

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION
100 Cambridge Street, Suite 200
Boston, MA 02114
(617) 979-1900

VINCENT J. MALKOSKI,
Appellant

v.

DIVISION OF MARINE FISHERIES,
Respondent

C-23-023

Appearance for Appellant:

Vincent J. Malkoski
Pro Se

Appearance for Respondent:

Eric Klein, Esq.
Director of Labor Relations /
Associate General Counsel
Executive Office of Energy and
Environmental Affairs
100 Cambridge St, Suite 900
Boston MA 02114

Commissioner:

Shawn C. Dooley¹

SUMMARY OF DECISION

The Commission denied the Appellant's reclassification appeal as he was unable to show that he regularly performed the level-distinguishing duties of an Environmental Analyst V more than 50% of the time.

¹ The Commission acknowledges the assistance of Law Clerk Daniel Taylor with the preparation of this decision.

DECISION

On February 28, 2023, the Appellant, Vincent Malkoski (Appellant), pursuant to G.L. c. 30, § 49, timely appealed to the Civil Service Commission (Commission) contesting the June 21, 2022 decision of the Executive Office of Energy & Environmental Affairs (EEA) to deny his request for reclassification from Aquatic Biologist III (AB-III) to Environmental Analyst V (EA-V), and the subsequent January 31, 2023, affirmation of that denial by the Massachusetts Human Resources Division (HRD).²

A remote pre-hearing conference was held via Webex on April 11, 2023. On June 20, 2023, I conducted an in-person full hearing at the offices of the Commission in Boston. The hearing was recorded via the Webex videoconferencing platform, and copies were provided to the parties.³ For the reasons stated below, Mr. Malkoski's appeal is denied.

FINDINGS OF FACT

The Appellant entered six exhibits into evidence (A1-6; Bates Stamp A001-A0023) and the Respondent entered eight exhibits into evidence (R1-8; Bates Stamp R001-R0049). Based on the documents submitted and the testimony of the following witnesses:

Called by the DMF:

- Daniel J. McKiernan, Director, Department of Marine Fisheries (DMF)
- Germaine Valley Riordan, Human Resource Specialist, Executive Office of Energy & Environmental Affairs (EEA)

² The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.01, et seq., apply to adjudications before the Commission with G.L. c. 31, or any Commission rules, taking precedence.

³ A link to the audio/video recording was provided to the parties. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that they wish to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. If such an appeal is filed, the recording provided to the parties should be used to transcribe the hearing.

Called by the Appellant:

- Vincent J. Malkoski, Appellant, DMF

and taking administrative notice of all matters filed in the case and pertinent statutes, regulations, case law and policies, and reasonable inferences therefrom, a preponderance of evidence establishes the following findings of fact:

Appellant's Background

1. The Appellant has been employed by the Department of Fish and Game for 41 years. He has been classified as an AB-III since July 2000. (*Stipulated Facts; Testimony of Appellant*)
2. The Appellant holds a Bachelor of Science in Marine Biology, and is licensed as an open water scuba instructor, first responder instructor, and boat operator. (*Respondent Exhibit 4; Testimony of Appellant*)
3. The Appellant has previously worked in habitat management (1998 – 2009) and horseshoe crab fisheries management (2010 – 2014). (*Respondent Exhibit 5*)
4. The Appellant's current functional titles are Senior Marine Fisheries Biologist / Diving Safety Officer (DSO) and Capital Asset Coordinator. His current functional role is Scientific Diving Program Manager and Dive Safety Officer. (*Respondent Exhibit 5; Respondent Exhibit 7; Testimony of McKiernan*)
5. The Appellant also serves as the Chair of the DMF Diving Control Board. (*Respondent Exhibit 4; Testimony of Appellant; Testimony of McKiernan*)
6. On September 15, 2020, the Appellant filed a reclassification appeal with the Human Resources Department of the Executive Office of Energy & Environmental Affairs (EEA), requesting reclassification from AB-III to EA-V. (*Appellant Exhibit 1*)
7. On June 21, 2022, EEA issued a denial of the Appellant's appeal, finding that he was

properly classified. (*Respondent Exhibit 3*)

