Claims Of Corporate And Legal Misconduct

Addendum V

Walter Tuvell

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Walter Tuvell	November 3, 2011 (Version 1.0)	*Claims Of Corporate And Legal Misconduct, Addendum IV*
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Walter Tuvell	May 24, 2011	*PerfScore; Establishing A Model Of Performance Measurement For NPS Systems*

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53 Executive Summary — Addendum V

This document is Addendum V to my original two-Part Complaint plus Addenda I–IV.

Hereinafter, the unqualified term "Complaint" includes the original two Parts, plus Addenda I–V, unless otherwise specified.

Note: The years in which events occurred (2011, 2012) are largely self-explanatory, hence are omitted unless necessary to avoid confusion/ambiguity.

53.1 List Of Particulars

- Russell Mandel's dishonest/sham "findings" to his IDR/C&A "investigation" into my case, constitute a *cover-up*, and discrimination-retaliation (as well as fraud/IIED/etc.). Sections 56–57 below. This is most especially evident because of the very clear "retaliation *per se*" component of the November 17 phone call (Section 57.1, below).
- Additional counts of *defamation:* According to Russell Mandel's "findings" of his "investigation", Mandel was given information that I did had failed to provide Fritz with all the support he required. Sections 56–57 below. That is provably false, and was known-false at the time (as proved in Section 57). Therefore, the person(s) who published that known-false information (specifically Fritz, presumably aided by Dan) defamed me to Mandel. Furthermore, to the extent that Mandel himself published that information (as he hints he did, see New Complaint, Addendum I), Mandel committed defamation.
- Additional counts of *actual-discrimination* <u>*and*</u> *discrimination-retaliation* (on the basis of disability): You know **all** those instances of behavior I've heretofore called "blackballing/harassment/retaliation/IIED/etc."? Well, now that I understand more about ADA and law, I hereby additionally recast them as *discrimination* as well. For, those acts were all perpetrated by people who *knew at the time* about my PTSD-based disability, yet subjected me to PTSD-inducing abuse and disparate treatment (with respect to how I'd been treated prior to filing my complaints). For, said knowledge was certainly true of Dan, because I'd told him about my disability very early on (no later than December, 2010)[174] — and at that point it was his *affirmative responsibility* (under ADA) to proactively inform others and seek reasonable accommodation for me, *protecting me from attack from anyone else at IBM* (especially Russell Mandel and HR). Even if Dan didn't inform others, I certainly did, beginning immediately after filing my complaint on June 10 (proof: Section 59, below).[175]
- IBM was clearly aware of my need for (ADA-mandated) *reasonable accommodation* already in mid-June (because I was begging to be removed from Dan's abuse, based on my history of PTSD), yet refused to recognize/acknowledge/discuss it with me

174· Section 60, below.

175· Incidentally, this probably explains why Dan/Fritz refused a three-way meeting with me (Complaint, Part I, Section 1.3, second bullet): they were acting as co-conspirators, actively/knowingly using Fritz's defamation to psychologically abuse me. (Otherwise, why are they using false/pretextual reasons to cover-up their actions? Sections 57.5–6, below.)

for nearly *four months* (the first such acknowledgment was Addendum IV, p. 18, email of 2011-10-10 09:33 AM). That willful stonewalling ("undue delay") amounts to illegal *refusal to engage in ADA-mandated "interactive process".*

- *IHS culpability:* In addition to the many-times-repeated refusals, by management (Dan) and HR (Mandel), to negotiate/grant "ADA reasonable accommodation" cited heretofore in this Complaint, we now recognize IHS's (Integrated Health Services) role in independently committing the same wrongs. Below, Section 59 *passim* and Appendix III *ff.*
- IBM's illicitly *forcing* me to go onto STD (66⅔%-pay for the second 13 weeks of STD benefits); then onto unpaid leave (0%-pay, until LTD approved, if ever); then onto LTD (50%-pay, if/when approved): these all amount to acts of *adverse job action (violations of discrimination law, on the basis of known-disability),* as well as *theft* (illicit deprivation of income). They should have transferred me instead, as reasonable accommodation.
- A more obvious, spontaneous, unforced *self-admission of wrongdoing* than the Transfer Debacle (*New Complaint*, see Section 58 below) cannot be imagined. Namely:
  - Violation of ADA law, admitted by Chris Kime (but blaming his up-line management and HR).
  - Cover-up by Dan.
  - Cover-up-of-cover-up by Russell Mandel.

54 Typos, Etc.

- Part I, p. 19, middle: "I agree" should read "I agreed".
- Part II, p. 18, fn. 77: "servent" should be "servant".
- Addendum I, p. 7, paragraph beginning "That is content-free blather": Change "especially involving two where" to "especially involving two instances where".
- New Complaint, p. 4: I wrote of "four consecutive MTRs", but that count was erroneous. There were actually six MTRs submitted. Details are explained in a footnote to the Comments paragraph near the beginning of Section 59, below.
- New Complaint, p. 24: The email dated "2011-21-01 01:25 PM" should be dated "2011-12-05 01:25 PM".
- New Complaint, p. 29: The email dated "2010-01-03 07:43 AM" should be dated "2012-01-03 07:43 AM".
- New Complaint, pp. 31–36: In page headers, change "Performance Proposal" to "Complaint".

55 Robert Mantell, Esq.

In my email submitting Addendum IV, I hinted I was planning to retain a lawyer to help me with this matter, due to frustration from IBM's stonewalling (undue delay):

- From: Walter Tuvell
  To: Russell Mandel
  Date: 11/03/2011 12:10 PM
  Subject: Complaint Addendum IV

  This may be the final Addendum. Given IBM's intransigence/refusal to progress of my IDR/C&A, further proceedings may need to get done outside the current collection of Complaints/Addenda. I've done everything I can.

  ▶*Complaint, Addendum IV, was attached here.*◀

Soon afterwards, I engaged Robert S. Mantell (of Rogers, Powers & Schwartz, LLP, http://www.TheEmploymentLawyers.com).

Rob's role will go largely undocumented in this Complaint, except where absolutely necessary to tell the story properly (to maintain an appropriate attorney/client relationship, and in any case I remain the responsible party).

It was with a huge sigh relief that I now believed I would no longer be shouldering the burden entirely by myself. Finally, I'd have someone now speaking for me that IBM would listen to. Or so I was hopeful (as it turned out, IBM had no more respect for Rob than for me).

56 Russell Mandel: IDR/C&A Sham "Findings" (Nov. 17)

And so it was with great irony (that is, completely independently of my retaining Rob Mantell), that on Monday, November 7, Russell Mandel sent me an email, totally out of the blue, proposing to continue/complete my IDR/C&A. I'd been begging Mandel for months to do exactly this, but he'd always stonewalled, on the claimed basis of my being "on STD".[176] Appendix AAA.

A phone call was set up for Thursday, November 17, between Mandel and myself, for him to inform me of his "findings" of my IDR/C&A. I asked Mandel for permission to audio-record our conversation, but he refused.[177] Instead, I was reduced to taking notes by myself.

Given my experiences with IBM HR and its so-called "investigatory" processes (Complaint, Part II, Section 15), I had very low expectations for Mandel's report. And sure enough, Man-

176· In actuality, I think Mandel was using "on STD" as just an (illicit) ruse — a stalling tactic, whose real purpose was to "wait me out", hoping I'd either "go away" (resign from IBM), or make some kind of "fatal error" giving IBM (false-)"cause" to fire me (such as, perhaps, "inappropriately using IBM facillities to inform others about my plight, thereby 'interferring' with the investigatory process", or some such nonsense). But I didn't do that, and he realized I never would, so he finally caved-in.

177· Unaccountably. That is, Mandel's *only* possible reason for refusing to record the phone call was to avoid later accountability for what he told me.

del didn't disappoint me. Mandel refused to address the "hard" elements of my complaint (age/sex/race discrimination and discrimination-retaliation, harassment/abuse/bullying/retaliation/IIED, defamation); and the "easy" elements elements that he did address were incredibly distorted. Rewriting history, he even accused *me* of causing the whole problem in the first place (by yelling at Fritz, instead of *vice versa*)! Mandel/IBM's acquittal of their duty as "trusted third-party steward/arbiter of internal dispute resolution" was … *(words fail me)*.

care

The remaining subsections of this Section 56 comprise my notes of the November 17 phone call, transcribed with great immediately after the call. These notes represent, to the limits of my best reporting ability under the circumstances, a complete/accurate/reliable/truthful account of the phone call, in all essential/relevant respects.

Section 57, below, goes into great detail rebutting the worst of Mandel's misstatements.

56.1 Preliminary Matters

Phone call starts, just after 2:00 PM EST on Thursday, November 17, 2011.

Mandel begins by talking for a couple of minutes about some non-substantive/boilerplate things. He also informs me he has actually read my Complaint (400+ pages) in full, which is very important indeed (namely, he cannot claim to be ignorant of any part of my Complaint).

He informs me what the format/agenda of this call is going to be: He says he's investigated four items that he's going to go over with me: (i) Formal Warning Letter (Wed, Aug 3); (ii) "impossible" project planning (June 16 – July 6), before I went out on STD/Vacation (which was July 7–31); (iii) demotion, which Mandel misleadingly insisted on calling "work (re)assignment," a.k.a. "switcheroo with Sujatha" (Fri, June 10); (iv) public yelling incident with Fritz (Wed, June 8). This is the first I'd learned what the detailed agenda for this phone call would be, even though I'd asked for an agenda previously (Appendix AAA, 2011-11-08 05:15 PM and 2011-11-09 06:18 AM).

Mandel asks if I have anything else I'd like to talk about, and I object very strongly that indeed I had stated many, many ("dozens and dozens") additional complaints in my Complaint, mostly in the Lists of Particulars (such as discrimination and discrimination-retaliation, retaliation/bullying/harassment/blackballing/IIED, and defamation) that I wanted to be addressed. He explicitly tells me he refused to investigate anything else at all, because "nothing else was eligible for investigation by IBM"!

I'm starting to get upset at this point, but at no point during the call do I actually "lose it" (though it takes great will-power for me to remain under control).

He asks if I have any additional "factual background" (beyond what I'd already submitted in my Complaint) to add to the four issues he's investigated and will report on, and I say I don't.

So he says he's going to go ahead and take me through his findings on his four issues. He tells me he's going to go through them in chronological order (opposite of the order than he'd listed them, above), which is fine with me.

But first, he says he's going to re-explain to me, and reinforce, his role in IBM C&A investigations (which I already knew, but I guess this is protocol).

He reminds me that Lisa Due did an initial investigation, that I appealed, and the case came to him in his role as the head of the C&A Program. He emphasizes that the instant investiga-

tion/report is the very, very final step in the C&A process within IBM involving my case. For example, he states that every time I've tried escalating beyond him in the past (e.g., Corporate Officers, Trust and Compliance Officer, both of which are advertised in IBM Law as complaint/appeal avenues), it gets "kicked-back" to him (or "referred-back" as he insisted on calling it, claiming it had some "legal" meaning [I'm guessing he was thinking I intended "kick-back" in the sense of bribery, but I didn't, I only meant it in the sense of "kick the can down the road"]) — even though, as I pointed out, I'd objected many times (as documented in the Complaint) to him being in charge of the case, because I thought he was compromised in his investigative role, since he was a named/charged party.

Mandel states he's interviewed 6–12 other people; he names Dan and Fritz, but refuses to name anybody else.

56.2 Public Yelling Incident (Jun. 8)

(For background, see Complaint, Part I, Sec. 6, pp, 21–24.)

Mandel states his investigation does not support that Fritz did anything wrong at all during the yelling incident. And in fact, if anyone did anything wrong ("acted inappropriately") during that incident, it was me!

Namely, Mandel says "somebody" claims I (not Fritz) was the one who "raised my voice", and that I used profanity. This was the very first time I'd heard anything about profanity during the yelling incident; I never claimed it, and even Fritz didn't use profanity, to my recollection. Initially, Mandel refused to tell me what the profanity was that I was accused of using, but upon my objection that I had a "desperate need" to know, he relented, and told me I was accused of saying "goddamn it" and "shit" (only those bare words, he didn't specify the context, verbal or social, in which I was accused of using those words, even though I tried to find out). I told him (correctly/certainly) that this accusation of profanity was "absolutely false" and a "lie".[178] I asked Mandel who, in light of this conflict of evidence, he was believing/crediting, me or the "other person(s)". He refused to say who he "believed/credited", instead merely saying "the evidence did not support that I was treated unfairly by Fritz".

As for "yelling", Mandel said Fritz certainly *did not* yell at all (first Mandel said "somebody 'may' have said Fritz yelled", but then he later said that "nobody" said Fritz yelled), but that I certainly *did* yell (he said one person reported that I "yelled", and a different person reported that I "raised my voice" [the latter is true, as I've reported — I raised my voice to the extent of being heard over Fritz's yelling, when I told him to "get off my back"][179]). Pretending that Fritz didn't yell, is false on its face — because Fritz himself self-admitted on-the-record (in our frank email exchange, Complaint, Part I, Appendix I) that he indeed "raised his voice" at me (as Fritz put it, but that was a euphemism [given that Fritz has an abnormally loud voice under the best of circumstances], and what Fritz did really was "yelling" to any "reasonable person" standard). And, Fritz himself didn't resist my characterization of his behavior, and

178· For, who in their right mind would swear at their boss, no matter how badly provoked? Notwithstanding the falsity of the profanity charge, *even if* it had happened, there would have been "nothing wrong" with it. After all, Fritz was standing/leaning right there yelling at me in public upon false pretenses, so I had an "understandable right" to respond "however" I did.

179· Let it be noted here that my "raising my voice" was indeed fully warranted, not only (i) from the normal everyday perspective of anyone having the "right" to defend themself from attack, but even more (ii) from the special perspective of someone with a PTSD disability, sufferering a PTSD-symptom-inducing attack.

he didn't accuse me of any bad behavior at all. If I'd yelled unwarrantedly, or sworn profanities at Fritz, don't you think he'd have mentioned them in our frank email exchange? Despite my plea for clarification/details, Mandel refused to tell me the words I was reported to have yelled, much less the context. (He couldn't, because it never happened.)

(At the end of this segment, I heard a "beep" on the line, and I asked Mandel if he was recording the phone call, but he said he wasn't, and that the beep I heard was coming from his Lotus Notes Sametime.)

56.3 Demotion (Jun. 10)

(For background, see Complaint, Part I, Sec. 6.1, pp. 24–26.)

After some preliminary clarification of terminology (Sujatha's name/title/pronunciation, and my salary designation of "Band 8"), Mandel said I was not "demoted" because I was a Band 8 both before and after the yelling incident. That latter is true, and obvious, and I've never claimed otherwise, but it's a limited/cramped definition of "demotion" — I'm using it in the expansive sense of "undesirable job reassignment".

Mandel harped on the "fact" that "work assignments are regularly shifted among employees at IBM", as if that were some magic elixir to salve all wounds of this sort. But of course it's not. Indeed, as I've already pointed out, IBM official policy itself *defines* "significant tangible adverse employment action" by the wording "such as dismissal, firing or an undesirable reassignment" (Complaint, Part II, p, 20, top of page) — not necessarily "demotion" in the sense Mandel was maintaining. Towards the end of this segment, Mandel conceded that if I'd been reassigned to "clean the toilets" (literally!), though remaining at Band 8 and at the same salary, that would indeed have been considered inappropriate. The point being, that Mandel/IBM does indeed recognize that it is possible for an "adverse job action/reassignment" to exist short of a "demotion".

Mandel stated that he agreed with Dan's action. Which, as I pointed out, wasn't surprising, given that he had already (see above) blindly bought into the falsehoods that were being perpetuated about what happened at the yelling meeting of June 8.

Mandel also said that he "has evidence" that I had not been providing all the support to Fritz that Fritz required. In fact, Mandel proffered no such "evidence" — only "reports" from his interviews (presumably of Fritz and/or Dan, since nobody else would/could have any inkling of such information, unless ultimately told so by Fritz or Dan — which "other sources" Mandel claimed do exist, though he refused to tell me who such "other sources" were). I objected that any such reports had to be false, and that here was again an example of where Mandel was arbitrarily choosing to credit "someone else" and to discredit me. But again, he refused to go into further detail. [There are only 2 potential types of "insufficient support" that I can think of ("Excel graphics" and "WaltBar numerics", Complaint, Part I, Sec. 4–6), and a close inspection of the actual evidence is inconsistent with claims of "insufficient support". For example, in the "Excel graphics" case, if Fritz had asked me to produce Excel graphics in the late afternoon of Tue., May 17, and had expected me to produce them in time for his meeting the next day at midday on Wed., May 18, how does it happen that he himself had gone ahead and produced said graphics overnight?]

So, Mandel's conclusion was that I was "treated fairly" with respect to the work-reassignment issue. Of course, he never addressed the discrimination angle I'd raised at all (namely, that

the work-reassignment was due to age/sex/race discrimination). [And, as we know from earlier in this phone call, the whole arena of (discrimination-)retaliation was somehow "ineligible for IBM investigation", even though the BCG & Friends are chock-full of guarantees that retaliation of any kind isn't tolerated — unless that retaliation is of the undocumented HR-supported retaliation-enabled variety, I guess.]

56.4 Impossible Project Planning (Jun. 16 – Jul. 6)

(For background, see Complaint, Part II, Sec. 13, pp. 13–16.)

Mandel points out that other people in Dan's group have been asked to produce project plans (I only know of Ashish and Felix, Complaint, Part II, App. S–T, neither of which is remotely comparable to the "impossible" project planning Dan had ordered me to do), and other people at IBM have been required to product project plans — "especially in cases of employees such as myself who is resistant to providing status reports"! This is the first I'd heard of any such "reason" for requiring the "impossible" project plans (Dan never mentioned it; this "reason" was clearly invented for the purposes of this phone call only).

The purported "status reports" I'd been resistant to provide were the "transition reports" with Sujatha, Complaint, Part II, Sec. 11, pp. 9–12. Mandel stated I'd been asked on two occasions, June 10 and June 15, to provide transition reports, but had refused to do so. That was factually false. I had been asked on June 14 to provide transition reports, so I started doing so immediately. Later, on June 15, Dan decided to change the format in which he wanted to receive the transition reports (he wanted to receive them individually from me and Sujatha, instead of combined together), so I immediately started doing that.

Mandel's comment about "others required to make project plans" completely misses the mark, on two counts (which of course Mandel doesn't address at all): (i) the legal/rational standard is not what "others" at IBM or in Dan's group might have been required to do, but the "differential treatment" I'm subjected to do in (discrimination-)retaliation for submitting a complaint; (ii) the precise type of project plan I'm subjected to ("detailed day-by-day plans, for 3 weeks, for 4 new-to-me technologies/projects, independently of any consultation with Dan/Sujatha, on 1 day's notice") is far-and-away bullying/retaliatory/harassing, and indeed "impossible" by any reasonable standard (as argued in my Complaint).

56.5 Formal Warning Letter (Aug. 3)

(For background, see Complaint, Part II, Sec. 20, pp. 25–27.)

Mandel says it would be "not at all uncommon at IBM to provide a FWL to an employee 'such as yourself' — who exhibits an escalating set (or ongoing pattern) of unprofessional and inappropriate 'comments and behaviors' in disregard for management direction". He cites the following six reasons for issuing the FWL:

- (i) The "confrontation" (as Mandel called it) with Dan on May 18, regarding the Excel graphic incident, where I threw the two pieces of paper I'd taken into the meeting into Dan's recycling bin (Complaint, Part I, Sec. 4, p. 18). (See also Section 57.5, below.)

- (ii) The meeting with Fritz on June 8 where he yelled at me (Complaint, Part I, Sec. 6, pp. 21–24). (See also Section 57.6, below.)
- (iii) The phone call, meeting with Dan, email, and weekly report of June 9–10 (Complaint, Part I: Sec. 6.1, pp. 24–26; App. I.b; App. A.dd), where I called Fritz a bully and liar, and conjectured Fritz may be going insane or may be threatened by me, and was making nonsensical and worthless comments.
- (iv) "Denigration of the work of my peers," calling Sujatha's work on capturing virtual tables an "unbelievably poor solution" (Complaint, Part II, p. 63 06/30/2011 07:22 AM), and data she'd reported was "suspicious/unreliable until proven innocent" (Complaint, Part II, p. 64, top of page), and Devesh's idea of increasing the size of a ring buffer beyond 16 MB (Id.). (See also Section 57.2, below.)
- (v) Characterizing Brian Maly's behavior as "stonewalling" (Complaint, Part II, App. Y, p. 132 07/06/2011 08:39 AM). (See also Section 57.3, below.)
- (vi) The "lazy" scandal (Complaint, Part II, App. A, pp. 134–136).

Obviously Mandel is here throwing at me a laundry list of "dirty" laundry, thinking this exhibition of "damning" evidence will frighten me from further pressing my case. Nothing could be further from the truth (but then, every time I think such of IBM, they surprise me and surpass themselves with their ability to deviate from the truth). But I won't go into a detailed rebuttal of every piece of laundry here, just limiting myself to the topics discussed on this phone call.

I pointed out to Mandel that "almost all" of this (indeed, literally all, with the sole exception of including Garth Dickie on the "lazy" emails) happened during the process of the official C&A process "in-the-large" (by which I mean "not just the 'formal' part of the process which includes HR, but also including the preceding complaints to immediate management that formed the precedent to escalation to formal HR process", precisely as specified by IBM Law) — where candor of the sort exhibited above is quite necessary to provide adequate notice-of-accusation to the accused, hence utterly ineligible for punishment/retaliation via Formal Warning Letter, thus must be set aside as beyond the bounds of any sane investigatory process. To that comment of mine, Mandel states that "just because I make a complaint about my management, that doesn't give me free reign to say anything you want". I stated I didn't "say anything I wanted", but rather "stated true facts everywhere along the line". In particular, with regard to the "denigration" of peers, I pointed out that I didn't "denigrate" (*"ad hominem"*) anyone, but rather had correctly stated that "the work they did was bad" (which it was). Along that line of "denigration", I stated (truly) that Dan himself had called the work of Joseph Shkolnik (another person my Dan's group, a peer or mine) work "shit". I don't think Mandel had ever heard that before (I was the only person present when Dan said it, and it's not written up in my Complaint; see also Section 57.4, below). While I said it was inappropriate of Dan to speak that way to me about another person in his group, I defended Dan's comment as properly targeted to Joseph's *work* (and not to Joseph *himself, "ad hominem"*).

dele. "work"

(See also Section 57.1, below.)

56.6 Wrap-Up

Mandel began his closing comments by warning me that I should: (i) “not try to find out what peers said about me during his investigation process”; or (ii) “do anything that could be interpreted as trying to ‘intimidate my peers’” — i.e., retaliation (notwithstanding that IBM had done nothing but retaliate against me since June 10, but none of that was “eligible for investigation by IBM”); or (iii) “manipulate the investigation”.

Upon my inquiry what “manipulate the investigation” meant, he refused to reply, merely stating that “I should not do anything which would lead him to the conclusion that I was attempting to manipulate the investigation”. I protested that such an wide-open non-definition was impossible for me to observe (the classic blackballing technique), for example I could come into a building and sneeze in the wrong direction, and that could be considered to an “attempt to manipulate the investigation”. He responded that “he expected me to use reasonable judgment”, to which I responded that no reasonable judgment had been used by IBM to date on any of this.

Mandel then reminded me, yet again, that he personally was the final escalation point within IBM. I asked why he found it necessary to remind of this yet again, in particular, was he telling me this to prevent me from telling anyone else in the whole company about what had happened to me, or indeed any else in the whole wide world (meaning, “world-wide-web”). He then said that “all he meant is that it would come back to him anyway”, i.e., that there was no further recourse within IBM, period. When I tried pressing him about whether I could indeed publish my Complaint (on either IBM intranet, or external Internet, or New York Times), he said he couldn’t stop me from doing things like that, but he refused to say whether or not such activity would be considered a “manipulation of the investigation”, or otherwise a punishable offense. He did say that “he would have a problem with” my posting my Complaint on the IBM intranet, “almost solely” because of “possible” misuse of IBM systems/resources, though he did say I would not otherwise be retaliated against (though I didn’t/don’t trust that, and when I asked if I’d be fired or demoted, he refused to answer).

As a concluding remark, Mandel tells me that someone at IBM (not him) will be contacting me regarding ongoing “interactive dialog” concerning “ADA reasonable accommodation”. He also commented that generally speaking, IBM non-lawyer employees (such as HR) talk to employees, while IBM lawyers talk to lawyers (and other non-employee representatives of employees), to which I had no objection.

And with that, the phone call ended (it lasted ~45 minutes altogether).

57 Enhanced Rebuttal To Certain Aspects Of IDR/C&A Sham “Findings”

Mandel’s IDR/C&A “findings”/conclusions (Section 56, above) were a complete sham: one big lie from top to bottom, in service of *covering-up* wrongdoing by IBM. And of course he just rushed through his “findings”, giving me no chance (except for this very bum’s-rush of a phone call) to consider his charges, or formulate reasoned response/refutation/rebuttal to them. Most of Mandel’s misstatements are already sufficiently refuted by the earlier parts of this Complaint (Parts I–II, Addenda I–IV). But some now call out for a deeper treatment. For

these, I now take the present opportunity to write-up the following enhanced rebuttals to Mandel's most egregious new falsehoods, in the following subsections:

57.1 Formal Warning Letter = Retaliation *Per Se*

Mandel enumerates precisely six (and only six) *"comments and behaviors"* as Dan's justification for Dan's issuance of the FWL (bullet-list in Section 56.5, above, numbered as (i)–(vi)). We must/do take these "comments/behaviors" as *both* coming directly/officially from Dan himself (as testified-to, "under-oath", to Mandel), *and* verified/certified/validated by Mandel himself (as empowered ultimate-authority agent of IBM for IDR/C&A matters). So, we are justified in speaking of "the Dan/Mandel 'comments/behaviors'" for the FWL.

Preliminarily, we ask: what are we supposed to think Mandel means, *generally,* by his wording, *"comments/behaviors"?* Mandel is very vague (per his scheme for keeping this phone call off-the-record), so the best we can do is guess. My guess is that Mandel means *generally* something like *"rocking-the-boat",* a.k.a. *"speaking-out"*. To which, I have the following *two-level* reaction:

- At the first/higher (more important) level, I *spoke-out because I felt compelled*[180] *to oppose IBM's illegal behaviors:*
  - Discrimination (age/sex/race, disability).
  - Discrimination-retaliation (age/sex/race, disability).
  - Defamation.
  - IIED.
- At the second/lower level (that is, once I'd decided I *must* speak out, see preceding level), I *spoke-out the way I did* for the following reasons:
  - *Truth.* Of course.
  - *Clarity/candor.* A balancing-act: requirement to *give-notice*, but tempered by necessity to remain *"within civilized bounds"*. To accomplish this, I was guided by the one field of human endeavor designed exactly for this purpose, namely the *legal realm* (with which I'd had a modicum of familiarity, due to my previous abusive employment experiences).
  - *Privileged/protected.* By both "real law" and "IBM law" (IDR/C&A policy). See below, this subsection.
  - *Dan-nullification.* Dan himself forgave/exonerated/absolved me. See below, this subsection.

Fortunately, we need not puzzle more deeply in this place about exactly what Mandel's "comments/behaviors" is supposed to mean generally, because Mandel himself does in fact specify the *precise six-and-only-six* "comments/behaviors" that Dan claims he actually used as justification for the FWL. And those six are hereby rebutted in greater detail, as follows.

180· In two senses: (i) optionally, by my own *internal* moral compass; (ii) required/non-optionally *externally,* by the IBM/BCG contract (Old Complaint, Addendum I, Section 37).

Of the six "comments/behaviors", Dan/Mandel's sixth "comment/behavior (vi)" is the "lazy scandal" incident. It is *retaliation per se,* for the following reason:

- The "lazy" scandal is clearly/provably/outrageously trivial/bogus/frivolous/capricious/abuse-of-power/etc. It is dealt with sufficiently/voluminously elsewhere in this Complaint (esp. Part II, Section 18; Addendum I, Section 30; Addendum IV, Section 49, p. 6, bullet-item beginning "A final word"), so it need not be dealt with further in this place.
- Here, though, we do observe that the *suspicious timing/sequencing* of the "lazy" scandal — occurring as it did as-soon-as-it-could-be-rushed-through-quickly-after-I-filed-my-IDR-C&A — already proves its inclusion in the FWL is *retaliatory* (unwarranted adverse job action).
- Added to which, the utter triviality/bogosity/frivolity/caprice/abusiveness of the "lazy" scandal proves further that its inclusion in the FWL goes *beyond* "mere retaliation" — it reaches **"retaliation *per se*"** ("summary", "automatic," "obvious", "no further proof required", "no reasonable/rational person could decide otherwise").

And, Dan/Mandel's first five "comments/behaviors (i)–(v)" are also all *retaliatory per se,* for *two independent* reasons (*each* of which suffices):

Actually, three: everything I said was completely true and non-offensive in the first place!

- All five "comments/behaviors (i)–(v)" are based on communications that happened during the *extraordinary protected/privileged/sacrosanct (via both "real law" and "IBM law IDR/C&A") context/course of the investigation/complaint process itself* (and not on "ordinary course-of-business workplace" transactions/comments/behaviors). In other words: *Dan/Mandel fault me (via issuance of the FWL) because of my candid participation in this very complaint/investigation, which I myself had lodged/initiated!* **They cannot do that** (i.e., it's impermissible under law). Investigatory proceedings themselves are absolutely protected/privileged against that kind retaliation, and I've explicitly/consistently relied upon that inviolable fact since the inception of this Complaint (such as: my own reading of BCG/AYJ/C&A materials the weekend of June 11–12; Part II, p. 132, email of 07/06/2011 07:35 AM; Part II, p. 5, fn. 53; Part II, Section 12, paragraph beginning "It's worth pointing out" to end of section). Statements made during the course of an investigation (by either the complainant, or anyone interviewed during the course of the investigation) must of necessity be *candid* (else no "findings" could ever be reliably "found"), and cannot be the basis for a "finding of wrongdoing" "found" during the course of the investigation itself. This is an absolutely bedrock protected/sacrosanct principle, which I already knew about very well (because of my previous experience having been defamed at another company), and I naturally/obviously[181] relied upon it heavily throughout. "The employer may not initiate an adverse job action against an employee based on the filing of the complaint" (*http://www.theemploymentlawyers.com/Articles/Counterclaims.htm*).
- All five "comments/behaviors (i)–(v)" had previously (to the issuance of the FWL) been *nullified/disqualified as reasons for disciplinary action,* by Dan himself. Namely, Dan had already *wiped the slate clean* ("you've done nothing wrong"

181· If there's ever any question about the said "obviousness", all you have to do is compare my "ordinary course-of-business" interactions with my "extraordinary IDR/C&A" interactions. It's like night-and-day.

[paraphrase]) of these five "reasons (i)–(v)", by *clearing/forgiving/exonerating/absolving* me in the following ways:[182]

- "Comments/behaviors (i)–(iv)" are based on incidents that occurred prior to 8:15 AM on June 30. At 8:27 AM on June 30, Dan *implicitly absolved* me of incidents (i)–(iv), where he wrote (Complaint, Part II, Appendix Q, p. 65,email of 06/30/2011 08:27 AM) about "factual errors … that need to be corrected: [y]ou have not been demoted[, and] [y]ou are not on a performance plan" (and contrariwise, he pointedly refused to charge me with any "chargeable offense"). And *also*, on July 5, Dan further *explicitly absolved* me of incidents (i)–(iv), where he wrote (Complaint, Part II, Appendix Y, p. 132, email of 07/06/2011 07:54 AM) that there existed "in no way an accusation that you have violated them *[meaning the 'behavior issues we discussed', specified later in the FWL itself as the basis for its issuance]*."
- "Comment/behavior (v)" is based on the Brian Maly "stonewalling" incident, which occurred on July 6 (Complaint, Part II, Appendix Y, p. 132, email of 07/06/2011 08:39 AM). But on that same day Dan immediately responded/commented to the very "stonewalling" email (Complaint, Part II, Appendix Y, p. 133, email of 07/06/2011 09:20 AM), wherein he commits himself to "be sure to alert you when I see any behavior that seems to be inappropriate", yet then pointedly refuses to cite the "stonewalling" incident as a "chargeable offense" — thus *absolving* me of incident (v), too.

No matter how you slice it, what Dan/Mandel did — issuance of the FWL on the basis of bad-faith frivolous/absolved/protected incidents/proceedings, as proved above — is *retaliation per se*.

And thus: All six of the Dan/Mandel "comments/behaviors" for FWL have been proved to be *false/ruse/pretext/cover-up* — back-formation attempting to disguise the fact that the Formal Warning Letter was in actuality nothing but a tactical weapon, whose underlying real/sole strategic purpose was (discrimination-)retaliation *(per se),* via bullying, abuse, harassment, IIED, etc.

57.2 Sujatha's & Devesh's Weak Ideas/Code

One of the "unprofessional and inappropriate behaviors" Mandel accused me of was "denigration of work of my peers", with respect to some of Sujatha's code, and one of Devesh's ideas (both of these items dealt with the so-called "virtual table capture problem"). Section 56.5, above. As I've explained several times, I stand by what I said (Complaint, Part II, pp. 63-64, email of 06/30/2011 08:13 AM), because what I wrote was correct and proper with respect to criticism of their work (and it wasn't *"ad hominem"*, as Dan/Mandel try to pretend: I was only commenting on their work, not on their persons; Complaint, Part II, Sec. 12).

What I'll present here is the actual technical details about Sujatha's and Devesh's proposed solutions. Their solutions (real or proposed) can then be compared to my solution (nzVtCapture.sh; Complaint, Part II, Appendix O), say by an expert witness (perhaps an NPS develop-

182· These absolutions are *in addition* to the fact that these five "incidents (i)–(v)" are already *non-existent in any sensible meaning of "bad acts",* as demonstrated elsewhere in this nearby (see bullet-list in Section 56.5, and citations/references thereat).

ment engineer, such as Garth Dickie for example). If the expert witness doesn't agree their proposed solutions are wrong/suck, and my solution is right/good, then I deserve to lose this argument (but I'm not worried, I welcome the scrutiny).

I'll write about: first, (i) the problem itself; then (ii) about Devesh's proposed solution; then (iii) about my solution; then (iv) about Sujatha's solution. (This order makes the best story-telling sense, though the real-life chronological order had the last two switched.) This is technical stuff, whose target audience is an expert witness, so I make no serious attempt to simplify it for the lay-person.

The Problem: Capturing complete virtual tables ("vtables").

The "virtual table capture problem" is explained in the Introduction section of my "Capturing Complete Virtual Tables" wiki page, at Complaint, Part II, Appendix O. That explanation suffices for any expert witness; no more need be said about it here. For convenience/completeness, we repeat said Introduction section here:

- Suppose you're interested in capturing the total contents of some virtual table over the duration of some test you're running. For example, you might be investigating NPS I/O activity while running a fairly complicated query, and you want to capture _vt_disk_log during your query run. If your test is moderately long-running, you've got a problem.

  Why? Because virtual tables are implemented as ring buffers, with a maximum size of 16 MB (unless you change it in source code and recompile, but let's assume you don't want to do that). The problem is that the ring-buffer may wrap around, spilling some of the contents of the virtual table. So you can't just wait until the end of your run to dump your virtual table.

  So what can you do?

Devesh's Proposed Solution: Increase size of ring capture-buffer in code.

Devesh's proposed solution is actually already mentioned in the Introduction section of nzVt-Capture.pdf (quoted just above), in the parenthetical statement in the second paragraph. Namely, "change (increase) the size of vtable ring buffers in source code". This proposed solution was never implemented (because it was a bad idea, as Devesh well-knew, so he never bothered to implement it). It would actually be easy/trivial to implement Devesh's idea: just change the value of a certain manifest constant in the NPS source code from 16M to whatever (bigger) size you want, and recompile NPS.

But it's a terrible idea (as Devesh well-knew), for many serious reasons (as Devesh well-knew): (i) the stated modification/recompilation would have to be re-done each and every time you wanted to capture a "too-large" vtable (hence is labor/time intensive, and prone to error/bugs), and is only available to developers (not to testers and other interested engineers, who are numerous) because it is only developers who have the expertise to modify/recompile NPS; (ii) the modified version of NPS would be useful *only* for capturing vtables, not for other kinds of testing (performance-related, say), because you'd be testing/measuring a modified version of NPS — hence the results of the testing/measuring wouldn't be valid for the standard/unmodified version of NPS itself (which is all you care about); (iii) the solution doesn't "really work" in any case, because no matter how big you make the vtable ring-buffer, you'll

almost-always end up wanting to capture a vtable that's bigger than the size you chose; (iv) the size of vtable you want to capture can be (and usually is) many hundreds of megabytes, which could well perturb the behavior of the modified-NPS in ways that would invalidate the results you captured (depending on the actual vtable you want to capture, and/or the actual data items in the captured vtable you're interested in); (v) most of the problems just mentioned would be exacerbated if you wanted to capture multiple vtables (which is often the case); (vi) etc.

My Solution: Capture vtables exterior to NPS ("nzVtCapture.sh").

My solution is documented in Appendix O. It amounts to a program I wrote, called nzVtCapture.sh (whose functionality is explained in Appendix O). The actual code for nzVtCapture.sh is given in Appendix BBB.

Sujatha's Solution: Capture vtables interior to NPS.

