COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

March 3, 2023

Middlesex, ss.

Docket No. CR-14-299

DEBRA A. CALDIERI, Petitioner

v.

MASSACHUSETTS TEACHERS' RETIREMENT SYSTEM, Respondent

DECISION

Appearance for Petitioner:

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Appearance for Respondent:

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Administrative Magistrate:

Mark L. Silverstein, Esq.

Summary of Decision

Retirement (Public Employees) - Accidental Disability Retirement (ADR) -ADR denial reversed - Former public high school teacher - Aggravation of preexisting neurological and emotional/psychiatric injuries to point of disability - School administrative actions against teacher following student suicide - Causal nexus - Sufficiency of Proof - Medical Panel Review - Neurological panel opinion negative as to aggravation of preexisting multiple sclerosis and MS-related seizures - Psychiatric panel majority affirmative as to non-MS-related (and non-epileptic) pseudoseizures, and related depression and anxiety - Medical panel error - Unqualifiedly negative opinion of neurological medical panel as to work-related aggravation; and application of erroneous standards - Sufficiency of proof that actions alleged were predominant contributing cause of aggravation of non-MS-related medical conditions to point of disability.

Petitioner, a former public high school Latin teacher with exceptional performance reviews, sought accidental disability retirement (ADR) based upon work-related aggravation, to the point of disability, of separate preexisting medical conditions through which she had taught previously (multiple sclerosis (MS); seizures; depression; and anxiety). MS was suspected but never confirmed by testing; non-MS-related, and non-epileptic, pseudoseizures were noted by treating physicians as more likely. The alleged aggravation comprised actions taken against petitioner by high school administrators following the January 14, 2010 suicide of a student she had mentored and who had been bullied by classmates. These included verbal dressings-down by the school Principal in his office; disciplinary proceedings; placement on probation for a year (for accompanying students to off-campus meeting following student suicide, and posting social media comment regarding student bullying); reduction to 80 percent of a full-time paid position but with an increase in petitioner's class load and being required to teach several levels of Latin, from beginner to advanced placement, in the same classroom at the same time; and being threatened with having her Latin students redirected to online instruction if petitioner continued to question her increased workload. A classroom observation by administrators in October 2010 acknowledged petitioner's effective teaching in a physically-challenging oversized classroom, but criticized where she stood in the classroom while teaching, insufficient reminders about homework and note-taking, and accepting oral responses by students to questions instead of requiring that answers be written down and submitted. Despite actual or apparent knowledge of petitioner's medical conditions, school administrators neither provided nor offered her assistance, and apparently had no plan to do so. While continuing to teach through the Fall 2010 semester, petitioner experienced increasing seizure incidents, depression and anxiety as work-related stresses increased. On December 3, 2010, a Vice Principal entered petitioner's classroom briefly to tell her where to send disruptive students, but he declined her invitation to observe the class; later that day, the Vice Principal sent petitioner a letter threatening disciplinary action unless she changed her classroom teaching methodology, but offered no assistance to help her handle her increased class load or succeed in complying with the Vice

Principal's teaching methodology-related demands. Fearing impending termination, petitioner left the school and almost immediately suffered a seizure. She did not return to work.

Following petitioner's ADR application in July 2011, two medical panels were convened to examine her, one neurological (to evaluate alleged aggravation of her MS and related seizures), and one psychiatric (to evaluate alleged aggravation of psychiatrically-based seizures and related depression and anxiety). Both panels opined that teacher was disabled, likely permanently. The neurological panel opined unanimously in the negative as to work-related aggravation; despite acknowledging no medically-confirmed MS, the panel members opined definitively that preexisting MS and related seizures would have progressed inevitably to disability regardless of stress related to the student suicide or to the actions taken by school administrators. The psychiatric panel majority opined affirmatively as to work-related aggravation of teacher's non-MS-related seizures, depression and anxiety; the psychiatric panel minority disagreed, based upon the inevitable progression of MS. MTRS denied petitioner's ADR application based upon the neurological medical panel's unanimous negative opinion, and the psychiatric panel minority opinion, as to work-related aggravation.

The denial of the teacher's ADR application is reversed.

(1) The negative panel member opinions as to work-related aggravation of teacher's preexisting medical conditions to the point of disability, on which MTRS relied in denying ADR, were expressed without qualification based upon a progressing MS that was never confirmed medically, as one of the neurological panel members emphasized in her extensive report. Per M.G.L. c. 32, § 6(3)(a), the medical panels' role was to address whether aggravation of the teacher's medical conditions to the point of disability by the administrative actions alleged was medically possible. The statute does not authorize unqualifiedly negative medical panel opinions as to causation or aggravation. This is especially true here as to the possibility that non-MS-related preexisting conditions, including non-epileptic pseudoseizures, could have been aggravated efficiently to the point of disability by the administrative actions in question. The negative panel member opinions as to aggravation were therefore nullities, and do not support ADR denial.

(2) Alternatively, the neurological medical panel's unanimous opinion that petitioner's MS was progressing regardless of stress and therefore could not have been aggravated by school administrative actions against her in 2010 would be binding only as to aggravation of MS and related epileptic seizures (if any), and not as to aggravation of preexisting non-MS-related, non-epileptic pseudoseizures, and related depression and anxiety. As to these non-MS-related conditions, the neurological panel applied two erroneous standards, is not binding, and does not support ADR denial:

(a) Although MS-related epileptic seizures are generally not triggered by stress, non-epileptic pseudoseizures can be triggered by stress. The medical records show that petitioner's treating physicians suspected pseudoseizures. A neurological panel member noted that the medical records

showed no confirmed MS. Based upon that fact, and the ineffectiveness of multiple, high-dosage anticonvulsant medications in controlling the teacher's seizures, this panel member opined that the teacher's seizures were most likely non-epileptic pseudoseizures. She did not change this view, and nor did the other neurological panel members disagree with it. Despite this, the panel conflated the teacher's seizures as MS-related and therefore not capable of being stress-aggravated. In doing so, the panel applied an erroneous "no aggravation by stress" standard to the teacher's nonepileptic pseudoseizures, which stress can trigger and aggravate.

(b) The neurological medical panel also opined negatively as to workplace-related aggravation based upon the preexistence of the teacher's medical conditions. However, M.G.L. c. 32, § 7(1) presupposes that existing medical conditions may be efficiently aggravated to disability by a work-related injury or series of injuries. A preexisting condition therefore does not rule out aggravation for ADR purposes.

(3) Petitioner proved sufficiently that workplace-related stresses as a result of administrative actions taken against her following the student's suicide in mid-January 2010 and continuing into early December 2010, aggravated her preexisting non-epileptic seizures; were the predominant contributing cause of her disability, and not merely a contributing cause; and comprised an identifiable condition not common to a great many professions or occupations. The proof included:

(a) The psychiatric panel majority's affirmative opinion as to workplace-related aggravation, which emphasized that the teacher had taught through her various psychiatric conditions well into 2010, but became unable to do as the school administration carried out the actions in question against her. This opinion reflects accurately both the medical and non-medical record, including the testimony of the parties' respective witnesses, and was entitled to great weight as a consequence.

(b) The medical records, which show an increase in the frequency and severity of petitioner's seizures, depression and anxiety after the student's suicide, and petitioner's timely reporting to her treating physicians of school administration actions against her and the seizures she experienced as these actions occurred. Several of these physicians noted that petitioner was able to work through her medical conditions before January 14, 2010 and the increasing difficulty she had doing so after that date. Also supporting petitioner's case for work stress-related aggravation of her conditions was the absence from the medical record of testing confirming MS or, thus, MS-related epileptic seizures that were progressing to disability notwithstanding stress. This absence of confirmed MS was noted by one of the neurological medical panel members.

(4) Actions taken against petitioner by the school administration following the student suicide on January 14, 2010, and continuing through the remainder of the year, were not "bona fide" personnel actions exempt from being considered a personal injury for ADR purposes. They were not based upon petitioner's actual job performance, or justified by either clearly-identified misconduct or genuine concern for her health. When the school administration undertook the actions in question

it was, or should have been, aware of petitioner's deteriorating health, including seizures that had occurred at the school following discipline or threatened discipline. It offered petitioner no assistance in coping with her increased class load or meeting additional classroom performance demands placed upon her. Instead, it threatened her with discipline and loss of her Latin classes if she complained of her workload. In the circumstances, the administrative actions in question were pretextual, intended to create an excuse for discipline or termination, and were outrageous.

Background

Petitioner Debra A. Caldieri, a former Latin teacher at South Hadley (Massachusetts) High School, appeals, pursuant to M.G.L. c. 32, § 16(4), from the May 30, 2014 decision of respondent Massachusetts Teachers' Retirement System (MTRS) denying her application for accidental disability retirement (ADR) benefits. Ms. Caldieri claimed that she was mistreated by school administrators following the January 14, 2010 suicide of Phoebe Prince, a student she had mentored, and that this mistreatment aggravated her preexisting multiple sclerosis, seizure disorder, depression, and anxiety to the point of likely-permanent disability, leaving her unable to perform the essential duties of her teaching position and forcing her to cease working in early December 2010.[1] The teacher's alleged mistreatment included disciplinary action taken against her in late January 2010, including being placed on probation for a year after she accompanied several students to an off-campus meeting at another student's home (after confirming permission to do so); coarse language

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[1]/ Petitioner's prehearing memorandum (Oct. 30, 2015) at 2. The deceased student's identity was disclosed in the *Boston Globe* and in other news media following her suicide, and her name was associated publicly with efforts by the Massachusetts Legislature to enact anti-bullying legislation in 2010. Neither party requested that I refer to her with initials or a pseudonym.

directed at her by the school Principal; having her paid position reduced to 80 percent of a full-time teaching position while being assigned an increased class load, and being subjected to negative ad hoc classroom teaching evaluations with a threat of further discipline, even though her teaching was rated as effective, similar to the positive performance reviews the teacher had received during scheduled classroom observations through 2009.[2]

The student's suicide, and her prior harassment by other, mostly older, students divided the high school and the town, and were reported extensively in the media. By the end of January 14, 2010 and continuing afterward, morale among faculty, administrators and students at the high school deteriorated significantly, and the school environment became chaotic. Several students who were allegedly involved in Phoebe Prince's bullying were charged by the District Attorney with having raped her and violated her civil rights. Phoebe Prince's suicide in particular, and at least one other student suicide elsewhere in Massachusetts, prompted efforts by citizens and legislators to combat bullying in the schools. Beginning in early 2010, the legislature passed, and the Governor signed, anti-bullying session laws that were codified in the General Laws afterward. *See* M.G.L. c. 71, § 37O.[3]

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[2]/ *Id*. at 2-3.

[3]/ Since 2014, M.G.L. c. 71, § 37O(a) has defined "bullying" in the school context as:

> [T]he repeated use by one or more students or by a member of a school staff including, but not limited to, an educator, administrator, school nurse, cafeteria worker, custodian, bus driver, athletic coach, advisor to an extracurricular activity or paraprofessional of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that: (i) causes physical or emotional harm to the victim or damage to the victim's property; (ii) places the

Ms. Caldieri filed a single ADR application based upon the work-related aggravation of her preexisting neurological and psychiatric injuries with MTRS on August 11, 2011. (Exh. 3.) It was supported by two treating physicians' statements. Psychiatrist Dr. Killian O'Connell opined that Ms. Caldieri's major depressive disorder "seem[ed] to have deteriorated" following the student's suicide on January 10, 2010, because prior to that event she had been able to complete graduate school and teach full time despite her depression and what he described as multiple sclerosis, but was unable to do so afterward. (*See* Exh. 4.) Neurologist Dr. R. Allison Ryan opined that while Ms. Caldieri's multiple sclerosis was a progressing disorder, the disorder had shown a "marked deterioration since [the] stressors of 1/10 [2010]" that were associated with the student's death, and that there was a "work related marked deterioration of pre-existing condition" after that date." (*See* Exh. 5.)

Two medical panels were convened in succession to examine Ms. Caldieri and evaluate her accidental disability retirement applications, one comprising three neurologists, who examined Ms. Caldieri in late 2012 and early 2013, and the other comprising three psychiatrists, who examined her in April 2014. Each medical panel concluded unanimously that Ms. Caldieri was mentally or physically incapable of performing the essential duties of her job as a teacher, and that the incapacity was likely to be permanent. The panels reached different conclusions, however, as to work-related aggravation of Ms. Caldieri's preexisting conditions after January 14, 2010. The neurological panel

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> victim in reasonable fear of harm to himself or of damage to his property; (iii) creates a hostile environment at school for the victim; (iv) infringes on the rights of the victim at school; or (v) materially and substantially disrupts the education process or the orderly operation of a school. For the purposes of this section, bullying shall include cyber-bullying.

issued a unanimous negative finding as to the possibility of workplace-related aggravation of Ms. Caldieri's multiple sclerosis and seizures. The panel members concluded that these neurologic conditions were worsening progressively and would have become disabling even if the events in question had not occurred. A majority of the psychiatric panel members concluded that Ms. Caldieri's depression and seizure disorder were aggravated by the administrative actions taken against Ms. Caldieri in 2010. Those actions, in the psychiatric panel majority's view, comprised an injury or exposure at a definite time (starting on January 10, 2010 and continuing to early December 2010) and at a definite place (South Hadley High School), and occurred within two years prior to her last day of work in early December 2010.

MTRS denied Ms. Caldieri's ADR application on May 30, 2014. (Exh. 1.) It did so based upon the neurological medical panel's unanimous negative opinion as to workplace-related aggravation of the teacher's preexisting neurological conditions (MS and MS-related seizures). MTRS also found persuasive the psychiatric medical panel minority member's negative opinion as to workplace-related aggravation. It concluded that Ms. Caldieri had failed to show that the school administration's actions in question were the natural and proximate cause of her claimed disability. (*Id.*)[4]

[4]/ During this appeal, MTRS argued that its denial of Ms. Caldieri's ADR application was supported by (1) the dissenting conclusion of the minority psychiatric panel member, which was that Ms. Caldieri's disability was the result of a natural progression of her preexisting psychiatric and medical conditions (eating disorder, PTSD, depression and multiple sclerosis) following the student's suicide, and was "not aggravated in a permanent manner" by the workplace events she asserted in her ADR application; (2) the fact that the student's suicide did not occur at the school; and (3) the absence of any evidence that school staff, faculty and administrators had intended to mistreat Ms. Caldieri following the student's suicide. (*See MTRS Prehearing Memorandum* (Feb.

Ms. Caldieri filed a timely appeal challenging MTRS's denial on June 3, 2014. Both parties filed prehearing memoranda.[5] I held a hearing on two separate days: on February 24, 2016 at DALA in Boston, and on October 18, 2018 in the Grand Jury Room of the Hampshire County Superior Courthouse at the Old County Courthouse on Main Street in Northampton, Massachusetts.[6] The first

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10, 2016) at 8-10.) MTRS also argued that Ms. Caldieri did not meet her burden of proving that a workplace-related injury permanently aggravated her long-standing psychiatric condition. In its view, Ms. Caldieri's case consisted primarily of symptoms she self-reported to her treating physicians, and what it characterized as the "thin, conclusory, ambiguous" panel reports of the psychiatric medical panel majority. MTRS argued that Ms. Caldieri's alleged medical condition aggravation was rooted primarily in "temporal" causes of her psychiatric injuries, meaning events that occurred outside the school, particularly the student suicide; and characterized her testimony as unreliable, inconsistent and self-serving; in contrast, MTRS characterized the testimony of the former school Principal and the former Department of Foreign Languages Chair as showing that both of them wanted "nothing but for Ms. Caldieri to succeed as an educator" at the school "before and after the Phoebe Prince incident." (*MTRS Closing Memorandum* (Feb. 28, 2019) *passim* and at 6-7 and 10-14.) Finally, MTRS argued that the actions of the school administration after January 14, 2010 that Ms. Caldieri identified as having aggravated her psychiatric conditions were, instead, bona fide personnel actions taken to protect school staff and students that the retirement statute exempts as a ground for Accidental disability retirement benefits based upon an emotional or psychiatric injury. (*Id*. at 13-14.)

[5]/ Ms. Caldieri filed a prehearing memorandum on October 30, 2015. MTRS filed a prehearing memorandum on February 10, 2016. On February 10, 2016, Ms. Caldieri filed a supplemental prehearing memorandum, which she entitled "Addendum to Petitioner's Pre-hearing Memorandum."

[6]/ The hearing's completion was deferred because the parties were attempting to resolve Ms. Caldieri's workers' compensation claim and wanted to focus on those efforts. Ms. Caldieri's counsel filed status reports with me regularly in the interim, and during that time I also conducted several telephone status conferences with counsel for Ms. Caldieri and MTRS. On November 2, 2017, Ms. Caldieri's counsel reported that the Department of Industrial Accidents had scheduled a hearing on Ms. Caldieri's workers' compensation claim, and requested that I further continue the remainder of the DALA hearing until the workers' compensation claim was resolved. Counsel reported on January 11, 2017 that the parties had agreed to attempt mediation of the workers' compensation claim. The parties attended a mediation session on April 24, 2018. Mediation did not resolve Ms. Caldieri's workers' compensation claim, and on August 7, 2018,

day of hearing was transcribed by Professional Court Reporter William M. Jackson, of Copley Court Reporting, Inc. (Boston). The second day of hearing was transcribed by Professional Court Reporter Julia A. McLeod of Philbin & Associates, Inc. (Springfield).

Ms. Caldieri testified on her own behalf. Her testimony began on the first hearing day, and had to be interrupted because she was physically unable to continue. Her cross-examination, redirect examination and recross examination continued and concluded at the October 18, 2018 hearing session in Northampton, Massachusetts. Davina Miller, a licensed social worker who assists Ms. Caldieri, also testified on her behalf during the October 18, 2018 hearing session, as did Heather N. Potter who, in January 2010, was an 18 year old South Hadley High School senior. Ms. Potter had taken four years of Latin classes Ms. Caldieri taught, including a 12th grade Latin 4 advanced class during the 2009-10 school year. She was present at the school on January 14, 2010 and after.[7] MTRS presented testimony by Daniel T. Smith, the now-retired principal of South Hadley High School, and Tiesa Graf, South Hadley High School's former Foreign Languages Department Chair.

I admitted 35 exhibits into evidence without objection.[8] The evidentiary record closed when

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her counsel requested that I schedule a second hearing day to conclude the DALA appeal, and I scheduled the second hearing day for October 18, 2018, one of the dates on which the parties and their witnesses were available to testify.

[7]/ MTRS objected to Ms. Potter's testimony because Ms. Caldieri had not identified her as an anticipated hearing witness in her prehearing memorandum. After a colloquy with counsel, I concluded that Ms. Potter's testimony would be relatively brief and might be helpful with factfinding, and I overruled MTRS's objection.

[8]/ On September 18, 2015, MTRS filed 32 exhibits—Exhibits 1-31, and a transcript of a hearing that MTRS held on May 31, 2014 before it denied Ms. Caldieri's accidental disability retirement application, an attachment to MTRS's prehearing memorandum that I admitted into

witness testimony concluded at the end of the second hearing day. Both parties waived oral closing arguments and elected to file post-hearing written closing arguments instead, which each of them filed on February 28, 2019.

Findings of Fact

Based upon the testimony, hearing exhibits and other evidence in the record, and the reasonable inferences drawn from them, I make the following findings of fact:

Background: Medical, Educational and Employment History Before the 2005 Fall Semester

1. Petitioner Debra A. Caldieri is a licensed Massachusetts public school teacher. She received a bachelor's degree in 2003 from Smith College in Northampton, Massachusetts, where she majored in mathematics and classics and was inducted into the Phi Beta Kappa Society. She received her masters degree in 2005 from the University of Massachusetts–Amherst. She earned both degrees while raising her three children as a single, divorced parent. (Caldieri direct testimony, Feb. 24,

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evidence as Exhibit 32. At the beginning of the first hearing day, MTRS offered three additional exhibits, which I admitted into evidence as follows:

Exh. 33: Psychiatric evaluation of Ms. Caldieri by Dr. Mark O. Cutler, dated Nov. 11, 2015.
Exh. 34: Medical File Review by Dr. Robert Levine, dated Apr. 29, 2011.
Exh. 35: Report of physical examination by Dr. Robert Levine, dated Jul. 25, 2011.

On the second day of the hearing, MTRS offered an additional exhibit that I admitted into evidence. (*See* Exh. 36: Letter, Dan Smith, Principal, South Hadley High School to Deb[ra] Caldieri, dated Dec. 3, 2010.)

2016; Exh. 3: Ms. Caldieri's disability retirement application, dated Jul. 2, 2011.) Before her first child was born and Ms. Caldieri pursued higher education degrees, she worked as a flight attendant. (Exh. 33: Report of Psychiatric Evaluation of Debra Caldieri by Dr. Mark O. Cutler, dated Nov, 11, 2015, prepared for the Massachusetts Department of Industrial Accidents relative to Ms. Caldieri's Workers' Compensation claim.)

2. Ms. Caldieri's medical history includes childhood sexual abuse, an abusive marriage and divorce following years of spousal abuse, including being battered by her former husband between 1983 and 1998, with frequent episodes of head trauma. The medical records in evidence show a history of depression, anxiety, eating disorder, and drug and alcohol abuse through the late 1970s, as well as four attempts at suicide by overdosing and one by attempting to slit her wrists, cutting as an adult, falling from a second story window when she was 35 (during the mid-1980s), and suicidal ideation but no desire to be dead, primarily because she did not want to abandon her children. During a hospital admission in 2003 following an episode of shaking (described further below), Ms. Caldieri reported that she had been trying to balance raising three children, then aged 8, 15 and 17 years, with graduate school and her teaching fellowship (which was financially necessary), and feeling overwhelmed by school, work, financial struggles, and raising her children. (Exh. 31: Cooley Dickinson Hospital Behavioral Health Assessment prepared by Kathy Anderson White, dated Oct. 15, 2003; Exh. 33: Report of Dr. Cutler; see also Exh. 23: history recorded by Dr. Allison Ryan in her neurology consultation report dated Aug. 26, 2009.) Ms. Caldieri was diagnosed with multiple sclerosis (MS) by Dr. Killean O'Connell, her treating psychiatrist, in 2004. At that time, she suffered from migraines, depression, eating disorder, and a seizure disorder with varying

degrees of altered consciousness and dissociation. In addition, brain MRIs starting in late 2004 showed multiple lesions throughout the white matter of the supratontorial region of the brain, where the cerebrum is located. The lesions remained present, and were seen in subsequent brain MRIs, without increasing in number or size. (Exh. 23; *see also* Finding 7 below.)

3. Ms. Caldieri started a combined graduate school program and paying teaching assistantship at the University of Massachusetts-Amherst in September 2003.

3(a). On October 15, 2003, Ms. Caldieri left her graduate school classes early because she felt pain in her chest and numbness on one side. She arrived home shaking all over, and her partner brought her to the Cooley Dickinson Hospital Emergency Department in Northampton, Massachusetts. (Caldieri direct testimony.)

3(b). Kathy Anderson White, a behavioral health response team clinician, recorded a history given by Ms. Caldieri. Ms. White assessed Ms. Caldieri as having normal speech, intact memory; correct orientation as to time, place and person; being evasive at times, but mostly cooperative; being appropriately depressed; and, although anxious, having a coherent thought process and good insight. She rated Ms. Caldieri as being at low risk for suicide and therefore not requiring hospitalization. Ms. White's diagnoses included major depression, PTSD, anorexia, and borderline personality disorder. Ms. Caldieri was discharged home with a plan to followup with University of Massachusetts Counseling Services. (Exh. 31: Cooley Dickinson Hospital Behavioral Health Assessment prepared by Kathy Anderson White, dated Oct. 15, 2003.)

4. On December 15, 2003, also during her first semester as a graduate student, Ms.

Caldieri experienced shaking throughout the afternoon, and was taken by ambulance to the Emergency Department at Cooley Dickinson Hospital in Northampton, Massachusetts. She told Emergency Department physician Dr. Gary Montano that she had been under stress before the shaking began.

4(a). Dr. Montano obtained a history from Ms. Caldieri that he found significant for anxiety. Ms. Caldieri denied a history of headaches, back pain, sore throat, chest pain or dyspnea.

4(b). Upon examining Ms. Caldieri, Dr. Montano found no focal numbness or weakness. She was alert and oriented. However, Dr. Montano observed "what appear[ed] to be more like tremors or shaking," and that Ms. Caldieri appeared to "slow down markedly when distracted."

4(c). Dr. Montano's impression was that the shaking was volitional on Ms. Caldieri's part. He administered 1 mg of Ativan IV, which almost immediately caused Ms. Caldieri's shaking to stop, and she remained asymptomatic for the next three hours.

4(d). Dr. Montano also noted that blood test results showed Ms. Caldieri's prolactin level to be elevated (at 59.64).[9] He did not think this was related to seizure activity because he did not believe Ms. Caldieri was having seizures. She was alert and oriented, and seemed

[9]/ A normal prolactin level in a non-pregnant woman is less than 25 mg/mL (25 µg/L). (*See, e.g.*, Galan, N., R.N., "Symptoms of High Prolactin Hormone Levels," rev. Oct. 28, 2022, VeryWell Health, https://www.verywellhealth.com/what-is-prolactin-2616429.) There is no evidence in the record that Ms. Caldieri was pregnant in December 2003 or at any time afterward.

able to control her body shaking when she was distracted. He thought there must be some other reason for the elevated prolactin level. Ms. Caldieri was discharged home from the Cooley Dickinson Emergency Department with a prescription for Ativan 0.5 mg twice daily as needed. In view of this prescription and Ms. Caldieri's elevated Prolactin level, she was advised to followup at University of Massachusetts Medical Center.[10]

(Exh. 31: Cooley Dickinson Hospital Emergency Dep't record dated Oct. 15, 2003.)

5. Following this shaking episode, Ms. Caldieri continued her graduate studies and teaching fellowship work. Between April 2004 and June 2004, she worked at J.F.K. Middle School in Florence, Massachusetts, and between August 2004 and February 2005 at Northampton High School in Plymouth, New Hampshire. (Caldieri direct testimony, Feb. 24, 2016; Exh. 3.)

6. In February 2004, Ms. Caldieri began treatment with Dr. Killian O'Connell, a board-certified psychiatrist affiliated with Cooley Dickinson Hospital. (Exh. 22: handwritten records of Dr. Killean O'Connell.)[11]

6(a). Dr. O'Connell recorded that Ms. Caldieri was a graduate student in Latin studies at the University of Massachusetts, had three children (then aged 19, 15 and 9 years, who were "doing well"), and had suffered "a lot of abuse" during her marriage. Dr. O'Connell

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[10]/ An elevated prolactin level in a non-pregnant woman can be the result of mental stress, which affects the hypothalamus, and may also indicate a prolactinoma, a tumor on the pituitary gland. *See, e.g.*, Cleveland Clinic, "Hyperprolactinemia" (undated), https://my.clevelandclinic.org/ health/ diseases/22284-hyperprolactinemia.

[11]/ These handwritten records are difficult to read and are unnumbered. More than a few pages lack dates. I have reviewed these records in the order in which they appeared in Exhibit 22, when that exhibit was offered by MTRS and marked in evidence..

also recorded that Ms. Caldieri had lived with a woman who was "controlling," and had taken her medications away from her, resulting in Ms. Caldieri hallucinating and climbing out of a window. She complained of a huge work load in her graduate program. Dr. O'Connell noted that she was on Ritalin LA 20 mg b.i.d. (twice per day; thus, 40 mg daily),[12] and on Zoloft 50 mg twice daily (thus, 100 mg. daily).[13] (Exh. 22.)

6(b). On March 15, 2004, Ms. Caldieri complained to Dr. O'Connell of a huge work load in her graduate school program, difficulty sleeping, erratic binging on sugary foods and then purging (apparently out of anxiety regarding her brother's upcoming wedding), and having a better time during spring break, when she experienced "less noise in [her] head" and less distraction. Dr. O'Connell changed the Ritalin LA capsules prescription to 40 mg (once daily, apparently, absent any b.i.d. notation) and increased the daily Zoloft dosage to 75 mg. (*Id*.)

6(c). In early April 2004, Ms. Caldieri complained to Dr. O'Connell that she felt stressed, and that there was never enough time for herself, a feeling that improved during the

[12]/ "Ritalin LA" is the brand name for methylphenidate hydrochloride extended-release capsules. This drug is a central nervous system stimulant, and is used to treat the symptoms of attention deficit hyperactivity disorder (ADHD) and narcolepsy. 40 mg is a mid-range dosage of this drug (midway between a starting dosage of 20 mg., and the maximum recommended dosage of 60 mg. per day, to be reached in 10 mg increments. (*See* "RxList: Ritalin LA" (updated Jul. 13, 2021), https://www.rxlist.com/ritalin-la-drug.hortm#description (Updated Jul. 13, 2021).)

[13]Zoloft (sertraline hydrochloride) is a selective seratonin reuptake inhibitor (SSRI) antidepressant. For depression and obsessive compulsive disorder, the starting dosage is 50 mg per day, and the maintenance dosage is 50-200 mg per day. For panic or social anxiety disorder, or PTSD, the starting dosage is 25 mg per day and the maintenance dosage is 50-200 mg per day. (*See* "RxList: Zoloft" (updated (Aug. 15, 2022), https://www.rxlist.com/zoloft-drug.htm.)

summer. Dr. O'Connell increased her Zoloft daily dosage in increments, first to 100 and then to 150 mg and 200 mg. (*Id*.)

6(d). In May 2004, Ms. Caldieri told Dr. O'Connell that she felt that the medications he had prescribed were helping, and that her eating was OK, but she also related having no time to sleep, and not being able to fall asleep until 3 a.m. Dr. O'Connell reduced the Ritalin LA dosage to 20 mg. daily and maintained the Zoloft dosage at 200 mg daily. (*Id*.)

7. Ms. Caldieri began her second year of graduate studies and teaching fellowship work in September 2004. Shortly afterward, she began experiencing left-sided numbness and headaches, including a migraine. On October 22, 2004, an MRI brain scan was performed at Cooley Dickinson Hospital to rule out a brain tumor. After reviewing the MRI results, Radiologist Dr. James Donnelly recorded his impression of multiple lesions throughout the white matter of the supratontorial region of the brain (where the cerebrum is located) that were more numerous on the left side than on the right side.[14] Comparing what he observed in reviewing a prior brain MRI performed on October 22, 2003, Dr. Donnelly saw no significant progression of lesion development or significant increase in

[14]/ Brain lesions can be described as areas of damage inside the brain or injury to brain tissue. There are many possible causes of these lesions, including trauma to the head, brain infections (for example, meningitis or encephalitis), autoimmune disease, stroke, bleeding as a result of trauma or cerebral artery aneurysm, and Parkinson's Diseases; or the lesions may be tumors. Brain lesions, even if spreading to other areas of the brain, may produce telltale signs or symptoms, or none at all. If they occur, general symptoms of non-specific brain lesions include short-term memory loss, altered movements, headache, nausea and vomiting, dizziness, fever, generalized weakness, altered gait and posture, and/or altered speech. Specific brain lesions, when present, "cause specific symptoms such as dyskinesias and altered movements in Parkinson's disease and dementia (memory loss) in Alzheimer's disease. (*See* "The Human Memory: Brain Lesions" (rev. May 20, 2022), https://human-memory.net/brain-lesions/ #Plaques.)

the number of lesions.[15] He did not record any other impression. (Exh. 31: Dr. Donnelly's report of MRI dated Oct. 23, 2004).

8. Ms. Caldieri continued to see Dr. O'Connell in 2005. Through her last graduate school semester in early 2005, she reported feeling depressed, hating school (meaning, apparently, her graduate school), and feeling as if the school did not want its students to love learning. As of March 2005, she worried that she had too much homework, was not able to meet all deadlines, and might not graduate based on her understanding that in spring 2004, 5 of 7 final year graduate students in her program did not graduate. Ms. Caldieri told Dr. O'Connell that she did not want to be around people, reported having no appetite, and identifying the afternoon as the worst part of the day for her, when all she wanted to do was sleep. She reported that the back of her neck was tense. She also reported feeling more fearful. Dr. O'Connell had tried lowering her Zoloft dosage to under 100 mg. daily, but this made Ms. Caldieri feel like "jumping out of her skin," and so Dr. O'Connell increased the dosage to 100 mg daily. (Exh. 22: Dr. O'Connell's notes dated Mar. 24, 2005 and Mar. 29, 2005.)

Employment at South Hadley High School Begins, and 2005-06 School Year

9. Ms. Caldieri completed her graduate studies and was granted a master's degree in June 2005 by UMass-Amherst. She began her first full-time employment in August 2005 as a Latin teacher at Rockville High School in Vernon, Connecticut. She taught five classes daily at Rockville

[15]/ The medical records comprising Exhibit 31 do not include any report of an MRI brain scan performed on October 22, 2003 or on any other date in 2003.

High School in September 2005. (Caldieri direct testimony.)

10. Shortly after starting teaching at Rockville, Ms. Caldieri received a telephone call from the Superintendent of the South Hadley Public Schools, Dr. Gus A. Sayer, who wanted to know if she would be interested in a teaching position at South Hadley High School. Ms. Caldieri interviewed with Superintendent Sayer and South Hadley High School Foreign Languages Chair Tiesa Graf, and was offered a position as a full-time Latin teacher at South Hadley High School. With the consent of the Rockville High School principal, she accepted that offer and ended her employment at Rockville in October 2005. (Caldieri direct testimony; Exh 3.)

11. Ms. Caldieri was employed as a full-time teacher of Latin at South Hadley High School from October 17, 2005 to June 24, 2011. She ceased working as a teacher on December 6, 2010 for medical reasons that made her unable to perform a teacher's duties, and was placed on medical leave until her last employment date. Her employment in the South Hadley public schools was terminated by the school superintendent on June 24, 2011. (Caldieri direct testimony, Feb. 24, 2016; Exh. 3; Exh. 6: Disability applicant's employer's statement, dated Sept. 13, 2011).

12. Ms. Caldieri was assigned to teach high school Latin, exclusively, at South Hadley High School.

12(a). Starting in October 2005, this meant teaching Latin level I (beginning Latin) through Latin level IV, and advanced placement (AP) Latin. She was also assigned to be the facilitator for the school's Latin Club. (Caldieri direct testimony.)

12(b). Ms. Caldieri's regular duties in this position were to prepare lesson plans, tests and quizzes, grade student homework, assess student work, help students achieve learning

goals for the classes she taught, tutor students after school, conduct writing workshops, and hold parent-teacher meetings. (Caldieri direct testimony, Feb. 24, 2016; Exh. 3.)

12(c). Specifically, Ms. Caldieri was expected to develop lesson plans, and teach students, for five periods a day, in classes of between 12 and 30 students; grade her students in all of these classes; and maintain an "academic atmosphere" in all of them. As a teacher at the high school, Ms. Caldieri also was expected to perform out-of-classroom duties in the school library, hallway, study hall and cafeteria. She was required to interact with school staff, stay after school with students who needed assistance with their academic work, and participate in professional development opportunities the school made available for its teachers. All of these duties required "the ability . . . to deliver content and instructions to students, and have minimal mobility to move around the classroom and building." (Exh. 6: Employer's statement as to Ms. Caldieri's accidental disability retirement application, at 3.)

13. Ms. Caldieri's supervisors at South Hadley High School were Foreign Languages Department Chair Tiesa Graf (now retired), the high school's assistant principals, and Principal Daniel Smith (also now retired). (Exhs. 3 and 6.)

14. While she was employed as a teacher at South Hadley High School, Ms. Caldieri was a member of respondent Massachusetts Teachers' Retirement System, one of the Commonwealth's contributory public employee retirement systems governed by M.G.L. c. 32. (*See* Exh. 3.)

15. During the time she taught at South Hadley High School, Ms. Caldieri was the school's only Latin teacher, and was considered to have strong teaching skills. She developed a Latin curriculum for the school, and taught one of her classes entirely in Latin, which was an innovative

teaching technique in this subject at the public high school level. (Caldieri direct testimony.)

16. On November 17, 2005, Ms. Caldieri told Dr. O'Connell that her new job was "OK," and that the Ritalin dosage (10 mg twice daily at the time) was "helpful." She also reported being "under stress" and, although feeling less scattered and able to focus better, felt a bit "foggy." She also reported feeling depressed and asked the doctor why. No answer to this question appears in Dr. O'Connell's notes for this visit. A photocopy of a medication label included in Dr. O'Connell's handwritten notes appears to indicate that he had added Focalin XR 5 mg. to Ms. Caldieri's daily medication regime.[16]

17. On April 27, 2006, while she was teaching at South Hadley High School, Ms. Caldieri had a third MRI brain scan performed at the Cooley Dickinson Hospital in Northampton after she had reported experiencing a hearing loss. Radiologist Dr. Paul Kolbjornsen found no evidence of an acoustic neuroma. However, he found what appeared to be a new lesion in Ms. Caldieri's lower mid-brain, although he could not determine with certainty that this lesion was actually new, since the October 2004 MRI had beens performed without contrast.[17] In view of a mild increase in the globular

[16]/ Focalin (dexmethylphenidate hydrochloride) is a central nervous system stimulant and is used to treat symptoms of ADHD. It may increase attentiveness and decrease impulsiveness and hyperactivity in ADHD patients. (*See* "RxList: Focalin,"https://www.rxlist.com/focalin-drug.htm#description (updated Jul. 12, 2021).)

[17]/ A brain MRI without contrast is non-invasive, and is used "to identify various disorders and severe pathologies" using clear and detailed images of the brain area being studied. Contrast is performed to visualize lesions, tumor metastases and other conditions in their early stages with greater detail, and involves introducing an injected contrast agent that illuminates structures in the brain. (*See, e.g.*, Portnoy, A., "MRI of the brain with contrast," rev. Oct. 10, 2021, at Portal ILiveOK!, https://m.iliveok.com/health/mri-brain-contrast_131683i89230.html.)

areas of bright T2 signals in the brain convexities, Dr. Kolbjornsen's impression was that "multiple sclerosis seems like the most likely diagnosis with neoplasm much more likely." (Exh. 31: Dr. Kolbjornsen's report of MRI dated Apr. 27, 2006).

18. Ms. Caldieri continued to treat with Dr. O'Connell during the spring and summer of 2006.

18(a). On May 8, 2006, Dr. O'Connell noted that Ms. Caldieri was taking "welb" (probably Wellbutrin) 150 mg. twice daily, for a total of 300 mg., which he changed to 225 mg in the morning and 150 mg. later in the day, for a total of 375 mg daily.[18] Ms. Caldieri told him she needed to lose 20 pounds and that she was avoiding "places" (possibly meaning places that sold food). Dr. O'Connell noted he was going to add a Selective Serotonin Uptake Inhibitor (SSRI) to her medication regime, and was considering adding Topamax "if any wt [weight] gain," although he did not indicate what dosage he was considering.[19] (Exh. 22: Dr. O'Connell's notes.)

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[18]/ Wellbutrin (bupropion hydrochloride) is an antidepressant and dopamine reuptake inhibitor. It is used to treat depression. The recommended starting dosage is 200 mg., given as 100 mg twice daily. A daily dosage of 450 mg is the maximum recommended adult dosage of Wellbutrin; this is given in divided doses of not more than 150 mg each. This higher dosage is recommended "for patients who show no clinical improvement after several weeks of treatment at 300 mg/day." (RxList: Wellbutrin" (updated Feb. 17, 2021), https://www.rxlist.com/wellbutrin-drug.htm#description.)

[19]/ Topamax (topiramate) is an anticonvulsant and antimigraine agent. It is also "indicated as adjunctive therapy for the treatment of partial-onset seizures." The starting dosages for adults is 25-50 mg daily, 200 to 400 mg/day in two divided doses for patients with partial-onset seizures, and "400 mg/day in two divided doses as adjunctive treatment in adults with primary generalized tonic-clonic seizures." (RxList: Topamax" (rev. Nov. 10, 2022), https://www.rxlist.com/topamax-drug.htm#description.)

18(b). Ms. Caldieri saw Dr. O'Connell on July 20, 2006. He noted her medications as "pro 40" (probably Prozac 40 mg), "welb" (Wellbutrin) "215 and 150" (a divided dosage of 375 mg daily) and "Top" (Topamax) 50 [mg]. Dr. O'Connell's note does not mention whether Ms. Caldieri was still taking Zoloft or Ritalin. He noted that Ms. Caldieri was also taking Copaxone for "likely MS." (*Id.*)[20] Ms. Caldieri told him she was less anxious, less hungry, binging less, and no longer gaining weight. She also stated that she hated her birthday, and Dr. O'Connell wrote what appears to be "tired more of life." Dr. O'Connell thought that the Topamax dosage was related to less binge eating. He decided to leave the medication regime "as is." (Exh. 22.)

19. Ms. Caldieri had followup brain MRIs with contrast performed at Cooley Dickinson Hospital in late June 2006 and on September 8, 2006. In his report dated June 28, 2006, Radiologist Dr. Charles Bernstein recorded a history of "abnormal enhancing mass/headache/Ataxia." [21] His impression was "[n]umerous high-intensity periventricular and deep white matter lesions which is

[20]/ Copaxone is an immunomodulator used to treat the symptoms of multiple sclerosis. It is administered by subcutaneous injection. *See* "RxList-Copaxone," https://www.rxlist.com/copaxone-drug.htm#description (updated Sept. 26, 2022). Ms. Caldieri's Copaxone was discontinued when she presented at the Cooley Dickinson Hospital Emergency Department on August 3, 2006 with a complaint of nocturnal headaches that had become more persistent after she was started on this MS medication, and a reaction to the Copaxone was suspected as one possible reason (atypical migraine being another possibility). (*See* Exh. 31: Cooley Dickinson Hospital Emergency Dep't records; discharge summary prepared by Dr. Khama Ennis-Holcombe dated Aug. 4, 2006.)

[21]/ Ataxia describes a problem with coordination that can result in uncertain, awkward or clumsy movements. It is not a disease itself but, instead, a symptom of a problem involving the brain, ears or nervous system. (*See, e.g.*, Cleveland Clinic, *Ataxia*, https://my.clevelandclinic.org/health/diseases/17748-ataxia.)

of strong concern for MS in this 42-year-old woman, especially since one of these lesions involves the brainstem and has not changed significantly since 4/27/06." Dr. Bernstein added that he suspected an "enhancing MS plaque," although there were other possibilities, and he noted that "[c]linical correlation is essential." (Exh. 31: Dr. Bernstein's report of MRI dated June 28, 2006).

2006-07 School Year

20. Ms. Caldieri had another followup brain MRI with contrast performed at Cooley Dickinson Hospital on September 8, 2006. In his report dated September 10, 2006, Radiologist Dr. Timothy Tash recorded Ms. Caldieri's relevant medical history as "multiple sclerosis." In his findings, Dr. Tash reported multiple white matter lesions that were nonspecific "but certainly consistent with multiple sclerosis." He saw no new lesions and no regression of the lesions seen in the previous brain MRIs, and his impression was that the white matter lesions were "suggestive of multiple sclerosis," with no significant change in lesion appearance since the prior MRI. (Exh. 31: Dr. Tash's report for the September 8, 2006 MRI, dated Sept. 10, 2006).

21. Ms. Caldieri continued to treat with Dr. O'Connell during the fall of 2006.

21(a). In his note for Ms. Caldieri's October 19, 2006 visit, Dr. O'Connell recorded that she reported feeling tired and weary, which he thought might be "components of MS." Ms. Caldieri also reported that she was able to think more clearly, but was experiencing waves of dizziness. She reported "no differences" from Prozac, the dosage of which remained at 40 mg daily. There was a notation of the same date for "welb. 225 + 150" (her Wellbutrin dosage since at least May 8, 2006), and for "Topm" (likely Topamax), 75 [mg].

The Topamax dosage was 25 mg daily more than the July 20, 2006 notes show. Dr. O'Connell eliminated Prozac, set the Wellbutrin dosage at 450 mg., and appeared to maintain use of an unspecified Selective Seratonin Reuptake Inhibitor at a low dose. (Exh. 22: Dr. O'Connell's notes dated Oct. 19, 2006.)

21(b). On November 16, 2006, Ms. Caldieri told Dr, O'Connell that she had taken the Wellbutrin at the 450 mg daily dosage and felt less tired; however, she became weary and could not get up a flight of stairs. She also reported that stress worsened her numbness. Dr. O'Connell wrote "not convinced its meds." and also "from MS - clearly stress effects," and "leave meds as are." (*Id*.)

21(c). On December 19, 2006, Dr. O'Connell noted that Ms. Caldieri was scheduled to see an MS specialist in early February 2007. She reported that emotionally she was "hanging in" and was doing well with Wellbutrin and a low dose SSRI. He noted his plan to make no medication changes. (*Id*.)

21(d). On January 8, 2007, Ms. Caldieri told Dr. O'Connell that she was taking Wellbutrin 450 mg. but was "not doing so well," with a word that appears to be "suceidel" (sic) below this notation, without any explanation. She reported that her holidays had been "poor" and was back at work and she felt "taken for granted" although that feeling was not specified in Dr. O'Connell's notes as having been related to her teaching work or was, instead, how she felt generally. Dr. O'Connell's impression was that Ms. Caldieri was "likely very sensitive to SSRI." It is unclear whether he discontinued SSRI use, but he did note "OK welb" indicating that he continued Ms. Caldieri on this medication. (*Id*.)

21(e). On March 1, 2007, Dr. O'Connell noted that Ms. Caldieri had been told that she "definitely" had MS, and had been advised to begin steroids, but she "didn't want to hear it" and did not want to die, although it is unclear whether this referred to MS or steroids. Dr. O'Connell did not list her entire medication regime, but he noted that she was taking Zoloft, 25 mg daily. She reported feeling as if she was gaining weight; she related eating at night, and having a "constant struggle to deal w[ith] food." (*Id*.)

21(f). Dr. O'Connell's notes for Ms. Caldieri's March 29, 2007 visit recorded that she "still fears weight gain" and remained undecided about steroids (relative to her MS). He wrote that Ms. Caldieri obtained "no benefit" from her then-current Zoloft dosage (25 mg daily), and he therefore increased the dosage to 50 mg daily divided into two doses, to be followed by an increase to 75 mg daily. Dr. O'Connell wrote "pt to use eating as measure of well being [illegible] relating to mood." (*Id*.)

21(g). On April 26, 2007, Dr. O'Connell noted that Ms. Caldieri had started steroid injections, which had seemed to make her more tired and cause her to nap more. She had also gained weight. On June 7, 2007, Dr. O'Connell noted that Ms. Caldieri had received her fourth steroid injection, but that it was "not clear that its helping," and also noted "MRI atypical, getting new." He maintained her Zoloft dosage at 75 mg. daily.

21(h). During her August 23, 2007 visit, Ms. Caldieri told Dr. O'Connell that she felt depressed periodically and was not sure why. He recorded her Zoloft dosage as 100 m. daily, and that she had not taken Topamax in a "long time." Although she reported feeling "better overall," Ms. Caldieri also reported sudden-onset pounding headaches she described as

"almost migraine." Ms. Caldieri related that she was teaching her classes but had "no idea what I am doing," and "felt out of her field and expertise." Dr. O'Connell increased her Zoloft to 150 mg daily, divided into two doses, and appears to have continued her on Wellbutrin although the dosage level does not appear in his notes for the August 23, 2007 visit (or in his notes for any of Ms. Caldieri's visits after December 19, 2006).

22. Ms. Caldieri continued to teach her Latin classes at South Hadley High School throughout the 2006-07 school year. The record is without any evidence of adverse occurrences or events at work through the end of the school year in June 2007. Foreign Languages Department Chair Graf nominated Ms. Caldieri for teacher of the year for 2007, and when Ms. Caldieri was awarded this honor, she and Ms. Caldieri went to the school's teacher of the year award ceremony together. Ms. Graf knew Ms. Caldieri's three children, and helped Ms. Caldieri cope with her health issues, including driving her to visits with her healthcare providers. She also visited Ms. Caldieri when she was hospitalized. (Graf direct testimony.)

2007-08 School Year

23. While she taught at South Hadley High School, Ms. Caldieri did not miss work for extended periods of time except during the 2007-08 school year, when she was absent for a total of 32 days, all taken as sick leave. (Exh. 7: Attendance records and FMLA leave records, at 5.)

