at FHHS which penetrated more than three-square feet of unabated lead-based painted surfaces created more lead-based paint hazards (lead dust) at FHHS during the entire duration of the

P-921

projected 18-month major renovation. And, if there were never any "clearance testing" document issued by MDE, then in terms of Federal, State, and Local laws and regulations, FHHS is still presently unsafe and thus should not be occupied. Also, as a recognized lead expert, the Claimant would unequivocally state that FHHS should have never been occupied by at "risk persons", namely pregnant females and children under the age of 6 years old during the renovation of the lead-based paint hazardous school because Federal, State, and Local laws and regulations prohibit their occupancy during such time. Moreover, as testified by the Claimant at the dismissal hearing, James Mosher Elementary School had lead based paint hazards in 1998, was told by MOSH in 1998 to warn the summer crew about the lead-based paint hazards at this facility and to abate the interior of the facility in order to eliminate the lead-based paint hazards, and was given citations in 1998 by MOSH (CX139; CX278 [Claimant Exhibits 29, 31, and 32]). Also, the Claimant provided evidence and testified at both hearings (and who was by this time an Inspector Technician and a certified Risk Assessor) that Highlandtown Middle had lead-based paint hazards. And, again, as an expert on Lead, the Claimant can unequivocally state the Federal, State, and Local Laws and Regulations presume any property built before 1950 to have lead-based paint, and if this lead-based paint is chipping, peeling, flaking, and/or deteriorating lead-based paint, then that property has a lead-based paint hazard. As evidenced by the Claimant's video, Highlandtown Middle School was built in 1933 and has horrific chipping, peeling, flaking, and deteriorating lead-based paint. Thus, the interior conditions of this school at this time is considered by Federal, State, and Local Laws and Regulations to have lead-based paint hazards. (CX 7b). Consequently, the Claimant testified at the hearing before the ALJ and the dismissal hearing and presented evidence to show that HMS was a lead-based paint hazard; thus, the Claimant testified that MOSH should have cited HMS as having a lead based paint

P-922

hazards using the Federal, State, and Local laws and regulations (Title 10, COMAR Title 26, HUD, MDE) and their definition of a lead-based paint hazard in a pre-1950 dwelling. Still too, the Claimant also testified in April of 1997 on the video taping at the hearing before the Baltimore City Council after the lead experts from Johns Hopkins testified and revealed why she was suspicious of some of MOSH's findings or the lack thereof in regard to the lead-based paint hazards at FHHS. (CX 7a and CX7b). Also, the Claimant sent MOSH various correspondence and written complaints concerning various issues relative to HMS being declared a lead-based paint hazard and about her concern about the lead-based paint hazards at FHHS, JMES, and her disappointment in MOSH not directly addressing her complaint about the lead in the drinking water at SEMS. (CX CX30; CX32; CX227-CX235; CX240; CX241; CX245; CX246; CX251; CX252; CX254-CX258; CX260-CX262; CX264; CX268; CX282; CX283; CX286-CX287; CX289-CX290; and CX297). And, in September of 2000, the Claimant filed a complaint to the Federal OSHA concerning her suspicion of MOSH not fully disclosing the facts about the lead-based paint hazards at FHHS, the denial by MOSH of HMS being cited as a lead-based paint hazard, MOSH's refusal to investigate the complaint of lead in the drinking water at SEMS, and her suspicion that MOSH had discriminated against the Claimant in not meriting the same complaint of discrimination against the Respondent for dismissing the Claimant as a Mathematics teacher in the BCPSS that the Federal OSHA had previously merited. The Claimant filed her complaint of discrimination against MOSH under CASPA, which is also called "Complaint About State program Administration", for dismissing her complaint of discrimination against the Respondent after the hearing before the ALJ because the Claimant had not received MOSH's decision on her complaint of discrimination against the Respondent at this time. However, sometime around September

of 2000, Ms. Laura Seamon, the MOSH Investigator did telephoned the Claimant and informed her that she had not merited the Claimant's complaint of discrimination against the Respondent. But, on 1-16-2001, the Claimant had a telephone conference with the Federal OSHA Investigator, Mr. Hill, who informed the Claimant that on 1-12-2001 he spoke with the MOSH Investigator, Ms. L. Seamon. And, although the Federal Investigator did not mention to the Claimant as to whether his conversation with Ms. Seamon addressed issues relative to lead-based paint hazards and/or lead in the drinking water at FHHHS, JMES, HMS, and SEMS, Mr. Hill did inform the Claimant that he informed Ms. Seamon on 1-12-2001 that he was meriting the Claimant's complaint of discrimination against MOSH because MOSH (which is Maryland's Federal OSHA) did not immediately handle the Claimant's complaint of discrimination against her employer and continued to defer the Claimant's complaint for almost 8 months, and this was repugnant to defer the complaints and the extensive protected activities of the Claimant. Also, the Federal Investigator informed the Claimant that MOSH should have referred the Claimant's complaints of environmental hazards at the various schools to the Federal EPA because MOSH had no jurisdiction over environmental matters. Further, Mr. Hill informed the Claimant that he informed Ms. Seamon that her rationale for dismissing the Claimant's complaint, namely, that the Respondent had not posed any adverse action on the Claimant even though she was whistleblowing since 1996, was erroneous because there was several instances of adverse action, beginning in 1997 with the involuntary transfer of the Claimant from FHHS to SEMS. And, last but not least, the Federal OSHA informed the Claimant that he informed the MOSH Investigator that she failed to follow the state procedures, their own guidelines, and did not look at the progressive disciplinary procedures from the BCPSS. Moreover, the Federal Investigator did inform the Claimant

P-924

that he would be writing up his findings and decision to merit the Claimant's complaint of discrimination against MOSH within a few weeks.

