

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>EDGAR D. LEE,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civ. Action No. 11-0358 (ESH)</b>
	)	
<b>GARY LOCKE,</b>	)	
	)	
<b>Secretary of Commerce,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	
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**FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

**PRELIMINARY STATEMENT**

1.) This is an action by plaintiff Edgar D. Lee who, until his disability retirement, was employed as a Hazardous Waste Facility Assistant by the Department of Commerce (Commerce).

2.) Mr. Lee was exposed to asbestos and other carcinogenic, toxic and hazardous substances in the performance of his duties inspecting Commerce’s headquarters building in Washington, D.C. (HCHB).

3.) At all times relevant during his employment as a Hazardous Waste Facility Assistant, Mr. Lee suffered from bronchiectasis, an obstructive lung disease, and his former supervisors knew that he suffered from a pulmonary impairment and viewed him as disabled.

4.) **The recent Report of Commerce’s Office of Inspector General (OIG) substantiated Mr. Lee’s allegations that Commerce management knowingly exposed him to airborne asbestos without protective equipment.** OIG Report at 1. As it found:

[Commerce] management failed over several years to properly address asbestos conditions in HCHB's 8<sup>th</sup> floor/attic. This led to an unknown number of Departmental and contractor employees ... **including Mr. Lee**, being subjected to potential exposure to impermissible levels of airborne asbestos.

OIG Report at 1 (emphasis supplied). The Summary of Results in the OIG Report "substantiated" the "allegations raised by Mr. Lee." Id.

5.) The OIG Report continued:

Despite [Commerce's] knowledge of damaged asbestos, no testing for airborne asbestos in the 8<sup>th</sup> floor/attic was carried out from 2003 to early 2007 ... Through the testing in the 8<sup>th</sup> floor/attic on February 23, 2007, [defendant's] contractor found visibly damaged asbestos-containing materials and concluded that relatively high fiber-in-air levels contained airborne asbestos exceeding the Occupational Safety and Health Administration levels (OSHA) 'Permissible Exposure Limit' (PEL ...)

Given this serious health hazard, [Commerce] officials had an affirmative obligation under OSHA and GSA regulations to take proper, timely measures to protect employees from asbestos exposure ... However, [Commerce] management at the time did not fulfill these critical responsibilities in a proper and timely manner.

[A]sbestos-containing materials still exist throughout the building and could be damaged through ongoing renovations, as well as daily work activities ...

OIG Report at 2-3.

6.) The OIG Report also concluded that Mr. Lee's first and second line supervisors intentionally deceived Mr. Lee into believing that his work premises were safe from asbestos exposure and that they knowingly exposed Mr. Lee to asbestos at levels higher than permitted by federal law and regulation. OIG Report at 11.

7.) Despite knowing of Mr. Lee's pulmonary impairment, throughout his employment with Commerce, defendant required Mr. Lee to be continuously exposed to asbestos and other carcinogenic, toxic, and hazardous substances without safety equipment or full instruction on handling such substances; failed to provide Mr. Lee with medical monitoring;

interfered with Mr. Lee's efforts to obtain positions in which he would no longer be exposed to such substances; and subjected Mr. Lee to other acts of hostility and harassment, thereby rendering his work environment actionably hostile.

8.) Defendant also refused Mr. Lee's request in August of 2008 for reassignment from his position as a Hazardous Waste Facility Assistant to a vacant position in which he would not be exposed to asbestos and other carcinogenic, toxic, and hazardous substances, and passed over Mr. Lee for that position in October of 2008 in favor of a considerably less qualified female candidate who, unlike Mr. Lee, was not disabled and had not engaged in protected EEO activity.

9.) This action seeks redress for defendant's discrimination and retaliation toward Mr. Lee, defendant's refusal to reasonably accommodate Mr. Lee; and the hostile work environment defendant forced him to endure, in violation of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §§701 et. seq.; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-16. By way of relief, plaintiff seeks a.) a declaration that defendant violated his civil rights under Rehabilitation Act and Title VII; b.) compensatory damages in the maximum amount allowed by law; c.) backpay and commensurate benefits; and d.) an award of attorneys' fees and costs.

### **Parties, Jurisdiction, and Venue**

10.) Plaintiff Edgar D Lee is an African American male who, at all times when defendant engaged in the actions at issue in this suit, was employed by the U.S. Department of Commerce (Commerce) in its Headquarters Office in Washington, D.C.

11.) Defendant Gary Locke is the Secretary of Commerce and as such is the official who heads the Executive Department established pursuant to 15 U.S.C. §1501, which previously

employed plaintiff and engaged in the acts of discrimination and retaliation that are the subjects of this action. Defendant is sued in his official capacity only.

12.) Jurisdiction of this Court is based upon 28 U.S.C. §1332 and 42 U.S.C. §2000e-16 (incorporating by reference 42 U.S.C. §2000e-5(c)). Venue lies in this judicial district pursuant to 42 U.S.C. §2000e-16 (incorporating by reference 42 U.S.C. §2000-5(f)(3)) and 29 U.S.C. §794a, because defendant's acts of discrimination and retaliation occurred in this judicial district where plaintiff was employed and was injured when these actions were taken.

## **STATEMENT OF THE CASE**

### **Background**

13.) Plaintiff Edgar D. Lee is an African American male, who was formerly employed by Commerce from November of 1998 through January of 2009. Mr. Lee's last position with Commerce was as a Hazardous Waste Facility Assistant, the general duties of which included inspecting defendant's headquarters in the Herbert C. Hoover Building (HCBC) for carcinogenic, toxic and hazardous substances.

14.) Mr. Lee was originally assigned to his position as a Hazardous Waste Facility Assistant in 2003, as part of a settlement of his EEO complaint that he filed in or about 2002. Throughout his tenure in this position, Mr. Lee's performance was rated at the Outstanding level and his record of conduct was unblemished.