24. On October 4, 2007, Ms. Caldieri told Dr. O'Connell that her then-current Zoloft dosage of 150 mg daily had helped. Dr. O'Connell's notes for this visit include the statement "lesion atypical for MS." He noted that Ms. Caldieri had "passed out 3 weeks ago" and "hit head on floor,"

and that while her classes were "going OK" she did not feel competent. (Exh. 22: Dr. O'Connell's notes.)

25. On October 28, 2007, Ms. Caldieri had a followup brain MRI with and without contrast at Cooley Dickinson Hospital. The number and appearance of the "hyperintensivities" observed within the white matter were similar to those seen in previous scans, except for "two new tiny adjacent lesions in the centrum semiovale of the right frontal lobe." The 8 mm "enhancing lesion" at the postmedullary junction seen previously was again observed. The impression was that the two tiny adjacent lesions could have been present but missed during the previous study; the observed 8 mm lesion had not changed; and no other enhancing lesions were seen. The report of the MRI noted that Ms. Caldieri's significant symptoms had been slurred speech, confusion and disorientation. (Exh. 31: Report of Brain MRI, Oct. 28, 2007.)

26. During the 2007-08 school year, Ms. Caldieri experienced seizures that occurred generally at the end of the school day, and once while she was attending a professional conference. At least twice during that school year, the school had called an ambulance to have her taken to a hospital. On several occasions, she had to leave the school early, and on other occasions she was unable to drive home, and relatives or friends were called to pick her up at school. (Exh. 10: Superintendent Sayer's letter to MTRS dated Sept. 15, 2011.)

27. Ms. Caldieri saw Dr. O'Connell again on November 6, 2007. He noted that a "2nd neurologist in Worcester" had stated that her brain lesion was "v" [very] atypical." He noted that Ms. Caldieri was fearful of "further falls" and was unable to drive and so was using buses for transportation. Dr. O'Connell increased her daily Zoloft dosage to 200 mg., to be increased to 300

mg. over a 3-6 week period. (Exh. 22: Dr. O'Connell records.)

28. Ms. Caldieri was seen at Cooley Dickinson Hospital twice in November 2007.

28(a). On Wednesday, November 7, 2007, Ms. Caldieri experienced shaking and chest pain that began after she awakened that morning, following anxiety that had kept her up all night, and left-sided facial numbness that began at approximately 2:50 p.m. that afternoon, along with some continuing chest pain, difficulty controlling movement, lightheadedness, dizziness and shortness of breath.[22] She was brought by ambulance to the Cooley Dickinson Hospital Emergency Department. En route to the hospital, Ms. Caldieri's heart rate was 160, which is tachycardic. A 12-lead EKG performed in the Emergency Department shortly after her arrival showed a sinus tachycardia with a heart rate of 125. A repeat EKG performed roughly an hour later showed a rate of 109. Blood pressure was noted to be 115/78, respiratory rate was 21, and pulse was 128. Ms. Caldieri's temperature was not elevated. Glucose and blood results were not remarkable. Ms. Caldieri was given Valium 5 mg orally, and felt "significantly better." The Emergency Department physician's note refers to Ms. Caldieri's ongoing treatment at UMass Memorial Hospital regarding increased MS lesions in her brain, and that she was taking Topamax (an anticonvulsant and anti-migraine agent; *see* n. 19), Zoloft (an SSRI used to treat depression; *see* n. 13) and Lorazepam.[23] The

[22]/ That an ambulance was called after Ms. Caldieri experienced left-sided facial numbness at 2:50 p.m. suggests that she had gone to work that day, and that this was one of the times the school called an ambulance for her (*see* Finding 26).

[23]/ Lorazepam is a benzodiazepine used to treat anxiety disorders. (*See* https://www.drugs.com/lorazepam.html.)

Emergency Department physician diagnosed an acute anxiety attack, and directed Ms. Caldieri to follow up with her UMass Medical Center neurologist (Dr. Garg) or with her primary care physician if she was worse in any way. He also started Ms. Caldieri on Klonopin 1.5 mg, divided into equal dosages of one 0.5 mg pill every eight hours.[24] (Exh. 31: Cooley-Dickinson Hospital Records; Emergency Department outpatient record for Debra Caldieri dated Nov. 7, 2007.)

28(b). On October 27, 2007, Ms. Caldieri was brought to the Cooley Dickinson Hospital emergency room to evaluate mental status changes and an increasing number of falls at home. The emergency room physician (Dr. R. Dirk Stanley) noted that Ms. Caldieri had returned home following a recent cervical biopsy during which she had been sedated. Her daughter noticed that Ms. Caldieri was acting as if she was inebriated—her speech was slurred, she was "somewhat incoherent," she was unsteady on her feet, and she behaved "oddly." The following day, Ms. Caldieri fell over while tying her shoes, had slurred speech,

[24]/ Like Lorazepam, Klonopin (Clonazepam) is a benzodiazepine used to treat anxiety disorders, and can slow or stop breathing. Other possible side effects of Klonopin include changes in mood or behavior, slurred speech, and having thoughts about suicide. For adults being treated for seizure disorders, the initial Klonopin dosage should not exceed 1.5 mg per day, divided into three doses; this may be increased in increments of 0.5 to 1 mg every 3 days until seizures are adequately controlled or until side effects preclude any further increase, and the maximum recommended daily dose is 20 mg. For adults being treated for panic disorders, the initial dosage is 0.25 mg. twice daily, increasing to 1 mg per day. For most patients being treated for panic disorder, 1 mg is the recommended daily dosage, and higher daily dosages are less effective and more likely to generate adverse effects. Some patients may benefit from dosages up to 4 mg, and in that case dosages are supposed to be increased in increments of 0.125 to 0.25 mg twice daily every three days until panic disorder is controlled or until side effects rule out further dosage increases. (*See* https://www.rxlist.com/klonopin-drug.htm.)

and did not recognize her daughter. Following her October 27, 2007 hospital admission, Ms. Caldieri had a brain CT scan that showed no evidence of intracranial hemorrhage, hematoma or mass, and an MRI brain scan that revealed a stable 8 mm enhancing lesion at the pontomedullary junction (of the brainstem), multiple T2/flair hyperintensities within the white matter bilaterally, and one or two tiny adjacent lesions in the centrum semiovale of the right frontal lobe.

28(c). Dr. O'Connell, identified on the discharge summary as Ms. Caldieri's treating neurologist and psychiatrist, was consulted. His impression was that Ms. Caldieri had experienced a probable new episode of multiple sclerosis. Among other things, he recommended that Ms. Caldieri not drive until she had been free of seizure episodes for six months.

28(d). During the hospitalization, Ms. Caldieri was also seen by the hospital's psychiatric service to evaluate her depression. The impression was that Ms. Caldieri had a chronic depressive disorder predating what the psychiatric service thought was multiple sclerosis, and appeared to be stable on current medications, which the discharge summary listed as Topamax 100 mg daily, Zoloft 150 mg daily, and Lorazepam 1 mg as needed. The psychiatry service also noted that Ms. Caldieri had a thin build and reported a poor appetite despite her expressed concern about weight gain. The psychiatry service thought that Ms. Caldieri's Topamax regime might be contributing to her poor appetite, and recommended considering the substitution of "other migraine prophylaxis" for this medication. Under "social history," the discharge summary noted that Ms. Caldieri taught Latin at South Hadley

High School "and apparently has continued to be active teaching," even though she "report[ed] that her energy and memory have been troublesome lately."

28(e). Laboratory results from November 1, 2007 showed low creatine, slightly elevated blood urea nitrogen, and a high white blood cell count, the latter possibly indicative of an inflammatory process such as occurs in MS (among other possibilities).[25] The discharge report did not state that any of the laboratory data was abnormal. However, the discharge diagnosis was "multiple sclerosis flare," and presumably this was based at least in part on the laboratory data.[26] Ms. Caldieri was discharged from the hospital on November 1, 2007

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[25]/ With confirmed multiple sclerosis, the immune system detects the myelin sheath protecting nerve cells as foreign bodies and attacks them, creating inflammation along the nerves and causing a flare-up of the disease. The inflamed areas may show up as lesions or plaques. Loss of myelin insulation interrupts nerve impulse flow and, thus, communication between the brain and other parts of the body, producing symptoms associated with MS. The flare-ups may go into remission if the damaged myelin can be restored by the oligodendrocytes, central nervous system cells that manufacture myelin. This remyelination appears more likely to occur during the early stages of MS. If it occurs, and inflammation along the nerve cells diminishes, nerve system function may be restored. If the oligodendrocytes are no longer able to repair damaged myelin, the nerve fibers (axons) sustain damage and the symptoms of the disease may not remit. (*See* Multiple Sclerosis Association of America, "MS Overview: The Immune System and Multiple Sclerosis" (undated), https://mymsaa.org/ms-information/overview/immune-system/.)

[26]/ The blood chemistry profile and hematology results given in the November 1, 2007 hospital discharge summary are shown below. I have added the relevant normal ranges, and have highlighted, in bold, the three values that *may* have factored in the discharge diagnosis of an MS flare-up:

Sodium 137; normal range=136-145meq/L (136-145 mmol/L).
Potassium (total?) 4.1: normal range for total potassium= 6.0-7.8 g/dL (60-78 g/L).
Chloride 105; normal range=98-106 meq/L (98-106 mmol/L).
Bicarb 23; normal range=23-28 meq/L (23-28 mmol/L).

[footnote continued on next page]

with a recommendation that she not drive for six months and that she followup as an outpatient with her primary care physician and with Dr. O'Connell. (Exh. 31: Cooley Dickinson Hospital discharge summary dated Nov. 1, 2007.)

29. Ms. Caldieri saw Dr. O'Connell on December 18, 2007. He noted her medications—Zoloft 300 mg, divided into four daily doses, which he reduced to 250 mg, Topamax 200 mg., and Klonopin 0.5 mg, followed by "four" (presumably, the number of daily doses of 0.5 mg Klonopin Ms. Caldieri was taking). Dr. O'Connell included a note in Ms. Caldieri's patient file that he had alerted Ms. Caldieri about Klonopin's addictiveness. (Exh. 22: Dr. O'Connell records; as to this potential side effect of Klonopin, *see* n. 24.)

30. In early April, 2008, South Hadley High School Principal Daniel Smith observed Ms.

BUN (blood urea nitrogen) 20; normal range=8-20 mg/dL (2.9-7.1 mmol/L).
Slightly elevated
Creatine 0.8; normal range=30-170 units/L. **Low**
Glucose 103; normal range= 70-100 mg/dL (3.9-5.6 mmol/L).
Magnesium 2.3; normal range=1.5-2.4 mg/dL (0.62-0.99 mmol/L).
Phosphorous 3.5; normal range=3-4.5 mg/dL (0.97-1.45 mmol/L).
White count (leukocytes) 13.4; normal range=4000-10,000/μL
(4.0-10 x 10^9/L). **Elevated**
Hemoglobin 12.0; normal range in adult female=12.0 g/dL or higher.
Hematocrit (% of red blood cells in sample volume) 36.5; normal range in female= 36-47%.
Platelets 279.000; normal range=150,000-350,000/μL (150-350 x 10^9/L).

(Source of ranges: American College of Physicians and Surgeons, "Normal Lab Values Chart, IM 2015," available at: https://annualmeeting.acponline.org/sites/default/files/shared/documents/for-meeting-attendees/normal-lab-values.pdf.) I note that neurological medical panel member Dr. Michele L. Masi, who reviewed the medical records,, disagreed vehemently with the MS diagnosis recited at various points in the 2007 Cooley Dickinson Hospital records, and in the records of other treating physicians both before and after January 14, 2010, because MS was never confirmed by testing. (*See* Finding 96(g).)

Caldieri teaching her Latin classes. This was part of his evaluation of Ms. Caldieri's professional performance. It led to his recommendation that she be reappointed to teach at the school during the 2008-09 school year. (Exh. 8: South Hadley Public Schools Teacher Evaluations of Debra Caldieri dated April 2-18, 2008 at 1-16.)

30(a). Principal Smith rated Ms. Caldieri as having met all teacher performance standards during the 2007-08 school year. According to the written evaluations that Principal Smith completed, Ms. Caldieri was up-to-date regarding curriculum content; planned her instruction and student assessment effectively; created and maintained a classroom environment that fostered student learning; maintained school standards as to behavior, mutual respect, acceptance of diversity, and safety; instructed students effectively using available resources and a variety of instructional strategies to increase student learning; promoted high standards and expectations for student achievement, as well as student confidence, perseverance, and increased personal responsibility in meeting learning goals and the teacher's student achievement expectations; promoted equal opportunities for student learning and demonstrated an appreciation for and sensitivity to diversity among individuals; and fulfilled her professional responsibilities by being constructive and cooperative in interactions with parents and members of the school community, and shared responsibility for accomplishing the goals of her department, her school, and the school district. (Exh. 8 at 13: Teacher Summative Evaluation" dated Apr. 18, 2008.)

30(b). Principal Smith noted several areas of accomplishment by Ms. Caldieri during the 2007-08 school year. He wrote that Ms. Caldieri was "exceptional at planning lessons

that regularly engage students in practicing the skills needed to master Latin," had "developed a learning environment of mutual respect, support and constant inquiry," and had used "competition and speed" in the classroom "to increase excitement and participation as well as develop a brisk pace for instruction" and had kept students "actively engaged in their learning," while, at the same time, "constantly assessing student performance to make the necessary adjustments." Principal Smith also noted that Ms. Caldieri had "fulfilled her professional responsibilities this year [2007-08] despite a prolonged illness," during which she had still "helped out with instructional plans and tasks where she could." He noted that Ms. Caldieri hoped to "draw more students into Latin" by infusing more culture into her instruction, expanding the Latin program, and getting the school's Latin Club, which she sponsored and advised, "to be more active and participatory." (*Id*.)

30(c). On May 17, 2008, Principal Smith recommended Ms. Caldieri for reappointment as a South Hadley High School teacher for the 2008-09 school year based upon her performance during the 2007-08 school year. (Exh. 8 at 15.)

2008-09 School Year

31. Ms. Caldieri had a followup brain scan with contrast at Cooley Dickinson Hospital on December 11, 2008, which was reviewed by neurologist Dr. James Most and radiologist Dr. Paul H. Kolbjornsen.

31(a). Dr. Most compared the results of the December 11, 2008 brain scan with prior brain MRI results. He thought it remained unclear whether a mass in the central

pontomedullary junction of the brainstem was enhancing MS plaque. He described the brain lesions shown by the prior contrast MRIs as "not particularly suggestive of MS though certainly demyelinating disease [is] not excluded." (Exh. 31: Report of Dr. James Most dated Dec, 10, 2008).

31(b). In reviewing the December 11, 2008 MRI with contrast, Dr. Kolbjornsen observed no change in Ms. Caldieri's bilateral white matter lesions. He described them as "nonspecific," with no new intracranial pathology including infarct or ischemia. He also noted no inflammatory changes in the paranasal sinuses and mastoids. (Exh. 31: Dr. Kolbjornsen's report, dated Dec. 11, 2008.)

32. On March 4, 2009, South Hadley High School Assistant Principal Mike Roy and Foreign Languages Chair Tiesa Graf observed Ms. Caldieri teaching her Latin classes, as part of their evaluation of Ms. Caldieri's professional performance preparatory to recommending that she be reappointed to teach at the school during the 2009-10 school year. (Exh. 8: South Hadley Public Schools Teacher Evaluations of Debra Caldieri dated Mar. 4-24 at 17-32.)

32(a). Assistant Principal Roy rated Ms. Caldieri as having met all teacher performance standards during the 2008-09 school year. (*Id*. at 28-30.) The standards were the same as those Principal Smith found that Ms. Caldieri had met when he evaluated her in April 2008. (*See* Finding 30 above.)

32(b). As part of her 2009 evaluation of Ms. Caldieri, Foreign Languages Department Chair Graf observed Ms. Caldieri teaching her Latin II class on March 4 and her Latin 1 and 3 classes on March 24, 2009. Ms. Graf noted her teaching strengths—planning her lessons;

maintaining a good rapport with her students; explaining concepts first in English, and then having students translate these into Latin; having students read, repeat and translate Latin words to reinforce their Latin vocabularies to increase the chance of word retention; and giving students opportunities to practice using verbs and manipulatives.[27] Ms. Graf recommended that Ms. Caldieri be more assertive with students who were off-task (meaning, mostly, by not doing homework to prepare for the next Latin class)—for example by stating or re-stating her expectations for a given activity, and making sure there were consequences for students who resisted participating or otherwise did not respond appropriately, including being sent to the department chairperson or to the "planning room." Ms. Graf also recommended that Ms. Caldieri move around the room more as she questioned students (to get a better idea of who was, and who was not, paying attention), choose groups of students as working partners, make seating arrangements more purposefully (so that participation was not dominated by students sitting closer to the teacher), and continue to remind students to be, or to remain, "on-task." (Exh. 8 at 20, 24.)

32(c). Following her classroom observation, Ms. Caldieri attached a handwritten

[27]/ In the specific context of teaching beginning Latin, "manipulatives" are learning devices that are used to expand student vocabularies and improve word use. For example, by using Latin roots to form words, a student uses word components to build vocabulary, and also learns the proper use of Latin prefixes, suffixes and root words in context. Without using the term "manipulative," the technique of using learning devices to teach classical (and modern) languages is described in the "Developmental Stages of Language Proficiency" of the Massachusetts Department of Education's *Massachusetts Foreign Languages Curriculum Framework* (Mass. Dep't of Education, Aug. 1999), https:// www.doe. mass.edu › frameworks › foreign › 1999.pdf, at 11-12.

response to her teacher evaluation thanking Assistant Principal Roy and Foreign Languages Chair Graf for their "useful recommendations" regarding student homework reminders. She concluded her response, dated March 13, 2009, with "Multas gratiās tibi agō!" ("many thanks!"). (Exh. 8 at 32.)

32(d). On April 28, 2009, Assistant Principal Roy recommended Ms. Caldieri for reappointment based upon her 2009 evaluation, and Principal Smith concurred with this recommendation. (Exh. 8 at 30.)

33. On August 6, 2009, Ms. Caldieri was referred by Dr. O'Connell and a nurse practitioner in Amherst (Sharon Shumway, N.P.) to Dr. R. Allison Ryan, a psychiatrist board-certified in neurology and clinical neurophysiology, "because of multiple symptoms and a question of multiple sclerosis."

33(a). Dr. Ryan prepared a written report including her preliminary evaluation to N.P. Shumway, with copies to Dr. O'Connell and Ms. Caldieri, dated August 26, 2009. (Exh. 23.)

33(b). As Dr. Ryan was unable to perform a full examination due to time constraints, he asked Ms. Caldieri to return for an ongoing assessment. Dr. Ryan reviewed records that the Nurse Practitioner supplied, obtained a history from Ms. Caldieri, and noted her daily medications to be, at that time, Topamax 225 mg,[28] Zoloft 250 mg,[29] Celexa 25 mg,[30] and

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[28]/ Topamax is administered for seizure and migraine control (*see* n.19).

[29]/ Zoloft is administered To treat depression (*see* n. 13).

[30]/ Celexa is a selective serotonin uptake inhibitor (SSRI) and antidepressant. The initial dosage of Celexa is 20 mg. once daily; the maximum recommended dosage is 40 mg. daily "at an

Clonazepam 0.5 mg t.i.d. (three times daily).[31] (*Id*.)

33(c). Dr. Ryan noted that Ms. Caldieri was significantly underweight and "developed some tremors in the context of emotionally laden topics." (*Id*.)

33(d).) Dr. Ryan had great difficulty determining whether Ms. Caldieri had multiple sclerosis and related seizures, or some other type of seizure disorder. Her preliminary assessment was that Ms. Caldieri was "challenging" as to diagnosis and treatment, but that she "clearly" suffered from migraines, depression, PTSD, eating disorder, and "spells with altered consciousness with a differential diagnosis of seizures/dissociation/pseudoseizures,"[32]

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interval of no less than one week." (*See* "Rx List: Celexa" (updated Feb. 16, 2022), https:// www. rxlist. com/celexa-drug.htm#description.)

[31]/ Clonazepam (Klonopin) is an antidepressant (*see* n. 24).

[32]/ Pseudoseizures (sometimes referred-to as "spells" or "psychogenic nonepileptic episodes"(PNES) resemble, but are not, epileptic seizures. "Abnormal excessive synchronous cortical activity . . . defines epileptic seizures. Non-epileptic seizures, such as pseudoseizures, appear to be of psychiatric origin, such as a memory of prior trauma or of sexual or physical abuse. Pseudoseizure symptoms may include weakness or paralysis, or reduced input from one or more senses such as sight or sound. They occur because the brain "converts the effects of a mental health issue into disruptions of your brain or nervous system. The symptoms are real but don't match up with recognized brain-related conditions . . . While it's a mental health condition, the physical symptoms are still real. A person with conversion disorder can't control the symptoms just by trying or thinking about it." (Cleveland Clinic, "Conversion Disorder" (rev. Jul. 18, 2022), https://my.clevelandclinic.org/health/diseases/17975-conversion-disorder; *see also* Huff, J.S. et al., "Psychogenic Nonepileptic Seizures" (StatPearls Publishing, rev. May 8, 2022, available online at National Institutes of Health, National Library of Medicine, National Center for Biotechnology Information, PubMed.gov, https://www.ncbi.nim.nih.gov/books/ NBK441871/.) More than half of patients with pseudoseizures are women. (*Id*.) Psychiatric comorbidities of pseudoseizures may include depression, anxiety disorders, PTSD, or personality disorders." (*Id*.)

Distinguishing between epileptic and nonepileptic seizures makes (or should make) a

and also had "extensive T2 lesions on MRI." Dr. Ryan thought that Ms. Caldieri had multiple sclerosis, but could "certainly see why this diagnosis has not been confirmed." (Exh. 23.) She thought that Ms. Caldieri was "significantly disabled and will not be able to function as a teacher." She thought Ms. Caldieri would benefit from additional anticonvulsants and/or psychiatric interventions." (*Id*.)

33(e). In her August 26, 2009 report, Dr. Ryan did *not* state that Ms. Caldieri had reached an end-stage of treatment or that her disability was likely permanent; nor, in concluding preliminarily that Ms. Caldieri was significantly disabled, did Dr. Ryan

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difference in treatment, particularly seizure control medications. Benzodiazepines such as lorazepam and Klonopin (*see* nn. 23 and 24) are generally ineffective in treating pseudoseizures and other nonepileptic seizures, and large dosages of these drugs can have life-threatening side effects such as respiratory depression. (Huff, "Psychogenic Nonepileptic Seizures," *supra.*) However, distinguishing between the two types of seizures is difficult. Observations that are characteristic of non-epileptic seizures, but not of epileptic seizures, include waxing and waning consciousness, out-of-phase shaking movements, pelvic thrusting, side-to-side head shaking, a clenched mouth, and eye closure during the suspected seizure. A patient experiencing a pseudoseizure may respond to a brief loud noise or similar startling stimulus; a patient experiencing an epileptic seizure generally cannot respond to such stimuli. There are other observations that may differentiate epileptic and non-epileptic seizures. (*Id*.)

The electroencephalogram has proven to be a valuable tool in differentiating epileptic and nonepileptic seizures based upon recorded brain activity, and "simultaneous video and EEG recordings may be a key to diagnosis." (*Id*.) It is not immediately clear that this differentiating technique was in widespread use before Ms. Caldieri last worked as a teacher (in early December 2010), but the usefulness of EEGs in evaluating a suspected seizure was being pointed out in medical literature by the 1990s. (*See, e.g.*, King, M.A. et al., "Epileptology of the First-Seizure Presentation: a Clinical, Electroencephalographic, and Magnetic Resonance Imaging Study of 300 Consecutive Patients," 352 THE LANCET 9133 at 1007-11 (Sept. 26, 1998); abstract available online, with a link to the full article via paid access, at: National Institutes of Health, National Library of Medicine, National Center for Biotechnology Information, PubMed.gov, https://pubmed.ncbi.nlm.nih.gov/9759742/.)

distinguish between Ms. Caldieri's neurological disorders and her depression, classifying them, instead, as among Ms. Caldieri's ongoing comorbidities. (*Id.*)

2009-10 School Year

a. Ms. Caldieri's Medical Condition Before January 14, 2010

34. Ms. Caldieri continued to see Dr. Ryan during the fall semester of the 2009-10 school year, beginning on October 1, 2009. (Exh. 23.)

34(a). Ms. Caldieri reported "two spells" during the previous week comprising "some brief shaking and then being 'out of it' for a day, tired, not making much sense." She also reported that she was teaching and felt that her job performance "has been mostly adequate." (*Id.*)

34(b). Dr. Ryan performed a neurological examination and noted decreased muscle mass, with some swaying and generalized tremulousness, but no evidence of spasticity. She again noted that Ms. Caldieri was significantly underweight. Dr. Ryan found, on examination, that Ms. Caldieri was alert, oriented x 3 (oriented as to person, place and time), with no significant deficits of attention, memory, language or knowledge." Dr. Ryan noted an "unusual affect" that she thought might be "la belle indifference."[33] (*Id.*)

[33]/ "La Belle Indifference" is "a paradoxical absence of psychological distress despite having a serious medical illness or symptoms related to a health condition. This condition is most commonly associated with conversion disorder (CD)." (*See* S. Gokarakonda and N. Kumar, "La Belle Indifference" (updated Jul. 12, 2022), National Institutes of Health, National Center for Biotechnology Information, National Library of Medicine, available online at:

34(c). Dr. Ryan stated, in her notes for this visit, that the diagnosis of the "spells" Ms. Caldieri experienced as MS, or even as seizures, remained unclear, "obscured in part by affective and personality factors," but noted that "there is prima facie evidence that the spells are partial complex seizures" with "an autoimmune diathesis, probably demyelinating disease." (*Id*.)

34(d). Dr. Ryan thought that symptomatic management was the first priority, starting with "presumed seizure disorder," for which Dr. Ryan prescribed Keppra 500 mg daily,[34] which dosage, if tolerated, would be raised to 1000 mg daily, as well as vitamin and mineral supplementation (Vitamin B complex, calcium 1500-1800 mg, magnesium 750-900 mg, and Vitamin D 400 IU as fish oil). She ordered blood testing for Vitamin B12 and D levels, and

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https://www.ncbi.nlm.nih.gov/books/NBK560842/.) Conversion disorder, also known as "functional neurologic symptom disorder (FNSD)," is "characterized by the presence of at least one neurological deficit that does not have any medical or neurological etiology and is incompatible with any known medical or neurological disorders." (*Id*.) These neurological deficits without any known medical or neurological explanation may include "weakness or paralysis of one side of the body or bilaterally, abnormal movements (including tremor, myoclonus, dystonic movements, etc.), seizures (psychogenic neuroleptic seizures), swallowing problems (globus), speech problems (dysphonia or aphonia), sensory loss (vision or olfactory issues) and syncopal episodes." (*Id*.)

[34]/ Keppra (levetiracetam) is an antiepileptic drug used to treat seizure symptoms. The adult daily dosage starts at 1000 mg/day, divided into two doses of 500 mg each, increasing in increments of 1000 mg Daily every two weeks to a maximum of 3000 mg daily, after which there is generally no additional benefit. Common side effects include dizziness, drowsiness, feeling aggressive and irritable, tiredness, muscle weakness, loss of appetite and infection. These side effects can be severe and, therefore, serious. (*See* "RxList: Keppra" (rev. Oct. 20, 2020), https://www.rxlist.com/keppra-drug.htm#description.)

Sjogren's antibodies.[35] (*Id.*)

35. Ms. Caldieri had followup visits with Dr. Ryan in November and December 2009. (Exh. 2: Dr. Ryan's notes dated Nov. 9, 2009.)

35(a). During the November 4, 2009 visit, Dr. Ryan noted that since discontinuing

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[35]/ Sjogren's syndrome is a long-lasting autoimmune disorder in which the immune system attacks the glands that make moisture in the eyes, mouth, and healthy tissues in other parts of the body. It affects mostly women in their 40s and 50s. The main symptoms are dry eyes (experienced in the form of blurry vision and/or light sensitivity) and mouth (experienced as trouble swallowing, tasting or speaking, and/or increased dental decay and thrush infections). Other symptoms can include fatigue and joint and muscle pain, acid reflux, poor memory and concentration, and shortness of breath and trouble breathing. The disease can damage the lungs, kidneys, and nervous system. Currently there is no cure, but the disease can be managed through (among other approaches) the use of eye drops, pain relievers to reduce inflammation, anti-rheumatic or anti-malarial drugs, corticosteroids, and acid reflux medications; by protecting the eyes from drafts, breezes and smoky rooms; and by using humidifiers. (*See* National Institutes of Health, National Institute of Arthritis and Musculoskeletal and Skin Diseases, "Sjogren's Syndrome: Diagnosis, Treatment, and Steps to Take" (updated Jan. 2021), https://www.niams.nih.gov/health-topics/sjogrens-syndrome/diagnosis-treatment-and-steps-to-take.)

Blood tests can identify antibodies that are typically present in Sjogren's syndrome patients. Tests performed routinely for patients with suspected Sjogren's syndrome include those for the presence of SS-A (Ro) and SS-B (La) antibodies. SS-A antibodies are found in a large percentage of Sjogren's syndrome patients (roughly 60-80 percent). SS-B antibodies are less commonly found (in approximately 30-35 percent of Sjogren's patients). It is "very uncommon" for SS-B antibodies to occur alone. Finding SS-A and/or SS-B antibodies is not specific to Sjogren's patients, as they are also found in patients with systemic lupus, and sometimes in other autoimmune diseases such as myositis, as well as in roughly 1 in 200 healthy women. (*See* Johns Hopkins Sjogren's Center, Sjogren's Syndrome Information: Blood and Urine Tests, https://www.hopkinssjogrens.org/disease-information/diagnosis-sjogrens-syndrome/blood-and-urine-tests/.)

The antinuclear antibody (ANA) test is "positive in the majority of Sjogren's syndrome patients." but "a positive ANA test is also common in healthy individuals." (*Id.*) A negative ANA test "does not exclude the diagnosis of Sjogren's syndrome," since "some of these individuals may still have SS-A and/or SS-B antibodies." (*Id.*)

Celexa and starting on Keppra in early October 2009, Ms. Caldieri had felt less shaky and had reported a single "spell" (seizure) related to stress, but still complained of poor memory and fatigue. Dr. Ryan noted unremarkable Vitamin B12, Vitamin D and thyroid function numbers from the results of blood tests she had ordered. In addition, Dr. Ryan noted that the blood tests were unremarkable for ANA (antinuclear antibodies, one of the antibodies for which blood testing is typically ordered when Sjogren's syndrome is suspected; *see* n. 35). Dr. Ryan also noted that the blood test results showed the presence of SS-B at a low level—reported by Dr. Ryan as SS-B/LA 2.4 [<1]." (*Id*.) Dr. Ryan thought it "quite likely" that Ms. Caldieri had Sjogren's syndrome as one of several comorbidities, including fatigue and possible scleroderma based upon facial peri-oral skin changes Dr. Ryan noted. To address Ms. Caldieri's fatigue, Dr. Ryan instituted a trial of amantadine 100 mg once daily, increasing to twice daily if tolerated,[36] and continuing with Keppra. Overall, Dr. Ryan's impression on November 4, 2009 was that while Ms. Caldieri's medical management remained "an ongoing challenge," her "[then-]current situation represents gratifying internal improvement with respect to some target symptoms," so that "ongoing therapeutic and management efforts are certainly indicated." (*Id*.)

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[36]/ Amantadine, used for treating Parkinson's disease, is also given to address the "extrapyrimidal" side effects of other drugs, such as drug-induced movement disorders caused by some antipsychotic drugs, *e.g.*, involuntary or uncontrollable movements, tremors, and muscle contractions. Amantadine may work by restoring the balance of neurotransmitters in the brain, and, thus, may help improve the patient's range of motion and ability to exercise. The typical dosage is 100 mg daily, increasing, after at least a week's use, to 100 mg every 12 hours. (*See* "RxList: Amantadine" (updated Sept. 7, 2021), https://www.rxlist.com/consumer_amantadine_symmetrel/drugs-condition.htm.)

35(b). During her followup visit with Dr. Ryan five weeks later, on December 9, 2009, Ms. Caldieri said she did not think the Amantadine had improved her fatigue, which persisted "at high levels," and that her dry mouth condition had worsened. She also complained of a severe headache lasting for about a week. Based upon a limited reexamination, Dr. Ryan's impression was that Ms. Caldieri appeared to be clinically stable, which included "a very flat affect" and severe headache. Dr. Ryan continued to view Ms. Caldieri's medical management as challenging in view of her comorbidities and medication sensitivities, and while her situation was "clearly not yet satisfactory," continuing therapeutic and management efforts were "certainly indicated," which had been Dr. Ryan's previous view. She ordered a brain MRI and recommended a rheumatology consultation to address the autoimmune disorder aspect of Ms. Caldieri's condition. Dr. Ryan discontinued Ms. Caldieri's amantadine, substituting for it a one-month trail of Midrin.[37] Ms. Caldieri's medication regime as of December 9, 2009 was Clonazepam 0.5 mg t.i.d. (three times a day); Topamax, 200 mg; Zoloft 300 mg; and Keppra 2000 mg twice daily. She was also taking, daily, calcium, 1500-1800 mg; fish oil; magnesium 750-900 mg; and Vitamin D (amount unspecified). (*Id*.)

36. Clinical Social Worker Davina Miller formed an impression of Ms. Caldieri's emotional state and coping capabilities toward the end of 2009. Ms. Miller had worked with Ms.

[37]/ Midrin is used to relieve tension headaches and migraine headaches. Side effects appear limited to possible transient dizziness and skin rashes, typically relieved by reducing the dosage. (*See* "RxList: Midrin" (updated Oct. 1, 2018), https://www.rxlist.com/midrin-drug.htm#description.)

Caldieri since November 2008 with respect to her anxieties and stresses following the end of her marriage and becoming a single mother with three children living at home and continuing to teach at South Hadley High School. Ms. Miller understood that Ms. Caldieri was also trying to deal with a diagnosis of probable multiple sclerosis, and also anorexia and dysthymia.[38] (Miller direct testimony and testimony on cross-examination; Exh. 21: Written statement of Davina Miller, MSW., L.I.C.S.W., re Debra Caldieri, dated Sept. 19, 2011).[39]

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[38]/ Dysthymia, or persistent depressive disorder, is a chronic form of depression. It causes severe symptoms that adversely affect daily activities, including sleeping, eating, studying or working, as well as thinking and how one feels. Symptoms must persist for two years to be classified as dysthymia. They include persistent sadness, anxiety or a feeling of "emptiness;" hopelessness, or pessimism; irritability, frustration, or restlessness; feelings of guilt, worthlessness or helplessness; loss of interest or pleasure in hobbies and activities; decreased energy or fatigue; difficulty concentrating, remembering, or making decisions; difficulty sleeping or awakening, or oversleeping; changes in appetite or unplanned weight changes; aches, pains, headaches, cramps or digestive problems without a clear physical cause that do not ease even with treatment; and thoughts of death or suicide, or suicide attempts. (*See, e.g.*, National Institute of Mental Health, "Depression" (rev. Sept. 2022), https://www.nimh.nih.gov/health/topics/depression.)

Ms. Miller may have discerned dysthymia as one of Ms. Caldieri's diagnosed comorbidities from a review of other medical records and/or from Ms. Caldieri's description of her symptoms, but she did not cite a source for this diagnosis during her testimony or in her September 19, 2011 written report (Exh. 21.) Dr. O'Connell's handwritten notes do not show a specific diagnosis of dysthymia, but he recorded many of the symptoms of this condition during the years he treated Ms. Caldieri beginning in 2003, and he prescribed medications used to treat this condition. (*See* Exh. 22.) All told, Ms. Caldieri's caregivers appeared to recognize that she had been suffering from persistent depressive disorder for several years as of the fall of 2009.

[39]/ Ms. Miller was unable to say for certain why she created this written statement in 2011. It might have been for anticipated use in Ms. Caldieri's workers' compensation proceeding. She kept this written statement in a file with Ms. Caldieri's name on it, among other medical records, and the statement does not identify a recipient and is not addressed "to whom it may concern." (Miller testimony on cross-examination.) For whatever purpose Ms. Miller created this document, however, its contents are consistent with her testimony during the hearing

36(a). As of the summer of 2009, Ms. Miller was seeing Ms. Caldieri weekly. Ms. Miller was aware that Ms. Caldieri had experienced "occasional seizures . . . but not many" during the first year she worked with her, including "passing out at a teachers' conference in 2009." (Id.; Miller testimony on cross-examination.) It was Ms. Miller's understanding that these seizures were "always the result" of Ms. Caldieri "feeling distressed by something." (*Id.*; Exh. 21.)

36(b). Ms. Miller's assessment of Ms. Caldieri prior to January 2010 was that although Ms. Caldieri was finding it "hard to accept that she had MS," and, despite feeling tired, she was "functional," engaged in prepping for the classes she was teaching at the high school, able to deal with her anxieties, and also able to climb the stairs to Ms. Miller's office; she was "invested heavily" in all her students and "cared deeply [for them] within appropriate boundaries;" and she enjoyed doing what she loved, which was teaching. (*Id.*)

36(c). It was Ms. Miller's impression, as of late 2009, that Ms. Caldieri felt she had the total support of the high school's administration at the time, including Principal Smith and the Foreign Languages Department Chair, Ms. Graf. (Miller direct testimony.)

37. Shortly before January 14, 2010, rheumatologist Dr. Teresa Klich-Nowak saw Ms. Caldieri, upon Dr. Ryan's referral, regarding Ms. Caldieri's "chronic fatigue and diffuse soreness with a question of Sjogren's syndrome." Dr. Klich-Nowak examined Ms. Caldieri, reviewed records provided to her, and wrote a report on her findings and conclusions to Dr. Ryan. (Exh. 25: Report

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in this appeal. The document is therefore at least corroborative of Ms. Miller's testimony, even if it was not strictly a medical record.

of Dr. Teresa Klich-Nowak to Dr. Allison Ryan, dated Jan. 14, 2010).

37(a). Dr. Klich-Nowak related a history that included a diagnosis of multiple sclerosis since 1999 when she had a Bell's Palsy, left-sided weakness and seizure-like episode with double vision and tremors, a brain MRI revealing some white matter lesions but inconclusive cerebrospinal fluid testing, seizure symptoms that became more frequent starting in 2006, including falling down stairs and not remembering her daughter or son, an evaluation at UMass Memorial Hospital in Worcester where multiple sclerosis and seizure disorder were ruled out and it was determined that Ms. Caldieri "largely suffers from a psychiatric problem: Dissociative disorder."[40] (Exh. 25: Report of Dr. Teresa Klich-Nowak

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[40]/ Dissociative disorders are:

> characterized by an involuntary escape from reality characterized by a disconnection between thoughts, identity, consciousness and memory . . . Women are more likely than men to be diagnosed with a dissociative disorder. The symptoms of a dissociative disorder usually first develop as a response to a traumatic event, such as abuse or military combat, to keep those memories under control. Stressful situations can worsen symptoms and cause problems with functioning in everyday activities. However, the symptoms a person experiences will depend on the type of dissociative disorder that a person has.
>
> Treatment for dissociative disorders often involves psychotherapy and medication. Though finding an effective treatment plan can be difficult, many people are able to live healthy and productive lives . . . Symptoms and signs of dissociative disorders include: Significant memory loss of specific times, people and events; Out-of-body experiences, such as feeling as though you are watching a movie of yourself; Mental health problems such as depression, anxiety and thoughts of suicide; A sense of detachment from your emotions, or emotional numbness; [and a] lack of a sense of self-identity . . .
>
> Dissociative disorders usually develop as a way of dealing with trauma. Dissociative disorders most often form in children exposed to long-term physical,

to Dr. Allison Ryan, dated Jan. 14, 2010.)

37(b). Dr. Klich-Nowak noted the medication regimen Dr. Ryan had recorded. She also noted a family history that included a 70 year old mother with Parkinson's disease, a father who died at 67 from Lou Gehrig's disease within 5 months of diagnosis, healthy siblings, and no family history of systemic lupus erythematosus, Sjogren's syndrome, or multiple sclerosis. (*Id*.)

37(c). Dr. Klich-Nowak related Ms. Caldieri's symptoms as including chronic headaches since early childhood, usually at the back of the head, worsening upon lying down; having three headaches in December 2009, one or more of which lasted two weeks; fatigue, exhaustion, and poor sleep; tiredness in her legs all the time; dryness in her mouth and eyes, and difficulty swallowing and feeling like she was choking since childhood; recurrent episodes of loss of consciousness; "questionable seizures versus tremors 12 times within the last calendar year" (2009) with left-sided weakness since 1999, that had become "a bit worse"; and hands becoming numb in the cold for many years. Dr. Klich-Nowak found no visual changes, jaw or tongue claudication, skin rash or photosensitivity, mucosal ulcers,

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> sexual or emotional abuse. Natural disasters and combat can also cause dissociative disorders . . . Doctors diagnose dissociative disorders based on a review of symptoms and personal history. A doctor may perform tests to rule out physical conditions that can cause symptoms such as memory loss and a sense of unreality (for example, head injury, brain lesions or tumors, sleep deprivation or intoxication). If physical causes are ruled out, a mental health specialist is often consulted . . . .

(National Association on Mental Illness, "Dissociative Disorders: Overview" (undated), https://www.nami.org/About-Mental-Illness/Mental-Health-Conditions/Dissociative-Disorders.)

shortness of breath, chest pain or cough, abdominal pain, nausea, vomiting diarrhea, bloody or black stools or constipation, genito-urinary organ system abnormalities, or any joints being acutely red or hot. (*Id*.)

37(d). Dr. Klich-Nowak performed a physical examination that revealed Ms. Caldieri to be in mild-to-moderate distress secondary to her diffuse tiredness. Blood pressure was 112/70; heart rate was 68 and regular; and Respiratory rate was 12. Her weight was 102 pounds, well under an ideal weight of 126 pounds for her height (5'5"). Dr. Klich-Nowak found a reduced tear and salivary pool. Other findings were normal, except for generalized muscle weakness secondary to reduced muscle mass in the upper and lower extremities, and a mild tremor on testing Ms. Caldieri's arm muscle against resistance. (*Id*.)

37(e). Dr. Klich-Nowak noted that the most recent laboratory tests (from August 4, 2009) revealed microcytic anemia (smaller than normal red blood cells), with a low blood hemoglobin level (10.5), low hematocrit (32.2), and low MCV (mean corpuscular level) of 75.6, and a normal platelet count of 275. The comprehensive metabolic panel was normal, a normal cholesterol figure of 243 mg/dLand normal phosphorous, magnesium, and TSH (thyroid-stimulating hormone), and a negative toxicology screen. (*Id*.)

37(f). Dr. Klich-Nowak's assessment was "[u]nspecified immune mechanism disorder," fatigue, Sicca syndrome (Sjogren's syndrome), possible diffuse myalgias, multiple sclerosis, eating disorder, being underweight, and questionable dissociative disorder. She asked Ms. Caldieri to have a new set of laboratory tests done to assist in attempting to confirm Sjogren's syndrome versus systemic lupus erythematosus. Dr. Klich-Nowak also

advised Ms. Caldieri to eat 5-6 small meals daily on a regular basis, get enough sleep, and begin a daily, gentle range of motion, stretching and strengthening exercises with the assistance of both warm packs prior to exercise sessions and physical therapy. She also thought Ms. Caldieri could benefit from improved stress management skills. (*Id*.)

b. Early 2010: The Death of Phoebe Prince, and its Impact Upon the School, its Administration, and Ms. Caldieri

38. One of the students in Ms. Caldieri's 2009 fall semester Latin I class was a 15 year old freshman named Phoebe Prince who, earlier that year, had moved with her family from Ireland to South Hadley. (Caldieri direct testimony.)

38(a). Initially, Phoebe's grades on Latin quizzes were very high. Phoebe told Ms. Caldieri she was proud of this because her dad had wanted her to take Latin. However, Phoebe's high grades drew the negative attention of several members of the school football team, who were also taking Latin I and who made fun of her. Possibly in response to this, Phoebe began failing the quizzes. (*Id*.)

38(b). Ms. Caldieri told her to ignore the football players, and to come back after school and retake the quizzes, which she did. Ms. Caldieri worked with Phoebe during the fall of 2009 and became her mentor. It appeared to Ms. Caldieri that Phoebe trusted her. Phoebe told Ms. Caldieri she was being bullied by other students. (*Id*.)

39. On one occasion during the fall 2009 semester, Ms. Caldieri had observed another girl threatening Phoebe Prince. (Caldieri direct testimony.)

39(a). Phoebe told Ms. Caldieri not to tell anyone about it because she was afraid of retribution. (*Id*.)

39(b). Ms. Caldieri spoke with Assistant Principal Evans about this incident. He told her he had already heard about Phoebe's bullying, and that it concerned her interest in a particular boy (student X), in whom other girls at the school were also interested. (*Id*.)

39(c). Ms. Caldieri told Phoebe to stay away from these other students, and to report the bullying to Principal Smith. (*Id*.)

40. Ms. Caldieri was aware that the bullying of Phoebe Prince by other students at the high school continued into early January, 2010. As she understood the situation, Phoebe was being called names and tormented by other students. Ms. Caldieri had scheduled a meeting in her classroom with Phoebe for Thursday, January 14, 2010 to discuss this.[41] (*Id*.)

41. Ms. Caldieri arrived for work at South Hadley High School at approximately 7 a.m. on January 14, 2010, as she usually did, and prepared for teaching her Latin classes, also as she usually did. Ms. Caldieri also expected to be meeting with Phoebe Prince after classes to discuss her harassment by other students. (Caldieri direct testimony.)

41(a). Ms. Caldieri taught Latin classes until late morning. The classes she taught were mostly beginning Latin (Latin 1); she also taught Latin 3, an advanced Latin class. (Caldieri direct testimony, and testimony on cross-examination.)

41(b). After teaching those classes, Ms. Caldieri waited in her classroom for Phoebe

[41]/ The time of the scheduled meeting is unclear from the testimony and the remainder of the record.

to arrive for the scheduled meeting. Phoebe never arrived. (Caldieri direct testimony.)

41(c). Not long after, possibly before she learned about Phoebe Prince's suicide, Ms. Caldieri learned that Phoebe had been harassed by other students in the hall outside her classroom. Ms. Caldieri regretted not having left her classroom to look for Phoebe rather than having waited in the classroom for Phoebe to appear. (*Id*.)

41(d). A student[42] then told Ms. Caldieri that Phoebe had committed suicide. The news was immediately devastating for Ms. Caldieri. It deepened her regret that she had not stepped out into the hallway to see if Phoebe was there, rather than wait in her classroom for Phoebe to arrive for her scheduled meeting. These personal emotional impacts notwithstanding, Ms. Caldieri felt she had to discuss the suicide with her students since they were stopping by her classroom to discuss it with her. (*Id*.; Caldieri testimony on cross-examination.)

42. The news that Phoebe Prince had committed suicide (by hanging herself in her family's house), and that the suicide may have followed bullying by other students, spread quickly on January 14, 2010 throughout the school and in the surrounding community. By the evening, this news was being reported in several local and regional media outlets, and those reports continued on

[42]/ Although Ms. Caldieri identified this student during her cross-examination, the name was mostly unintelligible as she was speaking with a weak voice. The actual name of the student is immaterial; what is material, at least for purposes of crediting Ms. Caldieri's recollection of events, is that she was able to identify the student, and that she recalled him as the first person to tell her that Phoebe Prince had committed suicide.

January 15, 2010.[43] The details were not immediately known, but the effect of the suicide was profound and had, in the school at least, an immediately- deteriorating impact on overall morale and ability to maintain focus on academic subjects. (*See* Graf direct testimony, *passim*.)

43. Ms. Caldieri's own children did not want her to go to the school the next day (Friday, January 15, 2010). However, she felt that she needed to show up for work, even though she felt sad, devastated, heartbroken, and guilty for not having stepped out into the hall outside her classroom on the previous day, which she thought might have given her an opportunity to have "done something." (Caldieri direct testimony.)

44. Phoebe Prince's suicide also had a devastating emotional impact upon Principal Smith and Foreign Languages Department Chair Graf, and also upon administration and faculty morale.