Furthermore, Southeast Middle School was documented by a certified EPA laboratory to have lead in the drinking water that was higher than EPA's action level or standard for lead in drinking water. (CX 278 [Claimant's Exhibit 27 from the dismissal hearing]). And, the Claimant, who is certified and accredited by MDE as a Visual Inspector, Inspector Technician, a Lead Abatement Contractor, and a certified Risk Assessor who can properly determine where the lead in the drinking water is stemming from, testified before the ALJ in regard to understanding the how lead gets into the drinking water, and how to comprehend the units of measure from the lab results; the Claimant also provided the ALJ and Hearing Examiner with evidence to explain how to express the units for lead in water two ways without changing the numerical value of the lead content. (CX278 [Claimant Exhibit 26 from the dismissal hearing]; CX281; ALJ Tr.). Still too, the principal at SEMS sent out a correspondence to the parents at SEMS on February 26, 1999, which stated that since 1992-1993 SEMS had lead in the water that was higher than EPA's recommended level. (CX 279 [CEO Exhibit 6 from the dismissal hearing]). Moreover, Mr. Elam testified at the dismissal hearing and before the ALJ that SEMS and HMS were two of the thirty-two public schools in BCPS that had lead in the drinking water.

(CX139; CX 281; ALJ Tr.). Further, as an recognized lead expert and as the one who took the water sample from House 40 at SEMS to the EPA certified laboratory, the Claimant testified at both hearings about the lead in the water at SEMS and brought the lab results from Martel Laboratory, the EPA certified laboratory that tested the sample of water from SEMS for lead. The lab results indicated that there was lead in the drinking water from House 40 at SEMS that was higher than EPA's action level (CX281; ALJ Tr.; CX 278 [Claimant's exhibit 27]; CX 247). Moreover, Hearing Examiner stated in his

P-925

eleven-page "Finding of Fact, Conclusions of Law and Recommendation" that the evidence points to the fact that at least one fountain in SEMS was operable, in use by the students, and had a lead content higher than EPA's standard (CX 139). Furthermore, the Hearing Examiner noted in his report that it was only after the Claimant brought her concerns about the health hazards at these schools did the School System respond. However, the Hearing Examiner did not conclude that the School System addressed and resolved any of these hazards at the four schools. Moreover, again, the Respondent provided no evidence at the dismissal hearing or at the hearing before the ALJ to support the fact that they or the owners of these public schools had received a "clearance testing" document from MDE to indicate that the lead-based paint hazards and/or the lead-contaminated drinking water at these schools had been addressed and resolved. Thus, again, because there were no "clearance testing" document issued by the state regulatory agency that issues such "clearance testing" document, the ALJ erred in citing that ... "It is also clear that the System responded appropriately to all of the inspections and inquiries generated by the Claimant" and that "these activities, which occurred after the Claimant's complaints had been addressed and resolved, were not protected within the meaning of the environmental statutes, as they were not based on a reasonable perception of an environmental hazard" (ALJ Decision p. 40). In fact, the Claimant's complaints had not been addressed and resolved. Consequently, the Claimant's continued Whistleblowings were protected within the meaning of the environmental statutes, as they were based on a reasonable perception of an environmental hazard.

In regard to Adverse Action, the ALJ was correct in citing that ... "The Claimant alleges that the adverse action was her dismissal" (ALJ Decision p. 40). However, the Claimant did not allege that the dismissal was the only adverse action taken against her by the Respondent. In fact, the Claimant subpoenaed an employee of the Respondent in

2-9-26

order to have the subpoenaed witness, Ms. Weighon, to testify in regard to various documented adverse actions that were used against the Claimant as a result of the Claimant's whistleblowing, beginning with the involuntary transfer of the Claimant in April of 1997. Also, the evidence produced and the testimony given by Ms. Weighon before the ALJ certainly implicated that the Claimant was unfairly treated and that normal policies and procedures involving various issues relative to tenured teachers employed with the BCPSS were ignored and not properly followed according to the standards with respect to the Claimant. There is evidence to support the fact that there was a "confidential file" kept on the Claimant by one of the Area Superintendents, Ms. Weighon, as well as by other employees within the BCPSS. And, Ms. Weighon testified at the hearing before the ALJ that keeping a "confidential file" on an employee was not standard procedure. Also, Ms. Weighon testified and the evidence supported the fact that the principals at FHHS and SEMS were informed by Ms. Weighon to monitor the attendance and activities of the Claimant. Ms. Weighon testified in regard to being responsible for sending or having sent the Claimant a correspondence sometime in August of 1997 which was to suppose to indicate that the Claimant was transferred to SEMS but which didn't even have the Claimant's name written on it, nor the exact date, nor did the correspondence specifically state that the Claimant was transferred to SEMS. Still too, the Claimant testified and supported with evidence of various correspondence between the Claimant and Ms. Fields on issues relative the Claimant alleging harassment, unfair treatment, hostile attitude and unprofessionalism on the part of the principal at SEMS which lead to a great deal of friction at times between the Claimant and the principal at SEMS; such documentation of harassment and unfair treatment was noted by the Claimant as early as September of 1997. Also, the Claimant presented evidence at both hearings

p-927

which documented that she responded to the unusual involuntary transfer to SEMS in a correspondence to Ms. Weighon dated 9-10-97. And, at the hearing before the ALJ, the Claimant questioned Ms. Weighon in reference to the correspondence she wrote to personnel in the BCPSS requesting Ms. Chase to "work a deal" in order to transfer the Claimant to SEMS to determine if the standard procedure for transferring tenured teachers was to "work a deal". Also, the Claimant questioned Ms. Weighon to see if it was standard procedure to disregard the process for dropping a tenured teacher from payroll by allowing the principal at SEMS to wait less than the required time to request and be granted the permission to drop the Claimant off the payroll. Ms. Weighon testified that she and other employees of BCPSS continued to keep "confidential files" and monitor the attendance and activities of the Claimant, although other teachers and employees were not treated in the same manner. (CX1-CX14 [whose numbers at the top of each document is numbered, beginning with number 454 and continuing to number 484; ALJ Tr. pp. 24-126; CX165-CX169; CX200-CX204].