15.) Mr. Lee, who is currently 42 years of age, is a former Marine who served in Gulf War was rated for 60% disability by the U.S. Department of Veterans Affairs at the time that defendant took the unlawful actions that underlie this suit. Mr. Lee suffers from bronchiectasis, post traumatic stress disorder and seizure disorder, and has also undergone a total ileostomy.

16.) Despite his impairments, Mr. Lee performed his duties as a Hazardous Waste Facility Assistant at the Outstanding level.

**Exposure To And Protection From Hazardous Materials**

17.) Mr. Lee's duties as a Hazardous Waste Facility Assistant specifically included inspecting hazardous waste containers; examining and remediating emergency chemical spill clean-ups; disposing of carcinogenic, toxic, and hazardous substances used in the construction and operation of HCHB, including asbestos, lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's. Mr. Lee also conducted inspections for safety and health concerns; recycled, labeled, consolidated, and containerized the foregoing substances and others like them; and generated manifests to ensure that the foregoing substances were properly accounted for in being transported for disposal. Mr. Lee performed many of these duties on the 8<sup>th</sup> floor/attic of HCHB.

18.) The duties and performance of a position as a Hazardous Waste Facility Assistant at Commerce, including Mr. Lee's, are subject to environmental and occupational laws and regulations administered by the Occupational Safety and Health Administration (OSHA) and the General Services Administration (GSA).

19.) At all times relevant, laws and regulations administered by OSHA and GSA required that Commerce provide training, medical monitoring, and protective equipment to be used in and for the performance of a position as a Hazardous Waste Facility Assistant including Mr. Lee's, and restrict access to and mark areas containing carcinogenic, toxic, hazardous and hazardous substances.

20.) At no time relevant did Commerce provide Mr. Lee with required and complete initial training, annual training, medical monitoring, personal protective equipment, or

respiratory protective equipment as required by OSHA and GSA, or completely restrict his access to areas containing asbestos and other carcinogenic, toxic, hazardous and hazardous substances.

21.) The Office of the Inspector General (OIG) of Commerce conducted an investigation into allegations made by Mr. Lee to the U.S. Office of Special Counsel (OSC) that Commerce management knowingly exposed him to asbestos while working in the HCHB.

22.) On January 20, 2011, OIG issued a Report that presented its “investigative findings and recommendations ... stemming from whistleblower allegations that management officials at the Department of Commerce” HCHB “failed to inform employees in a timely manner of the existence of unsafe levels of asbestos.” OIG Report at 1.

23.) The OIG Report went further and “substantiated” the “allegations raised by Mr. Lee ... that management officials knowingly permitted employees to work in contaminated areas without personal protective equipment.” OIG Report at 1.

24.) Throughout his employment as a Hazardous Waste Facility Assistant, Commerce was also aware that Mr. Lee was working in and being exposed to areas containing carcinogenic, toxic, hazardous and hazardous substances and failed to inform Mr. Lee that he was being exposed to such substances.

#### **Defendant’s Knowledge Of Mr. Lee’s Exposure To Asbestos**

25.) Mr. Lee’s position as a Hazardous Waste Facility Assistant was located within Commerce’s Office of Administrative Services (OAS).

26.) OAS management first learned no later than 2003 that Mr. Lee was being exposed to “damaged and deteriorating asbestos-containing materials.” OIG Report at 1-2. “Despite OAS’s knowledge ... no testing for airborne asbestos ... was carried out from 2003 to early

2007.” Id. at 2. For the first time on February 23, 2007, and only in response to concerns raised by a maintenance foreman, did “OAS undertake air sampling testing” through a contractor, who “found visibly damaged asbestos-containing materials and concluded that ... high fiber-in-air levels contained airborne asbestos exceeding” the OSHA “Permissible Exposure Limit (PEL).”

27.) The OIG Report further found that:

Given this serious health hazard, OAS officials had an affirmative obligation under OSHA and GSA regulations to take proper, timely measures to protect employees from asbestos and exposure. Their responsibilities included implementing and following a comprehensive asbestos management plan providing for regular testing for airborne asbestos, awareness training, and remediation of damaged materials. Moreover, when airborne asbestos levels were found to exceed the legally permissible limit, OAS officials were required to restrict access to the area, notify employees, and post warning signage.

However, OAS management at the time did not fulfill these critical responsibilities in a proper and timely manner ...

OIG Report at 2.

28.) OAS failed to do so despite contacting GSA on April 24, 2007, and reporting that airborne asbestos levels in HCHB had exceeded the Permissible Exposure Limit (PEL). It still failed to do so after GSA’s Asbestos Program Manager “promptly commissioned a ‘Hazard Assessment,’” and transmitted a draft report to Commerce in May of 2007, finding:

[There is] damaged spray-on fireproofing and pipe insulation in the attic eaves areas, and damaged pipe insulation in the corridor and penthouse levels [of HCHB]. Penetrations were observed in the walls separating the attic eaves areas from the access corridors. These penetrations are conduits for the migration of asbestos fibers ... Sealing these openings with air tight impermeable barriers will prevent the migration of asbestos fibers .... [T]he asbestos contamination encompasses the entire 8<sup>th</sup> floor and the adjoining Penthouse.

OIG Report at 9-10.

**Defendant's Intentional Failure To Protect Mr. Lee  
From Exposure To Asbestos And Other Contaminated Substances**

29.) Mr. Lee's position as Hazardous Waste Facility Assistant was located within the Commerce OAS, as noted in paragraph 25 above. At all times relevant, Mr. Lee's supervisors in OAS knew that he had been and was being exposed to impermissibly high levels of airborne asbestos fibers and other carcinogenic, toxic, hazardous and hazardous substances, and that by law and regulation he should have been restricted from areas containing such substances unless Commerce provided him with protective equipment, medical evaluation, and training.