Sujatha's (actual, implemented solution), like Devesh's (proposed) solution, is also already mentioned in Appendix O, at the end, as the "alternative implementation" in the final paragraph. There, it is also explained briefly (which is sufficient) why it's not a viable solution. For convenience/completeness, we quote it here:

- An alternative implementation would be to do the whole capture inside NPS itself, using SQL to mimic the same design: create an auxiliary table, append your virtual table to the auxiliary table periodically, and finally pare down the auxiliary table by taking its "distinct" rows. However, this implementation is not to be recommended, because the intra-NPS activity it generates skews the experimental data you're interested in too much, and it tends to be slower too, both because of the auxiliary tables.

Even though that paragraph of Appendix O suffices to scotch Sujatha's solution, we can go a step further, and actually display Sujatha's actual solution, since she did implement it. Her solution, which is implemented as a collection of small scripts, is given in Appendix CCC. One need only turn an expert witness loose on her code, and compare it to my solution (Appendix BBB) to win the argument that her solution is an awful one[183] (even the quality of the coding is terrible, not just the functionality the code provides).

The point being: I was perfectly justified in my assessment about Devesh's and Sujatha's thoughts/work concerning the virtual table capture problem being weak, and I in no way denigrated them as people, only their ideas/code being substandard (not *"ad hominem"*). But in particular, Dan's/Mandel's complaint about my "denigration" of their work doesn't derive any public interaction at all, but from the later discussion between myself and Dan (Complaint, Part II, pp. 63-64, email of 06/30/2011 08:13 AM) — which took place under the *protected aegis of the IDR/C&A investigation itself*! from

Hence: retaliation *per se* (Section 57.1, above).

183· Though Sujatha, herself, is a wonderful person, of course.

57.3 Brian Maly's Stonewalling

One of the "unprofessional and inappropriate behaviors" Mandel accused me of was "characterizing Brian Maly's behavior as 'stonewalling'". This is another example of serious retaliation upon me, for totally trivial/frivolous/capricious reasons, for at least 2 reasons: (i) calling someone's behavior "stonewalling" isn't unprofessional/inappropriate in the least, because language like that is used by everyone, everywhere, all the time, and no offense is intended or perceived. It's just a regular/normal "manner of speaking", well-understood by everyone to simply mean "unforthcoming of information" (with only slight/mild/tinge of chiding/connotation of value-judgment attached to it) [similar to, but maybe a bit stronger than, "lazy", huh?]; (ii) Dan/Mandel had/have no idea *why* I spoke of Brian's behavior as "stonewalling", because they never saw what Brian wrote to me in email (it was a private email between Brian and me, and I never showed it to anybody else), so they can't judge whether the "stonewalling" characterization is appropriate or not (specifically, he was indeed precisely "unforthcoming of information", so my usage of "stonewalling" was perfectly apt).

So it's quite absurd that this topic has come up at all, or that I need to respond to it. But it has come up, so I guess I might as well explain the details. Here they are (they're really not very interesting):

The bare bones of this vignette are at Complaint, Part II, App. Y, pp. 132–133, email of 07/06/2011 08:39 AM. The meat that goes on those bones consists of an email chain from five months(!) earlier (which had not attracted any attention at the time — certainly Dan never said anything to me about it). Appendix DDD (see also weekly report for February 6–13, Part I, p. 34, last paragraph of Appendix A.m).

Mike Lee started that email chain by asking "Tech" (an email alias/list of techies at Netezza) a security-related question about the NPS product. Brian Maly, John Yates, and I responded. I knew that Brian's response to the list was misinformed. So I had a private exchange with him, providing him with an "out", to retract his misinformation by himself. But Brian "stonewalled", by "asserting without proffering proof" that his answer was correct (even though I knew it wasn't). Seeing that Brian wasn't going to confess his ignorance and retract/correct his answer (to the detriment of the others involved in the email discussion), I provided a correct response to the email list which corrected Brian's incorrect answer (though without being "confrontational" about it in the least, or even pointing out explicitly to the email group that Brian's answer was incorrect). My correction of Brian's misinformation consisted of distributing the document GreatWipingControversy.pdf to the list. [I obtained a poor-copy-quality of that scholarly paper by walking over to the MIT library from the Netezza/Wahoo Cambridge office that day and photographically scanning the paper.]

poor-quality copy

The point being: This was a perfectly innocuous email exchange, amongst technical people, and no one (to my knowledge) took any offense. But in particular, Dan's/Mandel's complaint about my calling Brian Maly's behavior "stonewalling" doesn't derive from any of the events that happened at the time (Appendix DDD, or weekly report for February 6–13), but only from the much later discussion between myself and Dan (Complaint, Part II, pp. 132–133, email of 07/06/2011 08:39 AM) — which took place under the *protected aegis of the IDR/C&A investigation itself*!

Hence: retaliation *per se* (see Section 57.1, above).

57.4 Dan's "It's Shit"

I mentioned in passing to Mandel, at one point during the phone call, that Dan once said of Joseph Shkolnik's work, "It's shit" (Section 56.5, above). That was the first time I'd ever mentioned the incident to anybody (because it's so trivial, I didn't think it would ever be relevant to anything). In particular, it's not written up earlier in my Complaint. Here are the facts, which are simple, straightforward and unremarkable (i.e., trivial, and shouldn't be relevant to anything).

The incident happened last March, at Netezza in Marlboro (I don't remember the exact date, and I have no contemporary record because the exchange was oral only). I was writing a paper for a project I was working on (the "PMtest" project); the paper was subsequently published on April 7. Dan kept pushing me to make this paper bigger/better/stronger. Which was strictly speaking "unnecessary" in the grand scheme of things (in the sense that I could get the essential info required by doing less work), but Dan wanted me to keep trudging along (more and more "researchy"), explicitly because he wanted me to "create a document that could/would be used as the Golden Model for how documents should be written by members of the Performance Architecture Group". I had no problem with that, and it was an appropriate thing for him to want to do, and it was interesting, so I was happy to do it. And I succeeded; the PMtest.pdf document is indeed a Golden Model, just as Dan asked for. Sometime later in fact, Dan gave a "Lunch 'n Learn" talk at Netezza, attended by dozens of engineers/employees, at which he cited this doc (and named me, as its author) as indeed the Golden Model. [Incidentally, I also designed the document format template; you'll recognize it as the format of these Complaint documents.]

and record

But in the process in March of explaining to me why he wanted me to keep working more-and-more on the PMtest document (to make it the Golden Model), Dan explained to me WHY he wanted/needed a Golden Model, in an exchange like this:

- Dan — "Have you seen the paper Joe's working on?"
- Me — "No."
- Dan — "It's shit." *(Clearly articulated, with emphasis.)*
- Me — *(Shocked silence, at hearing my manager speak of a colleague of mine, in his group, in this manner.)*

Note: Dan's ease/familiarity in speaking to me this way shows the truly very close relationship Dan and I had prior to the falling-out on June 10 — at which point he immediately turned retaliatory against me because I complained to HR.

57.5 Providing Support For Fritz: Excel Graphics

At the time of last June's critical events, Dan refused to tell me any reasons for my demotion/transfer. He gave only the "conclusion" (without "reasons") that Fritz and I could "no longer work together" (Complaint, Part I, p. 24 bottom). During the "HR investigation", I asked many times for reasons (why had Fritz acted the way he did, forcing a rift between himself and me?), but none was ever forthcoming.

Mandel, in the November 17 phone call, now gives, *for the first time*, those *reasons*. Specifically, he lays the blame squarely on me, exonerating Fritz, by claiming he "has evidence"

(meaning, "providing sufficient reason for demotion/transfer") that I *"didn't supply Fritz with all the support he required"* (in other words, I didn't do my job as performance architect for Wahoo), and that I was therefore "treated fairly" in being demoted/transferred. Section 56.3, above. That is an outrageous lie ("pretext" for some other true reason, allegedly discriminatory and/or discrimination-retaliation, recalling that I'd charged age/sex/race animus immediately when I filed my complaint, last June). In fact, it flies directly in the face of what Dan himself said about the Fritz incidents (the *only* on-the-record statement we have concerning this):

- You are not on a performance plan *(Complaint, Part II, Appendix Q, email of 06/30/201 08:27 AM, top of p. 65).*

Mandel himself *did not specify* the exact nature of the "evidence"/incidents he has of "lack of support for Fritz". Therefore, I am now left to *guess/speculate* what he was talking about. To that end, the only two conjectural episodes that I can conceive could possibly/potentially be referred-to as "lack of support for Fritz" were: (i) Excel graphics; (ii) yelling in public. But in both those cases, I definitely gave all the support Fritz required/asked for (and instead of "lack of supporting Fritz", what actually happened is that "Fritz lied/bullied") — as I will now prove. The two incidents are already treated fairly fully in Complaint, Part I, Secs. 4, 6, but in this subsection and the next, I enhance those earlier accounts with some additional details about these two incidents. (I hadn't previously thought this level of detail would be needed, so I didn't write it up previously, but now it seems it is, so here we go.)

To begin with, a typo-correction: The paragraph at Complaint, Part I, p. 16 beginning "On Monday, May 16" is in error — it should be changed to "On Monday, May 9". When I wrote that (in August), I wrote the wrong date out of haste to get it all written as fast as possible. Had I checked other sources, I would have discovered the error. Some of the other sources I could/should have checked are already in the Complaint, Part I, in the Weekly Reports at Appendices A.y, A.z, A.aa; those are contemporary writings, and they bear witness that the correct date was Monday, May 9. The other source I could/should have checked, but didn't check until now (because I didn't think it would be important), is the email quoted just below (dated May 11).

That correction ("May 16" → "May 9") having been made, the additional detail related below accompanies the story at that point.

In early May (see weekly reports at Complaint, Part I, Appendices A.y, A.z), I had been working on "PerfReport" (performance measurement and reporting program [later known as "WaltBar"]). On Wednesday, May 11 (as reported in Appendix A.z), I finally had a finished (first-)version of PerfReport, so I reported that to the Wahoo team, in an email. The text of the email was the following:

- From: Walter Tuvell
  To: netezza-cambridge, netezza-perf-arch
  Cc: Garth Dickie
  Date: 05/11/2011 03:35 PM
  Subject: Perf reports for Wahoo

  All, this is the set of Wahoo perf reports I've gathered this week week. The folks in Cambridge have seen a preliminary version, and the attached doc "changes.txt" describes how that prelim version has evolved (per suggestion of Fritz and others).

> For others, if you can't figure out what parts of the reports mean, please feel free to ping me. Sorry the "analysis" of these hasn't been done yet, but I was urged to get this out ASAP. And if anyone has any thoughts please chime in.

This email included two attachments, “changes.txt” and “perfReports-May06.tgz”.

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The “changes.txt”file is included at Appendix EEE.a, below.

The “perfReports-May06.tgz” file is an archive file (hence too big to include here in its entirety), containing 21 individual reports of performance tests that had been run five days earlier, on Friday, May 6. These 21 individual reports were contained in 21 separate files, having names like “perfReport-May06-COUNT_DISTINCT.txt” (meaning the performance report for the COUNT_DISTINCT test). As stated in “changes.txt”, each of these individual reports contains an new “nice ASCII stem-and-leaf plot” that I had invented (per Fritz’s excellent suggestion, see Complaint, Part I, p. 16, middle, the paragraph now beginning “On Monday, May 9”). It is this stem-and-leaf plot that is of interest to the Excel graphics episode. As an example, the ASCII stem-and-leaf plot for the COUNT_DISTINCT test is included at Appendix EEE.b.

The most important lesson learned from the 21-part PerfReport/WaltBar report (perfReports-May06.tgz) was that it told us a very interesting/important thing about Wahoo (and about NPS in general) *that had never been known before:* namely, that much/most of the workload Wahoo was doing *wasn’t* “disk-bound” — contrary to what had previously been thought. This was a revelation, because the whole design-center of Wahoo, as designed by Fritz (with the help of others, it happened before I got to Netezza), had assumed that the workload *was* disk-bound. In other words, we were here getting for the first time a serious/scientific inkling that Wahoo *wasn’t going to work* (i.e., wouldn’t be fast enough), because it was designed on an invalid design principle (the assumption of disk-boundedness). In other words: *by delivering this new WaltBar report, especially the ASCII stem-and-leaf plots (as well-suggested by Fritz), which exposed the never-before-known “not-disk-bound” nature of NPS, I was precisely doing my job as Performance Architect for Fritz/Wahoo*.

So, that was the state of affairs for a whole week. See again the weekly reports at Appendices A.y, A.z, A.aa. The point is this: Fritz was happy with the ASCII stem-and-leaf plots I’d invented for a *whole week*. He said *nothing* whatsoever about the graphs, much less about having any desires that he wanted me to “improve” them, or generate Excel versions of them.

Now, turn to the next paragraph in Complaint, Part I, p. 16, beginning “The next day, Tuesday, May 17”. Due to the typo-correction above, the day “Tuesday, May 17” is correct, but the phrase “The next day” is incorrect (the above correction about “May 16” → “May 9” having been made), and the wordings about “I had spend *[sic]* the day” and “previous/preceding day” in that paragraph are also erroneous as to dates. Again, the present correction of the dates is borne out by the weekly reports at Appendices A.z, A.aa. Apart from these dating errors, the gist of the wording is correct. In particular, this was the *first time* Fritz had said a single word to me about perfReports-May06.tgz, and what he did talk about was only about how the *data* in it needed to be “cooked” to support Steve Lubars’s “Fudge Factor Model” (not about the ASCII stem-and-leaf plots, and certainly not about converting the stem-and-leaf plots to Excel graphs). Complaint, Part I, p. 16, the paragraph now beginning “On Tuesday, May 17”. As stated at Complaint, Part I, p. 16, Fritz talked to me late in the afternoon, and at the end of our discussion he handed me a cryptically scribbled Post-It Note containing his thoughts (which had nothing to do with Excel graphics). Appendix EEE.c. I went home with-

out a care in the world, secure in the knowledge that I'd offered to help Fritz reformat the data to aid in his expressed analysis needs, but he'd declined.

to strict CSV format

Finally, now turn to the next paragraph in Complaint, Part I, p. 16, top, beginning "On Wednesday, May 18". As we now know (but of course I didn't know it at the time), Fritz had spent the previous evening (and probably that morning) converting my ASCII-stem-and-leaf-art into his Excel-graphics (which he would then end up presenting at his Wahoo status meeting at 11:30 that day). But at the time, I of course had no idea he was doing any such thing. And in fact, this provides us with a perfect opportunity to catch Fritz in his lie. For, if Fritz had indeed asked me to generate the Excel graphics overnight, *why didn't he ask me about the status of the job I was supposedly asked to do at 4:00 PM the previous evening*? After all, he needed those Excel graphics for his presentation at 11:30. But he certainly did *not ask* me anything about them (the supposed Excel graphics I was supposed to have been asked to generate) that morning. And, Fritz didn't even *mention* the Excel graphics at the stand-up meeting at 11:00 am that day, immediately preceding the 11:30 Wahoo status meeting. Instead of doing anything to check-up on the job I was supposed to be doing, Fritz instead *silently generated the graphics himself.* All that is completely *irrational* behavior on Fritz's part, of course. The mind boggles at the sheer nonsensicality of Fritz's transparent lie.

Fritz did present his Excel graphics at the 11:30 Wahoo status meeting that day, and he subsequently circulated them in an email the next day, Thursday, May 19:

- From: Fritz Knabe
  To: netezza-cambridge
  Date: 05/19/2011 06:42 PM
  Subject: Performance charts

  These are the charts I showed quickly at the meeting on Wednesday. They're best viewed by printing out the spreadsheet (it should print onto three pages) and looking at the patterns. You'll see that we have several interesting areas: Heavy I/O on the Violin exhibits a sawtooth pattern. Areas where everything is idle. Areas where SPU CPU isn't idle, but is running at less than 100% for a long period while everything else is idle. Only one test where Emu was running hotter than everything else.

  Getting perf figures for the host and network will be interesting for understanding case 2 and perhaps case 3.

Attached to Fritz's email was PerfCharts.xls (a big Excel file, too big to include here in its entirety). Looking at that Excel file (in Excel, or in LibreOffice Calc), one sees that it consists of 22 spreadsheets — one sheet consisting of the Excel graphics Fritz generated (*they are merely Excel-graph versions of the ASCII stem-and-leaf plots I'd generated*), plus 21 sheets containing the data used to generate those graphs (data coming directly from the perfReports-May06.tgz report I'd generated). As an example, Fritz's Excel graph corresponding to my stem-and-leaf plot of Appendix EEE.b, is given in Appendix EEE.d. [Observation: The Excel graph is more suitable for PowerPoint-type presentations at meetings (such as Fritz's Wahoo status meeting), but the ASCII stem-and-leaf plot is more suitable for engineering/develop-

ment purposes, which is why I left it that way. *Importantly: Both stem-and-leaf plots and Excel graphics contain exactly the same content — just different degrees of beautification.*][184]

Fritz's own wording

One last comment. At the Monday, May 23 meeting I had with Fritz following the Excel graphics episode (Complaint, Part I, p. 19), Fritz told me he'd expressed a "vague desire" to me about generating Excel graphics, by *sketching what he wanted on the Post-It Note* mentioned above. According to Fritz, he said he'd sketched "three horizontal lines" on the Post-It Note, which were supposed to represent the three lines (red, blue, green) shown on his Excel graphics (Appendix EEE.d). But looking at that Post-It Note now (Appendix EEE.c), we can easily see that it *does not* contain any "vague desire [of] three horizontal lines". It does contain two very small horizontal lines at the bottom-right, but those are clearly an equals-sign (representing the product of the three factors to its left), and don't resemble a proposed Excel graphic in the slightest.

So there you have it. That's the full truth of the Excel graphics episode. Fritz *at no time* asked/instructed/ordered/informed me to generate Excel graphs for him, period (much less of any specified content). If he'd done so, I'd have done it, of course (though using OpenOffice/LibreOffice Calc, since I don't like to use MS/Excel). But he didn't. Period. The only way I could have known Fritz wanted Excel graphs from me would have been for me to be a "mind-reader" (as stated at Complaint, Part I, p. 18 top, p. 40 bottom, p. 52 top).

57.6 Providing Support For Fritz: Yelling In Public

Note: This subsection comprises the most technical (computer-technical and fact-technical, as opposed to legal-technical) part of my case.

The write-up about the yelling incident (Complaint, Part I, Sec. 6, pp. 21-24) is correct, but enhanced (computer/factual-technical) detail will be added to it here. Specifically, that previous write-up focuses on the fact that I did indeed tell Fritz four times earlier that day (Wednesday, June 8), what I'd done (namely, "run debug PerfBar"), so there was no reason whatsoever for Fritz to pretend to be surprised, and yell at me the way he did. What can/will be added here is information about what Fritz had, in the first place, actually *expected/asked/ordered* me to do, prior to that day. As we'll see, it's exactly what I *did* do that day. Proving that I *did* "provide Fritz all the support he wanted".

I've already reported brief contemporary accounts of what I was supposed to do that day — see Complaint, Part I, p. 54, email of 05/23/2011 09:45 AM (first 2 paragraphs); see also Complaint, Part I, p. 117, bottom, email of 06/08/2011 09:42 PM, first paragraph (2 lines). I expand those brief descriptions to much more detail here.

In a word: What Fritz wanted/expected me to do for that day (Wednesday, June 8), according to everything he communicated to me prior to that day, was to "run debug PerfBar" — which is exactly what I did do. This marching-order is opposed to "running turbo WaltBar" (a.k.a. "turbo PerfReport") — which is what Fritz yelled at me for was failing to do. I.e., Fritz pre-

184· It is worth emphasizing this *very important fact:* Both my stem-and-leaf plots, and Fritz's Excel graphics, *contain precisely identical content*. The only difference between the two is their presentation style. I had in fact considered generating Excel(-like) graphics (though using OpenOffice Calc or R, per my usual custom), and rejected it, because that style of presentation is in fact *inferior* to the stem-and-leaf plots for my purposes, which was to communicate substantive content to my audience (engineering/development). Fritz was more interested in *beautification* for his purposes (presentation at a meeting, to managers), which is why he genereated the Excel graphs version.

tended that what he wanted/expected me to do was to run turbo WaltBar; but that's false. Once I prove that (below), it will prove (yet again, in addition to the "told-four-times-earlier-that-day" fact) Fritz's falsity.

Following is the proof that Fritz did indeed, according to everything he ever communicated to me prior to that day, want/tell me he wanted me to run "debug PerfBar" (and not "turbo WaltBar"), exactly as I did do:

It will be recalled (see for example Complaint, Part I, Sec. 2.3) that Wahoo was running very poorly/buggily, so that it was impossible to measure its performance (which is what I was supposed to be doing, but I couldn't do so because the developers kept writing buggy code). This was not unusual for an early-stage/prototype project. See, for example, my weekly report for January 30 – February 6 (Complaint, Part I, p. 33):

- Notably, didn't do much for Wahoo Perf. That's because Wahoo's problems are now at dev/impl/debug level, where I'm not currently qualified to help out. Without placing fault, this is generally a point of concern: am I being used, and/or contributing, the best way I can? Ongoing dialog with Dan about this.

Again, weekly report for March 13–20 (Complaint, Part I, p. 36):

- Tried to do another round of PerfBar/TPC-DS on WahooProto. Couldn't do it earlier, because either: (i) it was futile because WahooProto was known to be uselessly slow (before the "randomized scanlist hack"); (ii) it was over-subscribed due to merging; (iii) it would crash in the process of trying to build the TPC-DS database. Once those problems were fixed, I did a TPC- DS run, but it hung after ~20 queries. But those queries revealed another perf bug (still ~20 times slower than Skimmer).

And again, weekly report for May 22–29 (Complaint, Part I, p. 41):

- Aim to get a new comparison of Wahoo vs. Skimmer on TPC-DS. Gathered the required data from Skimmer (1/100/1000 GB) without incident. Wahoo is another story. Various Wahoo software breakage caused us to downgrade from the new 2-headed virtual Wahoo1/Wahoo2 setup back to physical WahooBox (this was our first experience on virtual, so we wanted to eliminate that variable), before we discovered the main problem was a bug in parallel-load code. Proceeding with single-thread load, we got 1G numbers. But loading 100G took much longer than expected (what should have taken ~1.25 hrs expanded to >36 hrs). By week's end (Fri), the 100G was loaded, but testing not yet initiated.

see also Part I, p. 51, email of 05/19/11 11:37 AM (very important)

At Complaint, Part I, p. 54, email of 05/23/2011 09:45 AM (first 2 paragraphs), I reported to Dan (at his request) what it was that Fritz wanted me to do. As events transpired (reported in Complaint, Part I, Appendix E), Wahoo was too buggy to do the 100/1000 GB tests immediately, so I/we had to back-off to smaller tests, namely 1/10 GB first. At Complaint, Part I, p. 63, email of 05/31/2011 01:26 PM, Fritz reminded me (but I and everyone else already knew it anyway) that I was first supposed to do "another 1 GB TPC-DS test" (followed by the bigger tests, 10/100/1000 GB). Here (and throughout), "running TPC-DS test" is synonymous with "running PerfBar". This terminological equivalence is because PerfBar was only ever used to run TPC-DS, while WaltBar was only ever used to run Atomics. And everybody knew that (especially Fritz). Furthermore, the fact that Wahoo was very buggy is the reason I was running "debug PerfBar" (as opposed to "turbo PerfBar"). Again everybody knew that (especially Fritz).

Technical aside #1 (parts of this aside are also stated in my email at Complaint, Part I, p. 119-120, email of 06/10/2011 10:16 AM): *TPC-DS* ("Transaction Processing Council, Decision Support") is a suite/collection of performance tests. *Atomics* is a different suite/collection of perf tests (so-called because its individual tests are "atomic", i.e., "minimal operations, out of which more complex operations are built"). *PerfBar* and *WaltBar* are both "test harnesses", i.e., software programs that are capable of running various kinds of performance tests/suites. Both PerfBar and WaltBar are capable of running both TPC-DS and Atomics. But for the purposes of perf-testing Wahoo at the time (summer of 2011), PerfBar was only ever used to run TPC-DS, while WaltBar was only ever used to run Atomics. This was *very well-known* to everyone on the Wahoo team; in particular, it was well-known to Fritz, who ordered it be done that way in the first place. The reason for this (2 different kinds of testing, namely, *"PerfBar/TPC-DS"* vs. *"WaltBar/Atomics"*) is that different kinds of results/reports are obtained from running PerfBar/TPC-DS vs. WaltBar/Atomics. Namely, what you get from PerfBar/TPC-DS is a *"PerfScore report"* (which I invented); an example is given at Complaint, Part I, Appendix G.a, p. 112-113 (that is the very report I produced for that very day, Wednesday, June 8; notice the PerfBar tests have names like *query001*, etc.). And what you get from WaltBar/Atomics is the very different *"PerfReport reports"* (which I also invented); an example of what you get from WaltBar (perfReports-May06.tgz) is discussed in Section 57.3 and Appendix EEE, where the tests have names like *COUNT_DISTINCT*. The fact (just noted) that TPC-DS tests and Atomics tests have very different naming conventions shows that nobody in their right mind would ever get the two test suites confused. Similarly, the very different results/report generated (PerfScore vs. PerfReport, just noted) shows that nobody in their right mind would ever get the two test harnesses confused.

Technical aside #2: It is *universally normal/standard* software development practice to run two different versions of software while developing it: "debug" (which is always known by that name) and "turbo" (which is also known by the names "non-debug", "optimized", "regular", etc.). To run the "debug version of software" means to run a version of the software that has extra debugging metadata in it. This extra debugging metadata causes the debug version of the software to run slower than the turbo version of the software. It is normal software development practice to *always* run debug versions during active development, *then* run turbo versions when you've debugged the software sufficiently that the software is sufficiently bug-free that you can actually try measuring its performance. So for example, specializing to our case of Wahoo, when we speak of "running debug PerfBar TPC-DS", it means "running the PerfBar TPC-DS test suite against a debug version of Wahoo". That was exactly my first task: to run debug PerfBar TPC-DS, in order to find bugs and get Wahoo debugged to the point where I could then measure performance by running turbo PerfBar TPC-DS. There are no surprises here — this was/is universally normal/obvious practice, and everybody knew it, and that's why I'd been trying to run "debug PerfBar TPC-DS" for 2+ weeks (all during the time period represented by the emails of Complaint, Part I, Appendix E [54 pages!]).

(~10%)

In the same note cited above (Complaint, Part I, p. 63, email of 05/31/2011 01:26 PM), Fritz also says that my "subsequent" actions would be to run PerfBar(/TPC-DS) two more times, in different configurations. Never anywhere does Fritz say I'm supposed to run WaltBar(/Atomics).

Now, as already observed, during the 2+ weeks following May 23, hence in particular at the time of the email just cited (5/31), Wahoo was too unstable to run the desired PerfBar(/TPC-DS) test. That's why you see, at Complaint, Part I, p. 78, email of 06/02/2011 09:03 AM, Fritz stated that we should change to a new configuration (i.e., different version of the Wahoo soft-

ware, trying to find a non-buggy version), and I was to continue trying to run PerfBar(/TPC-DS). That command was reiterated by Fritz later the same day, at Complaint, Part I, p. 108, email of 06/02/2011 02:11 PM. There, Fritz repeated that I was to continue exploring the (first priority) task of running PerfBar(/TPC-DS), while Steve Lubars was to explore the "second priority" task of running the Atomics test suite (note I didn't say "WaltBar/Atomics" here; keep reading). BTW, this was completely usual: PerfBar(/TPC-DS) was *always*, from Day One, the first/leading indicator of performance for Wahoo (and every other version of NPS), and every other kind of perf test (such as WaltBar/Atomics, and Steve's testing) was secondary. And of course (as stated above in Technical Aside #2), we *always* ran "debug PerfBar" before running "turbo PerfBar" — especially when Wahoo was in a particularly buggy state (such as the 2+ weeks following May 23). So my first priority was indisputably to run debug PerfBar. No if's, and's or but's.

It is here that we get a twist to the story, caused by Fritz's managerial incompetence (or actually, subterfuge). Namely, remember where I wrote "Atomics" just above, and not "WaltBar/Atomics"? Here's the twist:

For reasons known only to himself (I didn't know the reason then, and I still don't know it now), Fritz had (sometime previously, I don't know exactly when, but it seems to have been around the mid-May timeframe) given Steve the task of "running Atomics tests, and gathering/generating reports (known as FFM, Fudge-Factor Model)" — but initially keeping this assignment *secret from both Steve and myself*. That is: without ever telling me that he had given Steve said task; and without ever telling Steve that I had already invented WaltBar, which already did exactly what Steve was supposed to (re-)invent from scratch! That is, Steve initially didn't know that WaltBar existed (even if he had known it existed, he wouldn't have known what it did or how to run it, only I could do that because I was still in the process of developing WaltBar); and I didn't tell him it existed, because I didn't know what he was supposed to be working on. This seems incredible/inexplicable (Fritz giving these incompatible, secret marching orders, that is), but it is what happened. [In hindsight, as events have transpired, this becomes more explicable: Fritz was intentionally going behind my back, trying to cut me out of the Wahoo equation, for reasons I still do not understand.][185]

Now let's return to the above-mentioned email of 06/02/2011 02:11 PM. In it, Fritz speaks of "Walt's nzmon and other tools … do an atomics run". This mention of "Walt's tools" refers to WaltBar. It seems this was the first time Steve became really aware that I could be of use to him, because very soon afterward he started querying me about how we could work with one-another (that is, about WaltBar/Atomics-related things). Naturally, I started working closely with him immediately, at which time I discovered he'd been suffering in silence, despairing about how he'd get his task (Atomics FFM) done. Steve (and I) were startled to discover, over the next few days, that WaltBar was already doing essentially everything (95%–97.5%)

185· But I can guess. For, consider (as discussed in Section 57.3) that I'd invented WaltBar, which proved "the workload Wahoo was doing wasn't 'disk-bound'" — thereby undermining the theoretical underpinnings that Fritz had based the hopes/deisgn of Wahoo on. "Fritz freaked out" (weekly report for April 24 – May 1, Part I, second pargraph of Appendix A.x, p. 39). And, also remember that Fritz knew he was going to have to face Arvind soon (on Thursday, June 9; Complaint, Part I, p. 24) with this albatross of bad news hanging around his neck. Time to shoot the messenger? And perhaps replace the messenger with a far less capable messenger to avoid problems like this in future? (Of course, these are only after-thoughts, coming months after the critical events of June, 2011. At the time, all I could think of at the time was age/sex/race discrimination; Complaint, Part II, Appendix N, email of 2011-06-15 10:12 AM, pp. 45–47, and elsewhere.)

he needed to do. Contemporary confirmation this story is correct: Complaint, Part I, Appendix I.a, last paragraph on p. 118 and first paragraph on p. 119.

Putting all the above together, we can summarize, and drive the final nail into this coffin: When Fritz yelled at me on Wed, Jun 8, he *pretended* he expected/wanted/thought I was supposed to have run "turbo WaltBar/Atomics", but *in actuality* (as proved by all the above and by the fact that I'd already told him 4 times early that day), he *knew* I'd run "debug PerfBar/TPC-DS" — and that I had even posted the PerfScore/TPC-DS report/graph at Complaint, Part I, Appendix G on the whiteboard that morning, just a few feet from, and in plain view, of Fritz's desk, and spoken with Fritz about it at that time (it even explicitly specifies "debug", via the wording "DgbBuild", which is a typo ["Dgb" should be "Dbg", for "debug"]). Contemporary confirmation: Complaint, Part I, Appendix I.b, p. 119, where I say "NO SENSE WHATSOEVER" that Fritz would pretend I was supposed to have supplied "turbo WaltBar/Atomics" statistics to Steve for his FFM work, when he (Fritz) knew that all I had generated that day was "debug PerfBar/TPC-DS" statistics.

Q.E.D.

So that proves what needed to be proved. But now let's go one step further, to follow-ups, and prove more:

What does "follow-ups" mean here? It means this: Following the "debug PerfBar/TPC-DS" test I'd done (reported at Complaint, Part I, Appendix G), which Fritz yelled about, what was I supposed to do next? Well, these things, as already related above: (i) "turbo PerfBar/TPC-DS" (generating a "real"/non-debug/performance-significant PerfScore report); (ii) "turbo WaltBar/Atomics" (to supply to Steve, so he could complete his FFM); (iii) both of these in various database sizes (1/10/100/1000 GB).

It had taken 2+ weeks to get this far (i.e., "debug PerfBar/TPC-DS") for just one reason: Wahoo was too buggy to run the "debug PerfBar/TPC-DS" test. But once we had a stable (non-buggy) version of Wahoo, it should be easy/fast to finish these jobs. And it was: I completed it by Fri, Jun 10. That's the gist of Complaint, Part I, Appendix H (in which Fritz's email at the beginning was blow-hardy — lots of words, all of which were either already known or were foolish [esp. the useless idea of running "debug" versions of a Wahoo that was now known to be non-buggy!]).

And, finally, the kicker:

because that "iteration" (in the Scrum/Agile sense" wasn't scheduled to end until the following week, Thu, Jun 16 (Old Complaint, Part I, p. 55, top)

Why, after all, was Fritz so anxious that this work get done so early (yelling at me on Wednesday, June 8, whereas everything he wanted actually got done a mere two days later, on Friday, June 10, right on schedule [insofar as anything could be on schedule, given that everything was bottlenecked by a buggy Wahoo])? Here's the answer: He needed some results that he could present at a customer meeting, sometime after June 20 — *a full week and a half later*! Complaint, Part I, p. 22, footnote 41.

In other words: *there was no reason to yell at me on June 8 at all, no matter <u>what</u> I'd done that day — because <u>even if</u> I'd done the wrong thing (which I hadn't), there was still plenty of time (before the customer conference, a week and a half later) for me to also do the right thing!*

Conclusion: If everything written here (albeit it's technically complicated) doesn't prove that the Walt-didn't-provide-support reason for the public-yelling episode was fabricated out of whole cloth by Fritz (and Dan, conjecturally), then I don't know what does.

58 Transfer Debacle: New IDR/C&A Complaint (Jan. 20 *et seq.*)

As noted in Section 56.6, Russell Mandel told me on November 17 that "someone" would be contacting me about interactive dialog/negotiation for "reasonable accommodation" under ADA. That "someone" turned out to be Dan, who contacted me by email on Wednesday, November 23.

That email, together with the whole ensuing *"transfer debacle"*, evolved into a story all its own. For, IBM acquitted itself in such a tortious manner that I ended up filing a *new* IDR/C&A Complaint (completely independent of the present one)! Appendix FFF.

Rather than repeat any of the New Complaint content here, we *incorporate by reference* that entire New Complaint document-stream (including its own Appendices and Addenda) into the present document at this point.

58.1 Sidelight On Badge Access

But first, there was a threshold issue that had to be resolved before the Transfer Debacle could even be executed. I needed building access for the Littleton interview, but my access to IBM buildings had been rescinded (Addendum III, Section 45). The email chain at Appendix GGG.a outlines the story. That email chain shows Dan/IBM pretending access had never been rescinded, but that's false. Here's what actually happened:

I arrived at the IBM Littleton facility for my interview(s), at just before 11:00 AM on Thursday, December 8, 2011. Appendix HHH. I had planned for the contingency that my badge might not work, so as I approached the Side entrance door, I passed another employee who was walking towards the door, slowly and intently talking on his cell-phone. I got to the badge-reader, and presented my badge to it. The badge-reader displayed a red light (it should have displayed green if all was well), and the door failed to open. (I thought, "That's good, I wasn't hallucinating in September; instead Dan/IBM were lying"). I wasn't surprised, but I acted surprised, and mumbled at my badge (just as the phone-talker got to the card-reader, loud enough for him to hear me, and waving my badge so he could see it): "Oh Jeez, what's wrong with this thing now? I'll get it checked later." He saw my badge, which was sufficient for him to hold the door open for me so I could "tail-gate" him into the building (a common courtesy).

Once inside, I met my host, Harvey Harrison (I'd called ahead since I was unfamiliar with the building, and he was waiting in the foyer; if he saw my failure to open the door, he didn't indicate such). My interviews, with Harvey and Brian Dougherty, lasted 1½ hrs, and were very positive (*New Complaint*). The final interviewer, Brian, left me at a small cafeteria to find my way out of the building (per my request, saying I'd explore a little, as I was unfamiliar with the facility).

After exploring a little, I then went to the security office near the Main door, and presented my badge to the attending guard, saying, "This badge wouldn't let me into the Side door." She asked me if I knew whether I was coming upon the "expiration" of my badge. I didn't know what that meant (no badge I've ever been issued had "expired", either physically or logically), so I just said "No". She took the badge from me, and presented it to a card-reader at a side door near the security office. That badge-reader also displayed red, and she said

"Well, your badge isn't completely dead, that would have shown up as a yellow light" (which I didn't understand either; how could a "dead" badge activate a yellow light?). Then she told me to take a seat while she checked the badge inside the security office. While seated there, I read a notice posted on the wall, which explained that the usual reason for badges to fail was for them to be physically abused, such as being bent, torn or de-laminated (showing pictures of these conditions). But my badge was in pristine physical condition, so I knew that couldn't be my problem.

A couple of minutes later she came out of the office, and said, "She (referring to another guard or technician inside the office) couldn't find anything wrong with the badge, so we'll just try re-activating it; keep the badge, and try it again in a couple of hours." I didn't know what "re-activating" meant, so I asked her, but she just said "We'll try making it active again" (duh). She returned to badge to me.

So at this point, I knew my badge had not failed, contrary to Dan's conjecture (Appendix GGG.a, 12/06/2011 12:34 PM). If anything was "wrong" (i.e., "broken", as opposed to "access rescinded/suspended"), the problem had to be with the card-reading system itself somehow. But that's very, very unlikely (I've certainly never experienced anything like it): any card-reader system that failed arbitrarily like that would be unreliable, and the producing company would soon remove it from the market.