Moreover, the Respondent didn't follow standard procedures by immediately suspending without pay or health benefits on March 1, 1999 before writing up the dismissal charges. The dismissal charges were not completed until after the Claimant wrote the BTU attorney, Mr. Zimmerman, a letter requesting that he inquire about her suspension without pay and the charges being placed against her. Thus, at the persistence of the Claimant, the BTU attorney wrote several letters to the Respondent requesting that formal charges be placed against the Claimant, requesting that the Claimant be placed on suspension with pay until the hearing on the charges placed against the Claimant as outlined in the Respondent policies and procedures for tenured teachers and in the Annotated Code of Maryland, and requesting that the Claimant be allowed a public hearing as she requested. (CX250; CX 259; CX 263; CX 266; CX 267; CX 269; CX 271).

P-928

However, the Respondent didn't write up the charges against the Claimant until some time in May of 1999 and didn't fully address or resolve the other two requests (CX 270). Also, the Respondent informed the Claimant in a letter dated December 8, 1999 that the Respondent had rejected the decision of the Hearing Examiner, decided to dismiss the Claimant, and that the Executive Board of the Board of School Commissioners would send the Claimant a "Final Order" of dismissal along with the Appeal process to the State Board of Education after the Executive Board had their meeting on December 14, 1999. (CX 280). However, the Respondent ignored the Claimant's repeated requests in February of 2000 and in July of 2000 for the Final Order and the Appeal process to the State Board of Education for her dismissal (CX144; CX145). However, approximately eight (8) months after the Respondent's December 8, 1999 correspondence, the Respondent did send the Claimant a "Final Order" that was unsigned and undated, and the only verification of date in which the Final Order was sent to the Claimant was the postmarked date of August 16, 2000 on the envelope in which the "Final Order" came in. The Claimant made mention of this unsigned and undated document at the second day of the hearing before the ALJ, namely August 18, 2000; Also, the Claimant examined the Respondent's witness, Ms. Donaldson (who is one of the Executive Board members of the School Board) to see if she had noted the unsigned and undated "Final Order". And, in fact, Ms. Donaldson interrupted her testimony before the ALJ and made mention of the unsigned and undated "Final Order" to the Respondent's attorney, Mr. Williams. (ALJ Tr. pp278-300). And although the Claimant has taken the initiative to obtain the Appeal process and has been granted an Appeal by the State Board of Education, the Claimant has yet to receive the Appeal process from the Respondent even though the Respondent knew that the Claimant had only 30 days to file an Appeal to the State Board of Education after the Respondent's "Final Order" for dismissal was given to her. Therefore, the

P-929

recommended another form of reprimand. The Hearing Examiner found that the contents

wrote to the parents at SEMS on February 24, 1999 was true, she would have

her on suspension, and that had she known that the contents of the letter that the Claimant

did not investigate to see if the contents of the Claimant's letter was valid before placing

Ms. Weighron's position as Area Superintendent, testified at the dismissal hearing that she

meeting. Moreover, the Area Superintendent for SEMS, Dr. Abernathy, who replaced

pre-conference hearing until she was able to get a Union representative to sit in on the

have the proper Union representation and would thus like to discontinue the

And, the Claimant did testify at the hearings that she informed the principal that she didn't

granted due process by having the proper representation. (CX 297 [CEO Exhibit 2]).

during the meeting, thus leaving very little or anytime for the Claimant to speak or be

hearing on February 26, 1999, it is apparent that the principal spoke most of the time

dated March 11, 1999 in which the principal re-cited the events at the pre-conference

suspension. (CX 281; ALJ Tr.). And, again, as mentioned previously, in a document

by the principal that effective March 1, 1999 she was being placed on immediate

drinking water. But, the Claimant was informed at the so called "pre-hearing conference"

letter she sent to the parents of the students at SEMS about the lead-contaminated

tell her side of the story at the February 26, 1999 pre-hearing conference regarding the

didn't have the opportunity to have the proper Union representation and thus be able to

Further, the Claimant testified before the ALJ and at the dismissal hearing that she

Appeal process to a tenured teacher.

suspending, dismissing a tenured teacher, sending a "Final Order", or for granting an

practices are not the usual or standard procedure for involuntarily transferring,

procedure for obtaining a Appeal from the State Board of Education. Thus, again, such

Respondent must have known that a date and a signature were essentials to the standard

of the letter sent to the parent at SEMS were valid and not erroneously stated. Thus, again, prior to suspending the Claimant without pay or health benefits, the Claimant was not allowed due process by Dr. Abernathy in order to prove to the Area Superintendent that the letter she sent to the parents at SEMS didn't have erroneous statements. (ALJ Tr; CX 139; CX281).

Thus, the testimony of the Area Superintendents, Ms. Weighon and Dr. Abernathy, of the principals at FHHS and SEMS, Mrs. White and Ms. Fields, respectively, and the substantial evidence support the fact that there was more than an inference that the Claimant's protected activities were the likely reason for the adverse actions.