30.) Although OAS management had the GSA draft Hazard Assessment report since May of 2007, it did not restrict Mr. Lee's access to areas in which asbestos airborne fiber exceeded the PEL, monitor Mr. Lee's health for exposure to asbestos on the 8<sup>th</sup> floor/attic of HCHB, notify Mr. Lee about his exposure to asbestos in HCHB, or provide Mr. Lee with proper training in working in and around asbestos and handling materials containing asbestos.

31.) The Commerce IG specifically found that even after the issuance of the GSA draft Hazard Assessment report, "OAS management failed to take timely, proper action to protect" Mr. Lee's "health and safety." OIG Report at 10.

32.) During Mr. Lee's employment with defendant, OAS management also failed to restrict Mr. Lee's access to areas in which carcinogenic, toxic, and hazardous substances exceeded permissible levels; to monitor Mr. Lee's health for exposure to such substances; to notify Mr. Lee about his exposure to such substances; or to provide Mr. Lee with proper training in working in and handling such substances.

**Mr. Lee's Managers' Intentional and Disparate Exposure Of Mr. Lee  
To Asbestos And Other Carcinogenic, Toxic, and Hazardous Substances**

33.) Mr. Lee's first line supervisor at OAS at all times relevant to this Complaint was Jana Brooks. Starting in September of 2007, Ms. Brooks was Chief of the OAS Energy Safety and Environmental Division and, beginning in July of 2008, she also served as the acting Director of the OAS Office of Real Estate, Policy, and Major Programs. In those positions, Ms. Brooks was among defendant's managers responsible for asbestos management and control programs and for similar programs relating to other carcinogenic, toxic, and hazardous substances including lead based paint, mercury, butyl cellosol, sodium metasilicate, and PCB's. Prior to assuming these positions, Ms. Brooks had served as the Safety Specialist in the Office of Occupational Safety and Health in the Office of Human Resources in the Office of the Secretary of Commerce.

34.) Even before assuming her position as Chief of the OAS Energy Safety and Environmental Division, Ms. Brooks was aware that Mr. Lee suffered from a pulmonary impairment; knew that OAS was delinquent in providing Mr. Lee with protection from asbestos, lead based paint, mercury, butyl cellosol, sodium metasilicate, and/or PCB's; knew that OAS was delinquent in providing Mr. Lee with medical monitoring and training about handling such substances; and alerted OAS management but not Mr. Lee about Commerce's delinquencies. OIG Report at 9.

35.) Fred Fanning, the OAS Director, was Mr. Lee's second or third line supervisor at all times relevant. Mr. Fanning was among the Commerce management officials whose actions and inactions were faulted in the OIG Report for failing to adequately test for airborne asbestos in HCHB, failing to equip Mr. Lee with protective equipment, and failing to ensure that Mr. Lee

was monitored for and received training about handling asbestos and materials containing asbestos.

36.) While serving as the OAS Director and as Mr. Lee's second line supervisor, Mr. Fanning knew that Mr. Lee suffered from pulmonary disease yet took no steps to equip Mr. Lee with protective equipment; to ensure that Mr. Lee was monitored for and received training about handling asbestos and other carcinogenic, toxic, and hazardous substances, including lead based paint, mercury, butyl cellosole, sodium metasilicate, and/or PCB's; or to restrict Mr. Lee's access to such substances.

37.) In February of 2008, a full "year after the initial test results showed that airborne asbestos had exceeded the PEL at several times," Mr. Fanning and/or Ms. Brooks deceived Mr. Lee into believing that airborne samples taken from HCHB showed no detectable levels of asbestos fibers. OIG Report at 11.

38.) In an effort to conceal their malfeasance and unlawful actions toward Mr. Lee, Mr. Fanning and/or Ms. Brooks falsely informed Commerce's IG "that Mr. Lee's job duties did not entail work" that exposed him to airborne asbestos. OIG Report at 11. The OIG Report found that the statements of Mr. Fanning and Ms. Brooks were not credible and that Mr. Lee's sworn statement that he had worked in an area contaminated with asbestos fibers was confirmed by "witness accounts, including former supervisors and colleagues ... his position description and the nature of his duties conducting environmental inspections throughout HCHB; and his performance appraisal." OIG Report at 11.

39.) At all times relevant, in addition to Mr. Lee, three employees were assigned to Ms. Brooks' office: Genevieve Walker (Environmental Manager), Roseline Hill (Environmental Specialist), and Ronette Simpkins (Secretary). All three of these employees are female.

40.) Unlike Mr. Lee, management authorized training for Ms. Walker, Ms. Hill, and Ms. Simpkins; arranged for them to be provided with protective equipment and medical monitoring; and never required them to work around asbestos, lead based paint, mercury, butyl cellosole, sodium metasilicate, and/or PCB's.

**Mr. Fanning And Ms. Brooks Continue To Force Mr. Lee To Be Exposed  
To Carcinogenic, Toxic, and Hazardous Substances Without Protective Equipment,  
Training, Medical Monitoring, Or Notice  
And Subject Mr. Lee To Other Acts Of Harassment And Hostility**

41.) In December of 2007, Laura Ryan became the Associate Director of Commerce's Office of Management Support Services (OMSS), a division of OAS.

42.) Before becoming Associate Director of OMSS, Ms. Ryan had worked personally with Mr. Lee on serious environmental issues relating to asbestos, mold, and mildew in a shipping/receiving area of HCHB.