8. The Appellant further appealed this denial to the state's Human Resources Division (HRD).

On January 31, 2023, HRD affirmed EEA's denial of the Appellant's appeal. (*Stipulated Facts*)

Classification Specifications

9. The Classification Specifications for the AB series were approved in July 2007, and summarize the series as follows:

Incumbents of positions in this series analyze data on fish, plants and various types of aquatic life; collect biological and hydrological field samples; review various reports; review proposals and permit applications for environmental impact; provide technical assistance to public and private individuals and groups and perform related work as required.

The basic purpose of this work is to perform scientific tests and investigations regarding the environment and/or fishery resources.

(*Respondent Exhibit 1*)

10. The Classification Specifications for the EA series were approved in April 1989, and summarize the series as follows:

Incumbents of positions in this series prepare and/or review scientific reports, studies and analytical data of environmental impacts and environmental processes; perform calculations relating to environmental science problems; determine possible impacts on water, soil, air and public health; measure levels of pollution; identify sources of pollution; and perform related work as required.

The basic purpose of this work is to perform professional environmental analysis duties in such areas as air pollution, water supply and pollution, toxicology, ecology and public health and hazardous and solid waste management in order to locate, abate or control sources of environmental pollutants, all in accordance with applicable laws, rules, regulations, standards and sound environmental science principles and practices.

(*Respondent Exhibit 2*)

11. The position of EA-V is the third-level supervisor in the series, and is described in the

Classification Specifications as exercising the following supervision:

Incumbents of positions at this level exercise direct supervision (i.e., not through an intermediate level supervisor) over, assign work to and review the performance of 1-5 professional personnel; and exercise indirect supervision (i.e., through an intermediate level supervisor) over 1-5 professional and/or technical personnel.

(Respondent Exhibit 2)

12. The Classification Specifications for the AB series describe the duties common to all levels in the series as follows:

1. Analyzes data relative to fish and other aquatic life in order to assess population levels or to make recommendations for program or procedural changes.
2. Collects biological and hydrological field samples with field sampling equipment such as nets and pots.
3. Reviews and makes recommendations on various reports, plans, proposals, or permit applications on environmental impact.
4. Provides technical assistance by answering inquiries over the phone and in person from the public, the media and various federal, state and municipal agencies.
5. Identifies, weighs and measures various species of fish.
6. Performs mathematical and statistical computations for resource management determination, population level analysis or water quality analysis.
7. Conducts scientific field investigations to accomplish project goals.
8. Prepares materials and lectures for presentation.
9. Performs related duties such as writing general and technical reports and memoranda; maintaining records and logs; operating or using small water craft; operating general office equipment; conferring with other professionals and reading scientific journals, magazines or trade journals to keep abreast of trends in the field.

(Respondent Exhibit 1)

13. The Classification Specifications for the AB series further describe the additional duties of each level in the series as follows:

Aquatic Biologist II:

Incumbents of positions at this level and higher also:

1. Design scientific field investigations by determining the types of tests which must be performed; by planning the sequence of tests or experiments; by determining the proper methodology for collecting and examining laboratory samples; by determining sampling stations and parameters, frequency of sampling, equipment to be used, etc.; by

- determining the suitability, validity and acceptability of samples or specimens for analysis; and by recommending the purchase of needed supplies and equipment to accomplish project goals.
2. Inform the public and local officials on environmental law, rules, regulations and regulatory and policy changes by attending conferences and committee meetings.
 3. Write and/or edit scientific and technical reports or articles for publication.
 4. Perform analysis of water pH, salinity, turbidity, temperature, dissolved oxygen levels, mineral or chemical content, etc., by operating or using standard equipment such as autoclaves, microscopes, centrifuges, turbidity meters and pH meters.
 5. Draw tables and/or graphs of statistical data to interpret the results of water quality tests and inform professional staff of laboratory test results.
 6. Inspect and evaluate laboratory equipment such as test equipment, microscopes and field sampling gear for proper functioning and need for repair or replacement to perform minor and routine repairs and adjustments to equipment.
 7. Prepare specimens and samples for outside laboratory testing by weighing and measuring fish samples and labeling specimen containers.
 8. Train agency personnel in laboratory and field procedures.