44(a). Phoebe Prince had also been a student of Principal Smith's. He grieved her death personally, and described this time as "very difficult" for him. He felt a great emotional burden had befallen him and his staff. (Smith direct testimony.)

44(b). Principal Smith brought in "mental health organizations" to help. During the evening of January 14, 2010, after Phoebe Prince's suicide, the school called in a psychologist to discuss the problem of "suicide contagion," a situation in which students

[43]/ That the media reported this story almost immediately, and hinted at its relationship to school bullying, is undisputed. (*See, e.g.*, MASSLive, "Investigators trying to determine if apparent South Hadley suicide victim Phoebe Prince had been bullied" (Jan. 15, 2010, posted initially at 11:13 a.m. that day); available at https://www.masslive.com/news/2010/01/south_hadley_high_school_suicide_victim_may_have_been_bullied.html.)

considered their own suicide as a "response" to their fellow student's suicide. This thinking seemed to have already occurred. Principal Smith had heard that "several students were reported as considering suicide" in response to Phoebe Prince's suicide, and it was Principal Smith's understanding that this number "went up to 20" after January 14, 2010. In response, the school set up a "hot line" with Bay State, a mental health provider. (*Id*.)

44(c). Principal Smith also described the school at the time, and afterward, as being "under siege" in speaking with school faculty members, and Ms. Graf agreed. (*Id*.; Graf direct testimony, and testimony on cross-examination.)

44(d). Principal Smith directed the high school faculty not to talk with students about hate mail and threats directed at or about the school regarding Phoebe Prince's suicide. He told faculty that they were expected to function and teach despite these outside "complications" and the school's "isolation" over the suicide. Ms. Graf recalled the instruction as having been given to minimize "suicide contagion" among the students, rather than to project administration "coldness" toward the suicide and its impact. It was also, in her view, the result of the school feeling itself "under siege" and administrators being without emotional "reserves" to handle the impact of the suicide upon school morale generally, or upon individual teachers and students. (Graf testimony on cross-examination.)

44(e). As 2010 progressed, it became clear to Principal Smith that despite these measures to restore some semblance of normalcy at the high school, the disruptive impact of Phoebe Prince's suicide was not going away, for him or for anyone else at the school. He perceived that the suicide had made the school a center of negative attention in the

community and in the media. In his own words:

> Sadly, this thing stayed in the press for a very long time. We had mental health people at faculty meetings. Teachers were unsure what to say or do when confronted and asked questions by the press or parents about the student suicide . . . It was a very difficult time, inside and outside the school. Many things were said outside—made the faculty feel unprofessional. Attempts to get support for the faculty were unsuccessful. It was a very bad time.

(Smith direct testimony.)

44(f). Ms. Graf described Phoebe Prince's suicide as the most traumatic event of her professional career, which had begun as a teacher in 1982, and among the most traumatic events of her life overall. She recalled that in the suicide's aftermath, the school had become the center of a media circus. Ms. Graf received hate mail and threats related to Phoebe Prince's suicide. (Graf direct testimony.)

44(g). Ms. Graf understood that she was expected by the high school administration to function and teach despite the student suicide and its impact, including the resulting isolation of the school and those who administered it and taught there. This proved difficult, if not impossible, after January 14, 2010. In addition to agreeing with Principal Smith's characterization of the school as "being under siege" at the time, Ms. Graf characterized teaching at the time as having become "a daily survival challenge."

44(h). Ms. Graf felt that she, too, needed help immediately after Phoebe Prince's suicide, including mental health support, but "not a lot was available." She knew Ms. Caldieri was feeling isolated both in and out of school, and that Ms Caldieri had felt she had become "invisible" at the school before Phoebe 's suicide. Ms. Graf had been concerned

about Ms. Caldieri's health for years and had assisted her previously with her medical appointments. After Phoebe's suicide, however, Ms. Graf felt unable to "take on" Ms. Caldieri's emotional needs. She felt emotionally overwhelmed by the suicide and the ensuing situation at the high school. It did not help that "everyone" at the school was "on hyper-alert" after January 14, 2010, particularly about the possibility of "suicide contagion" among students. Ms. Graf felt especially concerned about this possibility because she was mandated by law to report the additional suicides if they occurred. (*Id*.)

44(i). Ms. Graf described the impact of Phoebe Prince's suicide on the school and the community as never-ending. Years later, she continued to hear South Hadley mentioned as "the place where the student committed suicide" and how the high school was "being ostracized." Ms. Graf recalled that eight educators left their employment in the school district subsequently, none of them on account of a previously-planned retirement, including South Hadley High School's principal (Mr. Smith), two of its Vice Principals, and the school nurse. (*Id*.)[44]

45. Upon arriving at the school during the morning of Friday, January 15, 2010, and before teaching classes, Ms. Caldieri attended a staff meeting in the school library. Principal Smith told the teachers at the meeting to teach "as usual," and direct students who had questions or wanted

[44]/ Principal Smith retired in 2011 (Smith direct testimony.) Ms. Graf remained in her position as South Hadley High School's Foreign Languages Department Chair until she was terminated from her position, in 2017 or 2018. Although she was reluctant to testify about it, Ms. Graf offered that the termination was related to "differences" regarding her leave requests. (Graf testimony on cross-examination.)

to talk about "events" to go to the school library to speak with grief counselors. (Caldieri direct testimony.)

46. Ms. Caldieri described the environment at the school on January 15, 2010 as "chaotic." (*Id*.)

46(a). Ms. Caldieri went to her classroom, took attendance, and spoke with her students. A boy came into the classroom and asked to stay there to avoid a different class in which, he asserted, a teacher was stating that Phoebe Prince "got what she deserved." (*Id*.)

46(b). Four other students, all girls, also came into her classroom. Ms. Caldieri suggested that these students go to the library, and when they agreed to do so, she accompanied them there. (*Id*.)

46(c). When they arrived at the library, the four students pointed out to Ms. Caldieri other students who had been involved in bullying behavior toward other students. For this reason, the group of students and Ms. Caldieri declined to go into the school library and returned to Ms, Caldieri's classroom instead. (*Id*.)

46(d). The four students then told Ms. Caldieri they wanted to leave the school to speak with a student, X, who had been a student in Ms. Caldieri's Latin classes for four years and who Ms. Caldieri knew to have been "a very good friend of Phoebe." Ms. Caldieri told the four students that they needed parental consent slips to leave the school. The students stated that they would get them. (*Id*.; *see also* Heather Potter direct testimony and testimony on cross-examination.)

47. One of the four students was Heather Potter who, at the time, was an 18-year-old

senior at the high school. She had been a student in Ms. Caldieri's Latin classes since ninth grade (in 2006-07), when she took introductory Latin (Latin I). She had taken Latin II and III with Ms. Caldieri in her sophomore and junior years (Fall 2007 through Spring 2009). During her senior year (2009-10), she was taking Ms. Caldieri's Latin IV class, an advanced class during which students read Homer and Ovid in Latin and put on a play in Latin as well. Ms. Potter was interested in Latin because she wanted to enter the medical profession, where Latin names are used extensively. (Health Potter direct testimony, and testimony on cross-examination.)

47(a). On January 15, 2010, Heather Potter encountered Principal Smith in the school. She asked the Principal if she and several other girls, all juniors aged 17, could leave the school to attend a "ceremony" for Phoebe Prince. Principal Smith directed her to see Vice Principal Roy first. (Potter direct testimony.)

47(b). Ms. Potter did so, and asked Mr. Roy the same question, adding that she would be willing to drive the other girls. Her impression was that Mr. Roy understood what she was asking. (*Id.*)[45]

47(c). Ms. Potter signed herself out of the school, as she understood she was allowed to do because she was 18 and was considered to be an adult. She and the junior girls found

[45]/ Ms. Potter was not asked during the hearing whether Vice Principal Roy specifically gave or denied permission to leave the school and attend the "ceremony." In view of Ms. Potter's testimony that Ms. Caldieri, too, checked with Mr. Roy, and that the junior girls showed Ms. Caldieri their parents' permission to leave the school, and absent any testimony or other evidence that Mr. Roy refused to allow Ms. Potter or the junior girls to leave the school and attend the meeting at student X's home, I am presuming that Mr. Roy explicitly or implicitly allowed them to do so.

Ms. Caldieri at the school. In Ms. Potter's presence, Ms. Caldieri called Vice Principal Roy to check that he had given his OK for the students to attend the meeting at studnet X's home. The junior girls told Ms. Caldieri they had messages from their parents on their cell phones allowing them to leave the school to visit student X. Ms. Caldieri called student X's mother and confirmed that Ms. Potter and the other girls could visit student X at his home. (Potter testimony on cross-examination.)

47(d). Ms. Caldieri believed that the students who wanted to attend the meeting had permission to leave the school to attend it, and she accompanied them to student X's home. (Caldieri direct testimony.)

48. At about the same time on January 15, 2010, Principal Smith called student X's home to speak with Ms. Caldieri. Ms. Caldieri spoke with Principal Smith. He told Ms. Caldieri to see him when she returned to school, which she did shortly afterward.

48(a). Ms. Caldieri recalled that during this meeting, Principal Smith addressed her in a coarse and angry tone, and said "What the hell were you thinking? I want you to get the hell out of my school." Ms. Caldieri then asked whether she was to return to the school the following Monday (January 18, 2010). Mr. Smith said nothing further, and she left his office. (Caldieri direct testimony.)

48(b). Principal Smith denied that he was agitated during the meeting or that he said "What the hell were you thinking?" or "Get the hell out of my school" to Ms. Caldieri. His version was that he asked Ms. Caldieri why she had "taken the students off the premises." He was not asked during his direct or cross-examination whether Ms. Caldieri said anything

in response. (Smith testimony on cross-examination).

48(c). One of Principal Smith's concerns at the time was the possibility of "suicide contagion," in particular as to student X, who he knew had dated Phoebe Prince. He understood that these two students had broken off this dating relationship the day before Phoebe's suicide. Principal Smith wanted to make sure that Heather Potter had seen Vice Principal Roy before she signed herself out of school so she could visit student X. He did not know at the time that the students had gone with Ms. Caldieri to student X's house to "work out closure." He had heard from the school nurse that student X's mother had called to say that she "did not want this." Principal Smith had called the mother and learned that the group of students accompanied by Ms. Caldieri had arrived and that the mother was "OK" with this. (*Id*.)

48(d). Ms. Caldieri suffered a seizure during the afternoon of January 15, 2010, while she was still at the high school. (Caldieri cross-examination.) Principal Smith recalled that Ms. Caldieri was going to leave the school, but learned there was a state police presence at the school and did not leave immediately, and then "had an episode," meaning a seizure. (Smith testimony on cross-examination.)

49. Ms. Caldieri returned to the school to teach on the morning of January 18, 2010. At some point during the day, Principal Smith told Ms. Caldieri that he had decided to suspend her without pay for three days. He also told Ms. Caldieri that he had scheduled a disciplinary hearing at which she would be charged with taking students off-campus without permission, child endangerment, and endangering her own health. (*Id*.) At some point, this suspension without pay was

retroactively reversed or retracted. (Exh. 3: Ms. Caldieri's Accidental Disability Retirement Application, dated Aug. 11, 2011, at 18.)

50. Either on January 15, 2010, or during the following week, one of the high school's French teachers told Ms. Caldieri that she had been summoned to testify before the Massachusetts State Police regarding Phoebe Prince, and that she was upset about it. Ms. Caldieri helped the French teacher prepare lesson plans. Ms. Caldieri also attempted to speak with Foreign Languages Chair Tiesa Graf about the French teacher's situation. (Caldieri direct testimony.)

50(a). Ms. Graf responded that the other teacher was "OK." Ms. Caldieri responded that the French teacher was not OK. Ms. Graf did not turn around or respond. Ms. Caldieri then said, "I guess the only way to get attention here is to commit suicide." (*Id.*)

50(b). Ms. Graf was concerned at the time that Ms. Caldieri might be suggesting that she would take her own life, and felt herself to be on "hyper alert" over the possibility of "suicide contagion." She did not consider, at the time, that Ms. Caldieri might have simply made a sarcastic statement, as opposed to conveying a "suicidal notion." Ms. Graf felt she was mandated to report Ms. Caldieri's comment. She reported it to Principal Smith, and suggested that perhaps Ms. Caldieri needed to meet with an adjustment counselor. (Graf direct testimony.)

50(c). Mr. Smith called Ms. Caldieri to his office and told her she had no business threatening to commit suicide (which she had not done), and told her to "get out of my

school." (Caldieri direct testimony, and testimony on cross-examination.)[46]

51. On January 18, 2010, Ms. Caldieri called Dr. O'Connell and told him she was not doing well. Dr. O'Connell's very brief note stated a student had committed suicide, and that Ms. Caldieri thought she might lose her job as a consequence, with a notation that appears to read "though not sure why." Dr. O'Connell's notes do not state whether Ms. Caldieri said that, or that he did not understand the explanation his patient had given him about why she might lose her job. She told Dr. O'Connell she was taking her medications (identified in the note only as Klonopin at night, without the dosage), and was sleeping poorly. Dr. O'Connell wrote that there was no need to adjust Ms. Caldieri's medications at that time "secondary to grief re above" (referring, apparently, to the student suicide notation he made), although it was unclear whether Dr. O'Connell was noting that Ms. Caldieri did not request a medication adjustment or that he perceived no need to make one. Dr. O'Connell wrote that he would review Ms. Caldieri's medications in 2-3 weeks. (Exh. 22: Dr. O'Connell's notes dated Jan. 18, 2010.)

52. Dr. Ryan also saw Ms. Caldieri on January 18, 2010 for a neurological followup consultation regarding her "possible seizure disorder in the context of depression," and for her eating disorder, migraine, and "possible" Sjogren's syndrome and multiple sclerosis. This would be

[46]/ There was no testimony or written evidence in the record that Principal Smith directed Ms. Caldieri not to return to the school to teach on Monday January 18, 2010 or the week after, or that he instructed Ms. Caldieri to meet with an adjustment counselor. As noted below, Ms. Caldieri told Dr. O'Connell she needed a note clearing her to return to work, which he wrote on March 4, 2010. (*See* Finding 58(c).). I also infer from the circumstances presented here that Principal Smith allowed Ms. Caldieri to return to teaching her classes at some point after he had suspended her briefly in late January 2010. (*See* n. 56.)

followed by a consultation, upon referral by Dr. Ryan, with internist Dr. Mark Bigda on January 20, 2010, and then by a spinal tap on January 21, 2010.

52(a). Dr. Ryan noted on January 18, 2010 that Ms. Caldieri's Clonazepam dosage had been increased to 2.5 mg in divided doses (up from 0.5 mg t.i.d., or 1.5 mg daily, the prescribed dosage Dr. Ryan noted from August 26, 2009 through December 9, 2009 (*see* Findings 33(b) and 35(b)). The other medication dosages remained as they had been on December 9, 2009. Dr. Ryan commented on "significant and persistent white matter changes" seen on Ms. Caldieri's MRI, and stated that she had "a fairly high index of suspicion that she has at least one, perhaps several autoimmune disorders including probably Sjogren's and possible multiple sclerosis." She planned to see Ms. Caldieri again in a month. (Exh. 23: Dr. Ryans's note dated Jan. 18, 2010.)

52(b). On January 20, 2010, Dr. Mark Bigda, an internal medicine specialist to whom Dr. Ryan referred Ms. Caldieri, noted that a spinal tap was scheduled for the following day in view of a suspicion of "something autoimmune" given her combination of seizure disorder with white matter changes (in the brain), feeling off-balance, anorexia nervosa, chest pain, possible Sjogren's, and a probable need for prescribed anti-inflammatory medication. Dr. Bigda's note refers to "student suicide close to that student." (Exh. 28.)

52(c). Ms. Caldieri underwent a spinal tap on January 21, 2010.[47] This was followed

[47]/ A spinal tap, or lumbar puncture, can assist in diagnosing or ruling out inflammatory nervous system diseases such as multiple sclerosis and Guillain-Barré syndrome. (*See, e.g.*, Pressman, P., "What is a Spinal Tap?" (Verywell Health, rev. Jun. 22, 2022), https://www.verywellhealth.com/lumbar-punctures-common-questions-answered-2488675.)

by headaches that persisted through her visit with Dr. Klich-Nowak on January 29, 2010, and visual blurring that had stabilized by that date, back pain she reported to Dr. Klich-Nowak as tolerable and that had apparently abated post-procedure; and, as well, by leg stiffness, muscle cramping and weakness greater in the left leg. (Exh. 24: Dr. Klich-Nowak's handwritten notes dated Jan. 29, 2010.)[48]

52(d). Dr. Ryan noted that the cerebral spinal fluid (CSF) testing showed a white blood count of 1-3 (the normal range for leukocytes is 0–5 lymphocytes/mcL), with protein at 45.5 (the normal range is 15–60 mg/dL), and myelin basic protein at 1.47 (<1.1) (the normal range is < 1.5 ng/mL), and was negative for Lyme Disease.

(Exh. 23: Dr. Ryan's note dated Feb. 1, 2010).[49]

53. Principal Smith conducted a disciplinary hearing regarding Ms. Caldieri later during

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[48]/ Dr. Klich-Nowak appears to have considered these as side effects of the spinal tap procedure. Headache is a common side effect of a spinal tap, as is lower back pain, which is typically in the lower back, where the needle used to remove cerebralspinal fluid was inserted, and in the lower legs. (*See, e.g.*, Multiple Sclerosis News, "Spinal Tap Test and Multiple Sclerosis Diagnosis" (BioNews, Inc., rev. 2022), https://multiplesclerosisnewstoday.com/ multiple- sclerosis-diagnosis/spinal-tap/.)

[49]/ None of these results was abnormal. The myelin basic protein of 1.47 might be considered elevated, but was still within the normal range. Neurological medical panel member Dr. Michele L. Masi viewed this finding as "clinically useless, adding no statistically significant increase in MS diagnostic sensitivity, absent a finding of cerebral spinal fluid oligoclonal bands," but none were found in the CSF fluid removed during the January 21, 2010 spinal tap. (*See* Finding 96.g).

For the normal ranges I have mentioned here, *see MSD (Merck) Manual-Professional Edition Online*: Padilla, O. et al., "Cerebral Spinal Fluid Tests: Normal Values" (Merck & Co., Inc., rev. Sept. 2022), https://www.msdmanuals.com/professional/resources/normal-laboratory-values/cerebrospinal-fluid-csf-tests-normal-values.

the week of January 18-23, 2010. Ms. Caldieri's teacher's union representative was present. Following the hearing, the Principal issued Ms. Caldieri a reprimand for taking a group of students out of the school without permission, but he did not suspend her. (Caldieri direct testimony, and testimony on cross-examination; Exh. 10: Letter, Gus A. Sayer, Superintendent of Schools, to Marliquea Snow-Branch, Massachusetts Teachers' Retirement System, dated Sept. 15, 2011, at 1, third para.; *and* Exh. 22 (Dr. O'Connell's handwritten records, in which he wrote that on February 9, 2010, Ms. Caldieri told him that the school principal had placed her on probation for a year during the disciplinary hearing.)[50]

54. During the same week (January 18-23, 2010), there was an off-campus memorial service for Phoebe Prince that individual school administrators, faculty and students attended, but about which Ms. Caldieri received no advance notice. (Caldieri direct testimony.)

54(a). Ms. Caldieri did not learn about this memorial service from Principal Smith, although he told other faculty about it. Ms. Caldieri learned about it after it was held. (*Id*.;

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[50]/ If there was a written agenda for this disciplinary proceeding, it is not in the record. Based upon the testimony of Ms. Caldieri and Principal Smith, the hearing addressed only the allegation that Ms. Caldieri had accompanied students to student X's home on January 15, 2010 without the requisite permissions. It is unclear from the record whether any testimony was taken during the disciplinary hearing, or whether Principal Smith had before him, in any form, Ms. Caldieri's version of events, or student Heather Potter's version, including the inquiries both of them made to Vice Principal Roy, to whom Principal Smith had apparently deferred, about leaving the school to attend the meeting at student X's home. Also left unexplained was whether Principal Smith had accepted that the students and Ms. Caldieri had gone to student X's house to "work out closure" regarding the suicide, and that student X's mother had agreed to the visit; or whether the Principal had rejected, as insufficient, Heather Potter's meeting with Vice Principal Roy before signing herself out of school as an adult, or the electronic consent the junior girls in the group told Ms. Caldieri they had obtained from their parents to leave the school for this meeting. (*See* Findings 46(d) and 47(a)-(d).)

see also Smith direct testimony (not disputing that he did not tell Ms. Caldieri about the upcoming memorial service on Sunday January 17, 2010.)

54(b). Because the school did not tell her about the memorial service for Phoebe Prince, Ms. Caldieri felt like an outsider. Despite the lack of advance notice to her, Ms. Caldieri felt that she had betrayed Phoebe's family by not attending the memorial service. (Smith direct testimony.)

54(c).Ms. Caldieri asked Principal Smith why he had not told her about the memorial service. He told her only that he had consulted with the school counselor, who had stated that Ms. Caldieri could not, or should not, be present. (*Id*.)

54(d). Principal Smith recalled that after learning of the upcoming memorial service from Assistant Principal Roy, who had spoken with Phoebe Prince's parents, he consulted with the school's adjustment counselor. Both the counselor and Principal Smith were concerned that Ms. Caldieri, who had experienced medical episodes in school, and who had "declined transport assistance" in a different context, might experience another seizure during the memorial service. Mr. Smith recalled not knowing at the time that Ms. Caldieri had developed what he described as "a more intense relationship [with Phoebe Prince] than a normal teacher-student relationship" without explaining what this meant. Mr. Smith testified that if he had known this, he would have considered an "option" other than not notifying Ms. Caldieri of the memorial service. For example, he might have asked Phoebe Prince's parents whether Ms. Caldieri should be invited. (*Id*.) He also said he might not have suspended Ms. Caldieri without pay in advance of the disciplinary hearing. (Smith testimony

on cross-examination.)

55. At some point afterward, Principal Smith disciplined Ms. Caldieri for a Facebook posting in which she "appeared to state that she had observed the student [Phoebe Prince] being bullied by her peers." He recalled doing so because Ms. Caldieri had not reported the bullying to the administration. (*Id*.; *see also* Exh. 10: Letter, Gus A. Sayer, Superintendent of Schools, to Marliquea Snow-Branch, Massachusetts Teachers' Retirement System, dated Sept. 15, 2011, at 1, third para.; *but see* Finding 39(b)(during the fall of 2009, Ms. Caldieri spoke with Assistant Principal Evans about Phoebe Prince's bullying, and he responded that he already knew about it).)[51]

56. Starting in mid-January 2010, Ms. Caldieri perceived the school workplace as having become a cold and hostile one for her. (Caldieri direct testimony, and testimony on cross-examination.) She based her opinion upon changes in her workplace environment that she perceived as having occurred beginning on January 15, 2010. These changes included:

56(a). *Cold treatment or shunning by faculty and administrators*. Foreign Languages Department Chair Tiesa Graf, who had been "as a friend" to Ms. Caldieri previously, and who had taken her to the hospital in 2007 when she did not feel well, now appeared to be acting as if Ms. Caldieri "was not there." Other faculty members were treating her similarly, in her view. (Caldieri direct testimony.)

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[51]/ The record does not include a copy of the Facebook posting, It also does not show the nature of the disciplinary action regarding this posting, or when Principal Smith took this action. In view of how soon after January 15, 2010 Principal Smith disciplined Ms. Caldieri for allegedly taking students out of the school without permission, I find that the disciplinary action occurred during or shortly after the week of January 18-23, 2010.

56(b). *More formal, discipline-based treatment by the administration*. This change in how the administration treated Ms. Caldieri began when the Principal disciplined her and placed her on probation for leaving the school with students on January 15, 2010 to go to the meeting at student X's home. As noted above, this was done despite the efforts Ms. Caldieri and the students made to obtain the Vice Principal's permission, and his apparent consent. (*See* Findings 46(d), 47, 48 and 49.) As another example of this new treatment of her by the administration, Ms. Caldieri cited her apparently unsuccessful attempt, in mid-January 2010, to alert Foreign Languages Department Chair Graf as to the French teacher who was upset about having to speak with the State Police regarding Phoebe Prince's suicide; her sarcastic comment to Ms. Graf about whether it took committing suicide to get attention from the school administration; Ms. Graf's reporting of this to the Principal as possibly related to "suicide contagion;" and the Principal summoning Ms. Caldieri to his office and speaking to her harshly about this alleged suicide threat. (*Id.; See* Finding 50.)

56(c). *Increased observations of Ms. Caldieri's classes*. Although 2010 was not a year during which she was scheduled for a performance review, Ms. Caldieri felt, during the spring 2010 semester, that the Principal was in fact performing this type of review without notice to her. On one occasion, she had asked Principal Smith to deal with several senior football player Latin class students who had been getting up to use the restroom in the hallway one after another, even when she told them to stop doing this. Principal Smith responded by sitting in on her G-block classroom to observe her teaching the class. Ms. Caldieri also believed that other students were walking by her classroom to see if she was

"walking around," a reference to a suggestion the Principal had made during her prior evaluation that she move about the classroom to check on whether students were working. (Caldieri direct testimony.)[52]

57. Ms. Caldieri saw Dr. Ryan on February 1, 2010.

57(a). She told Dr. Ryan that she was "on a year's probation for poor judgment." Ms. Caldieri appeared to be clinically stable with respect to her flat affect. She identified her chief complaints as fatigue, numbness, and left-sided weakness.

57(b). Dr. Ryan now regarded the multiple sclerosis diagnosis as "definite," and thought that Ms. Caldieri had Sjogren's. She noted that Ms. Caldieri remained on Celexa 20 mg (to address depression; *see* n. 30); Clonazepam 2.5 mg in divided doses (also an antidepressant; *see* n. 24); Topamax 200 mg (an anticonvulsant and anti-migraine agent; *see* n. 19); and Zoloft 100 mg (also an antidepressant, and an anticonvulsant and anti-migraine agent; *see* n. 16); but that Copaxone (used to treat Ms. Caldieri's MS symptoms) had been

[52]/ Principal Smith's version was that while Ms. Caldieri was not due for a regular teacher observation, her medical condition had become a matter of concern, both for her safety and that of her students. After Phoebe Prince's suicide, Ms. Caldieri's instances of not feeling well appeared to the Principal to have increased. Principal Smith acknowledged she was a very good teacher, and that she loved her students. He wanted her to report "incidents" and not feeling well to his office, and to let him know if she did not feel well so he could get a substitute teacher to cover her classes. He spoke with one of his Vice Principals about monitoring Ms. Caldieri's classes more frequently and "stepping up" drop-in observations, mostly to make sure she and her students were OK. The School Superintendent had told him to do this, but without formalizing the unscheduled observations. Once Ms. Caldieri began reporting how she felt more frequently, the number of "informal" visits to her classes by administrators during the Spring 2010 semester "was reduced." (Smith direct testimony). As noted below, however, these "informal" visits had become exceptionally formal by October 2010. (*See* Findings 70-73 and 76-78.)

discontinued after 10 weeks. (*See* n. 20.) Dr. Ryan was reluctant to recommend beta-interferons to Ms. Caldieri "in view of her very precarious depression," and also because Ms. Caldieri declined them. She thought Ms. Caldieri might benefit from pulse steroid treatment, possibly Methylprednisolone, 1 gm (by injection) every month for several months and then every other month. (Exh. 23: Dr. Ryan's note for Feb. 1, 2010.)

58. Ms. Caldieri saw Dr. O'Connell on March 4, 2010 and told him she had been having a difficult time at the high school, and that she needed a note to be able to return to the high school to teach her classes.

58(a). Dr. O'Connell noted that Ms. Caldieri had described to him how she had been suspended by the Principal for two days for a letter he asserted she had written and placed in his mailbox, where he allegedly found it the day after Phoebe Prince's death; and that while she knew she sometimes did things and did not recall doing them, she did not remember writing any letter and placing it in the Principal's mailbox, and that the letter "did not sound" like her writing.[53] Ms. Caldieri also told Dr. O'Connell that the letter was not on Phoebe Prince's memorial web page, which in her view confirmed that she had not written the alleged letter.[54] (Exh. 22: Dr. O'Connell's notes dated Mar. 4, 2010.)

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[53]/ It appears from Dr. O'Connell's notes that Ms. Caldieri was not shown the actual letter, and that, instead, it was read to her in whole or part by someone else. The letter is not in evidence, and neither Ms. Caldieri nor Principal Smith testified about it.

[54]/ *See* Finding 55 regarding the School Superintendent's September 15, 2011 letter to the Massachusetts Teachers' Retirement System (Exh. 10) stating, among other things, that Principal Smith had disciplined Ms. Caldieri for a Facebook posting in which she "appeared to state that she had observed the student [Phoebe Prince] being bullied by her peers," and that he did so

58(b). Dr. O'Connell also noted on March 4, 2010 that Ms. Caldieri had related that the Principal had been told she had threatened to kill herself, which she denied doing, but that she could not return to her classroom without a letter from a treating physician clearing her to return to work. Dr. O'Connell wrote in his notes for this visit that Ms. Caldieri denied any intent to harm herself, and said that she could not do anything that would harm her students or her own children. (*Id*.)

58(c). Dr. O'Connell wrote a note dated March 4, 2010 stating that Ms. Caldieri was under his care and was also seeing a therapist on a very regular basis, and that "despite having periods of significant depression and occasional suicidal thoughts, she has been fully able to calmet" (sic).[55] Dr. O'Connell also stated that Ms. Caldieri denied any interest in suicide, and that he felt she was "able to return to her work place." (Exh. 22: Dr. O'Connell's return to work-related note, dated Mar. 4, 2010.)[56]

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because Ms. Caldieri had not reported the bullying to the administration. The Superintendent's letter did not mention a letter allegedly written by Ms. Caldieri and left in the Principal's mailbox, or any discipline relating to that particular alleged conduct.

[55]/ Possibly "calm it" or "calm etc." Dr. O'Connell's handwritten notes are difficult to read. They also appear to contain misspellings, unfinished letters, partial verbatim notes and observations, or words jumbled together, suggesting that his notes were written in great haste. Nonetheless, it appears sufficiently clear, in the context of his March 4, 2010 note and its purpose (to assist Ms. Caldieri in returning to work as she wished to do), that Dr. O'Connell was attempting to describe her as being aware of her thoughts and dealing with them rationally, including staying in the present, coping on her own, and seeing a therapist (and her psychiatrist).

[56]/ It is unclear whether Dr. O'Connell's note was given to Principal Smith personally, as there was no testimony confirming that he received it or was aware of it. It is undisputed, however, that Ms. Caldieri returned to teaching all of her classes at the high school following the suspension the Principal imposed upon her starting in late January 2010. With no testimony or

59. Dr. Ryan saw Ms. Caldieri again in April and May 2010.

59(a). On April 1, 2010, Dr. Ryan noted that Ms. Caldieri had been administered three monthly injections of Methylprednisolone without obvious impact. Ms. Caldieri reported that she had not had seizures (since the February 1, 2010 visit) and "was working in high stress conditions related to the suicide of her student," but felt "off" and "slightly confused a few times." Dr. Ryan noted Ms. Caldieri's medical condition as "fairly stable and reasonably satisfactory." She continued the medication regime that had been in place as of February 1, 2010, except for Methylprednisolone, which Dr. Ryan decreased to one injection every other month. (Exh. 23: Dr. Ryan's note dated Apr. 1, 2010.)

59(b). Ms. Caldieri next had a scheduled visit with Dr. Ryan on May 19, 2010. She told Dr. Ryan she had had two interval seizures "in the context of stress at work" and was experiencing "a very high level of stress related to the repercussions of the student suicide." Ms. Caldieri also related having numbness and tingling in the hands on a fairly constant basis," and a "tendency to have her legs buckle although she ha[d] not actually fallen." Dr. Ryan opined in her note for this visit that "the current situation is fairly stable but with a significant degree of ongoing symptoms related to her multiple sclerosis and almost certainly significantly exacerbated by a very high level of ongoing stress." She suggested that Ms. Caldieri continue the same medication regimen and make "ongoing efforts to decrease

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evidence to the contrary, I infer that Ms. Caldieri was deemed fit to return to teaching her classes by the Principal, and was authorized to do so by the Principal or someone acting with authority to do so, such as a Vice Principal.

stress." (Exh. 23: Dr. Ryan's note dated May 19, 2010.)

60. At some point in May 2010, a photograph in a local newspaper showed Ms. Caldieri giving a "high five" to her students. When she went to the faculty room, she found that someone had placed the newspaper on a surface in the room so the photo was face down. Ms. Caldieri felt, again, that she was being treated "differently." (Caldieri direct testimony.)

61. On May 27, 2010, Ms. Caldieri saw Dr. Ryan "on an urgent basis." Dr. Ryan noted that Ms. Caldieri's MS symptoms were worsening with the onset of very hot weather. Ms. Caldieri reported that "she gradually had even more trouble with balance and fatigue, feeling out of it, not necessarily seizures." She felt that her worsening symptoms were related to increased stress. Ms. Caldieri related that the high school nurse had sent her to the Cooley Dickinson Hospital Emergency Department for a routine evaluation that had proven "unrevealing." When Dr. Ryan examined her on May 27, 2010, Ms. Caldieri seemed more tired and unsteady than she had during the previous visit ten days earlier, and upon leaving Dr. Ryan's office and walking to the parking lot, Ms. Caldieri "seemed even less steady." Dr. Ryan continued the proscription against driving and instructed Ms. Caldieri to call for a ride. She continued Ms. Caldieri's medication regimen, ordered an updated brain MRI, and told her to "proceed ASAP with disability," meaning going out on a disability-based leave from her employment as a teacher. (Exh. 23; Dr. Ryan's note for May 27, 2010.)

62. During the spring of 2010, Principal Smith told Ms. Caldieri that he was placing her in an "0.8 position," meaning that her position would be changed from a full-time teaching position to 80 percent of one.

62(a). Principal Smith told Ms. Caldieri this was because student enrollment in

French and Spanish classes was down, and he needed to find the affected French and Spanish teachers additional work teaching other subjects, such as Latin. (Caldieri direct testimony, and testimony on cross-examination).[57]

62(b). This made no sense to Ms. Caldieri because her Latin class enrollment had not changed, and she was the school's only Latin teacher. Also, she understood that she would still be expected to teach Latin 1 and 3 and advanced placement Latin, even with reduced hours. She did not see how students taking A.P. Latin could be directed to take the course online since the course had to be taken in the school for credit, and the A.P. course requirements required that the teacher spend additional time with the students. To fit all of her classes into a reduced schedule, Ms. Caldieri was going to have to mix her advanced placement and Latin 1 and 3 students together in her classes and try to teach them simultaneously. As a result, she would have many more students as an "0.8" teacher than the full-time French and Spanish teachers would have. (*Id*.)

62(c). Ms. Caldieri tried to contact Principal Smith about these issues after the 2010 Spring semester ended, but he did not respond. As a result, by end of June 2010, Ms. Caldieri

[57]/ Principal Smith explained that adjusting the number of classes a teacher taught, and reducing her teaching hours from full time to 80 percent of full time, was a "fairly regular ongoing" means of dealing with fluctuating subject matter enrollment in the school district, and comported fully with the teachers' collective bargaining agreement in effect at the time. He also explained that the School Superintendent decided how many sections of a particular subject such as Latin a high school should offer in view of enrollment numbers. (Smith direct testimony). Although he gave as an example the reduction of art class offerings before 2000 in view of declining arts course enrollment, he did not testify that the paid hours of any language teacher at South Hadley High School other than Ms. Caldieri had his or her paid hours reduced for the 2010-11 school year in response to reduced language class enrollment (or for any other reason).

was convinced that her position was definitely going to be converted from a full-time position to an "0.8" position. She was also convinced that the Principal was reducing her paid hours, although not her workload, to punish and harass her. (Caldieri direct testimony, and testimony on cross-examination.)

63. Ms. Caldieri saw Dr. Ryan for a scheduled visit on June 17, 2010. She reported she was not doing well, and had experienced a severe migraine headache, and what appeared to have been a seizure. She also told Dr. Ryan that she had experienced protracted vomiting that had caused her to go to the Cooley Dickinson Hospital emergency room on June 15, 2010, and "ongoing ataxia." Upon reexamining Ms. Caldieri, Dr. Ryan thought this problem appeared "much better" than it had during the previous visit, indicating to her that the ataxia related to the unsteadiness she had observed previously. Dr. Ryan's impression was that Ms. Caldieri's stress was "extremely high, aggravating her various conditions" including depression, multiple sclerosis, seizures and migraine. Dr. Ryan continued Ms. Caldieri's medication regime and suggested Compazine suppositories as needed (to treat nausea and vomiting). (Exh. 23; Dr. Ryan's note dated Jun. 17, 2010).

64. Ms. Caldieri continued to see Dr. Ryan during the summer of 2010.

64(a). On July 26, 2010, Ms. Caldieri reported having had no seizures since the prior visit, but that during the same interval she had had three migraine headaches without any obvious trigger, and had gone to the [Cooley Dickinson Hospital] Emergency Department for rehydration. She also reported feeling in a daze in the hot weather, including being unable to think or remember things. She had what she thought was MS aggravation including left-sided shakiness and numbness, and her ring finger turning purple. Dr. Ryan thought that Ms.

Caldieri seemed to be clinically stable, with some gait unsteadiness. She continued the existing medication regimen and suggested starting a trial of Migranal.[58]

64(b). Ms. Caldieri next saw Dr. Ryan on August 26, 2010). She had continued on the then-current medication regimen, including monthly Methylprednisolone and using Compazine suppositories as needed, and was taking iron and intermittent progesterone. She had not tried Migranal, and did not remember that Dr. Ryan had prescribed it. She reported having had a seizure while in her therapist's office and going to the hospital emergency room on account of it. She was trying to gain weight by eating foods with hydrogenated fats. Ms. Caldieri told Dr. Ryan she was "scared to death" to go back to teaching on account of job stressors, both ongoing and projected. On reexamination, she appeared to be less shaky, less depressed and a bit healthier overall. Dr. Ryan continued Ms. Caldieri's medication regimen but switched the frequency of Methylprednisolone from once every month to once every two months. (Exh. 23: Dr. Ryan's note dated Aug. 26, 2010.)

[58]/ Migranal is a derivative of Ergot, a fungus that grows on rye and wheat. The fungus produces an alkaloid that narrows blood vessels and, if consumed directly, can be toxic to the nervous and circulatory systems, causing a disease known as Ergotism or St. Anthony's Fire. Its symptoms include seizures, hallucinations, burning sensation, death and, in survivors, loss of limbs and dementia. As a medicine, Migranal is administered as a nasal spray to treat migraine headaches by relieving the associated pain and other symptoms, such as sensitivity to light or sound. (*See* "RxList: Migranal" (rev. May 19, 2022), https://www.rxlist.com/migranal-drug.htm; as to the toxicity of Ergot, *see, e.g.*, Stanley, J.C. "Current Therapy in Vascular and Endovascular Surgery: Ergotism," ScienceDirect Online 2014, https://www.sciencedirect.com/topics/ pharmacology- toxicology-and-pharmaceutical-science/ergotism.)

2010 Fall Semester

65. Ms. Caldieri returned to teach at South Hadley High School in September 2010. Although Principal Smith had told her earlier that year that he would be converting her paid hours to 80 percent of full time, she now found herself assigned a heavier class load than she had carried previously. (Caldieri direct testimony.)

65(a). For the fall 2010 semester, Ms. Caldieri was assigned to teach six classes daily including Latin I-IV and Advanced Placement Latin. As a result, she would be teaching 180 students with almost no preparation time, rather than teaching 70 students with two class prep periods, as had been the case previously. (*Id*.)

65(b). Many of the additional students in the Latin I classes were seniors. Ms. Caldieri had found a number of such seniors taking her Latin I classes to be less interested in Latin than younger students were. (*Id*.)

65(c). Although Principal Smith had told Ms. Caldieri he had wanted to increase the number of students taking Latin, she had not wanted to do this with graduating seniors. Instead, she had suggested reaching out to incoming freshmen students, and to middle school seniors, encouraging them to take Latin I at South Hadley High School. (*Id*.)

66. Ms. Caldieri was concerned about being able to handle the increased work load, and asked to discuss this with Principal Smith. At some point in September 2010, Principal Smith held a meeting at which Ms. Caldieri and her union grievance representative appeared. School Superintendent Sayer was also present. The union representative stated that Ms. Caldieri could file

a grievance regarding her new workload. Principal Smith responded that if Ms. Caldieri could not teach Latin, her students could take classes online. (Caldieri direct testimony.)

67. As a result of the September 2010 meeting with the Principal, Ms. Caldieri believed that her teaching job was "on the line." (*Id*.)

67(a). Mostly, this belief was based upon the tenor of the September 2010 meeting with Principal Smith and Superintendent Sayer regarding her increased teaching workload, and the apparent threat to retaliate against her if she filed a grievance by replacing the Latin courses she taught with online offerings. (*Id*.)

67(b). The meeting reinforced Ms. Caldieri's prior perception of an overall sentiment among the faculty and administration that the school needed to be rid of her. She had developed this perception earlier in 2010, following Phoebe's suicide. Another teacher had told Ms. Caldieri, at that time, of faculty statements to the effect that the only way to get rid of Ms. Caldieri was to show that she was not a good teacher; and that, as to Phoebe Prince's suicide, Ms. Caldieri was "on a different side" than were most of the school faculty. This conversation had occurred when the school community, and the outside community as well, learned that several students who had allegedly bullied Phoebe were to be prosecuted criminally. (*Id*.)[59]

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[59]/ On March 26, 2010, a Hampshire (Massachusetts) Grand Jury returned felony indictments against six South Hadley High School students. Two male students were charged with statutory rape, and one of them was also charged with violating Phoebe Prince's civil rights. Four female defendants were charged, as youthful offenders, with civil rights violations. The Northwestern (Massachusetts) District Attorney's Office announced the indictments publicly on March 29, 2010. Local media, including Fox 6 Springfield, reported the indictments on the same

68. On October 10, 2010, Ms. Caldieri attended a teachers' meeting at the school after classes ended. Principal Smith and Foreign Languages Department Chair Graf were also present. (Caldieri direct testimony.)

68(a). Ms. Graf turned so her back faced Ms. Caldieri. (*Id*.) Ms. Graf denied that this was deliberate. (Graf testimony on cross-examination.) Whether it was deliberate or not, Ms. Caldieri felt immediately that she was going to be disciplined. (*Id*.)

68(b). Ms. Caldieri reached into her handbag for her anxiety medication. Principal Smith asked what she was doing and whether she was OK. An art teacher asked if he could help. Ms. Caldieri became "shaky" as the meeting progressed. Principal Smith told her that she could not continue to look for her medication and should, instead, come to his office, which she did. (*Id*.)

68(c). School Superintendent Sayer was in Principal Smith's office when Ms.

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day. (*See, e.g.*, https://web.archive.org/web/20110716110807/http://www.wggb.com/story/12220616/northwestern-da-announces-indictments-issued-in-bullying-death?redirected=true.) On April 5, 2010, local media, including CBS 3 Springfield, reported that the indicted students were "still at school." (*See* https://web.archive.org/web/20100405104420/http://www.cbs3springfield.com/news/local/89483202.html.)

The news reports are not in evidence here. I note them solely for the purpose of dating the conversation Ms. Caldieri described that she had with the other teacher about faculty sentiment, which she was only able to date as having occurred when the students were charged with respect to Phoebe Prince's death, a date or date range that was not clarified. The information is material to the date on which Ms. Caldieri learned that other teachers and administrators regarded her as an outcast. The news reports cited place the date of this conversation reliably within the period of late March to early April, 2010.

Caldieri arrived.[60] He asked that the school nurse be summoned. Shortly after, Ms. Caldieri suffered a seizure while still in Principal Smith's office. Someone called an ambulance. Ms, Caldieri recalled saying that she could not enter the ambulance, and that the Principal said if she did not, he would "section 12" her.[61] She entered the ambulance and was taken to Northampton Hospital. Ms. Caldieri recalled being embarrassed at the time because all of this occurred while others (those present at the teachers' meeting) were watching. She felt that the school wanted to be rid of her. She also felt that if she had been allowed to take her medication, this "scene" in front of others would have been avoided. (*Id*.)

69. Ms. Caldieri saw Dr. Ryan four days alter, on October 14, 2010, "on an urgent basis." (Exh. 23: Dr. Ryan's note dated Oct. 14, 2010.)

69(a). Ms. Caldieri reported to Dr, Ryan a "high level of disturbing symptoms" over the preceding two weeks (October 1-13, 2010), starting with diplopia (double vision)

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[60]/ It may be that the School Superintendent's presence during the October 10, 2010 meeting was related to the prior meeting regarding Ms. Caldieri's increased workload and a possible grievance based upon it. However, the reason for his presence was not clarified by any of the testimony or exhibits. Superintendent Sayer did not testify. He would later inform MTRS (in September 2011) that he was aware of Principal Smith's increasing concern about Ms. Caldieri's health during the Fall of 2010 and whether she was able to perform her duties as a teacher. That explanation appears related to the Principal's decision to have Ms. Caldieri's classroom teaching observed during the Fall 2010 semester, rather than to why the Superintendent was in the Principal's office on October 10, 2010 when Ms. Caldieri arrived. The Superintendent did not mention this meeting in his 2011 letter to MTRS. (*See* Exh. 10, cited fully at Finding 53.)

[61]/ Absent any other explanation, and considering the attending circumstances, the "section 12" to which Principal Smith referred was most likely an application to authorize a person's temporary hospitalization pursuant to M.G.L. c. 123, §§ 12(a) and (b), based upon the likelihood of serious harm by reason of mental illness to that person and to others.

followed by the collapse of her legs while walking. (*Id*.)

69(b). Dr. Ryan wrote that Ms. Caldieri did not have a good recollection of those two weeks; however, she remembered having had difficulty going up and down stairs, slurring her speech, and not working for several days during that time. She admitted what Dr. Ryan described as "dissociative episodes in the context of past stressors." (*Id*.)

69(c). Ms. Caldieri's affect during the October 14, 2010 visit with Dr. Ryan "was always subdued but not as flat as often as in the past." (*Id*.)

69(d). Dr. Ryan thought that Ms. Caldieri had suffered "significant multiple sclerosis exacerbation for the past 2 weeks," but that during the October 14, 2010 visit she appeared to be "about baseline." (*Id*.)

69(e). In her notes for this visit, Dr. Ryan also wrote,"Quite frankly, I am not sure what to recommend at this point," and that she was "very hesitant" to treat Ms. Caldieri with "potent multiple sclerosis disease modifying therapies," although she did not give a reason for this hesitancy in her notes. (*Id*.)

70. On October 20, 2010, Assistant Principal Ted McCarthy and Foreign Languages Department Chair Tiesa Graf observed a C Block Latin 1 class that Ms. Caldieri was teaching. (Exh. 8: Written evaluation by Mr. McCarthy and Ms. Graf dated Oct. 20, 2010, and response by Ms. Caldieri to written questions posed to her, dated Oct. 26, 2010, at 33-36.)

71. Ms. McCarthy and Ms. Graf began their evaluation acknowledging that the large size of this classroom and the number of students in the class posed challenges for the teacher using it, and continued with positive observations and comments about the structure of Ms. Caldieri's lesson

and its effectiveness in maintaining student attention and learning.

71(a). The Latin 1 class in question was held in one of the largest classrooms in the school, and had one of the high school's largest student class enrollments—27 students, of whom 25 were present when Mr. McCarthy and Ms. Graf observed Ms. Caldieri teaching this class. They acknowledged that in view of this classroom's size and the number of students present, classroom management was challenging. (Exh. 8: "Evaluator's Comments" at 35, 36.)

71(b). Ms. Caldieri had specified three objectives for the day's lesson—appreciating ethics and morals at play when Rome strove to win a war; understanding the importance to Romans of the myth of Rome's origin; and reviewing vocabulary in groups. She met with students as they entered the classroom after the first bell and handed them a "do now" activity sheet reviewing the homework and the vocabulary that had been covered earlier. As of the second bell, most of the students were seated and working quietly on this activity. When the students were passing in their completed activity papers, Ms. Caldieri asked how the students were doing and had several brief conversations with students. Mr. McCarthy and Ms. Graf wrote approvingly of this approach as one that developed a positive rapport with the class and let students know they were valued as individuals. (*Id.* at 35.)