I left the building, and drove home. Later in the afternoon, Dan forwarded to me the Badge Request email he received from IBM Enterprise Services in Atlanta (Appendix GGG.a, 12/08/2011 12:59 PM) — proving the validity of the story I've related here, and refuting Dan/IBM's story about my badge access working all along. I don't know who Anastasia Flemings, identified in that email, is (the security guard, or a technician?). I also have no idea why the email specifies "new hire".

As a follow-up activity, I did drive out to Littleton a couple of days later, and tried my badge in the same Side door card-reader that had failed previously. This time the badge worked, and I gained normal entrance to LKG1. This proved definitively the badge itself had indeed been in good working order all along. No badge or card-reader failure had occurred. An intentional database-level administrative action had been executed, deliberately causing my access to be rescinded.

The Dan/IBM story about "inadvertent access denial" had, of course, been a lie all along. It never made sense on its face. For, suppose I had falsely accused Mandel/IBM of revoking my building access, when I pleaded for my access to be reinstated. Complaint, Addendum III, Appendices TT, UU. That pleading obviously suffices as clear notification to IBM that: (i) I understood Mandel's refusal-to-reinstate to mean that he/IBM had indeed intentionally rescinded/suspended my access; that (ii) I considered it abridgment of ADA law; that (iii) I considered access (electronic and physical) to be important to my STD/ADA recovery and job skills (Addendum III, p.13, the paragraph beginning "I DO have", and p. 14, where I wrote "IMPROVE my health"); and that (iv) I wanted it reinstated (Addendum III, p. 14, final line). If Mandel had been truly innocent, he therefore had an affirmative obligation to inform me of his innocence, and take steps to get things straightened out. By actively choosing to refuse to inform me of his innocence and respond to my pleas for restitution, Mandel was actively/intentionally inflicting adverse-job-action upon me (at least at the level of discrimination-retaliation ["tends to dissuade me from pursing my rights under discrimination/ADA laws"]).

58.2 Sidelight On VPN Access[186]

The topic of VPN access is unrelated to the Transfer Debacle, but this place (in close conjunction with the sidelight on badge access, Section 58.1) provides us with an opportunity to note that Dan (and not only Mandel) also refused to reinstate my VPN access, and for the same anti-ADA reason (namely, because I was on STD). Appendix GGG.b.

59 Direct Discrimination Discussions — Chronological Omnibus

It is convenient here (in close proximity/association with the Transfer Debacle, Section 58 above) to present a consolidated chronology-based index/listing of the many *direct (no-inference-required) discussions* I've had with IBM agents involving discrimination-related topics. This "discussion directness" encompasses two dimensions: (i) discussions which have discrimination-related topics as their direct subject matter (showing how hard I tried to bring discrimination to IBM's attention, but they assiduously/systematically ignored me); and/or (ii) discussions which implicate IBM in behaviors directly violative of applicable discrimination laws (not only adverse behaviors perpetrated manifestly by IBM,[187] but also the more subtle question of whether IBM had *adequate notice* of my ADA-protected status). The purpose of this Section 59 is to serve as an omnibus exhibition, showcasing in one place the *utter, abject bad-faith (including cover-up) IBM has consistently displayed towards its legal obligations under discrimination laws*. This exhibition is necessary because "it has been suggested"[188] this Complaint falls short in the mentioned areas, hence it behooves us to "put the lie" to such "suggestions".

Questions *(to bear in mind throughout this Section)* — (i) Was IBM "adequately notified" that I could not function due to cognizable disability (work-wise or life-wise) in the hostile work environment created by Dan? (ii) Was IBM "adequately notified" of my need for "reasonable accommodation under ADA" (namely, "remove said hostile work environment, by such means as firing Dan, or transferring one of us")? (iii) Did IBM wantonly refuse to recognize, acknowledge, and act-upon, said notifications (i) and (ii)?

Answers *(to the preceding questions)* — (i) Yes. (ii) Yes. (iii) Yes.

186· *Note on terminology:* My "electronic" access (to "legacy Netezza systems/resources" generally) is what was rescinded, and what I desired to have reinstated. This initially means "VPN" access, that is, access to the Netezza legacy Virtual Private Network. Once on that network, additional privileges are required to gain access to various systems on the network — most notably, the Netezza "wiki". For simplicity/brevity, we use the terms "electronic access" and "VPN access" interchangeably (by abuse of language), to mean "access to all the legacy Netezza resources I'd had prior to initiating my IDR/C&A Complaint, on June 10".

187· This includes *everything* of a *retaliatory* nature, given that I'd explicitly charged age/sex/race discrimination right from the very beginning. At the time of events (before the filing of this Complaint), I used language complaining only about "plain" retaliation/blackballing (as forbidden by IBM Law/BCG), because I was unaware of the existence of the more appropriate/particularized concept of *discrimination-retaliation* (Complaint, Addendum IV, Section 50). Had I been aware of the latter at the time of events, I would have complained on that basis.

188· By IBM Legal (Larry Bliss), as a posturing/puffery position.

Proofs *(of the preceding answers to questions)* — The detailed time-line below, comprising keyword-summarizations of, and pointers to, contemporaneous on-the-record documentation (mostly emails).

Notes *(concerning "adequate notice" and "reasonable accommodation")* — Under general precepts of law, *adequate notification* is a requirement for cause of action. ADA law *per se* does not specify its own standard for adequate notice. In particular, the ADA does not require that any specific *language* be used when employee notifies employer of need for ADA *reasonable accommodation* (because, employees cannot be expected to be trained in the niceties of legalistic language). Instead, the following standards for ADA notification have evolved over time:

- The ADA statute itself (as amended) speaks only of *"known disability"*. I.e., the employer must "know" the employee has a disability cognizable under ADA, in order to be bound by ADA law.
- EEOC Guidelines documents speak of *"plain English"* as the standard for adequate notification under ADA. Thus: (i) the employee need not use technical terms (especially medical names of ailments, such as "PTSD") when supplying notice of disability; (ii) the employee is not expected to "know how to plead their disability case to management".
- Case-law (*stare decisis*) speaks of *"no magic words — not even 'ADA' or 'accommodation'"*. This again emphasizes that no "technical magic words" (such as medical names of ailments) are required. Indeed, *"no words at all"* (a.k.a. *"constructive notice"*) suffices: it is sufficient that employer merely *observes* (as it has an affirmative duty/obligation to do, under ADA) that employee's exhibited behavior indicates an objectively "noticeable" need for reasonable accommodation.
- *No* authority requires intervention of a physician[189] for the threshold purpose of employer's "having knowledge" of an employee's disability (though physicians may be consulted once an employee's disability is known, especially to determine the level of accommodation required for individual employees).
- The clear trend in this area, as in all areas of discrimination law (both federal and state), continues to evolve in the "liberal" direction — i.e., providing more rights/protection to employees, not less, and supporting an expansive view of the burdens employers are obligated to shoulder in upholding said employee rights/protections.

Comments *(on "hostile work environment" vs. "personality conflict")* — The summary below supports the proposition that my disability is a wide-bore *hostile work environment* issue, not a narrow-bore *personality conflict* issue. Nowhere in any of the following is there any hint of "Dan-as-person (*ad hominen*)" (personality conflict). To the contrary, the various constructions used — *"abuse", "harassment", "retaliation", "bullying", "blackballing", "IIED", "hostile work environment"* — all indicate/retaliatory hostile work environment as the cause (both proximate-cause and cause-in-fact) of the difficulties, by any "totality of circumstances, fair reading" analysis (which constitute the legal standard in effect). Where wording such as "I can't work for Dan" is used, it is clearly mere shorthand for "hostile work environment (in

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189· By which is meant any appropriate, qualified medical care-giver. In my case, my primary care physician (Victoria Vasquez) is a Nurse Practitionar, and my psychotherapist (Stephanie Ross), is a LICSW (Licensed Independent Clinical Social Worker) — neither is an MD, psychologist or psychiatrist.

this instance the one created by Dan)" — which is a plain "manner of speaking", easily well-understood in context under any "reasonable-person standard" (which is the applicable legal standard). All this is perfectly obvious, to even the most casual observer; no further proof is required, but if it were, we note it had *already* been adduced in a timely manner: my physician and psychotherapist asserted it in six[190] MTRs,[191] which IBM IHS officially certified for my long-term STD (August 15 – January 24) — thus proving that IBM was officially aware of my cognizable disability, but failed/refused to act., justifying five consecutive certificates of STD (Appendix LLL, below).

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Role of IHS *(Appendix III)* — In this Complaint, close scrutiny has not hitherto been cast in the direction of IHS — because I was not formerly sufficiently aware that IHS bore a "duty-to-rescue" responsibility, both under ADA and under IBM Law.[192] But IHS failed to so, merely "standing by" as Dan, Mandel, *et al.,* attacked me. So my emails with IHS have now been collected together in Appendix III, and included in the following omnibus chronology.

190· I obtained five consecutive STD certificates from IHS. Appendix LLL. Normally, one MTR is required for each STD certification. In my case, my personal physician (Victoria Vasquez) submitted MTRs for STD cetificates #1 and #2, while my psychotherapist (Stephanie Ross) submitted MTRs for STD certificates #4 and #5. Both Vasquez and Ross submitted an MTR for STD certificates #3. All this was per the instructions of IHS.

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191· Under the facts and circumstances of this case, there is no need (or desire, for medical confidentiality reasons) to exhibit the *contents* of the MTRs themselves in this Complaint document. For that reason, we reveal here only that: the MTRs confirm a diagnosis of PTSD, to a totally debilitating extent requiring accommodation via STD (which commenced on August 15, 2011); and that: *"[Patient] continues to experience intense triggering of symptoms with any reference to work environment & incident of demotion & lack of investigation. … Symptoms of high reactivity, anxiety and fear resume easily. … Only modification that would be possible is a change of supervisor & setting."* That is, transfer/reassignment was *medically prescribed* as the only available ("last resort") reasonable accommodation. This is, of course, exactly what I'd already been openly (both inside and outside IHS confidentially) telling IBM, consistently and persistently, throughout my whole ordeal. For the purposes of this Complaint, what is relevent is, not the *contents* of the MTRs, but merely their *certifications* for STD purposes; those are exhibited in Appendix LLL. Under the official policies/procedures/practices IBM exercised in processing my case, I promptly/truthfully provided all requested medical documentation to the proper authorities (five MTRs submitted to IHS, and permission for IHS to interview my psychotherapist, Stephanie Ross, under waiver of confidentiality, which IHS did do). IBM chose not to ask me for any further information/documentation, so IBM cannot now revisit their own self-imposed procedures and pretend any failure on my part.

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192· *About Your Job*, p. 14: "Access to confidential medical records is normally limited to IBM Integrated Health Services (IHS) under their immediate supervision. Medical information and records are made available by IHS: (1) to the Plan Administrators of the IBM benefits plans, or their representatives, to review information needed for determining eligibility for benefits; (2) as necessary to evaluate medical recommendations, medical restrictions and accommodations as they relate to the work environment and ability to perform the job; and (3) to legal counsel when medical status or information is at issue or required. As appropriate, managers, human resources and employees will be furnished recommendations concerning medical limitations and accommodations pertaining to particular job requirements and the work environment. Employees must provide medical information when there is a need to know such information in order to carry out IBM policies regarding such things as job assignment, benefits, absenteeism, international assignments, security and Workers' Compensation. Employees may obtain copies of their medical records from IBM IHS. IBM IHS personnel will be available to interpret your medical record."

Friday, June 10, 2011

09:00 AM (Part I, p. 24) — Demotion. The demotion (a.k.a. "undesirable reassignment") meeting in Dan's office. This is an obvious act of adverse job action, and retaliation (for complaining about Fritz's behaviors against me, especially defamation).[193]

10:27 AM (Part I, p. 120) — Request HR for help. I formally lodge my HR complaint against Fritz (later expanded to Dan and others), but don't yet charge age/sex/race discrimination.

Saturday, June 11, 2011

actually Sunday, June 12

09:44 AM (Part I, Appendix A.dd) — Weekly report. I email Dan my weekly report, saying I'd lodged an HR complaint against Fritz.

included mention of multiple refusals of 3-way mtg

and to Kelli-ann McCabe, 2 minutes later (9:46 AM)

Sunday, June 12, 2011

01:44 PM (Part II, p. 35) — Dear Dr. Tuvell. I get my first inkling (i.e., I got my own "notice" from IBM) of Dan's retaliatory intentions, *immediately* after filing my original HR complaint (on Friday, June 10), upon receipt of his "Dear Dr. Tuvell" letter, subjecting me to heightened retaliatory scrutiny by HR.[194] That was the first time he'd ever acted negatively towards me. Since I'd been subjected to abusive workplace treatment previously, I was capable of seeing bad things coming my way very early in the game, and so in my eyes, Dan's "Dear Dr. Tuvell" letter was an early harbinger of much harsher nastiness and retaliation to come.

Dan copied Kelli-ann and John Metzger on this email

Monday, June 13, 2011

08:58 AM (Part II, p. 35) — You've see this movie before. I remind Dan that I've previously apprised him (in private face-to-face conversation) that I'd been subjected to workplace harassment previously, I'd suffered from it (PTSD), I won't be a victim again (I couldn't take it, because of my PTSD), and I'd be upholding my rights against retaliation. In particular, Dan had specific prior knowledge of my peculiar susceptibility to attacks of this kind, because I had told him so.

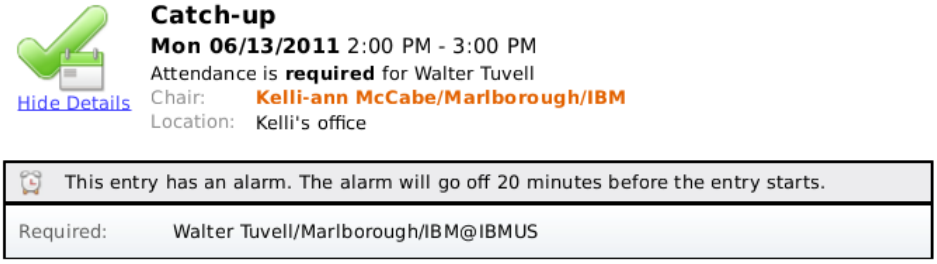
I further mentioned Dan's refusal of 3-way mtg; Kelli-ann and John Metzger were copied on this email

02:00 PM[195] *— Meeting with Kelli-ann; age discrimination.* Orally (pursuant to IBM policy), I submit to HR (Kelli-ann) my complaint, including information about my PTSD. She takes hand-written notes, but she doesn't let me review them or give me a copy, so I don't know whether she actually writes down anything about PTSD. (I have the same concerns about whether she writes down anything about my alleging age/sex/race discrimination; Add IV, p. 9, fn. 167.)

193· The demotion on June 10 itself was only "plain" retaliation, not discrimination-retaliation, with respect to age/sex/race, because I hadn't yet charged those (I first did so on June 13). But it *was* direct discrimination (not just discrimiation-retaliation) with respect to disability, because Dan was ceratinly very aware of my PTSD-based disability at the time he demoted me.

194· The "Dear Dr. Tuvell" itself *was indeed* an instance of retaliation. Dan's stated "reason" that I'd sued (at the level of arbitration/mediation) a previous company was no reasonable rationale for subjecting me to heightened scrutiny (an adverse job action). For, I was merely exercising my rights under corporate policies/procedures/processes, as well as my American right of access to the legal system, available to all citizens and protected by law. Not to mention that I was after all the wronged party, and won redress.

195· I asked Kelli-Ann for a meeting in the email at Part I, p. 120, 06/10/2011 10:27 AM. In response, I received a Lotus Notes invitation from her at 06/10/2011 10:47 AM, scheduling a meeting with for 2:00 PM on Monday, June 13, which I accepted. I should have, but neglected to, include said invitation in Complaint, Part I, Appendix J. For completeness, the invitation is included here.



Tuesday, June 14, 2011

04:53 PM (Part II, p. 37) — A part of the story; PTSD; Dan's prior knowledge; overly crazed; I've been "raped" before. I explicitly inform HR that my PTSD has a "very big part to play" in this story. This gave IBM notice (minimally at the level of "constructive/observational/objectively-obvious notice") that I wouldn't able to continue working under Dan if things continued down the path they seemed to heading on. The content of this email also puts HR on notice that: (i) Dan had prior knowledge about my disability; (ii) from this point forward, HR "knew that I knew" Dan was in retaliation mode (because I used wording indicating I was fearful of being "thrown under the bus", and being "raped") — even though my original impetus for filing the HR complaint had been Fritz's defamation, not Dan's retaliation. However, relying (to my ultimate detriment) upon the very strong promises made by "IBM Law" (BCG and friends), I was at this point still hopeful/optimistic that things wouldn't continue going downhill, namely that HR and the IDR/C&A Open Door process would "do the right thing", by recognizing Fritz had done a bad thing, nipping Dan's retaliation in the bud, and helping patch all the rifts so everybody could get along together, just like grown-ups.

Wednesday, June 15, 2011

07:11 AM (Part II, p. 45) — No status report. Dan makes it perfectly clear that he's "openly hostile" towards to me, via his capricious/harassing "status report" assignment. From this point on, I *know for certain* there can be no turning back, from *his* point of view.

10:12 AM (Part II, p. 46) — Oh Come On; your true colors; no subtlety; snide harassment/retaliation; age/sex/race discrimination. I let Dan/HR know that from *my* point of view, I was onto his game (well-founded in my previous experience of hostile work environment bullying), and was not going to put up with it. With this email, it is clear there can be no turning back from a course of conflict (from my point of view, as well as Dan's). In particular, not only can't/won't I be able to (from a psychological point of view) work for Dan again, but Dan couldn't/wouldn't want me back anyway.[196] I explicitly charge *prima facie* age/sex/race discrimination — which means that from this point forward,[197] all retaliation visited upon me amounts to *illegal discrimination-retaliation* (not just some kind of "plain" retaliation, beyond the reach of the law). Yet IBM *never, ever (not even to the date of this writing)* acknowledges/recognizes/responds to that charge of discrimination.

196· That is, by this point I've given-up on the idea that the HR IDR/C&A process can repair relations to the point where I can work for Dan again (because Dan's behavior has forced me to make this conclusion). Therefore, had I been offered transfer as an ADA reasonable accommodation at that point, I would have accepted it. Instead, I was given no choice but to "keep on fighting" (hopeful that Dan's bad acts would be exposed, and IBM would get rid of him, before he could harm others as much as he was obviously intending to harm me — as did indeed happen subsequently).

197· Really, forward from the meeting with Kelli-ann two days earlier (Monday, June 13) — but see Complaint Addendum IV, p. 9, fn. 167.

01:23 PM (Part II, p. 47) — Oh hey Dan. Just in case anybody thought I'd have a change of heart anytime soon.

03:03 PM (Part II, p. 123) — John Metzger button-holed me. I inform HR that John Metzger invited me to talk to him, alone in his office. My alert to HR came out of a vague feeling this kind of one-on-one closed-door meeting wasn't the way an HR investigation into age/sex/race discrimination was supposed to work.

03:30 PM (Part II, Section 14) — Talk with John Metzger. I talked to John about The Affair. I'd complained to HR about age/sex/race discrimination, so at that point the case *should* have become an official HR investigation, instead of John's *ex parte* meeting with me (though in the event, HR stonewalled the whole thing).

04:51 PM (Part II, p. 123) — No Issue. HR told me to go ahead and meet with John Metzger. (The meeting had actually already occurred by this time; couldn't keep the big boss waiting.)

08:06 PM (Part II, p. 123) — Gag on his medicine. I gave HR a report on the meeting with John. I also told HR I tried to make Dan gag on his own medicine, and stop harassing me.

Thursday, June 16, 2011

10:44 AM (Part II, p. 149) — Pissing contest; I cannot trust him, not even a little. I tell HR it's infeasible for me to work for Dan (no time period or mitigating circumstance mentioned, hence "forever" by construction), explicitly mentioning PTSD (again), and that I do not have even minimal trust in him. explicit request for reasonable accommodation: "I believe it is infeasible for me to work for Dan."

03:47 PM (Part II, p. 149) — I wasn't clear enough; know-abusive; fear; blackballing; get me away from him, fast. I explicitly ask for HR's help, saying it is unreasonsble for IBM to require me to work for a known-abusive boss. I say I "fear" Dan, and this is the "beginning of the road to hell for me". In future, I will refer to this and the preceding email (previous paragraph) as "begging". explicit request for reasonable accommodation: "Get me away from his managership. Fast."

03:48 PM (Part II, p. 150) — Ho, hum. IBM refuses to budge, despite my begging.

03:58 PM (Part II, p. 150) — Right now; turns stomach. I demand immediate action. [But to no avail (dead silence from IBM).]

Friday, June 17, 2011

09:27 AM (Part II, p. 73) — Blackballing; dead give-away; PTSD; set-up; have you no shame?; Dan is no hero, is bad actor. In response to Dan's bizarre demand for "impossible plans", I write a very long/explicit/detailed harangue about his current harassment/blackballing/bullying/etc. I mention PTSD. I conjecture that Dan was "setting me up" (so as to discover whether I was a "dissident", so he'd know whether he needed to "kill" me). I begged for help. I specifically utter "disparate treatment" and "presumption of bias" (set-phrases from discrimination law, impossible to miss). I explicitly accuse Dan of lying. I inject into the written/contemporaneous record his specific prior knowledge of my susceptibility to the kind of bullying he's subjecting me to ("your did your usual thing of reassuring me it was OK"). I accuse Dan of "envy/jealousy/hate" of me because I (inadvertently) demonstrated myself to be "smarter" than him. I accuse him of stealing my work-product. I call Dan "the bad actor". Nobody in their right mind could possibly think I could ever work for Dan again after a blast

like that. I.e., this was "constructive notice", that separating me from Dan was necessary (last-resort) "reasonable accommodation".[198]

Monday, June 20, 2011

10:58 AM (Part II, p. 76) — Onerous, impossible-to-succeed task. I complain to HR about Dan's abusive treatment.

Thursday, June 23, 2011

01:43 PM (Part II, p. 77) — Punishment shoved down my throat; can't eat/sleep/concentrate; nearly incapacitated by debilitating PTSD; beg to be released from Dan's grasp; torture; rape; policy against disability discrimination. To HR, I accuse Dan of coercion, harassment, blackballing. I make it quite clear to HR that I'm nearly incapacitated by debilitating PTSD. I beg to be released from Dan's grasp. I speak of torture beyond my ability to stand it, of torment, and of rape. I explicitly ask: *"Isn't there supposed to be some sort of policy against discrimination on the basis of disability, by forcing me to work with/for my tormentor (and if having debilitating PTSD isn't considered a disability, I don't know what is)?"*

02:11 PM (Part II, p. 78) — Changes would be premature. HR refers me to IHS, and to self-help resources, but is otherwise unhelpful, not proactive at all — in particular doesn't offer to help find reasonable accommodation, even though fully aware of PTSD harm activated by hostile work environment created by Dan.

Friday, June 24, 2011

08:56 AM (Part II, p. 40) — HR offers STD (but not ADA reasonable accommodation). HR heeds my notices of "not feeling well", so they remind me STD is available. But they don't mention accommodation (even though they're required to do so under ADA law).

09:11 AM (Part II, p. 40) — Get away from the ilk of Dan and Fritz. I tell HR that I have "some resources from my previous experiences" (I was referring to Stephanie Ross, my psychotherapist), but that Dan's current attacks exceed those previous experiences, so I might need some additional help. I say I want to "get away from the ilk of Dan and Fritz", but HR still doesn't offer ADA reasonable accommodation (such as transfer).

Monday, June 27, 2011

09:03 AM (Part II, p. 51) — Onerous/picayune crap. I explicitly charge Dan of blackballing and harassment (that is, of discrimination-retaliation, in the context of my charge of age/sex/race discrimination).

11:19 AM (Part II, p. 54) — Request for legal intervention. I request that IBM Legal representatives take a look into this matter, because I know damn some illegal stuff is going on. (This request was in the context of defamation, not discrimination, but had Legal started looking into the matter at this point, there's a chance they would noticed the discrimination overtones.) IBM never responded to my request.

01:40 PM (Part II, p. 79) — Disparate treatment, harassment, pick your euphemism here. I complain to HR that Dan is inflicting hostile work environment on me.

198· Has anyone but me observed the irony of Dan's remarkable capability of immediately in recognizing Fritz and I needed to be separated, but his/HR/IHS's inexplicable blindness in not recognizing Dan and I needed to be separated?

03:27 PM (Part II, p. 81) — Your manager has asked you do a project. HR completely ignores my pleas.

04:19 PM (Part II, p. 81) — I am doing the project. To HR I accuse Dan of giving me abusive assignment, laying a trap for me, blackballing.

Tuesday, June 28, 2011

12:09 PM (Part II, p. 83) — Let me be as clear as possible; I do not trust you, and I fear you; I despise working for Dan; I beg HR to get me away from Dan ASAP. I make it very clear to Dan and HR that I'm trying to "clear off my plate", so I can leave Dan's grasp. I literally beg HR to separate me from Dan. I complain of hostile work environment and retaliation. I say my health is suffering, and that I've informed IBM of it. I say IBM owes me a new/decent job.

12:09 PM (Part II, p. 41) — I do not feel safe around Dan. I "clarify" to HR (since they pretended not to be hearing me) that I don't feel safe around Dan, so I can't attend a meeting where he'll be present.

12:11 PM (Part II, p. 41) — Dan will not be there. In response, HR merely tell me Dan won't be present. What they should have done was offer me transfer as ADA reasonable accommodation (see "new/decent job" plea, earlier this day, above).

Wednesday, June 29, 2011

12:03 PM (Part II, p. 126) — Insufficient facts; find yourself a new job. Lisa Due's "finding" of "insufficient factual information". Also, Lisa Due knows I must be separated from Dan, but requires me to stick with him even as she/IBM for the *first* time offers to *let* me transfer myself (but she doesn't offer to *help* me find one, or even point to GOM).

12:53 PM (Part II, p. 126) — Filing of IDR/C&A appeal; HR cover-up; I do not trust Dan and Fritz; I fear them; I beg for transfer. To Russell Mandel, I charge HR with cover-up. To John Metzger, I beg to be separated from the hostile work environment fostered by Dan and Fritz. I say IBM owes me a safe job.

Thursday, June 30, 2011

07:22 AM (Part II, p. 63) — Of course I worked yesterday. I charge Dan with harassment.

08:13 AM (Part II, p. 63) — Harassing demotion; throw under bus. I complain about harassing demotion, and being thrown under the bus, and the mystery that nobody will tell me anything about why I'm being treated this way.

08:35 AM (Part II, p. 66) — Ad hominem. Dan accuses me of *ad hominem* attacks, casting aspersions on colleagues. This is false, and is harassment.

10:04 AM (Part II, p. 151) — PTSD anxiety. I tell Dan and HR I'm physically & mentally unfit (due to PTSD activated by Dan's abuse), and minimally I cannot be in Dan's presence, but I'll try working from home.

10:29 AM (Part II, p. 151) — Please come to office. Dan tries to lure me to the office, though he knows I can't stomach being around him.

10:46 AM (Part II, p. 67) — PTSD harm; false investigation; cover-up; opposite of professionalism; I expect better behavior from you. I tell Dan and HR I'm sleep-deprived (due to PTSD activated by Dan's abuse). I complain about cover-up (Lisa Due's so-called "investigation

findings"), and lack of HR integrity. I accuse Dan (in HR's presence) of harassment, and the "exact opposite" of professionalism and humanitarianism.

10:58 AM (Part II, p. 69) — Are you the same person; not ad hominem. I complain about contradictory demands from Dan. I resist the *ad hominem* characterization, saying it's harassment.

11:16 AM (Part II, p. 151) — Medically disindicated. I say I can't work around Dan, for obvious medically indicated reasons.

11:28 AM (Part II, p. 70) — False slam about ad hominem. I complain about Dan's false slam at me, by his *ad hominem* charge.

11:52 AM (Part II, p. 70) — Avoid "inappropriate-seeming" communication. Dan cautions me to avoid communication that "might appear" inappropriate. That is, he's here laying the spadework for his "lazy" scandal (so he can later claim the word "lazy" *"appears inappropriate"* to him). This is *premeditation* of harassment/bullying.

01:07 PM (Part II, p. 70) — You attack, I defend; please stop. I beg Dan to stop bullying me.

Friday, July 1, 2011

10:49 AM (Part II, p. 128) — Topics for discussion; age/sex/race discrimination. I give Russell Mandel a massive brain-dump, including explicit charge of age/sex/race discrimination, and ask him to separate me from Dan.

Tuesday, July 5, 2011

08:25 AM (Part II, p. 30) — For the record. I beg Russell Mandel to remove me from Dan's hostile work environment.

09:03 AM (Part II, p. 124) — Don't be candid with HR. John Metzger tells me not to be candid to HR about the harassment I've receiving from Dan. He's oblique as always, speaking of "professional conduct and respectful communication", and "keeping focused on results", but since there's no basis outside my HR complaint for saying anything like to me (retaliation *per se*, Section 57.1), the import is clear.

10:19 AM (Part II, p. 125) — No quid pro quo. I tell John Metzger I'm going to continue pressing my case.

11:12 AM (Part II, p. 90) — Asserting a premise unacceptable at IBM. Dan recognizes/acknowledges (correctly, as he knows) that I am "reluctant to work with him informally". He also accuses me of saying I *refused* work for him, but that's a false overstatement — I'd only ever said I *wanted* to be separated from him.

10:42 AM (Part II, p. 89) — Planning as bludgeon. I tell Dan I fear his "impossible planning" exercise is a bludgeon for blackballing.

11:32 AM (Part II, p. 90) — Fear; retribution; blackballing; strenuous protest. I tell Russell Mandel that I continue to work for Dan only under "strenuous protest".

12:00 PM (Part II, p. 91) — Whole day to write three paragraphs. Dan pretends I spent an entire day writing only three paragraphs of a weekly report. This is so patently absurd, it cannot be anything other than pure harassment.

01:51 PM (Part II, p. 131) — Three behavior issues. Dan sends me three behavior issues I'm supposed to work on. This is retaliation *per se* (it arises specifically out of the investigation I'm involved in; Section 57.1).

03:13 PM (Part II, p. 130) — Nothing to add. Mandel tells me I must continue working for Dan.

03:18 PM (Part II, p. 131) — Continue to cooperate. Mandel tells me I must continue working for Dan.

Wednesday, July 6, 2011

07:35 AM (Part II, p. 131) — Absolute privilege. I point out that retaliation on the basis of HR investigation, as Dan is doing, is forbidden (Section 57.1).

07:54 AM (Part II, p. 132) — You have not violated them. Dan defends his right to complain about my behavior during the HR investigation, on the basis that he's "merely" informing me, not accusing me.

08:39 AM (Part II, p. 132) — Fair enough. I repeat I haven't abridged any of Dan's three behaviors, outside of the HR investigatory process.

09:20 AM (Part II, p. 133) — Normally tolerated; re-calibrate your discourse. Dan agrees I haven't abridged the three behaviors, but he presses onward anyway, saying he'll point "inappropriate" behaviors out to me, even if they're normally tolerated.

Thursday, July 7 – Sunday, July 31, 20115

I am out of the office, for surgery and vacation. My first day back is Monday, August 1.

Monday, July 11, 2011

07:33 AM (Part II, p. 134) — You said "lazy". Dan accuses me of bad intentions when I innocently used the word "lazy" in an earlier email (Thursday, July 6, 09:27 AM, Part II, p. 134).

10:03 AM (Part II, p. 135) — Never in wildest dreams. I plead innocent to the "lazy" charge.

10:07 AM (Part II, p. 135) — Apologies for "lazy". I apologize for using "lazy", knowing it is absurd/unnecessary, but that I'll be further retaliated upon if I don't.

Wednesday, July 20, 2011

11:08 AM (Part II, p. 136) — Apology for apology. I clarify that "laziness" is a virtue, under appropriate circumstances (including those in effect here).

Wednesday, August 3, 2011

03:45 PM (Part II, p. 25) — Pseudo-yelling; "lazy" scandal; FWL; fainting episode. This is the *very first* day Dan and I are both back in the office, simultaneously, since four weeks earlier (since July 6). Dan immediately seizes upon this *very first* opportunity to vigorously launch his "pseudo-yelling/'lazy' scandal/FWL" attack upon me, resulting in my fainting. The very act of fainting itself constitutes the *ultimate, strongest possible "constructive/observational/objectively-obvious notice".* It would be impossible for Dan to fail to "notice/observe" the fainting episode — indeed, I myself observe him observing me: "Dan is looking at me really, really funny" (Complaint, Part II, p. 25).

08:59 PM (Part II, p. 139) — Emergency letter; greatest possible urgency; cease and desist. I plead to corporate staff about ongoing blackballing, retaliation, etc.

Thursday, August 4, 2011

07:58 AM (Part II, p. 138) — BCG certification. I am forced to re-certify the BCG, under harassing/retaliatory circumstances ("lazy" scandal).

08:12 AM (Part II, p. 140) — Urgent haste. I add two more corporate staff members to the previous day's emergency letter.

10:58 AM (Addendum I, p. 57) — Vet, please. Compliant with Dan's transparently-harassing desire that I pass "controversial" emails past him for "vetting" before sending them (Addendum I, Section 32), I asking him to vet an email I intend to send to Jay Wentworth.

01:34 PM (Addendum I, p. 58) — If it were me. Keeping a straight face, Dan pretends to add "value" by his vetting. [In the subsequent email I actually send (01:44 PM, Addendum I, p. 58), you can see how I had to recast Dan's "vetting" suggestion to square with normal reality.]

02:56 PM (Part II, p. 140) — Add to your list. Mandel continues to refuse taking any action to save me.

04:58 PM (Part II, p. 96) — Handle on issues; SMOP; woeful; meaning of "estimates". Due to Dan's abusive outburst the previous day concerning trivial words such as "lazy", I'm not overly-cautious about "explaining" my meaning when using even innocuous terms, such "SMOP" and "woeful". I also feel forced to explain what I understand by the concept of "estimating" work-time. (I am clearly "hiding in a hole", trying to escape Dan's abuse, at this point.)

07:13 PM (Part II, p. 140) — If you say so. I beg Mandel yet again to be rescued.

Friday, August 5, 2011

08:42 AM (Part II, p. 97) — Substance & style hoops. Dan writes an encomium on "substance" and "style" of communication. He's building up, layer-by-layer, abusive/oppressive blackballing "hoops", to guarantee any attempt at jumping through all of them simultaneously will be doomed to failure — or even if some measure of success is achieved, it will have taken too much time to be considered a "passing grade". For example, he accuses me of "focusing on toolsmithing, not analysis and insight", but that's nonsensical: without the tool, it's impossible to run the tests, do the analysis, and gain the insight. Oh yes, and his comment about "my own personal standard of quality" means … I'm doing too-good a job!

09:57 AM (Part II, p. 72) — I'm sick-ish. I inform Dan about being sick (because of Dan's bullying "lazy" scandal attack; who wouldn't be?), hence I cannot be in his presence and will work at home.

10:22 AM (Part II. p. 243) — Rescind FWL; raison d'être. I ask HR to rescind my FWL. I lodge the *raison d'être* test complaint

11:00 AM (Part II, p. 99) — Not feeling 100%; project plan and estimates. I do my best to jump through Dan's hoops.

01:03 PM (Part II, p. 141) — Must keep working for Dan. Mandel continues being deaf to my pleas. He also tries to rush me to a premature judgment, knowing my Complaint is still incomplete.

01:07 PM (Part II, p. 145) — No third-party complaints. Mandel tells me IBM doesn't accept third-party complaints.

03:08 PM (Part II, p. 146) — Yes third-party complaints. I tell Mandel IBM *does* accept third-party complaints, by providing explicit excerpts from official IBM policy documents. And he's "the" expert. So he lied to me.

Sunday, August 7, 2011

08:33 AM (Part II, p. 101) — Ill-defined. I submitted a weekly report (Appendix A.ll) that called the blktrace project "ill-defined". Dan jumped on that, in his now-well-established attack mode: jump on the smallest words I used as a lever for abuse.

Monday, August 8, 2011

10:00 AM (Part II, p. 101) — Extreme psychological distress; stomach in knots; blowing up; you saw me "swap-out". I complain about illness. I ask Dan what he thought was happening to me when he observed my fainting attack. He doesn't answer, but neither does he deny having observed my faint.

10:32 AM (Part II, p. 201) — Concern about ability to come into office. Dan knows I can't work around him, but he tries to lure me back anyway (for the firing). More harping on "ill-defined". He's determined not to act on what he knows I truly need (separation from his abusive environment, such as a transfer).

Tuesday, August 9, 2011

07:22 PM (Part II, p. 102) — Defense of ill-defined. I defend my use of "ill-defined", quite properly and correctly (but needlessly — there's no reason for this kind of abusive from Dan).

Thursday, August 11, 2011

02:54 PM (Part II, p. 148) — Please call. Dan tries to get me to call him, even though he knows I want/need everything in email (on-the-record).

03:00 PM (Appendix III)[199] — I ask IHS how to go about STD and/or accommodation. I ask Kathy Dean, of IHS, how to go about STD and/or "accommodation".[200] She passively points me to IBM's PwD (People With Disabilities) resources,[201] but doesn't offer any active help.

199· I haven't documented the paucity of IHS's "help" heretofore in this Complaint — because I've been afraid to. For, I've been dependent on IHS to approve my STD's, and it's been abundantly proven to me that all departments throughout IBM are universally inclined to retaliate upon anyone who "opposes IBM's discriminatory leanings" (cf. the language of case-law in the area of discrimination-retaliation) — which is of course quite illegal on IBM's part. Indeed, in the case of IHS, I got an inkling of this when they interviewed my psychotherapist (on or about the week of October 17): their interest seemed much more focused on finding proof I was "crazy" (in that regard, quizzing my psychotherapist about whether she had read my Complaint, and whether she thought I was a danger to others in the workplace) than on exploring a reasonable accommodation (e.g., transfer) for me.