Aquatic Biologist III:

Incumbents of positions at this level and higher also:

1. Plan and coordinate activities and programs undertaken mutually by the agency and other organizations by reviewing the progress of various field studies or projects to ensure compliance with established deadlines, standards and procedures.
2. Attend or speak at meetings, seminars and conferences and represent the agency at media interviews, meetings and legislative hearings on such matters as programs, policies, activities and services provided.
3. Interview applicants to recommend candidates for employment.
4. Schedule daily use of agency equipment, vehicles, etc.
5. Prepare specifications for bids and purchases and the budget for the assigned unit.
6. Inform agency personnel of changes in policies and administrative bulletins.
7. Recommend the hiring of consultants.
8. Review daily itineraries, monthly and annual reports and inventories for completeness and accuracy.

(Respondent Exhibit 1)

14. The Classification Specifications for the EA series describe the duties common to all levels in the series as follows:

1. Prepares and/or reviews scientific reports, studies and analytical data on

environmental impacts and processes including those associated with the construction and/or operation of facilities such as waste disposal and sewage treatment plants, incinerators, and those pertaining to air and water pollution control measures.

2. Reviews and summaries environmental data associated with applications for permits and citing of waste disposal facilities.
3. Performs calculations such as those related to groundwater flow, pollutant dispersion, mortality, population ecology and toxicological risk by using calculators or computer models, to solve environment science problems.
4. Writes memoranda, letters and technical or general reports concerning the environment to provide information and makes recommendations regarding such matters as public and private water supplies, environmental pollution control surveys and inspections, and the status of projects.
5. Collects samples and records changes to the environment or to associated public health risks during the design and/or construction of projects which will alter the natural environment.
6. Inspects proposed locations and existing locations of water supply and/or waste water treatment operations, industrial or hazardous waste treatment facilities and sanitary landfills.
7. Conducts tests and surveys such as vegetation surveys, water quality sampling, radiological surveys and/or geological surveys.
8. Monitors environmental conditions by operating photoionization detectors, gas chromatography, explosimeters, pH meters and other analytical field equipment.
9. Performs related duties such as conduct, compiling and correlating environmental data; reading manufacturers publications and meeting with manufacturers' representatives to keep abreast of latest technical advances, new products, product prices, safety hazards, and specifications; maintaining records; providing technical advice on such matters as environmental impact and regulatory codes; and attending meetings and conferences.

(Respondent Exhibit 2)

15. The Classification Specifications for the EA series further describe the additional duties of each level in the series as follows:

Environmental Analyst II:

Incumbents of Positions at this level or higher:

1. Participate in meetings and/or conferences with agency staff, contractors and interested companies on environmental issues such as air, water, soil and wetlands impacts, public health effects; and advise interested parties on agency regulations.
2. Perform environmental analysis of the impacts of construction and other modifications of the environment on water supply and water quality of surface water, groundwater and wetlands.

3. Conduct field investigations and surveys of locations where hazardous materials are present.
4. Assist in determining compliance with applicable laws and standards and recommend enforcement actions and corrective measures.
5. Respond to emergency releases of alVor [sic] hazardous materials.
6. Inform employees and others of hazardous materials, radiation control and environmental health principles and practices, including the presence and properties of toxic chemicals in the workplace.
7. Assist in setting discharge standards and hazardous waste management standards and in drafting legislation and regulations pertaining to radiation control, environmental health and environmental management.
8. Assist in the preparation of scientific data for court testimony.
9. Assist in development and maintenance of computer programs to track environmental data.
10. Inspect consultant work tests in the field.