43.) Ms. Ryan had an exceptionally high opinion of Mr. Lee, knew that he was hard-working, and that he was highly qualified for a position in contracts management under her supervision. Ms. Ryan also knew of Mr. Lee's previous service as a member of the Acquisition Management Office in the Office of the Secretary of Commerce, and that Mr. Lee was certified as Contracting Officers Representative and trained in contracting project management.

44.) In or around January of 2008, Ms. Ryan learned that a position in contracts management under her supervision would soon become vacant. When Mr. Lee learned of the upcoming vacancy, he asked Ms. Ryan whether she would be amenable to accepting him into the contracts management position in OMSS via lateral reassignment from his position as a Hazardous Waste Facility Assistant.

45.) Were Mr. Lee reassigned into the contracts management position under Ms. Ryan's supervision, and as both Mr. Fanning and Ms. Brooks knew, Mr. Lee would no longer be

exposed to airborne asbestos, lead based paint, mercury, butyl cellosole, sodium metasilicate, and/or PCB's.

46.) In light of his background and her high opinion of Mr. Lee, Ms. Ryan wanted to reassign Mr. Lee into the vacant position in her office and approached Mr. Fanning with a request that Mr. Lee be reassigned to her office.

47.) Pointing to his prior protected activity in 2003, Mr. Fanning responded to Ms. Ryan that he was not amenable to laterally reassigning Mr. Lee to the vacant position in her office.

48.) At the same time, Ms. Ryan approached Ms. Brooks, who was then Mr. Lee's immediate supervisor, to solicit her support for laterally reassigning Mr. Lee to her office.

49.) Ms. Brooks also stated to Ms. Ryan that Mr. Lee should be fired because of his numerous doctors visits. She also claimed, falsely, that Mr. Lee was essential to her office because it was short-staffed.

50.) By refusing Ms. Ryan's requests to reassign Mr. Lee to the vacant contract management position under her supervision, Mr. Fanning and/or Ms. Jessup forced Mr. Lee to continue to be exposed to airborne asbestos, lead based paint, mercury, butyl cellosole, sodium metasilicate, and/or PCB's; and without training, protective equipment, or medical monitoring.

51.) In the spring of 2008, Mr. Lee returned to work after an absence for knee surgery and received a letter from Mr. Fanning which knowingly contained material misstatements about the likelihood that Mr. Lee had been exposed to asbestos during the course of his work in HCHB.

52.) Despite having known for certain that Mr. Lee had been exposed to airborne asbestos and other carcinogenic, toxic, or hazardous substances and the potential consequences

of exposure, Mr. Fanning and Ms. Brooks did not inform Mr. Lee of his exposure, restrict his access to such substances completely; or reassign Mr. Lee to a position which would no longer require exposure to asbestos, lead based paint, mercury, butyl cellosol, sodium metasilicate, and/or PCB's.

53.) Upon receiving Mr. Fanning's letter in or around February of 2008 and learning of even the understated potential of exposure, Mr. Lee requested authorization for a training course designed for individuals who work around asbestos.

54.) Defendant denied Mr. Lee authorization to attend a training course of this nature, on the false ground that there were no funds in the OAS budget for the training.

55.) In or around May of 2008, Mr. Lee sought authorization from Mr. Fanning and/or Ms. Brooks to take coursework so that he could change his occupational field to a position in occupational safety and health from environmental monitoring. Mr. Fanning and/or Ms. Brooks refused to provide Mr. Lee with authorization, falsely advising Mr. Lee that OAS lacked funding for the coursework he wanted to take.

56.) In July of 2008, Mr. Lee's personal physician informed him that his pulmonary disease was progressing and that he was very concerned that the performance of his duties as a Hazardous Waste Facility Assistant was the cause. Mr. Lee's personal physician also informed Mr. Lee that he was fit to perform in an administrative position, like the one in contracts management under Ms. Ryan's supervision that defendant refused to reassign him to, and that he should avoid work that would bring him into contact with environmental and occupational carcinogenic, toxic and hazardous substances.

57.) On or about August 6, 2008, upon receiving the foregoing advice from his personal physician, Mr. Lee requested that Mr. Fanning reassign him to another position in OAS

in order to work without further exposure to asbestos and other hazardous materials and in order to accommodate his bronchiectasis. Mr. Fanning refused to do so, informed Mr. Lee that he would have to look outside of Commerce if he wanted such a position, and stated that Mr. Lee would not qualify for such a position without a college degree.

58.) On or about August 6, 2008, upon receiving the foregoing advice from his personal physician, Mr. Lee requested that Ms. Brooks reassign him to another position in OAS in order to work without further exposure to asbestos and other hazardous materials and in order to accommodate his bronchiectasis.

59.) Ms. Brooks responded negatively to Mr. Lee, and directed Mr. Lee to speak with two of her subordinates, Jennifer Jessup, the OAS Associate Director for Administrative Services, and Rhonda Jackson, the OAS Associate Director for Management Support Services, and ask whether either had vacant positions on their staffs. Both falsely stated they did not.

60.) At the time, Ms. Jessup had a position in her office as a Management Supply Representative that had been filled by her and Mr. Fanning on an acting basis for close to two years by Gina Basurto-Bass. Ms. Jessup and Mr. Fanning had arranged for Ms. Basurto-Bass to be promoted while serving in this position and for her to receive extensive training for the position.

61.) Mr. Lee's permanent grade was higher than Ms. Basurto-Bass' permanent grade and in all respects he was better qualified for the position she had been encumbering and more capable of performing it.

62.) Mr. Fanning, Ms. Brooks, and Ms. Jessup knew of Mr. Lee's pulmonary disease. Nonetheless, neither took any steps to relieve Mr. Lee of the requirement of working in and around asbestos when he asked for reassignment.