200· At the time, I only vaguely/imperfectly understood the idea of "ADA reasonable accommodation", and of course had no idea at all about IBM resources in this area.

201· Appendix HHH. The PwD material addresses itself solely to same-workplace accessibility accommodations for people with physical/cognitive disabilities. It is all-but-silent about

03:06 PM (Appendix III) — IHS frequently hears about blackballing. I called Kathy immediately. During that phone call I told her about how I was being "blackballed" by my manager, and she promptly responded, *"We hear about that all the time!"*

03:44 PM (Appendix III) — IHS doesn't deal with Open Door issues. Kathy informs me IHS doesn't get involved in Open Door issues — which is the very HR process I'm involved in. I.e., IHS is basically refusing to help me (apart from the mechanical "help" of passively pointing me to other resources, and approving my STD requests).

08:46 PM (Part II, p. 148) — Too late now. I tell Dan I won't talk to him, and that I'm sick, and will be taking STD.

Friday, August 12, 2011

05:00 AM (Part I, Appendix A.mm) — Weekly report. I tell Dan I've applied for STD and workplace accommodation.

09:33 AM (Part II, p. 149) — Please forward phone number. Dan tries again to get me to talk to him.

Monday, August 15, 2011

10:13 AM (Appendix III) — If workplace limitations needed. IHS acknowledges my request for workplace accommodation ("limitation"), and says they'll notify Dan. (But they never do anything to help me.)

10:43 AM (Appendix III) — The accommodation/limitation thing; cryptic; cloak-and-dagger/paranoid. I tell Al I'm looking into accommodation/limitation, and that I'm being cryptic and paranoid.

Tuesday, August 16, 2011

11:46 AM (Appendix III) — Share Complaint with IHS. I tell IHS I'll be sharing my Complaint with IHS when I publish it, so they'll know exactly what happened to me, for purposes of helping me appropriately. (As time goes on, I do share the Complaint with them, but it doesn't sway them enough to move them to help me.)

12:11 PM (Appendix III) — Office well-being considerations. IHS, again acknowledging my request for help, passively sends me a link to "office well-being considerations",[202] but again offers me no active help.

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mental/psychological/psychiatric disability — which is inexplicable, given that such claims occur second-most-often amongst all ADA filings (second only to back/spine injuries). In particular, the PwD says nothing about escaping hostile workplace, and nothing about transfer/reassignment. Even so, I had already taken PwD's recommended/necessary first step for any workplace accommodation (Appendix JJJ.b; paraphrase): "make the disability 'known' to the right people — manager, HR, IHS." So there was nothing further I could do. The next step was supposed to be in their hands, but they all refused to help — or to even to recognize/acknowledge I had a legitimate issue.

202· Appendix KKK. This turns out to be dominated by workplace "safety" issues, in the sense of hazardous materials and the like. Its treatment of "psychologically healthy workplace" issues (which is what I need) is limited to non-actionable, impractical, high-level policy documents, and vague pointers counseling employees "you're on your own, take care of yourself" (paraphrase).

Wednesday, August 17, 2011

09:59 AM (Part II, p. 153) — Provide telephone number. Dan tries to get my phone number, so he can continue harassing me even while I'm on STD.

10:14 AM (Appendix III) — You'll see why. I tell IHS they'll be seeing why I'm acting so paranoid/cloak-and-dagger.

Thursday, August 18, 2011

01:06 PM (Addendum I, Section 35 and Appendix MM) — Original IDR/C&A Complaint filing. I file (Parts I–II of) this IDR Complaint to IBM's C&A and Corporate Open Door processes. At this point, my claims about age/sex/race discrimination are now perfectly clear to all responsible parties in IBM, including Executive Staff (esp. Part I, Section 1.2, top of page 7, boldface). And my PTSD, too (Part II, Section 8.1). Yet IBM utterly refuses to address my discrimination claims, forever stonewalling (remaining totally silent on) the matter (even to the date of the present writing).

Thursday, August 25, 2011

08:06 AM (Addendum I, Section 36 and p. 67) — I have not heard back from anyone. IBM delayed responding to my IDR/C&A Complaint — an act of retaliation contrary to IBM's own promises of "promptness".

03:43 PM (Addendum I, p. 68) — No processing of C&A because of STD. Russell Mandel refuses to progress my C&A because I'm out on STD.

05:19 PM (Addendum I, p. 68) — Absolutely unacceptable; stumble into idiotic trap; run afoul of ADA; rules of procedure; Mandel is not competent authority. I complain to Mandel and Corporate Staff that refusal to progress my C&A because of STD is contrary to the ADA.[203] I also explain the rules of procedure I require for the C&A process, and that Mandel is disqualified from participation. (But IBM ignores all this, refusing to respond.)

Friday, August 26, 2011

10:28 AM (Addendum I, p. 57) — Stop working now. Dan tells me to stop working, because I'm out on STD, ostensibly so I can "get well", and because he cannot "properly manage" me (he also tries to get my phone number). I consider this abusive, because I like to work (it'll help me "recover"), and Dan's "management" is useless (in the sense that it doesn't help progress my proper work) and harassing in any case. I don't give him my phone number.

Tuesday, August 30, 2011

12:31 PM (Addendum II, p. 29 and Section 41) — What is going on? I complain that nobody will talk to me.

01:40 PM (Addendum II, p. 30) — Simply not going to discuss while on STD. Mandel reiterates that refuses to progress my C&A while I'm on STD.

Wednesday, August 31, 2011

10:04 AM (Addendum II, p. 31) — STD disqualification is illegal. I cite both "IBM Law" and ADA law concerning Mandel's "STD disqualification". I complaint about IBM's refusing to separate me from Dan.

203· This was my first invocation of "ADA" (I'd just learned enough about it to know it applied to me).

Tuesday, September 6, 2011

05:03 PM (Addendum III, p. 12) — VPN access rescinded. I discover my Netezza VPN access has been rescinded, and I file a service ticket with Netezza IT helpdesk.

Wednesday, September 7, 2011

10:26 AM (Addendum III, p. 12) — Refusal to respond. Netezza IT helpdesk (specifically, Jay Griffin, I believe) refuses to respond to my helpdesk requests.

11:31 AM (Addendum III, p. 12) — I complain about lack of help. I complain to HR/Mandel about lack of helpdesk help.

01:22 PM (Addendum III, p. 12) — No VPN access while on STD. Russell Mandel refuses to reinstate my access to Netezza VPN, on the basis that I'm on STD.

01:48 PM (Addendum III, p. 13) — This is crazy; strenuous objection; I'm no spy. I complain to Mandel about recission/denial of VPN access. Addendum III, Sections 44–45.

04:28 PM (Appendix III) — I cannot go back to work. I tell IBM I cannot go back to work under the current circumstances (i.e., under Dan, as IBM is trying to force me).

Thursday, September 8, 2011

03:43 PM (Appendix III) — Sleep studies performed? IHS asks if I've had "sleep studies" performed — as if that would somehow help with my abusive work environment issues.

05:11 PM (Appendix III) — IBM's abuse is reason for STD. I explain to IHS Dan's hostile workplace environment, and HR's corruption, is the reason for my STD (in particular, I don't need "sleep studies"), and I'm getting concerned IHS might be corrupted too.

Friday, September 9, 2011

11:53 AM (Addendum III, p. 16) — Inadequate investigation. I discover IBM's investigatory is even worse than I thought; basically, it's *designed* to be a sham, so that rogue HR staff can do anything they want (which usually means supporting management and destroying employees). Addendum III, Sections 44–45.

Monday, September 12, 2011

05:26 PM (Appendix III) — Workplace bullying; physical/mental harm. I point IHS to the Workplace Bullying Institute, and tell them I am suffering physical/mental harm.

Tuesday, September 13, 2011

07:50 AM (Appendix III) — IBM "talks the talk" but doesn't "walk the walk". I tell IHS that IBM completely supports bullying/abusive workplace, and worry about "hack corporate doctors".

02:20 PM (Addendum III, p. 13) — Building access rescinded. I discover my access to IBM buildings has been rescinded.

Wednesday, September 14, 2011

10:02 AM (Addendum III, p. 13) — No building access while on STD. Russell Mandel refuses to reinstate my building access, on the basis that I'm on STD.

10:43 AM (Addendum III, p. 14) — You are wrong, this is harassment. I complain to Mandel about recission/denial of building access. I repeat that I cannot work in Dan's hostile work environment, and renew my plea for ADA reasonable accommodation. Addendum III, Sections 44–45.

Thursday, September 15, 2011

03:38 PM (Appendix III) — You need a psychiatrist. IHS tells me I need a psychiatrist.

05:04 PM (Appendix III) — You're joking, right? I tell IHS I don't need a psychiatrist, because that won't help with my hostile work environment problem (Dan & HR).

Wednesday, September 21, 2011

10:37 AM (Addendum III, p. 16) — Cancer growing on IBM. I discover IBM has a "Chief Trust & Compliance Office", so I complain to it — a "Hail Mary pass".

02:55 PM (Appendix III) — Abusive C&A process. I tell IHS the abusive C&A process is forcing me to continue working for Dan.

Thursday, September 22, 2011

09:02 AM (Addendum III, p. 16) — Hail Mary pass incomplete. The Trust & Compliance Office rebuffs me, bouncing my plea back to Mandel. I.e., IBM doesn't care how untrustworthy they are.

Wednesday, October 5, 2011

10:37 AM (Addendum IV, p. 17) — There's a major problem here; is there some process I'm supposed to be following? To HR and IHS, I explicitly invoke the full three-word phrase "ADA reasonable accommodation" for the first time, because I'd just learned it, and also of long-term/permanent disablement.[204]

Monday, October 10, 2011

09:33 AM (Addendum IV, p. 18) — Your manager is not going to be changed; GOM transfer. The revelation that I'm now learning more about my rights *finally* gets IBM's attention. Mandel refuses to transfer Dan (thereby signaling that he's completed his investigation, but won't yet report it to me, because I'm on STD). But he says I can transfer myself if I want to, using GOM.

Tuesday, October 11, 2011

02:13 PM (Addendum IV, p. 18) — Here's something you'll find interesting; your investigation is fraud/sham. I inform IBM I've discovered the concept of "discrimination-retaliation", and that IBM is guilty of it, in spades.

Monday, October 17, 2011

11:46 AM (Addendum IV, p. 21) — Episodic PTSD. I point out to IHS how some ADA fine points apply to my case.

204· Though, as we know, there is no requirement to invoke "magic words" such as "ADA", "reasonable", "accommodation", "disability", etc. Paragraph entitled "Notes" in the introductory material at the beginning of Section 59, above.

02:27 PM (Addendum IV, p. 22) — Garland's Digest. I tell IBM some more information about ADA reasonable accommodation, and how they've failed to live up to the law.

03:47 PM (Addendum IV, p. 24) — I absolutely did respond. Mandel falsely states he's been trying to negotiate reasonable accommodation all along, including transfer.

Tuesday, October 18, 2011

06:34 AM (Addendum IV, p. 30) — You refused to work. Dan falsely speaks of my "refusing to work" (I actually just "worked at home"), thereby "stealing" some STD time from me.

03:13 PM (Addendum IV, p. 24) — I understand your position. Mandel admits he understands I cannot work in any capacity with Dan & Co., but he refuses to fire or transfer Dan, but he does offer to let me transfer myself.

06:05 PM (Addendum IV, p. 25) — We're missing a very important component; worst recorded case of discrimination-retaliation in history; it's your move. I point out that reasonable accommodation negotiation can't proceed until my IDR/C&A is completed, because if it determines Dan should be fired or transferred, then we're done negotiating.

Wednesday, October 19, 2011

04:20 PM (Addendum IV, p. 26) — A little more gloss; I am shocked, shocked. I expound some more on ADA, adequate notice, and discrimination-retaliation.

Saturday, October 22, 2011

11:19 AM (Addendum IV, p. 31) — I'm just saying. I complain about Dan's "theft" of STD time.

Wednesday, November 2, 2011

01:50 PM (Addendum IV, p. 34) — I went back over the records. Dan pretends he's reconciled my STD time.

Thursday, November 3, 2011

07:11 AM (Addendum IV, p. 34) — Everything you say is demonstrably false; you can't unring that bell. I point out Dan's falsity in his previous email.

Wednesday, November 16, 2011

12:06 PM (Appendix AAA) — Quickly follow up. Mandel tells me IBM will quickly follow up the IDR/C&A phone call (scheduled for the following day) with interactive dialog about reasonable accommodation.

Thursday, November 17, 2011

02:00 PM (Section 56, above) — IDR/C&A phone call. Russell Mandel's dishonest/sham IDR/C&A "findings".

Wednesday, November 23, 2011

06:59 AM (New Complaint, p. 15) — Continue being harassed, or transfer. Emboldened by Russell Mandel's tortious IDR/C&A "findings", Dan tells me I must continue working for him (making it clear he will not change his ways, i.e., will continue harassing me), or find myself a transfer (via GOM). [Under ADA, he should have minimally found a suitable transfer for me.]

03:12 PM (New Complaint, p. 16) — Optimal usage of GOM. I ask Diane Adams for help, hoping she might know of some sort of fast-path-transfer route (beyond GOM) suitable for people in my position.

Monday, November 28, 2011

09:00 AM (New Complaint, p. 16) — Use GOM to transfer yourself. Instead of offering me special (ADA-mandated) assistance, Diane Adams just tells me to find myself a transfer via GOM: "where you will search for jobs".

02:02 PM (New Complaint, p. 20) — Medical reality demands transfer. I tell Dan medical reality dictates transfer as the only reasonable accommodation available to me (given that IBM refuses to discipline or regulate Dan), and that I've applied to a position I found on GOM, requesting his assistance in obtaining it.

03:21 PM (New Complaint, p. 21) — Good luck transferring yourself. Dan wishes me good luck obtaining the transfer I've applied for (but offers no additional/special assistance), and reminds me of STD/LTD.

Thursday, December 1, 2011

08:28 AM (New Complaint, p. 23) — I'm coming back from STD. I tell Chris Kime I'm coming back from STD.

Monday, December 5, 2011

04:40 PM (Appendix HHH; also New Complaint, p. 25) — Want help with transfer; need access for interview. I ask Dan's help in getting the transfer I've applied for (and finding other positions), and for his help in getting building access to Littleton for the interview.

04:47 PM (New Complaint, p. 25) — Request permission to interview. I request Dan's permission to interview for the Littleton transfer position.

07:00 PM (Appendix HHH) — No access suspension. Dan states (falsely) that my building access (to Littleton or to any other IBM facility) has not been suspended.

07:04 PM (New Complaint, p. 26) — Sure. Dan gives his permission to interview in Littleton.

Tuesday, December 6, 2011

09:13 AM (Appendix HHH) — Yes access suspension. I explain that my building access surely was suspended (and so was Netezza electronic/VPN access).

09:27 AM (Appendix HHH) — Talk to personnel. Dan claims he wasn't aware of building access recission (but tacitly admits he knew about the electronic access recission). But rather than helping, he tells me to "help myself" by talking to security personnel.

12:34 PM (Appendix HHH) — Access never rescinded; miscommunication; badge faulty. Dan falsely claims my building access had never been rescinded, that there'd been a miscommunication with Russell Mandel, and that my badge was faulty.

Friday, December 9, 2011

10:37 AM (Appendix HHH) — Badge in good working order; interview went well. I tell Dan that I did "help myself" getting into Littleton, the badge was not faulty, and reiterate my re-

quest for Dan to help me with building access. I also tell him my interview went well, and that I want to get the job/transfer.

Friday, December 16, 2011

11:03 AM (Appendix GGG.b) — Request to reinstate VPN access. I ask Dan to reinstate my electronic/VPN access.

01:36 PM (Appendix GGG.b) — Refusal to reinstate VPN access. Dan refuses to reinstate my electronic/VPN access, due to my being on STD.

Friday, January 6, 2012

12:48 PM (New Complaint, p. 37) — Bombshell; transfer nixed because of STD. My transfer was killed, by Chris Kime's "up-line management" and "operations people", due to my STD status. Chris apologizes to me.

Wednesday, January 11, 2012

12:57 AM (New Complaint, p. 37) — Transfer problems. I inform Dan and Diane Adams about my transfer rejection, and ask for their help.

Monday, January 16, 2012

10:26 AM (New Complaint, p. 38) — Bigger bombshell; cover-up: "not right fit". Dan (with Diane Adams's silent acquiescence) claims Chris Kime lied, and instead I was rejected because I wasn't "the right fit" for the position. He also pretends to offer continued "interactive dialog for reasonable accommodation".

Wednesday, January 18, 2012

07:44 AM (New Complaint, p. 38) — Dan is lying/cover-up; evidence says reason for rejection was "STD", not "not right fit". I tell Dan I don't believe him, and the real reason for rejection was clearly "STD" as Chris said, not "right fit" as Dan says.

Tuesday, January 19, 2012

09:30 AM (New Complaint, p. 12) — I needn't have wasted my time. Diane Adams shows me "how to use GOM" (but doesn't offer to go beyond that tutorial).

Friday, January 20, 2012

07:13 AM (New Complaint, p. 40) — Must work for Dan. Dan refuses to help me obtain the transfer, instead tries to lure me back into his group (which he knows is impossible), with John Metzger involved.

02:44 PM (New Complaint, p. 42) — Can't work for Dan. I repeat for the umpteenth time that I can't work for Dan.

04:41 PM (Appendix FFF) — New Complaint, v1.0, filed. I file my *New Complaint*.

Sunday, January 22, 2012

08:14 AM (Appendix FFF) — New Complaint, v1.1, filed. I refile my *New Complaint* (after discovering the download site cited in v1.0 wasn't working).

Thursday, February 9, 2012

09:38 AM (New Complaint, Addendum I, Appendix S) — File for LTD; publicize psychotherapist statement; I must be granted transfer; undue delay. I submit some new arguments, and complain of undue delay on my New Complaint.

Tuesday, February 14, 2012

01:39 PM (New Complaint, Addendum I, Appendix T) — Performance issues; cover-up-of-cover-up. Mandel claims the reason-for-denial was "performance issues" (not "on STD" or "not right fit").

Wednesday, February 15, 2012

03:05 PM (New Complaint, Addendum I, Appendix R) — Still must work for Dan. John Metzger tries to lure me back to work for Dan, by reiterating Dan's "offer" of January 20.

Thursday, February 16, 2012

01:35 PM (New Complaint, Addendum I, Appendix R) — Still can't work for Dan. I repeat for the umpteen-plus-one'th time that I can't work for Dan.

08:05 AM (New Complaint, Addendum I, Appendix T) — I don't understand what you're talking about. I scotch Mandel's "performance issues" reason-for-denial.

Friday, February 17, 2012

11:21 AM (New Complaint, Addendum I, Appendix T) — Inability to work cohesively with others; unprofessional conduct; continued cover-up-of-cover-up. Having been scotched, Mandel switches to "inability to work cohesively with others" and "unprofessional conduct" as reasons-for-denial.

12:35 PM (New Complaint, Addendum I, Appendix T) — Oh? I challenge Mandel's new(est) reasons-for-denial.

01:04 PM (New Complaint, Addendum I, Appendix T) — I wrote too fast. More challenge to Mandel's new(est) reasons-for-denial.

Wednesday, February 22, 2012

08:32 AM (New Complaint, Addendum I, Appendix T) — Undue delay; simple "process" questions. I get annoyed with Mandel's continual delaying tactics, and try to get the ball rolling again by asking him some simple "process"-oriented questions.

Tuesday, February 28, 2012

06:52 AM (New Complaint, Addendum I, Appendix T) — Mandel "responds" to my "process" questions. But he totally stonewalls it.

08:11 AM (New Complaint, Addendum I, Appendix T) — I respond to Mandel's response. I fire back at Mandel's stonewall, CC'ing the relevant management hierarchies all the way to the top.

60 What Did Dan Know, And When Did He Know It?

It has been mentioned several times in this Complaint that I surely made Dan sufficiently aware ("adequate notice") of my PTSD-driven psychological "disability" (to the extent of "being hyper-sensitively unable to withstand abuse/harassment/bullying/retaliation/IIED, with *particular reference* to defamation/bullying/blackballing in a work setting", i.e., IIHWE, "intentional infliction of hostile work environment") — such that he/IBM were legally bound to proactively engage me in "ADA-mandated interactive process for seeking reasonable accommodation".[205] Part II, Section 8, and *passim*.

This Section 60 contains some more detailed proofs. These proofs take the form of *"ADA interactions"*[206] I had with Dan that gave him *constructive and/or explicit notice* of my disability. These ADA interactions all took the same general six-step pattern: (i) I would *exhibit* some overly-timid, shell-shocked, demurring/hesitation/shyness/cringing/fearful behavior (for short, we could call it *"shell-shock timidity"*). (ii) Dan would (correctly) *recognize* ("notice") said behavior as a psychological barrier of mine, and (iii) gently *react (accommodate)* by "drawing me out of my shell" with strong guarantees of kindness. Specifically, he would (iv) give me strong *promises* that the kind of abuse I feared would *never* happen at Netezza, and then (v) *encourage* me to not "hide my light under a bushel." (vi) Finally he would *reassure* me we were "blood brothers", by "opening his veins" about a painful personal anecdote of his own — usually concerning his drug-addict daughter (including her run-ins with police that would land her in jail, and he would have to bail her out).[207]

ADA interactions of this kind were repeated multiple times (6–10) during the period December, 2010 – June, 2011. Since all the ADA interactions followed the same six-step pattern (i)–(vi) just described, it suffices to record here only the variable step (i); steps (ii)–(vi) varied little *(pro forma)*.

60.1 Convolution

The *first* ADA interaction of the kind just described happened like this:

In December, 2010 (only a month after I'd started working at Netezza), Dan called a 3-person meeting in his office, with myself and Ashish Deb. Ashish was a new member of Dan's group

205· It was not my responsitiliby, however, to use "magic words" to inform Dan of my disability (under law — see the paragraph entitled "Notes" in the introductory material at the beginning of Section 59, above). Rather, it is the affirmative duty/responsibility of the *employer,* not the *employee,* to drive the "interactive process" in a prompt/timely manner. For, the "rich" master/employer is all-powerful/knowledgeable, compared to the "poor" powerless/ignorant servant/employee — which is why modern/enlightened employment law favors the reasonably imbalanced distribution of obligations that it does. And indeed, *Dan actually did engage me in interactive process of reasonable accommodation* (though he, too, didn't use "magic words" when doing so), to the extent of "drawing me out of my shell" as he did. Until the Excel Graphics episode (May 18), and most notably the public yelling episode and demotion (June 8, 10), that is — when he suddenly performed a 180°-about-face, and embarked upon his concerted campaign of hostility, knowingly/greedily exploiting his specific prior knowledge of my peculiar susceptibility to abuse, due to PTSD/disability.

206· This neologism is introduced here for the first time.

207· This fact provides *verification* of proof: if I'm not telling the truth about these ADA interactions with Dan, how would I know about his druggie daughter?

(he joined shortly after I did), and like me was a PhD (in Operations Research, not Mathematics like me). The topic of the meeting was Ashish's "queueing-theory model" project, and Dan invited me to attend explicitly for my expertise/help in the area (Dan himself freely self-professes his ignorance in serious mathematical topics).

At one point, Ashish uttered the word "convolution", in the technical/mathematical sense. Dan asked what it meant. Ashish said he didn't know/remember. I nonchalantly said, "Well the important property you really want is $\mathscr{F}(f*g) = \mathscr{F}(f)\cdot\mathscr{F}(g)$ (up to a normalization factor), where '$\mathscr{F}$' denotes Fourier transform, '$*$' denotes convolution, and '$\cdot$' denotes ordinary functional multiplication, right?" Ashish agreed.

Later that day, alone with Dan in his office, I told him the convolution is actually defined by the formula $(f*g)(y) \coloneqq \int_{\mathbb{R}} f(y-x)g(x)\,\mathrm{d}x$. Dan asked me why I hadn't cited this definition during the meeting. I told him I was wary of "showing up" Ashish, and/or being perceived as "showing off" in any way, because I'd been abused/harassed/bullied/retaliated upon previously at another company (particularly mentioning that I'd explicitly been told I was "too smart"), resulting in severe psychological damage (due to pre-existing/diagnosed PTSD),[208] and I urgently wanted to avoid such abuse ever happening to me again.

That comprised step (i) of the ADA interaction; steps (ii)–(vi) followed.

60.2 Figure-Of-Merit

Several ADA interactions involved my work on the PerfScore project (see Related Documents). This was a project I myself initiated. The circumstances surrounding its initiation form the topic of this subsection. See also Part I, p. 33 (third paragraph), and Part II, p. 76 (first paragraph).

A long-standing, very important work-product of the Performance Architecture team (Dan's group) was to produce a "roll-up" *single-number summary*, comparing two performance test runs, on two versions of the NPS system, either different platforms (such as Skimmer vs. Wahoo), or different "builds" on the same platform. Colloquially speaking: "how much faster is one performance test run than another (summarized in a single number, typically a percentage)?" This is, of course, a topic of foundational importance for a "performance group". Yet, when I started looking into how it was being done in Dan's group, I suspecting they were doing it "all wrong" (though I couldn't initially put my finger on exactly what was bothering me about it, since I was myself rather new at performance engineering). This is not the place to go into detailed technical explanation of that statement; for such details, see my PerfScore document (in Related Documents).

For our purposes here, the important thing is that I needed to broach the problem to Dan. And that was extremely hard for me to do, given the experience I'd had previously, of being accused of being "too smart" at another company.[209] But bolstered by the prior assurances

the

I'm

208· I 'm sure I didn't actually utter "PTSD 'magic word'" during this first ADA interaction; it was too early in my relationship with Dan, and I didn't quite trust him yet with such deeply confidential information. I did do so however during some subsequent ADA interaction(s). I don't remember exactly when those utterance(s) happened, but I do remember alluding to such earlier utterances at the demotion meeting on Friday, June 10, where at some point I said words to the effect: "… you know about my PTSD …".

209· To be precise, it went as follows. Me: "Why am I on the lay-off list? I'm the most competent person here." Manager: "That's the problem. You're too smart. The developers don't like the fact that you're working in a support role (as a 'mere' performance engineer), yet you're so much smarter than they are.

Dan had given me about not "hiding my light under a bushel", I resolved to approach him about the issue.

So I delicately started discussing the matter with Dan, saying I thought the way the performance group was measuring comparative performance runs — comparing means (arithmetic or geometric) of elapsed times — "doesn't seem to make much sense". Dan said he had no problem with mean-of-elapsed-time as "figure-of-merit".[210] Nevertheless, he told me to go ahead and research the matter further, and report back to him when I had a more coherent story to tell (i.e., when I could really put my finger on what was bothering me).

That comprised step (i) of the ADA interaction; steps (ii)–(vi) followed.

60.3 Hennessy & Patterson

By mid-February, 2011, I'd finished "researching the single-number-summary matter" (see Section 60.2), as documented in my weekly report for February 6–13 (Part I, Appendix A.m), where I wrote: "solved (ii) to my satisfaction (haven't communicated it to anybody yet)." But I was unable to act further upon it for more than a month, because I was inundated by too much other work, see weekly reports for February 13 – March 13 (Part I, Appendices A.n–A.q). Finally, I was able to present my ideas to Dan during the week of March 13–20 — see my weekly report for that week (Part I, Appendix A.r), where I wrote: "Also presented to DanF my idea about establishing Skimmer as our 'unit of (performance) measurement'. He agreed with the concept, and I plan to implement it anon. I think this is a Big Deal."

That presentation, at a one-on-one meeting with Dan in the Cambridge office, was the occasion for an ADA interaction with Dan. There, I discussed my idea ("geometric mean of elapsed-time-ratios"), but I had no "show-and-tell" materials with me, and since I still hadn't worked out all the details (due to lack of time, see preceding paragraph) I was a bit disorganized. So I told Dan, "I'm not describing this very well, but I got the ideas from Hennessy and Patterson,[211] I'll call my wife and have her scan in the relevant pages for me, and I'll email them to you."

But then, just as our meeting was breaking up, I told Dan, "OK, I'll confess, I already have the scanned-in pages with me, I'll email them to you." Dan seemed puzzled, and asked, "Were you worried about copyright laws?" I said, "No, it's just a few pages, fair-use exemption."[212] So Dan said, "Well then, why didn't you just tell me you had the pages?" To which I said, sheepishly: *"I didn't want you to think I was too well-prepared for my job."* This harkened back, of course, to my fear of being perceived as "too smart", as Dan immediately recognized.

That comprised step (i) of the ADA interaction; steps (ii)–(vi) followed.

correction: see New Complaint, Add. III, bullet-item spanning pp. 11-12

Plus, you're proving their work has poor performance. And, you're never wrong about anything." The perfect parallelism with Netezza/Fritz just screams to be noticed.

210· He even told me he'd been the lead performance engineer at a previous job of his, and that he'd chosen the same/similar nonsensical "figure-of-merit", but that he was a "big enough man" to now admit its incorrectness and adopt the new (Hennessy & Patterson) scheme. Complaint, Part II, p. 76.

211· J. L. Hennessy, D. A. Patterson, *Computer Architecture, a Quantitative Approach,* 4th edition, Morgan Kaufman Publishers, 2007 — the best-known ("classic") textbook on the subject. (The 5th edition, 2012, takes the same approach, "geometric mean of elapsed-time-ratios", as the 4th.)

212· In fact, I later found Chapter I of Hennessy & Patterson (containing the few pages of interest) available freely online from the publisher.

60.4 Other

The ADA interactions related above were of a *major* character, justifying their inclusion in subsections of their own. They suffice to establish our point, but there also existed a number of other, *minor* ("just-in-passing") ADA interactions. A short list of rough taglines relating to some of those minor ADA interactions is given below. At this remove, my memories retain only dim glimpses of these, not full details.

- *PerfScore* — Additional instances involving "geometric mean", especially how hard it would be for the Performance Architecture team (Larry Lutz especially) to accept the fact that the "figure-of-merit" they'd been using all these years was nonsensical, with no logical/theoretical underpinnings. Would they take my "correction" personally, or just as matter-of-course scientific fact?
- *PMtest* — All those graphics of "4-dimensional hypersurfaces in 5-space"; worry about coming-off as "showing-off".
- *Secure disk-wiping* — Brian Maly's stonewalling (cf. Section 57.3, above); worry about coming off as "know-it-all".
- *Non-uniform distributions* — Bruno DiPlacido's Hash Study; worry about "arrogantly" injecting myself into another group (though it was Dan and Michael Sporer who asked me to help Bruno out).
- *Linux/Fedora/Open-Source* — I was the first to succeed in getting Linux to run on their laptop (everyone else only ran it on their desktops). Others ran Ubuntu (I run Fedora, which is considered "more techie"). When IBM's "Open Client" came in (after IBM acquired Netezza), it's based on Fedora (not Ubuntu). I was the first to get VSPU (NPS Virtual/emulated SPU [Snippet Processing Unit]) running under Fedora. I introduced open-source software (Open/Libre-Office for word-processing and spreadsheet; R/RKWard) into Netezza (others used tamer, inferior Windows products). All these were occasions of worry about people thinking I was "too smart" (though I was only ever trying to "do things 'right'"), and I worried about that.

additional bullet-item ("Trusting Trust"): New Complaint, Add. II, p. 4

The point is, there was *certainly* sufficient "ADA context in the air" between Dan and me, that we both "knew what we were talking about, just a nod-of-the-head or wink-of-the-eye sufficing to communicate a 'meeting-of-the-minds', without the necessity to be overly explicit about soul-baring every time".[213]

61 Dr. Oz & Rachael Ray: For "Lazy" People

On Monday, December 12, I was at home, in the kitchen, doing some cooking with my wife. My wife turned on the TV as background white-noise, tuned in to *The Dr. Oz Show*. Celebrity chef Rachael Ray was Dr. Oz's guest that day, and they were cooking a stew together. At one point in her description of the recipe/technique, Ray blithely/nonchalantly uttered the phrase "for lazy people".

213· And, if there's ever any question that Dan did explicitly *know* he was "throwning me under the bus", one need only refer to the passage at Complaint, Addendum IV, p. 5, first bullet item of Section 49: "[I]f we had handled this differently …".

In sane times, Ray's utterance would have gone unnoticed, of course. The "incident" elicited no shock (real or feigned) from any audience member. Nor did it provoke an outcry of outrage from viewers across the country. Nor did Dr. Oz, or the TV network, feel moved to issue an apology. But these weren't sane times. My attention was immediately riveted to the show, and in the days following I located the video clip on YouTube, made a copy of the relevant 60-second segment, and transcribed it.

Appendix MMM. You be the judge.

62 STD; Unpaid Leave; LTD

Tuesday, January 24, marked the end of my STD benefits: 26 weeks in a 52-week sliding-window. For the first 13 weeks (up to and including Tuesday, October 25), I was paid at a rate of 100%-pay; for the second 13 weeks (up to and including Tuesday, January 24), I was paid at a rate of 66⅔%-pay. Addendum IV, Section 52 and Appendix ZZ.

As of Wednesday, January 25, I have been on unpaid leave (0%-pay), pending application and acceptance/rejection of LTD benefits. I'll now start looking into LTD seriously (before now, there's been no reason to do so, because the transfer to Chris Kime's group had been a "sure thing"; New Complaint, p. 10, fn. 2). If/when I go onto LTD, I will be paid at a rate of 50%-pay. But it's very unlikely I'll be eligible for LTD (my situation is certainly not what LTD was designed for).

I do not challenge that the benefits (including rates-of-pay) cited here are "correct", according to the terms of the IBM benefit plans. What I do claim is that this whole STD/LTD nonsense is absurd, and amounts to *theft/fraud* (at least in the colloquial sense): *I should/would never have been forced to do the whole STD/LTD business, with its degraded pay scale, "but for" Dan/Mandel/IBM's consistent/persistent, brazen/malicious, conscious/deliberate, retaliatory/blackballing, illicit/illegal behavior — in all aspects of this case.*

63 Stop (Workplace) Bullying

I gave some references to (workplace) bullying in Addendum III, Section 47. In Appendix NNN, I gather some more information on that topic — specifically related to IBM.

Not surprisingly,[214] IBM publicly pretends to be anti-bullying, even to the extent of providing funding to an important anti-bullying organization (Eyes on Bullying), while privately fully sponsoring a robust internal culture of manager/HR bullying of employees.

The reason IBM's two-faced "pubic/private" bullying behavior is "not surprising" is that it's completely analogous to IBM's similar "semi-public/private" lie that I've now seen directly, regarding its treatment of employees, which IBM internally promulgates via its "IBM/BCG Law" documents (this Complaint *passim*, esp. Addendum I Section 37, Addendum II Section 40, and Addendum III Section 46).

214· Corruption/perversion/moral-bankruptcy is endemic among many modern large corporate(-like) institutions: Big Tobacco, Enron, BP, Catholic church, Bernie Madoff, Pennsylvania State University, Big Banking, Olympus camera, Rupert Murdoch's News Corp, Microsoft, ….

ALL IBM BULLYING (whether disability-enabled or otherwise) MUST BE STOPPED.

APPENDICES — Addendum V

AAA Email Chain: IDR/C&A (Nov. 7–23)

- From: Russell Mandel
  To: Walter Tuvell
  Date: 2011-11-07 02:10 PM
  Subject: ▶*The Subject-line was inadvertently omitted in the original.*◀

  In order to meet your request that I complete your investigation while you are still out on Short Term Disability, I would like to give you the opportunity to provide your point of view on the issues I have investigated in case you have anything to add to the various Lotus Notes I have received from you. If not, I would be happy to schedule time to provide you my findings.

- From: Walter Tuvell
  To: Russell Mandel
  Date: 2011-11-08 05:15 PM
  Subject: Re: <subject line omitted in original>

  As I've stated many times, I've been hoping/planning all along that my IDR/C&A would be processed/concluded while I'm on STD. So, in brief, I'm favorably disposed to meet/discuss with you.

  Concerning your mention of "various Lotus Notes", I would like to ask for a clarification. In the parlance I use, "Lotus Notes" is essentially synonymous with "email" (notwithstanding that Notes is a bigger program than that, supporting may other services). However, my appeal is really based not on emails, but on my "long-form" Complaint (2 Parts plus 4 Addenda), as we agreed on July 1. Please confirm that's your understanding too (that is, not "mere email").

  Further, I am very interested in making sure the "full scope" ("totality of circumstances") of my C&A is addressed. That scope is mostly captured in the "Lists of Particulars" throughout my Complaint, but there's at least one additional item(-type) of particular importance: The Formal Warning Letter (concerning the "lazy scandal") must be rescinded, and expunged from my record. [Ironically, that's something I asked for in email but not in a List of Particulars. Complaint, Part II, Appendix BB, p. 143, email of 08/05/2011 10:22 AM.] The same applies to all other "bad marks" that may now be in my "permanent record" that should be deemed bogus and expunged (I don't know what these may be, I'd have to see my current personnel record first).

  Along these same lines, I'm wondering about the level of interactivity that will be involved? Lisa Due's "insufficient facts" "finding" was totally inadequate from my point of view (Complaint, Part II, Section 15). What's to guarantee that debacle

won't happen again? In particular, I need to have "reasons for conclusions". Too, what opportunity will I be given to respond to anything your investigation turns up that may be adverse to me -- such as "new facts" (though I don't know what those could possibly be), or rebuttals to facts/arguments I've advanced?

Finally, an important procedural matter. As you know, I've very concerned about venues for meetings/discussions. I have many times expressed my desire to keep all communication during this C&A "on-the-record". How is that to be accomplished? I will work with you to figure something out, because I view this as an opportunity that cannot be missed.