71(c). The "do now" portion of the class consumed approximately nine minutes. At that point, Ms. Caldieri shifted to the Roman origin myth, lecturing for 25 minutes on the stories of Pelius & Thetus (the parents of Achilles) and the Trojan War. During this lecture, Ms. Caldieri "held the attention of most of the students as she told the story of the myth with

excitement and humor," and "many students seemed enthralled with the story." During the lecture she introduced familiar words with origins in Greek and Latin, and also two common sayings that had their origins in the Trojan War ("the face that launched a thousand ships" and "beware of Greeks bearing gifts"). Mr. McCarthy and Ms. Graf assessed this technique positively, because it made students aware of a connection between common current-day concepts and expressions, and their ancient origins; and also because it developed vocabulary needed in other classes. They also approved of Ms. Caldieri's use of a textbook picture showing the famous Trojan Horse taken into Troy in which Greek soldiers hid, and asking, "based upon the picture, where does the artist's sympathy lie?" as teaching techniques that challenged students to use higher order reasoning skills. (*Id*.)

71(d). With 20 minutes remaining in the class period, Ms. Caldieri divided the class into competing groups to complete a Latin vocabulary review game. Students took turns answering vocabulary questions posed in crossword puzzle format, with the puzzle projected by overhead projector onto a screen. Mr. McCarthy and Ms. Gtaf praised this game format as a good way to spark student interest and engage them in order to develop their skills, and also to get students up and moving about after sitting for the first part of the class. The evaluators noted that the students worked together on this activity until the period ended. (*Id*.)

71(e). Mr. McCarthy and Ms. Graf acknowledged that Ms. Caldieri had used activities and lesson structures to enable students to "access the curriculum." (*Id*. at 36.)

72. Vice Principal McCarthy and Foreign Languages Department Chair Graf also

commented on what they characterized as a chaotic and noisy classroom in need of more effective classroom management, notwithstanding the positive aspects of Ms. Caldieri's teaching they had observed in the large Latin 1 class taught in an oversized room that made classroom management a challenge. Their report stated that:

72(a). Ms. Caldieri did not instruct her students to take notes during her lecture "and most of them chose not to." Mr. McCarthy and Ms. Graf suggested that she consider requiring the students to take notes and instruct them in how she expected the notes to be taken. They stated that while she lectured, Ms. Caldieri should be clear about note-taking, and move through the class to ensure that students were following her note-taking directions. Specifically, the evaluators expressed concern that Ms. Caldieri's points about Latin "root words" and common sayings lost their importance and were not retained because students were not instructed to take notes. (Exh. 8 at 36, para. 1.)

72(b). Ms. Caldieri was "inconsistent when she gave directions" (meaning, apparently, directions as to student work assignments). She gave directions from one side of the classroom, making it less likely that students on the far side would hear and understand her. The basis for this criticism was that when Ms. Caldieri explained the directions for "the Vocabulary game," a few students called out "I'm confused" and "I'm lost." Mr. McCarthy and Ms. Graf stated that Ms. Caldieri "should identify one space in the class where she gives directions–and require students to be silent while she is speaking there." (*Id*. at 36, para. 2(i).)

72(c). Students had asked "unnecessary" questions during the observed Latin 1 class.

Mr. McCarthy and Ms. Graf attributed this to "the overall noise level in the space," and to a lack of clarity on Ms. Caldieri's part about what the students were expected to do during the class. They stated that to prevent this confusion and cut down on the overall noise level, Ms. Caldieri "should explicitly review the days' lesson so that kids are more aware of what will be expected of them." (*Id*. at 36, para. 2(ii).)

72(d). It was "clear" that many of the students did not hear Ms. Caldieri's instructions to write down the homework assignment, which she gave during the vocabulary game "from one side of the class room." Ms. Caldieri needed to start and end her class with a review of the homework and walk through the class to insure that the students had written the homework assignment in their planners. The evaluators stated that if the students were clear about the homework, they would be less likely to "need to ask questions that could disrupt the flow of the class." (*Id*. at 36, para. 2(iii).)

72(e). The movement of students into groups for the vocabulary game "was fairly chaotic." Mr. McCarthy and Ms. Graf stated that Ms. Caldieri "should consider having standing groups so that students can move quickly from activity to activity" (meaning, presumably, that they would remain in the same group rather than be redistributed into new groups), as this would "allow for a more intentional distribution of students, ensuring that multiple students have chances to participate at high levels." (*Id*. at 36, para. 2(iv).)

72(f). There was "a fair amount of side chatter throughout" Ms. Caldieri's lesson. The evaluators stated that she should wait until all students had stopped talking before beginning or resuming speaking to the class. (*Id*. at 36, para. 2(v).)

72(g). Ms. Caldieri periodically posed questions to the class during her lecture, such as her question about the Trojan horse. The evaluators took issue with Ms. Caldieri accepting oral answers to these questions as she asked them. Instead, the evaluators stated, she should direct students to write down their answers individually so that all of them would have a chance to respond. (*Id*. at 36, para. 2(vi).)

73. Principal Smith and Department Chair Graf gave Ms. Caldieri a school form with specific questions to answer in her response to the October 20, 2010 evaluation. She provided answers to these questions on October 26, 2010. (Exh. 8: South Hadley Public Schools Post-Observation Conference Form dated Oct. 20, 2010 (the date on which the form was given to Ms. Caldieri) and Oct. 26, 2010 (the date of Ms. Caldieri's response) at 33-35.) The subject of the questions, and Ms. Caldieri's responses, follow:

73(a). *The extent to which students were actively engaged*. Ms. Caldieri stated that nearly all of her students in the Latin 1 class Mr. McCarthy and Ms. Graf observed were actively engaged in the lesson most of the time. For this reason, she saw no need to repeatedly stop teaching to quiet down "loquacious students." She also stated that she "saw genuine, alert faces interested in and keen on listening to the story of the Trojan War," especially since some of the students had not bothered to read the homework assignment or take notes as instructed. Ms. Caldieri conceded that the transition to the vocabulary review (the word game) was not as smooth as it should have been because she had consolidated the competing "teams" from six to four as the students had gotten to know each other better. She agreed that she needed to "even out" the student teams so they each contained a mixture of

students at various levels, rather than, for example, allowing a team to remain in a corner paying almost no attention at all, or having a team comprised mostly of freshmen who were too timid and insecure around upperclassmen. (Exh. 8 at 33; response to question 1.)

73(b). *Whether instructional goals were met and the students learned what was intended, and how the teacher knew*. Ms. Caldieri answered "yes" to both questions, based upon the students continuing to talk about their performance during the observed Latin 1 class, and also the result of a followup quiz on persons and their descriptions that the "quiz show" had covered, with most students earning grades of between 90 and 100 percent. Ms. Caldieri also stated that she instructed the students to always take notes on "culture" (for example, important persons, their names, homelands and their significance) as they read an assigned chapter, as questions about culture were always included in chapter tests. When the students finished the crossword vocabulary game they had begun during the observed Latin 1 class, they showed better recall of "English word clues" from Roman and Greek origins during another team competition in which they were graded on the number of such word clues they could recall. (*Id*.; response to question 2.)

73(c). *Whether goals or instructional plans were altered as the lesson was taught and, if so, why*. Ms. Caldieri admitted to having altered instructional plans when it was clear that the students were actually interested in Rome's history and foundational myth. That led her to add more detail to her lecture than she had originally intended to include regarding the marriage of Peleus and Thetus, the judgment of Paris, the courtship of Helen, Helen's abduction by Paris ("the face that launched a thousand ships") and the reasons for the Trojan

War. She did not require that the students take notes during this lecture "because it wasn't part of the curriculum." She also did not require note-taking, or check to see if the students were taking notes, because she had begun the class with a "warm-up" exercise that showed whether a student had done the assigned homework, read the story on which the class would be based, and retained anything from the reading. From the class's performance and reaction to the lecture, Ms. Caldieri was convinced she had a "captivated audience" soaking everything up, and she "didn't want it to stop," as might have happened if she had interjected note-taking reminders and checked students' notes during the lecture. (*Id*.; response to question 3.)

73(d). *Whether the lesson would be taught differently if Ms. Caldieri had the opportunity to teach it again to the same group of students*. Ms. Caldieri stated that she would give more explicit instructions for the vocabulary game and tell the students to form groups more quietly. She did so during the next "vocabulary game" exercise the next day. Ms. Caldieri added that having to set up the overhead projection and screen while the students formed their groups presented an opportunity for "nattering." She also noted that she had given a homework reminder to each group, asking where the group members' daily planners were, and to write down their homework assignments, which she saw several of them do, but she was also moving quickly to make sure her lesson parts were completed before the bell rang, which she mostly did. She agreed she needed to be more aware of the time as the class progressed. (*Id*.; response to question 4.)

74. Ms. Caldieri saw Dr. O'Connell on October 28, 2010. His note for this visit begins

with the words "not so well!" The note continues: "bade (sic; probably "bad") @ work. P.T. (physical therapy?). hearing voices, having to teach different levels of latin @ sme (same) time." Dr. O'Connell noted that Ms. Caldieri was taking "Z" (Zoloft)" 300 mg qd.[62] He also noted Ms. Caldieri was taking Klon" (Klonopin) but the total daily dosage is not given and neither is the divided dosage, although the "III qhs" notation appears to be an indication that the division was divided into three daily doses. There is a notation that appears to state that Dr. Ryan and another physician (name unclear) "suggested DIA" (Department of Industrial Accidents, meaning workers' compensation), but that Ms. Caldieri said she could not afford to wait for payment, and also felt she'd be worse if she stayed at home. These notations indicate that Ms. Caldieri was resisting, for financial reasons, suggestions that she take leave from work. The note did not state whether Ms. Caldieri had a scheduled followup appointment with Dr. O'Connell. (Exh. 22: Dr. O'Connell's note dated Oct. 28, 2010.)

75. On November 23, 2010, Dr. Ryan saw Ms. Caldieri for a neurological followup for what she described as "diagnoses of various symptoms in the context of depression: eating disorder; migraine; multiple sclerosis; seizures; Sjogren's syndrom; anemia." Dr. Ryan noted that Ms. Caldieri's medications at that time were Celexa 20 mg, clonazepam 2.5 mg in divided doses; Topamax 300 mg; Zoloft 300 mg; Keppra 1000 mg twice daily; Methylprednisolone monthly, and

[62]/ Compare this dosage of Zoloft (an antidepressant) with the 100 mg daily dosage Ms. Caldieri was taking when she saw Dr. Ryan on February 1, 2010. (*See* Finding 57(b).) Her dosage of Zoloft had therefore been trebled by the end of October 2010. The dosage for Clonazepam (Klonopin), also an antidepressant, on February 1, 2010 was 0.5 mg daily in divided doses.

Compazine as needed. Ms. Caldieri told Dr. Ryan she had had a seizure at work on October 26, 2010, which resulted in a hospital admission. Ms. Caldieri also related having experienced memory lapses. She reported having had migraines following Methylprednisolone administration, but that this drug gave her "a boost for a few weeks." Ms. Caldieri appeared to be clinically stable, but Dr. Ryan noted she had a "defeated demeanor." Her gait appeared "better than usual." Dr. Ryan encouraged Ms. Caldieri to continue on her current medication regimen, and to pursue a disability leave. (Exh. 23: Dr. Ryan's report to Dr. Mark Bigda dated Nov. 23, 2010.)

76. On Friday, December 3, 2010, Ms. Caldieri was scheduled to teach Latin classes and, as well, an "E Block Writing Workshop class." (Caldieri direct testimony.)[63]

76(a). The E Block Writing Workshop lesson that day involved a simulated debate. Ms. Caldieri divided the students into two teams, each of which would present arguments either for or against building a school park. The students were gathered around a table and were presenting their arguments, and Ms. Caldieri was taking notes on the presentations. (*Id.*)

76(b). Assistant Principal Ted McCarthy, one of the two administrators who had evaluated Ms. Caldieri in October 2010 (*see* Findings 70-72), entered the room. No classroom observation had been scheduled. Ms. Caldieri asked "can I help you?" Vice Principal McCarthy replied, "No, what's going on here?" Ms. Caldieri told him that she was working with the students on a debate, and asked if he wanted to join the group. Mr.

[63]/ Apparently, Ms. Caldieri was assigned the writing workshop class in order to have her position restored to a full-time one. (*See* Exh. 21: Report of Davina Miller, MSW., L.I.C.S.W. re Debra Caldieri, dated Sept. 19, 2011, at 2.)

McCarthy said no. Ms. Caldieri asked if she should continue teaching the class. Mr. McCarthy said he was leaving, and that if there were any problems with students, she should send them to the "planning room." (*Id*.)

77. Later that day (December 3, 2010), Mr. McCarthy wrote a letter to Ms. Caldieri following up on his previously-unannounced visit to Ms. Caldieri's writing workshop class. The letter indicated that copies of it were sent to Principal Smith and Foreign Languages Department Chair Graf. (Caldieri direct testimony; Exh. 36: Letter, Ted McCarthy to Deb Caldieri re: Meeting on 11/30/2010, dated Dec. 3, 2010.)[64]

77(a). In this letter, Mr. McCarthy asserted that Ms. Caldieri was not engaging the students in the workshop class students actively and productively "at the expected level." Mr. McCarthy did not specify, in his letter, what observations he had made in the writing workshop class had led him to this conclusion. (*Id*.)

77(b). Mr. McCarthy stated in his letter, as he had when he spoke briefly with Ms. Caldieri, that students who were disruptive needed to be sent to the planning room so the remainder of the students could learn. Ms. McCarthy did not state in his letter that he had observed disruptive students in Ms. Caldieri's classroom. (*Id*.)

77(c). Mr. McCarthy also stated in his letter that students should be "working bell to bell" with no "free time" at the start or end of class. He did not state that he had observed students in Ms. Caldieri's writing workshop class doing anything but working "bell to bell,"

[64]/ Principal Smith testified that Vice Principal McCarthy was responsible for evaluating Ms. Caldieri during the 2010 Fall semester by observing her classes. (Smith direct testimony.)

or having "free time." (*Id*.)

77(d). Mr. McCarthy also stated that Ms. Caldieri "should stand or sit near the students while they are working" so that she "could better manage their behavior and keep track of their progress." He did not state in his letter that he had observed Ms. Caldieri sitting anywhere but at the same table as the students who were presenting their debate arguments, and near them. He also did not state what type of lesson or exercise he had observed Ms. Caldieri teaching, or that anything was educationally wrong or ineffective with the seating arrangement he had observed in the context of the lesson or exercise being taught. (*Id*.)

77(e). Mr. McCarthy concluded his letter by stating that he was confident that if Ms. Caldieri consistently implemented the "techniques" he described, "the class behavior will improve and the student performance will increase, and that if she "did not begin to follow these guidelines, further disciplinary action will be taken." (*Id*.)[65]

77(f). In contrast with the procedure followed after the October 2010 classroom observation (*see* Finding 73), Ms. Caldieri was not given any form for presenting her response to the criticisms recited in Vice Principal McCarthy's December 3, 2010 letter.

77(g). The October 2010 evaluation had not imposed guidelines that Ms. Caldieri was to follow on pain of "further disciplinary action" (*see* Finding 73), but Vice Principal

[65]/ Per Principal Smith, this warning was "typical" of those included in a followup letter sent to a teacher after an evaluative class observation. The Principal was "cc'd" on the followup letter from Vice Principal McCarthy because, while Principal Smith was not Ms. Caldieri's evaluator as to unannounced class observations, he would have to make the ultimate decision as to whether she would be reappointed for the following school year. (Smith direct testimony.)

McCarthy's December 3, 2010 letter did. The letter did not offer Ms. Caldieri any assistance in meeting the guidelines it imposed and avoiding "further disciplinary action."

78. Ms. Caldieri was given Vice Principal McCarthy's letter on the same day, December 3, 2010. She believed that Mr. McCarthy's letter meant she was going to be disciplined by the school administration. She left the school after receiving it. She recalled suffering a seizure shortly afterward, while she was in her car outside her doctor's office. (Caldieri direct testimony.)

79. Ms. Graf testified that the observations of Ms. Caldieri during the fall of 2010 were motivated by concern about the teacher's health. She agreed that "if" there was a formal plan to support Ms. Caldieri through appropriate accommodations in view of her disability, it was "disappointing." She also agreed that there was no ADA-compliant plan in place to accommodate Ms. Caldieri's disability. (Graf testimony on cross-examination.)

80. Ms. Caldieri did not return to work at the school after December 3, 2010, either because the school would not allow her to return without a note from her neurologist clearing her to resume working, and/or upon the advice of her treating physician not to return to work. (Caldieri direct testimony; Finding 82, below; and Exh. 10: Superintendent Sayer's explanation, in his September 15, 2011 letter to MTRS regarding Ms. Caldieri's employment at South Hadley High School, as to why she did not return to work in December 2010 or after.)

81. As of December 2010, Ms. Caldieri was receiving a monthly infusion of Solu-Medrol at Cooley Dickinson Hospital to treat symptoms of multiple sclerosis.[66] She received one such

[66]/ Solu-Medtrol (Methylprednisolone) is a corticosteroid used to treat autoimmune disorders and inflammatory conditions, including acute aggravations of multiple sclerosis. It may

infusion at the hospital on the morning of December 23, 2010. After the infusion was completed, and while still in the hospital, Ms. Caldieri had two separate seizures, one at approximately 11:40 a.m., and another at approximately 12:45 p.m. (Exh. 31: Cooley Dickinson Hospital Emergency Dep't notes dated Dec. 23, 2010.)

81(a). Each seizure was witnessed by the staff who had been administering the infusion, staff, lasted approximately two minutes, and they thought these seizures were tonic-clonic (that is, epileptic),[67] although epileptic seizures were not confirmed and remained an unresolved initial diagnosis on the part of Emergency Department staff. (*See* Findings 81(c) and (d) below.) A rapid response team arrived and transported Ms. Caldieri to the hospital's Emergency Department. (*Id*.)

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be administered by intravenous infusion, as in Ms. Caldieri's case. (*See* RXList, Solu Medtrol (rev. Jun. 7, 2021), https://www.rxlist.com/solu-medrol-drug.htm.)

[67]/ Tonic-clonic seizures, formerly "grand mal" seizures, are epileptic seizures. A tonic-clonic seizure comprises two phases: a tonic phase (stiffening) and a clonic phase (twitching or jerking of the face, arms or legs). They are intense and "can be frightening to experience or observe, as extreme muscle spasms may temporarily arrest breathing." Most such seizures resolve on their own within 1-3 minutes. During the seizure, it is important to protect the person having it from injury (not by restraining them, but by helping them to the floor and clearing away furniture or other objects); putting nothing in the person's mouth; timing the seizure; and calming the person. Seizures lasting more than five minutes should be considered emergencies requiring a 911 call (or, as occurred on December 23, 2010 at the hospital, a call for a rapid response team.) (*See* Johns-Hopkins Health, "Tonic Clonic (Grand Mal) Seizures" (undated), https://www.hopkinsmedicine.org/health/conditions-and-diseases/epilepsy/tonic-clonic-grand-mal-seizures.)

I note that the classification of Ms. Caldieri's seizures as epileptic (and therefore MS-related and not triggered by stressors in the workplace), as opposed to stress-triggered non-epileptic pseudoseizures, was never confirmed. It was also disputed among her treating physicians, and by one of the members of the neurological medical panel convened to review Ms. Caldieri's accidental disability retirement application, Dr. Masi. (*See* Findings 96 and 97, below.)

81(b). Ms. Caldieri told the Emergency Department staff that her seizures were frequently triggered by increased stress, and that she was worried she might lose her job. The Emergency Department staff reviewed Ms. Caldieri's records and noted that "there seems to be some doubt among [Ms. Caldieri's] caretakers whether she truly had seizures or pseudoseizures," but that she had been "taking Leppra for some time for presumed diagnosis of seizure disorder." The Emergency Department note also stated that there was no history of head trauma,"[68] and no trauma from the seizure activity. It noted her current medications by name (Zoloft, Topamax, Keppra, Klonopin), a non-contributory family history, and no symptoms other than the suspected seizures. She was conscious in the Emergency Department and her vital signs were stable. Lab results noted included glucose at 129, chloride at 109 and a hematocrit of 31.7, all noted as being within Ms. Caldieri's baseline. (*Id*.)

81(c). The Emergency Department note does not mention any EEG results or state that an EEG was ordered to assist in distinguishing an epileptic seizure, such as one associated with MS, from a non-epileptic pseudoseizure.[69] (*Id*.)

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[68]/ In fact, there was a history of head trauma Ms. Caldieri sustained when her former spouse was battering her, between 1983 and 1998. (*See* Finding 2, *citing* Exh. 31: Cooley Dickinson Hospital Behavioral Health Assessment prepared by Kathy Anderson White, dated Oct. 15, 2003; Exh. 33: Report of Dr. Cutler; *see also* Exh. 23: history recorded by Dr. Allison Ryan in her neurology consultation report dated Aug. 26, 2009.) It is possible this history was not accessed, or was not accessible, when the Cooley Dickinson Emergency Department staff composed their note regarding Ms. Caldieri's seizures at the hospital on December 23, 2010.

[69]/ The medical records in evidence show no use of an EEG through the end of 2010 to assist in determining the type of Ms. Caldieri's seizures, in spite of continuing caregiver doubt

81(d). The general impression noted by the hospital's Emergency Department staff was seizure activity that could be either a seizure or pseudoseizure, and Ms. Caldieri was directed to follow up with her doctor. She was also directed not to drive until her doctor cleared her to do so, and to lie down on her side if she felt another seizure coming on. (*Id*.)

82. When Dr. Ryan next saw her on January 4, 2011, Ms. Caldieri was using a cane because she was unsteady when walking, and reported ongoing numbness in the hands and feet. She also reported to Dr. Ryan several recent seizures "mostly triggered by stress" at Cooley-Dickinson Hospital, and also during a recent visit with Dr. Mark Bigda, Ms. Caldieri's primary care physician at the time. Her daily medical regime remained as before: Clonazepam 2.5 mg in divided doses; Topamax 300 mg; Zoloft 300 mg; Keppra 1000 mg twice a day; monthly Methylprednisolone intravenously; and Compazine as needed. Ms. Caldieri told Dr. Ryan that she had tried returning to work, but the school did not allow her to do so. Dr. Ryan opined in her note for this visit that Ms. Caldieri should not be working. (Exh. 23: Dr. Ryan's note/letter to Dr. Bigda dated Jan. 4, 2011.)

83. On January 12, 2011, Dr. Ryan wrote a note (with no specific recipient indicated) stating that Ms. Caldieri was under her care for multiple sclerosis, "including" seizure disorder, and

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about whether Ms. Caldieri was having epileptic seizures, or non-epileptic seizures such as pseudoseizures. (*See* n. 32.) Notwithstanding limitations and caveats in interpreting EEGs as to the source of seizures or their predictability, the importance of EEGs in diagnosing and managing seizures (including which seizure control medications to administer and which to discontinue) was generally known and accepted in the medical community, particularly among neurologists and other specialists treating epilepsy and other brain disorders, during the period 2004-10. (*See, e.g.*, Smith, S.J.M., "EEG in the Diagnosis, Classification, and Management of Patients with Epilepsy," 76 J. NEUROLOGY, NEUROSURGERY & PSYCHIATRY (Issue Supp. No. 2, 2005); article text available online at https:// jnnp.bmj.com/content/76/suppl_2/ii2.)

that, in her opinion, Ms. Caldieri's condition "has significantly deteriorated attributable to a great extent to the stressors associated with the death of her student Phoebe Prince in January, 2010," and that Ms. Caldieri was "fully disabled for the indefinite future with respect to teaching duties." (Exh. 23: Dr. Ryan's note dated Jan. 12, 2011.)

84. During a followup neurological consultation she performed for Dr. Bigda on January 25, 2011, Dr. Ryan noted that Ms. Caldieri was no longer trying to work, which the doctor thought would be beneficial for her. Dr. Ryan also noted that Dr. O'Connell had added Lamotrigine 50 mg to Ms. Caldieri's daily medications,[70] which otherwise remained the same as she had listed them on January 4, 2011. Ms. Caldieri appeared to be clinically stable, although she had a significant ataxia (voluntary muscle control difficulty, probably referring to Ms. Caldieri's lack of stability walking and needing to use a cane). Dr. Ryan also noted that Ms. Caldieri's mood had not changed. (*Id.*; Dr. Ryan's note followup consultation note to Dr. Bigda dated Jan. 25, 2011).

85. Dr. Ryan again saw Ms. Caldieri in February, March, April and June 2011.

85(a). On February 28, 2011, Dr. Ryan noted an increase (by Dr. O'Connell) in Ms. Caldieri's Lamictal (lamotrigine) daily dosage from 50 to 75 mg, increased migraines, and an increased daily dosage of clonazepam in divided doses from 2.5 to 3.5 mg. Ms. Caldieri

[70]/ Lamotrigine (Lamictal) is an anti-convulsant used to treat the symptoms of epileptic seizures, seizure disorder, partial-onset seizures and bipolar disorder (manic depression). Dosages generally start at what is considered to be low, at 25 mg, every other day for two weeks, then 25 mg every day for another two weeks; dosages are then, typically, increased to 50 mg daily for the next two weeks, and then increased by 25 mg to 50 mg each week until the dosage is within a "usual maintenance dose" of 100-200 mg per day. (*See* RxList: Lamictal (rev. Jul. 29, 2022), https://www.rxlist.com/lamictal-drug.htm.)

reported having had no seizures since the January 25, 2011 visit, except possibly for one episode of feeling dizzy and passing out in the bathroom. Dr. Ryan assessed a high risk of falling if Ms. Caldieri used only a cane. (Exh. 23.)

85(b). On March 29, 2011, Dr. Ryan noted a continued high level of physical and psychiatric symptoms that included an emergency room visit at Cooley Dickinson Hospital on March 10, 2011 following a nocturnal seizure brought on by "a stressful day," and a migraine that followed the seizure. She was also seen at the hospital on March 16-29, 2011 with increased depression and suicidal ideation, and had a seizure on March 17, 2011. Dr. Ryan noted that Ms. Caldieri was "very wobbly" using a walker. She also noted that Ms. Caldieri was working with a social worker on moving to a multiple sclerosis long-term facility. She noted that the dosage of one of the four anticonvulsant medications Ms. Caldieri was taking daily, Lamictal (Lamotrigine), was increased from 50 to 75 mg daily. *(Id.*)

85(c). When Dr. Ryan saw her on April 27, 2011, Ms. Caldieri reported that she was still having seizures and often fell at home, for example while transferring from her bed to her walker. Her medication regimen was unchanged from the prior visit except for the anticonvulsant Lamictal, which had been increased from 75 mg to 100 mg.[71] Dr. Ryan noted extreme muscle weakness, including nearly falling despite using a walker. She recommended to Dr. Bigda that Ms. Caldieri be hospitalized in preparation for in-patient rehabilitation. (*Id.*)

86. As of May 5, 2011, Ms. Caldieri was receiving inpatient treatment for 30 days at the

[71]/ This placed Ms. Caldieri's Lamotrigine dosage within what is considered to be a "usual maintenance dose." (*See* n. 70.)

Genesis Elaine Center at Hadley, Massachusetts for rehabilitation therapy, with some gain of overall strength, but she was still having frequent seizures (3-6 times per week) while she was there. On that day, Ms. Caldieri was seen in the Cooley Dickinson Hospital Emergency Department for "multiple episodes" of seizures "with an unknown etiology," with episodes of arm and leg flailing and excessive movements.

86(a). The Emergency Department physician, Dr. Donald Chiulli, spoke with Dr. Ryan, who explained that Ms. Caldieri "had an absence on stress (sic) seizure as well as tonic-clonic seizures."[72] Dr. Chiulli stated that the seizure activity with which Ms. Caldieri

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[72]/As to tonic-clonic (formerly grand mal) epileptic seizures, *see* n. 67.

It appears likely that Dr. Chiulli intended to describe an "absence seizure." This type of seizure is characterized by loss of awareness and responsiveness, and so may be a type of epileptic event.

It may also not be an epileptic seizure. Its suspected epileptic nature needs to be confirmed by test results showing epileptiform activity in order to confirm the proper treatment, including whether to administer anticonvulsant medication. What are thought to be absence seizures in adults are often resistant, or non-responsive, to antiepileptic drugs, and "may be accompanied by other generalized seizures or neurological impairment." The latter include some types of complex focal seizures originating from the frontal lobe (the largest part of the brain, and one of four lobes in the cerebral cortex that controls, among other things, movement, speech, attention and impulse control) or from the temporal lobe (another of the cerebral cortex lobes, which is involved in hearing, memory, emotion and some aspects of language). (*See* Trinka, E., "Absences in Adult Seizure Disorders," 112 ACTA NEUROLOGICA SCANDINAVICA 12-18 (John Wiley, Dec. 15, 2005); an abstract, and a paid version link to the full article, are available at: https://onlinelibrary.wiley.com/doi/10.1111/j.1600-0404.2005.00522.x.)

As was true of Dr. Ryan's MS diagnosis after hesitating on this point, her May 2011 description of Ms. Caldieri' seizures as absence seizures or tonic-clonic seizures were not based upon any confirming tests results showing epileptiform activity. Dr. Chiulli, the Emergency Department physician, remained unconvinced the seizures in question were epileptic absence seizures rather than (nonepileptic) pseudoseizures.

presented in the Emergency Department did not appear to be consistent with tonic-clonic seizures, and he believed they were, instead, "most likely pseudoseizures." (Exh. 31: Cooley Dickinson Hospital Emergency Dep't records; Dr. Chiulli's note dated May 5, 2011.)

86(b). Dr. Chiulli contacted Dr. Alan Berkenwald, an internal medicine specialist affiliated with Cooley Dickinson Hospital and at the Genesis Elaine Center. Dr. Berkenwald recommended "hospitalization for further evaluation including EEG which is unavailable at this time."[73] A subsequent note written on the same day explains that an EEG could not be performed in the Emergency Department, and the hospitalist service was then asked to admit Ms. Caldieri with plans to perform an EEG. (*Id*.)

86(c). An EEG performed at the hospital on May 6, 2011 was "unremarkable" and "entirely normal." (Exh. 31: notes by internist Dr. Bernard D. Shea and neurologist Dr. William J. Dean III, both dated May 6, 2011.)[74] Dr. Dean, who reviewed Ms. Caldieri's Emergency Department chart and the EEG, noted that the EEG helped confirm Dr. Berkenwald's impression that Ms. Caldieri's seizures were "nonepileptiform" (non epileptic),[75] as the EEG "did not show epileptiform activity nor postictal activity as one

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[73]/ This was the first instance in the medical record that an EEG was recommended by a treating physician to help determine the nature of Ms. Caldieri's seizures.

[74]/ The EEG results themselves are not in the medical records.

[75]/ Epileptiform activity shown by an EEG "is indicative of cortical hyperexcitability, which carries an increased risk for seizures and the presence of an epileptic network within the brain.

There are several types of epileptiform activity, including single discharges (sharps and

would expect after (epileptic) seizures." (*Id.*; Dr. Dean's note dated May 6, 2011.)[76] Dr. Dean recommended that Ms. Caldieri follow up with Dr. O'Connell and Dr. Ryan as an outpatient for further treatments relative to her MS, migraine headaches, seizure disorder, anxiety and severe depression. (*Id.*; Dr. Dean's note dated May 6, 2011.)

87. During her June 16, 2011 followup visit with Dr. Ryan, Ms. Caldieri was using a wheelchair. She reported that she had spent a month at the Genesis Elaine Center at Hadley for rehabilitation therapy, with some gain of overall strength, but was still having frequent seizures 3-6

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spikes) and rhythmic and/or periodic activity. (*See* Valentine, D., "LearningEEG, Epileptiform Activity: The EEG in Epilepsy" (rev. 2020), https://www.learningeeg.com/epileptiform-activity) (this reference source includes photographs of EEG sections where epileptiform disruptions of brain wave activity appear as sharps and spikes along the printed wave patterns.)

While the EEG results are not in the medical records before me, I have no reason to doubt that Dr. Dean had them, reviewed them, and interpreted them accurately as not showing epileptiform activity generally expected where seizures are epileptic in nature. Dr. Dean's review supports ruling out epileptic seizures in Ms. Caldieri's case or, at least, viewing non-epileptic pseudoseizures, rather than epileptic grand mal seizures, as the more accurate diagnosis of Ms. Caldieri's seizure type.

The type of seizure is material to whether a seizure condition can be aggravated by workplace stress for Chapter 32 accidental disability retirement purposes. As noted by the neurological medical panel convened here, and as discussed throughout this Decision, non-epileptic seizures can be triggered by stress, including workplace stress, making aggravation by workplace stress possible, while epileptic seizures (such as those associated with MS) occur regardless of stress, making it difficult to show the possibility of their work-related aggravation.

[76]/ The postictal phase is the period of time immediately following a seizure, during which the brain recovers. It can last seconds, minutes, hours or even days. Symptoms seen during the postictal phase can include difficulty speaking, temporary hand and limb weakness, and repetitive actions such as nose-rubbing and lip smacking, as well as agitation, delirium, fear and anxiety, confusion, slow response and depression or sadness, or even psychosis. (*See, e.g.*, Shouri, R., "The Postictal Phase of a Seizure" (Verywell Health online, rev. Oct. 28, 2022), https://www.verywellhealth.com/postictal-seizure-phase-1204459.)

times per week while she was there. Following this therapy and her return home, Ms. Caldieri continued to have occasional seizures. She reported "significant depression" and continued to work with her therapist. She also told Dr. Ryan that she was no longer able to afford the foods she needed to minimize her seizure disorder. Dr. Ryan suggested targeting Ms. Caldieri's seizure disorder by increasing her daily dosage of Keppra (the antiepileptic medication) to 1500 mg twice daily (from 1000 mg twice daily, the dosage in place since January 2011(*see* Finding 82; in December 2009, Ms. Caldieri's Keppra dosage had been 2000 mg twice daily (*see* Finding 35(b).) Dr. Ryan also wrote in her note for this visit that "[w]ith respect to the issue of disability, I reiterate that in my opinion, her pre-existing multiple sclerosis including seizure disorder was dramatically exacerbated by the stressors associated with the death of her student in 1-10. It is well known that stress is a significant factor in multiple sclerosis aggravations, although stress has not itself been shown to contribute to causing" multiple sclerosis. (*Id.*)

88. Responding to a request by Ms. Caldieri's attorney for a disability opinion, Dr. Ryan wrote on June 20, 2011 that Ms. Caldieri was totally disabled as a result of a "dramatic exacerbation" of her multiple sclerosis as a result of stressors related to the suicide of her student in January 2010. (Exh. 23: letter, Dr. R. Allison Ryan to Earlon Seeley II, Esq., dated Jun. 20, 2011.)

88(a). Dr. Ryan based her opinion on her observations and evaluations of Ms. Caldieri as one of her treating physicians since she first saw her on August 26, 2009. (*Id.*)

88(b). In her opinion, Ms. Caldieri's disability comprised multiple sclerosis and seizure disorder, which had, "in the wake of severe stressors associated with the death of her student in 1-10, deteriorated dramatically." (*Id.*)

88(c). When Dr. Ryan had first evaluated Ms. Caldieri (in August 2009; *see* Finding 33), she had "brief lapses of awareness during which her speech and writing ceased or became nonsensical," which Dr. Ryan noted as interfering with her work as a teacher, although it had not prevented her from teaching. She also had some gait difficulties with unsteadiness and weakness, but she did not require any aids for walking. (*Id*.)

88(d). The dramatic deterioration of Ms. Caldieri's condition after January 10, 2010 that Dr. Ryan noticed "included marked increase in seizure frequency and severity and duration, at time associated with full loss of consciousness." (*Id*.)

88(e). Dr. Ryan pointed out that Ms. Caldieri's seizure disorder was not being controlled fully even with four anticonvulsant medications. In addition, her gait had deteriorated dramatically as well, so that she had started to fall frequently, and she had become dependent upon a walker or a wheelchair. (*Id*.)

88(f). Dr. Ryan opined, at the time, that the severe stressors "associated" with the death of Ms. Caldieri's student "are causally related to the dramatic exacerbation of her multiple sclerosis" to the point of total disability. (*Id*.)

Worker's Compensation Application (January 2, 2011)
and ADR Application (August 11, 2011)

89. Ms. Caldieri applied for Worker's Compensation on or about January 2, 2011. (Exh. 3: Ms. Caldier's Accidental Disability Retirement Application, dated Aug. 11, 2011, at 11.)

89(a). On April 29, 2011, neurologist Dr. Robert Levine reviewed Ms. Caldieri's

medical records relative to her Worker's Compensation Application. He prepared a medical file review report dated April 29, 2011 (Exh. 34.) Dr. Levine's review focused upon whether an incident at work on or about January 19, 2010 was a major contributor to Ms. Caldieri's disability (referring to the school Principal telling Ms. Caldieri that he "was not happy" with her decision "against school policy and without approval to walk her class down the street to a memorial to the student" who had committed suicide). (*Id*. at 2-3.) As to this workers' compensation-related issue, Dr. Levine opined in the negative.

(i) Dr. Levine noted Dr. Ryan's January 12, 2011 note stating that Ms. Caldieri was under her care for multiple sclerosis, "including" seizure disorder, and that, in her opinion, Ms. Caldieri's condition "has significantly deteriorated attributable to a great extent to the stressors associated with the death of her student Phoebe Prince in January, 2010," and that Ms. Caldieri was "fully disabled for the indefinite future with respect to teaching duties." (*See* Finding 83.)

(ii) Dr. Levine described Dr. Ryan's MS diagnosis as having been made despite doubts about MS by other physicians. The "strongest evidence" Dr. Levine found that might support Dr. Ryan's conclusion appeared to be that "multiple MRI scans showed extensive T2 lesions." However, Dr. Levine noted that the MRI scans involved only the brain, not the spinal cord. The CSF spinal fluid assessment in early 2010 "was said to show elevated myelin basic protein with a level of 1.47 and the suggestion that the upper limit was 1.1." (Exh. 34 at 2.)

(iii) Dr. Levine described Dr. Ryan's physical examinations as "very limited"

in the records he reviewed, despite multiple visits by Ms. Caldieri, and only one visit (on October 1, 2009) when there appeared to have been a detailed neurological examination during which Dr. Ryan noted an unusual flat affect in the context of diagnosed depression for which Ms. Caldieri was having psychiatric evaluations and hospitalizations; there was also a reference by Dr. Ryan to generalized tremulousness as well as intention tremor, mild dysmetria, mild head titubation yet intact vibratory sensation, as well as a brisk snout reflex and negative Babinski responses. (*Id*.) The medical records Dr. Levine reviewed contained no reference to EEGs having ever been performed, but he noted that as of late August, 2009, Ms. Caldieri was prescribed, and was taking, anticonvulsant medications including Topamax and Klonopin, with Keppra and Lamotrigine being added later. (*Id*. at 3)

(iv) Dr. Levine noted that the occurrence of seizures was recorded throughout the medical records. He also noted that Dr. Ryan had opined on August 26, 2009 that Ms. Caldieri was "significantly disabled and will not be able to function as a teacher," and it was unclear why she continued to work as a teacher until early December 2010 and why she stopped teaching at that time. (*Id*.) He also noted that by January 4, 2011, Ms. Caldieri was using a cane because of unsteadiness, and was using a walker as of March 29, 2011 because she was "very wobbly." (*Id*.) Based upon his review of the medical records, it was Dr. Levine's impression that Ms. Caldieri's disability "would appear to be due to her deterioration of her gait as well as apparently some psychiatric issues." (*Id*.) It was his opinion that there was "no

relationship of the alleged incident of January 19 (sic), 2010 and her disability," and that the incident was neither a major contributor to her disability, nor a contributor to her disability at all. (*Id*. at 4).

89(b). Upon reviewing Dr. Ryan's medical records through June 16, 2011, and examining Ms. Caldieri on July 25, 2011, Dr. Levine diagnosed MS, depression, seizure disorder, eating disorder, migraine and Sjogren's syndrome. Although he had not reviewed any EEGs or spinal cord imaging studies, Dr. Levine thought that the MS diagnosis "appears to be well established by the MRI scan brain findings as well as the spinal fluid findings." While it was Dr. Levine's opinion that Ms. Caldieri was totally and permanently disabled from her work as Latin teacher, he maintained his prior opinion that the work incidents after January 14, 2010 were not related to her disability and were not a major contributor to it. (Exh. 35: Report of Dr. Robert Levine dated Jul. 25, 2011).

90. Ms. Caldieri filed an accidental disability retirement (ADR) application with MTRS on August 11, 2011. (Exh. 3.)

90(a). In her ADR application, Ms. Caldieri stated the medical reason for the application as "[s]tress exacerbated symptoms of multiple sclerosis and seizures to the point of incapacitation to perform duties as a teacher," based upon work-related neurological and psychological injuries. (*Id*. at 8.)

90(b). Ms. Caldieri included a statement identifying the grounds for her "psychiatric" disability claim. (Exh. 3. at 9.) These grounds were:

(i) She had had a very close relationship with her former student, Phoebe

Prince, and was "devastated by her death" on January 15 (sic), 2010 (*id*.);

(ii) Afterward, Ms. Caldieri felt ostracized by the high school administration based upon the way she had grieved Phoebe's death (*id*.);

(iii) After Phoebe's death, both her workload and the observation of her classes by the school administration increased, but she was not initially given an explanation for either of these changes (*id*.);

(iv) She was disciplined by the school for her decision to take several students off campus "in order to grieve Phoebe's death with another student who had not attended school that day" (*id*.);

(v) The Principal also reprimanded her for her decision to post information on Facebook concerning Phoebe's bullying by students at the high school (*id*.);

(vi) The school intentionally avoided telling her the date of Phoebe's funeral; (*id*.) and

(vii) The administration's "callous actions" against her, "along with Phoebe's suicide, aggravated [Ms. Caldieri's] pre-existing psychiatric issues (depression and PTSD)." (*Id*.)

90(c). Ms. Caldieri also included, in her ADR application, an explanation of the grounds for her neurologic disability claim. (Exh. 3 at 10.) These grounds were:

(i) She had multiple sclerosis and a seizure disorder before Phoebe Prince's suicide in January 2010, but until that time she had been able to perform all of the essential functions of her job as a Latin teacher. She had been recruited personally

to teach at South Hadley High School and revitalize its Latin program by school superintendent Gus Sayer. She had done that, and had also restarted the high school's Latin Club and increased the number of students taking Latin. Prior to the student suicide, she had an unblemished record and positive teacher evaluations, and she enjoyed the respect and support of the school's principal, Mr. Smith. She had managed to remain an effective Latin teacher and a devoted student mentor despite her longstanding health problems and occasional MS flares (*id*.);

(ii) Ms. Caldieri's MS and seizure disorder were "aggravated and exacerbated" by the suicide of her student, whom she had mentored, on account of vulnerability to and influence exerted upon her by older students and then, for the remainder of her time teaching at the high school, by how she was treated by the school administration. Ms. Caldieri had been scheduled to meet with Phoebe on the day Phoebe committed suicide. She was devastated by Phoebe's death (*id*.);

(iii) The school administration then aggravated Ms. Caldieri's MS and seizure disorder further. While she was grieving Phoebe's death, Ms. Caldieri was ostracized at the school. The principal told her to get out of his school, without an explanation. The Principal scheduled a disciplinary hearing for her without explaining why he she was being disciplined. He did not tell her about arrangements made for Phoebe's funeral service. She eventually learned the discipline was being imposed upon her for taking four of her students to visit another student to help them grieve. Afterward, her classes were observed frequently, even though she was not scheduled for an

evaluation in 2010. Her teaching skills were questioned and criticized. She was required to teach three different levels of Latin (Latin III, Latin IV and Advanced Placement Latin) in a single class, plus two full sections of Latin 1 students, Latin 2 classes, and an English composition class for 9th graders. The workload and the amount of preparation needed to teach these classes was overwhelming (*id*.); and

(iv) Since Phoebe's death in January 2010, Ms. Caldieri's health had "declined precipitously." Her multiple sclerosis and seizure disorder, "which are aggravated by psychological events," had "deteriorated dramatically." (*Id*.)

91. Ms. Caldieri's ADR application was supported by two treating physicians' statements. (Exhs. 4 and 5.)

91(a). Psychiatrist Dr. Killian O'Connell opined that Ms. Caldieri's major depressive disorder "seem[ed] to have deteriorated" following the student's suicide on January 10, 2010, because prior to that event she had been able to complete graduate school and teach full time despite her depression and multiple sclerosis, but was unable to do so afterward. (Exh. 4 at last page.)

91(b). Neurologist Dr. R. Allison Ryan opined that while Ms. Caldieri's multiple sclerosis was a progressive disorder, the disorder had shown a "marked deterioration since [the] stressors of 1/10" (January 2010) that were associated with the student's death, and that there was a "work related marked deterioration of pre-existing conditions" after that date, specifically Ms. Caldieri's multiple sclerosis, seizure disorder, Sjogren's Syndrome, and migraine headaches, on account of "stressors associated with the death of Phoebe Prince in

1/10." (Exh. 5 at 4, 5.)

Medical Panel Review

a. The Two Medical Panels Convened Here

92. Two medical panels were convened to examine Ms. Caldieri and evaluate her accidental disability retirement applications, one neurological and one psychiatric, based upon the medical nature of the conditions Ms. Caldieri claimed were aggravated by work-related stress after January 14, 2010.

92(a). The neurological panel members—neurologists Dr. Avraham Almozlino, Dr. Stjepan Kereshi, and Michele L. Masi—examined Ms. Caldieri between early November 2012 and late January 2013. (*See* Exhs. 16-18).

92(b). The psychiatric panel members—psychiatrists Dr. Richard C. Rice, Dr. Robert W. Ferrell, and Dr. Michael Rater—examined Ms. Caldieri in mid to late April, 2013. (*See* Exhs. 13-15).

92(c). Each of the panel members issued a certificate in which he or she (i) acknowledged having received and reviewed Ms. Caldieri's job description inclusive of her essential duties, and having reviewed the medical records sent by MTRS before rendering a medical opinion; and (ii) answered the three accidental disability retirement-related medical questions posed to the panel members:

> 1. Is the [retirement system] member mentally or physically incapable of performing the essential duties of his or her job as described in the current job description?

> 2. Is said incapacity likely to be permanent? and
>
> 3. Is said incapacity such as might be the natural and proximate result of the personal injury sustained or hazard undergone on account of which retirement is claimed?[77]

92(d). The members of both panels answered affirmatively as to whether Ms. Caldieri

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[77]/ The Medical Panel Certificate form asked each panel member (as it still does) to "consider the following points before answering the third question addressing possible work-related causation of likely-permanent disability, and that the member discuss these points" in an accompanying narrative:

> A. Whether there is any other event or conditions in the member/applicant's medical history, or in any other evidence provided to the panel, other than the personal injury sustained or hazard undergone upon which the disability retirement is claimed, that might have contributed to or resulted in the disability claimed.
>
> B. Whether it is more likely than not that the disability was caused by the condition or event described in (A) rather than the personal injury sustained or hazard undergone which is the basis for the disability claim, and the basis for your conclusion.

The Certificate form also included the following instructions:

> Aggravation of a Pre-Existing Condition Standard:
> If the acceleration of a pre-existing condition or injury is as a result of an accident or hazard undergone, in the performance of the applicant's duties, causation would be established. However, if the disability is due to the natural progression of the pre-existing condition, or was not aggravated by the alleged injury sustained or hazard undergone, causation would not be established.
>
> *PLEASE NOTE: When constructing your response to the question of causality (#3) in accidental disability narrative reports, your opinion must be stated in terms of medical possibility and not in terms of medical certainty.

(*See* Exhs. 13-18, Certificate for Accidental Disability completed by each of the panel members; underlining in originals; boldfacing omitted.)

was disabled (meaning "mentally and physically incapable of performing the essential duties of his or her job as described in the current job description") and whether the disability was likely to be permanent. (Exhs. 13-18.)

92(e). Each of the panel members also prepared a narrative report explaining his or her answers to the three questions the medical panel certificate asked. (*Id*.)

93. While each of the two panels was unanimous in concluding that Ms. Caldieri was disabled and that the disability was likely permanent, the panels reached different conclusions as to possible work-related aggravation of the medical conditions Ms. Caldieri identified in her ADR application.