Furthermore, Ms. Weighon testified (and the Claimant provided documentation) about the documented unusual involuntary transfer request of the Claimant by Mrs. White, the principal at FHHS in April of 1997, the documented unusual involuntary transfer request from Ms. Weighon to Ms. Chase, who works in the personnel division of the BCPSS, the documented unusual "confidential file" and monitoring of the Claimant's activities that was kept by Mrs. White and Ms. Jane Fields. (ALJ transcript pp. 24-126). Still too, Ms. Weighon testified at the hearing before the ALJ that she informed Ms. Fields about some of the Claimant's protected activity before the Claimant actually started teaching at SEMS in 1997. Also, the Claimant testified that there was unusual friction between Ms. Fields and herself from day one and that she documented many of what she felt was unfair and retaliatory treatment and discriminatory practices which the Claimant felt may have been related to the fact that Ms. Fields knew that the Claimant had participated in protected activity, and thus prejudiced herself against the Claimant.

f-931

Thus, the ALJ erred in several critical and crucial facts of the case that were pivotal to her conclusion. Also, many of the crucial facts in which the ALJ cited were relied upon were from witnesses whose testimonies were inconsistent, erroneously stated, and ultimately impeached. In fact, it appears as though it was the testimony given by Mr. Elam and Ms. Fields which the ALJ frequently cited to support her opinion. Also, it appears that the ALJ based her opinion based on inconsistent facts, erroneous statements, and testimonies that had been previously impeached. Further, it appears that the ALJ cited her opinion based on witnesses whose credibility should have had a "dark shadow" cast over them because these same witnesses had given testimonies under oath at the dismissal hearing that revealed many inconsistencies, erroneously stated facts, testimonies that were impeachable, and thus whose integrity had been severely damaged. Consequently, the testimony Mr. Elam gave before the ALJ should not have been presumed to be credible based on the impeachment of his testimony at the dismissal hearing. Therefore, the ALJ should not have accepted without documentation Mr. Elam's testimony of there being any "clearance testing" document issued to Mr. Elam or the owners of FHHS, namely, the Mayor and City Council, by MDE in December of 1996 that would clearly indicate that the school was lead safe and ready for occupancy or re-occupancy. There was no "clearance testing" document given to Mr. Elam or the owners of FHHS after the Claimant first went public about her concerns about lead-based paint and/or asbestos hazards at FHHS in November of 1996. There was no "clearance testing" document issued by MDE to Mr. Elam or the Mayor and City Council after the lead abatement contractor cleaned up of the lead dust in late November of 1996 that was largely generated from the general contractor's disturbance of the lead-based painted

CONCLUSIONS

surfaces at FHHS during the summer of 1996 as testified by Mr. Elam at the dismissal hearing. There was no "clearance testing" document given to Mr. Elam or the owners of FHHS when the Claimant had to go out on sick from November of 1997 to March of 1997 and again from April of 1997 to November of 1997 due to the depression she suffered as a result of the backlash of Whistleblowing on her Employer about the lead-based paint and/or asbestos hazards at FHHS. There was no "clearance testing" document given to Mr. Elam or the owners of this facility when the Claimant placed flyers around Baltimore City from 1997 to 1999 which always expressed her concern about the lead-based paint and/or asbestos hazards at FHHS as well as her concern about the lead-based paint hazards at Highlandtown Middle School and James Mosher Elementary. Still too, there was no "clearance testing" document given to Mr. Elam or the owners of this facility after the Claimant went public again around April of 1997 with her concerns about the continued lead-based paint and/or asbestos hazards at FHHS which included the Claimant revealing her March 17, 1997 video taping of the interior of FHHS. There was no "clearance testing" document given to Mr. Elam or to the owners of this school when the student, Tiffany Burgess, who had attended FHHS for about four years up to the time of Claimant's video taping in March of 1997, gave her statements of alleged lead poisoning on this same March 1997 Claimant's video taping. And, it was Tiffany's statements on this video taping that impeached the testimony of the principal of FHHS, namely, Mrs. White in relative to giving \$500 of what Tiffany called "Hush Hush money" (meaning money given to her so that she would not reveal the fact of her lead exposure). There was no "clearance testing" document given to Mr. Elam or the owners of FHHS when Mr. Elam testified at the dismissal hearing that there was no more lead-based paint hazards at FHHS after November of 1996; and, there was no "clearance testing" document issued to Mr. Elam or the owners of this school when the School System stated publicly in December of

1996 that FHHS was safe and did not have any more lead-based paint hazards. There was no such "clearance testing" document given to Mr. Elam or the owners of FHHS when the staff, pregnant females, headstart children, and other students entered FHHS to start the 1997-1998 school year, although the major renovation project which creates lead dust (which is a lead-based paint hazard) continued to be spreading because the unabated lead-based painted surfaces continued to be disturbed in order to complete the renovation. There was no "clearance testing" document given to Mr. Elam or the Mayor and City Council after the Claimant became certified and/or accredited by the MDE by August of 1997 as a Repainting and Maintenance Supervisor, Lead Abatement Contractor, Visual Inspector, Inspector Technician, Project Designer, Risk Assessor, and a recognized lead expert. Further, there was no "clearance testing" document given to Mr. Jack Elam or the owners of this school when the Claimant wrote a memo to the Mayor in September of 1997 and stated in the memo that she would volunteer her services as a lead expert to assist in ridding FHHS of the lead-based paint hazards that she knew and declared to the Mayor that she could unequivocally prove existed. There was no "clearance testing" document given to Mr. Elam or the Mayor and City Council after the Area Superintendent involuntarily transferred the Claimant from FHHS to Southeast Middle School for the 1997-1998 school year. There was no "clearance testing" document given to Mr. Elam or the owners of this facility after the staff, pregnant females, headstart children, and other high school students entered the facility for the 1998-1999 school year. There was no "clearance testing" document given to Mr. Elam or the owners of FHHS after the Claimant suspended without pay or health benefits on March 1, 1999 and later proposed for dismissal in May of 1999 as a Mathematics teacher with the Baltimore City Public System for positively identifying and exposing the lead-based paint and/or asbestos hazards and/or lead in the drinking water at Fairmount-Hartford High School,