Thank you for taking the initiative to make this gesture. I hope it turns out to be fruitful.

- From: Walter Tuvell
  To: Russell Mandel
  Date: 2011-11-09 06:18 AM
  Subject: Re: <subject line omitted in original> -- RESEND

  /* I originally sent this note last night ~5:00 PM, but I was having Lotus Notes problems at the time, and I can't find it this morning in my "Sent" box, so this is a re-send. Apologies if your already received it last night. */

  As I've stated many times, I've been hoping/planning all along that my IDR/C&A would be processed/concluded while I'm on STD. So, in brief, I'm favorably disposed to meet/discuss with you.

  Concerning your mention of "various Lotus Notes", I would like to ask for a clarification. In the parlance I use, "Lotus Notes" is essentially synonymous with "email" (notwithstanding that Notes is a bigger program than that, supporting may other services). However, my appeal is really based not on emails, but on my "long-form" Complaint (2 Parts plus 4 Addenda), as we agreed on July 1. Please confirm that's your understanding too (that is, not "mere email").

  Further, I am very interested in making sure the "full scope" ("totality of circumstances") of my C&A is addressed. That scope is mostly captured in the "Lists of Particulars" throughout my Complaint, but there's at least one additional item(-type) of particular importance: The Formal Warning Letter (concerning the "lazy scandal") must be rescinded, and expunged from my record. [Ironically, that's something I asked for in email but not in a List of Particulars. Complaint, Part II, Appendix BB, p. 143, email of 08/05/2011 10:22 AM.] The same applies to all other "bad marks" that may now be in my "permanent record" that should be deemed bogus and expunged (I don't know what these may be, I'd have to see my current personnel record first).

  Along these same lines, I'm wondering about the level of interactivity that will be involved? Lisa Due's "insufficient facts" "finding" was totally inadequate from my point of view (Complaint, Part II, Section 15). What's to guarantee that debacle

won't happen again? In particular, I need to have "reasons for conclusions". Too, what opportunity will I be given to respond to anything your investigation turns up that may be adverse to me -- such as "new facts" (though I don't know what those could possibly be), or rebuttals to facts/arguments I've advanced?

Finally, an important procedural matter. As you know, I've very concerned about venues for meetings/discussions. I have many times expressed my desire to keep all communication during this C&A "on-the-record". How is that to be accomplished? I will work with you to figure something out, because I view this as an opportunity that cannot be missed.

Thank you for taking the initiative to make this gesture. I hope it turns out to be fruitful.

- From: Russell Mandel
  To: Walter Tuvell
  Date: 2011-11-09 01:16 PM
  Subject: Re: <subject line omitted in original> -- RESEND

  I will arrange a call for us. During that call you will have the opportunity to provide any information regarding your concerns in addition to what you have previously provided to IBM. Any information you provide will be appropriately considered as part of IBM's review of the concerns you have raised.

- From: Walter Tuvell
  To: Russell Mandel
  Cc: rmantell@theemploymentlawyers.com
  Date: 2011-11-10 07:56 AM
  Subject: Re: <subject line omitted in original> -- RESEND

  I was unable to access my email yesterday afternoon, due to technical difficulties. (I upgraded to Fedora 16, but the VirtualBox kernel modules didn't upgrade successfully, so I couldn't access the IBM Open Client virtual machine from which I run Lotus Notes. Problem is fixed as of this morning.) Consequently, this msg of yours "crossed in the mail" with Rob Mantell's letter to you.

  I'm hereby forwarding to Rob, as he'll be managing things going forward.

  ▶*The contents of the two preceding emails was included here.*◀

- From: Russell Mandel
  To: Walter Tuvell
  Date: 2011-11-15 10:49 AM
  Subject: Re: <subject line omitted in original> -- RESEND

IBM Human resources does not discuss an employee's issues with third parties such as Mr. Mantell. If it works for you, I will call you on Thursday, November 17 at 2 pm at your home telephone number. During that call, you will have the opportunity to provide any information regarding your concerns in addition to what you have previously provided to IBM. Please let me know if the above timing does not work for you or if you have nothing additional to add verbally to what you have already sent.

- From: Walter Tuvell
  To: Russell Mandel
  Date: 2011-11-15 03:53 PM
  Subject: Re: <subject line omitted in original> -- RESEND

  I am eager to cooperate, and can be available at the day/time you suggest.

  My wife is the main user of our home phone for many things (including her small home-business), and I use my cell-phone: 781-475-7254.

  I cannot currently think of anything I'd add to the information I've already provided to you (Complaint, 2 Parts plus 4 Addenda). I would be happy to provide you any additional information that you may need to complete your investigation.

  Are there any areas of inquiry in particular that I should prepare for? In particular, if you can provide me the information you have gathered from other sources, I would be happy to respond, confirm, or provide other explanatory information.

  I would like to document my cooperation with your investigation (and with the efforts to devise a reasonable accommodation, though I gather that is not on the agenda at this time), and to avoid potential misunderstandings later. May I record our telephone call? I would be happy to supply you with a copy of the recording afterwards.

- From: Walter Tuvell
  To: Russell Mandel
  Date: 2011-11-16 08:38 AM
  Subject: Talk on Thur

  As you know, one of my priorities in pursuing my appeal is to determine whether it was appropriate to issue me a Formal Warning Letter with threat of termination based on the completely innocent, light-hearted e-mail exchange of July 6-20, 2011, in which I stated, "if you're lazy you can just click this link," and in which I later commented on the positive value of laziness. (Complaint, pt. II, App. Z, pp. 134-137).

  It has occurred to me that there may be other materials in my personnel records that might show inappropriate conduct or hostility directed toward me, which

would be relevant to my appeal. For that reason, on November 9, 2011, my attorney requested a full copy of all of my personnel records. I hope to receive those copies soon. When do you think I can expect them?

I bring this up, because in your e-mail yesterday you referred to additional information not already supplied to you. My imminent receipt of personnel records may provide me with such additional information to bring to your attention. Therefore, while I remain available to speak with you on Thursday if you so desire, we could also postpone until I have had a chance to review the records. Or in the alternative, I would like an opportunity to supplement our conversation once I receive the records.

In my response to your e-mail yesterday, I assumed that my request for reasonable accommodation was not an agenda item for Thursday's discussion. Am I accurate in this understanding? I continue to be open to discussing reasonable accommodation, at our Thursday meeting, or at other times, with or without my attorney present. However, I continue to believe that it would increase the likelihood of success for all parties if the interactive process were to include my lawyer, as he is aware of my medical impairments, and has experience with developing solutions in situations like this.

- From: Russell Mandel
  To: Walter Tuvell
  Date: 2011-11-16 12:06 PM
  Subject: Re: Talk on Thur

  Your personnel file was sent to your attorney today. It is not a significant file, so you'll be able to easily review by tomorrow at 2 pm. I'll call you at 2 pm on the cell number you provided. As to your requests to either your attorney join the call or to record the call: 1) as previously stated, IBM does not discuss personnel matters with employees through or with third-party representatives present; 2) you do not have my permission to record the conversation. Finally, the intent of the call Thursday is not to discuss workplace accommodations, but IBM will quickly follow up to continue that interactive dialogue and explore potential accommodations.

- From: Walter Tuvell
  To: Russell Mandel
  Date: 2011-11-23 03:06 PM
  Subject: Written notice?

  Section 2.8 of the Concerns and Appeals Program indicates that a written response is usually provided after an appeal. I would appreciate it if you could give me such a response.

  Thank you for your time in this matter.

- From: Russell Mandel
  To: Walter Tuvell
  Date: 2011-11-25 11:06 AM
  Subject: Re: Written notice?

  As we discussed, I have investigated your concerns, and determined that management treated you fairly regarding the change in your work assignment, disciplinary actions, project plan request and day-to-day interactions with you. While I know this is not the answer you had hoped, please accept my best wishes for the future.

BBB nzVtCapture.sh


```
#!/bin/bash

# nzVtCapture.sh
#
# Capture virtual table to file.
#
# Usage:
# To start a capture run, invoke like this (in foreground or background):
#   nzVtCapture.sh <VTable> <CaptureFile> [SleepSec]
# To stop the capture run: "kill" it, by sending a suitable signal,
# namely, SIGINT (ctrl-C) if started in foreground, or SIGTERM ("kill")
# if started in background (the signal will be handled, and the program
# will terminate, gracefully finishing up the work it needs to do).
#
# This program is a work-around for the smallish max size of vtables (16
# MB, unless modified in source code).  Since vtables are implemented as
# ring buffers, and tend to get very big very fast, they are prone to
# overfilling and wrapping around, thus spilling data.  This program
# operates by taking periodic CSV-file dumps of the specified vtable
# into the specified CaptureFile, then "sort|uniq" on the CaptureFile
# afterwards.
#
# SleepSec specifies the time between periodic dumps (you can specify
# fractional/decimal times); default is 5 sec.  If SleepSec = 0, then no
# periodic dumping is done, only a single big dump at the end (you
# should do this if you're sure all your data will fit into the vtable
# without wrapping around).  If SleepSec < 0, no data at all is captured
# into the CaptureFile; instead, an "experimental mode" is entered,
# whereby the sleep time period is set to -SleepTime, and the number of
# lines in common between successive vtable dumps is printed to stdout;
# the number of common lines should always be > 0, because otherwise
# there's the potential for data loss.  (Even in non-experimental mode,
# the user is warned if such a potential data loss occurs.)  This
# enables the user to "experimentally" determine the optimal value of
# SleepSec for their application.  Bigger SleepSec is better, because it
# means fewer collisions in the CaptureFile, making "sort|uniq" faster
# at the end.  And even though a sophisticated version of "sort|uniq" is
# implemented, it can still take a very long time indeed.
#
# Be sure you locate CaptureFile on a filesystem of sufficient size,
# because it can get big (don't use /tmp, which is small).

# By default, this program uses 1 MB max vtable size (not 16 MB),
# because otherwise the periodic dumps take too long, but you can change
# it if you wish (in the following lines).  You can also change the
# scratch dir where tmp files are manipulated.

MAXVTSIZE=1024  # max vtable size (KB); max=16384
SCRATCHDIR=/nzscratch/tmp  # some place there's lots of room


#####################################################################
# Validate args.
#####################################################################

[ \( $# -lt 2 \) -o \( $# -gt 3 \) ] && { echo "*** VTCAPTURE: ERROR: Usage: nzVtCapture.sh <VTable> <CaptureF↗
ile> [SleepSec]"; exit 42; }

VTABLE=$1
[[ "$VTABLE" =~ "_vt_.*" ]] || { echo "*** VTABLE: ERROR: Virtual table name must begin with \"_vt_\""; exit 4↗
2; }

CAPTUREFIL=$2
[[ -e $CAPTUREFIL ]] && { echo "--> VTCAPTURE: Capture file \"$CAPTUREFIL\" exists; deleting it."; }
rm -f $CAPTUREFIL  # not "rm -rf" (failsafe)

SLEEPSEC=${3:-5.0}  # default = 5 sec
if [[ $(bc <<< "$SLEEPSEC == 0") == 1 ]]; then
    DOSLEEP=false
else
    DOSLEEP=true
fi

echo "--> VTCAPTURE: Using max vtable size = $MAXVTSIZE KB."
echo "--> VTCAPTURE: Using scratch dir = $SCRATCHDIR."
```

```
#######################################################################
# Utility functions.
#######################################################################

function commafy () {
    echo $1 | sed -e':a;s/\([[:digit:]]\)\([[:digit:]]\{3\}\b\)/\1,\2/g;ta'
}


#######################################################################
# Prepare vtable (memorize state/ringsize for cleanup at the end).
#######################################################################

VTABLESTATE=$(cliqa -vt $VTABLE)
if [[ $VTABLESTATE =~ ".* No such table exists .*" ]]; then
    echo "*** VTCAPTURE: ERROR: Virtual table \"$VTABLE\" does not exist."
    exit 42
elif [[ $VTABLESTATE =~ ".* currently enabled, ringSize=[0-9]*KB$" ]]; then
    VTABLESTATE=$(echo $VTABLESTATE | sed 's/.*=\([0-9]*\)KB$/\1/')
elif [[ $VTABLESTATE =~ ".* currently disabled, ringSize=[0-9]*KB$" ]]; then
    VTABLESTATE=-$(echo $VTABLESTATE | sed 's/.*=\([0-9]*\)KB$/\1/')
else
    echo "*** VTCAPTURE: ERROR: Cannot determine state/ringsize of virtual table \"$VTABLE\"."
    exit 42
fi

cliqa -vt $VTABLE off | grep "does not exist" &>/dev/null
[[ $? == 0 ]] && { echo "*** VTCAPTURE: ERROR: Vtable \"$VTABLE\" does not exist."; exit 42; }

cliqa -vt $VTABLE on $MAXVTSIZE | grep '***' &>/dev/null
[[ $? == 0 ]] && { echo "*** VTCAPTURE: ERROR: Can't enable vtable \"$VTABLE\" with size $MAXVTSIZE."; exit 42
; }


#######################################################################
# Start capture "thread" (coprocess).
#######################################################################

nzsql -qAt -d system -c "TRUNCATE TABLE $VTABLE;"  # start from a clean slate
[[ $? == 0 ]] || { echo "*** VTCAPTURE: ERROR: Can't truncate vtable \"$VTABLE\"."; exit 42; }
HEADER=$(nzsql -qA -d system -c "SELECT * FROM $VTABLE LIMIT 0;" | sed -e'$d')

if [[ $(bc <<< "$SLEEPSEC < 0.0") == 1 ]]; then
    echo "--> VTCAPTURE: Sleep-experiment mode; no data-capture."
    SLEEPEXPERIMENT=true
    SLEEPSEC=$(bc <<< "-($SLEEPSEC)")
    echo "--> VTCAPTURE: NO DATA -- SLEEP-EXPERIMENT INSTEAD OF DATA-CAPTURE." >$CAPTUREFIL
else
    echo "--> VTCAPTURE: Capturing vtable \"$VTABLE\" in file \"$CAPTUREFIL\"."
    SLEEPEXPERIMENT=false
fi

mkdir -p $SCRATCHDIR
WORKDIR=$(mktemp -p $SCRATCHDIR -d)
KILLFIL=$(mktemp -p $WORKDIR)
DUMPFIL=$(mktemp -p $WORKDIR)
DUMPNUM=0
while [[ -e $KILLFIL ]]; do
    DUMPNUM=$((DUMPNUM + 1))
    if $DOSLEEP; then
        sleep $SLEEPSEC
        DUMPfil=${DUMPFIL}_$DUMPNUM
        nzsql -qAt -d system -c "SELECT * FROM $VTABLE;" >$DUMPfil
        if $SLEEPEXPERIMENT; then
            sort -T $WORKDIR -o $DUMPfil $DUMPfil
            if  [[ $DUMPNUM -eq 1 ]]; then
                PREVSIZ=$(cat $DUMPfil | wc -l)
            else
                SIZ=$(cat $DUMPfil | wc -l)
                DUMPNUM_1=$((DUMPNUM-1))
                PREVDUMPfil=${DUMPFIL}_$DUMPNUM_1
                COMM=$(comm -12 $PREVDUMPfil $DUMPfil | wc -l)
                echo "--> VTCAPTURE: LINES(DUMP#$DUMPNUM_1)=$PREVSIZ, LINES(DUMP#$DUMPNUM)=$SIZ, COMMON=$COMM.
```

nzVtCapture.sh **Page 3 of 4**

```
"
                PREVSIZ=$SIZ
                if [[ $DUMPNUM -gt 2 ]]; then
                    rm -f ${DUMPFIL}_$((DUMPNUM_1-1))  # clean up in real-time
                fi
            fi
        fi
    else
        sleep 2.5  # seems like a good amount
    fi
done &
LOOPPID=$!


#####################################################################
# Capture vtable data while external work is being done.
#####################################################################

function sigHandler() {
    if $DOSLEEP; then
        rm -f $KILLFIL  # kill capture "thread"
        wait $LOOPPID
    fi
}
trap sigHandler SIGHUP SIGINT SIGTERM

echo "--> VTCAPTURE: Capture loop started ..."
wait $LOOPPID  # wait here until we receive kill signal
echo "--> VTCAPTURE: ... capture loop finished."

DUMPNUM=$(ls -1 ${DUMPFIL}_[0-9]* | wc -l)  # can't import DUMPNUM from above, because of "while ... done &"
echo "--> VTCAPTURE: Number of capture dumps = $DUMPNUM."


#####################################################################
# Capturing is now finished, so it's time to post-process the captured/dump files.
#####################################################################

if ! $SLEEPEXPERIMENT; then
    echo "--> VTCAPTURE: Post-processing capture file \"$CAPTUREFIL\"."
    SCRATCHFIL=$(mktemp -p $WORKDIR)
    if $DOSLEEP; then
        # First, sort the individual dumpfiles (needed for "comm" and "sort -m", below).
        DUMPNUM_1=$((DUMPNUM - 1))  # we need this below
        NUMCPU=$(cat /proc/cpuinfo | grep ^processor | wc -l)
        NLINES=0; NBYTES=0  # total size of captured dump files (for progress msg)
        for DUMPnum in $(seq 1 $NUMCPU $DUMPNUM); do
            SORTPIDS=""
            for N in $(seq $DUMPnum $((DUMPnum+NUMCPU))); do
                DUMPfil=${DUMPFIL}_$N
                if [[ -f $DUMPfil ]]; then
                    SIZ=($(wc -lc $DUMPfil))
                    #echo "--> VTCAPTURE: SIZ DUMPfil = ${SIZ[@]}"
                    NLINES=$((NLINES+${SIZ[0]})); NBYTES=$((NBYTES+${SIZ[1]}))
                    sort -T $WORKDIR -o $DUMPfil $DUMPfil &
                    SORTPIDS+=" $!"
                fi
            done
            wait $SORTPIDS
        done
        LINESperDUMP=$(bc <<< "$NLINES/$DUMPNUM")
        BYTESperDUMP=$(bc <<< "$NBYTES/$DUMPNUM")
        echo "--> VTCAPTURE: Start size = $(commafy $NLINES) lines, $(commafy $NBYTES) bytes (~$(commafy $LINE↗
SperDUMP) lines/dump, ~$(commafy $BYTESperDUMP) bytes/dump)."
        # Now we can check whether we actually captured the WHOLE vtable,
        # issuing warning msgs if not.
        for DUMPnum in $(seq 1 $DUMPNUM_1); do
            DUMPFILpre=${DUMPFIL}_$DUMPnum
            if [[ -s $DUMPFILpre ]]; then
                DUMPFILpost=${DUMPFIL}_$((DUMPnum+1))
                COMM=$(comm -12 $DUMPFILpre $DUMPFILpost | wc -l)
                #echo "--> VTCAPTURE: COMMON($DUMPFILpre, $DUMPFILpost) = $COMM"
                if [[ $COMM -eq 0 ]]; then
                    echo "*** VTCAPTURE: WARNING: Possible data loss: dump files #$DUMPnum and #$((DUMPnum+1))↗
 have no lines in common."
```

```
                fi
            fi
        done
        # Now we can finish our "sort|uniq" work.
        sort -m -T $WORKDIR -o ${SCRATCHFIL}sort ${DUMPFIL}_[0-9]*  # merge sorted files
        rm ${DUMPFIL}_[0-9]*
        echo "$HEADER" >$CAPTUREFIL
        uniq ${SCRATCHFIL}sort >>$CAPTUREFIL  # uniquify
        SIZ=($(wc -lc $CAPTUREFIL))
        NLINES=${SIZ[0]}; NLINES=$((NLINES - 1))  # remove header line
        NBYTES=${SIZ[1]}; HBYTES=$(echo $HEADER | wc -c); NBYTES=$((NBYTES - HBYTES - 1))  # remove header byt↗
es (+ newline)
        if [[ $NLINES != 0 ]]; then
            NBYTESperLINE=$(bc <<< "$NBYTES/$NLINES")
            echo "--> VTCAPTURE: End size = $(commafy $NLINES) lines, $(commafy $NBYTES) bytes (~$NBYTESperLIN↗
E bytes/line)."
        else
            echo "--> VTCAPTURE: End size = $(commafy $NLINES) lines, $(commafy $NBYTES) bytes."
        fi
    else
        nzsql -qAt -d system -c "SELECT * FROM $VTABLE;" >$SCRATCHFIL
        SIZ=($(wc -lc $SCRATCHFIL))
        NLINES=${SIZ[0]}; NBYTES=${SIZ[1]}
        if [[ $NLINES != 0 ]]; then
            NBYTESperLINE=$(bc <<< "$NBYTES/$NLINES")
            echo "--> VTCAPTURE: Size = $(commafy $NLINES) lines, $(commafy $NBYTES) bytes (~$NBYTESperLINE by↗
tes/line)."
        else
            echo "--> VTCAPTURE: Size = $(commafy $NLINES) lines, $(commafy $NBYTES) bytes."
        fi
        echo "$HEADER" >$CAPTUREFIL
        cat $SCRATCHFIL >>$CAPTUREFIL
    fi
fi


#######################################################################
# Clean up.
#######################################################################

echo "--> VTCAPTURE: Cleaning up."

rm -rf $WORKDIR

# Return vtable to original state.
if [[ $VTABLESTATE =~ "-[0-9]*" ]]; then
    cliqa -vt $VTABLE off $(bc <<< "-($VTABLESTATE)")
else
    cliqa -vt $VTABLE on $VTABLESTATE
fi


#######################################################################
# Done.
#######################################################################

echo "--> VTCAPTURE: Done!"
```

CCC Sujatha's Solution To The Virtual Table Capture Problem

createVtEmulatorTableTPCDS.py

```
import os,fnmatch,csv

# Declarations
outfile = 'vt_emulator_tpcds.sql'
separator = '|'
rootdir = os.getcwd()
outfile_name = os.path.join(rootdir,outfile)
iostat_pattern = 'distinct_vt_emulator.unl'

# File writers
f = open(outfile_name, 'w')
writer = csv.writer(f, delimiter =',',skipinitialspace=True)

# Walk through the files in all the directories in the current working directory
for root,dirs,files in os.walk(rootdir):
    for name in files:

        # Pick only the file that matches the pattern
        if fnmatch.fnmatch(name,iostat_pattern):

            file_to_process = os.path.join(root,name)
            query_name=file_to_process.split('/',)[5]
            row_count = 0

            # For each row of the file that matches the pattern
            for row in csv.reader(open(file_to_process), delimiter=separator,skipinitialspace=True):
                i = 0
                    if row and len(row) > 1:
                    f.write(query_name+",")
                    writer.writerow(row)
# Clean up (if any)
f.close()
```

createVtEmulatorTableTPCH.py

```
import os,fnmatch,csv

# Declarations
outfile = 'vt_emulatortpch.sql'
separator = '|'
rootdir = os.getcwd()
outfile_name = os.path.join(rootdir,outfile)
iostat_pattern = 'distinct_vt_emulator.unl'

# File writers
f = open(outfile_name, 'w')
writer = csv.writer(f, delimiter =',',skipinitialspace=True)

# Walk through the files in all the directories in the current working directory
for root,dirs,files in os.walk(rootdir):
```

```
    for name in files:

        # Pick only the file that matches the pattern
        if fnmatch.fnmatch(name,iostat_pattern):

            file_to_process = os.path.join(root,name)
            query_name=file_to_process.split('/',)[5]
            row_count = 0

            # For each row of the file that matches the pattern
            for row in csv.reader(open(file_to_process), delimiter=separator,skipinitialspace=True):
                i = 0
                    if row and len(row) > 1:
                    f.write(query_name+",")
                    writer.writerow(row)
# Clean up (if any)
f.close()
```

run_query.sh

```
# First create a table to capture the contents of the ring buffer:
./prep_vt.sh

# Remove the signal file before running the query
rm -rf /tmp/signal_blah

# Start polling for stats
./poll_stats.sh &

#Run the query
echo "starting to run query $1 on DB $3"
$2

# After query completes signal the poll_stats.sh to stop polling
touch /tmp/signal_blah

sleep 2

# Post-process the vt_emulator stats
./post_process_stats.sh $3 $1
```

prep_vt.sh

```
nzsql -c "truncate table _vt_emulator"
nzsql -c "create table capture_vt_emulator as select * from _vt_emulator limit 0;"
```

poll_stats.sh

```
while [ ! -e /tmp/signal_blah ]
do
     nzsql -q -c "insert into capture_vt_emulator select * from _vt_emulator;"
     sleep 2
done
```

post_process_stats.sh

```
RESDIR="/nz/results/kit.6.2.D1.17083.1/$1/$2"
DOBJ_VT_EMULATOR="/tmp/_vt_emulator.unl"
DOBJ_CAPTURE_VT_EMULATOR="/tmp/capture_vt_emulator.unl"
DOBJ_DISTINCT_VT_EMULATOR="/tmp/distinct_vt_emulator.unl"
DOBJ_VT_EMULATOR_TXT="/tmp/vt_emulator.txt"

nzsql -q -A -t -c "select * from _vt_emulator" -o $DOBJ_VT_EMULATOR
mv $DOBJ_VT_EMULATOR $RESDIR
nzsql -q -c "truncate table _vt_emulator;"

nzsql -q -A -t -c "select * from capture_vt_emulator" -o $DOBJ_CAPTURE_VT_EMULATOR
mv $DOBJ_CAPTURE_VT_EMULATOR $RESDIR

nzsql -q -c "create table distinct_vt_emulator as select distinct * from capture_vt_emulator;"

nzsql -q -A -t -c "select * from distinct_vt_emulator" -o $DOBJ_DISTINCT_VT_EMULATOR
mv $DOBJ_DISTINCT_VT_EMULATOR $RESDIR

./vt_emulator.sh
mv $DOBJ_VT_EMULATOR_TXT $RESDIR

nzsql -q -c "truncate table capture_vt_emulator;"
nzsql -q -c "truncate table distinct_vt_emulator;"
nzsql -q -c "drop table capture_vt_emulator;"
nzsql -q -c "drop table distinct_vt_emulator;"

rm $RESDIR/capture_vt_emulator.unl
```

vt_emulator.sh

▶*Unfortunately, I can’t locate a copy of this file. Perhaps Sujatha has a copy?*◀

DDD Email Chain: Great Wiping Controversy (Feb. 11, 2011)

- From: Mike Lee
  To: Tech <tech@netezza.com>
  Date: 02/11/2011 11:55 AM
  Subject: FW: How safe is our data on disk?

  Hi everyone (or who's left reading this alias), If some bad person took a disk out of a TwinFin, could they read the data?

- From: Brian Maly
  To: Mike Lee, Tech
  Date: 02/11/2011 11:59 AM
  Subject: RE: How safe is our data on disk?

  They could even read the data if the disk were erased once. To clear a disk properly you have to erase it a few times.

- From: Walter Tuvell
  To: Brian Maly
  Date: 02/11/2011 12:09 PM
  Subject: RE: How safe is our data on disk?

  Brian, do you have personal experience in this, or a recent reference?

  It's been my understanding that laboratory attacks haven't been able to succeed against the disks manufactured for the last 10 years or so, due to their extreme density.

- From: Brian Maly
  To: Walter Tuvell
  Date: 02/11/2011 ▶*Exact time uncertain.*◀
  Subject: RE: How safe is our data on disk?

  ▶*I know this email existed, unfortunately, I can't locate a copy. I tried to retrieve a copy from my Lotus Notes administrator, but he claimed emails were only stored for one week before being purged. That was very surprising to me (I thought corporate document retention databases were required to archive documents for longer than one week). Perhaps Brian has a copy, or we can find an archive copy? This gap is unfortunate, because it was precisely this email that prompted me to call Brian's behavior "stonewalling".*◀

- From: John Yates
  To: Mike Lee, Tech
  Date: 02/11/2011 02:18 PM
  Subject: RE: How safe is our data on disk?

  We do not employ any encryption. That said your bad person would have be tbe _very_ determined to get anything off of our disks:

  - we do not manage disk space using an industry standard file system; there are no stand alone utilities providing access at anything above the level of the dd command; the metadata exists only in a log whose representation is unpublished.

  - even though our data is compressed we do not employ any industry standard compression formats (gzip, Lempel-Ziv, Burrows-Wheeler, etc); the format is unpublished; because we were so consumed with getting Hendrix out the door and being acquired by IBM we did not even file a patent disclosure on the CTA2 ideas; it is impossible to decoded the compressed format without knowing the physical shape of the associated table (that is database pages are not self describing); knowing the physical shape means knowing NPS's mapping from SQL table declaration to physical layout; because our compressed encoding is designed for high speed hardware decoding it is pipelined and interleaved in various ways that make it paritcularly mind-bending to decode.

  Bottom line: no encryption but some degree of "security by obscurity".

- From: Walter Tuvell
  To: John Yates
  Cc: Mike Lee, Tech
  Date: 02/11/2011 02:46 PM
  Subject: RE: How safe is our data on disk?

  Well, this horse seems pretty dead at this point, at least with respect to "keyboard attacks".

  But while some words have been said about "laboratory attacks", perhaps one more word can be said, see the attached paper. (Apologies for the copy quality, at least it was free.)

  ▶*Attachment, "Overwriting Hard Drive Data: The Great Wiping Controversy", by C. Wright, D. Kleiman, S. Sundhar, from R. Sekar and A. K. Pujari (Eds.), ICISS 2008, LNCS 5352, pp. 243–257, © Springer-Verlag, Berlin, Heidelberg, 2008; omitted here (irrelevant to this Complaint).*◀

EEE Excel Graphics Episode — Supplementary Materials

EEE.a changes.txt

▶*This Appendix contains the content of the file "changes.txt", which was attached to the email of 2011-05-11 03:35 PM (Section 57.3).*◀

```
CHANGES IN THIS VERSION OF WAHOO PERF REPORTS
=============================================
   (This short note is targeted to the Cambridge people,
     who've seen previous versions of this report format.)

EPOCH-TIMESTAMP
Defined a new coordinated concept of start-of-timekeeping, EPOCH_TS.
By definition: EPOCH-TS=0.0 := start of (first) plan, according to host's clock,
    as determined by the _vt_sched_event table.
In other words, EPOCH_TS = "total elapsed time since start-of-test".
To the extent possible, EPOCH_TS can be used to coordinate events across all tables.
Note: This EPOCH_TS is still only approximate, because the clocks on host and SPU are
    only weakly synchronized (i.e., via script, not via NTP, but should be < 1 sec).

TIME = SEC.FRAC
For consistency, all time-like measurements (= host/spu/epoch-timestamps,
    elapsed-times, delta-times) are now expressed in the format "seconds.fraction".

DELTA_ET
Whereever you see DELTA_ET, it means "elapsed time from the preceding row in table".
    Note: DELTA_ET = "N/A" means there is no preceding row; this convention enables you
    to find the start of a timed segment.

VTDISKLOG READ/WRITE COUNT/CARD ROLL-UP
In the VTDISKLOG READ/WRITE COUNT/CARD table, new lines marked "(ALL)" have been added,
    containing a roll-up over all snippets.  This is a poor-man's version of "cache
    hit/miss", and help us understand how Wahoo's current lack-of-caching might hurt
    perf. [Presumably when caching is implemented, we'll have real cache hit/miss
    instrumentation.]

PERFMEASURE TABLE
The PERFMEASURE table has now been trimmed at top and bottom, to get rid of noise.
    Reason: The PerfMeasure tool needs to warm-up and cool-down, and its output during
    those times is just overhead noise, of no interest to anybody.

GRAPH
The PERFMEASURE table has been rearranged, to accommodate a nice ASCII stem-and-leaf
    plot, showing the percentage usage of important resources.


TO DO
=====
```

```
HOST MONITORING
CPU initially, I/O later.  There's a place-holder for this in the stem-and-leaf plot,
    filled with random question-marks, but it hasn't been implemented yet, and in any
    case I'll need access to WahooBox again to run new tests and gather that data.


OPEN ISSUE (i.e., BUG)
==========

Why are the VTDISKLOG timestamps so weird?  They can't be normalized by the new
    EPOCH_TS.  WHY??
Here's what I mean: Look at the list below of first lines from VTSCHEDEVENT tables, and
    from VTDISKLOG BUCKETS tables.  These 2 tables "should" be starting at the same
    "epoch", i.e, their EPOCH_TS should be nearly the same (< 1 sec).  But they're off
    by hundreds/thousands of seconds.  This prevents us from cross-referencing the lines
    of these tables precisely.
    The problem seems to be in the VTDISKLOG table (the VTSCHEDEVENT timestamps seem to
    be OK).
This is a bug of some sort, but it's the only bug I currently know about, so I'm
    circulating this set of reports anyway.
Current conjecture: Bug in either Wahoo, or my perf-reporting scripts, because this
    problem doesn't seem to be present on the Skimmer I use.

        --> PerfTest-May06-COUNT_DISTINCT/perfReport-May06-COUNT_DISTINCT.txt
             HOST_TS     |EPOCH_TS| ...
        1304704513.024934|0.000000| ...
        --
          BUCKETSTART_TS |  EPOCH_TS | ...
        1304707125.594951|2612.570017| ...

        --> PerfTest-May06-CROSS_JOIN/perfReport-May06-CROSS_JOIN.txt
             HOST_TS     |EPOCH_TS| ...
        1304705037.703169|0.000000| ...
        --
          BUCKETSTART_TS |  EPOCH_TS | ...
        1304707388.273271|2350.570102| ...

       --> PerfTest-May06-EXCEPT/perfReport-May06-EXCEPT.txt
             HOST_TS     | EPOCH_TS| ...
        1304699697.701670| 0.000000| ...
        --
          BUCKETSTART_TS |  EPOCH_TS  | ...
        1304695465.529342|-4232.172328| ...

        --> PerfTest-May06-FULL_OUTER_JOIN2/perfReport-May06-FULL_OUTER_JOIN2.txt
             HOST_TS     | EPOCH_TS| ...
        1304707954.970619| 0.000000| ...
        --
          BUCKETSTART_TS | EPOCH_TS | ...
        1304708850.585264|895.614645| ...

        --> PerfTest-May06-INTERSECT/perfReport-May06-INTERSECT.txt
```

```
     HOST_TS     | EPOCH_TS| ...
 1304708409.193965| 0.000000| ...
 --
   BUCKETSTART_TS | EPOCH_TS | ...
 1304709078.336254|669.142289| ...

 --> PerfTest-May06-JOIN_BROADCAST/perfReport-May06-JOIN_BROADCAST.txt
     HOST_TS     | EPOCH_TS| ...
 1304708928.906628| 0.000000| ...
 --
   BUCKETSTART_TS | EPOCH_TS | ...
 1304709338.819047|409.912419| ...

--> PerfTest-May06-JOIN_DISTRIBUTE/perfReport-May06-JOIN_DISTRIBUTE.txt
     HOST_TS     |EPOCH_TS| ...
 1304709153.605611|0.000000| ...
 --
   BUCKETSTART_TS | EPOCH_TS | ...
 1304709451.438189|297.832578| ...

--> PerfTest-May06-JOIN_MULTI_HASH/perfReport-May06-JOIN_MULTI_HASH.txt
     HOST_TS     | EPOCH_TS| ...
 1304709376.694393| 0.000000| ...
 --
   BUCKETSTART_TS | EPOCH_TS | ...
 1304709563.310253|186.615860| ...

 --> PerfTest-May06-JOIN_SPU2/perfReport-May06-JOIN_SPU2.txt
     HOST_TS     |EPOCH_TS| ...
 1304710239.034878|0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS | ...
 1304709995.473097|-243.561781| ...

--> PerfTest-May06-LARGE_AGG/perfReport-May06-LARGE_AGG.txt
     HOST_TS     | EPOCH_TS| ...
 1304711960.933385| 0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS  | ...
 1304710858.498860|-1102.434525| ...

--> PerfTest-May06-LEFT_JOIN2/perfReport-May06-LEFT_JOIN2.txt
     HOST_TS     | EPOCH_TS| ...
 1304712734.661760| 0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS  | ...
 1304711246.268842|-1488.392918| ...

--> PerfTest-May06-MERGE_JOIN/perfReport-May06-MERGE_JOIN.txt
     HOST_TS     |EPOCH_TS| ...
 1304713132.238835|0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS  | ...
 1304711445.585709|-1686.653126| ...
```

```
--> PerfTest-May06-MINUS/perfReport-May06-MINUS.txt
      HOST_TS     | EPOCH_TS| ...
 1304713513.698326| 0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS  | ...
 1304711636.820626|-1876.877700| ...

--> PerfTest-May06-NESTED_LOOPS/perfReport-May06-NESTED_LOOPS.txt
      HOST_TS     |EPOCH_TS| ...
 1304714064.727597|0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS  | ...
 1304711912.855909|-2151.871688| ...

 --> PerfTest-May06-ORDER_UNLOAD/perfReport-May06-ORDER_UNLOAD.txt
      HOST_TS     |EPOCH_TS| ...
 1304714412.269215|0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS  | ...
 1304712087.245262|-2325.023953| ...

--> PerfTest-May06-REORDER_CUSTOMER/perfReport-May06-REORDER_CUSTOMER.txt
      HOST_TS     | EPOCH_TS| ...
 1304714992.409580| 0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS  | ...
 1304712378.111924|-2614.297656| ...

--> PerfTest-May06-REORDER_WEB_RETURNS/perfReport-May06-REORDER_WEB_RETURNS.txt
      HOST_TS     |EPOCH_TS| ...
 1304715175.256035|0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS  | ...
 1304712469.752030|-2705.504005| ...

--> PerfTest-May06-RESPONSE/perfReport-May06-RESPONSE.txt
      HOST_TS     |EPOCH_TS| ...
 1304715460.055236|0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS  | ...
 1304712612.445886|-2847.609350| ...

 --> PerfTest-May06-RIGHT_JOIN2/perfReport-May06-RIGHT_JOIN2.txt
      HOST_TS     | EPOCH_TS| ...
 1304725713.459410| 0.000000| ...
 --
   BUCKETSTART_TS |  EPOCH_TS | ...
 1304726997.846952|1284.387542| ...

 --> PerfTest-May06-SCAN/perfReport-May06-SCAN.txt
      HOST_TS     |EPOCH_TS| ...
 1304725810.376919|0.000000| ...
 --
```

```
  BUCKETSTART_TS |  EPOCH_TS | ...
1304727046.546958|1236.170039| ...

--> PerfTest-May06-SCTAS2/perfReport-May06-SCTAS2.txt
     HOST_TS     | EPOCH_TS | ...
1304701972.853699|. 0.000000| ...
--
  BUCKETSTART_TS |  EPOCH_TS | ...
1304705852.145866|3879.292167| ...
```