63.) On or about August 8, 2008, defendant posted Vacancy Announcement No. OS-OAS-2008-0018 for the vacant Supply Management Representative position on Ms. Jessup's staff that was the subject of Mr. Lee's earlier conversation with her. The Vacancy Announcement was open from August 8, 2008, through August 27, 2008, and Ms. Jessup was the selecting official.

64.) On August 13, 2008, after having receiving the advice from his personal physician specified above in paragraph 56, Mr. Lee again asked Ms. Brooks to reassign him into the vacant Supply Management Representative position on Ms. Jessup's staff or to another position in OAS in order to work without further exposure to asbestos and other hazardous materials and in order to accommodate his bronchiectasis.. Ms. Brooks responded that she would not.

65.) After being advised by Ms. Jessup, Ms. Brooks, and Ms. Jackson that they did not have an available position for Mr. Lee to be reassigned to, Mr. Lee timely applied for the Supply Management Representative position.

66.) Mr. Lee made the best qualified list, was the most qualified candidate for the position, and was also entitled to a ten point veterans preference in the competition.

67.) When Mr. Lee advised Ms. Brooks that he had applied for the Supply Management Representative position, she advised him that he would not be selected.

68.) On August 20, 2008, after learning that Mr. Lee had applied for the Supply Management Representative position, Mr. Fanning told Mr. Lee that he would not be selected for that position or any position at Commerce at GS-11 or above because he did not hold a college degree. Mr. Fanning also denigrated Mr. Lee's professionalism, by telling Mr. Lee that he was casting his managers in a bad light by dressing for work in a suit.

69.) On or about August 29, 2008, the list of the ten top ranked candidates rated as Best Qualified was sent to Ms. Jessup. These candidates were referred to and eligible for consideration by Ms. Jessup, the selecting official; Ms. Ryan, who was assigned to be a panelist; and Theresa Hollowell, an HR representative, who would serve as the third panelist.

70.) Mr. Lee was included on the list of top ranked candidates to be referred to the panel. Ms. Basurto-Bass was not.

71.) On September 10, 2008, and after receiving that information and having been repeatedly informed that Commerce refused to reassign him to a position that did require him to be exposed to airborne asbestos, Mr. Lee began the process of applying for a federal disability retirement.

72.) At the same time, Mr. Lee continued to pursue his application for the Management Supply Representative position.

73.) Upon learning that Mr. Lee would be moving forward with his application for the Management Supply Representative position, Ms. Jessup began trying to eliminate him from consideration first by refusing to interview him and then by trying to make it impracticable or impossible for Mr. Lee to be interviewed.

74.) On September 15, 2008, after HR instructed Ms. Jessup that Mr. Lee was entitled to an interview, Mr. Lee was contacted by LaShwanda Swinson, Ms. Jessup's secretary, and asked to schedule an interview in the next few days. Mr. Lee responded that he was out on medical leave, and wanted to know why the interview process could not wait until he returned. When informed that Ms. Jessup wanted to make the selection as soon as possible, Mr. Lee stated that he wanted to participate in an interview by telephone.

75.) Two days later, after not having heard back about his interview, Mr. Lee contacted Ms. Swinson to inquire about the status of the selection process, who informed Mr. Lee that the selection process was being delayed while Ms. Jessup arranged for Ms. Basurto-Bass to be placed on the list of referred candidates. Once she did, Ms. Jessup tried not to interview Mr. Lee, on the false ground that Mr. Lee was ineligible unless he appeared personally.

76.) On or about September 19, 2008, Mr. Lee was informed by Ms. Swinson that Ms. Jessup had pre-selected Ms. Basurto-Bass for the Management Supply Representative position, which was subsequently confirmed by Ms. Ryan and Ms. Hollowell.

77.) During the selection process, Ms. Ryan advised Ms. Jessup that Mr. Lee was entitled to be interviewed by telephone if he wished. Ms. Jessup responded that that she was going to select Ms. Basurto-Bass regardless of Ms. Ryan's opinion or Ms. Hollowell's.

78.) Mr. Lee's interview was scheduled for September 22, 2008, a few days after he was discharged from the hospital. By that time, and having already been informed that he would not be selected and that Ms. Jessup delayed the competitive process in order to arrange for Ms. Basurto-Bass to be placed on the best qualified list and selected, Mr. Lee declined to be interviewed. Mr. Lee did not, however, withdraw his application for the Management Supply Representative position.

79.) That same day, Ms. Jessup falsely accused Mr. Lee in public and to HCHB security officers of breaking into her office and stealing her laptop computer which contained personal medical information of Commerce employee Barbara Sonnier. Mr. Fanning repeated the same false allegation to HCHB security officers.

80.) Effective October 12, 2008, having already advised Ms. Ryan and Ms. Hollowell that she was selecting Ms. Basurto-Bass regardless of their opinion, Ms. Jessup selected Ms.

Basurto-Bass for the Supply Management Representative position. She did so despite the fact that Mr. Lee's qualifications for the position were far superior to Ms. Basurto-Bass', that he had asked to be reassigned to and was entitled to be reassigned to the position before for it was advertised for competition.

81.) While Mr. Lee was awaiting the outcome of his disability retirement application, by letter dated November 20, 2008, Ms. Brooks threatened to place Mr. Lee on AWOL, an offense that would subject Mr. Lee to disciplinary action, rather than on Leave Without Pay, an approved non-paid leave status unless Mr. Lee provided further medical information in support of his application.

82.) Throughout this entire time, while he was on duty, defendant continued to require Mr. Lee to remain in his position as a Hazardous Waste Facility Assistant and continue being exposed to airborne asbestos and other carcinogenic, toxic, and hazardous substances and without a protective device, medical monitoring, or adequate training. Defendant also subjected Mr. Lee to other acts of discrimination, retaliation, hostility, and failure to accommodate.