P-934

Highlandtown Middle School, James Mosher Elementary and Southeast Middle School. In fact, the Claimant testified at the dismissal hearing that tried to meet with the Respondent in 1998 to try to address and resolve these potentially fatal hazards at these schools. Also, the Claimant testified at the dismissal hearing that she had telephoned the principal at Southeast Middle School and inform her of results from an EPA certified laboratory that confirmed that there was lead contaminated drinking at SEMS before informing the parents of SEMS in a letter dated 2-24-99 about the lead in the drinking water at this school. Furthermore, there was no "clearance testing" document given to Mr. Elam or the Mayor and City Council as testified by Mr. Elam at the dismissal hearing in August of 1999 before a Hearing Examiner. There was not "clearance testing" document given to Mr. Elam or the owners of FHHS when the Hearing Examiner ruled in favor of the Claimant on October 12, 1999, thus, denying the CEO's and Respondent's recommendation to dismiss the Claimant as a Mathematics teacher in the Baltimore City Public School System. There was no "clearance testing" given to Mr. Elam or the owners of FHHS when the Respondent rejected the recommendation of the Hearing Examiner, and mailed the unsigned and undated "Final Order" to the Claimant in an envelope that was postmarked August 16, 2000. In fact, Mr. Elam finally had to admit at the dismissal hearing that there was never any "clearance testing" document issued by MDE to him or the owners of FHHS that would indicate that FHHS was lead safe and ready for occupancy or re-occupancy.

The ALJ erred in relying to a large extent on the testimony from Mr. Jack Elam whose credibility had been horribly damaged at the dismissal hearing because of the many inconsistencies in his testimony, because of the continuous erroneous testimony that was repeatedly given by Mr. Elam at the dismissal hearing, and because Mr. Elam's testimony at the dismissal hearing was impeached on several occasions. Agam, Mr. Elam provided

P-935

no documentation to support any of his testimony at the dismissal hearing. Consequently, the ALJ erred when she relied on the erroneous testimony of Mr. Jack Elam who testified that the lead-based paint problem at FHHS was addressed and resolved in November of 1996. Therefore, the ALJ erred also in citing in her "Findings of Fact, Conclusion of Law and Recommendation" that the lead-based paint hazards at FHHS had been addressed and resolved and that there was "clearance testing" document given to Mr. Elam and/or the owners of this facility from the various agencies indicating that FHHS was lead safe and ready for occupancy or re-occupancy.

Also, the ALJ erred in relying on the testimony of two other witnesses' testimonies, namely, the principal at FHHS and the principal at SEMS who didn't even show up at the hearing before the ALJ to testify although they were on the list of witnesses to testify on behalf of the Respondent. However, as the transcript of the Claimant's dismissal hearing will validate, these two witnesses for the Respondent at the dismissal hearing had inconsistencies in their testimonies and had their testimonies impeached at the dismissal hearing, also. Thus, the ALJ erred in relying the testimonies of these two witnesses from the Respondent as well due to the fact that each of these witness's credibility should have also had a "deep dark cloud" cast over it because of the inconsistencies in their testimonies, erroneous statements, and thus impeachable testimonies. Consequently, the ALJ erred in citing her opinion from the frequent erroneous and impeachable testimony of witnesses who were testifying on behalf of the Respondent and whose credibility had been deeply scared and who did not bring any evidence to support any of their testimonies. Moreover, due to the substantial evidence and lengthy testimony of the Claimant at both hearing, the fact remains that the Claimant was not making erroneous statements or sending erroneous correspondence or flyers to the parents at these 4 schools or to the community at large relative to the lead-based paint and/or asbestos hazards and/or

P-937

lead-contaminated drinking water at Fairmount-Hartford High School, James Mosher

Elementary School, Highlandtown Middle School and Southeast Middle School. Thus,

the ALJ erred in citing that many of the Claimant's involvement in exposing the concerns

of lead-based paint and/or asbestos hazards and/or lead in the drinking at these schools

were covered under protected activity due to the fact that all of the Claimant's activities

that involved Whistleblowing about the exposures of these potentially fatal hazards to

herself as well as other staff, but more importantly, to the at risk persons, namely, the

pregnant females and the children under the age of six that attend some of these schools.

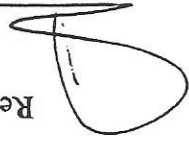
WHEREFORE, the Claimant respectfully requests that the Administrative Review

Board dismiss the ALJ's "Recommended Decision and Order", merit the Claimant's

Complaint of Discrimination, and grant the Claimant the Remedy for Relief sought in the

Pre-Submission Statements before the ALJ.

