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UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
CHICAGO REGIONAL OFFICE JUN -4 PM 2:48

IN THE MATTER OF:)
)
Leroy J. Pletten)
)
v.)
)
Office of Personnel Management)

APPELLANT'S INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

NOW COMES the Appellant herein, Leroy J. Pletten, and requests that Office of Personnel Management provide the following documents and responses for inclusion in the record:

- ✓ 1. The Handbook X-118 job qualifications requirements for Position Classification Specialist, GS-230-12.
- ✓ 2. The medical employment physical examination test forms applicable for federal jobs, particularly for Position Classification Specialist, GS-230-12.
- 3. Any Handbook X-118 job qualifications requirements for tobacco smoke, tobacco smoking behavior, and for inhalation of tobacco smoke. (If none, so state).
- 4. Any medical employment physical examination test forms applicable for federal jobs, particularly for Position Classification Specialist, GS-230-12, that indicate any requirement for tobacco smoke, tobacco smoking behavior, and for inhalation of tobacco smoke. (If none, so state).
- 5. A copy of the union contract cited by MSPB as a basis for not being able to control the on-site hazard at issue, with notation of the specific clause(s) relied upon. (If none, so state).
- 6. Identification of any law or regulation that says that guidance for a safe work site and for safe behavior by coworkers is to be treated as somehow an "environmental" restriction on an employee's ability to work. (If none, so state).
- 7. Identification of any law or regulation that says that the court was wrong in stating, "Workmen are not employed to



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smoke," *MTM Co. v. MCP Corp.*, 49 F.2d 146 (1931). (If none, so state).

8. Identification of any law or regulation that says that tobacco smoke (the product of smoker mental disease) is, as a matter of law, "environmental" in nature; i.e., that tobacco smoke is defined as part of "employment" as a matter of law. (If none, so state).

9. Explanation for disregarding the legal duty that the providing of a reasoned explanation for the "unqualified and absolute" safety duty is Congress's responsibility; that the responsibility for providing a "reasoned explanation" for the specific limits in 29 C.F.R. 1910.1000.Z listing certain tobacco smoke ingredients is the Department of Labor's responsibility (See *Ind. U. Dep't. v. Am. Petrol. Inst.*, 448 U.S. 607, 100 S.Ct. 2844, 65 L.Ed.2d 1010 (1980)); and that the responsibility for citing the duty to "remove smoke" and achieve the threshold conditions precedent before smoking can be permitted is the Army's responsibility, considering its issuance of AR 1-8, and is the Defense Department's responsibility considering its issuance of 32 C.F.R. 203, and that none of these duties, if any, of providing a "reasoned explanation" cannot be transferred onto any private doctor. (If none, so state).

10. Identification of any law or regulation that transferred from issuing agencies (e.g., Department of Labor on 29 C.F.R. 1910.1000.Z, and Department of Defense on 32 C.F.R. 203) the responsibility for providing a "reasoned explanation" for supporting control of a hazard onto a private physician. (If none, so state).

11. Explanation for transferring responsibility onto a private physician, of the duty to provide a "reasoned explanation" for recommending beginning action to implement the 25 January 1980 USACARA report noting the hazard, as per *Spann v. McKenna*, 615 F.2d 137 (1980).

12. Explanation for the OPM failure to honor *res judicata* (i.e., to make reference) concerning the on-site danger admitted by employer physician Dr. Francis J. Holt (Dep., pp. 25 and 42) and serving as a premise for the Merit Systems Protection Board issuances of 20 June 1983 and 24 October 1984. (If none, so state).

13. Identification of any law or regulation that says that MSPB has jurisdiction of excused absence situations, and of criminal violations including but not limited to extortion and embezzlement.



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14. Identification (with specificity) of the "enforcement difficulties" cited by MSPB as a basis for not being able to control the on-site hazard at issue. (If none, so state).

15. Explanation for the OPM failure to mention or honor res judicata concerning the multiple decisions and letters affirming that I am ready, willing, and able to perform all my duties of record without restriction as a matter of law. (If none, so state).

16. Explanation for OPM failure to provide to MSPB an amicus curiae brief as solicited by MSPB, regardless of how fraudulently, in August 1983.

17. Relative to the 23 February 1982 EEOC decision on my EEO appeals, please provide any and all resultant affidavits, depositions, and transcripts by installation and MSPB officials named in the 10 May 1985 appeal, which dispute or may appear to dispute, any matter (including the corruption, extortion, falsification, disease data, psychiatric data, bribery, racketeering, and group association) cited or stated by Appellant in the record. (If none, so state).

This request is made in accordance with the provisions contained in Part 1201 of the MSPB regulations. Accordingly, you are requested to respond within the time limits prescribed therein, i.e., not later than 15 days after you receive this request. See 5 C.F.R. 1201.73(D)(2).

Date: 29 May 1985

Leroy J. Pletten

Leroy J. Pletten
Appellant

CERTIFICATE OF SERVICE

Docket No.
CSA 2 448 252

I hereby certify that the foregoing material was served by regular mail on this date to the following parties:

Franklin L. Lattanzai, Chief
Disability Claims Division
Retirement and Insurance Programs
(Disability Appeals Branch)
U.S. Office of Personnel Management
P. O. Box 664
Washington, D.C. 20044

Merit Systems Protection Board
Chicago Regional Office
230 South Dearborn Street, 31st Floor
Chicago, Illinois 60604

Date: 29 May 1985

Leroy J. Pletten
Leroy J. Pletten
Appellant