93(a). The neurological panel issued a unanimous negative opinion as to workplace-related aggravation of Ms. Caldieri's multiple sclerosis or seizure disorder. The panel members concluded that Ms. Caldieri's seizures and other neurologic deficits, which predated the 2010 events in question, were worsening progressively and would have become disabling even if those events had not occurred. (Exhs. 16-18.)

93(b). A majority of the psychiatric panel opined that Ms. Caldieri's depression and related conditions, including seizures, were aggravated by the workplace mistreatment Ms. Caldieri described. (Exhs. 13-15.)

b. The Neurological Panel's Unanimous Negative Opinion as to Work-Related Aggravation

94. *Dr. Almozlino's Opinion*. Dr. Almozlino examined Ms. Caldieri, and prepared a report, on November 2, 2012 (*See* Exh. 16.)

94(a). Ms. Caldieri related to Dr. Almozlino a history of multiple sclerosis, seizure disorder and depression prior to the student's suicide in January 2010, and that her medical records documented this pre-existing history. Ms. Caldieri told Dr. Almozlino that even before that event, she had been under the care of several neurologists including Dr. O'Connell and Dr. Ryan. She also mentioned a history of anemia and Sjogren's syndrome. According to Dr. Almozlino, Ms. Caldieri also related "a history of grand mal seizure during which she lost consciousness and bladder and bowel control." He noted that her current medications included Topamax, Lamictal, Keppra, Clonazepam and Zoloft, and that she was not taking any medications for multiple sclerosis, although she had previously taken Copaxone daily.[78] Ms. Caldieri stated that the suicide was followed by a very stressful environment in the school where she taught Latin, "some conflict with school officials," and "unjust disciplinary actions" against her due in part to the suicide. She related that "the circumstances in the school, namely stress caused exacerbation of her multiple sclerosis and seizure disorder." (Exh. 16: Report of Dr. Almozlino at 1-2.)

94(b). Ms. Caldieri's current complaint was inability to ambulate, and being wheelchair-bound since June 2011, with numbness on her left side and in both legs, vision difficulties, and constant fatigue. She used a wheelchair during Dr. Almozlino's examination. The examination confirmed Ms. Caldieri's frailness, nonmoving lower extremities and

[78]/ *See* Finding 18(b) (Dr. O'Connell noted in July 2006 that Ms. Caldieri's medications included Copaxone at that time, for "likely MS"), and Finding 57(b) (on February 1, 2010, Dr. Ryan noted that Ms. Caldieri's Copaxone had been discontinued after 10 weeks.)

roving movements of the torso and upper extremities, some diffuse weakness in the upper extremities, halting and slow speech, and visual difficulties. Dr. Almozlino noted that "the most striking feature on examination is marked dysmetria on finger-to-nose testing bilaterally."[79] (*Id*. at 2-3.)

94(c). Dr. Almozlino's impression was that Ms. Caldieri was significantly disabled neurologically, and that her examination suggested advanced neurological disease. He opined that:

> From the neurological point of view, I do not believe that the patient's neurological deterioration is due to an emotional turmoil or stress. The deterioration is due to the underlying neurological disorder which is progressive by nature. Therefore said incapacity is not the proximate result of the work injury sustained on account of which retirement is claimed.
>
> Please note that the patient claims that her depression was worsened by the incidents in 2010 and I can not comment on this as this is not in my field of specialty.

(*Id*. at 3.)

95. *Dr. Kereshi's Opinion*. Dr. Kereshi examined Ms. Caldieri, and prepared a report, on December 26, 2012. (*See* Exh. 17.)

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[79]/ Dysmetria is an inability to properly direct or limit motions, resulting in overreaching or underreaching. It is caused by cerebellar disorders, and is an aspect of ataxia. A history of ataxia was noted in the June 28, 2006 radiology report following Ms. Caldieri's followup brain MRI with contrast, and the radiologist's impression was "[n]umerous high-intensity periventricular and deep white matter lesions which is of strong concern for MS in this 42-year-old woman, especially since one of these lesions involves the brainstem and has not changed significantly since 4/27/06." (*See* Finding 19.) The radiologist suspected an "enhancing MS plaque," but noted that there were other possibilities, and that clinical correlation was essential. (*Id*.)

95(a). Dr. Kereshi noted that Ms. Caldieri presented with "several problems, including seizure," and had a history of seizures that began in 2005, and continued with a seizure as of the week preceding his examination. Her seizure medications were noted to be Keppra 500 mg twice daily, Lamictal 100 mg a day, and Topomax 100 mg three times a day; and she was also taking Klonopin 1 mg in the morning and two in the evening, and also Zoloft, 300 mg daily for anxiety and depression. Ms. Caldieri reported having had several types of seizures: one, which she described as "altered mental status," lasted from two to eight hours and left her confused, dizzy and shaky, with somewhat slurred speech, but it caused no loss of consciousness. Another type of seizure was brought on by stress, caused her to bite her tongue, pass out and shake all over, and could cause incontinence. Dr. Kereshi noted Ms. Caldieri's 2011 long term monitoring EEG during which she had several episodes of altered mental status-type seizures but the EEG was negative. (Exh. 17: Report of Dr. Kereshi at 1-2.)

95(b). Ms. Caldieri related that she had a history of multiple sclerosis. The medical records showed she had a brain MRI that showed multiple nonspecific white matter lesions "which was consistent with MS but the actual diagnosis of MS was never confirmed." Dr. Kereshi also noted that Ms. Caldieri was started on Copaxone but could not tolerate it and developed an allergic reaction. He noted that Ms. Caldieri had been on Methylprednisolone.[80]

[80]/ Methylprednisolone, as Solu-Medtrol, was the corticosteroid anti-inflammatory medication Ms. Caldieri was given by intravenous infusion starting monthly in December 2010 to treat aggravations of multiple sclerosis. (*See* n. 66.)

She told Dr. Kereshi that "steroids help some and increase her strength some." Dr. Kereshi also noted Ms. Caldieri's sleep difficulties, history of headaches with associated nausea and photophobia, and a present complaint of double vision, being generally tired, memory difficulty, slurred speech, some shakiness and use of a cane, a walker and then a wheelchair. She was unable to stand during Dr. Kereshi's examination without assistance. (*Id*. at 2.)

95(c). On examination, Ms. Caldieri was alert and able to follow all commands. Vision testing could not be completed as Ms. Caldieri stated she could not see large letters, although she said she was able to read at home. During Dr. Kereshi's examination, Ms. Caldieri "exhibited somewhat unusual rocking and jerking movements of her head, arms, and legs, and her strength could not be tested as she could not resist. He thought there was a suggestion of "psychogenic overlay," meaning reduced effort, because when she was asked to raise one leg, there was no attempt to push down with the other leg. When he asked her to stand, she could not support herself with either arm while trying to get out of the wheelchair, and almost fell to the ground, so Dr. Kereshi had to assist her. She was able to get back in the wheelchair by pushing herself up, but during a coordination test, Dr. Kereshi had to hold her throughout the entire evaluation. (*Id*. at 2-3.)

95(d). In reviewing the medical records, Dr. Kereshi noted that there was a "suggestion of MS" in February 2007 and an MRI showing "multiple, though nonspecific lesions," and that seizure monitoring in December 2007 was inconclusive, as no seizure occurred but Ms. Caldieri had "several confusional episodes." The records also suggested the possibility of major depressive disorder as of May 2008. Dr. Kereshi also noted Dr.

Ryan's August 2009 report in which she described Ms. Caldieri's diagnosis and treatment to be very challenging "because of history of migraine, Depression, Post Traumatic Stress Disorder, history of abuse as a child, eating disorder, Altered Mental Status, and she questioned possibility of seizure disorder with dissociation, pseudoseizure and multiple sclerosis, although this has not been confirmed by objective findings." Finally, Dr. Kereshi noted that Ms. Caldieri reported that many of her symptoms worsened after the death of one of her students in January 2010, "although she continued to work for one year long, with some difficulties." (*Id*. at 3-4.)

95(e). Dr. Kereshi's diagnosis was "probably MS, possible seizure as well as pseudoseizures, and there is an obvious significant psychological overlay and neurological examination is non-consistent." Despite "many non-physiological findings," it was his impression that Ms. Caldieri was not able to perform the essential duties of her job, and that the incapacity was probably permanent. However, it was also Dr. Kereshi's impression that:

> her disability is due to her multiple medical and psychiatric problems including migraines, Multiple Sclerosis, seizures, many psychiatric issues including Post-Traumatic Stress Disorder, Anxiety, depression, Dissociative Disorder, and syncopal episodes. She had all of those symptoms prior to the emotional trauma in January 2010 when one of her students died. For that reason, the cause of her disability is due to pre-existing medical and psychiatric conditions prior to the January 2010 incident.

(*Id*. at 4.)

96. *Dr. Masi's opinion*. Dr. Masi examined Ms. Caldieri, and prepared a report, on January 23, 2013. (*See* Exh. 18.)

96(a). Ms. Caldieri listed verbally for Dr. Masi, and also provided a neatly-written

list of, her medications at the time as Keppra 500 mg twice daily, Lamictal 100 mg twice a day, and Topomax 100 mg three times a day, Klonopin ½ to 1 mg daily, Zoloft, 100 mg twice daily, and Zofran for nausea; and stated that she had not received intravenous Solu Medtrol (Methylprednisolone) since the summer of 2012. (Exh. 18; Dr. Masi's Report, dated Jan. 23, 2013, at 2.)

96(b). Ms. Caldieri reported frequent "seizures" (Dr. Masi's quotation marks), which she and her son (who accompanied her to the examination) described as occurring once a week on average, many of them at night. During these events, Ms. Caldieri appeared to shake violently and make a gutteral sound. These events had caused Ms. Caldieri to fall out of her wheelchair once, and out of bed twice. During different types of spells, Ms. Caldieri appeared to her son to become rigid when she tried to speak, and appeared "stiff and blue." She did not remember these events. These spells left her exhausted and recovery sometimes took days. On "good days," Ms. Caldieri had no tremor, could write well, and dressed herself competently. She stated that she had occasional auditory hallucinations of voices, and visual hallucinations of people or "rainbow colors "popping off the wall," and that these hallucinations did not occur exclusively with headaches. She reported that she stayed in bed much of the day, and that while her son performed most household chores, she was independent in self-care. (*Id*.)

96(c). Dr. Masi noted Ms. Caldieri's then-current complaints as including chronic holocephalic (tension) headaches with blurred vision that lasted up to a week, with occasional nausea and vomiting for which she was taking Zofran 4 or 5 times a month. Ms.

Caldieri also reported dizziness triggered by bright lights or noisy environments, blurred vision, frequent double vision (diplopia), constant pain in the neck and shoulders, tired but not painful arms, a "vice-like discomfort" under the ribs, and incontinence with "seizures" (Dr. Masi's quotation marks.) She also reported good fine motor control when she was not anxious, but increased tremor and spasms when she was anxious, on stressful days, during car rides longer than 30 minutes, and, most recently at the time, during the neurologic medical panel examinations in late 2012. As to memory, Ms. Caldieri reported decreased recall of her former knowledge of Greek, and stated that she wrote many things down because she could become forgetful. (*Id*. at 2.)

96(d). During the examination, Dr. Masi noticed that Ms. Caldieri was alert, emaciated and in a wheelchair. Her speech was soft and hesitant, but clear and fluent. Her body mass index of 15.5 placed her in the dangerously underweight category. Ms. Caldieri's hands "sat quietly in her lap," but when she became anxious, "she developed a large amplitude tremor, at times arms flailing, and at one point including rocking motions of her trunk and head." Dr. Masi asked Ms. Caldieri to write her name and the address of the doctor's office, which Ms. Caldieri "performed with a large amplitude tremor, holding right wrist down with the left," and with shaky and poorly legible writing "different from the tiny, careful script in her med list and calendar." (*Id*. at 13-14.)

96(e). Dr. Masi summarized extensively the 625 pages of medical records she reviewed, noting first that these did not include in-patient hospital records for Ms. Caldieri's "multiple admissions for psychiatric illness and for eating disorder," and incomplete

inpatient records for admissions related to confusion. Dr. Masi also noted there were no clinical records after September 2011. She divided her medical records review into two time periods, before January 15, 2010, and after that date. Dr. Masi interspersed her reactions to observations made by treating physicians, and the presence or absence of clinical support for them, particular tests performed or their absence, and notations in the medical records that were of medical significance for her as a neurologist. (Exh. 18: Dr. Masi's Report, dated Jan. 23, 2013, at 3-14.)

96(f). Dr. Masi was especially critical of Dr. Ryan's neurologic care, her assessment of Ms. Caldieri's condition, and the level of anticonvulsant medication that was administered to Ms. Caldieri, particularly high doses of Topamax. In reviewing the medical records, Dr. Masi found it "striking" that by January 2010, 3½ years after starting Topamax, Ms. Caldieri had lost 27 pounds. [81] Dr. Masi also found "no reliable evidence to support the diagnoses of either epileptic seizures or multiple sclerosis;" instead, she found "a great deal of evidence for profound psychiatric illness both before and after January 2010." (*Id*. at 14.) Dr. Masi was especially critical of what she described as Ms. Caldieri's "stunning medication burden throughout these [medical] records," showing she was "given super-normal doses" despite being underweight. (*Id*.) She thought it "likely" that this had worsened Ms. Caldieri's fatigue and, as well, her disrupted sleep, her falls, and her amnesia, all of which were also noted in the medical records prior to January 14, 2010. (*Id*. at 15.)

[81]/ Starting in 2006, Ms. Caldieri was prescribed Topamax, an anticonvulsant, for her seizures. Appetite loss is one of its possible side effects. (*See* n. 19.)

96(g). Dr. Masi disagreed with Dr. Ryan's opinion that Ms. Caldieri's stress-triggered events or "spells" were epileptic seizures, or that they were "substantially altered by events beginning in January 2010." [82] She also opined that Ms. Caldieri's pseudoseizures had a "psychiatric nature," and were neither addressed properly by Ms. Caldieri's treating physicians nor ruled out by the treating physicians who made or supported a multiple sclerosis diagnosis. (Exh. 18: Dr. Masi's report dated Jan. 23, 2013, at 15.) Dr. Masi based these opinions upon the following:

(i) Ms. Caldieri's "spells" were well-established for "about four years" before January 2010, "prompting extensive evaluations, ER and inpatient care." Dr. Ryan described these spells as having become "innumerable" in August 2009. On January 14, 2010, Dr. Klinch-Nowak wrote that these spells had occurred once a month in 2009. Other records noted that Ms. Caldieri had experienced such events at school prior to January 2010. (*Id*.)

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[82]/ Dr. Masi was referring, apparently, to Dr. Ryan's January 12, 2011 note, in which she stated that she was treating Ms. Caldieri for multiple sclerosis, "including" seizure disorder, and that Ms. Caldieri's condition had " significantly deteriorated attributable to a great extent to the stressors associated with the death of her student Phoebe Prince in January, 2010," and that Ms. Caldieri was "fully disabled for the indefinite future with respect to teaching duties." (*See* Finding 83.) Dr. Masi may have also been referring to the opinion Dr, Ryan offered, in her physician's statement supporting Ms. Caldieri's ADR application, that while Ms. Caldieri's multiple sclerosis was a progressive disorder, the disorder had shown a "marked deterioration since [the] stressors of 1/10 [2010]" that were associated with the student's death, and that there was a "work related marked deterioration of pre-existing conditions" after that date, specifically Ms. Caldieri's multiple sclerosis, seizure disorder, Sjogren's Syndrome, and migraine headaches, on account of "stressors associated with the death of Phoebe Prince in 1/10." (*See* Finding 91(b).)

(ii) No objective testing results such as EEGs or video EEG monitoring supported the presence of epileptic seizures before January 2010. (*Id*.)

(iii) Dr. Ryan "did not follow the standard of neurological care" for persistent, unexplained spells, "including through review of previous evaluations, updated EEGs, documented driving prohibitions, and expert second opinions in the face of their persistence." (*Id*.)

(iv) "Merely adding ever-higher doses of four anti-convulsant medications is not a stratagem that addresses the psychiatric nature of pseudoseizures." (*Id*.)

(v) There was inadequate documentation to support an MS diagnosis. The white matter brain lesions would have been expected to increase with clinically-active multiple sclerosis, but the brain MRIs taken over four years (2006 to December 2009) did not show this, and the white matter changes were, instead, stable. Dr. Masi noted that "[n]on-specific white matter changes are commonly seen on MRI, and can be the result of conditions that are not demyelinating."[83] (*Id*. at 15-16.)

(vi) The myelin basic protein of 1.47 found in the cerebral spinal fluid removed during Ms. Caldieri's January 21, 2010 spinal tap was nonspecific as to MS. Dr. Masi described this value as "clinically useless, adding no statistically significant

[83]/ In other words, the non-specific changes in the white matter brain lesions were the result of conditions other than a loss of the myelin sheath protecting nerve cells, as would be the case if the lesions were epileptic. (*See* n. 25.)

increase in MS diagnostic sensitivity" absent a finding of cerebral spinal fluid oligoclonal bands, but no such bands were found in the cerebralspinal fluid removed during the January 21, 2010 spinal tap.[84] (*Id*. at 16). Dr. Masi also commented, in the medical records review portion of her

report, that the Cooley Dickinson Hospital Emergency Department records dated November 7, 2007 referred to a a lumbar puncture as "showing no oligoclonal bands as would have been pathnognomonic for multiple sclerosis."[85] (*Id*. at 6.)

(vii) Dr. Ryan's multiple sclerosis diagnosis was based upon incomplete neurologic data and was factually unsupported. Dr. Masi stated that:

> In making the diagnosis of multiple sclerosis, Dr. Ryan did not follow the standards of neurologic care, in that she did not review the prior evaluations, did not obtain updated MRI scans, and did not seek specialist expertise in the face of apparently worsening symptoms. Most strikingly, in 23 clinical visits, Dr. Ryan never performed a complete neurological examination. It is not sufficient to describe a

[84]/ Dr. Masi described this finding as "the sole abnormality on 1/21/10 CSF testing." (Exh. 18: Dr. Masi's Report dated Jan. 23, 2013 at 16.) Dr. Ryan's February 1, 2010 notes/report presents the myelin basic protein level as 1.47 (<1.1), without characterizing it as normal or abnormal. It is within the "normal" range for this CSF value, although at the high end of this range. (*See* Finding 52(d) and n. 49.) As I read Dr. Masi's report, she was not opining that the myelin basic protein value obtained from the January 21, 2010 spinal tap was in fact an abnormal value. Instead, she was opining that, even if this value stood out from among the other CSF values as abnormal, it was still not a clinically significant indicator of MS absent a finding of oligoclonal bands in the cerebral spinal fluid obtained during the spinal tap.

[85]/ Dr. Masi's expression; in other words, if oligoclonal bands had been found in the cerebral spinal fluid removed during the January 21, 2010 spinal tap, this would have been characteristic of MS, allowing its diagnosis with certainty. (*See, e.g.*, MedicineNet, Medical Definition of "Pathognomonic" (rev. Mar. 29, 2021), https:// www.medicinenet.com/ pathognomonic/definition.htm.)

> patient as "wobbly" or in a wheelchair. The nature of any gait disorder or purported diagnosis of multiple sclerosis must be supported by specific examination of eye movements, facial asymmetry, sensation, muscle tone, individual muscle strength, reflexes, tandem walk, gait, and assessment of other clinical signs supportive of a diagnosis of MS, particularly dysarthric speech, spasticity, hyper-reflexia, Babinski reflex, or ankle clonus. Dr. Ryan's sparse clinical examinations mostly state clinically stable or unchanged [findings], which provides no useful information ... Ms. Caldieri's report of improved energy for a period after administration of high dose steroids (more than 100X the endogenous daily production of corticosteroids) reflects what any individual would experience with such a boost. This response does not support a diagnosis of multiple sclerosis.

(*Id*. at 16.)

(viii) Dr. Masi found no objective evidence for either epileptic seizures or multiple sclerosis during her examination of Ms. Caldieri. Her tremor "was intermittent and clearly volitional, and thereby not organically based."[86] Dr. Masi

[86]/ Dr. Masi did not explain what she meant by "volitional." In the context of Dr. Masi's explanation of why she found insufficient support for an MS diagnosis, I assume she used "volitional" as a medical term describing body movements that originate in the brain, as opposed to originating in the nerve cells with damaged or missing myelin sheathing, which would characterize epileptic seizures indicative of MS) and not to state or imply that Ms. Caldieri was faking her tremors. "Volitional" has a neurological meaning, referring to (among other things) a buildup of electrical activity in the brain that occurs prior to a body movement, a kind of "activity planning" within the brain. Dr. Nuo Li, an assistant professor of neuroscience at Baylor University, has explained how volitional movements are executed via the brain; his research has identified "a novel brain circuit that supports motor and cognitive function and includes a hindbrain structure, the cerebellum, that contributes to cognitive processes by interacting with the front cortex," which has "provided the direct evidence for a nonmotor function of the cerebellum" as well as for "a modular network organization [that] is critical for persistent neural activity." (*See* Baylor College of Medicine News, "Dr. Nuo Li awarded 2021 Young Investigator Award by Society for Neuroscience" (Nov. 9, 2021), https://www.bcm.edu/news/ dr-nuo-li-awarded-2021-young-investigator-award-by-society-for-neuroscience.) Dr. Li has explained that:

noted her "delicate tiny script on her calendar and med list," and her "expertly applied makeup," which "demonstrated that she had fine motor control and no tremor when observed." Dr. Masi found Ms. Caldieri's report of having lost complete control of her legs as "not plausible in an individual able to transfer from chair to bed or toilet. Her thin arms could not support her weight without help from her legs." In addition, her well-worn high-heeled boots and her reported ability to dress herself suggested "far greater leg mobility than she acknowledged on interview." (*Id*. at 16.)

97. While Dr. Masi found no objective evidence in the medical records for either multiple sclerosis or epileptic seizures, she did not rule out pseudoseizures. She considered "psychiatrically-based pseudoseizures" and dissociative disorder[87] to be the more likely diagnoses, noting they had been made by clinicians other than Dr. Ryan. (*Id*. at 14-15.)

> Simple reflexive movements are hard-wired with a very fixed output; whereas volitional movements are very different, as they are not specifically encoded. For example, if you go to make a specific movement you have never made before, the brain has to use its dynamic programming ability so that on the fly it can produce something you've never done before.
>
> Given that volitional movement is not something you can solve with a hard-wired system and you can't make the movement based on sensory feedback as movements are too fast, there is a requirement for the brain to plan what the movement is going to be. It is thought that the brain pre-specifies the movement to the greatest extent possible and converts that into a set of muscle activations.

(Sainsbury Wellcoming Center, "Understanding the preparatory activity of volitional movement: An interview with Dr. Nuo Li, Baylor College of Medicine" (Apr. 3, 2019), https:// www. sainsburywellcome.org/web/qa/understanding-preparatory-activity-volitional-movement.)

[87]/ *See* n. 40 as to the nature of dissociative disorders and the symptoms that can characterize them.

98. Dr. Masi opined that Ms. Caldieri was physically and mentally incapable of performing the essential duties of her job, and that the incapacity was likely to be permanent. She opined, however, that this incapacity was "not such as might be the natural and proximate result of the personal injury sustained or hazard undergone" on the basis of which Ms. Caldieri sought accidental disability retirement. The grounds for Dr. Masi's negative opinion as to possible work-related disability were that:

(a) Ms. Caldieri's "severe psychiatric illness, including dissociative disorder (prolonged periods of psychogenic amnesia), major depression, anxiety disorder, and pseudoseizures are well documented, and present in the 2-3 years before January 2010." (Exh. 18: Dr. Masi's Report dated Jan. 23, 2013, at 17.)

(b) The medical records "document that Ms. Caldieri was unable to consistently perform that work well before January 2010." This particular conclusion was based upon Ms. Caldieri's "recurrent spells of altered attention at school, long periods of amnesia related to emotional distress, severe fatigue related to disrupted sleep and medication burden, and several falls in the 3-4 years prior to January 2010," and also the loss of 27 pounds during that period, with marked loss of muscle mass and strength in this same time period, likely contributing to her falls. In addition, Dr. Masi cited "extended periods out of work in the 2-3 years before January 2010, missing about 18% of days in the 2007-08 academic year, and 12% in the 2008-09 academic year." (*Id*. at 16-17.)

(c) In August 2009, Dr. Ryan opined that Ms. Caldieri was "significantly disabled and will not be able to function as a teacher." (*Id*.)

(d) Ms. Caldieri had considered applying for disability benefits as early as February 22, 2010, according to her internist's notes, "at a time when she had no increase in objective neurological findings per contemporaneous records from Dr. Ryan." (*Id*. at 17.)

99. Dr. Masi's report included her responses to questions posed by MTRS before she examined Ms. Caldieri. (*Id*. at 17; *see also* Exh. 12: Facts and questions posed to the medical panel submitted by Aaron E. Morrison, Esq., MTRS Associate General Counsel/Disability Case Manager, dated Sept. 20, 2012).

99(a). The first question MTRS posed was "[i]n light of Ms. Caldieri's multiple medical/psychiatric conditions, identify the conditions which are disabling and prevent her from performing the essential duties of her job, and the relative contribution of each to her overall disability." Dr. Masi's response was, "as detailed in [her report], severe psychiatric illness, including dissociative disorder (prolonged periods of psychogenic amnesia), major depression, anxiety disorder, and pseudoseizures" that were "well documented, and present in the 2-3 years before January 2010," as well "eating disorder and anorexia, partly iatrogenic due to Topamax [that] caused severe weight loss and muscle weakness." Dr. Masi added that "[a]long with a heavy medication burden, this contributed to her episodic falling, inattention, and profound fatigue, all predating events of January 2010." (*Id*.)

99(b). The second question MTRS posed was "whether Ms. Caldieri was disabled from performing her job as a result of her various psychiatric/medical conditions prior to the January 2010 incident?" Dr. Masi answered "yes" for the same reasons she gave in response to MTRS's first question to her. (*Id*.)

99(c). Finally, MTRS asked Dr. Masi whether it was her opinion that Ms. Caldieri's disability was "not caused by, or aggravated by her response to the suicide [of Phoebe Prince] or by her treatment by [the] administration." Dr Masi stated that this was her opinion. (*Id*.)

c. The Psychiatric Panel's Majority Affirmative Opinion as to Work-Related Aggravation

100. *Dr. Rice's opinion*. Dr. Rice examined Ms. Caldieri, and prepared a report, on April 24, 2013. (*See* Exh. 13.) He opined affirmatively as to Ms. Caldieri's disability, its likely permanence, and the possible aggravation of Ms. Caldieri's preexisting depression and other conditions to the point of likely-permanent disability as a result of the student suicide and her subsequent treatment by the school administration. He was one of the two members of the psychiatric medical panel's affirmative majority.

100(a). Ms. Caldieri appeared for her examination in a wheelchair, and stated she could not walk. She was thin, weak and frail and slouched somewhat. She spoke quietly, "almost at times in a whisper." Ms. Caldieri "made good contact, was straightforward and organized, although this took some effort on her part." (Exh. 13: Dr. Rice's Report dated Apr. 24, 2013 at 3.) She told Dr. Rice she no longer had a neurologist, was seeing Dr. O'Connell once a month for medication, and was taking Zoloft 300 mg daily, Klonopin 2 mg daily, and Topamax 300 mg daily. She also stated that she was taking medications for MS and migraines that her primary care physician had prescribed. (*Id*. at 2.)

100(b). Ms. Caldieri told Dr. Rice that she was diagnosed with depression when she was four years old and again in her twenties. She gave a less accurate summary of her

medical issues between her return to school and before she began teaching, and related her subsequent problems to a multiple sclerosis onset in 2006. She stated:

> When I was a student from 1998 to 2005 I was fine. In 2006 my MS began and I became depressed and had memory problems. I had relapses of my MS 3 times during the first 5 years of teaching.

(*Id*. at 2.)[88]

100(c). Ms. Caldieri told Dr. Rice that Phoebe Prince was a student from Ireland who had been taking freshman Latin with her, and who was bullied by other students. The student's suicide came as a shock to her. Ms. Caldieri told Dr. Rice that

> [S]he would stay after school to talk with me about her problems. When she killed herself, I felt guilty, very sad. I felt like I could have saved her. Like I lost my own daughter. These feelings started immediately on the day of her suicide. My emotional reaction led to a marked increase in my signs and symptoms of multiple sclerosis and my seizure disorder. I was harassed by the school administration. I had to look at the student's empty chair all day. As my symptoms worsened I began never talking to other teachers, never leaving my classroom. I was tired and had frequent seizures. I would write on the board but forgot what I was writing. I would write nonsensical sentences. I don't even know what I wrote. I wasn't there any more.
>
> The harassment began with the principal who did not invite me to the funeral [and included] disciplinary hearings after her death. I had had performance reviews from the principal which I had never had in the past. He, the principal, tried to make my position part time without cutting the number of classes. He put Latin 3, 4 and AP in one class which made teaching impossible. The principal and the vice-principal and the department head were all harassing me because I was a liability to them. I was a liability because of my increase in physical and emotional symptoms after the student's suicide. The administration was questioned by the police and the press. I spoke up to the press telling them that I had informed the Principal

[88]/ As to the medical issues Ms. Caldieri faced when she was a graduate student (from September 2003 until June 2005), *see* Findings 2-8.

[sic] of the student's distress. After that the administration wanted me out.

(*Id*. at 1-2.)

100(d). In ranking their importance to her condition and her decreasing functional capacity starting in January 2010, Ms. Caldieri told Dr. Rice that Phoebe's suicide was "a 10 on a scale of 1 to 10," and that the subsequent harassment by the administration was "also a 10 on a scale of 1 to 10." (*Id*. at 2.)

100(e). Ms. Caldieri told Dr. Rice that "(b)ecause of the harassment and suicide, I no longer have a life. I was not harassed by the public or the media or the family. They've backed me up. My emotional and physical symptoms are getting worse. They are worse than they were in 2010, 2011 and 2012. The student's aunt and uncle are still my best friends." (*Id*. at 4.)

100(f). Dr. Rice diagnosed major depression. He stated in his report that although Ms. Caldieri had been getting adequate and necessary treatment, she had not improved. She had severe memory loss, and seizures that caused her to forget what she was writing or saying at the blackboard and in class. She was weak and frail. In Dr. Rice's opinion, she was, therefore "psychologically incapable of performing the essential duties of her job . . . ." Because Ms. Caldieri's condition had worsened steadily over more than two years, Dr. Rice could see no time in the foreseeable future when her symptoms would return to a level where she could function as a teacher, and he opined, therefore, that her incapacity was likely permanent. (*Id*. at 3-5.)

100(g). Dr. Rice also opined, with a reasonable degree of medical certainty, that Ms.

Caldieri's incapacity "was such as might be the natural and proximate result of the personal injury sustained and hazard undergone on account of which retirement is claimed." He stated that:

> She was able to teach until the student's suicide. Her psychological and neurological signs and symptoms have steadily worsened and her functional capacity as a teacher has declined since the suicide of one of her students and the reported harassment by the staff of her high school.

(*Id*. at 5.)

100(h). Referring to the additional questions posed by MTRS prior to Ms. Caldieri's examination by the members of both medical panels (*see* Finding 99), Dr. Rice answered that:

(i) The conditions preventing Ms. Caldieri from performing the essential duties of her job "include her major depression and her severe reduction in memory capacity and clear vision as well as the strength to use her arms and legs." All of these conditions contributed to her disability, in Dr. Rice's opinions, and "several of them, if taken alone, would be disabling to the extent of preventing her from performing her job" (*id*. at 5);

(ii) As to whether Ms. Caldieri was disabled from performing her job as a result of her various psychiatric/medical conditions prior to the January 2010 incident in question, Dr. Rice answered:

> The claimant was able to do her job until December of 2010. Her medical conditions did not prevent her from performing her job prior to the occurrence in January of 2010.

(*Id*. at 5);

(iii) As to whether Ms. Caldieri's current condition was the result of the natural progression of her preexisting conditions, Dr. Rice answered that it was not, adding:

> Rather her disability is the result of an acceleration of her medical conditions and the direct emotional impact of her student's suicide and the reported harassment she received afterwards from the administration of her school.

(*Id*. at 6); and

(iv) As to the possible work-related causation or exacerbation of Ms. Caldieri's disability, Dr. Rice answered:

> It is my medical opinion that both the suicide of her student as well as her reported treatment by the administration have led directly to both her neurological and psychiatric disorders and the resultant disability.

(*Id*. at 6.)

101. *Dr. Ferrell's opinion*. Dr. Ferrell examined Ms. Caldieri, and prepared a report, on April 19, 2013. (*See* Exh. 14.) He opined affirmatively as to Ms. Caldieri's disability, its likely permanence, and the possible aggravation of Ms. Caldieri's preexisting depression and seizures to the point of likely-permanent disability as a result of events at the high school associated with the student's suicide and her treatment by the school administration. Dr. Ferrell was one of the two members of the psychiatric medical panel's affirmative majority.

101(a). Ms. Caldieri appeared for her examination in a wheelchair. She spoke in "a very meek, soft-voiced manner requiring the examiner to lean forward to hear her properly." Her speech rate was normal and her "affect tone was depressed, often flat." Dr. Ferrell

thought that her thought process was coherent and rational, "without hallucinations or flight of ideas." During the examination, Ms. Caldieri "exhibited appropriate relevant insight into the nature of her disorder and coherently elucidated the circumstances surrounding the events resulting in her departure from work." She noted her depression for several years and her prior attempts at suicide by overdosing and slitting her wrists, but denied any recent urges or tendency to harm herself. Her presentation "revealed a capacity to organize and present her thoughts sequentially and without apparent confabulation or exaggeration." She related a "significant" history of "extensive emotional trauma," including childhood sexual abuse from the age of four, and an abusive marriage that caused her to separate from her husband after 15 years. (Exh. 14: Dr. Ferrell's Report dated Apr. 19, 2013 at 3.)

101(b). Ms. Caldieri told Dr. Ferrell that she was taking Keppra 1500 mg. twice daily, Lamictal 200 mg twice daily, and Topamax 300 mg daily, all related to her seizure disorder, and also Zoloft 300 mg for depression, and Klonopin 1 mg twice daily for anxiety. (*Id*. at 2.)

101(c). Dr. Ferrell noted Ms. Caldieri's history of extensive emotional trauma associated with childhood physical and sexual abuse and, later, marital abuse, as well as persisting depression "often exacerbated by situational stressors." He regarded this history as the preexisting baseline for what Ms. Caldieri experienced starting in mid-January 2010. This preexisting condition ended up "culminating in a worsening of her medical status, seizure control (sic) and multiple sclerosis flare ups after the suicide of her student in 2010." (*Id*. at 2.)

101(d). Dr. Ferrell concurred with Dr. Ryan's opinion that Ms. Caldieri "has had a

progressive deterioration in her capacity to perform in a school teaching capacity due to her multiple sclerosis and depression," and that she "has also had a preexisting psychiatric condition associated with depression and personality disorder features for a number of years prior to the onset of the neurological condition." (*Id*. at 4.)

101(e). Based upon his examination and his review of the medical records, Dr. Ferrell's diagnosis was:

1. Axis I. Chronic depression
2. Axis II: Personalty disorder feature, probably Borderline traits.
3. Axis III. Multiple seizures, seizure disorder.
4. Axis IV. Deferred.
5. Axis V. Level of adaptation impaired.[89]

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[89]/ Dr. Ferrell used a "Multi-Axial System" to diagnose Ms. Caldieri's mental health. This methodology was intended to give healthcare professionals "a standard, organized way of sifting through diagnostic information Axis by Axis, identifying which pieces applied to their patient." (*See* VeryWell Mind, Schimmelpfening, N., "What Is the DSM-IV Multi-Axial System?" (rev. Sept.1, 2022), https://www.verywellmind.com/five-axes-of-the-dsm-iv-multi-axial-system-1067053.)

The Multi-Axial System, developed by the American Psychiatric Association (APA) and made part of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, 3rd Ed., was carried over into the DSM's fourth edition, and was in use in April 2013 when Dr. Ferrell examined Ms. Caldieri and prepared his Report. The Multi-Axial System comprised five parts, called Axes. Each Axis provided a different type of information about a diagnosis, thus:

Axis I: Mental Health and Substance Use Disorders;
Axis II: Personality Disorders and Mental Retardation (now Intellectual Development Disorder);
Axis III: General Medical Conditions;
Axis IV: Psychosocial and Environmental Problems (e.g., patient lacking a support system);
Axis V: Global Assessment of Functioning (GAF) (e.g., patient posed a risk to self or others).

The DSM's current (fifth) edition abandoned the Multi-Axial System. The "Non-Axial System" that replaced it incorporates the first three axes of the Multi-Axial System along with separate notations for information that was grouped previously under Axes IV and V. Some

(*Id*. at 4.)

101(f). Dr. Ferrell assessed Ms. Caldieri as having "an extremely complicated medical/neurologic condition which is disabling," and that "would likely continue to prevent her from returning to teaching on a permanent basis, and that her "progressive neurologic condition" (which he did *not* identify as multiple sclerosis) was "exacerbated and hastened as a result of aggravation she experienced at the school" as well as by "events associated with her employment at [the] school around the time of the suicide of her student."(*Id*.)

102. *Dr. Rater's opinion*. Dr. Rater examined Ms. Caldieri, and prepared a report, on April 18, 2013. (*See* Exh. 15.) He joined the psychiatric panel majority in opining affirmatively as to Ms. Caldieri's disability and its likely permanence, However, he opined in the negative as to whether this disability was the result of a work-related aggravation of her preexisting condition, which he defined as multiple sclerosis and eating disorder, PTSD, and depression and anxiety secondary to multiple sclerosis. He viewed this preexisting condition as having progressed in a linear manner, and, as a consequence, it could not be altered by any particular stressor. His opinion as to causation was, thus, the psychiatric medical panel's minority opinion as to possible work-related aggravation.

102(a). Dr. Rater obtained an extensive history from Ms. Caldieri, both medical and

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healthcare professionals continue to prefer, and use, the Multi-Axial System. The preference appears to be based upon which system of categorizing relevant information a healthcare professional finds to be most helpful in formulating a mental health diagnosis with a reasonable degree of medical certainty. (Schimmelpfening, *supra*.)

school-related.

(i) Ms. Caldieri stated that prior to January 2010, she had had multiple sclerosis symptoms that started in 2003 but were not definitely diagnosed until later, when a neurologist (probably referring to Dr. Ryan) did so. She related having had "stresses involving her multiple sclerosis condition" before her student's suicide in early January 2010, but that she was teaching all levels of Latin at her high school, from beginning Latin through advanced placement Latin. Ms. Caldieri explained to Dr. Rater that to teach this many levels and classes, a Latin teacher such as herself required five or six prep periods; in contrast, most teachers in the high school taught a single subject for a specific level, such as Ninth Grade English, and so had a single prep period. (Exh. 15: Dr. Rater's report, dated Apr. 18, 2013 at 2.)

(ii) Dr. Rater noted that Ms. Caldieri had described Phoebe Prince as having been a top Latin student who had started failing tests, after being teased and called names such as "bitch" when she scored 100 on a test. Ms. Caldieri also revealed several details that neither her medical records nor her ADR application had related. One was that Phoebe had tried to commit suicide in November 2009 after being gang-raped; and that while pictures of this assault had been taken by cell phones, "nobody had done anything about it." Another was that while the police responded, no report was filed, and the student had therefore "confided her suicidal thinking to another student." (*Id*.)

(iii) According to Dr. Rater, Ms. Caldieri related the following history to him.

She stated that she tried to keep working after the student's suicide, but "went downhill very quickly." She had "some absences" but mostly was "trying to stay with the students and be supportive," but "[h]er MS left her shaky and tired." Ms. Caldieri recalled that she was prone to falling asleep," would take a nap during lunch or during her duty period, and was also having seizures. She was supposed to inform the administration if she was going to have a seizure so they could find a substitute teacher, and she knew she would be liable to discipline if she failed to do so; however, she was unable to comply with this instruction because she was having "absence seizures" whose onset was difficult to predict and involved more of a "blanking out" than "abnormal behaviors." (*Id*. at 2-3.) However, she told Dr. Rater, "if at any time a student were to say that she was acting strange," she was subjected to discipline hearings. (*Id*. at 3.) The administration cut her hours to part-time, but she was ordered to maintain the same schedule, with modifications that involved having to teach Latin III and IV classes together, along with AP Latin, but it proved impossible to teach so many levels at the same time, and being required to do so was also against her teacher contract. When she filed a grievance through her union, and the union grievance chair tried to discuss the matter with the Principal, the Principal's response was "We'll just cut Latin." (*Id*.) In late August 2010, the school superintendent called Ms. Caldieri and offered her a writing workshop to make her full-time again, which she accepted. She worked until December 2010 when one of the Vice Principals threatened her with discipline because she was not greeting

students at the door. Although she was not in a wheelchair at the time, she was having difficulty remembering students' names and was having absence seizures related to MS, and was also slurring her words, her gait was off, and she was having to hold onto lockers to walk down a hallway. She had stopped driving and was getting rides from others. (*Id*.)

(iv) Ms. Caldieri told Dr. Rater she was "really upset that she was getting bad reviews" from the administration in 2010 as she had never had a bad review before the student's suicide. She stated that her MS had been "relapsing and remitting" before the suicide, but afterward her MS worsened to the extent that she ultimately "ended up in a nursing home and a wheelchair." (*Id.*) Ms. Caldieri stated that she suffered a grand mal seizure on December 6, 2010 (after she had stopped working), as a result of which she was hospitalized for ten days. After she returned home, Ms. Caldieri recalled, she had many seizures and had to go to the hospital, but the seizures would be over by the time she got there and so the hospital sent her home. (*Id*.) She also recalled being placed in a rehabilitation facility because she was losing too much weight. Ms. Caldieri told Dr. Rater that she lived at home, staying in bed all the time. She recalled "a couple of trips to the psych ward" at Cooley Dickinson Hospital after she had stopped working, at the same time her family fell apart. Ms. Caldieri's daughter tired of her, and moved to California. Her sons stayed home to care for her, but on occasion, she would check herself into the hospital so they "did not have to look at" her. Since December 6, 2010, she had not worked or looked for

work, taken any training or classes, or worked for any club, group, or organization, and had not volunteered anywhere. (*Id*.)

102(b). Dr. Rater identified Ms. Caldieri's psychological symptoms when he examined her as constant nausea, inability to walk, lacking strength in her legs, and eczema. Ms. Caldieri told Dr. Rater that her doctors attributed these symptoms to MS. She reported dreaming about her former student and the school all the time, and sleeping during the day but not at night. She had lost weight and currently weighed 94 pounds (down from a baseline weight of 118 pounds), had low energy, and had pain under her ribs, in her legs, and in the back of her neck. She reported being depressed all the time, and feeling suicidal, though she had not made any attempt at suicide. Ms. Caldieri told Dr. Rater that she had "an agreement with her psychologist" that she would never commit suicide because she could never leave her kids. She remained eager to defend Phoebe Prince, despite unnamed books "that came out about the student." Ms. Caldieri denied being anxious or having panic attacks. She reported being more irritable, not being able to "stand the public,"and having headaches during which her vision was blurred and she saw "a colorful rainbow thing." She described her social life as minimal, and as including living with one of her sons who prepared her meals, and seeing Phoebe Prince's aunt. She was able to dress herself, but bathing took significant effort, so she did not bathe regularly. She denied using the internet or watching television, mostly on account of blurry vision, and preferred reading when her vision was not blurry. She professed to having lost interest in "following through with her healthcare," and therefore saw no need to bother seeing a rheumatologist about her Sjogren's syndrome, as

her nurse practitioner asked her to do. (*Id*. at 4.)

102(c). Dr. Rater noted Ms. Caldieri's then-current prescription medications as Keppra, Lamictal, Topamax, Zoloft and Clonazepam. Although he did not state the daily dosage of each of these medications in his Report, Dr. Rater noted that Ms. Caldieri "received 60.5 mg pills per month," apparently the grand total of monthly medications in milligrams. He did not comment on whether the weekly total indicated a high or low dosage of these anticonvulsant and antidepressant drugs. (Exh. 15: Dr. Rater's report, dated Apr. 18, 2013 at 6.)

102(d). On examination, Dr. Rater noted Ms. Caldieri to be frail, not fully alert but oriented, and to have slurred speech. She was able to recall detail and give a narrative history. Her mood was depressed, and her affect was congruent with her mood. She had psychomotor slowing. Dr. Rater assessed her as not being suicidal, homicidal or psychotic. (*Id*.)

102(e). In reviewing the pre-January 2010 medical records, Dr. Rater noted a history of medically-documented depression and anxiety going back to 2003, a history of childhood abuse, and "a lot" of spousal abuse, including battering and resulting head trauma, as well as suicidal ideation and several suicide attempts prior to 2003. (*Id*. at 4, 6-7.) Psychiatric records dating back to 2004 showed extreme stress on Ms. Caldieri's part over her college and graduate student work loads and being able to find a job, and that she found Ritalin to have improved her energy levels and concentration. (*Id*. at 9.) In April 2006 and again in January 2007, she felt fat and ugly, and was struggling with food issues; she talked about feeling foggy and depressed, having a hard time relaxing, and feeling that her students hated

her. She had suicidal thoughts but did not act on them because of "the kids." She reported to her caregivers that she was thinking about retiring. (*Id*.) Dr. Rater wrote (although without explaining whether the source of the information was the medical records or Ms. Caldieri) that there had been in-school "episodes" in January 2008 where Ms. Caldieri's speech was off, her head lolled, and the school had to bring in a substitute teacher. He did not note the duration or frequency of these occurrences). Dr. Rater's Report mentions notes in the psychiatric records for 2008 and 2009 of continued eating disorder issues, particularly not eating, insisting she was fat when she was very thin, being tired frequently, and being continually depressed. (*Id*. at 10.) Dr. Rater noted the discovery of subcortical and periventricular white matter lesions in 2006 that were nonspecific, although one doctor thought the lesions were suggestive of MS. The pre-January 2010 medical records showed other, worsening symptoms of confusional episodes and memory loss, and a 5-6 year history, by the end of 2007, of seizure disorder with one tonic-clonic episode. (*Id*. at 7.) Dr. Rater noted that Ms. Caldieri was admitted to Cooley Dickinson Hospital in August 2006 "with multiple sclerosis symptoms," and an another admission on October 27, 2007 because her speech was slurred and incoherent, she was behaving oddly, and she was unsteady on her feet. (*Id*. at 12.) He also noted that the Cooley Dickinson Hospital records showed that Ms. Caldieri had pseudoseizures in October 2003; in addition, there were no conclusive EEG results then, or in 2006-07 (or afterward) as to suspected MS or epilepsy. (*Id*. at 7.) Other conditions Dr. Rater noted when he reviewed the medical records from the beginning of 2008 were migraine headaches, seizure disorder, major depression with possible psychotic

features, and a sleep disorder that suggested possible obstructive sleep apnea. (*Id*.) Dr. Rater noted that there had been an "unrevealing" lumbar puncture, and an MRI that was not suggestive of MS. He noted Dr. Ryan's evaluation on August 26, 2009 in which she described Ms. Caldieri's diagnosis as "challenging," as it comprised clearly-present migraines, depression, PTSD, eating disorder, and spells with altered consciousness, and what she thought was multiple sclerosis, but without confirmation, leading to doubts by other physicians about an MS diagnosis that Dr. Ryan found "understandable" in view of all of the complicating factors present. (*Id*. at 7-8.) Dr. Rater noted that as of December 9, 2009, Dr. Ryan still felt that Ms. Caldieri's diagnoses remained unclear, and thought that treatment should focus on symptom management and addressing Ms. Caldieri's fatigue. He also noted that Dr. Ryan had not known at the time what to recommend, other than another brain MRI. (*Id*. at 13.)