Respectfully submitted,



~~Diana R. Williams~~

~~Representative for Claimant~~


P-938

CERTIFICATE OF SERVICE

I, HEREBY CERTIFY that on this 23rd day of January 2001, a copy of the foregoing
Complainant's Initial Brief Objecting to the Recommended Decision and Order was
mailed, certified to the following:

Judge John M. Vitone
Chief Administrative Law Judge
Office of Administrative Law Judges
U.S. Dept. of Labor
Suite 400 North
800 K. Street N.W.
Washington, D C 20001

Brian K. Williams
Office of Legal Council
200 E. North Avenue, Suite 208
Baltimore, Maryland 21202



Diana R. Williams
Representative for Claimant

Summary of Exhibits Marked for Identification

Exhibit No.	1st No. of	Page #	Description of First Page of Contents
CX1	1	454	3/19/97 memorandum from Diane Williams to Elaine White
CX2	2	455	4/10/97 memorandum from Elaine White to Diana Williams
CX3	2	457	4/17/97 letter from Elaine White to Diana Williams
CX4	1	459	9/2/97 memorandum to Sandra Wigton from Elaine White
CX5	1	461	10/6/97 memorandum from Elaine White to Sandra Wigton
CX6	1	460	10/6/97 memorandum from Patricia Payne to Elaine White
CX7A			videotape 1 of 2
CX7B			videotape 2 of 2
CX8	3	129	undated memorandum from Diana Williams to Mayor Schmoke
CX9	2	476	11/10/97 memorandum from Sandra Wigton to O. Albrie Love
CX10	4	478	4/20/98 memorandum from Sandra Wigton to Jane Fields
CX11	1	469	9/1/97 memorandum from Diana Williams to Ms. Weighton
CX12	1	471	10/10/97 memorandum from Jane Fields to Betty Chase
CX13	1	472	10/10/97 payroll location change due to long term medical illness
CX14	2	474	10/24/97 memorandum from Diana Williams to Ms. Weighton
CX30	3	41	Division of Labor and Industry MOSH form
CX31	1	44	City of Baltimore notation regarding 9/19/96 transport of Diana Williams to Union Memorial Hospital
CX32	1	45	9/13/96 letter from Joyce Tapper to Diana Williams
CX33	1	46	10/31/96 memorandum from Diana Williams to Ms. Kasper
CX34	1	47	11/1/96 letter from Joyce Tapper to Diana Williams
CX82	3	106	12/3/96 Interoffice Memorandum from Diana Williams to Mayor Schmoke
CX83	1	109	1/3/97 letter from Mayor Schmoke to Diana Williams
CX84	2	110	2/11/97 letter from Mayor Schmoke to Diana Williams
CX85	1	112	2/18/97 letter to Mayor Schmoke

CX 86	113	1	3/17/97 letter from Mayor Schmoke to Diana Williams
CX 87	114	5	3/22/97 letter to Mayor Schmoke
CX 88	119	3	5/2/97 letter from Diana Williams to Mayor Schmoke
CX 89	122	1	5/9/97 letter from Otho Thompson to Diana Williams
CX 90	123	4	6/6/97 letter from Diana Williams to Mayor Schmoke
CX 91	128	1	6/13/97 letter from Mayor Schmoke to Diana Williams
CX 92	132	2	9/27/97 memorandum from Diana Williams to Mayor Schmoke
CX 94	136	1	Fairmount-Harford Institute School #456 Teacher's Meeting 11/7/96
CX 95	137	1	Lead in Paint Sample Results Fairmont Harford Institute 9/17/96
CX 96	138	1	Lead Dust Wipe Sampling Results Harford Fairmount Institute #456 10/10-11/96
CX 97	139	1	Results/Conclusions
CX 109	162	2	12/11/96 letter from Dr. Alan Peck to Gary Bowen
CX 110	164	2	12/23/96 letter from Dr. Alan Peck to Gary Bowen
CX 111	166	1	Physician's Statement dated 1/22/97
CX 112	167	1	2/10/97 letter from Dr. Alan Peck to Gary Bowen
CX 113	168	1	3/13/97 handwritten note from Dr. Alan Peck
CX 114	169	1	3/17/97 handwritten note from Dr. Alan Peck
CX 115	170	1	4/7/97 letter from Dr. Alan Peck to Gary Bowen
CX 116	171	1	Baltimore City Public Schools Sick Leave Bank Committee form
CX 117	172	1	5/5/97 letter from Dr. Alan Peck to Gary Bowen
CX 118	173	1	6/1/97 letter from Dr. Alan Peck to Gary Bowen
CX 119	174	1	9/3/97 note from Dr. Alan Peck
CX 120	175	2	9/8/97 letter from Dr. Alan Peck to Gary Bowen
CX 121	177	1	Physician's Statement
CX 122	178	1	9/25/97 letter from Dr. Alan Peck to Burnetta Ajide
CX 123	179	1	10/6/97 letter from Dr. Alan Peck to Gary Bowen
CX 124	180	1	11/6/97 letter from Dr. Alan Peck to Jeff Messing

