

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
WESTERN REGIONAL OFFICE**

JEFFREY LEWIS,

Complainant,

vs.

**RAY LAHOOD, SECRETARY,
DEPARTMENT OF TRANSPORTATION,**

Agency.

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**DOCKET NUMBER
SF-0752-09-0139-I-1**

Judge Craig A. Berg

February 18, 2009

AGENCY'S PRE-HEARING SUBMISSIONS

The Agency submits its prehearing submissions as follows.

FACTS AND ISSUES.

The Agency's statement of facts and issues is as contained in the proposed removal letter (Agency File Tab 4d), the decision letter (Tab 4b), and the narrative statement (Tab 1).

AGREED UPON MATERIAL FACTS.

1. The parties conferred on February 18, 2009, and there are no agreed upon material facts at this time.

WITNESSES

1. Andy Richards. Proposing official.
2. Mark DePlasco. Deciding Official.
3. Jason Ralph. Will testify to facts essentially as stated in his statement in the Report of Investigation (ROI) (Tab 4e of the Agency File).

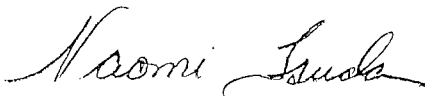
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4. Patricia Hardy. Will testify to facts essentially as stated in her statement in the Report of Investigation (ROI) (Tab 4e of the Agency File).
5. James Austin. FAA Security Agent responsible for investigating alleged conduct by Appellant. Will testify to statements made by Appellant as more fully identified in Reason No. 3 of the proposal (providing misleading information during an official investigation), and documented in Appellant's statement in the ROI (Agency File Tab 4e).
6. John Crabtree. Will testify to facts essentially as stated in his statement in the Report of Investigation (ROI) (Tab 4e of the Agency File).
7. James Swanson. Will testify to facts essentially as stated in his statement in the Report of Investigation (ROI) (Tab 4e of the Agency File).
8. Gwen Marshall. Was on the telephone with Jason Ralph and Patricia Hardy and heard Mr. Ralph repeatedly direct Mr. Lewis to leave the facility.

COPIES OF EXHIBITS.

The Agency has no documents in addition to those in the Agency File at this time.

Respectfully submitted,



NAOMI TSUDA
Agency Representative

Dated: February 18, 2009