102(f). Dr. Rater next reviewed Ms. Caldieri's symptoms as of January 18, 2010, when she told Dr. O'Connell she was not doing so well (*see* Finding 51). Dr. Rater's impression was that Ms. Caldieri 's self-assessment concerned a "grief reaction" over the student suicide several days earlier. (Exh. 15: Dr. Rater's report, dated Apr. 18, 2013 at 10.) His report mentioned that Dr. Ryan had noted on January 18, 2010 that Ms. Caldieri had had three interval spells and that her affect remained peculiar, but the diagnosis remained unclear. On February 1, 2010, Dr. Ryan noted that Ms. Caldieri was clinically stable and that multiple sclerosis was "definite," and she recommended that Ms. Caldieri seek a disability retirement. (*Id*. at 13.) Dr. Rater did not mention any reason for Dr. Ryan's change of diagnosis as to

MS, or why Dr. Klich-Nowak had reported Ms. Caldieri's diagnosis as MS in her January 14, 2010 note. (*Id*. at 14.) Dr. Rater also noted Dr. O'Connell's description of what Ms. Caldieri said she was experiencing at the high school and how it had affected her from mid-January to early December 2010:

> As of February 9, 2010, she is doing okay. She had a disciplinary hearing. She is on probation for a year. She is still dealing with the student's funeral. The headmaster did not tell her where it was. She had a meeting with the [P]rincipal on March 4, 2010. She made comments to other staff members that she would kill herself[90] and now she cannot return without a letter. She

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[90]/ There is no evidence that Ms. Caldieri ever made any such statement to other school staff members. What Dr. O'Connell actually wrote in his March 4, 2010 notes was that Ms. Caldieri had told him that *the Principal had been told she had threatened to kill herself*, which she denied doing, but that she needed a clearing her to return to work, which he wrote on that date. (*See* Findings 46 and 58(c).) Dr. O'Connell recorded that Ms. Caldieri denied any intent to harm herself and could not do anything that would harm her students or her own children. (*See* Finding 58(b); *see also* Findings 50(a) - (c).)

The Caldieri and Graf testimony are fairly consistent about what Ms. Caldieri actually said and what unfolded, including a misinterpretation of her comment. (See Finding 50(c).) On January 15, 2010 or during the week after, Ms. Caldieri had tried to speak with Ms. Graf, the Foreign Language Department Chair, about another language teacher who appeared upset about being summoned to testify before the State Police regarding Phoebe Prince; Ms. Graf had replied that this other teacher was O.K.; and Ms. Caldieri then made a sarcastic comment that she guessed the only way to get attention at the school was to commit suicide. Ms. Graf, who testified that she had been on "hyper alert" over the possibility of "suicide contagion" at the school, and that she was also aware of her obligation as a mandatory reporter, was concerned this might be a suicide threat on Ms. Caldieri's part and so she reported the comment to the Principal. The Principal appears to have assumed that Ms. Caldieri's sarcastic comment was a threat; he called Ms. Caldieri into his office and, per Ms. Caldieri's testimony, he told her she had no business making such a threat and to "get out of [his] school." (*Id*.) Mr. Smith denied raising his voice to Ms. Caldieri, but he did not contradict the substance of his comments as Ms. Caldieri described them during her own testimony. Dr. O'Connell's notes do not include any finding or impression that Ms. Caldieri in fact threatened to commit suicide or vocalized a suicidal ideation when she spoke with Ms. Graf or the Principal. (*See* Finding 58(b).) In his March 4, 2010 note clearing Ms. Caldieri to return to work, Dr. O'Connell stated that despite having periods of

> denies any intent to harm herself. There is a report from May 25, 2010. The school tried to suspend her for 2 days because of a letter in his (the Principal's) mailbox, which he assumed she had written. She did not deny writing it. It was found the day after the student's death. She says there are times when she does things that she does not remember doing. She knew for a fact that she had not done it.[91] She feels stress at work. She is wondering about accidental disability. She has only been offered part-time the rest of the year (2010). She is at work full-time as of October 28, 2010. She has to teach different levels of Latin at the same time. On March 10, 2011, she is using a walker for balance. There is a conciliation hearing for worker's compensation. She has clearly deteriorated.

(*Id*. at 10.)

102(g). Dr. Rater noted that, per the records he reviewed, Ms. Caldieri was having seizures as of January 20, 2010; in addition, she was not following her diet, and was fatigued and stumbling at times, which Dr. Rater wrote "was not new." (Exh. 15: Dr. Rater's report, dated Apr. 18, 2013 at 11.) As of June 18, 2010, Dr. Bigda noted that the medications Ms. Caldieri was taking were not helping with her MS, and he "wanted her out on disability." She told Dr. Bigda she was feeling very overwhelmed, had increased migraines, and felt she was being made a scapegoat at work by the school, which was denying they knew about Phoebe Prince's bullying and blaming Ms. Caldieri for not reporting it. Dr. Rater noted that, per Dr. Bigda's notes, Ms. Caldieri "had stress exacerbated by

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significant depression and "occasional suicidal thoughts," Ms. Caldieri denied any interest in suicide, was under his care and was also seeing a therapist, and was able to return to her workplace. (Finding 58(c).) I have inferred, in the circumstances, that Principal Smith cleared Ms. Caldieri to return to teaching her classes at some point after he suspended her briefly in late January 2010. (*See* n. 56.)

[91]/ Therefore, contrary to Dr. Rater's statement two lines earlier that Ms. Caldieri "did not deny writing" the letter to the Principal, she appears to have indeed told Dr. Rater that she did not write it.

the issue at work." (*Id*.) On June 25, 2010, Ms. Caldieri told Dr. Bigda she did not want anyone to know that she was considering disability, and that she could not afford disability. (*Id*.) On August 23, 2010 she told Dr. Bigda she was starting back up at school with an "unheard of" schedule requiring that she teach six classes; she had filed a grievance regarding this workload increase, and also believed no one at the school was taking her seriously and she felt crazy. Dr. Rater noted that Ms. Caldieri saw Dr. Bigda on September 22, 2010, for followup of anorexia and her high work load at school, and again on December 14, 2010 for numbness in her hands and feet, anxiety disorder, and seizure disorder. On December 29, 2010 she saw Dr. Bigda regarding a seizure she had the day before, for which she was seen at the hospital. She told Dr. Bigda that she did not know who she was, had lots of pressure at the school, and thought she was being scapegoated. Dr. Rater noted that Ms. Caldieri was followed by Dr. Bigda in early 2011 for anxiety and depression, a seizure disorder and chest pains and, as of May 27, 2011, for depression and multiple sclerosis. (*Id*.) As of June 9, 2011, Dr. Ryan was still following Ms. Caldieri, and her diagnosis was multiple sclerosis, psychiatric illness with depression and anxiety, post-traumatic stress disorder, and a personalty disorder with seizure-like activity. (*Id*. at 14.)

102(h). Dr. Rater opined that Ms, Caldieri was disabled, likely permanently, by her "posttraumatic stress disorder, multiple sclerosis, depression and anxiety secondary to multiple sclerosis." When he examined her, she "did not have the mental acuity or stamina or the emotional composure and judgment into the social situation to be able to adequately carry out her job. The lack of capacity was permanent given how long it lasted." (*Id*. at 14-15.)

102(i). Dr. Rater opined, however, that Ms. Caldieri's preexisting condition was neither

accelerated nor worsened by the injury sustained or hazard undergone that she alleged in her ADR application. He gave the following reasons for this opinion:

(a) Ms. Caldieri "had a progressive and worsening case of multiple sclerosis for a number of years, with her disability status in play" beginning in 2009. (Exh. 15: Dr. Rater's report, dated Apr. 18, 2013 at 15.)

(b) In neither Dr. Ryan's records nor any other records was there any indication of a particular aggravation of Ms. Caldieri's "progressive multiple sclerosis symptoms" by the death of the student. Dr. Ryan "made it clear" that while "any sort of stress might temporarily exacerbate" this condition, the condition would "return to baseline," and there is "no history given of a condition in which a particular stressor irrevocably or substantially alters the underlying nature and outcome of the disorder." (*Id*.)

(c) "There was evidence that Ms. Caldieri was performing less well at work," and was becoming more frustrated and dissatisfied with it, before 2010. There were "multiple episodes where she lost track of where she was in the classroom. She described the students not liking her. She described difficulty organizing the various classes. She was out a significant number of days. Her mental status in the office was consistent with illustration or descriptions of mental status prior to her leave work date and in these mental statuses she performed poorly such that it appeared difficult for her to carry out her job as a teacher." Dr. Rater opined that if the student's death had not occurred, "the clinical course would have continued in a similar manner and Ms. Caldieri would be in her current situation, as the current situation is related to the unprogressive (sic) nature of her underlying condition."

(*Id*.)

(d) Rather than accelerating Ms. Caldieri's "combined preexisting condition of an eating disorder, PTSD, depression and multiple sclerosis," Dr. Rater wrote in his report, this condition had "progressed and persisted in a linear manner from the time prior to the injury, at which time she was being assessed as disabled, until the time after the suicide of the student." Dr. Rater opined further that the disability was "due to the natural progression of the preexisting condition and was not aggravated in a permanent manner by the alleged injury sustained or hazard undergone." (*Id*.)

103. MTRS denied Ms. Caldieri's ADR application on May 30, 2014. (Exh. 1.) In denying so much of the ADR claimed was based upon a possible work-related aggravation of a neurological condition, MTRS relied upon the neurological medical panel's unanimous negative opinion as to the possibility of workplace-related aggravation. The Board perceived no legal or procedural error (improper panel composition, panel members not having been given all of the medical and other relevant records to review, the panel's application of an incorrect medical standard, or evidence that the panel opinion was plainly wrong) that would justify rejecting the neurological panel's opinion. As to so much of Ms. Caldieri's ADR claim as was based upon a possible work-related aggravation of a psychiatric injury, MTRS rejected the psychiatric panel's majority affirmative opinion as to this issue. It did so based upon what it viewed as her failure to show, by a preponderance of the evidence, that the work incidents she cited in her application were the natural and proximate cause of her claimed disability. (*Id*.) Although MTRS's denial did not say so specifically, its position throughout the appeal was that the neurological medical panel's negative opinion as to work-related aggravation

of Ms. Caldieri's neurological conditions, and the psychiatric panel's minority negative opinion as to work-related aggravation of Ms. Caldieri's psychiatric conditions, were both based upon the inevitable progression of her MS toward disability, regardless of the student's suicide or the school administration's actions after January 14, 2010. MTRS argued, in its post-hearing brief, that the negative panel member opinions as to work-related causation were consistent with the medical records, particularly what they showed about the nature of Ms. Caldieri's progressing condition, and what MTRS characterized as a lack of evidence that the administrative actions in question caused anything other than "a temporary spike/flare, or continuation [of her condition] on its already downward trajectory." (*See, e.g.*, MTRS's Closing Memorandum (Feb. 28, 2019) at 5; and at 6-9.)

104. Ms. Caldieri filed a timely appeal challenging MTRS's denial of her ADR application on June 3, 2014.

Discussion

After reviewing the evidence and testimony presented, I reverse the denial of Ms. Caldieri's ADR application. I do so for the following reasons, which I explain further below.

(1) The negative panel member opinions (those of the neurological medical panel, and of the psychiatric medical panel minority) as to work-related aggravation of Ms. Caldieri's preexisting medical conditions to the point of disability, upon which MTRS relied in denying ADR, were expressed without qualification based upon a progressing MS that was never confirmed medically, as neurological panel member Dr. Masi emphasized in her extensive report. Per M.G.L. c. 32, § 6(3)(a), the medical panels' role was to address whether aggravation of Ms. Caldieri's medical

conditions to the point of disability by the administrative actions alleged was medically possible. There was no statutory authority for unqualifiedly negative opinions that there could be no such aggravation based upon the natural progression of Ms. Caldieri's medically-unconfirmed MS. This is especially true as to the possibility that non-MS-related preexisting conditions could have been aggravated efficiently to the point of disability by the administrative actions in question. The negative panel member opinions as to aggravation were therefore nullities, and do not support ADR denial.

(2) Alternatively, the neurological medical panel's unanimous opinion that Ms. Caldieri's multiple sclerosis was progressing regardless of stress and therefore could not have been aggravated by school administrative actions against her in 2010 would be binding only as to the aggravation of MS and related epileptic seizures (if any), and not as to the aggravation of preexisting non-MS-related (and non-epileptic) pseudoseizures, and related depression and anxiety. As to these non-MS-related conditions, the neurological panel applied two erroneous standards, is not binding, and does not support ADR denial. The erroneous standards applied were thus:

(a) Notwithstanding neurological panel member Dr. Masi's undisputed opinion that Ms. Caldieri's MS was never medically confirmed, and that her seizures were most likely non-epileptic pseudoseizures (both of which opinions are supported by the medical records), the panel conflated Ms. Caldieri's siezures as MS-related and therefore progressing inevitably to disability and not subject to aggravation by stress. This applied an erroneous "no aggravation by stress" standard to Ms. Caldieri's non-MS-related, and non-epileptic, pseudoseizures, which can be (and were) aggravated by stress.

(b) The neurological medical panel also opined negatively as to workplace-related aggravation based upon the preexistence of the teacher's medical conditions. However, M.G.L. c. 32, § 7(1) presupposes that existing medical conditions may be efficiently aggravated to disability by a work-related injury or series of injuries. A preexisting condition therefore does not rule out aggravation for ADR purposes.

(3) Ms. Caldieri proved sufficiently that workplace-related stresses as a result of administrative actions taken against her following the student's suicide in mid-January 2010 and continuing into early December 2010 aggravated her preexisting non-epileptic seizures; were the predominant contributing cause of her disability, and not merely a contributing cause; and comprised an identifiable condition not common to a great many professions or occupations. The proof included:

(a) The psychiatric medical panel majority's affirmative opinion as to work-related aggravation of Ms. Caldieri's preexisting psychiatric conditions (her non-MS-related and non-epileptic pseudoseizures, and related depression and anxiety). Simply put, Ms. Caldieri was able to teach through her comorbidities prior to January 14, 2010, but after that date, the school administration took the actions in question against her that added work-related stress, triggered increasing non-MS-related seizures and related depression and anxiety, and finally (on December 3, 2010) disabled her from being able to work through her conditions any longer. Because this opinion was supported by the medical records, it is entitled to great weight.

(b) The medical records. These documented the increase in the frequency and severity

of Ms. Caldieri's pseudoseizures, depression and anxiety after January 14, 2010, and her timely reporting of school administration actions against her to her treating physicians and the seizures she experienced as these actions occurred. Several of these physicians noted that Ms. Caldieri was able to work through her medical conditions before January 14, 2010, and the increasing difficulty she had doing so after that date. Also supporting Ms. Caldieri's assertion of work stress-related aggravation of her non-MS-related conditions was the absence of evidence in the medical records confirming MS or, thus, MS-related epileptic seizures that were progressing to disability notwithstanding stress. The report of neurological medical panel member Dr. Masi explained this in detail.

(4) The actions that the school administration took against Ms. Caldieri following Phoebe Prince's suicide on January 14, 2010 and continuing through the remainder of the year were not "bona fide" personnel actions exempt from being considered to be a personal injury for ADR purposes. They were not based upon Ms. Caldieri's actual job performance, or justified by either clearly-identified misconduct or genuine concern for her health. When the school administration undertook the actions in question it was, or should have been, aware of Ms. Caldieri's deteriorating health, including seizures that occurred at the school following discipline or threatened discipline. It offered her no assistance in coping with her increased class load or meeting additional classroom performance demands placed upon her. Instead, It threatened her with discipline and loss of her Latin classes if she complained about her workload. In the circumstances, the administrative actions in question were pretextual, intended to create an excuse for discipline or termination, and were outrageous.

1. Accidental Disability Retirement: Applicable Law

a. Grounds for ADR, Generally

M.G.L. c. 32, § 7(1) provides, in pertinent part, that a member of a Massachusetts public employees retirement system "shall [upon application] be retired for accidental disability" if he is "unable to perform the essential duties of his job" and "such inability is likely to be permanent ... by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, his duties . . . ."

To prove the causal nexus between the disability and a work-related personal injury, the ADR applicant must show not only that she was performing her duties when she was injured but, as well, that the injury she sustained, or the hazard to which she was exposed, while working was the "natural and proximate cause" of her likely-permanent incapacity. *Campbell v. Contributory Retirement App. Bd.*, 17 Mass. App. Ct. 1018, 460 N.E.2d 213, 214-15 (1984), *rev. denied* 391 Mass. 1105, 464 N.E.2d 73 (Table) (1984); *Blanchette v. Contributory Retirement Appeal Bd.*, 20 Mass. App. Ct. 479, 482-83, 481 N.E.2d 216, 219. It is not enough to show that the work-related injury or exposure was "merely a contributing cause" of the incapacity, or contributed in some way to it; instead, to meet the natural and proximate cause requirement, the ADR applicant must show, by a preponderance of the evidence, that the work-related injury or exposure was "a significant contributing cause" of her incapacity. *Campbell*; 17 Mass. App. Ct. at 1018, 460 N.E.2d at 215; *Blanchette*; 20 Mass. App. Ct. at 487, 481 N.E.2d at 221-22; see also *Robinson's Case*, 416 Mass. 454, 459-60, 623 N.E.2d 478, 481 (1993)(to qualify for compensation under under the Workmen's

Compensation statute, M.G.L. c. 152, § 34, an employee's depression and resulting disability had to be "directly and causally related" to a series of stressful events that occurred at work, meaning they had to be a "significant" contributing cause of the disability, "as opposed to a minor cause of the employee's emotional distress").

An ADR applicant may pursue either or both of two theories—that her disability or its aggravation resulted from a single work-related event or a series of events; or, if the disability or its aggravation "was the product of gradual deterioration," that the employment had exposed the applicant "to an identifiable condition that is not common or necessary to all or a great many occupations." *See Rosario v. Fall River Retirement Board*, Docket No. CR-13-233, Decision at 1-2 (Mass. Contributory Retirement App. Bd., Oct. 6, 2022), *quoting Blanchette v. Contributory Retirement Appeal Bd.*, 20 Mass. App. Ct. 479, 485, 481 N.E.2d 216, 220 (1985). The requirement that the "identifiable condition" to which the applicant was exposed be "not common or necessary to all or a great many occupations" reflects a policy underlying M.G.L. c. 32, § 7(1) that "differentiates between work-related personal injuries for which the Commonwealth should bear responsibility, and other injuries which should more properly be covered by personal health insurance." *Adams v. Contributory Retirement Appeal Bd.*, 414 Mass. 360, 366, 609 N.E.2d 62, 66 (1993) (although the petitioner's job as an elementary school teacher required her to walk, stand and bend over frequently to assist students in a variety of tasks, and doing so caused her to become permanently disabled, these activities were also "common to necessary human activities and to many jobs," and the petitioner's disability resulted from the wear and tear incidental to these common activities over a lengthy period). *Blanchette* explains that:

> Recovery of accidental disability benefits for gradual deterioration stemming from an "identifiable condition" which is not shared by many occupations could involve, for example in the case of physical injury, diseases such as asbestosis, silicosis, and mesothelioma related to exposure to asbestos. Mental incapacity might occur, for example, in occupations involving constant exposure to life threatening situations or to continual traumatic or depressing events. However, it should be noted that the "identifiable condition" . . . need not necessarily be unique to the occupation in order to warrant a recovery. [citation omitted]. The key, in a case involving G.L. c. 32, § 7(1), once the physical or mental disability is established, is proof that the identifiable condition at work is an efficient cause of the disability.

20 Mass. App. Ct. at 487 n. 7, 481 N.E.2d at 221 n.7. Consequently, where the evidence tends to show that the ADR applicant's work "contributed in some way to [her] problems along with many other stresses felt outside the workplace," the "natural and proximate result" test for causation necessary to the recovery of accidental disability retirement benefits under G.L. c. 32, § 7(1), has not been satisfied." *Blanchette*; 20 Mass. App. Ct. at 487, 481 N.E.2d at 222.

Proof that the applicant's alleged work injury or exposure aggravated a pre-existing condition to the point of disability satisfies the natural and proximate result requirement. *Rosario*; Decision at 3, *citing Baruffaldi v. Contributory Retirement Appeal Bd.*, 337 Mass. 495, 150 N.E.2d 269, 271 (1958). To make this showing sufficiently, the ADR application must have asserted the condition or conditions claimed to have been aggravated by the conduct in question during the specified time; the asserted injuries or events must have been of the kind that could have possibly aggravated each of the conditions in question, whether physical, emotional or both; and the ADR application must have identified these injuries or events clearly as having been aggravating. *See Rosario*; Decision at 3-4. Even if work-related aggravating injuries or events are identified sufficiently, the ADR applicant must also show not merely that these may have contributed to her disability, but that they were "a significant contributing cause" of the disability.

b. ADR Based Upon Work-Related Aggravation of an Emotional or Psychiatric Medical Condition

A more stringent standard of causation is applied where an ADR application is based upon an emotional or psychiatric injury. In that case, the work-related event or events in question must be shown to have been "the predominant contributing cause" of the disability; and, in addition, the event or events cannot have arisen out of a "bona fide" personnel action or actions. Stated another way, "significant contributing cause" of disability means "predominant contributing cause" when an ADR application is based upon emotional or psychiatric workplace injury.

An emotional injury, or an injury that is psychiatric in nature, may be a personal injury for accidental disability retirement purposes, under M.G.L. c. 32, § 7(1), if it meets the definition of "personal injury" furnished by the Massachusetts Workers' Compensation Act, M.G.L. c. 152. *Fender v. Contributory Retirement App. Bd.*, 72 Mass. App. Ct. 755, 894 N.E.2d 295, 299 (2008). That definition states, in pertinent part:

> Personal injuries shall include mental or emotional disabilities only where the predominant contributing cause of such disability is an event or series of events occurring within any employment . . . No mental or emotional disability arising principally out of a bona fide, personnel action including a transfer, promotion, demotion, or termination except such action which is the intentional infliction of emotional harm shall be deemed to be a personal injury within the meaning of this chapter.

M.G.L. c. 151, § 1(7A).[92]

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[92]/ As *Robinson's Case* noted, the substitution of "predominant" for "substantive" contributing cause in the Workers' Compensation statute as the standard for showing that a work-related injury or injuries had the requisite causal nexus with a claimed emotional or mental injury was made by the Legislature in a 1991 session law, *see* St. 1991, c. 398, § 1, and was prospective in its operation. 416 Mass. at 458 n.2; 623 N.E.2d at 480 n.2. The need to show predominance as to work-related causation applies, therefore, to the 2010 actions that Ms.

In the case of alleged work-related mental or emotional disability as the result of work-related injury or its aggravation, what qualifies under the M.G.L. c. 151, § 1(7)(a) definition is perhaps best understood by caselaw explaining what does not. Singular or unrelated incidents, a sense of dissatisfaction with the job, inability to get along with co-workers and supervisors, indirect contacts with other persons affected by a particular event, general feelings of sadness generated solely by an incident away from the workplace, or listening to or overhearing conversations that reminded one of the off-site incident, generally do not qualify as "personal injuries" or injuries or events that could have possibly aggravated a preexisting condition "because they are not sufficiently rare to qualify as 'an identifiable condition…that is not common and necessary to all or a great many occupations.'" *Rosario v. Fall River Retirement Board*, Docket No. CR-13-233, Decision at 4 (Mass. Contributory Retirement App. Bd., Oct. 6, 2022), *quoting Kelly's Case*, 394 Mass. 684, 688, 477 N.E.2d 582, 584 (1985)(employee of private firm, who had an emotional breakdown as a result of being told that she would be laid off from one department and transferred to another, suffered a compensable personal injury arising out of and in course of employment, and was therefore entitled to Workers' Compensation benefits under M.G.L. c. 152); *see also Adams v. Contributory Retirement Appeal Bd.*, 414 Mass. 360, 365, 609 N.E.2d 62, 65 (1993), *citing Kelly's Case*; *Sugrue v. Contributory Retirement Appeal Bd.*, 45 Mass. App. Ct. 1, 6, 694 N.E.2d 391, 393 (1998)(police officer's humiliating interactions with superiors, and repeated broken promises about promotion, "did not constitute an identifiable condition uncommon to all or a great many occupations within the meaning

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Caldieri alleges to have aggravated her preexisting psychiatric injuries (non-MS-related non-epileptic seizures and related depression and anxiety) to the point of likely-permanent disability.

of *Blanchette*"); *Blanchette*; 20 Mass. App. Ct. at 485, 481 N.E.2d at 220; *see also Adams v. Massachusetts Teachers' Retirement System*, Docket No. CR-13-211, Decision at 52-55 (Mass. Div. of Admin. Law App. (May 25, 2018)(a teacher's disabling post-traumatic stress disorder, depression and anxiety, claimed to have been brought on by an off-campus suicide of a student the teacher had taught and mentored, did not qualify him for ADR because the predominant contributing cause of the disability was not an event or series of events that had occurred within his employment; being constantly reminded of the student's death by being among students at the school in which he taught did not transform the operative event into a workplace event or injury; and, even if it did, this did not present a hazard to the teacher that was not common or necessary to all or a great many occupations; and, in addition, the teacher did not show that the medical panel majority that had opined negatively as to workplace-related causation of the teacher's emotional deterioration did so based upon an improper standard, or that the panel opinion was plainly wrong).

The second element of the statutory definition of "personal injury" in the emotional/psychiatric injury context is that it cannot have arisen out of a "bona fide" personnel action. Bona fide personnel actions include, but are not limited to, transfers, promotions, demotions, or terminations. *B.G. v. State Bd. of Retirement*, Docket No. CA-20-207, Decision at 27 (Mass. Div. of Admin. Law App., Oct. 8, 2021). It is for the DALA Administrative Magistrate to find whether or not the events said to have caused the ADR applicant's emotional or mental injuries arose out of a bona fide personnel action, and that finding is considered to be "within the scope of the judge's competence," including an assessment of the credibility of witnesses whose testimony related to this issue. *See Robinson's Case*; 416 Mass. at 459 n.3; 623 N.E.2d at 481 n.3.

If it is determined that the emotional or mental disability in question "arose principally from a 'bona fide personnel action' taken at work . . . the disability is not deemed a personal injury unless the employer's action amounted to the intentional infliction of emotional distress." *B.G.*, Decision at 27, citing M.G.L. c. 152, §1, As DALA Administrative Magistrate Kristin M. Palace explained:

> A case for intentional infliction of emotional harm can be made out only if the evidence shows that 1) the perpetrator intended or knew (or should have known) that emotional distress would likely result from his conduct, 2) the conduct was "extreme and outrageous" and "beyond all possible bounds of decency," 3) the actions complained of caused the distress, and 4) the emotional distress sustained was "severe and of a nature that no reasonable man could be expected to endure it." *Agis v. Howard Johnson Company*, 371 Mass. 140, 144-145, 355 N.E.2d 315, 318-319 (1976). These stringent requirements are aimed at preventing litigation featuring only bad manners and hurt feelings.

B.G.; Decision at 27.

c. Medical Panel Review

Whether a disability retirement application is based upon a physical or an emotional/ psychiatric injury or its aggravation to the point of disability, and whatever causation hypothesis is asserted to support it, the application cannot be approved until:

> (1) The applicant is examined by a medical panel made up of three physicians who "so far as practical, [are] skilled in the particular branch of medicine or surgery involved in the case," and the panel issues a certification, following its examination, stating whether, in its opinion, "the employee was incapacitated for further duty, whether the incapacity was likely to be permanent, and whether the disability is one that might have been caused by a personal injury upon which the disability benefits application is based," *see* M.G.L. c. 32, § 6(3)(a); and
>
> (2) A majority of the medical panel answers all three statutory questions in the applicant's favor.

Blanchette; 20 Mass. App. Ct. at 485, 481 N.E.2d at 220; *Simmons v. Brockton Retirement Bd.*,

Docket No. CR-15-551, Decision (Mass. Div. of Admin. Law App., Oct. 4, 2019), *citing Blanchette.*

In contrast with what the ADR applicant must prove, "[t]he medical panel addresses whether it is medically possible that the work injury relied upon, or its aggravation, is the natural and proximate cause of the disability emerging when it did." *Rattelle v. Holyoke Retirement System*, Docket No. CR-19-0161, Decision at 28 (Mass. Div. of Admin. Law App., Feb. 17, 2023), *citing Campbell*, *see* 17 Mass. App. Ct. at 1018, 460 N.E.2d at 215. However, the medical panel does not determine the ultimate causation question, as that is left to the retirement board and to the Contributory Retirement Appeal Board on further appeal. *Rattelle*; Decision at 28; *see also Noone v. Contributory Retirement Appeal Bd*., 34 Mass. App. Ct. 756, 761-62, 616 N.E.2d 126, 129-30 (1993).

In opining as to work-related causation or aggravation, the medical panel members may explain their views, how they reached their respective opinions, and information they considered to be helpful in evaluating the medical possibilities, including whether workplace conditions proximately caused the ADR applicant's disability. *Narducci v. Contributory Retirement App. Bd.*, 68 Mass. App. Ct. 127, 134-35, 860 N.E.2d 943, 949-50 (2007). So long as the medical panel members base their opinions upon the medical and non-medical facts presented to them, they may present "useful information or learning" that may help the retirement board and the DALA Administrative Magistrate understand the applicable medicine and science and make an informed decision as to the three statutory issues. *Id*. Except for panel member opinions of unqualified medical certainty as to causation or aggravation, a retirement board, and a DALA Administrative Magistrate, may consider the medical panel members' opinions, narratives and subsequent clarifications (in

response to questions posed by a retirement board) "along with all the other evidence." *Id*.

When a medical panel is convened to evaluate an accidental disability retirement application, the panel is vested with responsibility for determining medical questions beyond the common knowledge and experience of a retirement board's members. *See Delinsky v. Massachusetts Teachers' Retirement System*, Docket No. CR-16-596, Decision (Mass. Div. of Admin. Law App., Mar. 1, 2019). Consistent with this function (and with the limited exceptions discussed below) an ADR application must be denied if a majority of the medical panel members issues a "negative certification" as to whether the injury or exposure in question left the applicant mentally or physically incapable of performing the essential duties of her job, or whether the resulting disability was likely to be permanent. Even if the panel or panel majority opines affirmatively as to disability and its likely permanence, ADR must be denied if a panel majority issues a negative certificate as to whether the disability might have been caused by the personal injury alleged in the ADR application. Overturning a panel's majority negative certification as to any of these issues requires a showing that the panel was improperly constituted, did not review pertinent medical records and other information, or applied an erroneous standard in making its determination. *See, e.g.*, *Simmons, citing Kelley v. Contributory Retirement Appeal Bd*., 341 Mass. 611, 617, 171 N.E.2d 277, 281 (1961) *and Malden Retirement Bd. v. Contributory Retirement App. Bd*., 1 Mass. App. Ct. 420, 424, 298 N.E.2d 902, 2905 (1973).

It is the burden of an applicant challenging ADR denial based upon a majority negative medical panel opinion as to disability, its likely permanence, or work-related causation or aggravation to the point of disability, to present evidence showing that the panel either lacked

pertinent facts or employed an erroneous standard. *Kelly v. State Bd. of Retirement*, Docket No. CR-19-051, Decision (Mass. Div. of Admin. Law App., Apr. 15, 2022); *Ciuffredo v. Worcester County Retirement Bd.*, Docket No. CR-15-232, Decision (Mass. Div. of Admin. Law App., Aug. 20, 2021). It is not enough to simply disagree with a medical panel's negative opinion as to possible work-related causation, or assert that other physicians might opine affirmatively. Presenting no evidence that the medical panel's negative opinion was based upon an erroneous standard or was uninformed by pertinent facts defeats an appeal challenging ADR denial. *See, e.g.*, *Ibanez v. Boston Retirement Bd.*, Docket No. CR-13-386, Decision (Mass. Div. of Admin. Law App., May 13, 2016).[93]

An example of error that renders a medical panel's opinion a legal nullity is an unqualifiedly

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[93]/ In *Ibanez*, a public school special education and bilingual teacher filed an ADR application based upon the aggravation of pre-existing bipolar affective disorder by work stress to the point of likely-permanent disability. The stress alleged was ongoing harassment by school staff and administration, comprising the teacher's demotion from an educational team facilitator position, assignment to him of additional work duties, required overtime, an unfavorable teacher performance evaluation, reprimands, and a disciplinary hearing.

A medical panel comprising two psychiatrists and a neurologist opined unanimously in the negative as to possible work-related aggravation. In the panel's view, the natural progression of the preexisting bipolar affective disorder more likely made the teacher unable to perform job duties due to an inability to organize thoughts, leading to an inability to plan, organize, and assimilate teacher performance evaluations. On appeal, and despite representation by experienced counsel, the teacher presented rambling, disorganized testimony that lacked specificity as to details and dates of the alleged in-school harassment. The DALA Administrative Magistrate inferred from the teacher's disorganized, rambling testimony that the opinions of treating physicians who opined favorably as to work-related causation, none of whom testified, were based upon similarly disorganized statements the teacher made to them when they examined him, leaving these opinions without a sufficient factual foundation and rendering them unreliable as a result. There was no evidence that the medical panel lacked pertinent facts or applied an incorrect standard in opining in the negative as to possible work-related causation. The denial of the ADR application was therefore affirmed.

negative opinion as to work-related causation that rules out its possibility. Simply put, the medical panel is not asked by M.G.L. c. 32, § 6(3)(a) for, and has no authority under the statute to state, whether causation (or aggravation) of an ADR applicant's disability was shown. The statute asks, instead, whether the ADR applicant's likely-permanent disability was " *such as might be* the natural and proximate result" of a work-related injury (emphasis added); a panel's unqualified opinion as to causation therefore does not answer "satisfactorily" the question of possibility that the statute poses. *Noone v. Contributory Retirement Appeal Bd.*, 34 Mass. App. Ct. 756, 762, 616 N.E.2d 126, 129-30 (1993). While an explanation of the basis for an unqualified negative opinion as to causation may make the opinion somewhat more qualified, an explanation showing reliance upon a factor that lacks support in the medical or non-medical record is itself an additional medical panel error that renders the panel's negative opinion legally insufficient. *Noone*; 334 Mass. App. Ct. at 762-63 and n.10; 616 N.E.2d at 131-32 and n.10 (medical panel's determination that state probation officer's myocardial infarction was not work-related was based upon a finding that he was "predisposed to coronary heart disease by multiple risk factors;" however, the record showed that the applicant's parents died of conditions other than coronary heart disease, and did not show that the applicant was at risk for this condition based upon non-work-related health characteristics such as his height and weight; moreover, risk factors alone are not a cause of coronary heart disease and do not rule out the possibility of work-related causation).

An affirmative medical panel opinion has different evidentiary consequences. Even if a majority of the medical panel certifies that the applicant's disability might be the natural and proximate result of an injury he sustained while in the performance of her work-related duties, the

panel's certification is not conclusive as to work-related causation or aggravation. It is for the retirement board (and, if the matter is appealed further, for the Contributory Retirement Appeal Board) to decide, ultimately, whether to grant accidental disability retirement, particularly as to causation, based upon "all the underlying evidence, including both the medical and the non-medical facts." *Blanchette*; 20 Mass. App. Ct. at 483, 41 N.E.2d at 219.

Generally, the medical panel's affirmative opinion as to disability, its likely permanence, or work-related causation or aggravation to the point of disability is "only some evidence to be considered" in that circumstance. *See, e.g., Cobb v. State Bd. of Retirement*, Docket No. CR-14-367, Decision (Mass. Div. of Admin. Law App., Feb. 3, 2017). However, an affirmative panel opinion is entitled to "great weight" when there is no evidence that the panel (or panel majority) applied an incorrect standard, lacked pertinent medical facts, or engaged in procedural irregularities in reaching its conclusion, particularly when the conclusion has medical record support. *See Collari v. Marlborough Retirement Bd.,* Docket No. CR-15-179, Decision (Mass. Div. of Admin. Law App., Sept. 9, 2016).[94] Moreover, neither the retirement board nor the Contributory Retirement Appeal

[94]/ In *Collari*, the ADR application was based upon the aggravation of a municipal senior center principal clerk's preexisting left foot condition treated previously through surgery as the result of a work injury while performing job duties (a shed falling when the worker attempted to put away a wheelchair and commode, causing his left foot to become jammed in a wheelchair wheel, with resulting marked changes in foot temperature and the need to use a cane when walking). The DALA Administrative Magistrate held that a majority affirmative orthopedic medical panel certificate as to possible work-related causation was entitled to great weight, absent evidence that the panel majority applied an incorrect standard, lacked pertinent medical facts, or engaged in procedural irregularities in reaching its conclusion as to possible work-related causation. In addition, the panel majority's opinion was consistent with opinions of independent medical examiners and treating physicians that unresolving left-foot symptoms were related to, and were likely exacerbated by, the work injury in question; and was also supported by medical evidence confirming that the left foot symptoms had worsened to point of disability

Board may ignore the medical panel's findings unless it is clear that the panel employed an "erroneous standard" or did not follow proper procedure,[95] or if its decision was "plainly wrong." *Kelley v. Contributory Retirement App. Bd.*, 341 Mass. 611, 617, 171 N.E.2d 277 (1961); *Chichester v. State Bd. of Retirement*, Docket No. CR-18-0480, Decision (Mass. Div. of Admin. Law App., Sept. 13, 2019).

2. Timeliness of ADR Application

Ms. Caldieri's ADR application was timely filed.

The injury or hazard in question "must have occurred within two years of the date on which the application for accidental disability retirement was filed, unless a written notice of injury was timely provided to the retirement board or if an exception applies." *Rosario*, Decision at 2, *citing* M.G.L. c. 32, §§ 7(1) and 7(3)(a). Ms. Caldieri filed her ADR application with MTRS on August 11, 2011. (Exh. 3.) In it, she stated the medical reason for the application as "[s]tress exacerbated symptoms of multiple sclerosis *and seizures* to the point of incapacitation to perform duties as a teacher." (*Id.* at 8; emphasis added.) She asserted the aggravation of her preexisting MS, seizure disorder, and depression and anxiety as a result of actions the school administration took against her

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and would not resolve over time.

[95]/ "Failure to follow proper procedure" includes improper panel composition, and a "plainly wrong decision" includes panel findings that were made without reviewing all the pertinent facts. *See, e.g.*, *Retirement Bd. of Revere v. Contributory Retirement App. Bd.*, 36 Mass. App. Ct. 99, 106, 629 N.E.2d 332, 337 (Mass. App. Ct. 1994), *rev. denied*, 417 Mass. 1105, 635 N.E.2d 252 (1994).

following Phoebe Prince's suicide on January 14, 2010 and continuing into the Fall 2010 semester. Those stressors differed significantly from the collegiality and support, and reasonable suggestions about classroom management, the administration had given her before January 14, 2010. The new, additional and significant stresses she experienced after that date as the school administration took various actions against her finally overwhelmed Ms. Caldieri's ability to teach through them, or despite them.

Because the work-related medical condition aggravations Ms. Caldieri alleged in her ADR application occurred after January 14, 2010, they occurred during the two years preceding her August 2011 ADR application and, as well, within the two years preceding her last day of work as a teacher at South Hadley High School, whether that is taken to be the last day she actually taught at the school (December 3, 2010, the same day she suffered a seizure in her car outside school following her receiupt of the Vice Principal's letter of the same date, after which she did not return to work upon the advice of her treating physician (*see* Findings 80, 82 and 83); or June 24, 2011, the last day she was employed in her position as a teacher at the school. (*See* Exh. 4: Employer's statement relative to Ms. Caldieri's ADR application, dated Sept. 13, 2011, at 2.) Ms. Caldieri has therefore properly confined her ADR claim of disabling aggravations of her neurological and psychiatric medical conditions to incidents that occurred within the applicable two year period.

3. Work-Related Aggravation of Preexisting Medical Conditions

Ms. Caldieri alleged in her ADR application that the actions the school administration took against her after the student's suicide on January 14, 2010 aggravated, to the point of disability, four

of her preexisting medical conditions—multiple sclerosis, seizures, depression, and anxiety. While Ms. Caldieri's treating physicians had recognized these conditions as medical comorbidities (meaning that they were inextricably interrelated conditions), they were divided for separate review by two different medical panels, one neurological (with respect to MS and, by implication, MS-related seizures) and one psychiatric (with respect to Ms. Caldieri's depression and anxiety, and her seizure condition to the extent the seizures were non-MS-related and non-epileptic pseudosiezures). Neurological medical panel member Dr. Masi pointed out that an MS diagnosis was not confirmed by EEGs or other testing, and that neither were MS-related epileptic seizures. (*See* Finding 96, in particular, Finding 96(f)(Dr. Masi criticized the diagnoses of Ms. Caldieri's MS and epileptic seizure as inconfirmed by testing and unsupported by evidence, and she opined that, instead, there was a "great deal of evidence for profound psychiatric illness," including Ms. Caldieri's pseudoseizures," both before and after January 2010.").

That left unresolved by the negative neurological panel opinion whether Ms. Caldieri's disability was such as might be the natural and proximate result of the aggravation of non-MS-related psychiatric conditions (non-epileptic pseudoseizures, and related depression and anxiety) by the identified administrative actions taken against her after January 14, 2010 that Ms. Caldieri identified. Unlike most MS-related seizures, non-MS-related pseudoseizures can be triggered by stress. Ms. Caldieri's pseudoseizures were within the scope of review by the psychiatric medical panel in this case, particularly since the neurological panel reviewed Ms. Caldieri's seizures in the context of MS and, therefore, as epileptic seizures only, and deferred to the psychiatric panel for the evaluation of the other medical conditions she claimed were aggravated to the point of disability.

However, in responding to MTRS's questions, the neurological panel confirmed that its negative opinion as to work-relted causation applied to her MS, which was not confirmed, and to her seizrues, which the pan el appeared to conflate as MS-related, even while two of its members (Drs. Masi and Kerashi) noted that her pseudoseizures were asserted and had bveen diagnosed separately.

The extent to which the neurological medical panel's unanimous negative opinion as to aggravation is binding here depends upon whether it applies medically to Ms. Caldieri's non-MS-related, and non-epileptic, pseudoseizures. Determining the scope of this negative opinion does not require rewriting or second-guessing the neurological medical panel's opinion; it is, instead, resolved upon what the panel actually said. Neurological panel member Dr. Masi's report points out that Ms. Caldieri's MS was never confirmed by EEGs or other tests, a fact that the medical records confirm and that neither of the other two panel members denied. True, the panel members, including Dr. Masi, opined in the negative as to work-related causation. None of the neurological panel members stated affirmatively (at least before answering MTRS' questions to them) stated that this opinion applied Ms. Caldieri's non-MS-related pseudoseizures. Therefore, while the neurological medical panel's unanimous negative opinion as to work-related aggravation in view of the inexorable progress of MS might be binding as to MS and MS-related seizures (if indeed Ms. Caldieri actually had these conditions), it cannot be binding as to Ms. Caldieri's non-MS-related, and non-epileptic, pseudoseizures, notwithdtanding the panel's conflation of these two distinct seizure types.

Ms. Caldieri's pseudoseizures and their asserted aggravation fell within the ambit of the psychiatric medical panel's review. The panel considered aggravation as to Ms. Caldieri's (non-epileptic) pseudoseizures as well as with respect to her depression and anxiety. (*See, e.g.,* Finding

100(f),) Dr. Rice, one of the psychiatric medical panel members, considered these seizures and noted that they, along with Ms. Caldieri's depression, were not improved by anticonvulsant medication and worsened in 2010, along with her depression, which he opined was an aggravation caused by the administrative actions Ms. Caldieri identified. (*Id.*). Overall, the panel's affirmative majority as to work-related aggravation was based upon the fact that Ms. Caldieri was able to teach through her preexisting conditions before 2010, but her psychiatric conditions deteriorated, eventually to the point of disabling her toward the end of that year, as the school administration took the actions Ms. Caldieri identified and that were mentioned in the medical records the panel reviewed.

The psychiatric panel's majority affirmative opinion as to aggravation comprise one part of Ms. Caldieri's proof of ADR entitlement based upon the work-related aggravation of her preexisting non-MS conditions, all of which fell within the scope of the psychiatric-related aggravation the two panels reviewed here. It was her burden to show that the administration's actions in 2010 were the efficient cause of that psychiatric disability through aggravation, and not merely a contributing cause, and that these actions were not bona fide personnel actions.

Ms. Caldieri contended that she met this burden. She emphasized, in particular, what the psychiatric panel majority found most persuasive as to aggravation—her ability to teach through her comorbidities prior to 2010, and even well into that year, and her deterioration to the point of disability that year as the administration took, and increased, its disciplinary, punitive approach to her.

MTRS disagreed vehemently. It argued that its denial of Ms. Caldieri's ADR application was supported by (1) the dissenting conclusion of the minority psychiatric panel member, which was that

Ms. Caldieri's disability was the result of a natural progression of her preexisting psychiatric and medical conditions (eating disorder, PTSD, depression and multiple sclerosis) following the student's suicide, and was "not aggravated in a permanent manner" by the workplace events she asserted in her ADR application; (2) the fact that the student's suicide did not occur at the school; and (3) the absence of any evidence that school staff, faculty and administrators had intended to mistreat Ms. Caldieri following the student's suicide. (*See MTRS Prehearing Memorandum* (Feb. 10, 2016) at 8-10.) MTRS also argued that Ms. Caldieri did not meet her burden of proving that a workplace-related injury permanently aggravated her long-standing psychiatric condition. In its view, Ms. Caldieri's case consisted primarily of symptoms she self-reported to her treating physicians, and what it characterized as the "thin, conclusory, ambiguous" panel reports of the psychiatric medical panel majority. MTRS argued that Ms. Caldieri's alleged medical condition aggravation was rooted primarily in "temporal" causes of her psychiatric injuries, meaning events that occurred outside the school, particularly the student suicide; and characterized her testimony as unreliable, inconsistent and self-serving. In contrast, MTRS characterized the testimony of the former school Principal and the former Department of Foreign Languages Chair as showing that both of them wanted "nothing but for Ms. Caldieri to succeed as an educator" at the school "before and after the Phoebe Prince incident." (*MTRS Closing Memorandum* (Feb. 28, 2019) *passim* and at 6-7 and 10-14.) Finally, MTRS argued that the actions of the school administration after January 14, 2010 were bona fide personnel actions taken to protect school staff and students that the retirement statute exempts as a ground for ADR benefits based upon an emotional or psychiatric injury or its aggravation. (*Id*. at 13-14.)

Before evaluating these conflicting positions, it is important to contrast Ms. Caldieri's medical conditions and teaching capabilities before January 14, 2010 and after that date, and I turn to that contrast next.

a. Ms. Caldieri's Condition Prior to January 14, 2010

It is not an exaggeration to say that prior to January 14, 2010, Ms. Caldieri was something of a rock star Latin teacher at South Hadley High School, with enthusiastically-positive teacher performance evaluations and reappointment recommendations (*see* Exh. 8 and Findings 30 and 32), and a "teacher of the year" award in 2007. (*See* Finding 22.) During the period 2008-09, Ms. Caldieri was twice recommended for reappointment. Her medical comorbidities notwithstanding, Ms. Caldieri had rebuilt South Hadley High School's Latin classes and related extracurricular activities (*see* Finding 30(b)), which was what the School Superintendent had hoped she would do when he recruited her to teach in 2005. (*See* Findings 10, 15.) Administrative observations of her classes were scheduled in advance, not performed ad hoc as they were in the Spring and Fall semesters of 2010, and the evaluative reports that followed were supportive and positive. The suggestions made by Principal Smith, Assistant Principal Roy and Foreign Languages Department Chair Graf in their evaluations of Ms. Caldieri through 2009 were intended to help Ms. Caldieri best utilize all of her class time to achieve maximum educational effect. Ms. Caldieri accepted those evaluations in a cordial, professional manner; for example, as part of her response to her March 4, 2009 classroom observation by the Assistant Principal and Foreign Languages Department Chair, Ms. Caldieri attached a handwritten note thanking both of them for their "useful recommendations" regarding student homework reminders, ending in Latin for "many thanks!" (*See* Finding 32(c).)

It is also not an exaggeration to say that Ms. Caldieri was a motivated and effective teacher, and an esteemed member of the high school community. Based upon what Ms. Caldieri's teacher observations and evaluations showed, the level of instruction in all of Ms. Caldieri's Latin classes was high, and her students were expected to perform at a higher level and for the most part did so. (*See* Findings 30(b) and 32(b).) These evaluations noted that Ms. Caldieri taught both on her feet and at a desk near her students; and that in some classes, she taught in Latin almost entirely, which was an innovative way to teach this subject in high school. The evaluations through 2009 included recommendations about where else Ms. Caldieri might stand or move about a classroom to achieve a more effective use of classroom time, and how many additional homework-related reminders she could add while she lectured and taught.