CX 125	181	1	2/2/98 letter from Dr. Alan Peck to Paul Hairston
CX 126	182	1	8/27/98 letter from Dr. Alan Peck to whom it may concern
CX 127	183	2	9/3/98 letter from Dr. Alan Peck to Paul Hairston
CX 128	185	1	12/16/98 letter from Diana Williams to Dr. Peck
CX 129	186	1	1/24/00 Authorization to Release Records
CX 130	187	14	treatment notes beginning 12/11/96 for Diana Williams
CX 131	201	14	first line: "Physical changes that I've observed since Fairmount-Harford High School"
CX 132	215	6	first line: "I, Diana R. Williams, am employed as a Mathematics teacher in Baltimore City"
CX 133	221	5	return to work slip
CX 134	226	1	5/20/97 letter from Diana Williams to Ms. Sterling
CX 135	227	1	7/16/97 letter from Diana Williams to Carrie Ellis
CX 136	228	1	8/25/97 memorandum from Joy Howard to Doreen Rotham
CX 137	229	4	10/16/97 psychiatric evaluation of Diana Williams by Dr. Siebert
CX 138	233	1	9/3/97 letter from Diana Williams to Commissioner Vincent
CX 139	10	11	In the Matter of The Dismissal Of Diana Williams, Case No. 99-17, by James L. Wiggins, Hearing Examiner
CX 140	38	1	2/4/00 letter from Diana Williams to Judith Black Donaldson
CX 141	341	2	7/11/00 memorandum from Diana Williams to Judith Black Donaldson
CX 150	104	2	11/7/96 letter from Lawrence Bell to Dr. Walter Amprey
CX 151	447	3	11/14/96 memorandum from Walter Amprey to Council President Lawrence Bell
CX 152	RX 22	3	11/19/96 from Marcia P. Brown and Loretta Johnson to Dr. Walter Amprey
CX 153	144	4	10/23/96 letter from Scott Rifkin to Susan Schuder
CX 154	153	2	11/14/96 letter from Ruth Ann Norton to Dr. Walter Amprey (CX 84)

CX 155	155	2	12/17/96 letter from Walter Amprey to Ruth Ann Norton
(CX 85)			
CX 156	241	1	11/14/96 letter from Jean Thompson to Ms. Williams
(CX 86)			
CX 157	157	1	12/12/96 letter from Anne Winner to Diana Williams
(CX 87)			
CX 158	158	4	3/4/97 letter from Diana Williams to Sister Feeley
(CX 88)			
CX 159	236	2	Newspaper clipping - An open letter to Mayor Schmoke
(CX 89)			
CX 160	238	3	9/17/97 letter from Diana Williams to Oprah
(CX 90)			
CX 161	242	1	3/3/98 memorandum from Diana Williams to Lisa Mitchell
(CX 91)			
CX 162	148	1	3/24/98 letter from Wilbur Giles to Diana Williams
(CX 92)			
CX 163	451	2	City of Baltimore Employee's Incident Report dated 3/17/97
(CX 94)			
CX 164	453	1	3/17/97 Civil Service Commission work status form
(CX 95)			
CX 165	318	2	9/7/97 letter from Jane Fields to Diana Williams
(CX 96)			
CX 166	320	1	9/7/97 letter from Diana Williams to Mrs. Fields
(CX 97)			
CX 167	322	2	4/3/98 memorandum from Diana Williams to Ms. Fields
(CX 98)			
CX 168	324	2	4/9/98 Voluntary Transfer Request
(CX 99)			
CX 169	326	1	8/98 letter from Jane Fields to D. Williams
(CX 100)			
CX 200	327	1	8/26/98 memorandum from Ms. Wms. to Ms. Fields
CX 201	328	1	9/15/98 memorandum from Jane Fields to Diana Williams
CX 202	329	1	9/15/98 memorandum from Ms. Williams to Ms. Fields

CX 203	330	1	9/25/98 memorandum from Ms. Wms to Ms. Fields
CX 204	331	1	9/29/98 memorandum from Ms. Williams to Ms. Feilds
CX 205	332	1	1/23/98 Performance Review Form
CX 206	333	2	6/5/98 Annual Evaluation Report
CX 207	335	2	6/10/98 memorandum from Ms. Williams to Ms. Fields
CX 208	337	1	12/10/98 Informal Observation
CX 209	373	2	12/16/80 Student Teacher Evaluation
CX 210	375	3	6/12/81 Teacher Evaluation Form
CX 211	378	3	6/23/83 Teacher Evaluation Form
CX 212	383	4	11/16/83 Observation and Conference Report Form
CX 213	387	3	4/16/85 Observation and Conference Report Form
CX 214	390	3	5/15/85 Teacher Evaluation Form
CX 215	393	3	5/1/86 Teacher Evaluation Form
CX 216	396	3	5/6/86 Observation Conference Form
CX 217	399	3	1/16/87 Observation and Conference Form
CX 218	402	3	5/1/87 Teacher Evaluation Form
CX 219	405	3	5/31/88 Teacher Evaluation Form
CX 220	408	3	6/1/89 Teacher Evaluation Form
CX 221	411	3	5/1/90 Teacher Evaluation Form
CX 222	414	1	3/23/92 Observation Conference Form
CX 223	415	5	5/19/92 Observation and Conference Report Form
CX 224	420	3	6/1/94 Teacher Evaluation Form
CX 225	423	2	6/1/95 Annual Evaluation Form
CX 226	425	2	4/28/96 Annual Evaluation Form
CX 227	48	2	3/16/98 Maryland Occupational Safety and Health Form
CX 228	50	1	3/17/98 memorandum from Diana Williams to MOSH
CX 229	51	1	3/19/98 memorandum from Diana Williams to Ms. Knight
CX 230	52	2	4/3/98 letter from Cheryl Kammerman to Diana Williams

