

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JUL 20 2005
CHAMPAIGN COUNTY, ILLINOIS

STATE OF ILLINOIS
Pollution Control Board

MORTON F. DOROTHY,)
)
Complainant,)
)
vs.)
)
FLEX-N-GATE CORPORATION,)
an Illinois Corporation,)
)
Respondent.)

No. PCB 05-049

**COMPLAINANT'S MOTION FOR LEAVE TO REPLY AND RESPONSE TO MOTION
FOR LEAVE TO REPLY**

Complainant Morton F. Dorothy, moves that the Board grant him leave to reply to respondent Flex-N-Gate Corporation's Response to Complainant's Motion for Partial Summary Judgment as to Count I, moves for leave to dispense with duplicative copies, and makes the following response to Respondent's Motion for Leave to Reply:

1. On June 20, 2005, Complainant served a Motion for Partial Summary Judgment as to Count I.
2. On July 8, 2005, Respondent filed a Response to Complainant's Motion for Partial Summary Judgment as to Count I.
3. On July 8, 2005, Respondent also filed a Motion to Strike Affidavits Filed and Unsupported Statements made in Support of Complainant's Summary Judgment Filings and Motion for Admonishment of Complainant.
4. Complainant moves for leave to reply pursuant to Section 101.500(c) in order to prevent material prejudice.
 - a. Respondent has, in the Response, denied the truth of facts which it has admitted in discovery and in affidavits attached to its motions, which facts Complainant regarded as established beyond doubt at the time he filed his motion.
 - b. Respondent has mischaracterized Complainant's arguments, and has advanced arguments that Complainant could not have anticipated.
5. Complainant has no objection to Respondent's Motion for Leave to Reply, but asks the Board to set a prompt schedule for such replies.

6. Respondent has also objected, in the Motion to Strike Affidavits, to the lack of exhibits attached to affidavits.
7. Respondent cites Illinois Supreme Court Rule 191(a) in support for its argument that copies of documents must be attached to affidavits. Complainant believes that this is referring to documents other than those already on file in the instant case. Complainant does not feel that it is necessary to attach copies of documents that are already on file in this case.
8. Complainant is an unemployed factory worker who uses coin-operated, public copying machines. Making copies of documents in this manner is extraordinarily time-consuming, and very expensive. To the extent the Board may agree with the respondent that such duplicative copies may be required, Complainant requests leave to dispense with them in this case.
9. Complainant expects to file additional affidavits in connection with his reply, and would appreciate a ruling on this issue before the reply is due.

WHEREFORE Complainant prays that the Board grant him leave to reply to the Response to Complainant's Motion for Partial Summary Judgment as to Count I, and grant him leave to dispense with any requirement to attach to affidavits copies of documents that have already been filed in this case.

Morton F. Dorothy
Morton F. Dorothy, Complainant

State of Illinois)
) SS
County of Champaign)

AFFIDAVIT

1. Respondent has, in the Response to Complainant's Motion for Partial Summary Judgment as to Count I, denied the truth of facts which it has admitted in discovery and in affidavits attached to its motions, which facts Complainant regarded as established beyond doubt at the time he filed his motion.
2. Respondent has mischaracterized Complainant's arguments, and has advanced arguments that Complainant could not have anticipated.
3. Complainant is an unemployed factory worker who uses coin-operated, public copying machines. Making copies of documents in this manner is extraordinarily

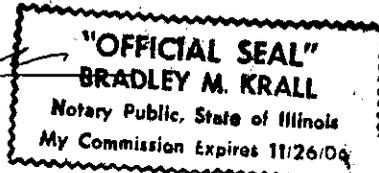
time-consuming, and very expensive.

Morton F. Dorothy

Morton F. Dorothy, Complainant

The undersigned, a notary public in and for the aforesaid County and State, certifies that the above person appeared before me and signed the foregoing document on the 18th day of July, 2005.

Bradley M. Krall
Notary Public



Morton F. Dorothy
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