EEE.b ASCII Stem-And-Leaf Plot For perfReport-May06-COUNT_DISTINCT

▶*This Appendix contains the "ASCII stem-and-leaf plot" that was contained as a part of the perfReport-May06-COUNT_DISTINCT.txt file, which was included in the perfReports-May06.tgz archive, attached to the email of 2011-05-11 03:35 PM (Section 57.3). Only this stem-and-leaf plot is relevant to this document (specifically, the "Excel graphics episode"), not the rest of perfReport-May06-COUNT_DISTINCT.txt (so the remainder of perfReport-May06-COUNT_DISTINCT.txt is omitted). The question-marks in the plot indicate a place that I didn't yet have a good way to measure/report; I was planning to add that later, using "nzmon" (first mentioned in Complaint, Part I, p. 20, top).*◀

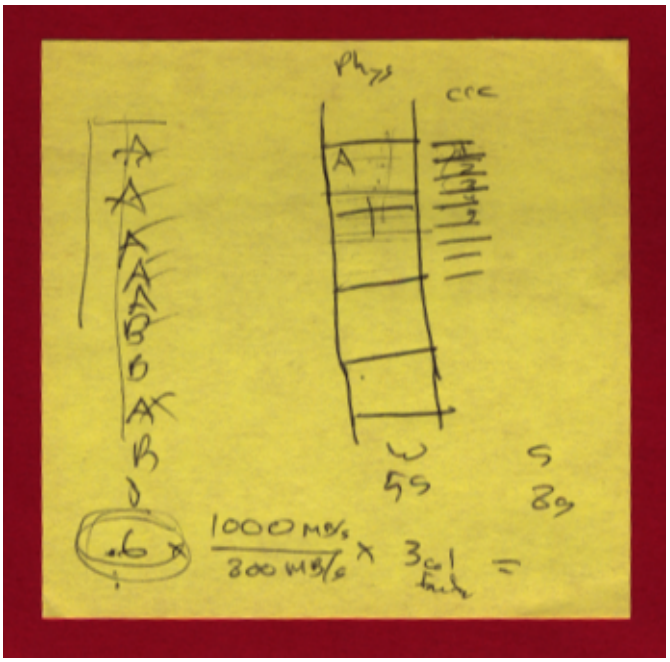
```
PERFMEASURE
===========

                                PERCENTAGE OF MAX CAPACITY (* = ~5% [VIOLIN MAX = ~1250MB/SEC])
                                ---------------------------------------------------------------

      SPU_TS     |EPOCH_TS            HOST CPU      |    SPU/BLADE CPU   |   EMU/FPGA ENGINE  |   VIOLIN/STORAGE
1304704512.100000|.... -.9      --------------------|--------------------|--------------------|--------------------
1304704512.200000|.... -.8      --------------------|S-------------------|--------------------|--------------------
1304704512.300000|.... -.7      -----------???------|S-------------------|--------------------|--------------------
1304704512.400000|.... -.6      -?-----?-----?------|SSS-----------------|--------------------|--------------------
1304704512.600000|.... -.4      ----??---------?----|SSSSSSSSSSSSSSSSSSSS|--------------------|--------------------
1304704512.700000|.... -.3      ---?----------------|SSSS----------------|--------------------|--------------------
1304704512.800000|.... -.2      -----?---?----------|--------------------|--------------------|--------------------
1304704512.900000|.... -.1      --?-?---------------|SSSSSSSSSSSSS-------|--------------------|--------------------
1304704513.100000|..... .1      --?--------------?-|SSSSSSSSSSSSSSSSSSSS|--------------------|V-------------------
1304704513.200000|..... .2      -?---?---------?--?-|SSSSSSSSSSSSSSSSSSSS|--------------------|VVVVVVVVVVVVVVVVVVV-
1304704513.300000|..... .3      ---?------------?---|SSSSSSSSSSSSSSSSSS---|--------------------|--------------------
1304704513.500000|..... .5      -------?------------|SSSSSSSSSSSSSSSSSSS-|--------------------|VVVVVVVV------------
1304704513.700000|..... .7      ?-----------?-------|SSSSSS--------------|--------------------|VVVVVVVVVVVV--------
1304704513.800000|..... .8      -----------------?--|SSSSS---------------|EE------------------|VVVVVVVVVVVVVVVVVVVV
1304704513.900000|..... .9      ----------?---------|SSSSSSSSS----------|EEEE----------------|VVVVVVVVVVVVVVVVVVVV
1304704514.000000|.... 1.0      --------?--?-?------|SSSSSSSS------------|EEEEEE--------------|VVVVVVVVVVVVVVVVVVVV
1304704514.200000|.... 1.2      -------------?------|SSSSSSSSSSSS--------|EEEEEEEE------------|VVVVVVVVVV----------
1304704514.300000|.... 1.3      -----?--?-----?-?---|SSSSSSSSSSSSSS------|EEEEEEEEEE----------|VVVVVVVVVVVVVVVVVVVV
1304704514.400000|.... 1.4      --?----------?--?--?|SSSSSSSSSSSSSSSSS---|EEEEEEEEEE----------|VVVVVVVVVVVVVVVVVVVV
1304704514.500000|.... 1.5      ?--?----------------|SSSSSSSSSSSSSSSS----|EEEEEEEEEEE---------|VVVVVVVVVVVVVVVVVVV-
1304704514.700000|.... 1.7      ------?--------?--?-|SSSSSSSSSSSSSSSSS---|EEEEEEEEEEEEE-------|VVVVVVVV------------
1304704514.800000|.... 1.8      ---------------?---?|SSSSSSSSSSSSSSS-----|EEEEEEEEEEEEEE------|VVVVVV--------------
1304704514.900000|.... 1.9      -----------------?-|SSSSSSSSSSSSSSS-----|EEEEEEEEEEEEEE------|VVVVVV--------------
1304704515.100000|.... 2.1      -----?---??--?------|SSSSSSSSSSSSSSS----|EEEEEEEEEEEE--------|VV------------------
1304704515.200000|.... 2.2      --------------------|SSSSSSSSSSSSSSSSS---|EEEEEEEEEEEEEE------|VVVV----------------
1304704515.300000|.... 2.3      -----?-?-------?----|SSSSSSSSSSSSSSSSSSS-|EEEEEEEEEEEEEE-----|V-------------------
1304704515.400000|.... 2.4      ?--?--??------------|SSSSSSSSSSSSSSSSSSSS|EEEEEEEEEEEE-------|--------------------
1304704515.600000|.... 2.6      -------?-?-----?--?-|SSSSSSSSSSSSSSSSSSSS|EEEEEEEEEEEE-------|--------------------
1304704515.700000|.... 2.7      --------------------|SSSSSSSSSSSSSSSSSS--|EEEEEEEEEEEE-------|--------------------
1304704515.800000|.... 2.8      --------------------|SSSSSSSSSSSSSSSSSSSS|EEEEEEEEEEEE--------|--------------------
1304704516.000000|.... 3.0      ---?----------------|SSSSSSSSSSSSSSSSSSSS|EEEEEEEEEEE---------|--------------------
1304704516.100000|.... 3.1      -?----------?-------|SSSSSSSSSSSSSSSSSSSS|EEEEEEEEEEE---------|--------------------
1304704516.200000|.... 3.2      -?----?---------??--|SSSSSSSSSSSSSSSSSSSS|EEEEEEEEEEE---------|--------------------
1304704516.300000|.... 3.3      -?-?----------------|SSSSSSSSSSSSSSSSSSSS|EEEEEEEEE----------|--------------------
1304704516.500000|.... 3.5      ----------------?---|SSSSSSSSSSSSSSSSSSSS|EEEEEEEE----------|--------------------
1304704516.600000|.... 3.6      -------?------------|SSSSSSSSSSSSSS------|EEEEEE--------------|--------------------
1304704516.700000|.... 3.7      --??-----?--?-------|SSSSSSSSS----------|EEEE----------------|--------------------
1304704516.800000|.... 3.8      ------------??------|SSSSSS--------------|EEE-----------------|--------------------
1304704517.000000|.... 4.0      -------------??-?----|SSSSS---------------|--------------------|--------------------
1304704517.100000|.... 4.1      ---------?----------|SS------------------|--------------------|--------------------
1304704517.200000|.... 4.2      ----------?------?--|SSSS----------------|--------------------|--------------------
1304704517.300000|.... 4.3      --------------------|SS------------------|--------------------|--------------------
1304704517.400000|.... 4.4      ----------?------?--|--------------------|--------------------|--------------------
```

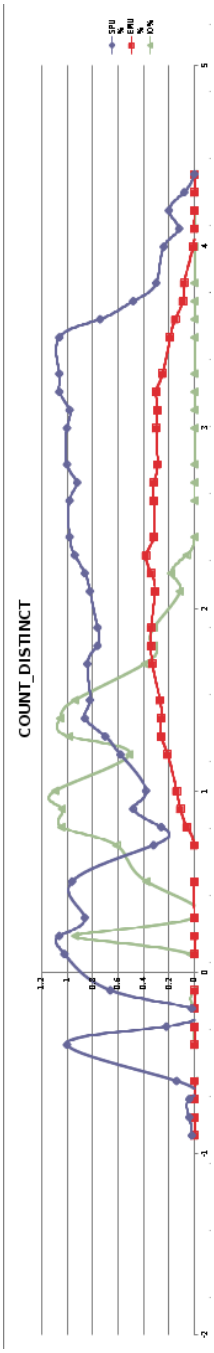
EEE.c Fritz's Post-It Note

▶*This Appendix displays the Post-It Note Fritz gave me on May 17 (mentioned near the bottom of Complaint, Part I, p. 16). This is the only Post-It Note Fritz ever gave me. Frankly, I didn't really understand it then, and I don't understand it now. It just contains Fritz's hastily-scribbled ramblings, vaguely indicating what he was working on (related to Steve Lubars's Fudge Factor Model, which would depend on data I would feed to him; Complaint, Part I, p. 22 middle), and certainly contains nothing resembling an "Excel graphic", or any kind of action item for me to work on. It was no big deal at all to anybody, so I simply stuck it onto a red file-folder I was carrying (seen here as a border around the Post-It Note), and put it into my briefcase.*◀



EEE.d Excel Graphic For perfReport-May06-COUNT_DISTINCT

▶*This Appendix contains the Excel graphic that Fritz generated on May 18, corresponding to the ASCII stem-and-leaf plot of Appendix EEE.b (above).*◀



FFF Email Chain: New Complaint (Jan. 20–22)

- From: Walter Tuvell
  To: Russell Mandel, Ginni Rometty, Samuel J Palmisano, Steve Mills, Randy MacDonald, Robert Weber
  Cc: Arvind Krishna, Pratyush Moghe, Daniel Feldman
  Date: 01/20/2012 04:41 PM
  Subject: New Open Door & Corporate Open Door Complaint

  To All -

  Pursuant to my best understanding, in good faith, of IBM's Open Door and Corporate Open Door (Concerns & Appeals) policies/processes/procedures, I hereby submit the attached new complaint for your consideration.

  I anticipate your timely attention and participation in this matter.

  ▶*Attachment (New Complaint, v1.0) omitted.*◀

- From: Walter Tuvell
  To: Ginni Rometty, Randy MacDonald, Robert Weber, Russell Mandel, Samuel J Palmisano, Steve Mills
  Cc: Arvind Krishna, Daniel Feldman, Pratyush Moghe
  Date: 01/22/2012 08:14 AM
  Subject: Re: New Open Door & Corporate Open Door Complaint

  To All -

  It is necessary for me to re-send this note.

  This morning, I checked the upload site for IbmComplaint.zip (http://www.filedropper.com/ibmcomplaint), and I discovered it didn't work for some reason (it yields a zero-byte file). I don't know what happened. To the extent I may have made a mistake, please accept my apologies.

  Therefore I find it necessary to upload IbmComplaint.zip again, to a new site (http://www.filedropper.com/ibmcomplaint_1). I have now tested this new upload site several times, using several browsers, to make quite sure it is working properly this time.

  This meant I had to modify the IbmTransfer.pdf document (to document the new upload site), creating version 1.1. Since I had to touch the document anyway, I took the opportunity to also fix some typos, and add some additional language for clarification purposes.

  The revised document is attached hereto, in two forms: one with change-markup (so you can see what's changed), and one in clean-copy.

▶*Attachments (New Complaint, v1.1 and marked-up version containing change-marks) omitted.*◀

- From: Russell Mandel
  To: Walter Tuvell
  Date: 01/24/2012 08:43 AM
  Subject: Re: New Open Door & Corporate Open Door Complaint

  I will look into this issue and get back to you on it.

- From: Walter Tuvell
  To: Russell Mandel
  Date: 01/24/2012 10:34 AM
  Subject: Re: New Open Door & Corporate Open Door Complaint

  Thank you.

GGG Email Chains: Badge & VPN Access

GGG.a Email Chain: Badge Access (Dec. 5–9)

- From: Walter Tuvell
  To: Daniel Feldman
  Date: 12/05/2011 04:40 PM
  Subject: Several things

  This constitutes my weekly short term disability check-in.

  I have followed up on a job opportunity I found via GOM, have spoken with Chris Kime in Austin, and a job interview is being scheduled. I would appreciate anything you could do to further the success of this application.

  It is my understanding that a transfer interview will likely be scheduled this week. But my access to IBM facilities has been cut off. Please confirm that I will be able to return to IBM buildings to participate in interviews.

  If you become aware of any other opportunities for a position for using my skills, please let me know.

  At this time, it is not clear that LTD addresses my situation/needs. I have located the LTD Summary Plan Description, but I have been unable to locate the LTD formal plan documents. Please let me know where I can find the formal plan documents.

- From: Daniel Feldman
  To: Walter Tuvell
  Cc: Diane Adams
  Date: 12/05/2011 07:00 PM
  Subject: Re: Several things

  To the best of my knowledge your access to IBM buildings has not been suspended in anyway. If you know otherwise, please provide details.

  I've copied Diane Adams on this reply. I hope she'll be able to point you at the full LTD plan documents.

- From: Walter Tuvell
  To: Daniel Feldman
  Cc: Diane Adams
  Date: 12/06/2011 09:13 AM
  Subject: Re: Several things

Russell Mandel confirmed to me (upon my inquiry, after I'd already discovered it myself) that my access rights had been suspended/rescinded to IBM physical resources (buildings), as well as to some IBM electronic resources, such as Netezza VPN (but not Lotus email or general-access w3).

- From: Daniel Feldman
  To: Walter Tuvell
  Cc: Diane Adams
  Date: 12/06/2011 09:27 AM
  Subject: Re: Several things

  OK, I wasn't aware of the physical access restriction. You should be able to gain access to the Westford building through the main entrance (as you did when you went to get your IBM badge about a year ago) and then ask the personnel there to contact your interviewer.

- From: Walter Tuvell
  To: Daniel Feldman
  Date: 12/06/2011 11:03 AM
  Subject: Re: Several things

  Dan, I got my badge last year in Littleton, not Westford. (Sujatha and I went together to Littleton, perhaps some others went to Westford.)

  Also, Littleton is also the location for my interview on Thur, according to the invitation. Was the mention of "Westford" just a typo, or do you information different than mine?

- From: Daniel Feldman
  To: Walter Tuvell
  Cc: Diane Adams
  Date: 12/06/2011 11:06 AM
  Subject: Re: Several things

  I'm not sure why I thought it was Westford...I saw something on the invitation...

  Anyway, please confirm that:

  1) You're telling me that the meeting is in Littleton
  2) You went to Littleton to get your badge last year

- From: Walter Tuvell
  To: Daniel Feldman

Date: 12/06/2011 12:26 PM
Subject: Re: Several things

Confirmed.

- From: Daniel Feldman
  To: Walter Tuvell
  Cc: Diane Adams
  Date: 12/06/2011 12:34 PM
  Subject: Re: Several things

  The security folks who administer the badges say that your badge should get you into Littleton. It does not seem that it was ever disabled; chalk it up to a miscommunication between you and Russ. If you've actually tried to enter an IBM facility and the badge hasn't worked then the most likely explanation is that the badge has failed; apparently this does happen from time to time. In any event, should you have any trouble, the security office there in Littleton can help you out.

- From: Enterprise Services UnrAgentMgr/Atlanta/IBM@IBMDC01
  To: Daniel Feldman
  Date: 12/08/2011 12:59 PM
  Subject: Badge Request Manager Notification

  A badge request has been submitted for: TUVELL, WALTER (WALTER)

  Request submitted by: Anastasia Flemings/Westford/Contr/IBM

  Reason for request: New Hire

  PLEASE NOTE: No action needs to be taken. However, if you have any concerns with this request, you may contact your site security office.

  Do not reply to this note, which was automatically generated by the Badge Request on server D01DB092/01/A/IBM. If you need further assistance with questions regarding how to use the Badge Request & Administration Application (BR&AA) or error codes you have received, please contact the following.

  In US : RESO Application Support Help Desk call 1-800-638-6822 or tieline 8-255-2683 or send a note to resoapps@us.ibm.com

  In Canada : Send a note to helpbadg@ca.ibm.com

- From: Daniel Feldman
  To: Walter Tuvell
  Cc: Diane Adams

Date: 12/08/2011 01:03 PM
Subject: Fw: Badge Request Manager Notification

I just received the following. I don't entirely understand it as it says the reason for the reques tis "New Hire." Did you request a new badge? Was the old one faulty in some way?

- From: Walter Tuvell
  To: Daniel Feldman
  Date: 12/09/2011 10:37 AM
  Subject: Re: Fw: Badge Request Manager Notification

  My interview at Littleton yesterday went well. I think it would be very positive if I were able to get that position.

  Concerning the badge:

  When I went to the employee entrance at Littleton yesterday, the badge wouldn't gain me entrance. Since I have been informed I continue to have IBM building access, I took the badge to the security office, where they told me the badge itself was in good working order, and they would try re-activating the badge. I don't know why the notification email you received mentions "new hire"; I did not request a new badge, either (I still have the old one).

  I would ask that you do everything necessary to provide me regular employee-access to IBM buildings. Let me know if I need to do anything to obtain a working badge.

  In any case, this experience does appear to support the understanding I received from my communication with Russ Mandel in September, that my badge-access to IBM buildings has/had been disabled.

  Thank you in advance.

- From: Daniel Feldman
  To: Walter Tuvell
  Cc: Diane Adams
  Date: 12/09/2011 03:31 PM
  Subject Re: Fw: Badge Request Manager Notification

  I don't understand what is going on with the badge. As of a few days ago, the security folks were sure that your badge was enabled for Littleton. I'll see what I can do to sort this out. In the meantime, if you need to get into an IBM facility, please let me know ahead of time and I'll do what I can to facilitate.

GGG.b Email Chain: VPN Access (Dec. 16)

- From: Walter Tuvell
  To: Daniel Feldman
  Date: 2011-12-16 11:03 AM
  Subject: Reinstatement of electronic access

  I understand that my IBM badge/physical access has been reinstated, and I appreciate your efforts with that.

  What I currently don't have, and desire, is access to electronic access to heritage Netezza (VPN). May I be permitted to have that access reinstated? For instance, I'd like to consult the Netezza wiki pages that I created.

  Is it usual for employees on Short Term Disability to be denied computer access?

  Thanks for looking into this.

- From: Daniel Feldman
  To: Walter Tuvell
  Date: 2011-12-16 01:36 PM
  Subject: Fw: Your two requests ▶*Note this Subject line is a non-sequitur, in two senses: (i) the "Fw:" indictes this email is a "forward"; (ii) I was not involved in any prior email chain with subject, "Your two requests". It appears what happened is that Dan was involved in a prior email chain (conjecturally with Diane Adams?), which he then forwarded to me, inadvertently leaving the auto-generated "Fw:" tag in place, while attempting to change the subject to "Your two requests".*◀

  ▶*This first paragraph (including the excerpt from the AYB document) refers to an earlier email query of mine (2011-12-14 03:46 PM), regarding STD-time and vacation-time; that email is omitted here (irrelevant to this Complaint).*◀ It is against company policy for you, while you are on STD leave, to use vacation time. The full statement is here: AYB: Work and Personal Life Integration document:

  > **2.2.5 Holidays and Illness or Injury During Vacation**
  >
  > When an IBM holiday is observed during your vacation, that day is considered a holiday rather than a vacation day.
  >
  > If you are receiving benefits under the IBM Short-Term Disability Income Plan, you cannot substitute vacation time for STD time. However vacation benefits for employees who become sick or injured during vacation will be handled on an individual basis by their manager.

  ▶*This second paragraph is the one relevant to this Complaint.*◀ As for your email about systems access, since you continue to be on STD and therefore are not working. there is not a business need for you to have access to Netezza-specific systems. If you return and start working in your prior role where systems access is warranted, it will be restored.

HHH IBM Littleton Facility

▶550 King St., Littleton, MA; just off Rt. 495, Exit 31. This satellite image © Google Maps, with annotations (red) added by me. [The facility was formerly owned/operated by DEC/Compaq/HP; I've notified Google Maps their labeling on the image should be updated.]

The interviews were held in LKG1 ("Littleton, King St., building #1"). I parked in the parking lot to the left (west) of LKG1, and entered the employee "Side" entrance.◀

III Email Chain: IHS (Aug. 11 – Dec. 8)

- From: Walter Tuvell
  To: Kathleen Dean
  Date: 08/11/2011 03:00 PM
  Subject: Need health service

  Kathleen, I need your professional (IHS) help.

  I have come down with a sudden condition, which will, I believe require STD, together with some longer-term solution, potentially involving an accommodation. I already know how about the MTR, and have downloaded the PDF, and know how to go about applying for the STD. But I don't know what to do beyond that. Can you please tell me how to go about that?

- From: Kathleen Dean
  To: Walter Tuvell
  Date: 08/11/2011 03:06 PM
  Subject: Re: Need health service

  Can you call me now?

- From: Kathleen Dean
  To: Walter Tuvell
  Date: 08/11/2011 03:44 PM
  Subject: Re: Need health service

  Walter, Have you done an open door for your concerns? Human Resources (HR) not IHS Medical handles open door issues.

  This is information on People with Disability. I am not sure if this is what you were inquiring about. ►*Appendix JJJ.*◄
  https://w3.tap.ibm.com/w3ki07/display/PwD/Overview+of+work+modification+and+accommodation+process
  https://w3.tap.ibm.com/w3ki07/display/PwD/Home

  STD Benefits information:
  http://w3-01.ibm.com/hr/us/
  http://w3-01.ibm.com/hr/us/benefits/disability/shorttrmdisability.html

  In my absence Al Pfluger #845-894-9574

- From: Walter Tuvell
  To: Kathleen Dean

Date: 2011-08-11 04:03 PM
Subject: Re: Need health service

Yes, I do think that's exactly what I want. ▶*Referring to PwD.*◀

Thank you, and have a good vacation.

- From: Walter Tuvell
  To: Al Pfluger
  Date: 2011-08-12 11:26 AM
  Subject: Hi

  Hi, Al, just checking we have connectivity, talk to you later.

  - Walt Tuvell

- From: Walter Tuvell
  To: Al Pfluger
  Cc: Kathleen Dean
  Date: 08/15/2011 09:29 AM
  Subject: MTR today

  Al, I spoke to you yesterday about an MTR. I have an appt with my Dr. today at 11:30 for finalization of the MTR, and then she'll fax it to you.

  Will you be sending me an email notification when you've processed the MTR?

  If there's anything more I need to do, you can reach me at the email addr. Or we could arrange to talk by phone to talk more about this, etc.

- From: Al Pfluger
  To: Walter Tuvell
  Cc: Kathleen Dean
  Date: 08/15/2011 10:13 AM
  Subject: Re: MTR today

  If short term disability is needed, then you will receive STD Certification Form. If workplace limitations are needed, they will be sent to manager and I will notify you that they have been sent. I will also update Kathy Dean....

- From: Walter Tuvell
  To: Al Pfluger
  Cc: Kathleen Dean
  Date: 2011-08-15 10:43 AM

Subject: Re: MTR today

Thank you, Al. At this point, it's just a straight STD. I am looking into the accommodation/limitation thing, but that's not what today is about.

I know I've been cryptic about this (to Kathy too), but I feel it's necessary at this point. My apologies for that, I know it sounds cloak-and-dagger, or paranoid. That's because it is. :-(

Once I have the STD safely in hand, I'm planning to talk to you openly about what's going on (still relying on strict confidentiality from IBM mgmt, including my manager -- you'll see why when I talk to you).

- ▶*The phraseology of the email following indicates an interveing communication (email or phone call) may have occurred, but I can't locate a record of it.*◀

- From: Walter Tuvell
  To: Al Pfluger
  Cc: Kathleen Dean
  Date: 2011-08-16 08:41 PM
  Subject: Re: Fw: STD status?

  Thanks for the update Al, but I went to the Dr. office myself and watched them fax it at 5:00 PM, so I'll check with you tomorrow to make sure you got it.

- From: Walter Tuvell
  To: Al Pfluger
  Cc: Kathleen Dean
  Date: 08/16/2011 11:46 AM

  Hi Al, I saw my Dr. yesterday, and she said she'd be faxing the MTR to you.

  Did you get it? And what is the status?

  I've been writing up a "Complaint" I plan to file with IBM Open Door, I'll share it with you when the STD come through.

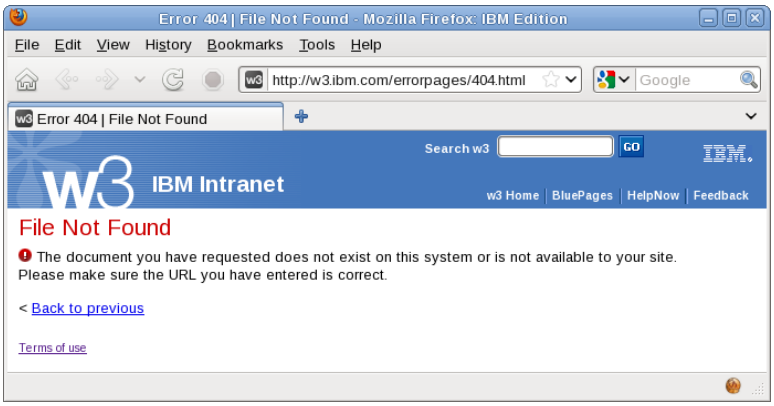
- From: Al Pfluger
  To: Walter Tuvell
  Cc: Kathleen Dean
  Date: 08/16/2011 12:11 PM
  Subject: Re: STD status?

  Your MTR form has not been received yet. You can call 888-553-5752 option 2, to

see if your MTR has been received. But so far it has not been received...Al

Office Well-being Considerations: ▶*Appendix KKK; see comment below.*◀
http://w3-03.ibm.com/hr/us/ohs/gohsweb.nsf/pages/pok_faq_office.htm
To report a workers' compensation claim: 1-888-553-5752, option 1
To determine status of Medical Treatment Report: 1-888-553-5752, option 2.
Primary resource for Ergonomic, Safety, and Industrial Hygiene questions or concerns: mailto: yoursafe@us.ibm.com

▶*The cited URL, http://w3-03.ibm.com/hr/us/ohs/gohsweb.nsf/pages/pok_faq_office.htm, generated a file-not-found error:*



I searched around and found the presumed-correct page, http://w3-03.ibm.com/hr/us/ohs/gohsweb.nsf/pages/safety.htm. Appendix KKK.◀

- From: Walter Tuvell
  To: Al Pfluger
  Date: 08/16/2011 12:13 PM
  Subject: Re: STD status?

  Hmm, Dr's office was supposed to send it yesterday, I'll check them out.

- From: Walter Tuvell
  To: Al Pfluger
  Date: 08/16/2011 02:19 PM
  Subject: Fw: STD status?

  OK, so the Dr. lied, she was too busy yesterday and will fax it in today (or so she says ... :-).

  Sorry.

- From: Al Pfluger
  To: Walter Tuvell
  Date: 08/16/2011 04:07 PM
  Subject: Re: Fw: STD status?

  None as of this moment. Will look tomorrow....

- From: Walter Tuvell
  To: Al Pfluger
  Cc: Kathleen Dean
  Date: 2011-08-17 10:14 AM
  Subject: STD, thank you

  Al & Kathleen, I have received my STD in email, thank you.

  I promised to send a copy of the Complaint I'm writing, and I will, but not with this email. It is almost finished (250+ pages), so I'm going to wait until it is finished, and I'll send you a copy of that final draft. Should be finished later this week or next week sometime. When you read that, you'll discover exactly why I needed this STD, and also why I've had to act so "paranoid" or "cloak-and-dagger".

  Thanks again.

- From: Walter Tuvell
  To: Kathleen Dean, Al Pfluger
  Date: 2011-08-18 01:14 PM
  Subject: The reason I've been acting weird

  I've not ▶*Typo: “not” should be “now”.*◀ submitted this to Corporate Open Door, and Confidentially Speaking.

  Thanks for you help.

  ▶*Attachments omitted (Parts I and II of this Complaint).*◀

- From: Walter Tuvell
  To: Kathleen Dean, Al Pfluger
  Date: 2011-09-07 04:28 PM
  Subject: New STD

  I'm nearing the end of my STD, so I saw my physician again today, and she's in agreement that I cannot go back to work under the current circumstances. So you'll find a fax sent in today for a new STD, starting next week.

  Also, I forgot to BCC you two on my Addendum II, so it's attached herewith.

Let's hope IBM wakes up and Does The Right Thing, not just for me, for all the rest of its employees too.

Thanks again for staying "straight".

- From: Walter Tuvell
  To: Kathleen Dean, Al Pfluger
  Date: 09/08/2011 03:18 PM
  Subject: Just checking

  Hi, have you received the MTR from my Dr's office?

  Last time it didn't go out when it was first supposed to, so I thought I'd check this time.

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 09/08/2011 03:43 PM
  Subject: Re: Just checking

  You are currently STD Certified to be out of work until 09/15/2011. I have received the completed IBM MTR Form from your Family Physician dated 09/09/2011.

  Since your diagnosis indicates Sleep Disorder and Stress Reaction an IBM MTR Form will need to be completed by a specialist not your family physician.

  The IBM MTR form mentions psychotherapist to help with acute stress. Please provide your psychotherapist with a blank IBM MTR form and the IBM Psychiatric Impairment Rating Portion for completion.

  Have you had sleep studies performed?

  If you have any questions, please do not hesitate to contact me.

  Attached is a Medical Treatment Report (MTR) form that is required to be completed by the employee's treating physician in order for IBM to determine eligibility for the IBM Short Term Disability plan or to request Workplace modifications.

  Please have your treating physician complete and sign the MTR and fax to the number provided at the bottom of the form (1-919-543-0834). Employee is responsible for any costs associated with the completion of this form, and ensuring its return to IBM IHS (Integrated Health Services).

■ From: Walter Tuvell
To: Kathleen Dean
Cc: Al Pfluger
Date: 09/08/2011 05:11 PM
Subject: Re: Just checking

I don't have a "psychotherapist". ▶*A misunderstanding arose here around the use of the word "psychotherapist". The fault was mine (I'd never previously thought of my LICSW, Stephanie Ross, as a "psychotherapist", but I was wrong). This misunderstanding got straightened out over the course of the next few letters, below.*◀ Therefore, if I have to get a psychotherapist to examine me, it will take some time (weeks at least), and I obviously can't do that by Monday. Which means, as you know, I'll be forced to enter into an abusive situation.

But, I'm not exactly sure why something like a specialist/psychotherapist is required? (As far as "having sleep studies done" that's obviously not needed. TWO hours of sleep a night certainly qualify as "sleep disorder", you don't need a "sleep study" to prove that.)

As the Complaint materials I've sent you clearly explain, I PASSED-OUT (SYNCOPE) at my last meeting with Dan Feldman (Aug. 3), precisely because of his direct abusive psychological attack. I have every reason to believe that will continue, each/every time I'm in his presence. Consequently, each/every time I'm in Dan's presence, I will end up with the severe psychological/anxiety problems (including sleep disorder) as before.

That (Dan's abuse) is the very reason I'm going through the C&A process. But the C&A process itself is corrupt, as also clearly documented in my Complaint (including Addenda). In particular, the C&A process (Russ Mandel) is requiring me to continue working for Dan, instead of changing that abusive work situation in some way. Obviously, if I do that (return to work under Dan), the above paragraph applies (I'll be attacked again, etc.).

Obviously, my family physician is fully competent to diagnose "syncope from psychological attack, leading to severe anxiety, including its consequences, such as sleep disorder, etc.". A psychotherapist would be inappropriate for that, because syncope is a physical problem, not mental.

If what you're saying is that "the physicion filled out the MTR the wrong way, and is needs to filled out (upon consultation with me, of course) in some different way", then I'll be happy to carry that information to my physician. But I'm not sure exactly what I've done wrong, or how to correct it, so could you please elaborate?

Also, you mention that there are certain "rules" about STD, such as family physician vs. specialist. Could you please send me a copy of those rules, so I know how I'm supposed to be doing these things?

In particular, Kathy and Al: The situation for this MTR is the EXACTLY THE SAME as for the first MTR. NOTHING HAD CHANGED (because C&A refuses to change

it). SO WHY ARE YOU CHANGING YOUR RULES NOW? Has anybody from C&A or HR (or elsewhere, such as your own management) "gotten to" you? Please answer this question, together with all the others I've asked you here. (I hope there's nothing illicit/illegal going on here, because up to now I really thought you two were "playing it straight" and I really hope you still are.)

- From: Walter Tuvell
  To: Kathleen Dean, Al Pfluger
  Date: 09/08/2011 05:26 PM
  Subject: Re: Just checking

  Kathy and Al -

  I just noticed something. (I should have checked this before my last note, just minutes ago.)

  You (Kathy, with Al's acquiescence, by his being CC'd) wrote: "The IBM MTR form mentions psychotherapist to help with acute stress."

  That is FALSE. The MTR (which you yourself included in your email) does NOT mention EITHER of the words "psychotherapist" or "acute".

  Therefore, you provably misrepresented the MTR, in writing. And hence, your reason for not granting/certifying the MTR is provably FALSE.

  Why would you do that? What is going on? I had thought/hoped you were "playing it straight, but this gives me serious reason to question that.

  Please explain yourself, in clear language. Promptly.

- From: Walter Tuvell
  To: Kathleen Dean, Al Pfluger
  Date: 09/08/2011 06:02 PM
  Subject: Re: Just checking

  Kathy and Al -

  I just took a closer look at the MTR form that was faxed to you.

  The wording "psychotherapist" and "acute" do not occur in the "IBM MTR". However, my PHYSICIAN did write that I am in "psychotherapy" for "acute stress". If that (my physician's writing, as opposed to the "IBM MTR") is what you were referring to, I did not realize it when I wrote my preceding note. Therefore, assuming that's the case, I offer my apologies for the implications I made that may have been wrong.

What my physician wrote is correct, but it seems you drew incorrect implications from it. The person who is giving me "psychotherapy" is a NOT a "psychotherapist". She is a "licensed social worker" (LSW).

Therefore, if I now correctly understand what you are asking of me (please confirm this), I will now schedule a session with my LSW, and consult with her about this matter, and ask her to submit an MTR to you. However, that obviously can't happen before Monday. (And, as you know, I won't be reporting to work until this STD business is worked out, for obvious reasons.)

Please respond to me if I am now doing things correctly. In return, I will keep you updated promptly when I have something to report.

Note: I've scanned the relevant materials I know about, including the document "About Your Benefits - Income & Asset Protection", and I still find no mention of this business about "specialist must be involved if special circumstances are involved". Therefore, I still need you to respond to my question about where this new "rule" comes from.

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 09/09/2011 09:01 AM
  Subject: *IBM Confidential: Walter Tuvell #0G3821

  I will support your IBM MTR Form from your family physician for one month while I confer with our IBM Physician.

  If you have a copy of your IBM MTR Form from your family physician dated 09/07/2011 please refer to Section II A. This is where it states "pt is in psychotherapy to help his acute stress. This ongoing."

  I'll keep you posted after I have consulted with our IBM Physician.

- From: Walter Tuvell
  To: Kathleen Dean
  Cc: Al Pfluger
  Date: 2011-09-12 05:26 PM
  Subject: Workplace bullying

  Kathy & Al -

  In case you, or others you communicate with (you mentioned contacting an IBM doctor), want to find out more about workplace bullying (which is exactly what I'm being subjected to), including the physical/mental harm it inflicts (just like mine), a

good place to start is the Workplace Bullying Institute. They have a good FAQ at http://www.workplacebullying.org/faq/.

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 09/12/2011 05:34 PM
  Subject: Walter Tuvell

  Our IBM Physician has not been able to meet with me yet.

  I'll keep you posted.

- From: Walter Tuvell
  To: Kathleen Dean
  Cc: Al Pfluger
  Date: 2011-09-13 07:50 AM
  Subject: Re: Walter Tuvell

  Thank you for keeping me updated, Kathy. I'd hate for IHS to get "trapped" in this issue.