CX 231	54	2	4/9/98 Maryland Occupational Safety and Health Form
CX 232	56	2	5/4/98 Memorandum from Diana Williams to Ms. Agro
CX 233	58	1	5/7/98 Memorandum from Diana Williams to Ms. Agro
CX 234	59	1	5/27/98 memorandum from Diana Williams to Joe Siedel
CX 235	60	2	7/9/98 letter from Cheryl Kammerman to Diana Williams
CX 236	95	1	7/24/98 memorandum from Diana Williams to Donald Mauldin
CX 237	96	1	7/28/98 memorandum from Diana Williams to Laramie Daniel
CX 238	97	3	Fax Transmittal to Diana Williams from Laramie Daniel
CX 239	62	1	9/28/98 Fax Cover Sheet from Joseph Siedel to Diana Williams
CX 240	63	1	10/1/98 letter from Joseph Siedel to James Mosher Elementary School
CX 241	64	1	10/2/098 memorandum from Diana Williams for Joseph Siedel
CX 242	100	1	10/16/98 memorandum from Diana Williams to Laramie Daniel
CX 243	101	2	10/22/98 letter from Laramie Daniel to Diana Williams
CX 244	103	1	11/1/98 memorandum from Diana Williams to Laramie Daniel
CX 245	65	1	1/1/99 Maryland Occupational Safety and Health Form
CX 246	66	1	1/8/99 letter from Cheryl Kammerman to Diana Williams
CX 247	RX 27	1	1/29/99 certificate of analysis from Martel
CX 248	487	1	2/24/99 memorandum from Diana Williams to Parents
CX 249		1	2/26/99 letter from Jane Fields to Parents
CX 250	1	1	3/1/99 letter from Robert Booker to Diana Williams
CX 251	68	2	3/15/99 memorandum form Diana Williams to Commissioner Dr. Keith Goddard
CX 252	93	1	3/17/99 memorandum from Diana Williams to legal dept.
CX 253	94	1	3/18/99 letter from Christopher Ryon to Diana Williams
CX 254	70	1	3/18/99 letter from Keith L. Goddard to Diana Williams
CX 255	71	1	3/28/99 Maryland Occupational Safety and Health Form
CX 256	72	1	3/30/99 memorandum from Diana Williams to Mr. Siedel

CX 257	74	2	4/13/99 letter from Cheryl Kammerman to Diana Williams
CX 258	76	3	4/17/99 memorandum from Diana Williams to Ms. Kammerman
CX 259	435	3	4/26/99 letter from Keith Zimmerman to Robert Booker
CX 260	79	1	4/29/99 letter from Cheryl Kammerman to Diana Williams
CX 261	80	1	5/1/99 memorandum from Diana Williams to Ms. Kammerman
CX 262	81	1	5/6/99 letter from Cheryl Kammerman to Diana Williams
CX 263	441	2	5/6/99 letter from Keith Zimmerman to Monzella Saunders-Owings
CX 264	82	1	5/10/99 memorandum from Diana Williams to Commissioner Dr. Keith Goddard
CX 265	443	1	5/11/99 letter from Monzella Saunders-Owings to Keith Zimmerman
CX 266	2	2	5/14/99 letter from Keith Zimmerman to Judith Black Donaldson
CX 267	444	2	5/14/99 letter from Keith Zimmerman to Alan Harris and M.E. Mayer
CX 268	83	1	5/21/99 letter from Keith Goddard to Diana Williams
CX 269	446	1	5/28/99 letter from Keith Zimmerman to Diana Williams
CX 270	4	2	Statement of Charges in the matter of Diana Williams
CX 271	6	2	6/15/99 letter from Keith Zimmerman to Diana Williams
CX 272	8	1	memorandum from Diana Williams to Parents, Relatives, etc.
CX 273	9	1	7/10/99 memorandum from Diana Williams to Mr. Bramble
CX 274	243	1	Letters to the Editor
CX 275	21	1	10/21/99 memorandum from Diana Williams to Judith Donaldson
CX 276	22	5	Exceptions to Findings of Fact, Conclusions of Law and Recommendation of Hearing Examiner in the matter of Diana Williams
CX 277	27	9	Exceptions to Exceptions to Finds of Fact, Conclusions of Law and Recommendation of Hearing Examiner
CX 278	RX 1	~ 247	Respondent's Exhibits
CX 279	CEO #1	~42	CEO's Exhibits

Exhibit numbers enclosed in parentheses are those originally assigned during the first two days of hearings. These exhibit numbers should be changed to correspond with the exhibit numbers first listed for the exhibits. For instance, CX 80 should become CX 150.

CX 280	36	2	12/8/99 letter from Judith Black Donaldson to Diane Williams
CX 281	422	ind. and	transcript in the matter of Diana Williams before James L. Wiggins
CX 282	84	1	12/4/99 memorandum from Diana Williams to Commissioner Goddard
CX 283	85	1	12/11/99 memorandum from Diana Williams to Commissioner Goddard
CX 284	244	1	12/14/99 memorandum from Diana Williams to Bill Seagin
CX 285	245	4	12/15/99 memorandum from Diana Williams to Mr. Seagin
CX 286	86	1	12/15/99 memorandum from Diana Williams to Keith Goddard
CX 287	87	1	12/17/99 memorandum from Diana Williams to L. Seamon
CX 288	88	1	12/17/99 letter from Cheryl Kammerman to Judith Black Donaldson
CX 289	89	1	12/20/99 letter from Diana Williams to Keith Goddard
CX 290	90	1	12/21/99 letter from Cheryl Kammerman to Diana Williams
CX 291	249	1	12/23/99 letter from William Seguin to Diana Williams
CX 292	134	1	1/1/00 memorandum from Diana Williams to Mayor Omalley
CX 293	250	1	1/3/00 letter from David Hill to Diana Williams
CX 294	251	1	1/3/00 letter from David Hill to Diana Williams
CX 295	255	21	U.S. Department of Labor Occupational Safety and Health Administration Statement
CX 296	276	1	1/12/00 authorization for release of investigative file
CX 297	91	2	1/8/00 memorandum from Ms. Williams to Mr. Seamon
CX 298	277	5	6/12/00 letter from William Seguin to Diana Williams