83.) On April 28, 2009, Mr. Lee was hospitalized for depression he was suffering on account of defendant's on-going insistence that he be exposed to asbestos and other carcinogenic, toxic, and hazardous substances and without a protective device, medical monitoring, or adequate training; by its refusal to reassign him out of his position as a Hazardous Waste Management Assistant, and by its failure to select him for the position as Supply Management Representative.

#### **Exhaustion Of Administrative Remedies**

84.) No later than September 23, 2008, Mr. Lee timely initiated the EEO administrative process in this case. On December 9, 2008, Mr. Lee timely filed a formal

complaint of discrimination. Through these actions, and by seeking to amend his original informal and formal complaint, Mr. Lee exhausted his administrative remedies before Commerce. On September 29, 2008, Commerce issued its first final agency decision finding against Mr. Lee.

85.) Mr. Lee then timely filed an appeal to the Merit Systems Protection Board (MSPB). On May 24, 2010, the MSPB issued a decision finding that it did not have jurisdiction over Mr. Lee's complaint because his retirement was not coerced. Lee v. Commerce, Docket No. DC-0752-0893-I-1 (MSPB). Mr. Lee's administrative complaint was then remanded to Commerce for a Final Agency Decision (FAD), pursuant to 29 C.F.R. §1614.302(c)(ii). On November 17, 2010, Commerce issued its second FAD in this matter. Plaintiff timely filed suit in this action on February 11, 2011.

**Count I**  
**Hostile And Abusive Work Environment**  
**(Disability/Perceived Disability)**

86.) Plaintiff incorporates the allegations contained in paragraphs 1 through 85 above, as though fully set forth here.

87.) Plaintiff is an individual with a disability having a record of a permanent physical impairment, and defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities, including bronchiectasis, post-traumatic stress disorder, and Crohn's disease.

88.) Plaintiff's disabilities substantially limit one or more major life activities in the following ways, among others: breathing, exercising, walking, controlling bowel function, sustaining a stable emotional state, and living without intermittent bleeding and frequent pain.

89.) Plaintiff is a qualified individual with a disability because with or without reasonable accommodation, at all times relevant, plaintiff was able to perform one or more positions at Commerce in OAS without causing defendant undue hardship.

90.) At all times relevant to this Complaint, defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities.

91.) Beginning no later than January of 2008, defendant intentionally subjected plaintiff to a hostile and abusive work environment because it knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities, by the following actions among others: refusing to reassign plaintiff to OMSS in a position in contracts management in or around January of 2008; materially understating plaintiff's exposure to airborne asbestos fibers in February of 2008; continuously concealing from plaintiff his exposure to other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's; continuously failing to provide plaintiff complete training, medical monitoring, and protective equipment to be used in and for the performance of his position as a Hazardous Waste Facility Assistant; continuously failing to completely restrict plaintiff's access to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's; refusing to authorize plaintiff for a training course designed for individuals who work around asbestos in or around the spring of 2008; refusing to authorize coursework for plaintiff so that he could change his occupational field to a position in occupational safety and health from environmental monitoring in or around May of 2008; refusing plaintiff's requests to be reassigned to another position in OAS so that plaintiff could work without further exposure to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate,

and PCB's in or around on August 13, 2008; stating to plaintiff that he would have to look outside of Commerce if he wanted such a position and that plaintiff would not qualify for such a position without a college degree; interfering with plaintiff's application for a Supply Management Representative posted in Vacancy Announcement No. OS-OAS-2008-0018 between August 29, 2008, and September 22, 2008; falsely accusing plaintiff of breaking into his first line supervisor's office and stealing her laptop computer which contained personal medical information of Commerce employee Barbara Sonnier; threatening to place plaintiff on AWOL on November 22, 2008, while he was applying for disability retirement; and continuously requiring plaintiff as a condition of his employment to remain in his position as a Hazardous Waste Facility Assistant and to be exposed to airborne asbestos and other carcinogenic, toxic, and hazardous substances including lead based paint, mercury, butyl cellosol, sodium metasilicate, and PCB's, and without a protective device, medical monitoring, or adequate training.

92.) By the foregoing actions and others, defendant subjected plaintiff to a hostile and abusive work environment and discriminated against plaintiff because defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities, and thereby materially and adversely altered the terms and conditions of his employment in violation of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §§791 et seq.

93.) Defendant's violation of the Rehabilitation Act caused plaintiff to suffer physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, anxiety, depression, and loss of enjoyment of life.

**Count II**  
**Failure To Reasonably Accommodate**  
**(Refusal to Reassign)**

94.) Plaintiff incorporates the allegations contained in paragraphs 1 through 93 above, as though fully set forth here.

95.) Plaintiff is an individual with a disability having a record of a permanent physical impairment, and defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities, including bronchiectasis, post-traumatic stress disorder, and Crohn's disease.

96.) Plaintiff's disabilities substantially limit one or more major life activities in the following ways, among others: breathing, exercising, walking, controlling bowel function, sustaining a stable emotional state, and living without intermittent bleeding and frequent pain.

97.) Plaintiff is a qualified individual with a disability because with or without reasonable accommodation, at all times relevant, plaintiff was able to perform one or more positions at Commerce in OAS without causing defendant undue hardship.

98.) At all times relevant to this Complaint, defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities.

99.) On August 13, 2008, plaintiff requested that defendant reasonably accommodate him by reassigning plaintiff to the vacant Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018 or to another position in OAS that plaintiff could work in without further exposure to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's.

100.) Defendant failed to reasonably accommodate plaintiff on and after August 13, 2008, when it refused to reassign plaintiff to the vacant Supply Management Representative

position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018 or to another position in OAS that plaintiff could work in without further exposure to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's.

101.) Without undue hardship, defendant could have reassigned plaintiff to the vacant Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018 or to another position in OAS that plaintiff could work in without further exposure to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's.