  IBM very clearly "talks the talk" about safe/healthy workplace, and it's even binding according to the BCG Contract, yet mgmt/HR/C&A don't "walk the walk" -- they're completely supporting of bullying/abusive workplace behavior. It's deleterious to health, and I certainly hope IHS "keeps their nose clean". Insofar as I can tell, you & Al are "playing it straight" so far, but there are plenty of reports out there of "hack corporate doctors" who are blind to the problem. So unfortunately I must remain wary, given what's happening to me.

  So, more apologies to the innocent. It's just not easy at present for me to discern who the innocent truly are.

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 09/15/2011 03:58 PM
  Subject: *IBM Confidential: Walter Tuvell #0G3821

  Since August 15th, you have been certified on Short Term Disability under the care of your family physician. You are currently in ongoing psychotherapy to help address your acute stress and sleep problems. I have approved your STD Disability to October 17th. After consulting with our IBM Physician his recommendation, if you are not able to return to work by October 17th, is to seek a higher level of care from a psychiatrist, because if a person is ill enough that they are out of work for

an extended period of time, beyond 6-8 weeks, then they have exceeded the expertise level of a family physician. This is no different than requiring an employee with a back injury that has been out of work for this period of time under the care of a family physician to see a back specialist before we will continue to support absence.

So, in the interest of making sure that you are receiving proper care, we require information from a specialist, to be able to continue to support your absence after October 17th.

Attached is a Medical Treatment Report (MTR) form that is required to be completed by the employee's treating physician in order for IBM to determine eligibility for the IBM Short Term Disability plan or to request Workplace modifications.

Please have your treating physician complete and sign the MTR and fax to the number provided at the bottom of the form (1-919-543-0834). Employee is responsible for any costs associated with the completion of this form, and ensuring its return to IBM IHS (Integrated Health Services).

- From: Walter Tuvell
  To: Kathleen Dean
  Cc: Al Pfluger
  Date: 09/15/2011 05:04 PM
  Subject: Re: *IBM Confidential: Walter Tuvell #0G3821

  You are joking, right?

  The ONLY reason I'm out on STD is that I am being SUBJECTED TO ABUSE AT WORK. There is NOTHING that a psychiatrist can do to "help" me, because THERE IS NOTHING "WRONG" WITH ME. And, the corrupt C&A Program refuses to process ("discuss") my case until AFTER I return to the abusive workplace. The reason this is corrupt is that the C&A Program itself says the C&A process is open to people on STD leave, yet Russell Mandel refuses to progress my C&A complaint for the very reason that I on STD leave. This is intentionally psychologically abusive.

  I have already sent you my Complaint (Parts I-II, and Addenda I-II). Please FORWARD those to the IBM Physician you mentioned. (This note authorizes you to do so.) That person MUST read the Complaint (otherwise, they won't be informed). THEN, let me know what he/she says -- WITH REASONS.

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 09/16/2011 01:52 PM
  Subject: *IBM Confidential: IBM MTR form - Walter Tuvell

I will consult with our IBM Physician again and keep you posted.

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 09/21/2011 02:42 PM
  Subject: *IBM Confidential: IBM MTR form - Walter Tuvell

  After consulting with our IBM Physician, please have your Licensed Social Worker (LSW) complete the attached MTR form.

  I have approved your STD Disability to October 17th.

  Attached is a Medical Treatment Report (MTR) form that is required to be completed by the employee's treating physician in order for IBM to determine eligibility for the IBM Short Term Disability plan or to request Workplace modifications.

  Please have your treating physician complete and sign the MTR and fax to the number provided at the bottom of the form (1-919-543-0834). Employee is responsible for any costs associated with the completion of this form, and ensuring its return to IBM IHS (Integrated Health Services).

- From: Walter Tuvell
  To: Kathleen Dean
  Cc: Al Pfluger
  Date: 09/21/2011 02:55 PM
  Subject: Re: *IBM Confidential: IBM MTR form - Walter Tuvell

  Thank you. It does make much more sense for my regular treating LSW to continue treating me, instead of requiring me to go out and find a completely new/unnecessary psychiatrist. So I will talk to her about filling out the MTR.

  But I do have a concern: Since she isn't a physician, she will be unfamiliar with this kind of MTR/STR form. I have your contact information, so please be aware she might need to contact you. Also, the MTR states on its instructions that it must be filled out by a "physician", but I'm taking your note to waive that requirement (my LSW will need to know that, so she's sure she won't be committing some kind of fraud). Incidentally, you should know she is in Amsterdam this week, and won't return until next week. I already have an appointment to see her when she returns next week.

  Also, you mention Oct. 17, but currently the abusive C&A process is requiring me to report back to work under Dan Feldman, and I don't believe that will be possible (as attested to by my physician and LSW), so I expect I'll need STD extensions be-

yond that date. I've already written to you about this, but I wanted to repeat it, to be certain you understand.

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 09/21/2011 03:07 PM
  Subject: Re: *IBM Confidential: IBM MTR form - Walter Tuvell

  You are correct about having an updated MTR form completed by your LSW in order for me to review your STD Benefits extension beyond the 10/17/2011.

- From: Walter Tuvell
  To: Kathleen Dean, Al Pfluger
  Date: 10/17/2011 10:53 AM
  Subject: MTR/STD?

  Did you receive the 2 MTRs my health-care-givers were supposed to fax to you on Friday?

  And, what is the status of my request for STD leave?

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 10/17/2011 11:00 AM
  Subject: Re: MTR/STD?

  Walter, I received some documentation from your treating physician last week but I have not had a moment to review them.

  Vasquea, Family Nurse Practitioner no date on IBM MTR form & Ross, Psychotherapist IBM MTR dated 10/12/201.

  I'll look at them before the end of today.

  Thank you for checking.

- From: Walter Tuvell
  To: Kathy Dean
  Cc: Al Pfluger, Russell Mandel
  Date: 10/17/2011 11:46 AM
  Subject: Re: MTR/STD?

Kathy, thank you for the update.

I wrote the date 10/14/2011 (last Friday) on the MTRs I gave to both of them (Victoria Vasquez, Stephanie Ross), and requested that they fax the forms to you on that date, so any deviation from that plan was just inadvertent/insubstantial/typographical error. But if you need a "clean copy", let me know, and I can re-visit them and ask them to re-do the MTRs. That would require some time for rescheduling, visits, and paperwork, but the substantive information would be the same in the end.

As a reminder, I just want to make sure you're aware that the ADAAA (Americans with Disabilities Act Amendment Act, effective 1/1/09) requires that "episodic" disabilities (the Implementing Regulations specifically cite PTSD as an example) be evaluated for their effects during their "active" phase, without accommodation. In my case, this means that my STD request must be based on conditions that would prevail when/if I were forced to work under the control/influence of Dan Feldman (and others who have been conducting illegal discrimination-retaliation upon me). The last time I was in his presence, I fainted, due to his obviously intentional psychological attack. And there is of course every expectation that same thing would happen every time time I'm forced to work for him.

As you already know, I have specified a "reasonable accommodation" to Russell Mandel (CC'd hereto), namely, fire Feldman and all the other people who have been perpetrating the clearly illegal discrimination-retaliation upoon me. (This is "reasonable" accommodation, because illegal activity is "unreasonable"). He has not responded to me yet.

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 10/17/2011 02:28 PM
  Subject: *IBM Confidential: STD Certification continuation for Walter Tuvell #0G3821

  STD Certification continues from 10/18/2011 to 11/07/2011. As indicated in the STD Certification, IBM Nurse Case Manager needs to review MTR form with IBM Physician for further evaluation. I will let you know the outcome.

  As with all IBM employees, after 13 weeks of STD benefits the employee is to be informed of the LTD process when he/she has used 13 weels of STD benefits. IBM will be providing you information about the LTD Process and application information. It is the employees option whether to apply for LTD benefits.

- From: Walter Tuvell
  To: Kathleen Dean
  Cc: Al Pfluger
  Date: 11/02/2011 07:36 AM

Subject: MTR/STD question

Do I still need to get 2 MTRs for STD, or is just 1 sufficient (and if so, which one)?

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 11/02/2011 01:12 PM
  Subject: Re: MTR/STD question

  If your STD is to continue, I will need an IBM MTR form completed by your specialist before 11/07/2011.

  Attached is a Medical Treatment Report (MTR) form that is required to be completed by the employee's treating physician in order for IBM to determine eligibility for the IBM Short Term Disability plan or to request Workplace modifications.

  Please have your treating physician complete and sign the MTR and fax to the number provided at the bottom of the form (1-919-543-0834). Employee is responsible for any costs associated with the completion of this form, and ensuring its return to IBM IHS (Integrated Health Services).

- From: Kathleen Dean
  To: Walter Tuvell
  Cc: Al Pfluger
  Date: 12/07/2011 04:13 PM
  Subject: *IBM Confidential: IBM Medical Records Release - Walter Tuvell

  I received a call from your psychotherapist requesting a copy of your November 3rd, 2011 IBM MTR form.

  If you approve of this, please complete the attached Medical Records Release form specifying the November 3rd IBM MTR completed by your physician and her contact information.

  I am unable to send this request to your home email.

  Please complete the attached Medical Records Release and fax to: 919-543-0834.

  ▶*Attachment (MRR form) omitted (irrelevant to this complaint).*◀

- From: Walter Tuvell
  To: Kathleen Dean
  Cc: Al Pfluger
  Date: 12/08/2011 06:02 AM

Subject: *IBM Confidential: IBM Medical Records Release - Walter Tuvell

The filled-out MRR form is attached, I hope I filled it out correctly.

You can just email me an electronic copy, if you're allowed to do that. If you can't do that, you can send the hardcopy to my home address (included in the MRR).

▶*Attachment (MRR form) omitted (irrelevant to this complaint).*◀

■ From: Al Pfluger
To: Walter Tuvell
Cc: Kathleen Dean
Date: 12/08/2011 07:37 AM
Subject: *IBM Confidential: IBM Medical Records Release - Walter Tuvell

Walter, I received your Medical Record Release Form. Here is the MTR form you requested. If you are not able to print, I will send you one hardcopy. I had also mailed you a release form that you can disregard. Thanks....Al

▶*Attachment (MTR form) omitted (medical confidentiality).*◀

JJJ PwD — People With Disabilities

JJJ.a Home

Home - People with Disabilities Constituency - Wik... https://w3.tap.ibm.com/w3ki07/display/PwD/Home

People with Disabilities Constituency

Home

Attachments (6) Info Published on Oct 20, 2010

IBM Diversity and Workforce Programs

Global People with Disabilities (PwD) Constituency

Accessible Workplace Connection - the new global tool to request accommodations!

Accessible Workplace Connection is live now!
See the Information Page for a brief presentation to get you started.

IBM CommunitiesCommunities are information centers and gathering places for IBMers with disabilities — it's where you can get vital disability-related help.

- Blind and Visually Impaired
- Cognitive Impairment
- Deaf and Hard-of-Hearing
- Physically and Mobility Impaired

Information specific to regions or countries

- United States
- Canada: English, Français
- LA
- Europe
- CEE - Central/Eastern Europe
- MEA - Middle East, Africa
- A/NZ - Australia/New Zealand
- Japan
- India
- Former Asia-Pacific

1 of 2 01/29/2012 12:50 PM

IBM Forums and Network Groups

Connect with other IBMers interested in accessibility and with similar disabilities.

- General
- Blind
- Deaf
- Cognitive
- Join a PwD Networking Group

Accessible Workplace Connection

- **Information Page including brief "how to" presentation**

Don't miss (and pass it on)

- 2010 PwD POSTER Available for these two upcoming Recognition Days
  - for October, U.S. National Disability Employment Awareness Month
  - for December 3, International Day of Persons with Disabilities
- Conducting Accessible Meetings -- a short guide on making all of your meetings accessible.
- Amazing 3 WORD VIDEOS on the Special Olympics
- *Discover Magazine Dec 2008*-Think about this: Vincent Cerf wrote the original communication protocol for the Arpanet, and then co-designed TCP/IP protocols which allow computers everywhere to communicate with each other. "Cerf has attributed his interest in the Internet in part ot having lost much of his hearing when he was a child."
- Ernst & Young AccessAbilities minutes series: very quick true stories - usually about thirty seconds - about experiences related to PwDs in the office that can teach all of us something about how to be inclusive when working with colleagues who have disabilities.

Added by Laura Nicholas , last edited by Debra A. Adams on Oct 20, 2010 (view change)
Labels: people, disabilities, diversity

Attachments (6) **Info**

13 children | View in hierarchy

0 comments

JJJ.b Accommodation Process

Overview of work modification and accommodatio... https://w3.tap.ibm.com/w3ki07/display/PwD/Overv...

People with Disabilities Constituency

Overview of work modification and accommodation process

Info Published on Apr 09, 2010

ACCOMMODATION/WORK MODIFICATION PROCESS - U.S.

1. Employee requests accommodation from manager for medical reasons or manager observes the need for an accommodation/work modification for an obvious disability (eg., blind, wheelchair bound).
2. Employee or manager places request in Accessible Workplace Connection
3. Manager and employee engage in an interactive discussion about what is being requested and what the business can offer.
4. When the manager and employee can agree on an accommodation for an obvious disability with no significant cost considerations or disruptions to the business, the accommodation/work modification can be paid from the department budget and implemented. The manager is responsible for documenting the discussion and agreement concerning the accommodation.
5. If the medical need for the accommodation is not obvious, or if the cost recovery process is to be used rather than the manager's budget, the manager advises the employee to have the Medical Treatment Report (MTR) form completed by their health care provider and submitted to Integrated Health Services (IHS).
6. IHS provides written notification to the manager of the requested accommodation and the next steps to be taken by the manager, including additional resources which are available along with a link to the cost recovery process for purchasing items required for the accommodation.
7. Manager continues the interactive discussion with the employee to review the accommodation request and come to agreement. If additional evaluation is required, the manager may consult with his/her HR partner to form an accommodations assessment team by bringing together the IHS caseworker, the manager, the PwD constituency program manager and/or the IST PwD lead, and possibly legal and/or RESO, to further evaluate the request.
8. The team meets to determine what reasonable accommodation can be made for the employee. They prepare the manager to continue the interactive discussion with the employee to try to find a solution. Management makes the final decision on the requested accommodation or alternative after considering input from team.

Frequently Asked Questions
Draft documention on how to provide accommodations

Added by Ronald H. Krouk , last edited by Ronald H. Krouk on Apr 09, 2010 (view change)
Labels: (None)

Info

1 children | View in hierarchy

0 comments

1 of 1 01/29/2012 12:48 PM

JJJ.c Accommodation Application

IBM Accessible Workplace Connection Application

Welcome to IBM Accessible Workplace Connection

Workplace accommodations or adjustments make it possible for people working in IBM to be productive, regardless of physical or cognitive abilities. IBM Accessible Workplace Connection helps people who need accessibility assistance and their managers to acquire and effectively use accommodations that enable them to be competitively productive while also safe guarding the privacy of information about their personal situation and needs.

Help

Getting started

Learn about available accommodations and the process to request an accommodation.

1. What is an accommodation and how can it help you or your employee?
2. Who is eligible for an accommodation?
3. What is the process for getting an accommodation?

Accommodation

Use the Create new accommodations request link below if you are requesting an accommodation for any of the following reasons.

- You are getting accommodations for the first time
- Updating your accommodations because your needs have changed
- Updating your accommodations because your essential job functions have changed

Create new accommodations request

Support and modifications

If you currently have an accommodation and would like to

Alerts & notifications

You currently have no requests requiring your action

You currently have no active requests

Additional resources

- IBM Human Ability & Accessibility

update it, or if you need help solving an accommodation problem or workplace accessibility issue, use one of the following links.

You would like to improve your accommodation
Renew / extend a service accommodation (e.g interpreting and relay services)
Get supplies or accessories for one of my accommodations
Get help with a workplace accessibility or accommodation problem

Center

- Global People with Disabilities (PwD) Constituency
- Frequently asked questions (FAQ)

- Accommodation Catalog Search

JJJ.d What Is Accommodation

Welcome to IBM Accessible Workplace Connection - Mozilla Firefox: IBM Edition

https://w3.ibm.com/hr/adcentral/user/help.wss?helpContext=home_accommodation

Welcome to IBM Accessible Workplace Connection

IBM Accessible Workplace Connection - Getting Started - Accommodation Definition

NOTE: For help with keyboard navigation or to learn how to use IBM Accessible Workplace Connection with assistive technologies, refer to IBM Accessible Workplace Connection accessibility help.

What is a workplace accommodation?

A workplace accommodation is a modification or adjustment to a job, the work environment, or the manner in which duties are accomplished that enables a worker with a permanent or temporary disability or a mature worker to perform the essential functions of a job. Examples of accommodations include assistive technologies such as screen magnifiers, building or work space adjustments, accessibility services such as sign language interpreting for people who are deaf and reading services for people who are blind, job restructuring, alternative travel arrangements, and work schedule adjustments.

There are dozens of different accommodation solutions in the IBM Accessible Workplace Connection accommodations catalog, which is growing and evolving with the needs of our workforce. IBM Accessible Workplace Connection and the global accommodations process it supports were designed to provide the assistance and expertise that will put the most appropriate set of accommodation solutions in place for every eligible individual who wants to take advantage of them.

Done

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https://w3.ibm.com/hr/adcentral/user/help.wss?helpContext=home_accommodation

How can workplace accommodations help you or your employees?

Workplace accommodations help eligible individuals minimize or eliminate barriers to competitive productivity so they can have equal access to, not only employment, but all the benefits and privileges of employment.

If you or one of your employees has a physical or cognitive limitation that can be reasonably accommodated and are struggling to be competitively productive, there is a possibility an assessment of accommodation needs will identify one or more solutions that will improve the situation. It is critical to IBM's success that our work environment encourage every member of our diverse workforce to contribute to his or her full potential.

IBM Accessible Workplace Connection is designed to provide an interactive dialog between individuals requesting reasonable accommodations and the IBM teams responsible for providing accommodations. The goal of this dialog is to ensure all eligible individuals have the most appropriate and effective accommodation solutions. Once an individual has accommodation solutions in place, IBM Accessible Workplace Connection provides that individual with an easy path to help and support for any workplace accommodation or accessibility issue.

For more information about IBM Accessible Workplace Connection and the global accommodations process, please read the other sections of the getting started information and visit the Frequently Asked Questions (FAQ) page.

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JJJ.e Who Is Eligible

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https://w3.ibm.com/hr/adcentral/user/help.wss?helpContext=home_eligible

Welcome to IBM Accessible Workplace Connection

IBM Accessible Workplace Connection - Getting Started - Eligibility

NOTE: For help with keyboard navigation or to learn how to use IBM Accessible Workplace Connection with assistive technologies, refer to IBM Accessible Workplace Connection accessibility help.

Who is eligible to receive an accommodation?

It is difficult to say definitively who is or is not eligible for an accommodation. The accommodation assessment team, informed by IBM Integrated Health Services (IHS), ultimately determines whether a specific individual is eligible. Generally, an individual may be eligible if he or she has a permanent or temporary medically-diagnosed physical or cognitive limitation that impacts his her performance of essential job functions.

Accommodations are commonly provided for people who are:

- Blind or visually impaired.
- Deaf or hard of hearing.

Accommodations are also commonly provided for people who have:

Done

Welcome to IBM Accessible Workplace Connection - Mozilla Firefox: IBM Edition

https://w3.ibm.com/hr/adcentral/user/help.wss?helpContext=home_eligible

- Speech or language impediments.
- Dexterity or mobility limitations.
- Medically-diagnosed cognitive or emotional conditions, (e.g., ADD, ADHD, dyslexia, depression).
- Medically-based problems with fatigue or environmental sensitivity.

Ensuring all eligible individuals have appropriate and effective accommodations is very important. All members of our diverse workforce must have the opportunity to be competitively productive in order for IBM to succeed. If you or one of your employees may be eligible for accommodations, you can use IBM Accessible Workplace Connection and the global accommodations process it supports to request help determining which, if any, accommodations will be most effective for your circumstances.

Are accommodations available only to regular full-time employees?

Accommodation requests are considered for all IBM employees, including part-time and supplemental employees. Accommodation requests are also considered for interns. Although contractors are not IBM employees, IBM may be able to offer contractors using IBM facilities or equipment accommodations to make those facilities or equipment accessible. However, other than making IBM facilities or equipment accessible, the contractor's employer is responsible for addressing the accommodation needs of its employees.

How is eligibility validated and documented?

Each of the one or more accommodation solutions in an IBM Accessible Workplace Connection accommodations request goes through a review process to ensure that specific solution is the most appropriate means of accommodating

Done

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https://w3.ibm.com/hr/adcentral/user/help.wss?helpContext=home_eligible

the individual needs of the requester in his or her particular job.

The first question in the review process asks the requester's manager if the disability or limitation that causes the requester to have need for the accommodation is either objectively obvious or if there is medical documentation of the disability or limitation on file with IBM Integrated Health Services (IHS).

Disabilities such as paraplegia, deafness, and blindness may be objectively obvious as described in the IBM Accessible Workplace Connection FAQ. In such cases, the manager can document the requester's eligibility by answering yes to this question.

In all other cases, IHS must receive a Medical Treatment Report (MTR) that has been completed by the requester's health care provider. IHS will notify the manager when the MTR is on file and if the requester is eligible for accommodations. If IHS determines the requester is eligible, the manager can then answer the question with yes and the review process can continue.

For more information about IBM Accessible Workplace Connection and the global accommodations process, please read the other sections of the getting started information and visit the Frequently Asked Questions (FAQ) page.

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JJJ.f What Is The Process

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https://w3.ibm.com/hr/adcentral/user/help.wss?helpContext=home_process

Welcome to IBM Accessible Workplace Connection

IBM Accessible Workplace Connection - Getting Started - Process Definition

NOTE: For help with keyboard navigation or to learn how to use IBM Accessible Workplace Connection with assistive technologies, refer to IBM Accessible Workplace Connection accessibility help.

What is the process for requesting an accommodation?

Anyone who may be eligible for accommodations, or his or her manager, may create a request for accommodations or accommodations support. This is typically done using the IBM Accessible Workplace Connection system. Requests may also be submitted without using the system. (Refer to the terms of use for more information on alternatives to using the system.)

You can create and submit a request in just a few seconds by choosing *Create request* on the home page, choosing a reason, typing a brief description of needs, and pressing **OK.** Then, when the request home page appears, simply use the **Submit** button.

However, if you want to make specific recommendations, you can take as long as desired to add one or more accommodation solutions from the accommodations catalog to the draft request before submitting it. If you leave the system, you can easily find your draft request on the "My Profile" page.

Done

Welcome to IBM Accessible Workplace Connection - Mozilla Firefox: IBM Edition

https://w3.ibm.com/hr/adcentral/user/help.wss?helpContext=home_process

After you submit your request, you will see that its status is "Waiting on team assignments." At this point, a request administrator is reviewing it to form an appropriate assessment or support team. The team may include one or more accommodations specialists, your manager, Integrated Health Services (IHS), and occasionally others as appropriate.

If your disability or limitation is not objectively obvious as described in the IBM Accessible Workplace Connection FAQ, your health care provider will need to complete a Medical Treatment Report (MTR) and submit it to IBM Integrated Health Services (IHS) for review. The MTR may include specific accommodation recommendations that can be added to the request by the team.

The team will work with you to add all appropriate accommodation solutions to the request. Each solution will go through a review process. Approved solutions will be acquired and implemented. You will be able to use each solution for a trial period. If judged effective after trial use, a solution will be given the status of *In Use.* If not effective, it will be marked *Not Adequate* and an alternative solution can be added to the request to go through the review process. Once all needs are met by an effective solution, the request administrator will close the request.

For more information about IBM Accessible Workplace Connection and the global accommodations process, please read the other sections of the getting started information and visit the Frequently Asked Questions (FAQ) page.

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JJJ.g FAQ

People with Disabilities Constituency

Frequently Asked Questions

Info Published on Apr 08, 2010

Frequently Asked Questions for Accessible Workplace Connection

- 1. Do I need to use Accessible Workplace Connection to request accommodations?
- 2. What advantages will I experience by making my request for accommodations using Accessible Workplace Connection?
- 3. Who can see my information in Accessible Workplace Connection?
- 4. What if I don't want my manager to know I have a disability?
- 5. What is an objectively obvious disability or limitation?
- 6. Can I order special equipment though I am not considered disabled, e.g. I am very tall and need special furniture?
- 7. How do I request an accommodation solution that is not in the Accessible Workplace Connection catalog?
- 8. Do I have to add an accommodation solution to my request before I submit it?
- 9. Can I raise a request on behalf of another employee?
- 10. Are there any notifications sent?
- 11. Do IBM's accommodation practices cover all my accommodation needs, including accommodations I may need that are not related to the performance of my job?
- 12. Do IBM's accommodation practices cover getting to and from work?
- 13. I have a medical condition that makes travel in economy class difficult. My medical doctor has recommended that I travel business or first class. What do I have to do to get this approved?
- 14. I need a lightweight laptop due to a medical condition. Why isn't that paid by the cost recovery process as an accommodation to me?
- 15. I use captioning for meetings, shall I request transcripts through AWC?
- 16. If there is an accommodation available in one country on the Accessible Workplace Connection will a requestor in another country be able to have the same solution?

1. Do I need to use Accessible Workplace Connection to request accommodations?

Although you are encouraged to use Accessible Workplace Connection in order to get the advantages described below, it is not the only way to request an accommodation or workplace adjustment. To request accommodations or get assistance with accommodations issues without using Accessible Workplace Connection, contact your local accommodations process administrator listed on the global accommodation process resources page.

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2. What advantages will I experience by making my request for accommodations using

Accessible Workplace Connection?

Regardless of how you make a request for accommodations or a workplace adjustment, accommodation staff will follow the same global accommodation process that is designed to provide accommodations which are reasonable, comprehensive, and effective. However, if you make a request using Accessible Workplace Connection, you will be able to more easily follow the status of all activity related to your request. This makes it easier for you to contribute to the request process in ways that could improve process efficiency and outcomes.

In addition, as you process requests through Accessible Workplace Connection, the tool will build an online accommodation profile that will make it easier for you to request support for your accommodations and keep those accommodations current.

Accessible Workplace Connection does all of this while securely protecting the privacy of your accommodation information.
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3. Who can see my information in Accessible Workplace Connection?

All data collected and stored by IBM Accessible Workplace Connection is encrypted and securely transmitted to IBM data storage facilities protected by hardware and software encryption and authorized to contain IBM's most sensitive information. However, by using IBM Accessible Workplace Connection and by providing information within the application, you are voluntarily providing that information to people authorized to use IBM Accessible Workplace Connection to address the needs expressed in your requests. IBM Accessible Workplace Connection implements strict business rules regarding who can access the data you provide, and every individual who has such access is explicitly listed In IBM Accessible Workplace Connection on the Request Team page within the Request Notebook.

The same people will work on an accommodation request regardless of whether you make a request through Accessible Workplace Connection or via the off-line process. In both cases, the request administrator controls who is on the request team. In some cases, the entire request will be handled by the request administrator. If material changes are being made to accommodations, the requester's manager is also involved. More complex requests could also involve several accommodations specialists, HR staff, Integrated Health Services (IHS) staff, and IBM legal council.

IBM Accessible Workplace Connection is not intended to store any sensitive medical information, and you must not input such information.

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4. What if I don't want my manager to know I have a disability?

Although IBM global diversity strongly encourages you to be open with your manager about your need for accommodation, we recognize there are some individuals with certain needs who may not be comfortable with this. Depending on the nature of the accommodation, it may be possible to request and receive an accommodation without the knowledge of your manager.

However, at this time, the accommodations process used by the Accessible Workplace Connection tool always includes the manager of requester in any request that involves material change to the nature or kind of accommodations. Note, though, that the manager can approve changes but is not allowed to unilaterally deny an accommodation. If there is any question regarding the appropriateness of a particular accommodation solution, it will be considered by an accommodation assessment team.

So, to request an accommodation without involving your manager, you must do so using the off-line process outside Accessible Workplace Connection. To request accommodations or get assistance with accommodations issues without using Accessible Workplace Connection, contact your local accommodations process administrator listed on the global accommodation process resources page.

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5. What is an objectively obvious disability or limitation?

An objectively obvious disability typically involves a significant inability to walk, talk, hear, or see. Such a condition requires an assistive tool for normal daily living, such as a wheelchair, prosthesis, sign language, or long white cane. Medical documentation is not required to confirm that an individual has an objectively obvious disability or medical condition.

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6. Can I order special equipment though I am not considered disabled, e.g. I am very tall and need special furniture?

Accessible Workplace Connection and the global accommodation process it supports are to be utilized only if requesting accommodations related to a disability or medically-based limitation. You should discuss your desires or needs that stem from other reasons with your manager.

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7. How do I request an accommodation solution that is not in the Accessible Workplace Connection catalog?

There are many accommodation solutions that have not yet been included in the Accessible Workplace Connection catalog. The catalog will continuously evolve to meet the constantly changing and diverse needs of the IBM workforce. If you can not find the specific solution you need, you can choose one of the catalog items labeled guidance for the type of accommodation you need. Or, you could further describe your needs on the "Comments and Documentation" page of the request notebook. Then, the request administrator or accommodations specialist assigned to your request will work with you to identify a specific solution and add it to the catalog.

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8. Do I have to add an accommodation solution to my request before I submit it?

No. When the Request Home page appears, simply press the submit button and the process will begin. If you need assistance assessing your accommodation needs and choosing items from the catalog, the request administrator will find an accommodation specialist to assist you.

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9. Can I raise a request on behalf of another employee?

Only if you are that employee's bluepages manager. Only an employee or that employee's manager may enter the request

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10. Are there any notifications sent?

In this version of the applications all of the workflow takes place outside the application and there are no emails or notifications sent. On the homepage, you can filter the requests you are allowed to see in order to list only those requiring your action. To see the status of your requests you will also need to enter the application and view the request.

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11. Do IBM's accommodation practices cover all my accommodation needs, including accommodations I may need that are not related to the performance of my job?

IBM's accommodation practices cover reasonable accommodations which may be needed for an employee to perform his/her job. The process does not typically address other accommodations or needs an employee may require for activities not related to their job.

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12. Do IBM's accommodation practices cover getting to and from work?

In general, IBM's accommodation practices do not cover transportation to and from work. It is the employee's responsibility to get to work. However, in some rare situations in certain countries where there is no way for the person to get to work, exceptions could arise.

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13. I have a medical condition that makes travel in economy class difficult. My medical doctor has recommended that I travel business or first class. What do I have to do to get this approved?

The IBM Travel Policy currently requires all business travel be booked in economy class. To facilitate adherence to this policy, please discuss with your manager whether there are alternatives to your trip ie., videoconferencing. If your travel difficulty is comfort related, such as back pain from prolonged sitting, please review the Integrated Health Service guidance on how to increase comfort and well-being while traveling, located under Healthy Travel Tips in the right navigator pane. If you and your medical doctor determine that you still need an accommodation of upgraded travel class, please refer to the Integrated Health Services page for instructions on the required medical documentation you must provide. Accommodation requests are evaluated on a case-by-case basis, including requests for travel class upgrade. Please submit requests in a timely manner to allow adequate time for review. NOTE: Travel upgrades are not covered by the cost recovery process.

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14. I need a lightweight laptop due to a medical condition. Why isn't that paid by the cost recovery process as an accommodation to me?

Accommodation requests are analyzed on a case by case basis, including requests for lightweight laptops. The cost of special computers are generally not covered by the cost recovery process. However, the employee's department may supply a lightweight laptop when appropriate to reasonably accommodate an employee medical condition. It is important to remember that a variety of reasonable accommodations other than a lightweight laptop may be available to address your concerns.
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15. I use captioning for meetings, shall I request transcripts through AWC?

The request to be set up to use a captioning service may go through AWC but transcripts of meetings or conversations are generally not provided. Exceptions, however, may be granted. Transcript requests to the PwD IST subject matter expert in your geo will be evaluated on a case by case basis.

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16. If there is an accommodation available in one country on the Accessible Workplace Connection will a requestor in another country be able to have the same solution?

This depends on the local fiscal situation & is something that needs to be clarified with local Procurement & Taxes. Local purchasing procedures still need to be followed as AWC does not provide a way to actually buy and ship solutions. Not everything in the accommodation portfolio will be available in all geographies.

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Added by Ronald H. Krouk , last edited by Ronald H. Krouk on Apr 08, 2010 (view change)
Labels: (None)

Info

1 children | View in hierarchy

0 comments

KKK Safety/Well-Being

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Updated on 28 November 2011

Career and life > You and IBM - U.S. > Your health > Your Safety

Your Safety

Safety processes and programs at IBM US workplaces

Your Safety provides IBM and regulatory safety requirements for mobile employees, employees working from home, employees working at customer locations, as well as employees working at an IBM facility. Select you location below.

Manufacturing & Research Locations

- Almaden
- Burlington
- East Fishkill
- Poughkeepsie
- Rochester
- Watson

All other US locations - includes Home, Mobile, and Customer locations.

- Non-Manufacturing

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- Ergonomics
- Government Agency Inspections
- Hazard Recognition
- If You Are Injured at Work
- Manager Safety and Health Resource
- Manager Self-Assessment (MSA) for Safety & Health
- Personal Wellness
- Safety Recall Notices
- Travel Health
- US Contractor Safety
- US Safety Committees
- US Well-being Processes
- Well-being Management System (WBMS)
- Well-being: The Employee's Perspective

Contacts

- Integrated Health Services (IHS)

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KKK.b Non-Manufacturing

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Updated on 9 December 2011

Career and life > You and IBM - U.S. > Your health > Your Safety > Non-Manufacturing

Non-Manufacturing Workplace Safety

IBM Safety and Health Programs and Requirements

Did you know over 100,000 IBM employees in the U.S. work in non-manufacturing or non-research work spaces? Non-manufacturing locations/environments include mobile employees, employees working from home, employees working at customer locations, as well as employees working in a traditional office at an IBM owned, leased or maintained facility.

If you need specific information related to an IBM U.S. Manufacturing or Research location please visit Your Safety.

Work Environment FAQs

- General/Office Workplace Environments
  General safety, holiday decorations, personal appliances, sharps disposal.
- Mobile and Home Working
- Working at Customer Locations

Management Responsibilities

- Responsibility for Employee Well Being and Product Safety (CP127)
- IBM Employee Well-Being (HR110)
- Management Commitment and Responsibilities FAQs
- Manager Safety and Health Resource
- Well-Being & Workplace Safety: Manager's Responsibility
- Manager Self-Assessment (MSA)

Safety at work

- Well-being Management System (WBMS)
- U.S. Well-being Processes
- Well-being: The Employee's Perspective
- Data Center Safety

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Safety & Health Program FAQs

- Accident Reporting
- Air Contaminant Exposure Assessment
- Asbestos
- Chemical Safety - Eye Washes & Showers
- Chemical Safety - General
- Client/Customer Requests
- Contractor Safety
- Driving & Transportation Safety
- Electrical Safety
- Emergency Response
- Equipment Installation/Inspection
- Ergonomics
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- Fire and Life Safety
- Government Agency Inspections
- Hoisting Equipment & Cranes
- Indoor Air Quality
- Installation and Maintenance of IT Equipment
- Lasers
- Lead
- Lockout/Tagout
- Material Handling, Equipment and Storage
- Mechanical Safety
- Medical Surveillance Program
- Near Miss Incident
- Noise
- Non-ionizing Radiation
- Permit Required Confined Spaces
- Personal Protective Equipment
- Personal Protective Equipment - Respirators
- Powered Industrial Vehicles
- Travel Safety
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- Ergonomics
- Hazard Recognition
- US Contractor Safety
- If You Are Injured at Work
- IBM Employee Emergency Information
- Government Agency Inspections
- Working Alone

Resources

- Safety & Well-being Contacts
- Safety & Health Training
- PPE Requirements
- Ladder Safety
- General Office Safety
- IBM Events Checklist
- Fire & Life Safety Checklist
- Safety Signs
- Electric Cart Operator Guide
- Safety Recall Notices
- Personal Wellness

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KKK.c Corporate Policy 127

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  - Corporate Organization Letters
  - General Guidelines
  - United States Staff Letters
- Worldwide Records Management

Corporate Documents > Corporate Directives > Corporate Policies >

Corporate Policy 127

Responsibility for employee well-being and product safety

Policy Letter
Number: 127H
Date: June 20, 2001

Subject: Responsibility for employee well-being and product safety

IBM has a long tradition of excellence in employee well-being and product safety. The importance we place in these efforts demonstrates our commitment to employees, customers and business partners.

Corporate strategies, instructions, and procedures must support our commitment to employee well-being and product safety. Each of us, manager and employee alike, shares a personal responsibility for the following objectives:

- Provide a safe and healthful workplace for our employees.
- Provide products that are safe for use by our customers and employees.
- Meet applicable legal requirements and voluntary practices to which we subscribe where we operate and sell products.

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- Incorporate employee well-being and product safety requirements in business strategies, plans, reviews, and product offerings.
- Implement, measure, and continually strive to improve well-being processes for preventing work-related accidents, injuries and illnesses.
- Foster employee involvement and provide appropriate well-being education to employees to enhance their ability to work safely and productively.
- Perform audits and self-assessments of our conformance with employee well-being and product safety requirements with results reported to senior executive management.
- Investigate and address work-related and product safety incidents.
- Provide appropriate resources to fulfill these objectives.

Our support for well-being through prevention is vital to our innovation, productivity, and morale. We have realized enormous dividends through customer and employee confidence in the safety of our products and our workplaces. The IBM Company expects nothing less in our efforts than the excellence we have attained in these areas.