In retrospect, some of these recommendations appear overplayed, especially in view of Ms. Caldieri's acknowledged effectiveness as a teacher. However, none of the pre-2010 evaluations criticized Ms. Caldieri's classrooms as chaotic. They emphasized, instead, that instead that Ms. Caldieri's teaching held the students' attention and accomplished the objectives of her classroom lessons and exercises. The evaluatoiry comments regarding where Ms. Caldieri might stand in the classroom and how many homework-related reminders she might give appear to have been recommended embellishments to Ms. Caldieri's highly-rated and demonstrably-effective teaching.

The baseline administrative view of Ms. Caldieri's teaching that emerges from the observations of her classroom teaching before 2010 is that she engaged her students actively in Latin language skill development (reading and speaking), the mythology and culture of ancient Rome and their Greek origins, and the persistence of Latin words, expressions and other influences into our

own times. Before 2010, Ms. Caldieri's teaching qualities were congruent with, and advanced, the visions of the School Superintendent and the South Hadley High School administration for building a robust Latin program at the school and attracting students to it. They predominated in substance over individual administrators' classroom procedure preferences, among them where and when a teacher should stand in a classroom; how many times she needed to interrupt a lesson, or student work, with verbal reminders about note-taking and homework; whether to take student questions orally during a class or direct students to tame their exuberance and write their questions down for handing in later; and how often a teacher needed to walk around a classroom.

What is also noteworthy about Ms. Caldieri's teaching and treatment by the school before 2010 was that she taught through her health issues and had the high school's support in doing so, notwithstanding misgivings on the part of her treating physicians as to whether she should continue working. Ms. Caldieri's treating physicians appeared to have respected her persistence and dedication, understood that teaching was critically important to Ms. Caldieri both professionally and personally, and believed they were helping her manage her medical comorbidities so she could keep on teaching. They noted the health-related challenges Ms. Caldieri faced in doing this, but through 2009 they recorded no impediments to her ability to continue teaching effectively. For example, in August 2009, Dr. Ryan thought that Ms. Caldieri was "significantly disabled and would not be able to function as a teacher." (Finding 33(d).) However, she did not state when Ms. Caldieri might reach this health point. Nor did she state that a teacher could not teach through, and despite, a disability; that said, it was also not Dr. Ryan's intended purpose, or her perceived role as Ms. Caldieri's treating physician, to advocate that (contrary to federal and state law) disabled teachers had no place in the

public schools and needed to be forced out for their own good and that of their students. Nor, by the way, was that the high school administration's position through the end of 2009.

Toward the end of 2009, Dr. Ryan's notes show her concern that Ms. Caldieri's existing conditions were strongly challenging for her and her work ethic. However, Dr. Ryan opined at the time that Ms. Caldieri's situation showed "gratifying internal improvement with respect to some targeted symptoms" (Finding 35(a)), and that continuing therapeutic and management efforts for Ms. Caldieri were "certainly worth it." (Finding 35(b).) Through the end of 2009, Dr. Ryan did not urge Ms. Caldieri to stop working or to retire, even in the face of her seizures and depression. She did no more than suggest that Ms. Caldieri consider a disability retirement.

Ms. Caldieri did not retire, however. She was able to teach her Latin classes through the end of 2009, and the high school was apparently content with her choice to do so. As it happened, she would teach on well into 2010, even as the school administration made it significantly more difficult for her to teach successfully, or to teach at all.

b. Ms. Caldieri's Additional Work Stresses and Her Affected Medical Conditions After January 14, 2010

Working conditions changed significantly and rapidly for Ms. Caldieri following Phoebe Prince's suicide on January 14, 2010. The progression of new in-school stresses began almost immediately, starting when Ms. Caldieri was summoned to the Principal's office on January 15, 2010 and an ensuing dressing-down that, whether coarse or not, included the threat of discipline and potential job loss. A similar dressing-down occurred shortly after, when Ms. Caldieri's sarcastic comment to the Foreign Languages Department Chair was misinterpreted as a suicide threat and

reported to the Principal, who told Ms. Caldieri to "get the hell out of" his school (*see* Finding 50). Regardless of why this occurred, or how coarse the language was, this was probably not the management technique of choice in handling an actual suicide threat by a faculty member, had one actually been made. There was no testimony to the effect that a scolding reprimand was standard procedure in dealing with a faculty member who appeared to be suicidal, or even a recommended technique for managing perceived "suicidal contagion," a possibility that concerned the former Principal and Foreign Languages Department Chair in mid-January 2010.

A good part of what Principal Smith said during these two incidents, and how he said it, revealed his own frustration in the face of the school chaos following Phoebe Prince's suicide. Nevertheless, this was a complete turnaround from the professionally-supportive approach the Principal and other administrators had taken toward Ms. Caldieri prior to January 14, 2010. Regardless of the underlying reasons for this change, both dressings-down by the Principal—one on January 15, 2010 following the off-campus meeting at student X's house, and the other after Ms. Graf reported Ms. Caldieri's sarcastic comment to the Principal— were extremely stressful for Ms. Caldieri, who was physically and emotionally unprepared to deal with them. She suffered a seizure at school almost immediately after the episode in the Principal's office on January 15, 2010. (*See* Finding 48(d).)

The dressings-down by the Principal were followed by formal disciplinary proceedings. The Principal held a disciplinary hearing during the week of January 18-23, 2010 that, ostensibly, concerned the allegation that Ms. Caldieri had accompanied students to student X's home on January 15, 2010 without the requisite permissions. (Finding 53). However, there were apparently no written

charges or written agenda for this disciplinary hearing. It is unclear whether Ms. Caldieri was allowed to clarify that she had acted upon apparent consent given by the Vice Principal, by the parents of the students she accompanied to the off-campus meeting, and by student X's mother. (*See* n. 50; for the details related to the consents in question, *see* Findings 46 and 47.) Ms. Caldieri was placed on probation for one year either at or after this hearing. The contemporary written explanation for this disciplinary action, if it existed at all, is not in the record. The Principal also disciplined Ms. Caldieri late in January 2010 for posting a statement on social media that she had observed Phoebe Prince's harassment by other students. Neither a screen shot of the posting nor its contents is in the record. The contents of the posting was not identified clearly here as a reason for disciplining Ms. Caldieri. The only reason suggested for discipline was Ms. Caldieri's alleged failure to report Phoebe Prince's bullying to the school. In fact, Ms. Caldieri had attempted to report the bullying in late 2009 to a school Vice Principal, who told her he already knew about it and had decided that it related to a student dating dispute. (*See* Finding 55.)

There was, as well, a decision made by the Principal and other administrators to keep Ms. Caldieri away from a memorial service for Phoebe Prince in February 2010 by not telling her about it. (*See* Finding 54.) None of these administrators appeared to have given much thought to how this would be perceived by Ms. Caldieri, or how it would affect her once she learned of it. The affects included feelings of isolation and guilt about having let Phoebe's family down when she did not appear at the memorial service, and a sense of having been deliberately deceived or punished by not being informed of the memorial service. That sense was hardly misplaced. As the testimony makes clear, the school administration decided that not informing Ms. Caldieri about the service was best

for her and for everyone concerned. Why that was the case was never explained, however.

This additional depression and anxiety was foreseeable, especially because the administration was aware of Ms. Caldieri's health issues. If the school administration took the potential of aggravation of any of Ms, Caldieri's health conditions into account in deciding to keep her away from the memorial event for Phoebe Prince, this did not emerge credibly from the testimony. What the testimony revealed, instead, was an underlying assumption that it would not be in the interests of the school or Ms. Caldieri to attend the memorial, or even to discuss this with her. That the Principal spoke to the school nurse about this matter (*see* Finding 56) does not clarify why it was necessary to do any of these things, and raises an additional issue as to why the school nurse was drawn into this discussion at all. The school nurse did not testify here.

If it stood alone, this episode might well be brushed off as one of the slings and arrows of ordinary emotional stress common to many workplaces. Its importance here, however, is as one of many adverse actions the school administration took toward Ms. Caldieri after January 14, 2010, or at least as indicative of whether the administration undertook bona fide personnel actions with respect to Ms. Caldieri after January 14, 2010. All of these actions reinforced, reasonably, Ms. Caldieri's perception that the school administration had shifted away from its previous supportive role in her professional career, adopting in its place a punitive, ham-handed and antagonistic approach signalling at least a withdrawal of support and accommodation of her medical comorbidities.

It is not self-evident that, even in its early stages (in January-February 2010), this new administrative approach reflected concern for Ms. Caldieri's health or an intent to help her continue

to succeed as a teacher at South Hadley High School. At most, it supports the testimony of Ms. Smith and Ms. Graf that they, too, were adversely affected by the student suicide, to the point of having no emotional reserves to help faculty members as a result of the student suicide's impact and the immediate in-school chaos that enveloped the high school.

That position is credible only to a point. Personal shock and pain as a result of the student's suicide explains why Mr. Smith, Ms. Graf and presumably the entire school administration generally could not actively provide support to faculty members similarly affected. However, it does not explain why there remained a sufficient energy reserve on the administration's part to be expended in disciplining Ms. Caldieri and increasing her work-stresses, and to continue doing for the rest of the Spring 2010 semester and then through the Fall 2010 semester. In view of the emotional burnout to which Ms. Graf and Mr. Smith attested, doing none of these things to Ms. Caldieri would seem to have been a far less stressful alternative approach these administrators could (and should) have taken in the circumstances.

For some time after January 14, 2010, Ms. Caldieri was able to overcome her medical condition, the emotional impact of Phoebe Prince's suicide in the school, and the actions taken against her by the school administration including placement on probation for a year without a clear reason for this level of discipline, and she continued teaching. On March 4, 2010, Dr. O'Connell, Ms. Caldieri's treating psychiatrist, wrote a work-related note stating that Ms. Caldieri was "able to return to her work place." (Finding 58(c).)

Despite the concern for Ms. Caldieri's health expressed by Mr. Smith and Ms. Graf when they testified here, the school administration made it significantly more difficult for Ms. Caldieri to

focus on her teaching and perform her core educational duties after January 14, 2010. Starting on January 15, 2010, the Principal added stressors to Ms. Caldieri's teaching job that had not been present before. These included the following:

(1) The Principal placed Ms. Caldieri on probation for a year for no clearly-articulated reasons, and with no stated conditions, objectives or definitions of probation violations or of what (if anything) would allow the probationary period to be rescinded. (*See* Findings 53 and 56(b); as to what Ms. Caldieri thought she was being punished for at the time, *see also* Finding 53 (what she told Dr. O'Connell on February 9, 2010); Finding 57(a) (what she told Dr. Ryan on February 1, 2010); and Finding 102(f)(what she told psychiatric medical panel member Dr. Rater during her examination on April 18, 2013));

(2) The high school administration abandoned its prior professional support for Ms. Caldieri and replaced it with a discipline-based approach that elevated classroom formalities over educational substance and teaching effectiveness. This was done without having in place any formal plan to accommodate Ms. Caldieri's disability or otherwise assist her in continuing to succeed as a teacher, as she had been able to do with informal school support through the end of 2009. (*See* Finding 79);

(3) Toward the end of the Spring 2010 semester, Ms. Caldieri's full-time paid teaching position was converted to a partial ("0.8") position, The Principal told her this was necessary in view of a decline in foreign language course enrollment at the school and a need to assure at least part-time work for other foreign language teachers at the school. The Principal offered no specifics about this to Ms. Caldieri at the time, who thought the conversion to an 0.8 position and the asserted decline in foreign language course enrollment made no sense. (*See* Finding 62.) Ms. Caldieri was

unable to obtain clarification about her conversion to an "0.8" position during the summer of 2010, without success. (*Id*.);

(4) At the start of the Fall 2010 semester, Ms. Caldieri's course load, and the number of students in her classes, was increased significantly compared to what they had been prior to her conversion to a part-time "0.8" position. However, she was not restored to a full-time paid position, and the scant evidence in the record that this restoration actually occurred at some point during the Fall 2010 semester was that the administration added an additional class (the writing workshop) to Ms. Caldieri's already-increased class load as a condition for restoring her to full-time payment. (*See* Finding 102(a)(iii));[96]

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[96]/ Finding 102(a)(iii) concerns what Ms. Caldieri told psychiatric medical panel member Dr. Rater, during her examination, about the arrangement the School Superintendent offered for restoring her to a full-time paid position in August 2010 and that she recalled having accepted. While credible as to what Ms. Caldieri understood she had to do to restore her full-time pay, her statement to Dr. Rater about this does not show whether, and if so, when, the School Superintendent, and/or other school administrators, restored Ms. Caldieri to a full-time position.

What does emerge reasonably from the circumstances, however, is an inference that the school system "leveraged" additional work from Ms. Caldieri in exchange for restoring her to a full-time position. This was a corrective measure to which Ms. Caldieri was likely entitled under her collective bargaining agreement, since her class load had already increased and the professed reason for converting her position to 80 percent of a full-time one had proven to be moot, if not pretextual. The inference is particularly reasonable since Ms. Caldieri had been threatened with the loss of her Latin classes if she continued to question her increased workload, whether via a grievance under the collective bargaining agreement or otherwise. (*See* Findings 65 and 66.) Simply put, if the School Superintendent indeed offered this "deal" regarding restoration to a full-time teaching position, with a restoration of the income Ms. Caldieri had lost and that she needed, he had indeed made the teacher an offer she could not refuse. She was, of course, in no position to negotiate a deal to which she was actually entitled, even if she had been physically and financially able to do so. She was still on probation, and the Principal had made a credible threat to end her Latin classes and send her students online if she questioned her class load or the additional teaching challenges this posed for her.

(5) There was no evidence that during the Fall 2010 semester the school administration gave Ms. Caldieri additional prep time for this additional class, or for her additional class load generally, or that she was given any assistance for having to teach multiple levels of Latin in the same classroom at the same time. (*See* Finding 65);

(6) In September 2010, the Principal's response to Ms. Caldieri's effort to adjust her heavier than usual workload was to question whether she was able to teach, and to warn Ms. Caldieri that if she could not teach Latin, or if she proceeded with a union grievance, her students could be directed to learn Latin online. (*See* Findings 66-67.) This was a both a threat of retaliation and a refusal to help Ms. Caldieri handle an increased workload and adversarial work conditions that had not been in place, and that she had not been required to teach through, before January 14, 2010;

(6) Although Ms. Caldieri was not scheduled for a formal performance review in 2010, in fact she was observed formally, on an ad hoc basis. According to the testimony of Mr. Smith and Ms. Graf, this was done to keep in eye on Ms. Caldieri out of concern she was experiencing a deterioration of her health condition that posed a potential threat to her personal safety and that of her students. (*See* Findings 52 and 79; notes 52, 64 and 65; and Exh. 10; School Superintendent Sayer's October 15, 2011 letter to MTRS.) However, the classroom observations that followed were both hostile and excessive in faultfinding, rather than part of an effort to identify and resolve problems and help Ms. Caldieri succeed as a teacher, despite her increased class load, a challenging large room she was required to teach in, and increasing performance demands being placed upon her. This was not the approach the administration had taken toward Ms. Caldieri through 2009, before it had placed her on probation, cut her paid position to that of an "0.8" teacher, and increased her

class load and performance demands;

(7) On October 20, 2010, Vice Principal McCarthy and Foreign Languages Department Chair Graf observed a C Block Latin 1 class of 25 students that Ms. Caldieri was teaching in a large classroom the administration had assigned, one that amplified noise and made communication difficult. (Finding 70.) Although their evaluation acknowledged these challenges, Mr. McCarthy and Ms. Graf described Ms. Caldieri's classroom as chaotic and noisy, and in need of more effective classroom management. (*See* Finding 72.) Their evaluation proceeded to find procedural fault with almost every aspect of Ms. Caldieri's teaching, including insufficient instructions given by Ms. Caldieri to students, insufficient note-taking by students, too many questions asked by students, and accepting oral answers to questions Ms. Caldieri had posed to the class during a lecture rather than directing students to write down their questions and submit them afterward. (*Id.*) Ms. Caldieri responded in writing to this evaluation, as she was directed to do, refuting the criticisms leveled at her in a professional, but methodical, manner. (*See* Finding 73.) The refutation was credible, as was her testimony regarding it. The administration did not respond to Ms. Caldieri's refutation at the time, and its testimony here did not address it;

(8) Another ad hoc classroom observation of sorts followed on December 3, 2010 (*See* Finding 76.) Ms. Caldieri was teaching an E Block Writing Workshop she had been assigned in addition to her five Latin classes, and in which she was teaching a lesson in debate style. As related by Ms. Caldieri, which was not contradicted by any other testimony or by anything else in the record, Principal McCarthy appeared in the classroom doorway and interrupted her lesson to ask what was going on, ostensibly because he suspected, or someone had told him, that students in the class were

behaving in a disruptive manner. After Ms. Caldieri explained what she was teaching, Mr. McCarthy declined her invitation to join the class and actually observe it. (*Id*.) He told Ms. Caldieri to send disruptive students to the school's planning room, and then left. He then prepared a facially hostile letter that raised a fictional specter of classroom chaos and threatened discipline. (*See* Finding 77.) Without specifying what observations he had made, the Vice Principal asserted that Ms. Caldieri was not engaging the students in the workshop class students actively and productively "at the expected level." In fact, he had observed very little, having stood in the classroom doorway briefly, asked what was going on, and then left after declining to join the class and observe the ongoing lesson as Ms. Caldieri had invited him to do. Mr. McCarthy also stated in his letter to Ms. Caldieri that students should be "working bell to bell" with no "free time" at the start or end of class, but he did not state that he had observed students in Ms. Caldieri's writing workshop class doing anything but working "bell to bell," or having "free time." (*Id*.) The Vice Principal also directed that Ms. Caldieri "should stand or sit near the students while they are working" so that she "could better manage their behavior and keep track of their progress." However, he did not state in his letter that he had observed Ms. Caldieri sitting anywhere but at the same table as the students who were presenting their debating points, and near them. Nor did he state in his letter what type of lesson or exercise he had observed Ms. Caldieri teaching, or what, if anything, was educationally wrong or ineffective with the seating arrangement he had observed in the context of the writing workshop lesson or exercise Ms. Caldieri was teaching. (*Id*.);

(9) What Vice Principal McCarthy did do was to send a copy of his letter to the Principal and to the Foreign Languages Department Chair, as well as to Ms. Caldieri. (*Id*.) When Ms. Caldieri

received and read the Vice Principal's letter, including the "ccs" at the bottom, she believed that it signaled imminent termination by the school administration. (Finding 78.) Her conclusion was reasonable, in view of the administration's increasingly aggressive stance toward her since mid-January 2010, including the discipline proceedings, being placed on probation for a year (which remained in effect on December 3, 2010), and having her paid hours cut while her class load was increased without additional preparatory time, being compelling her to teach multiple levels of Latin in a single classroom, and being subject to ad hoc classroom observations. She left the school after receiving Vice Principal McCarthy's letter, and suffered a seizure shortly afterward, while she was in her car outside her doctor's office. (*Id*.) She did not return to teach afterward.

Former Principal Smith's explanation, during his testimony here, was that Ms. Caldieri's medical condition had become a matter of concern after Phoebe Prince's suicide for the teacher's safety and that of her students. (*See* Finding 52 and n. 52.) He wanted Ms. Caldieri to report her medical "incidents," and to let him know if she did not feel well so he could find a substitute teacher to cover her classes. He spoke with Vice Principal McCarthy about monitoring Ms. Caldieri's classes more frequently and "stepping up" drop-in observations, mostly to make sure she and her students were OK. The School Superintendent had told him to do this, but not to formalize the observation process further. Principal Smith also testified that once Ms. Caldieri began reporting how she felt more frequently, the number of informal visits to her classes by administrators "was reduced." (*Id*.)

Even if one accepted that the school acted toward Ms. Caldieri after January 14, 2010 at least partially out of concern for her, what it actually did was unnecessarily punitive and heavy-handed, and it became more so into the 2010 fall semester. It was clearly not helping Ms. Caldieri teach

through her condition. It was also visibly stressing Ms. Caldieri; In several instances after January 14, 2010, she had a seizure almost immediately following one of these heavy-handed actions.

To the extent the school administration may have initially backed off from formal observations of Ms. Caldieri's teaching, this approach had changed by October 2010. The ad hoc classroom teaching observation by the Vice Principal and Foreign Languages Department Chair on October 20, 2010 was formal and aggressive, and placed an emphasis upon administratively-preferred classroom procedure, such as where a teacher should stand, how she should walk about a classroom, how many times she should interrupt a class with homework and note-taking reminders, and how she should direct students to forego oral answers to questions in class in favor of submitting written answers, in part to tamp down student exuberance that the administrators reviewing Ms. Caldieri's teaching appeared to regard as disruptive.

Through 2009, those preferences had yielded in importance to the educational success of Ms. Caldieri's teaching, and to the successful rebuilding of South Hadley High School's Latin program, an objective Ms. Caldieri had achieved with the school's support. (*See* Findings 70-72.) Ms. Caldieri had not lost her professionalism or effectiveness as a teacher when her classroom teaching was observed in October 2010. The degree of faultfinding to a fault that emerges from the October 20, 2010 observation report underscores the effort to which classroom procedure was elevated over educational substance in order to generate even a hint of declining teacher performance.

Ms. Caldieri responded to this report professionally and methodically. (Finding 73.) Her response prompted neither a refutation by the administration nor a followup conference to discuss a plan for helping Ms. Caldieri achieve whatever improvements in classroom teaching and discipline

she needed to implement.

On December 3, 2010, the Vice Principal appeared suddenly in the doorway of Ms. Caldieri's writing workshop class. He interrupted a lesson she was teaching via an organized student debate format. There is no evidence that this lesson format was a prohibited teaching method, or even one that was frowned upon. The Vice Principal's expressed concern was about "disruptive" students. There was no evidence of any disruptive behavior in Ms. Caldieri's class. He declined Ms. Caldieri's invitation to join the class and observe it, and simply walked away after telling Ms. Caldieri to send "disruptive" students to the school's "planning room." Having not actually observed the class, the Vice Principal then composed, and sent to Ms. Caldieri, a letter implying that he had done so and had observed a chaotic classroom (*See* Findings 76-77.)

The Vice Principal's letter was stunningly misleading and omissive as to what he had actually observed. It is simply not credible. The now-former Vice Principal did not testify here, and was, as a result, not available to be questioned about the letter or the ad hoc classroom doorway pop-in visit that had preceded it.

While former Foreign Languages Department Graf asserted that Ms. Caldieri's observations during the Fall 2010 semester were motivated by concern about the teacher's health, there was no evidence that this concern translated into actual help for this teacher. Ms. Graf agreed, during her testimony here, that "if" there was a formal plan to support Ms. Caldieri through appropriate accommodations in view of her disability, it was "disappointing," and that there was no ADA-compliant plan in place to accommodate Ms. Caldieri's disability. (*See* Finding 79.) Of equal significance here was that the Principal had threatened at the start of the Fall 2010 semester to

redirect her students to online learning (and essentially make her superfluous as a Latin teacher) if she grieved, or continued to complain about, her increased workload. This threat crossed the line of decency (and possibly of lawfulness under both the collective bargaining agreement in effect at the time, and applicable disability law), taking it well beyond the realm of workplace stress common to a great many professions. As well, it marked a significant departure on the administration's part from the support it had shown for Ms. Caldieri through 2009.

Starting January 18, 2010, Ms. Caldieri reported these and other negative workplace changes that were affecting her mental and physical health to her treating physicians. (*See, e.g.*, Finding 51 (on January 18, 2010, Ms. Caldieri told Dr. O'Connell about her treatment at the school after January 15, 2010); Finding 52 (Ms. Caldieri told Dr. Ryan on February 1, 2010 that the school had placed her on probation); Finding 64(b)(Ms. Caldieri told Dr. Ryan on August 26, 2010 that she was "scared to death" about returning to the school to teach her increased number of classes and other job stressors); and Finding 74 (Ms. Caldieri told Dr. O'Connell on October 28, 2010 that she was not doing well due to her having to teach various levels of Latin at the same time).) As she reported these stressors throughout 2010, Ms. Caldieri's treating physicians noted her deterioration and increased her medication dosages to address her seizures, depression and anxiety. While several physicians believed Ms. Caldieri's seizures were related to MS, they viewed them as more likely non-epileptic pseudoseizures, a type of seizure that stress can trigger. Neurological medical panel member Dr. Masi noted, and commented extensively on, the non-epileptic nature of these seizures and the absence of confirmed MS. (*See* Finding 96.)

Ms. Caldieri continued to teach through the increased seizures; the increasingly high dosages

of anticonvulsant and anti-depression medications prescribed for her; the additional teaching load she was assigned despite having her paid hours reduced; and, as well, the unscheduled and increasingly hostile ad hoc classroom observations by school administrators. Notably absent from the testimony or the remainder of the record is evidence that, after January 14, 2010, any school administrator assisted Ms. Caldieri, spoke with her professionally about her acknowledged classroom and workload challenges, or showed any interest in providing her with a classroom accommodation so she could teach effectively while under the increased pressures of a year-long probation as a teacher, an increased class load, increased teaching challenges (such as having to teach additional classes without sufficient prep time, and having to teach multiple levels of Latin in the same classroom simultaneously), and her visibly deteriorating health.

I do not point out these omissions for the sake of moralizing but, instead, to underscore the increasing, identifiable work-related stressors that were added as barriers Ms. Caldieri had to work through to succeed as a teacher at the high school after January 14, 2010. Before that date, Ms. Caldieri had received excellent and encouraging performance reviews, and had been treated with respect and compassion as a colleague whose work and contributions to the school (including rebuilding the school's Latin program, a matter of importance to the School Superintendent when he hired her in 2005) were valued and recognized by the school administration. Despite her comorbidities and heavy medication regime, she continued to teach effectively through 2009 and wanted to continue doing so in 2010. The administration's support for her through 2009 no doubt encouraged Ms. Caldieri to keep teaching at the high school despite the misgivings of her treating physicians. After the student suicide on January 14, 2010, however, the administration shifted its

stance toward Ms. Caldieri significantly. The new approach manifested as a series of increasingly adversarial actions that included verbal dressings-down, disciplinary proceedings, a cut in paid hours along with an increased workload, an impossible-to-achieve performance benchmark (teaching multiple levels of Latin in the same classroom at the same time), a threat to have her Latin classes taken away from her if she grieved or complained about her worsened work conditions, and hostile ad hoc classroom observations. In addition, despite the administration's professed awareness of Ms. Caldieri's medical condition overall, it neither offered nor gave her any assistance in meeting her newly-increased workload and nearly impossible new performance expectations, especially during the Fall 2010 semester. Overall, there remained. after January 14, 2010. none of the good-faith performance evaluations, and none of the collegial or professional support, Ms. Caldieri had received from the school administration through the end of 2009.

While Ms. Caldieri taught into the beginning of December 2010 through these stressors and her increasing seizures, depression and anxiety in response to them, and the high medication dosages prescribed for her to treat her psychiatric and neurological responses, she lost the physical and mental ability to teach after receiving the Vice Principal's December 3, 2010 letter. As had happened when the Principal dressed her down and threatened suspension on January 15, 2010 for taking the students to the off-campus meeting at student X's home despite having confirmed consent to do so (*see* Finding 48), Ms. Caldieri experienced a seizure shortly after she read the Vice Principal's December 3, 2010 letter and left the school, never to return. (*See* Finding 78.)

c. Neurological Medical Panel

The neurological medical panel opined in the negative as to possible work-related

aggravation of Ms. Caldieri's assumed multiple sclerosis. However, as two of the panel members (Drs. Masi and Kereshi) pointed out (and as the medical records show), MS was never confirmed by testing. (*See* Findings 95(b) and 96.) Dr. Masi rejected the MS diagnosis outright. (*See* Finding 96.) The psychiatric panel majority opined in the affirmative as to the possible work-related aggravation of Ms. Caldieri's pre-existing depression and anxiety. If only because Ms. Caldieri's neurological and psychiatric conditions were comorbidities, the majority psychiatric panel's majority affirmative opinion as to possible work-related aggravation applied to her non-epileptic seizures as well.

These differing medical panel opinions as to possible work-related aggravation create a kind of medical panel opinion mash-up on this issue, but it is readily resolved. It is clear that each panel opinion as to possible work-related aggravation was based upon a different type of seizure. The neurological panel opinion was based upon Ms. Caldieri having MS-related, and therefore epileptic, seizures not triggered by stress, even though two of the panel members rejected the MS diagnosis and thought Ms. Caldieri's seizures were non-epileptic pseudoseizures. The psychiatric panel's majority opinion was based upon Ms. Caldieri having had non-epileptic pseudoseizures that stress can trigger, such as the seizures and related psychiatric comorbidities (depression and anxiety) that Ms. Caldieri experienced after the administrative actions taken against her after January 14,2010 and that she reported in a timely manner to her treating physicians.

The difference in panel outcomes comes down to the type of seizures Ms. Caldieri actually had. Complicating the work of both panels was apparent confusion or indecisiveness on the treating physicians' parts as to whether she had confirmed MS and MS-related seizures before January 14,

2010, which is the baseline period for determining whether there was any seizure condition that could have been aggravated by workplace stress after that date.

The neurological medical panel appeared to have resolved this by confining its opinions to MS and MS-related epileptic seizures. As panel member Dr. Masi pointed out, epileptic seizures such as those associated typically with MS can be confirmed through testing such as EEGs, but there was no such confirmation here. When an EEG was finally performed in 2011, it was inconclusive as to whether the seizures recorded were epileptiform in nature. The difference between epileptic and non-epileptic seizures in terms of stress aggravation is one reason why Dr. Masi went to great lengths to note the absence of reliable data supporting the MS diagnosis Dr. Ryan and other treating physicians had included in their notes. Dr. Masi was also skeptical as to whether Ms. Caldieri ever had MS at all. She remained convinced that nonepileptic pseudoseizures were not ruled out, and none of the other neurological medical panel physicians opined that they were. She also noted Ms. Caldieri's prescription medication regime, especially multiple anticonvulsants, which did not improve her seizure condition. This reinforced Dr. Masi's opinion that non-epileptic pseudoseizures were the more likely diagnosis. (*See* Finding 97.) The other neurological panel members did not disagree.

However, while the neurological panel appears to have agreed that MS, and, therefore, epileptic seizures, were never confirmed, the panel nevertheless issued a unqualifiedly negative opinion as to work-related causation that M.G.L. c. 32, § 6(3)(a) did not ask it to give, and that did not answer the question the statute posed as to whether the ADR applicant's likely-permanent disability was " *such as might be* the natural and proximate result" of a work-related injury. The

panel conflated MS-related epileptic seizures and non-epileptic pseudoseizures, and applied to all of them a standard applicable to epileptic seizures only—that MS progresses inexorably, and that its related seizures occur regardless of workplace (or any) stress. Whether based upon the inherent nature of MS or how far the panel thought Ms. Caldieri's MS had progressed, the neurological medical panel members opined that Ms. Caldieri's seizures could not have been aggravated by the post-January 14, 2010 work-related stresses she identified.

Ms. Caldieri's ADR application is not at fault for this conflation. It asserted MS and seizure disorders as separate conditions that were aggravated by work-related stress. The members of both medical panels accepted, as had Ms. Caldieri's treating physicians, that MS-related seizures and pseudoseizures are different types of seizures. The medical records, as well as the neurological panel opinions (particularly Dr. Masi's opinion) support this distinction and, as well, the difference between them in terms of stress-triggering. The records and testimony show that Ms. Caldieri experienced well-identified instances of stress at work in the high school after January 14, 2010, with seizures following, often quickly.

If epileptic seizures had been established by confirmed MS, the occurrence of seizures following work-related stresses Ms. Caldieri experienced in 2010 might be more accurately characterized as coincidental, given the progression of MS and the non-psychiatric origin of MS-related epileptic seizures. That would have likely negated stress-caused seizures as the efficient cause of Ms. Caldieri's disability by way of work-related aggravation.

However, MS was never confirmed, as neurogical panel members Dr. Masi and Dr. Kereshi both pointed out. With no confirmed MS, the medical records support the classification of Ms.

Caldieri's seizures as non-epileptic pseudoseizures, which are subject to triggering by stress, rather than as MS-related epileptic seizures that occur regardless of work-related stresses such as Ms Caldieri identified. Again, Dr. Masi thought this to be the more likely diagnosis, and the other neurological panel members did not disagree, The records, and the testimony, show that Ms. Caldieri experienced significantly increased workplace stresses after January 14, 2010, all related to the performance of her teaching duties, and she experienced increased seizures after these instances of additional stress. There is no factual or medical support, or even support in the neurological medical panel's opinions, for assuming that the stresses and seizures were coincidental.

What emerges is that the post-January 14, 2010 workplace stressors Ms. Caldieri identified were the efficient cause of her increased non-MS-related, and non-epileptic, pseudoseizures during the remainder of that year and, thus, the aggravation if her preexisting psychiatric conditions (non-epileptic pseudoseizures and related depression and anxiety) to the point of likely-permanent disability. The neurological medical panel opined that Ms. Caldieri's MS ruled out stress-related aggravation of her seizures. The opinion rested upon an unsupported assumption that Ms. Caldieri had an inevitably-progressing MS. MS was never confirmed by testing, as two of the neurological medical panel members pointed out. The neurological medical panel applied, to Ms. Caldieri's non-MS-related (and non-epileptic) pseudoseizures, a standard of "no possible aggravation by stress" that applied only if Ms. Caldieri's suspected MS had been confirmed, and her seizures had been confirmed as MS-related as well. As Dr. Masi noted, without disagreement by her neurological panel co-members, and as the medical records show, neither confirmation occurred.

The neurological medical panel also opined that because Ms. Caldieri had seizures and

related depression and anxiety before the student suicide's on January 14, 2010, they could not have been exacerbated. That position stands both logic and the instructions given to the medical panel on their respective heads. The preexistence of a medical condition is, by definition, a prerequisite for its possible work-related aggravation. (*See* the instructions for completing the Medical Panel Certificate, quoted above at n. 77.) A medical condition's preexistence does not rule out its possible work-related aggravation. Chapter 32 presupposes that a preexisting medical condition can be aggravated efficiently by work-related factors. If there is any authority to the contrary, none was cited by any of the neurological panel reports, or by MTRS.

To the extent the neurological medical panel regarded the preexistence of Ms. Caldieri's medical comorbidities as itself a reason for ruling out their possible work-related aggravation, its unanimous negative opinion as to possible work-related aggravation was based upon an additional erroneous standard. There is, quite simply, no such standard, and inferring one is contrary to the instructions given to the medical panel members.

With the exception of the panel's conclusion as to MS and its associated epileptic seizures (if any), the panel's negative opinion as to work-related aggravation is not binding as to Ms. Caldieri's non-epileleptic pseudoseizures or related depression and anxiety. As to those conditions, the neurological panel's unanimous negative opinion as to work-related aggravation either does not apply to any of her preexisting psychiatric medical conditions including non-epileptic pseudoseizures; or, if it was intended to apply to them, was based upon erroneous standards.

d. Psychiatric Medical Panel

I turn next to the psychiatric medical panel's majority affirmative opinion (of Drs. Rice and

Farrell) as to possible work-related aggravation of Ms. Caldieri's preexisting psychiatric conditions, and the weight to which this opinion is entitled here.

Dr. Rice's opinion. Dr. Rice recognized that Ms. Caldieri had a history of neurological and psychological issues prior to the student's suicide in mid-January 2010 that included depression, seizures, memory problems, and what Ms. Caldieri called multiple sclerosis. He included this history in his medical panel report, and treated it as medically significant in formulating his opinion as to possible work-related aggravation. (*See* Findings 100(b), (g) and (h).) He emphasized that Ms. Caldieri had been able to teach despite these preexisting medical issues, but her condition worsened and her functional capacity as a teacher declined after the student's suicide and as a result of how the school administration treated her.

Dr. Rice also opined that, with a reasonable degree of medical certainty, the incapacity "was such as might be the natural and proximate result of the personal injury sustained and hazard undergone on account of which retirement is claimed." He stated that Ms. Caldieri " was able to teach until the student's suicide. Her psychological and neurological signs and symptoms [had] steadily worsened and her functional capacity as a teacher ha[d] declined since the suicide of one of her students and the reported harassment by the staff of her high school." (Finding 100(h).).

Dr. Rice answered the additional questions posed by MTRS prior to Ms. Caldieri's examination by the members of both medical panels (*see* Finding 99).

(1) As to the conditions that prevented Ms. Caldieri from performing the essential duties of her job, Dr. Rice stated that these "include[d] her major depression and her severe reduction in memory capacity and clear vision as well as the strength to use her arms and legs." All of these

conditions contributed to her disability, in Dr. Rice's opinion, and "several of them, if taken alone, would be disabling to the extent of preventing her from performing her job." (Finding 100(h).)

(2) As to whether Ms. Caldieri was disabled from performing her job as a result of her various psychiatric/medical conditions prior to the January 2010 incident in question, Dr. Rice answered that Ms. Caldieri "was able to do her job until December of 2010. Her medical conditions did not prevent her from performing her job prior to the occurrence in January of 2010." (*Id*.)

(3) As to whether Ms. Caldieri's current condition was the result of the natural progression of her preexisting conditions, Dr. Rice answered that it was not, adding:

> Rather her disability is the result of an acceleration of her medical conditions and the direct emotional impact of her student's suicide and the reported harassment she received afterwards from the administration of her school.

(*Id*.)

(4) As to work-related aggravation of Ms. Caldieri's disability, Dr. Rice opined that "both the suicide of her student as well as her reported treatment by the administration have led directly to both her neurological and psychiatric disorders and the resultant disability." (*Id*.)

Dr. Ferrell's Opinion. Dr. Ferrell identified Ms. Caldieri's preexisting seizures and emotional issues including depression, and treated this as a baseline prior to the student suicide in mid-January 2010 from which he perceived a worsening of both conditions. (*See* Findings 101(c) and (d).) He acknowledged Ms. Caldieri's history of extensive emotional trauma associated with childhood physical and sexual abuse and, later, marital abuse, as well as persisting depression "often exacerbated by situational stressors." (*Id*.) This "culminat[ed] in a worsening of her medical status, seizure control (sic) and multiple sclerosis flare ups after the suicide of her student in 2010." (*Id*.)

Dr. Ferrell agreed with Dr. Ryan's opinion that Ms. Caldieri "had a progressive deterioration

[of] her capacity to perform in a school teaching capacity due to her multiple sclerosis and depression," and of her "preexisting psychiatric condition associated with depression and personality disorder features" that she had "for a number of years prior to the onset of the neurological condition." (Finding 101(d).) Notwithstanding Ms. Caldieri's preexisting "complicated medical/neurological condition," Dr. Ferrell opined that her "progressive neurologic condition" (which he did *not* identify as multiple sclerosis-related), was "exacerbated and hastened as a result of aggravation she experienced at the school" as well as by "events associated with her employment at [the] school around the time of the suicide of her student." (Finding 101(f).)

To an extent, the psychiatric panel majority affirmative opinion as to aggravation reflects some confusion regarding multiple sclerosis and whether the administrative actions following the student suicide were more efficient possible causes of aggravated psychiatric conditions than was the suicide's occurrence. These are not fatal flaws in the majority affirmative opinion. Sequentially, the suicide preceded the school administration's actions. While the suicide was emotionally overwhelming for the entire school community as of January 15, 2010, Ms. Caldieri was then subjected to subsequent stresses by the administrative action directed specifically against her. These actions continued until and including December 3, 2010. The off-campus suicide is not itself a basis for ADR. *See Adams v. Massachusetts Teachers' Retirement System*, Docket No. CR-13-211, Decision at 52-55 (Mass. Div. of Admin. Law App. (May 25, 2018)(discussed above). However related to the suicide (or the related student bullying) the administration's actions may have been originally, the 2010 administrative actions in question here stand on their own as separate potential stressors that aggravated Ms. Caldieri's non-MS-related medical conditions. On the relevant

historical timeline of aggravation, these administrative actions were nearer in time to the disability that ultimately resulted on December 3, 2010. The psychiatric medical panel's opinions do not show unawareness of this timeline, or any confusion as to what effect the administrative actions had on Ms. Caldieri's non-epileptic pseudiseizures and related depression and anxiety after Phoebe Prince's suicide. All told, the psychiatric panel majority agreed that Ms. Caldieri was able to continue teaching after the student suicide, but perceived that the odds of her being able to continue doing so worsened as the school administration took the actions it did in 2010 until, as of December 3, 2010, she could no longer teach through those actions or in spite of them.

The medical record showed this worsening. The worsening could be graphed against time between January 15, 2010 and December 3, 2010, if either party had taken the time to do so. It would show the medically-documented dwindling emotional and physical reserves Ms. Caldieri could muster to keep teaching as the school administration's actions against her progressed after January 15, 2010, and continued until early December 2010—from dressing-downs and a lengthy probation, to a reduction of Ms. Caldieri's paid position to 80 percent of full-time, to an increase in her class load beyond anything she had been assigned before, to the imposition of impossible classroom teaching demands (such as having to teach multiple levels of Latin in the same classroom at the same time), to a threat to divert her Latin students if she challenged or questioned her increased workload via a grievance or generally, to hostile ad hoc classroom evaluations that found fault to a fault, without offering the teacher any assistance in meeting new demands imposed upon her despite her obvious health-related difficulties, to the Vice Principal's hostile and practically fraudulent letter threatening discipline on December 3, 2010. The graphical depiction of Ms. Caldieri's progressing

inability to resist the stress of this persisting administrative action against her would show that these actions were not instances of hurt feelings. They involved, instead, Ms. Caldieri's core teaching duties and her ability to perform them as related stresses were directed at her by the school administration. The elements of this progressively increasing stress included Ms. Caldieri's employment status at the high school, specifically her disciplinary status as a teacher placed on a lengthy probation without written explanation, and out of proportion to whatever the offenses were for which the Principal punished her. Other elements included Ms. Caldieri's compensation, which was reduced even as her workload was increased; her ability to prepare sufficiently for the increased classes she taught; and a threat of retaliation including loss of her Latin classes if she questioned her increased work load. Another was, on December 3, 2010, a threat of discipline if Ms. Caldieri did not implement arbitrary demands that she step up her physical and verbal activity in the classroom that was clearly beyond her ability to stand, walk and speak loudly. The resulting graphic representation of these events and the worsening of Caldieri's psychiatric comorbidities would be dramatic on paper. It can be visualized effectively as well.[97]

However one assembles and considers the timeline of these actions and their impact upon

[97]/ I mention this as a way of thinking about a complex evidentiary record in evaluating the proximate causation of likely-permanent, work-related disability. For a classical example of an effective, but accurate, infographical representation of related adverse events and their negative impact on over time in a different historical context, *see* Charles Joseph Minard's 1869 graphical depiction of the losses of the French Army during Napoleon's 1812-13 invasion of and retreat from Russia, as temperatures fell below zero. (*See, e.g.*, https://scu2.anu.edu.au/core/Hgraphs/graphs6.html?backgroundColor=ffcc99&language=en&nextPageType=2.) With a sufficient, credible correlation of related parallel events, this graphical portrayal is a stunning marshaling of an otherwise unwieldy historical record that, alone, does not explain clearly either the outcome or which of various possible causative events was the outcome's predominant contributing cause.

Ms. Caldieri psychiatrically, assembling them demonstrates that the majority affirmative psychiatric medical panel opinion as to work-related aggravation is grounded firmly upon both the medical and non-medical record presented here. The opinion is entitled not only to weight as "some evidence" of possible work-related aggravation as Ms. Caldieri alleged, but also to "great weight." There is no evidence that the panel's majority affirmative opinion as to work-related aggravation was based upon an erroneous standard or was plainly wrong. The medical records also support this opinion. Both the medical records and the testimony show increasing work-related stresses for Ms. Caldieri as a result of significantly-changed administrative conduct toward her after January 14, 2010. The medical records show that Ms. Caldieri was not disabled by her medical conditions from performing her work as a Latin teacher prior to 2010, and indeed she taught well into the 2010 Fall semester. The classroom terpsichorean preferences of the administrators who evaluated Ms. Caldieri on October 2010 aside, their substantive evaluation of Ms. Caldieri's classroom teaching in October 2010 did not differ essentially from her classroom evaluations through 2009. As of late October 2010, she remained, as she had been before, a highly-effective teacher. She was paying a personal price for overcoming the increasing stresses placed upon her at the school, however. The medical record shows that as the administrative actions Ms. Caldieri identified continued into the Fall 2010 semester, it became increasingly difficult for Ms. Caldieri to teach the classes she was assigned plus the additional writing class, and to teach several levels of Latin in the same classroom at the same time. Her pseudoseizures and other psychiatric conditions worsened, and with the ad hoc, negative classroom observations starting in October, particular the cursory review that culminated in a threat of discipline on December 3, 2010, Ms. Caldieri could no longer teach.

All of this supports the psychiatric medical panel's affirmative majority opinion that the post-January 14, 2010 administrative actions Ms. Caldieri identified efficiently aggravated Ms. Caldieri's preexisting psychiatric conditions to the point of likely-permanent disability. These conditions include not only her depression and anxiety, but also her non-MS-related, and non-epileptic, pseudoseizures.

e. MTRS's Rejection of the Psychiatric Panel Affirmative Majority Opinion as to Possible Work-Related Causation

MTRS declined to accept the majority affirmative psychiatric panel's opinion as to possible work-related aggravation of Ms. Caldieri's pre-existing medical condition, particularly her depression and related seizures, and other emotional or psychiatric conditions. In doing so, and denying Ms. Caldieri's ADR application, MTRS relied upon both the negative neurological medical panel opinion as to possible work-related aggravation of preexisting multiple sclerosis and related seizures, and the minority negative opinion of psychiatric medical panel member Dr. Michael Rater as to possible work-related aggravation of preexisting psychiatric conditions.

Without question, MTRS gave more weight to the minority negative psychiatric panel opinion as to work-related aggravation than it gave to the panel's majority affirmative opinion. I have already concluded that the majority affirmative opinion as to aggravation of Ms. Caldieri's psychiatric problems is entitled not only to some weight on the issue, but to great weight. I consider next whether Dr. Rater's monirity psychiatric panel opinion suffices to overcome, or even counterbalance, the majority affirmative psychiatric medical panel opinion.

Dr. Rater defined Ms. Caldieri's preexisting condition (prior to the student's suicide in mid-

January 2010) as multiple sclerosis and eating disorder, PTSD, and depression and anxiety secondary to multiple sclerosis. He opined that this preexisting condition was progressing in a linear manner, and that, as a result, it could not be altered by any particular stressor. (*See* Finding 102.) Dr. Rater noted a history of medically-documented depression and anxiety going back to 2003. (Finding 102(e).) He noted without referring to specific records, and apparently found it significant, that Ms. Caldieri had experienced negative feelings about her weight, depression, difficulty relaxing and suicidal thoughts (on which she did not act during the time she taught at South Hadley High School), felt her students hated her and expressed thoughts about leaving teaching (also not acted upon), had in-school "episodes" in 2006, 2007 and 2008 during which her speech was off and her head lolled, and also had pseudoseizures starting in 2003, well before the student's suicide. (Finding 102(e).)

Dr. Rater did not mention in his report, however, that between late 2005 and 2009, and despite her medical issues including her seizures, depression, Ms. Caldieri had continued to teach successfully, had received very positive job performance reviews from the school administration, had been named teacher of the year, remained dedicated to her students, taught a full course load in a difficult subject (Latin) across all four high school grade levels plus advanced placement, and never filed a retirement application. Dr. Rater did mention that the records of Ms. Caldieri's treating physicians, including Dr. Ryan, Dr. O'Connell and Dr. Bigda, mentioned seizures increasing in number in 2010; in addition, during that year she also reported to her caregivers the additional stress she felt as a result of negative administrative conduct toward her at school, including being summoned to the Principal's office, being placed on probation, and the administration's overreaction to her sarcastic comment about whether it was necessary to commit suicide to draw administrative

attention to the impact of the student suicide inside the school, which Dr. Rater characterized, inaccurately, as a "threat" to commit suicide. (*See* Findings 102(e), (f) and (g).)

Dr. Rater opined that Ms. Caldieri's preexisting condition was neither accelerated nor worsened by these administrative actions in 2010.