102.) By refusing to reassign plaintiff in the foregoing manner, defendant failed to reasonably accommodate plaintiff and thereby subjected him to adverse employment action, in violation of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §§791 et seq.

103.) Defendant's failure to reasonably accommodate plaintiff caused plaintiff to suffer physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, anxiety, depression, and loss of enjoyment of life.

**Count III**  
**Disability Discrimination – Rehabilitation Act**  
**(Failure to Promote)**

104.) Plaintiff incorporates the allegations contained in paragraphs 1 through 103 above, as though fully set forth here.

105.) Plaintiff is an individual with a disability having a record of a permanent physical impairment, and defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities, including bronchiectasis, post-traumatic stress disorder, and Crohn's disease.

106.) Plaintiff's disabilities substantially limit one or more major life activities in the following ways, among others: breathing, exercising, walking, controlling bowel function, sustaining a stable emotional state, and living without intermittent bleeding and frequent pain.

107.) Plaintiff is a qualified individual with a disability because with or without reasonable accommodation, at all times relevant, plaintiff was able to perform one or more positions at Commerce in OAS without causing defendant undue hardship.

108.) At all times relevant to this Complaint, defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities.

109.) Plaintiff timely applied for the Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018, was referred to the selection panel for the position, was the most qualified candidate for the position, and was also entitled to a ten point veterans preference in the competition.

110.) Defendant failed to select plaintiff for the foregoing Management Supply Representative, effective on or about October 12, 2008, and instead selected a less qualified candidate who was not disabled.

111.) Defendant discriminated against plaintiff because defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities when it failed to select plaintiff for the Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018, effective October 12, 2008.

112.) By failing to select plaintiff for the foregoing Management Supply Representative, defendant discriminated against plaintiff because defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities, defendant subjected

plaintiff to adverse employment action, in violation of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §§791 et seq.

113.) Defendant's violation of the Rehabilitation Act caused plaintiff to suffer physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, anxiety, depression, and loss of enjoyment of life.

**Count IV**  
**Retaliation – Rehabilitation Act**  
**(Failure to Promote)**

114.) Plaintiff incorporates the allegations contained in paragraphs 1 through 113 above, as though fully set forth here.

115.) Plaintiff is an individual with a disability having a record of a permanent physical impairment, and defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities, including bronchiectasis, post-traumatic stress disorder, and Crohn's disease.

116.) Plaintiff's disabilities substantially limit one or more major life activities in the following ways, among others: breathing, exercising, walking, controlling bowel function, sustaining a stable emotional state, and living without intermittent bleeding and frequent pain.

117.) Plaintiff is a qualified individual with a disability because with or without reasonable accommodation, at all times relevant, plaintiff was able to perform one or more positions at Commerce in OAS without causing defendant undue hardship.

118.) At all times relevant to this Complaint, defendant knew, regarded, and/or perceived that plaintiff suffered from one or more disabilities.

119.) On August 13, 2008, plaintiff engaged in protected activity under when he requested that defendant reasonably accommodate him by reassigning plaintiff to the vacant Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-

OAS-2008-0018 or to another position in OAS that plaintiff could work in without further exposure to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's.

120.) Plaintiff timely applied for the Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018, was referred to the selection panel for the position, was the most qualified candidate for the position, and was also entitled to a ten point veterans preference in the competition.

121.) Defendant failed to select plaintiff for the foregoing Management Supply Representative, effective on or about October 12, 2008, and instead selected a less qualified candidate who had not requested reasonable accommodation.

122.) Defendant retaliated against plaintiff because plaintiff requested that defendant reasonably accommodate him on August 13, 2008, when it failed to select plaintiff for the Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018, effective October 12, 2008, and thereby subjected plaintiff to a materially adverse action in violation of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §§791 et seq.

123.) Defendant's violation of the Rehabilitation Act caused plaintiff to suffer physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, anxiety, depression, and loss of enjoyment of life.

**Count V**  
**Sex Discrimination**  
**(Refusal To Reassign)**

124.) Plaintiff incorporates the allegations contained in paragraphs 1 through 123 above, as though fully set forth here.

125.) Plaintiff is a male.

126.) On August 13, 2008, plaintiff requested that defendant reassign him to the vacant Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018 or to another position in OAS that plaintiff could work in without further exposure to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's.

127.) Defendant refused plaintiff's request that he be reassigned to the vacant Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018 or to another position in OAS that plaintiff could work in without further exposure to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's.

128.) By refusing to reassign plaintiff in the foregoing manner, defendant subjected plaintiff to adverse employment action on account of his sex, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-16.

129.) Defendant's failure to reassign plaintiff caused plaintiff to suffer physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, anxiety, depression, and loss of enjoyment of life.

**Count VI**  
**Sex Discrimination**  
**(Failure to Promote)**

130.) Plaintiff incorporates the allegations contained in paragraphs 1 through 129 above, as though fully set forth here.

131.) Plaintiff is a male.

132.) Plaintiff timely applied for the Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018, was referred to the selection panel for the position, was the most qualified candidate for the position, and was also entitled to a ten point veterans preference in the competition.

133.) Defendant failed to select plaintiff for the foregoing Management Supply Representative, effective on or about October 12, 2008, and instead selected a less qualified female candidate.

134.) By failing to select plaintiff for the foregoing Management Supply Representative, defendant subjected plaintiff to adverse employment action on account of his sex, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-16.

135.) Defendant's failure to select plaintiff caused plaintiff to suffer physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, anxiety, depression, and loss of enjoyment of life.

**Count VII**  
**Retaliation – Title VII**  
**(Hostile And Abusive Work Environment)**

136.) Plaintiff incorporates the allegations contained in paragraphs 1 through 135 above, as though fully set forth here.

