

ORIGINAL  
ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
*Pollution Control Board*

REBECCA LAWRENCE, )  
Complainant )  
v. ) PCB 02-10  
NORTH POINT GRADE SCHOOL c/o )  
UNIT 5 DISTRICT OFFICE, )  
Respondent. )

**MOTION TO DISMISS AND REQUEST FOR SANCTIONS**

NOW COMES, Community Unit School District No. 5 and moves this honorable hearing board to dismiss the above captioned cause of action and grant sanctions to the Unit 5 School District for the following reasons to wit:

1. That the Complainant filed on July 25, 2001 a noise complaint with the Illinois Pollution Control Board.
2. That Steven C. Langhoff was the hearing officer assigned to the complaint.
3. That a hearing date was set for January 30, 2002.
4. That on January 10, 2002 the Complainant requested a change in hearing officers.
5. That a new hearing officer Bradley P. Halloran was appointed to hear the case on January 24, 2002.
6. That the commission postponed the hearing date of January 30, 2002 because of the naming of a new hearing office.
7. That the Respondent has propounded upon Complainant discovery interrogatories and requests for production.
8. That Respondent on June 11, 2002 filed a Motion to Compel Complainant to answer.
9. That Complainant consistently has failed to following sections 101.620 (b) and (c) as to answering interrogatories of Respondent.
10. That the hearing officer scheduled telephonic status conference on September 25, 2002 which was to be initiated by Complainant, which never occurred because of Complainant's failure to initiate said conference.

11. That the hearing officer scheduled a telephone status conference on October 17, 2002 which was to be initiated by Complainant which never occurred because of Complainant's failure to initiate said conference.

12. That the hearing officer set November 21, 2002 for a telephonic status conference with the Complainant to initiate the conference which did not occur because of Complainant's failure to initiate the conference.

13. That the hearing officer set the telephonic status conference for February 10, 2003 at 1:30 p.m. which status conference was to be initiated by the Complainant which did not occur because of Complainant's failure to initiate the conference.

14. That Respondent has expended significant funds to defend this complaint including but not limited to fees and expenses of expert witnesses, fees and expenses of attorneys and their investigators.

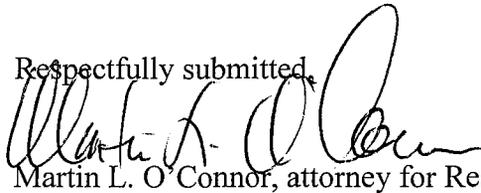
15. That the Respondent through their attorney has been present on each and every status telephone conference and spent considerable time preparing prior to each hearing. In addition a representative of Respondent has been present each and every time there has been a telephonic status hearing scheduled.

16. That Respondent has expended in excess of Five Thousand Dollars (\$5,000.00) in fees and expenses to defend this litigation which began on July 25, 2001.

WHEREFORE, the Respondent requests this board to dismiss the above captioned cause of action for an obvious lack of prosecution on behalf of the Complainant. This Complainant has delayed this proceeding by requesting a new hearing officer, by failing to comply with the rules of the Pollution Control Board in regards to answering discovery and by failing to keep four (4) months of telephonic status conferences.

The Respondent further requests that Complainant be found guilty of failure to comply with the rules of the Commission on the directions of the hearing officer and guilty of delaying the proceedings and therefore subjecting herself to sanctions by this board in the amount of fees expended by Respondent in an amount not to exceed Five Thousand Dollars (\$5,000.00).

Respectfully submitted,



Martin L. O'Connor, attorney for Respondent

PROOF OF SERVICE

It is hereby certified that true copies of the foregoing were mailed, first class postage prepaid, to each of the following on the 17th day of February, 2003.

Dorothy M. Gunn  
Illinois Pollution Control Board  
James R. Thompson Center  
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Rebecca S. Lawrence  
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Bradley P. Halloran  
Hearing Officer  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 W. Randolph Street  
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Martin L. O'Connor