The first ground for his negative opinion was that Ms. Caldieri "had a progressive and worsening case of multiple sclerosis for a number of years, with her disability status in play" beginning in 2009. (Finding 102.i (a).) However, the MS diagnosis was unconfirmed by an EEG or other tests, as neurological panel member Dr. Masi explained. (*See* Finding 96.) The medical records show no such confirmation of MS. Several of Ms. Caldieri's treating physicians were unconvinced of an MS, diagnosis, and and were convinced, instead, that non-epileptic pseudoseizures was the more accurate diagnosis. As noted above, pseudoseizures, unlike epileptic seizures, can be triggered by stress. Dr. Ryan shared this view until, in 2010, she changed it and diagnosed MS without identifying the confirmatory data supporting this diagnosis or explaining why she no longer considered the continued absence of such confirmatory data to be medically significant.

With an MS diagnosis unconfirmed, so, too, is an opinion that Ms. Caldieri's more likely non-epileptic pseudoseizures were following an inevitable course toward becoming disabling. More likely, these seizures were subject to being triggered by stress. As such, it is likely the seizures would not have attained the frequency and severity they did after January 14, 2010 if the school administration had taken steps to lessen, rather than increase, Ms. Caldieri's work-related stresses. As the administration alone decided to interject these stressors into Ms. Caldieri's classroom teaching, so, too, could the administration have withheld, withdrawn or lessened them. Absent any

testimony or other evidence that it would have been impossible to do so, this could have been done readily—for example, by not placing Ms. Caldieri on probation in January 2010 for a year; not reducing her paid hours and increasing her workload at the same time; not reverting to formal ad hoc classroom observations that magnified negatives regarding classroom procedure; reverting to the administration's approach through 2009 of accentuating, in the classroom observation evaluations, Ms. Caldieri's effective teaching and achievement of the objectives she identified for the observed classroom lessons; and not demanding, on December 3, 2010, that she implement successfully the teaching preferences of the Vice Principal on pain of discipline, without providing or offering assistance or accommodations she would have needed to meet those demands successfully.

Dr. Rater did not address any of this, possibly because he accepted the MS diagnosis even though it had not been confirmed by testing, and regarded Ms. Caldieri's seizures as MS-related and epileptic and therefore progressing inexorably to disability regardless of stress-related aggravation. If MS were confirmed and Ms. Caldieri's seizures were indeed related to it, Dr. Rater's opinion would have been entitled to greater weight. Precisely because MS and MS-related epileptic seizures were never confirmed, however, Dr. Rater's negative opinion as to work-related aggravation was inapplicable to Ms. Caldieri's non-MS-related (and therefore psychiatric) pseudoseizures and related depression and anxiety.

For all of these reasons, from the absence of confirmatory evidence of an MS diagnosis to Ms. Caldieri's continuing to teach with a high performance rating prior to the student suicide, and even afterward into the Fall 2010 semester when the administration pursued its negative actions against Ms. Caldieri, I do not credit Dr. Rater's opinion that Ms. Caldieri's disability was MS-based,

the MS was and related seizures were "in play" before the student's suicide in mid-January 2010, and both were progressing inevitably toward likely-permanent disability in 2010, regardless of work-related stress.

I also do not credit the remainder of Dr. Rater's stated grounds for his negative opinion as to work-related aggravation. (*See* Findings 102(i)(b)-(d).) I address these grounds and why I do not credit them next.

The absence of any particular aggravation of Ms. Caldieri's "progressive multiple sclerosis symptoms" by the student's death. There was no confirmed multiple sclerosis diagnosis. Therefore, there were no MS-related seizures that were not subject to stress aggravation, whether by the student suicide or by the school administration's treatment of Ms. Caldieri afterward. There was also no MS that was progressing toward inevitable and likely-permanent disability. More likely, as neurological medical panel member Dr. Masi opined and the medical record showed, Ms. Caldieri's seizures were non-epileptic pseudoseizures that were indeed stress-activated, and the stresses were far more numerous, and serious, at the high school after January 14, 2010 than they had been before. These stresses were mentioned in the records of Ms. Caldieri's treating physicians in 2010, including several disciplinary actions by the Principal, being summoned to the Principal's office, ad hoc classroom teaching observations, cold and seemingly punitive treatment by the school administration, a reduction in hours accompanied by an increase in teaching load and then being required to teach several levels of Latin simultaneously in one classroom at the same time, and a threat that her Latin class students would be diverted to internet learning if she grieved or complained about her workload. This was recorded throughout 2010 by Drs. Ryan, Bigda and

O'Connell and, as well, by Emergency Department physicians when she was treated at Cooley Dickinson Hospital during that year.

"[E]vidence that Ms. Caldieri was performing less well at work" and was becoming more frustrated and dissatisfied with it, before 2010." The evidence shows that until the end of 2009, and for most of 2010, Ms. Caldieri continued teaching all of her Latin classes, remained a highly-effective teacher, and did not file a retirement application.

Natural progression of a "combined preexisting condition of an eating disorder, PTSD, depression and multiple sclerosis" in a linear manner . . . [f]rom the time [Ms. Caldieri] was being assessed as disabled, until the time after the suicide of the student," so that it could not have been "aggravated in a permanent manner by the alleged injury sustained or hazard undergone." This ground essentially reasserts the others Dr. Rater gave for his negative opinion as to work-related aggravation, and fails for the same reasons the other grounds do. Both MS and MS-related epileptic seizures were never confirmed, and so neither was actually progressing to inevitable disability regardless of stress. Unbundled from an unconfirmed MS diagnosis, Ms. Caldieri's depression, anxiety and pseudoseizures were never confirmed as progressing "in a linear matter" toward becoming disabling. In August 2009, Dr, Ryan thought these medical conditions might become disabling, but, as I have noted, Ms. Caldieri continued teaching, and was able to overcome her medical issues on the job almost to the end of 2010.

For these reasons, Dr. Rater's opinion does not counter the psychiatric panel majority opinion as to the aggravation of Ms. Caldieri's preexisting psychiatric comorbidities by work-related stress. It does not show that the stresses imposed upon Ms. Caldieri at the school after January 14, 2010

Ms. Caldieri identified could not have been the efficient cause of the aggravation of her pseudoseizures, depression and anxiety to the point of likely disability by the end of that year.

Dr. Rater's report does not support, therefore, MTRS's rejection of the psychiatric medical panel's majority affirmative opinion as to work-related aggravation of Ms. Caldieri's preexisting, non-MS-related pseudoseizures, depression and other psychiatric medical conditions.

f. Identifiable Condition to Which Ms. Caldieri was Exposed that was "Not Common or Necessary to All or a Great Many Occupations

I turn next to the "identifiable condition" standard recited by *Blanchette*. This standard asks, in essence—in what respect were the stresses to which Ms. Caldieri was subjected after January 14, 2010 "not common or necessary to all or a great many occupations," or even to her own job prior to that date?

The "identifiable condition" alleged to have exacerbated Ms. Caldieri's pre-existing conditions to the point of likely-permanent disability was the school administration's conduct toward and treatment of her following Phoebe Prince's suicide. This conduct was intertwined with, and was possibly itself the result of a suddenly-changed, highly unusual and morale-shattering workplace environment that developed almost immediately when the community divided over who or what had driven the student to suicide and on whom blame should be placed. As the hearing testimony revealed, none of the school administrators or faculty, particularly those who testified here (Ms. Caldieri, former principal Daniel Smith, and former Foreign Languages Department Chair Tiesa Graf) was trained, or was prepared, to handle the impact of Phoebe Prince's January 14, 2020 suicide and the reaction to it both within and outside the high school. The student suicide (and the related

unresolved issue of student bullying) disrupted teaching, learning, school administration, professional mentoring, and maintaining the professional and classroom relationships on which a positive educational environment at South Hadley High School depended. As the hearing testimony also revealed, Ms. Caldieri's own education, training and experience had not prepared her to deal with the chaos into which the school plunged abruptly. The same may be said of the former Principal and Foreign Languages Department Chair.

Regardless of who did what, or why, as a result of the chaos that ensued at the school after January 14, 2010, the chaos found the staff and students of the school as they were at that time. In Ms. Caldieri's case, it found a teacher who had suffered with pseudoseizures, depression, eating disorders and other medical issues for several years, but had been able to overcome them sufficiently to teach well and effectively. She had, however, little in the way of physical and emotional reserves to handle an abrupt negative change in her workplace environment. In this respect, she was in no better emotional position than were Mr. Smith and Ms. Graf after Phoebe Prince's suicide. Ms. Caldieri's position was, in fact, worse, in view of her preexisting non-MS-related pseudoseizures (which were subject to triggering by stress), depression and anxiety. Neither Mr. Smith nor Ms. Graf claimed to have been similarly challenged by medical conditions. Also, unlike the former Principal and Foreign Languages Department Chair, Ms. Caldieri was subjected to discipline, paid hours reduction and a simultaneous workload increase, and other forms of increasing negative administrative assessment.

Ms. Caldieri had taught successfully in spite of her medical comorbidities prior to the student suicide, and continued to do so into the Fall of 2010 in spite of increased work-related stress. That

stress persisted through the Fall 2010 semester, and turned especially harsh on December 3, 2010. What put the proverbial tin hat on the stressful administrative actions that had begun after January 14, 2010 was the December 3, 2010 "observation" by the Vice Principal and the discipline he threatened in his letter of the same date. Ms. Caldieri could not teach after that.

This was what the neurological medical panel overlooked, relying instead upon a medically-unjustified conflation of Ms. Caldieri's medical issues into manifestations of an inevitably-progressing multiple sclerosis. Again, an MS diagnosis was never confirmed, and neither were Ms. Caldieri's seizures confirmed as MS-related epileptic seizures, a point the neurological panel conceded but then brushed aside in issuing its negative opinions as to work-related aggravation. As neurological medical panel member Dr. Masi pointed out, Ms. Caldieri's seizures were more likely non-MS-related, and non-epileptic, pseudoseizures that, unlike MS-related seizures, were indeed subject to being triggered and aggravated by stress.

As to Ms. Caldieri's non-MS-related seudoseizures, therefore, the neurological medical panel's unanimous negative opinion as to work-related aggravation is non-binding.

In contrast, the psychiatric medical panel majority regarded Ms; Caldieri's pseudoseiUzures as subject to aggravation, and opined that the [pst-January 14, 2010 school administration actions Ms. Caldieri identified aggravated her psychiatric injuries to the point of likely disability. Ms. Caldieri was able to teach through her psychiatric (and non-MS-related) comorbidities prior to January 14, 2010, but she could not do so any longer by the end of the December 3, 2010 workday. The only identifiable, and efficient, mechanism for bringing on this likely-permanent disability, was the aggravation of her pseudoseizures, depression and anxiety brought about by the administrative

actions Ms. Caldieri identified, culminating in the December 3, 2010 classroom "observation" by the Vice Principal and his followup letter.

What Ms. Caldieri experienced following Phoebe Prince's off-campus suicide was not merely the suicide's emotional impact upon her, which alone would not suffice to show work-related aggravation of her psychiatric conditions. (*See Adams v. Massachusetts Teachers' Retirement System*, Docket No. CR-13-211, Decision at 52-55 (Mass. Div. of Admin. Law App. (May 25, 2018), discussed above.) The work-related element of Ms. Caldieri's ADR claim comprised the actions of the school administration toward her afterward, which continued through the Fall 2010 semester. She had never experienced this before at the school, having been, before January 14, 2010, a well-liked teacher of a difficult subject across all grade levels, with high performance ratings and, as well, administrative recognition of her significant contribution to the restoration of the high school's Latin program, the precise purpose for which the school and the school superintendent had recruited her in 2005.

This was despite Ms. Caldieri's medical difficulties, of which the school's administration was sufficiently aware. They had, before January 14, 2010, valued Ms. Caldieri as a professional colleague and personally, and had given her support and encouragement. What she experienced after January 14, 2010 was aggressive, threatening and punitive administrative action. It included being summoned to the principal's office, being threatened with suspension, disciplinary hearings, and being placed on probation for a year. It included being converted to a part-time employee for payroll purposes but being given, nonetheless, an increased class load without the requisite preparatory time, and being left on her own figure out how to teach multiple levels of Latin, from freshman high

school level to advanced placement, in a single classroom. She was dealt with harshly, at one point being told during the Fall of 2010, while she was experiencing a seizure, to enter an ambulance or be forced to do so involuntarily by court order. (*See* Finding 68(c).) Ms. Caldieri also found herself facing an administration that did not want to discuss anything with her. The school had no plan in place to accommodate Ms. Caldieri's disability even during the Fall of 2010; nor did it have any plan to help her in view of her medical condition. (*See* Finding 79.)

All of this contributed to an ongoing multiplicity of new work-related stresses that persisted into the Fall 2010 semester. Ms. Caldieri's seizure situation had stabilized as of the Fall of 2009. After January 14, 2010, however, Ms. Caldieri had seizures frequently, sometimes as soon as she experienced stress as a result of administrative conduct toward her, sometimes in the principal's office. There is no evidence of any competing, efficient mechanism that could have aggravated her non-MS-related comorbidities to a point that overwhelmed her previous ability to work through them and disabled her from being able to continue teaching.

To some degree, this conduct toward Ms. Caldieri was the outgrowth of emotional damage that school administrators also sustained as a result of the student suicide—which the testimony of former Principal Smith and former Foreign Languages Department Chair Graf suggests was likely the case. Without question, these administrators were affected adversely by the student suicide and the chaos that ensued at the high school. However, I decide here only whether Ms. Caldieri qualifies for ADR benefits based upon the possibly work-related aggravation of her preexisting comorbidities. The aggravation issue has required determining the nature of Ms. Caldieri's seizures, which made them susceptible to triggering by stress; the nature of the work-related stresses, which were imposed

by specific administrative action directed specifically at Ms. Caldieri after January 14, 2010; and whether these actions indeed stressed her and efficiently aggravated her preexisting comorbidities, including her non-epileptic seizures, to the point of likely-permanent disability.

Ms. Caldieri did not allege merely that the hostile actions the administration took against her following the student suicide on January 14, 2010 and continuing almost to the end of that year contributed in some way to her disability, along with out of school stresses she had also experienced, such as the student's suicide. Instead, she showed that these administrative actions, all of which followed the student suicide, aggravated the preexisting non-epileptic seizures and emotional comorbidities (depression and anxiety) through which Ms. Caldieri had taught previously, to the point where, as of December 3, 2010, she could no longer teach. It was shown sufficiently here that the actions taken against Ms. Caldieri by the school administration after January 14, 2010 were the predominant contributing cause of this aggravation, and not merely a contributing cause. While some of those actions individually (such as the Principal's harsh words, not informing Ms. Caldieri of the memorial for Phoebe Prince, and Ms. Caldieri's feelings of isolation by school administrators and other faculty might have alone been insufficient to satisfy the proximate cause requirement of M.G.L. c. 32, § 7(1), there was a concatenation of administrative actions after January 14, 2010 that comprised an efficient cause of Ms. Caldieri's disability through stress-induced aggravation of her preexisting non-MS psychiatric comorbidities, including her non-epileptic and stress-triggered pseudoseizures. Well beyond a simple generation of hurt feelings, these administrative actions included a paid position reduction simultaneously with a significant class load increase; an absurd and impossible requirement that Ms. Caldieri teach several levels of Latin simultaneously in a single

classroom at the same time; a threat to replace the school's Latin program with online courses if Ms. Caldieri grieved or even questioned her workload increase; ad hoc classroom observations during the Fall 2010 semester that nitpicked Ms. Caldieri's teaching to a fault, despite her conceded effectiveness in teaching the observed lesson and the clear physical difficulty she had traversing the classroom and vocalizing repeated instructions as the administrators who evaluated her would have preferred; a purported evaluation on December 3, 2010 that was close to a fabrication as to what the Vice Principal allegedly observed, and threatened discipline for a teacher still on probation based upon poorly-defined charges; and the admitted absence of any plan or offer to assist the teacher in keeping pace with her increased workload and performance expectations successfully, despite the administration's awareness of her health problems, particularly her increased seizures.

It is not determinative on this point that Ms. Caldieri told psychiatric medical panel member Dr. Rice that Phoebe's suicide was "a 10 on a scale of 1 to 10," and that the subsequent harassment by the administration was "also a 10 on a scale of 1 to 10." (See Finding 100(d).) As explained earlier, the off-campus student suicide alone does not establish aggravation of medical conditions to the point of likely-permanent disability or, thus, establish qualification for accidental disability retirement benefits. Of the two elements Ms. Caldieri rated for Dr. Rice in terms of personal impact, only the administrative actions she alleged were work-related and aggravated her psychiatric conditions (non-Ms-related, and non-epileptic, pseudoseizures, and related depression and anxiety) efficiently to the point of disability and ADR qualification. These actions did indeed efficiently aggravate Ms. Caldieri's non-MS-related seizures and related depression and anxiety to the point of disability in early December 2010.

That others suffered significant adverse emotional aftereffects of the suicide and the ensuing chaos at the school does not make what Ms. Caldieri suffered either ordinary or usual in her workplace. Nor did it become ordinary or commonplace because the school became, after January 14, 2010, as the witnesses here described it, chaotic (Ms. Graf), cold (Ms. Caldieri) and generally dysfunctional as a learning and work environment. Stated another way, the chaos at the school did not transform the stresses it caused Ms. Caldieri into normal and usual tensions and pressures found in public schools, or in other workplaces. Much as schools are portrayed popularly as being in a nearly constant state of adversarial educational and social ferment, a state of emotional dysfunction such as descended upon South Hadley High School as of January 15, 2010 was not then, and is not now, the norm at most public high schools.

Applying the terminology of *Blanchette*, in every respect the stresses Ms. Caldieri experienced at the school as the result of administrative actions directed toward her after January 14, 2010 were "not common or necessary to all or a great many occupations," or even to her own job as a high school Latin teacher prior to January 15, 2010.

g. Emotional/Psychaitric Disability Not Caused by "Bona Fide" Personnel Actions

MTRS argued that the school administration's actions were "bona fide" personnel actions that cannot be the basis for accidental disability retirement related to a disabling emotional (or psychiatric) injury or the aggravation of an emotional or psychiatric condition to the point of disability, per M.G.L. c. 32, § 7(1). MTRS characterized these actions as having been those of a supportive network that was concerned about Ms. Caldieri's safety and the well-being of her family that had been ongoing long before Phoebe Prince's suicide, and therefore reflected "an honest belief,

an absence of malice, an absence of design to defraud." (*See, e.g.,MTRS Prehearing Memorandum* (Feb. 10. 2016) at 9.) Because these actions were bona fide personnel actions and were not pretextual, MTRS urges, they cannot have been the "predominant contributing" cause of her psychiatric disability. (*Id*.)

I conclude that there was no bona fide personnel action taken against Ms. Caldieri in 2010, and that the actions taken against her that year were pretextual, intended to cause her to fail as a teacher and force her out of the school rather than to accommodate her visible, and known, health conditions and allow her to continue succeeding as a teacher.

1. Standards guiding the "bona fide personnel action" analysis. As noted above (at 158-59), when an emotional or mental disability is claimed as the basis for ADR benefits, "an extra layer of analysis is required" even when this disability is shown to have been work-related, if it arose out of a bona fide personnel action. *B.G. v. State Bd. of Retirement*, Docket No. CR-20-207, Decision at 33 (Mass. Div. of Admin. Law App., Oct. 8, 2021). *B.G.* explains that:

> If such a disability arises from a supervisor's bona fide personnel action, the disability is not considered a personal injury unless the employer intended to inflict emotional harm. G.L. c. 152, §1. Personnel actions include, but are not limited to, transfers, promotions, demotions, or terminations . . . As no word in a statute can be assumed to be superfluous (citation omitted), the words "bona fide" must add meaning to the words "personnel action." Bona fide means genuine or sincere and, in law, good faith (citation omitted). Through inclusion of the bona fide personnel action exception in the Workers' Compensation law, the legislature intended that employers should be allowed to make legitimate efforts towards regulating the competence and integrity of their employees through good faith supervision without risking liability for worker's compensation claims. (citation omitted). Shielding a retirement board from claims for accidental disability following acts of good faith supervision is also consistent with this legislative purpose. The legislature does not shield every personnel action, just those that are bona fide. Thus, it follows that mental or emotional disabilities resulting from non-bona fide personnel actions are compensable without a showing that an employer intended to inflict emotional harm.

B.G.; Decision at 33-34.

As workplace conflict and ill-will is not uncommon to workplaces, not every instance of workplace conflict and ill-will, including the ill-will of a supervisor, is compensable through accidental disability retirement benefits, and neither are feelings of persecution or victimization, inability to get along with supervisors or co-workers, reprimands for lateness or improper work performance, or "workplace conditions such as staff and resource shortages, deadline pressures, and work-related politics."(*Id*. at 34. As well, "viewed in the abstract," autocratic and blunt supervision, decisions permitting or denying paid time off, instructions regarding employee performance reviews, distribution of work assignments, and assignment of workspace and materials—are functions necessarily performed by managers and do not give rise to claims for injury absent malice on the part of the supervisor." *Id*. at 34-35. The petitioner in *B.G*. alleged these occurrences, but produced credible testimony and evidence that differentiated her case from "the usual lot." She showed that the manager's behavior had a destabilizing effect on the office where the petitioner worked, especially her ad hominem attacks on the staff. She also hosed that the manager had made adverse comments in the workplace about the petitioner's work performance, while at the same time giving the petitioner "anodyne" performance reviews that appeared supportive but were used as an excuse to overload the petitioner with work until she could no longer function, a motive the manager confessed to one of the petitioner's co-workers who testified at the hearing in her ADR denial appeal. It was not explained why the manager did this over a three-year period until the petitioner had broken down emotionally and had become unable to function. The only reason that emerged from the evidence was the manager's possible resentment that the petitioner had challenged several

of her decisions when she first became the petitioner's supervisor. *Id*. at 35. Administrative Magistrate Palace held that:

> Although understanding [the manager's] motivations might be helpful in making sense of what is a horror story set in a government office, it is not necessary in determining the viability of Petitioner's claim. [The manager's] treatment of Petitioner cannot be excused as a bona fide personnel action. There is no legitimate purpose in targeting an employee for the sake of ensuring that they fail at their job. No good faith business practice involves destroying one's employees. (Citations omitted). If I am wrong that the phrase "bona fide personnel action" requires a personnel action to be legitimate and embarked upon in good faith, I alternatively conclude that Petitioner has proven that [the manager] acted intentionally to inflict emotional distress on her. As Petitioner became more and more distraught by [the manager's] behavior . . . it is likely that [the manager] would have observed Petitioner's deteriorating emotional state . . .[The manager] knew — or should have known — that Petitioner would experience emotional distress from [her continued mistreatment . . .

B.G.; Decision at 35-36. Considered together with the manager's expressed intention to make the petitioner fail at work, the manager's conduct was "extreme and outrageous," and "beyond all possible bounds of decency." It "caused the petitioner's emotional instability," and the resulting emotional distress left the petitioner unable to support herself and was "such that no reasonable person could or should be expected to endure it." *Id*. at 36. As a result, there were no bona fide personnel actions to defeat he petitioner's ADR claim in *B.G.* Even if there had been any, the personnel actions amounted to the intentional infliction of emotional distress.

2. Absence of bona fide basis for personnel actions here. I have already discussed extensively Ms. Caldieri's work-related history as South Hadley High School's sole full-time Latin teacher. This included, through 2009, positive, encouraging, non-threatening, non-disciplinary teaching observation reviews that praised Ms. Caldieri's teaching and classroom control. These reviews included constructive recommendations intended to maximize the students' educational benefit from

taking Ms. Caldieri's Latin classes, and her effectiveness as a teacher. She was recruited as a teacher to rebuild the school's Latin program and related school club activities, and she had more than met the expectation that she would do so. She taught every level of Latin the school offered, from basic to advanced placement. She received the school's teacher-of-the-year award in 2007, and she was recognized for her innovative teaching, including teaching some classes entirely in Latin. She had taught through her medical conditions. By all indications as 2010 began, Ms. Caldieri's superlative teaching, her will to teach through her medical conditions, and the prestige her professionalism in teaching Latin had brought to South Hadley High School, would continue.

Ms. Caldieri's standing as a valued and respected teacher at the high school evaporated following Phoebe Prince's suicide on January 14, 2010. Much of this change related to Ms. Caldieri's support for Phoebe, whom she had mentored, and for speaking out against student bullying. Her mentoring and advocacy were not alleged here to have precipitated Phoebe's suicide or the chaos that enveloped the school afterward. There is no evidence they did so. Ms. Caldieri helpfully accompanied students to an off-campus memorial after having confirmed permission for the underage students to attend it, and after a Vice Principal had voiced no objection to her or to the students. The evidence showed, without contradiction, her efforts to confirm that permission was sought and granted, by the Vice Principal (to whom the Principal had deferred on this issue), by the underage students' parents, and by the mother of the student at whose home other students gathered on January 15, 2010. Ms. Caldieri provided adult guidance for distraught students at the school library and at the off-campus home on that date. There was no evidence here that the school administration made available any other faculty member, or any administrator, to accompany the

students attending the off-campus meeting after the student suicide and then remain available to students to discuss the suicide, a type of help that students were already seeking from Ms. Caldieri and that she was trying to give them. There is no evidence that this help was in any way inflammatory or unprofessional, or that it encouraged "suicide contagion," or that it was unhelpful tor dangerous to students in any other respect. Ms. Caldieri's students, such as Heather Potter, had apparently sought out their teacher as someone they knew and trusted to listen, understand and give sound counsel in the circumstances. The school, in contrast, directed teachers to teach despite the chaos reigning at the school, and directed students seeking guidance to visit grief counselors brought to the school for this purpose, but who the students most likely did not know. Ms. Caldieri stepped up to the plate, as it were, to provide the guidance and leadership that several students wanted and needed, but could not find with anyone else at the time.

Ms. Caldieri also reportedly posted an opinion in social media about the importance of confronting school bullying, which by that time was a matter of public and legislative concern in Massachusetts. The contents of the posting are not in the record, but there was no assertion here that the posting violated an identified, written school policy, veered off into ad hominem attacks, or posited fallacious or otherwise irresponsible assertions tending to sully the high school's reputation. That student bullying was occurring, was widespread, and was being addressed ineffectively (if at all) by the Commonwealth's schools was, as January 2010, a recognized problem, with a known relationship to student suicide. It merited legislative attention at the time, and the legislation included a directive to the public schools to sunlight the problem and address it as a matter of policy.

In the context of the school bullying issue and the legislative (and public) response at the

time, and in view of the professional and methodical manner in which Ms. Caldieri responded to the school administration's quibblesome October 20, 2010 report of her classroom teaching, it is difficult, absent contrary evidence, to imagine that her social media post about bullying was anything other than material to the ongoing public discussion, and thought-provoking as well.

From all this there emerges the specter of excuses and pretext for the actions the school administration carried out against Ms. Caldieri starting on January 15, 2010. It adopted a punitive approach to this physical frail (but mentally tough) teacher that was unjustified, from its inception, by any real or imagined breach of protocol, professional standards or proscription that was communicated previously to school faculty, Ms. Caldieri included. The former Principal struggled from mid-January 2010, and even during his testimony here, to define precisely what Ms. Caldieri did, or what offense she committed, that warranted any personnel action against her at all, let alone being placed on probation at the school for a year. At one point, he testified, the transgression *might* have been Ms. Caldieri failing to report Phoebe's bulling to the administration during the Fall 2009 semester; in fact, she had attempted to do so by informing the Vice Principal, who said he was already aware of it and had concluded that it was about a student dating conflict. (*See* Finding 39(b).)

The testimony and other evidence in the record suggests that the Principal, saddened by the student suicide and its effect upon the school, and likely disappointed in and angry at the emotional breakdown at the school that ensued subsequently, overreacted by ordering Ms. Caldieri to "get the hell out" of the school or words to that effect. He then compounded this overreaction by threatening to suspend Ms. Caldieri without pay, convening a disciplinary hearing and then, despite no evidence of any clearly-defined transgression on Ms. Caldieri's part, placing her on probation for a year.

It was unclear from the testimony here that the former Principal acknowledged several key facts related to the action he took against her in January 2010 and after. First, Ms. Caldieri had attempted to alert the administration to Phoebe Prince's bullying by other students during the Fall 2009 semester, but the Vice Principal had asserted he knew about it and that it concerned a student dating conflict. (*See* Finding 39(b).) Second, she had no obligation to question or challenge the Vice Principal's response. There was no evidence that, but for her not doing so and insisting upon raising the issue of bullying with the Principal himself, the school administration had no knowledge of student bullying; more likely, the Principal and his various Vice Principals conversed, and, collectively, did not consider Phoebe Prince's mistreatment by other students to have merited action on the school's part, either individually or in the context of student bullying. There was no testimony or other evidence showing that the school had acknowledged student bullying as a problem, or had a plan in place before Phoebe Prince's suicide to address school bullying effectively (or at all).

Following the suicide, the entire school faculty, Ms. Caldieri included, was directed to continue teaching as if nothing had happened, and refer students who needed it to in-school counselors. Without question this response was almost immediately ineffective and impossible to implement. Mr. Smith and Ms. Graf conceded as much when they testified here. In the chaos that enveloped the school. Ms. Caldieri did what she could to comfort the four students, confirm permission for them to attend the off-campus meeting, and provide them with some degree of clearly-needed supervision at that meeting and afterward. (*See* Findings 46-49.)

Beyond understandable personal and professional frustration on the school administration's part following the student suicide and the chaos that followed, the record, including the testimony,

presents no credible or coherent explanation of why the former Principal pursued disciplinary action against Ms. Caldieri and ultimately placed her on probation for a year. The charges against Ms. Caldieri were never clarified, and nor was the year of probation the Principal ordered justified. That a year of probation was less financially onerous for Ms. Caldieri than would have been a suspension without pay, or being terminated, does not rationalize the sanction or make it any less arbitrary.[98]

What the school administration *did* know with some degree of certainty, however was that Ms. Caldieri was physically frail, and yet determined to teach. The evidence allows an inference that for whatever reason, the school administration, and other faculty members, no longer found her presence as a teacher to be in the school's interest. I also note that the former Principal and Foreign Languages Department Chair expressed remorse that they had had no emotional reserves to help Ms. Caldieri although they were concerned about her well-being. While I credit the remorse as sincere, it does not explain why the disciplinary measures taken against Ms. Caldieri were undertaken at all, why they persisted and intensified through the remainder of 2010, and why no one thought to simply stop it, or even to offer to help this professionally persisting, but visibly suffering, teacher at any point during that year. The inevitable impression that arises is of out-of-control administrative action

[98]/ One is reminded of the legal principle *nulla poena sine lege* (no punishment for doing something the law does not prohibit), described in one relatively recent United States Supreme Court opinion as "one of the most 'widely held value-judgement[s] in the entire history of human thought.'" *Rogers v. Tennessee*, 532 U.S. 451, 467-68 (2001) (Scalia, J., dissenting, *quoting* J. HALL, GENERAL PRINCIPLES OF CRIMINAL LAW 59 (2d ed.1960)). As both the majority and dissenting opinions in *Rogers* point out, the principle underpins the foundation of the Due Process Clause of the United States Constitution, *see* U.S. CONST., AMENDS. 5, 14, and the clause's requirement of "fair warning" that the conduct in question is prohibited and subject to punishment—which places a limit on punishment by a public authority, *e.g.*, through the retroactive application of a law or (as in *Rogers*) of a state court decision. *Rogers*, *passim*.

lacking purpose or thought; or, if not, that this action was intended to cause Ms. Caldieri to fail at teaching and drive her out of the school, or worse, in essence placing an emotional and physical price on continuing to perform her job that she would not be able to pay, and that she would forego doing so by simply resigning.

None of this qualifies the actions the administration took against Ms. Caldieri after January 14, 2010 as having had anything but an arbitrary and capricious basis. There is no evidence, thus, of any "bona fide" personnel action against Ms. Caldieri after January 14, 2010. There was, simply, administrative action against her having no genuinely work-related purpose. This is insufficient to qualify the actions taken against Ms. Caldieri after January 14, 2010 as exempt from comprising a disabling work-related aggravation of emotional or psychiatric conditions to the point of disability.

3. No evidence of personnel action to protect Ms. Caldieri's health. Both Mr. Smith and Ms. Graf testified that the school acted toward Ms. Caldieri after Phoebe's suicide out of concern for her health and her family (and students). (*See also* Exh. 10; Superintendent Sayer's letter to MTRS dated Oct, 15, 2011, discussed above.) I consider next, therefore, whether the actions taken by the school administration against Ms. Caldieri after January 14, 2010 were bona fide personnel actions grounded in concern for her health.

There was no evidence presented here of action showing such concern in mid-January 2010 or after. Ms. Caldieri was not placed on sick leave or on any leave of absence. If, as the Superintendent's 2011 letter to MTRS (Exh. 10) seems to state, Ms. Caldieri's deteriorating health was clear, the school administration took no steps to accommodate her, and instead it cut her paid hours but added additional classes to her teaching load, including a writing class not related to Latin

teaching.

Equally telling as to the absence of a "bona fide" personnel action was the pretextual reason given to Ms. Caldieri for reducing her paid position to 80 percent of a full time teacher—declining foreign language class enrollment (*see* Finding 62) —while at the same tine increasing her class load and compelling her to teach several levels of Latin simultaneously in the same classroom. The pretext continued when the School Superintendent essentially leveraged her to accept having to teach an additional class (the writing workshop) as a condition for being restored to a full-time paid position. There was an unscheduled, yet formal, observation of her classroom teaching in October 2010 that labored to find fault with her teaching, despite conceding Ms. Caldieri's continuing effectiveness in teaching her classes. The final pretext for personnel action was the December 3, 2010 letter from the Vice Principal that was based upon a classroom observation that had not actually occurred, and that threatened discipline based upon imagined classroom chaos that also had not occurred. All of this underscores the absence of a "bona fide" personnel action against Ms. Caldieri between January and December 2010.

In addition, the Principal told Ms. Caldieri, who remained on probation at the time, that if she continued to grieve or otherwise question her additional workload, this would be considered to be a concession that she could not teach Latin any more, and that the school would direct her Latin students to online learning (*see* Finding 66). In other words, she was threatened with retaliation (specifically, with termination as a Latin teacher) if she persisted in discussing her workload with the school administration, or even sought a health-related accommodation to she could succeed in meeting her increased workload and demands that she change her teaching technique, or even teach

multiple levels of Latin in the same classroom at the same time (*see* Finding 65), assuming that demand could ever be met successfully.[99]

Idle as the threat may have been, it was a threat of retaliation nonetheless. There is no evidence, or reasonable inference to be drawn, that Ms. Caldieri had stated in 2010, or showed, that she could not teach Latin. Indeed, she continued to teach all levels of Latin at the high school in 2010 despite her medical conditions, and intended to continue teaching as long as she could. Bearing in mind that the Principal had already placed Ms. Caldieri on probation for a year starting in January 2010 for reasons that were never clarified, the more reasonable inference to be drawn from the Principal's threat to send Ms. Caldieri's students online for their instruction was that he was threatening her with termination if she protested her increased work load. or requested a health or disability-based accommodation.

All of these circumstances refute the claimed administrative concern for Ms. Caldieri's health and show, instead, an indifference to the emotional and physical consequences Ms. Caldieri was experiencing as a result of the added workload and obligation to teach multiple levels of Latin simultaneously in the same classroom. They also show an indifference to a shocking and completely

[99]/ The record furnishes no evidence of need for this unusual educational approach, nor evidence that teaching Latin in this manner is, in the Massachusetts public schools, a generally accepted form of Latin instruction or foreign language instruction generally. Former Foreign Languages Department Chair Graf could have been asked whether she had ever taught any foreign language in a high school in this manner, or had actually recommended to Principal Smith that Ms. Caldieri be directed to do so, or whether this was a generally accepted method of teaching multiple levels of Latin among Latin or other foreign language teachers. She was not asked about this, however, and nor was she asked to clarify her role (if any) in assigning Ms. Caldieri to teach multiple Latin levels in a single classroom, something Ms. Caldieri was not hired to do in 2005 and that she had never been asked to do until the Fall 2010 semester.

unnecessary overloading of stress upon this teacher.

Still, Ms. Caldieri kept on teaching. That said, the seizures she had experienced at the school and required her hospitalization were increasing at the time in number and intensity. The impact of her increased workload upon her health was, or should have been, obvious to the school administration. The administration saw, or should have seen, the effect upon Ms. Caldieri of its decisions to increase her workload and make her teaching job difficult to perform, particularly adding the additional writing workshop class to her full load of Latin classes across all levels of this difficult subject as a condition to restoring her full-time paid teaching position, and having to teach multiple levels of Latin at once in the same classroom. The rationale given for adding these work burdens and the reduction of Ms. Caldieri's paid hours—to accommodate a decrease in foreign languages class enrollment—were not supported by any evidence of declining language class enrollment. They were not credible to Ms. Caldieri at the time. (*See* Finding 62(b).) They were not shown to have been credible here. Bald assertions that these actions were taken out of concern for Ms; Caldieri's health make them no more credible and no less self-serving.

As mentioned above, Ms. Caldieri was subjected to two classroom evaluations during the Fall 2010 semester. One evaluation, in late October 2010, found fault with Ms. Caldieri's teaching without any real evidence she was not meeting teaching expectations or educational objectives, or that her classroom was to any degree "chaotic" as the evaluation asserted, even as it also described an effective and well-taught lesson including a lecture. The apparent problem was actually student interest and age-appropriate (and pedagogically welcomed) exuberance. (*See* Findings 70-73.) The other, on December 3, 2010, was little more than a sudden appearance by the Vice Principal in the

doorway of Ms. Caldieri's classroom during which he demanded to know what was going on, instructed Ms. Caldieri to send students causing problems to the school's planning room, declined to join the classroom to actually observe it, and then departed as quickly as he had arrived. (*See* Finding 76.) The Vice Principal then mischaracterized this brief encounter in the classroom doorway as an actual classroom observation in the letter he wrote to Ms. Caldieri later that day. (*See* Finding 77.) His aggressively-worded letter described a substandard classroom situation the Vice Principal had not actually observed. The letter offered none of the support or constructive criticism that had characterized Ms. Caldieri's scheduled performance evaluations prior to 2010. It also threatened disciplinary action against Ms. Caldieri. (*Id*.)

The letter had a predictably adverse impact on Ms. Caldieri's already fragile health.; With Ms. Caldieri still subject at the time to an unexplained and unjustified one year probation, the Vice Principal's December 3, 2010 letter broke Ms. Caldieri's will to continue teaching through her health issues, as she had been willing to do previously, and caused her to leave the school, convinced she was about to be fired. She suffered a seizure almost immediately after she left the school, and was unable to return to work afterward.[100]

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[100]/ It is worth noting here that an employer takes its employees "as is," that is, with whatever peculiar vulnerabilities to injury the employee may have, and that "an identifiable incident or strain need not be unusual or severe to support compensation if the particular employee succumbs to it." *Kelly's Case*, 394 Mass. 684, 687, 477 N.E.2d 582, 585 (1985), *citing and quoting Zerofski's Case*, 385 Mass. 590, 593, 433 N.E.2d 869, 871 (1982)(an employee may recover Workers's Compensation benefits "even when his injury is due in part to his own weakness or vulnerability; the employer must take his employee 'as is'"); *see also McManus's Case*, 328 Mass. 171, 102 N.E.2d 401 (1951)(a back injury resulting from bending over at work was causally connected with employment and was, thus, a compensable injury under the Workers' Compensation Act; the injury "need not necessarily result from unusual force or exertion although, of course, it would be more difficult to prove the causal relation of the

The actions taken by the school administration with respect to Ms. Caldieri after January 14, 2010 and continuing to almost the year's end, and the stress impacts these actions had on Ms. Caldieri, more accurately reflect what happened here than do assertions that the administration undertook bona fide personnel actions against her out of concern for her health. It is worth reiterating that even bona fide personnel actions, had there been any taken in 2010, would not preclude Ms. Caldieri's qualification for accidental disability retirement benefits if they were pretextual and intended to inflict emotional distress.

As is the case in determining whether the personnel actions in question were in fact "bona fide," whether the actions in question were in fact pretextual and intended to inflict emotional distress on Ms. Caldieri, are determined from the relevant circumstances rather from the post-hoc, self-serving characterizations of good intentions by the public employee's former supervisors. *See B.G. v. State Bd. of Retirement*, Docket No. CR-20-207, Decision at 33-37 (Mass. Div. of Admin. Law App., Oct. 8, 2021); *Lowell v. Worcester Regional Retirement Bd*., Docket No. CR-06-296, Decision at 19-22, 24-27 (Mass. Div. of Admin. Law App., Dec. 4, 2009). Here, the circumstances show a steadily-escalating succession of stressful actions against the teacher from the middle of January 2010 (verbal dressings-down and a threat of suspension by the Principal), through disciplinary proceedings staring later that month based upon uncertain charges and dubious transgressions, culminating in Ms. Caldieri being placed upon probation for a year (also for poorly-defined reasons), to a pretextual reduction of paid hours toward the end of the Spring 2010 semester, followed during the Fall 2010 semester by increased class load without sufficient preparatory time,

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injury to the employment where the stress upon the back was neither unusual nor heavy").

a threat to send her students off to take internet courses if she could not manage her increased teaching burdens, and then two hostile ad hoc teaching evaluations. Both evaluations, particularly the Vice Principal's evaluation and discipline threat of December 3, 2010, suggest they were pretexts for subsequently terminating Ms. Caldieri while her probation remained in effect, if she had persisted in returning to the school after December 3, 2010.

As in *B.G.*, it is unnecessary to understand the school administration's actual motivation in handling Ms. Caldieri as it did in 2010. More to the point, what was done here to Ms. Caldieri by the school administration after January 14, 2010 cannot be explained credibly as "bona fide" personnel actions based upon the facts in evidence. The record shows no legitimate purpose in taking actions against Ms. Caldieri that seem to have been designed to insure that she failed as a teacher in 2010, or at least broke her will to keep teaching through medical conditions of which the school administration was aware. Insuring teacher failure or breaking a teacher's spirit are not legitimate workplace practices in any workplace, public or private, and are, inherently, undertaken in bad faith with no legitimate purpose.

There were, in short, no "bona fide" personnel actions against Ms. Caldieri in 2010 that preclude her qualification for accidental disability based upon emotional (or psychiatric) injury. If underlying good faith and legitimacy (meaning with a legitimate workplace objective) are not required to make the school administration's actions in 2010 bona fide personnel actions, then I am compelled to find, as Administrative Magistrate Palace did in the circumstances *B.G.* presented, that the school administration's actions were undertaken intentionally to inflict emotional distress upon Ms. Caldieri. The school administration knew, or should have know, that these actions would cause

Ms. Caldieri to suffer stress, and undertook them even as she deteriorated visibly before them as they carried their actions out in 2010. For that reason alone, the school administration's conduct toward Ms. Caldieri in 2010 was "extreme and outrageous," and "beyond all possible bounds of decency." As her seizures were likely non-epileptic, they were subject to being triggered and, therefore, to being aggravated. Along with pseudoseizure aggravation by stress, Ms. Caldieri's psychiatric comorbidities of depression and anxiety were subject to aggravation by stress as well. The aggravation of Ms. Caldieri's comorbid non-epileptic seizures, and her related depression and anxiety, by work-related stress in 2010 was documented extensively by the medical record and supported by the opinion of the psychiatric medical panel majority. The aggravation reached its breaking point on December 3, 2010, as Ms. Caldieri was unable to work following the Vice Principal's letter of that date and the threat of discipline it included. That letter, coupled with the other actions the administration had taken against Ms. Caldieri after January 14, 2010, none of which was a bona fide personnel action, created a hostile work environment for Ms. Caldieri replete with aggravating stressors "such that no reasonable person could or should be expected to endure it." *See B.G.*. at 36. Therefore, even if these actions could be regarded reasonably as "bona fide" personnel actions, they amounted to the intentional infliction of emotional distress upon Ms. Caldieri. They exceeded the bounds of decency in any workplace, and were, quite simply, outrageous.

In short, there were no bona fide personnel actions here that preclude Ms. Caldieri from qualifying for ADR benefits based upon the work-related aggravation of her depression and anxiety, and her non-MS-related pseudoseizures as well.

Disposition

For the reasons stated above, the denial of Ms. Caldieri's accidental disability retirement application is reversed.

Ms. Caldieri is entitled to accidental disability retirement benefits based upon the work-related aggravation of her psychiatric conditions, including her non-MS-related, nonepileptic pseudoseizures and related depression and anxiety to the point of likely-permanent disability, as the result of administrative actions that the South Hadley High School administration took against her after January 14, 2010 and the stress these actions placed upon her.

Ms. Caldieri's non-MS-related, nonepileptic pseudoseizures were susceptible to aggravation by stress. The administrative actions in question increased her work-related stress significantly, and each instance of such stress was followed by a pseudoseizure shortly after, along with related depression and anxiety. Ms. Caldieri asserted those aggravation grounds for accidental disability in addition to, and not based solely upon, her assertion of multiple sclerosis aggravation. They suffice, therefore, to establish her entitlement to accidental disability retirement, independent of MS or MS-related epileptic seizure aggravation.[101]

Ms. Caldieri proved, sufficiently, the efficient aggravation of these preexisting non-MS-related psychiatric conditions to the point of likely permanent disability by the actions of the high school administration that she alleged. Those actions were shown sufficiently to have been the

[101]/ Because Ms. Caldieri's alleged MS was never confirmed, it was not proved as a condition that could have been aggravated.

predominant contributing cause of her disability, and not merely a contributing cause. In addition, none of those actions was a bona fide personnel actions or comprised a bona fide personnel action.

MTRS shall compute the appropriate ADR benefits to which Ms. Caldieri is entitled under M.G.L. c. 32.

SO ORDERED.

Notice of Appeal Rights

This is the Final Decision of the Division of Administrative Law Appeals (DALA) in this matter. It may be appealed to the Contributory Retirement Appeal Board (CRAB) no later than fifteen (15) days following the date of the DALA Decision.

M.G.L. c. 32, § 16(4) provides in pertinent part that a retirement appeal decision such as this Decision:

> shall be final and binding upon the board involved and upon all other parties, and shall be complied with by such board and by such parties, unless within *fifteen day*s after such decision, (1) either party objects to such decision, in writing, to the contributory retirement appeal board, or (2) the contributory retirement appeal board orders, in writing, that said board shall review such decision . . . .

(Emphasis added.)

A party objecting to this Decision shall mail specific objections to Uyen M. Tran, Esq., Assistant Attorney General, Chair, Contributory Retirement Appeal Board, Office of Attorney General, One Ashburton Place, 18th floor, Boston, MA 02108. Copies must be sent to the Division of Administrative Law Appeals, 14 Summer St., 4th floor, Malden, MA 02148, and to the other party or parties involved in the case.

Proceedings before CRAB are governed by CRAB Standing Orders, which may be found at: https://www.mass.gov/how-to/file-a-public-employment-retirement-appeal. Pursuant to CRAB Standing Order 2008-1, para. 4.a(2), the notice of appeal must include (a) the date of this DALA Decision; (b) a copy of the DALA Decision; and (c) a statement of the part or parts of the DALA Decision to which objection is made.

The notice of objection must be postmarked or delivered in hand to CRAB no later than fifteen days following the date of the DALA decision. Electronic submissions do not satisfy this filing requirement.

Pursuant to CRAB Standing Order 2008-1, paragraph 4.a(3), within forty days following the date of the DALA decision, the appellant (the party who filed the Notice of Objection to the DALA Decision) must supplement the Notice of Objection by filing with the Chair of CRAB three copies each, and by serving on each other party one copy, of:

(a) All exhibits admitted into evidence before DALA, numbered as they were numbered on admission;

(b) A memorandum of no more than twenty pages containing a clear and precise statement of the relief sought and the findings of fact, if any, and legal conclusions to which objection is made, together with a clear and precise statement of the particular facts, with exact references to the record, and authorities specifically supporting each objection; and

(c) If CRAB's passing on an objection may require a review of oral proceedings before DALA, the transcript of the relevant portion of those proceedings.

Do not send any such supplementary materials or exhibits to DALA. Failure to follow

CRAB's procedures could lead to sanctions, including dismissal of the appeal.

DIVISION OF ADMINISTRATIVE LAW APPEALS

/s/ Mark L. Silverstein

Mark L. Silverstein
Administrative Magistrate

Dated: March 3. 2023