137.) Plaintiff engaged in protected EEO activity in 2002 and 2003, when he pursued the administrative discrimination complaints process and prevailed in that process via a settlement with Commerce.

138.) Beginning no later than January of 2008, defendant intentionally subjected plaintiff to a hostile and abusive work environment by the following actions among others: refusing to reassign plaintiff to OMSS in a position in contracts management in or around January of 2008; materially understating plaintiff's exposure to airborne asbestos fibers in February of 2008; continuously concealing from plaintiff his exposure to other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's; continuously failing to provide plaintiff complete training, medical monitoring, and protective equipment to be used in and for the performance of his position as a Hazardous Waste Facility Assistant; continuously failing to completely restrict plaintiff's access to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's; refusing to authorize plaintiff for a training course designed for individuals who work around asbestos in or around the spring of 2008; refusing to authorize coursework for plaintiff so that he could change his occupational field to a position in occupational safety and health from environmental monitoring in or around May of 2008; refusing plaintiff's requests to be reassigned to another position in OAS so that plaintiff could work without further exposure to asbestos and other carcinogenic, toxic and

hazardous substances including lead based paint, mercury, butyl cellosol, sodium metasilicate, and PCB's in or around on August 13, 2008; stating to plaintiff that he would have to look outside of Commerce if he wanted such a position and that plaintiff would not qualify for such a position without a college degree; interfering with plaintiff's application for a Supply Management Representative posted in Vacancy Announcement No. OS-OAS-2008-0018 between August 29, 2008, and September 22, 2008; falsely accusing plaintiff of breaking into his first line supervisor's office and stealing her laptop computer which contained personal medical information of Commerce employee Barbara Sonnier; threatening to place plaintiff on AWOL on November 22, 2008, while he was applying for disability retirement; and continuously requiring plaintiff as a condition of his employment to remain in his position as a Hazardous Waste Facility Assistant and to be exposed to airborne asbestos and other carcinogenic, toxic, and hazardous substances including lead based paint, mercury, butyl cellosol, sodium metasilicate, and PCB's, and without a protective device, medical monitoring, or adequate training.

139.) By the foregoing actions and others, defendant subjected plaintiff to a hostile and abusive work environment and retaliated against plaintiff because of his prior protected EEO activity, and thereby materially and adversely altered the terms and conditions of his employment in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-16.

140.) Defendant's violation of the Title VII caused plaintiff to suffer physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, anxiety, depression, and loss of enjoyment of life.

**Count VIII**  
**Retaliation – Title VII**  
**(Refusal To Reassign)**

141.) Plaintiff incorporates the allegations contained in paragraphs 1 through 140 above, as though fully set forth here.

142.) Plaintiff engaged in protected EEO activity in 2002 and 2003, when he pursued the administrative discrimination complaints process and prevailed in that process via a settlement with Commerce.

143.) On August 13, 2008, plaintiff requested that defendant reassign him to the vacant Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018 or to another position in OAS that plaintiff could work in without further exposure to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's.

144.) Defendant retaliated against plaintiff because of his prior protected EEO activity, on and after August 13, 2008, when it refused to reassign plaintiff to the vacant Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018 or to another position in OAS that plaintiff could work in without further exposure to asbestos and other carcinogenic, toxic and hazardous substances including lead based paint, mercury, butyl cellosole, sodium metasilicate, and PCB's.

145.) By refusing to reassign plaintiff in the foregoing manner, defendant retaliated against plaintiff for his prior protected EEO activity, and thereby subjected plaintiff to a materially adverse action in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-16.

146.) Defendant's violation of the Title VII caused plaintiff to suffer physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, anxiety, depression, and loss of enjoyment of life.

**Count IX**  
**Retaliation – Title VII**  
**(Failure to Promote)**

147.) Plaintiff incorporates the allegations contained in paragraphs 1 through 146 above, as though fully set forth here.

148.) Plaintiff engaged in protected EEO activity in 2002 and 2003, when he pursued the administrative discrimination complaints process and prevailed in that process via a settlement with Commerce.

149.) Plaintiff timely applied for the Supply Management Representative position in OAS posted in Vacancy Announcement No. OS-OAS-2008-0018, was referred to the selection panel for the position, was the most qualified candidate for the position, and was also entitled to a ten point veterans preference in the competition.

150.) Defendant failed to select plaintiff for the foregoing Management Supply Representative, effective on or about October 12, 2008, and instead selected a less qualified candidate who had not engaged in protected EEO activity.

151.) By failing to select plaintiff for the foregoing Management Supply Representative, defendant subjected plaintiff to a materially adverse action, and thereby retaliated against plaintiff in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-16.

152.) Defendant's violation of the Title VII caused plaintiff to suffer physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, anxiety, depression, and loss of enjoyment of life.

**PRAYER FOR RELIEF**

Wherefore, plaintiff Edgar D. Lee respectfully requests that the Court enter judgment in his favor and award him the following relief.

A. An Order declaring that defendant violated plaintiff's civil rights under the Rehabilitation Act of 1973, as amended, 29 U.S.C. §§791 et seq., and Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e-16.

B. Record correction.

C. Backpay and commensurate benefits.

D. Compensatory damages in an amount to be determined at trial to compensate plaintiff for the physical and emotional pain, embarrassment, humiliation, mental anguish, inconvenience, career loss, loss of future career opportunities, loss of professional reputation, and loss of enjoyment of life caused by his termination;

E. Pre- and post-judgment interest;

F. Attorneys' fees and costs.

G. Such other relief as may be just and appropriate.

**Jury Demand**

Plaintiff requests a trial by jury of all issues so triable.

Respectfully submitted,

*//s//*

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Robert C. Seldon, Esq.  
D.C. Bar No. 245100

*//s//*

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