Original signed by:
J. Randall MacDonald
Senior Vice President, Human Resources

Replaces:
Corporate Policy No. 127G, dated November 17, 1997

References:
Corporate Instruction HR110, "IBM Employee well-being"

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KKK.d Corporate Instruction HR 110

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  - Corporate Policies
  - Corporate Instructions
    - Chief Information Officer
    - Communications
    - Corporate Citizenship and Corporate Affairs
    - Corporate Marketing
    - Environmental Affairs and Product Safety
    - Enterprise Transformation
    - Finance
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    - Intellectual Property and Licensing
    - Legal

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Corporate Instruction HR 110

IBM Employee well-being

Corporate Instruction

Human Resources
Number: 110B
Date: December 8, 2009

Subject: IBM Employee well-being

Purpose:
The health and well-being of IBM employees is a fundamental line management and employee responsibility. This responsibility includes complying with IBM and regulatory requirements and identifying, assessing and controlling well-being risks. Our support for healthy work environments and improved health through prevention is vital to our innovation and productivity. IBM intends to be recognized for a work environment that promotes employee well-being and strives for continuous improvement.

This Instruction is based on the foundation set by Corporate Policy 127 and provides additional worldwide direction for IBM's Well-Being Management System and supporting requirements and programs. Where there are differences between IBM requirements and government or country standards, the more protective measures shall apply while ensuring regulatory compliance.

Requirements:

1. **Management** demonstrates personal responsibility for the well-being of IBM employees by:

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- Real Estate Services
- Science and Technology
- Technology and Manufacturing
- Corporate Organization Letters
- General Guidelines
- United States Staff Letters
- Worldwide Records Management

- Establishing and monitoring employee well-being objectives and targets
- Providing funding to enable proper implementation of employee workplace well-being programs that maintain compliance with applicable IBM and regulatory requirements
- Actively engaging in and promoting proactive programs and a positive employee well-being culture based on prevention
- Properly training employees to recognize and control potential workplace well-being risks
- Fostering employee involvement in workplace well-being programs
- Performing formal and informal self-assessments to identify potential workplace risks and implement appropriate controls
- Reporting and investigating workplace incidents (examples: injuries, illnesses) and taking action to help minimize the potential for future occurrence
- Monitoring contractor firm selection and safety performance to ensure that contractor firms are provided with IBM-unique information that will allow them to do their job safely and to help provide for the well-being of IBM employees

2. **Integrated Health Services** develops uniform global practices and requirements for employee well-being. This includes:
   - Identifying and addressing employee well-being trends in a manner that aligns with IBM requirements and business priorities for employee well-being
   - Designing, developing and deploying quality employee well-being programs and processes in partnership with management and employees
   - Managing workplace medical programs that comply with IBM and regulatory requirements
   - Protecting personal health information
   - Effectively managing the competency level of well-being resources to meet IBM needs
   - Monitoring compliance
   - Reviewing and reporting to executive management on conformance to workplace employee well-being requirements
   - Reporting to regulatory authorities on workplace employee well-being subjects

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3. Employee well-being considerations must be included in the initial stages of design, procurement, construction, and production processes; real estate lease and tenant sublease agreements; and acquisitions and outsourcing arrangements.
4. Potential workplace well-being risks shall be minimized by training and the following hierarchy of controls:
    1. Elimination
    2. Substitution
    3. Enclosure/segregation
    4. Engineering controls (ventilation, equipment interlocks, etc.)
    5. Administrative procedures and personal protective equipment. Procedures and personal protective equipment should not be used as the primary method of hazard control.
5. Any deviations to this Instruction must have the concurrence of the Vice President of Integrated Health Services.

Original signed by:
J. R. MacDonald
Senior Vice President, Human Resources

Applicability:
All IBM business units, subsidiaries and business ventures worldwide, as defined in IBM Corporate Instruction ENV120, "Safety and environmental affairs requirements for joint business ventures."

Replaces:
Corporate Instruction Human Resources 110A, "IBM Employee well-being" dated November 3, 2004

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KKK.e FAQ

You and IBM: Management Commitment and Responsibility for Employee Well-Being - Mozilla Firefox: IBM Edition

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Updated on 16 November 2011

Career and life > You and IBM - U.S. > Your health > Your Safety > Non-Manufacturing

Management Commitment and Responsibility for Employee Well-Being

Frequently Asked Questions

1. **What is IBM's policy regarding employee well-being?**
   Maintaining a safe and healthful work environment is a shared management and employee responsibility. Managers establish the "well-being culture," whereby the priority assigned to well-being is demonstrated daily by the level of personal attention they pay to this subject. Employees demonstrate their commitment by following established safe work practices, notifying management of any hazardous condition, taking action where appropriate to correct hazards, and promptly reporting accidents and near-misses, so that together with management, they may be investigated and corrected. IBM's policy regarding employee well-being is described in Corporate Policy 127, Responsibility for Employee Well-being and Product Safety, and Corporate Instruction HR 110, IBM Employee Well-being.
2. **As an IBM manager, what are my specific responsibilities regarding employee well-being?**
   IBM is committed to providing a safe and healthful place of employment. All managers have personal responsibility for the safety and health of the people they manage in the workplace. As an IBM manager, you are expected to take positive action to minimize or correct potential hazards and to maintain safe and healthful workplace conditions. IBM defines the four basic elements of a manager's responsibility for employee well-being and workplace safety as: 1) management commitment and employee involvement, 2) workplace analysis, 3) hazard prevention and control, and 4) safety and health training. The Management Responsibilities for Employee Safety and Health training provides detailed information on management responsibilities and available resources.
3. **What are some examples of how I can lead by example?**
   You can demonstrate personal leadership for employee well-being by providing a positive example to your employees by:
   - establishing a positive well-being culture based on prevention
   - maintaining open lines of communication with your employees

Done

You and IBM: Management Commitment and Responsibility

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- providing appropriate well-being support and resources
- engaging in and promoting employee well-being and workplace safety programs
- ensuring employees have the information and training they need to understand workplace safety and health, so they can recognize and control potential hazards
- reporting and investigating workplace incidents, such as injuries, illnesses, or near-misses, and taking action to help minimize the potential for future occurrence
- monitoring contractor safety performance, and ensuring they are provided with IBM-unique information that will allow them to do their job safely
- providing employees with timely responses and actions on their concerns dealing with well-being or workplace safety
- recognizing employees for positive safety and health contributions

4. **I'm certain that prevention is important, but just how does it pay off for employees and IBM?**
A key component of IBM's investment in employee health is prevention. Why? Healthy employees tend to experience better quality of life in their personal lives as well as in the workplace. Those who discover health problems early tend to get well faster and spend less on medical care. IBM has increased its investment in preventive care and wellness, even as health care costs have risen.

Prevention, whether it relates to health problems, workplace accidents and illnesses, or even stress, is an underlying theme in all IBM well-being programs. Some examples include:

- providing personal wellness information and tools
- health benefits that encourage maintaining a healthy lifestyle
- stress reduction resources, Stress: Managing yourself and others QuickView
- workplace accident prevention plans
- emergency and evacuation pre-planning
- substituting different chemicals or processes, or even eliminating a process altogether
- awareness education and training

5. **Am I responsible for employees who actually work in customer location environments or work from home?**
Yes. IBM management is responsible for the safety and health of people they manage including all IBM business units operating in IBM owned and/or leased facilities, mobile employees, and employees who work from their home or at customer locations. While you may delegate certain

http://w3.ibm.com/manager/quickview/mgrqv.nsf/content/85256843:000F9C6B

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duties related to workplace safety, ultimate responsibility for the well-being of your employees is with you, their direct manager, regardless of their work environment. IBM recognizes that it is common to have employees that are located at sites or locations other than where you reside. For this reason, it is even more important that you show your commitment for these employees' well-being by communicating with them, addressing their concerns, and ensuring they have access to the well-being resources that they may need.

6. **What can I do to provide for the safety and well-being of my employees who work from home (WFH)?**
Although you are not expected to personally visit or review your employees' home offices, it is still important that you provide the appropriate well-being support to them. The first step is to encourage WFH employees to assess the potential risks associated with their workstation setup. The IBM Ergonomics web site is an excellent source of information on IBM's ergonomic program, including ergonomics training, how to perform an ergonomic assessment of a home workstation, and how to obtain ergonomic accessories. Additionally, WFH employees may experience safety challenges quite different than employees working at an IBM location. You should encourage your employees to review the safety and health information located in the General Office Safety, and Mobile and Home Working FAQ web pages.

7. **What can I do to provide for the safety and well-being of my mobile employees that visit or reside at IBM customer/client locations?**
To understand the host employer's well-being requirements, you may need to work with the Account Representative or the host employer directly. Some examples of risks that could require specific precautions are exposure to chemical operations, industrial equipment, high noise, or asbestos-containing materials. IBM employees that reside at customer data centers may not be aware of the host employer's safety or emergency procedures. It is important to remember that if your employees work at these non-IBM locations, they should be knowledgeable of the potential risks or hazards they may be exposed to and how to adequately protect themselves. When IBM employees work at customer or client locations, they do not have the usual IBM resources available to them as do employees at an IBM owned or managed location. However, you must still ensure that they understand and cooperate with the host employer's well-being requirements, including such things as:
   - completing any required host employer safety training
   - using any host employer required personal protective equipment
   - understanding the host employer's process or procedures for reporting work-related hazards, and most importantly,
   - knowing and following the host employer's emergency reporting and evacuation procedures

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8. **How do I know what safety and health training and awareness to provide my employees?**
Not all jobs have required safety training. Some environments, such as manufacturing, research, service, or certain higher risk activities, will require specific safety training. However, awareness education, such as good ergonomic practices, may be sufficient for other tasks, like office-type environments. At a minimum, all employees must be aware of the emergency procedures for their work location, e.g., evacuation procedures, and how to report an emergency. You should know the potential risks in your employees' jobs and work environments so you can ensure appropriate training is provided. The Manager Safety and Health Resource/Training web page provides a list of common training topics with a course description, and which employees are required to take the training. Links to US location specific training requirements as well as the general requirements for the US Non-Manufacturing environment are also available.

9. **How do I investigate a work-related injury or illness?**
When an accident or work-related injury or illness occurs, IBM requires management perform an accident investigation and that the cause of the injury or illness is corrected in a timely manner, if applicable. The objective of accident investigation is to prevent recurrence by eliminating or mitigating the root cause(s) that lead to the accident whenever possible. You should review the information provided in the Manager's Quickview on Accident Investigation and the Accident Reporting FAQ web page for more information.

10. **What should I do if a government agency (federal, state or local) representative shows up at my IBM location for a safety and health inspection?**
Government agency inspections or audits can be announced or unannounced, prompted by an employee complaint, as part of a special emphasis program, or a routinely scheduled inspection. IBM's intent is to cooperate with the inspecting authority to the fullest extent possible and to conduct an inspection in an efficient, professional manner. You should direct government agency personnel to your location's visitor reception area and follow the established visitor access procedure. Your location should have a location plan and/or contact list in place to accommodate government agency inspections. The Government Agency Inspections procedure provides guidance on plan requirements.

11. **What is IBM's Well-Being Management System (WBMS)?**
The WBMS is a centralized management system that links IBM's occupational medical, safety, industrial hygiene, ergonomics, wellness, and health promotion programs to IBM's business strategies worldwide. What differentiates the WBMS apart from most traditional occupational health and safety management systems is the added scope of employee wellness and health promotion. The WBMS ensures globally integrated teamwork and continuous and consistent improvements in employee well-being across all IBM geographies. At the same time, it has the flexibility to accommodate local initiatives based upon unique employee and business needs. The procedures

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and requirements of the WBMS are intended to guide the organization toward continual improvement and support of the commitments of Corporate Policy Letter 127, "Responsibility for Employee Well-Being and Product Safety" and Corporate Instruction HR 110, "IBM Employee well-being".

12. **Is IBM in compliance with international health and safety standards?**
IBM's WBMS undergoes an annual global audit by an external third party to validate its continued conformance with the requirements of the Occupational Health and Safety Assessment Series -- Standard (OHSAS) 18001:2007. OHSAS 18001 is an international standard that provides requirements for health and safety management systems. It enables an organization to have knowledge of and control over, all relevant occupational and business risks to continually improve performance.

13. **Where can I get more safety and health information?**
The Manager Safety and Health Resource web site was developed by Integrated Health Services (IHS) to provide management with a single focal point for safety and health information, resources and tools for proper implementation of IBM's well-being programs. Additionally, assistance is available from IHS at 888.553.5752 or by sending an email to YourSafety/Raleigh/Contr/IBM.

Additional Information
If you have a specific question not answered above, please send an email to YourSafety/Raleigh/Contr/IBM.

If you'd like to provide feedback on this FAQ, please use the w3 Feedback link located at the top right corner of this page.

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KKK.f Personal Wellness

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Personal Wellness

Find personal wellness tools and resources to help you build and maintain optimal health and vitality.

Articles and resources

Healthy Living Rebates

The popular vitality, physical activity, and children's health programs continue in 2012, with new features on healthy pregnancy, migraines, and musculoskeletal health. Begin your programs now!

[Read]

Healthy Living Rebates

- Personal Vitality Rebate
- Physical Activity-Nutrition Rebate
- Children's Health Rebate
- New Hire Rebate

Wellness for Life

- Wellness for Life Website
- Personal Vitality
- Physical Activity
- Healthy Eating
- Resilience & Stress Management

http://w3-03.ibm.com/hr/us/ohs/gohsweb.nsf/pages/stressdirections.htm

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Healthy Pregnancy

For 2012, a new option is available for the 2012 Children's Health Rebate, offering unique support and resources to help individuals experience a healthy pregnancy, from pre-conception planning to post-partum recovery.

[Read]

New! Think Vitality Blog
The Think Vitality blog features insights, personal stories, book reviews, and other resources regarding personal vitality and well-being. ***best viewed in Firefox.**

[Read]

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- Flu Immunizations
- Family Health

Health Management

- Medical Benefits
- 100% Preventive Care Coverage
- Health Management Center
- Navigating the Healthcare System
- Quality hospital locator

Integrated Health Services

- Workplace Safety
- Ergonomics
- Travel health

http://w3-03.ibm.com/hr/us/ohs/gohsweb.nsf/pages/stressdirections.htm

KKK.g Stress

You and IBM: Resilience & Stress Management - Mozilla Firefox: IBM Edition

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Career and life > You and IBM - U.S. > Your health > Personal wellness

Resilience & Stress Management

Everyone experiences stress, but the way we cope with it is an individual choice -- one that affects our capacity to flourish. Fortunately it's possible to adapt to life's stresses and reduce their negative impact. The key is to develop and maximize personal resilience.

Developing resilience is a personal journey, and IBM offers industry-leading programs to help you take the path that's most beneficial for you:

Personal Resilience Assessment
This comprehensive online assessment helps identify your sources of stress, what makes you susceptible to stress, and how resilient you are. You'll create a Resilience Action Plan and receive resources to help you respond to life's challenges in flexible new ways.

LifeWorks
This comprehensive service provides practical solutions, realistic answers, and customized resources on a full range of personal and professional issues, including work/life balance, child care, elder care, education, and more. LifeWorks is available 24 hours a day, 365 days a year (online and by phone).

Employee Assistance Program (EAP)
To access the EAP, call OptumHealth Behavioral Solutions' Clinical Referral Line (CRL) at 800-445-9720 (TTY for the deaf and hard of hearing community: 800-525-5668). This referral line is your "gateway" to EAP services. Experienced mental health care professionals can help assess your situation and refer you to appropriate care whether you're facing an emergency or just need information on how to cope with everyday challenges.

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LLL STD Certifications

LLL.a Aug. 15 – Sep. 14

From: PATRICIA HORNING/Fishkill/IBM
To: Daniel Feldman/Marlborough/IBM@IBMUS; Walter Tuvell/Marlborough/IBM@IBMUS
cc: PATRICIA HORNING/Fishkill/IBM@IBMUS
Subject: *IBM Confidential: STD: Walter Tuvell 0G3821
Date sent: 08/17/2011 09:42:04 AM

Short-term Disability (STD) Certification

Employee name: **Walter Tuvell** Serial number: **0G3821**

As a result of the most recent request for the above employee:

- **Approved for STD** from **08/15/2011** through **09/14/2011**. (Managers please update eTOTALS)
- **Return to work** is anticipated on **09/15/2011** if additional medical information (updated MTR) is not received by __ and IHS has not issued a new certification form.

Comments: If extended STD is needed please provide updated MTR.

Note to managers: Managers and employees should communicate weekly during STD absence. IBM regular employees may be eligible for STD benefits up to a maximum of 26 weeks. Employees receiving benefits from the STD Plan should apply for Long Term Disability (LTD) by the beginning of the 13th week of STD.

Note to employees: If you are approved for STD benefits, this absence will also be counted toward the annual Family and Medical Leave Act (FMLA) if eligible.

Additional information:
- Family and Medical Leave Act (FMLA)
- STD Plan Overview and the Manager Checklist
- LTD Plan Overview and application forms
- Employee Service Center (ESC) at 1-800-796-9876 option #4.

Signature: PATRICIA HORNING Date: 08/17/2011
Phone: 1-888-553-5752 option 2 Fax: 919-543-0834

IBM Confidential

LLL.b Sep. 15 – Oct. 17

From: Kathleen Dean/Fishkill/IBM
To: Daniel Feldman/Marlborough/IBM@IBMUS; Walter Tuvell/Marlborough/IBM@IBMUS
cc: Kathleen Dean/Fishkill/IBM@IBMUS
Subject: *IBM Confidential: STD: Walter Tuvell 0G3821
Date sent: 09/09/2011 09:14:57 AM

Short-term Disability (STD) Certification

Employee name: **Walter Tuvell** Serial number: **0G3821**

As a result of the most recent request for the above employee:

- **Approved for STD** from **09/15/2011** through **10/17/2011**. (Managers please update eTOTALS)
- **Return to work** is anticipated on **10/18/2011** if additional medical information (updated MTR) is not received by __ and IHS has not issued a new certification form.

Comments: If extended STD is needed please provide updated MTR.

Note to managers: Managers and employees should communicate weekly during STD absence. IBM regular employees may be eligible for STD benefits up to a maximum of 26 weeks. Employees receiving benefits from the STD Plan should apply for Long Term Disability (LTD) by the beginning of the 13th week of STD.

Note to employees: If you are approved for STD benefits, this absence will also be counted toward the annual Family and Medical Leave Act (FMLA) if eligible.

Additional information:
- Family and Medical Leave Act (FMLA)
- STD Plan Overview and the Manager Checklist
- LTD Plan Overview and application forms
- Employee Service Center (ESC) at 1-800-796-9876 option #4.

Signature: Kathleen Dean, RN Date: 09/09/2011
Phone: 1-888-553-5752 option 2 Fax: 919-543-0834

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LLL.c Oct. 18 – Nov. 7

From: Kathleen Dean/Fishkill/IBM
To: Daniel Feldman/Marlborough/IBM@IBMUS; Walter Tuvell/Marlborough/IBM@IBMUS
cc: Kathleen Dean/Fishkill/IBM@IBMUS
Subject: *IBM Confidential: STD: Walter Tuvell 0G3821
Date sent: 10/17/2011 02:10:35 PM

Short-term Disability (STD) Certification

Employee name: **Walter Tuvell** Serial number: **0G3821**

As a result of the most recent request for the above employee:

- **Approved for STD** from **10/18/2011** through **11/07/2011**. (Managers please update eTOTALS)
- **Return to work** is anticipated on **11/07/2011** if additional medical information (updated MTR) is not received by __ and IHS has not issued a new certification form.

Comments: IBM Nurse Case Manager needs to review MTR form with IBM Physician; Manager please inform employee of LTD process when h/she has used 13 weeks of STD.; Manager please send note to Sickacc@us.ibm.com. to obtain STD end date, include the employee's name, serial number and last day worked in the request, cc case manager (deanka@us.ibm.com)

Note to managers: Managers and employees should communicate weekly during STD absence. IBM regular employees may be eligible for STD benefits up to a maximum of 26 weeks. Employees receiving benefits from the STD Plan should apply for Long Term Disability (LTD) by the beginning of the 13th week of STD.

Note to employees: If you are approved for STD benefits, this absence will also be counted toward the annual Family and Medical Leave Act (FMLA) if eligible.

Additional information:

- Family and Medical Leave Act (FMLA)
- STD Plan Overview and the Manager Checklist
- LTD Plan Overview and application forms
- Employee Service Center (ESC) at 1-800-796-9876 option #4.

Signature: Kathleen Dean, RN Date: 10/17/2011
Phone: 1-888-553-5752 option 2 Fax: 919-543-0834

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LLL.d Nov. 8 – Dec. 19

From: Kathleen Dean/Fishkill/IBM
To: Daniel Feldman/Marlborough/IBM@IBMUS; Walter Tuvell/Marlborough/IBM@IBMUS
cc: Kathleen Dean/Fishkill/IBM@IBMUS; Al Pfluger/Fishkill/IBM@IBMUS
Subject: *IBM Confidential: STD: Walter Tuvell 0G3821
Date sent: 11/07/2011 03:14:30 PM

Short-term Disability (STD) Certification

Employee name: **Walter Tuvell** Serial number: **0G3821**

As a result of the most recent request for the above employee:

- **Approved for STD** from **11/08/2011** through **12/19/2011**. (Managers please update eTOTALS)
- **Return to work** is anticipated on **12/19/2011** if additional medical information (updated MTR) is not received by **12/19/2011** and IHS has not issued a new certification form.

Comments: If extended STD is needed please provide updated MTR.; Manager please inform employee of LTD process when h/she has used 13 weeks of STD.; Manager please send note to Sickacc@us.ibm.com. to obtain STD end date, include the employee's name, serial number and last day worked in the request, cc case manager (deanka@us.ibm.com)

Note to managers: Managers and employees should communicate weekly during STD absence. IBM regular employees may be eligible for STD benefits up to a maximum of 26 weeks. Employees receiving benefits from the STD Plan should apply for Long Term Disability (LTD) by the beginning of the 13th week of STD.

Note to employees: If you are approved for STD benefits, this absence will also be counted toward the annual Family and Medical Leave Act (FMLA) if eligible.

Additional information:

- Family and Medical Leave Act (FMLA)
- STD Plan Overview and the Manager Checklist
- LTD Plan Overview and application forms
- Employee Service Center (ESC) at 1-800-796-9876 option #4.

Signature: Kathleen Dean, RN Date: 11/07/2011
Phone: 1-888-553-5752 option 2 Fax: 919-543-0834

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LLL.e Dec. 20 – Jan. 24

From: Kathleen Dean/Fishkill/IBM
To: Daniel Feldman/Marlborough/IBM@IBMUS; Walter Tuvell/Marlborough/IBM@IBMUS
cc: Kathleen Dean/Fishkill/IBM@IBMUS; Al Pfluger/Fishkill/IBM@IBMUS
Subject: *IBM Confidential: STD: Walter Tuvell 0G3821
Date sent: 12/28/2011 08:29:46 AM

Short-term Disability (STD) Certification

Employee name: **Walter Tuvell** Serial number: **0G3821**

As a result of the most recent request for the above employee:

- **Approved for STD** from **12/20/2011** through **01/24/2012**. (Managers please update eTOTALS)
- **Return to work** is anticipated on **01/25/2012** if additional medical information (updated MTR) is not received by __ and IHS has not issued a new certification form.

Comments: Notified by IBM Sickness Accident that employee's estimated end date of STD Benefits is 01/24/2012. STD Benefits will cease on 01/25/2012. Manager please inform employee of LTD process when h/she has used 13 weeks of STD

Note to managers: Managers and employees should communicate weekly during STD absence. IBM regular employees may be eligible for STD benefits up to a maximum of 26 weeks. Employees receiving benefits from the STD Plan should apply for Long Term Disability (LTD) by the beginning of the 13th week of STD.

Note to employees: If you are approved for STD benefits, this absence will also be counted toward the annual Family and Medical Leave Act (FMLA) if eligible.

Additional information:

- Family and Medical Leave Act (FMLA)
- STD Plan Overview and the Manager Checklist
- LTD Plan Overview and application forms
- Employee Service Center (ESC) at 1-800-796-9876 option #4.

Signature: Kathleen Dean, RN Date: 12/28/2011
Phone: 1-888-553-5752 option 2 Fax: 919-543-0834

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MMM Transcript: Dr. Oz & Rachael Ray

▶*This Appendix contains the transcript of a 60-second segment of an episode of the television show "The Dr. Oz Show", broadcast Monday, December 12, 2011, in the Boston area on the Fox network affiliate ("Fox 25"). The video of the show was made available online shortly afterwards, at the Dr. Oz website (and indexed/linked on YouTube, http://www.youtube.com), under the title "Rachael Ray's #1 Holiday Recipe — Beef Stew with Apple, Onions and Roasted Garlic", in two Parts (of duration 4 min. 19 sec. and 3 min. 15 sec. respectively):*

http://www.doctoroz.com/videos/rachaels-1-holiday-recipe-pt-1
http://www.doctoroz.com/videos/rachaels-1-holiday-recipe-pt-2

I obtained a (fair-use) video/audio copy (which I still possess) of the segment, beginning at timestamp 2 min. 5 sec. of Part I, and created the following (verbatim) transcript from it.

The specific passage of interest is the utterance by Rachael Ray, "for lazy people", occurs at the midpoint of the segment, and is highlighted in this transcript.◀

▶*We pick up the show in progress, with Oz and Ray cooking, under Ray's direction.*◀

- **…**
- **Ray —** All right. Yaaaaay! (Audience applause.) Good job.
- **Oz —** There we are. OK.
- **Ray —** Good enough.
- **Oz —** Add a couple of these celery things.
- **Ray —** Yeh, and that little nubber you left on there, that's a little extra fiber, that's OK.
- **Both —** (Laughter.)
- **Ray —** Celery …
- **Oz —** All right.
- **Ray —** … he's very good at, very strong this guy.
- **Oz —** There we are.

- **Ray —** Now … now you have celery, apples and onions in here. You let that cook and wilt up a little bit on the stovetop.

  Now, ***for lazy people*** who don't want to bother chopping the herbs … this is brilliant. Just tie them in a little bundle, and make a *bouquet garni*, this is. OK?

- **Oz —** Oooh.
- **Ray —** You take sage, thyme, parsley. You just tie it with kitchen string. Throw it in.
- **Oz —** I can tie that knot. That's good.
- **Ray —** Done!
- **Oz —** That's it?

- **Ray —** Bay leaf. Done!
- **Oz —** You …
- **Ray —** Done!
- **Oz — …** you don't have to cut it up?
- **Ray —** You don't have to cut it up. You just throw it in there. Fish it out later. It's fine.
- **Oz —** Wha…?
- **Ray —** It's fine.
- **Oz —** Oh, you say throw it away later on.
- **Ray —** You just pull it out later.
- **Oz —** Bite into that it would hurt.
- **Ray —** You don't have to bother chopping it. I mean, very easy. Everything's "chopped" big.

  You brown meat, you add this to the pot. You throw the meat back in.
- …

▶*The show continues.*◀

NNN Stop (Workplace) Bullying

NNN.a Some Anti-Bullying Images

▶*A collection of "Stop Bullying" images (for both "regular/school" bullying and "adult/workplace" bullying), found on the Internet (esp. Google Images).*◀

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STOP
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NOW
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BULLYING
Stop Bullying NOW!
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BULLY
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HELP
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NNN.b IBM's Pretended/"Public" Stance Against Bullying

▶*The Eyes On Bullying program (http://www.eyesonbullying.org) obtains major funding from IBM. See the flyer below, advertising IBM's support (at the final line of the flyer), available at http://www.eyesonbullying.org/pdfs/EyesonBullying_flyer.pdf. The EDC HHD Bullying Pre-vdention page following the flyer also prominently advertises IBM's funding (http://www.h-hd.org/topics/violence/highlights/bullying-prevention). Siminarly, the corresponding 43-page booklet, available at http://www.eyesonbullying.org/pdfs/EyesonBullying_flyer.pdf (too long to include here).*

(Nothing in the present Complaint is intended to denigrate any of the work of the Eyes On Bullying program itself, or its parent organization, Education Development Center, Inc.)◀

Education Development Center, Inc. is pleased to announce:

Eyes on Bullying

www.eyesonbullying.org

A NEW multimedia program designed to help prevent bullying in children's lives

The ***Eyes on Bullying*** program features an innovative toolkit,
a specially-designed website, and educational teleseminars.

TOOLKIT

Successful bullying prevention includes education, preparation, and teamwork. The *Eyes on Bullying* Toolkit provides specific insights, strategies, activities, and resources to address bullying. It is designed especially for teachers, caregivers, and parents of preschool and school-age children and youth to use in child care programs, afterschool and youth programs, schools, and camps.
Download it now! www.eyesonbullying.org/toolkit.html

WEBSITE

A new website, *Eyes on Bullying,* offers a variety of tools that can help you look at and understand bullying in a new way, reexamine your own knowledge and beliefs about bullying,
and shape the beliefs and behaviors of the children in your care.
Check it out! www.eyesonbullying.org

TELESEMINARS

One-hour podcasts from the national *Eyes on Bullying* Teleseminar series:
(1) *Eyes on Bullying*…Spotlight on young children
(2) *Eyes on Bullying*…The growing problem of cyberbullying
(3) *Eyes on Bullying*…Stop bullying in camp & youth programs
Download podcasts and transcripts! www.eyesonbullying.org/teleseminars.html

WORKSHOPS, PRESENTATIONS, & TRAININGS

Specially targeted for educators, teachers, caregivers, and parents
SIGN UP your school or program now!
INCLUDE an *Eyes on Bullying* presentation in your next conference!
CONTACT Kim Storey at kim@kimstorey.net

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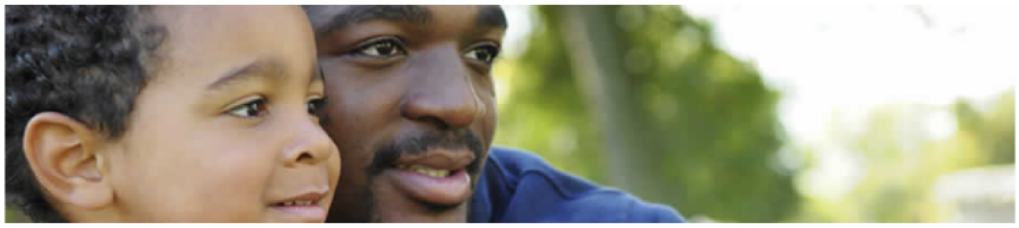

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Bullying Prevention

Eyes on Bullying is a national, multimedia bullying-prevention effort funded by IBM that provides parents and caregivers with user-friendly, effective ways to learn the essential principles of bullying prevention. Initially developed for IBM employees, and available to the public, the toolkit includes a 42-page manual with information, resources, and skill-building activities for caregivers and parents to use with children.

The toolkit can be downloaded from the *Eyes on Bullying* website which also offers additional resources and Web links, as well as three teleseminars with expert speakers, available as podcasts or transcripts.

Project: Eyes on Bullying

Funder: IBM Corporation

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Highlights of Our Work

- Bullying Prevention
- Engaging Bystanders in Prevention
- Global Violence Prevention Initiative
- Improving Child and Adolescent Safety

Reach and Impact

The *Eyes on Bullying* website received 393,000 hits in the first 3½ months and approximately 70,000 copies of the toolkit were downloaded. A simple search of "*eyes on bullying*" in the Google search engine reveals more than 600 sites that currently reference or link to this effective program.

Website

Eyes on Bullying

Related Information

Bullying Prevention: Beyond Crime and Punishment | Story

Eyes on Bullying . . . What Can You Do?: A Toolkit to Prevent Bullying in Children's Lives | Publications

Bullying: From the Preschool Classroom to Cyberspace | Story

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NNN.c IBM's Actual/"Private" Stance Favoring Bullying

▶*http://news.ninemsn.com.au/national/8362804/woman-sues-ibm-for-1-1m-over-bullying*◀

Woman sues IBM for $1.1m over bullying - Mozilla Firefox <2>

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Woman sues IBM for $1.1m over bullying

18:16 AEDT Thu Oct 20 2011

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A woman who is suing computer giant IBM for $1.1 million says she was told by a senior manager to "get those boobies out" to get sales.

Susan Spiteri, who worked in Melbourne as a senior sales executive, has filed a claim in the Federal Court over alleged workplace bullying and sexual harassment by her supervisor.

In her statement of claim, she alleges her boss's behaviour also included screaming and abuse, sending humiliating emails, calling her stupid, making inappropriate comments about her to others, and repeatedly contacting her out of hours.

The 42-year-old alleges that in meetings with her manager, he had told her to get her breasts out to bring in more sales.

At one meeting, he'd allegedly said: "Susan, we're down on orders this week; go on and show that pretty face of yours. Get those boobies out and get sales."

Susan Spiteri.

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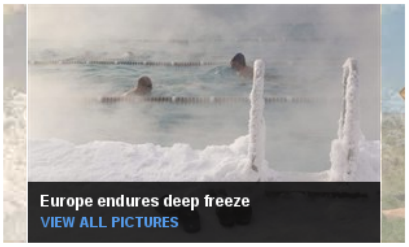

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She also alleges that on another occasion at an IBM function, the man ran his hand up her dress on three occasions and asked her to lower her dress so he could see her breasts.

Ms Spiteri, who has worked for the company for about 10 years, also claims that when she reported the bullying to IBM's human resources department, it turned a blind eye.

She said that because of the abuse, which lasted about two years, she was in tears nearly every day at her desk, was diagnosed with depression, had attempted suicide and had been unable to work since November 2009.

"I'm mentally and physically sick from the experience. I'm drained. It's cost me a lot of money too," she said.

She said she was taking the legal action to seek compensation for what she has gone through and for loss of income.

"The bullying affects everything, including my relationships with my family and friends," she said.

"I still feel like a failure because that's how they made me feel. It just shouldn't be that way."

An IBM spokeswoman said the company did not tolerate any type of harassment and it would vigorously defend itself in court.

She said Ms Spiteri continues to receive compensation and support from IBM.

"The person against whom the harassment allegations were made left IBM two years ago," she said.

Lawyer Siobhan Keating, who is representing Ms Spiteri, said while IBM had a detailed policy that commits it to a workplace free from harassment, it failed to act in this instance.

"It's not enough for companies like IBM to have the right policies in place if they're not enforced," Ms Keating said.

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▶*http://www.abc.net.au/am/content/2011/s3343886.htm*◀

AM - IBM accused of ignoring multiple harassment claims 20/10/2011 - Mozilla Firefox <2>

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TONY EASTLEY: A former high flying IBM sales executive has told AM that the company ignored her allegations of sexual harassment and bullying by a senior manager for nearly two years before it investigated her claims.

Last week IBM lost a court bid to have details of the case suppressed.

AM - IBM accused of ignoring multiple harassment claims 20/10/2011 - Mozilla Firefox <2>

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IBM being sued for sexual harassment - background info from AM 15.04.11

Images

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Susan Spiteri's lawyers say more harassment and bullying cases taken out by IBM staff are in the pipeline.

IBM says it doesn't tolerate harassment and plans to vigorously defend the case in court.

Sue Lannin:

SUE LANNIN: Susan Spiteri started work at IBM in Melbourne in 1999.

She was one of the computer company's top sales people on a salary of $150,000.

SUSAN SPITERI: IBM was my life. I loved my job. I loved my customers. I loved my job. I loved what I did. It was my identity.

SUE LANNIN: But Susan Spiteri says that all changed in 2007 when a new manager was appointed.

In a statement of claim lodged in the Federal Court she alleges she was sexually harassed and bullied for nearly two years by the man who was her supervisor.

SUSAN SPITERI: He groped me. He rubbed himself against my backside when he walked past me. He put his, he touched me, put his hand up my dress, asked me to expose my breasts to get more sales.

He called me names to my customers and customers then advised me of that. He yelled at me consistently.

SUE LANNIN: In court documents Ms Spiteri says she repeatedly complained to her managers at IBM but they took no action.

SUSAN SPITERI: My colleagues were all supportive but they were all too scared to do anything about it. They would see me crying nearly every day at my desk.

SUE LANNIN: The statement of claim alleges that Ms Spiteri made a formal complaint to IBM in May 2009 and the company did an investigation.

AM - IBM accused of ignoring multiple harassment claims 20/10/2011 - Mozilla Firefox <2>

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The document says the senior manager resigned in August that year after IBM put the allegations to him.

Ms Spiteri told AM the man was then assigned by the company to be one of her customers.

Susan Spiteri left IBM in late 2009.

Now 42, she says the experience has taken a huge toll on her life.

SUSAN SPITERI: I did try to take my life a couple of times.

SUE LANNIN: What are you hoping to get out of this court action?

SUSAN SPITERI: To get a resolution so that I can try and move forward. I want to encourage other victims of sexual harassment and bullying to be strong and come forward.

SUE LANNIN: AM asked IBM to respond to the allegations in the case.

In a statement an IBM spokesperson said:

STATEMENT FROM IMB: IBM does not tolerate harassment of any type. The claimant remains an employee of IBM and continues to receive comprehensive benefits and support. The person against whom the harassment allegations were made left IBM two years ago. We will vigorously defend ourselves in court.

SUE LANNIN: Employment lawyer Siobhan Keating from Maurice Blackburn Lawyers is representing Susan Spiteri.

She says there are several other complaints relating to different people at IBM.

SIOBHAN KEATING: Since the action against IBM was made public earlier this year we've had a significant number of people come forward and speak to us about those sorts of issues and there are a number of cases on foot against IBM.

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SUE LANNIN: IBM refused to comment on whether other staff members had made complaints.

TONY EASTLEY: Sue Lannin with that report.

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