



In the Matter of:

B. DAVID MOURFIELD, II,

COMPLAINANT,

v.

**FREDERICK PLAAS,
and
PLASS INCORPORATED,**

RESPONDENT.

**ARB CASE NOS. 00-055
00-056**

ALJ CASE NO. 99-CAA-13

DATE: NOV 24 2000

BEFORE: THE ADMINISTRATIVE REVIEW BOARD

**ORDER DENYING SUMMARY REVERSAL
AND ESTABLISHING A BRIEFING SCHEDULE**

Complainant David Mourfield has filed a motion requesting the Administrative Review Board to summarily reverse the Administrative Law Judge's Recommended Decision and Order in this case arising under the environmental whistleblower protection provisions of five federal statutes.¹ In the alternative, Mourfield requests that we establish a briefing schedule.

We **DENY** Complainant's Motion for Summary Reversal. A party seeking summary disposition has a heavy burden of establishing that the merits of his or her case are so self-evident that further briefing and argument of the issues presented would not benefit the adjudicator and that the merits of the case are so patent that expedited action is warranted. *Taxpayers Watchdog, Inc., v. Stanley*, 819 F.2d 294, 297-298 (D.C. Cir. 1987). Mourfield has not carried this weighty burden in this case.

Mourfield's alternative motion requesting that we establish a briefing schedule is **GRANTED**. The Complainant may file an initial brief, not to exceed thirty (30) double-spaced typed pages, postmarked on or before **December 24, 2000**. The Respondent may file a reply

¹ These statutes are: the Toxic Substances Control Act, 15 U.S.C. §2622 (1994); the Safe Drinking Water Act, 42 U.S.C. §300j-9(i) (1994); the Solid Waste Disposal Act, 42 U.S.C. §6971(1994); the Clean Air Act, 42 U.S.C. §7622(a) (1994) and the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9610 (1994).

brief, not to exceed thirty (30) doublespaced typed pages, postmarked on or before **January 23, 2000**. The Complainant may file a rebuttal brief, exclusively responsive to the reply brief and not to exceed ten (10) double-spaced typed pages, postmarked on or before **February 6, 2001**.

All motions and other requests for extraordinary action by the Board (including, but not limited to, requests for extensions of time or expansion of page limitations) shall be in the form of a motion appropriately captioned, titled, formatted and signed, consistent with customary practice before a court. See, e.g., Fed. R. Civ. P. 7(b).

All pleadings, briefs and motions should be prepared in Courier (or typographic scalable) 12 point, 10 character-per-inch type or larger, double-spaced with minimum one inch left and right margins and minimum 11/4 inch top and bottom margins, printed on 8 1/2 by 11 inch paper, and are expected to conform to the stated page limitations unless prior approval of the Board has been granted.

An original and **five** copies of all pleadings and briefs shall be filed with the Administrative Review Board, U. S. Department of Labor, 200 Constitution Avenue, N.W., Room S-4309, Washington, D.C., 20210.

FOR THE ADMINISTRATIVE REVIEW BOARD:

Janet R. Dunlop
General Counsel

Note: Questions regarding any case pending before the Board should be directed to the Board's staff assistant, Ernestine Battle.

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