Environmental Analyst III:

Incumbents of Positions at this level or higher also:

1. Write the technical specifications and utilize item service cost estimates to develop the budget portion of agreements and grant applications for the assessment and redemption of hazardous waste.
2. Determine enforcement actions and corrective measures to be taken when violation of laws, rules and regulations are discovered.
3. Review and recommend data collection methods for soil, air, waste and water sampling.
4. Conduct scientific studies and prepare responses in such areas as meteorology, air pollutant dispersion, contaminant migration, hydrology, hydrogeology and marine ecology.
5. Advise legal staff on environmental matters; prepare scientific data for courtroom testimony.
6. Analyze environmental impact and public health risk assessments associated with the licensing of hazardous waste treatment, storage or transport projects.
7. Develop and maintain computer programs to track environmental data.
8. Conduct meetings and/or conferences with agency staff, contractors and interested parties on environmental issues such as air, water, soil and wetlands impacts, public health effects and investigating and resolving problems.
9. Monitor the activities of consultants in identifying and treating environmental pollutants.
10. Recommend operational strategies for dealing with compliance and enforcement in the area of public health and environmental protection.
11. Review and approve health and safety plans for environmental assessment and during remedial construction programs.

Environmental Analyst IV:

Incumbents of positions at this level or higher also:

1. Deliver expert testimony at court proceedings.
2. Determine data collection methods for soil, air, waste and water sampling.
3. Conduct risk analysis for sites/projects which have impact on or will alter the natural environment.
4. Develop methodologies and procedures for the accumulation of scientific data.
5. Recommend approval/disapproval of applications for licenses or permits for hazardous waste storage or other projects.
6. Determine project environmental impacts and relative risks to the public health, watersheds, wetlands, freshwater bodies or estuaries.
7. Develop operational strategies for dealing with compliance and enforcement in the area of hazardous waste management, toxic materials in the workplace and wetlands protection.
8. Review environmental consulting service proposals and contracts and recommend changes to technical specifications.

Environmental Analyst V:

Incumbents of positions at this level or higher also:

1. Conduct training programs in such areas as chemistry, biology, geology and toxicology.
2. Represent the department at court, before legislative bodies, boards, commissions or committees, or federal and state agencies.
3. Supervise the development of methodologies and procedures for the accumulation of scientific data.
4. Approve applications for environmental impact surveys, hazardous waste cleanup plans, water supply construction and protection projects, wetlands protection and projects utilizing state and federal funding programs for municipalities.
5. Identify and correct shortfalls in technical research and development in special areas of assigned environmental science.
6. Confer with federal, state and municipal agencies to inform, direct and coordinate activities, projects or programs.
7. Approve consultant pay estimates for the performance of services in compliance with technical standards.
8. In the absence of an employee of higher grade, order immediately correction or abatement of hazardous conditions to protect public health and safety.
9. Approve, modify or deny applications for citing and licensing of all hazardous waste storage, treatment, disposal or transportation facilities, or other projects.

(Respondent Exhibit 2)

Appellant's Job Duties

16. The Appellant does not exercise direct supervision over any employees. He does not determine job responsibilities, evaluate employees, or issue reprimands, suspensions, or

terminations. (*Respondent Exhibit 5; Testimony of McKiernan*)

17. As the DMF's Scientific Diving Program Manager and Diving Safety Officer, the Appellant is responsible for providing "administrative oversight, support, and technical assistance for all diving conducted under DMF auspices." This work includes budgeting, training, and the design of scientific studies. The Appellant estimates that these responsibilities take up between 25 – 50% of his working time, varying by season. (*Respondent Exhibit 4*)

18. In his capacity as Scientific Diving Program Manager, the Appellant oversees enforcement of the Dive Safety Manual, which governs diver safety guidelines and requirements for DMF and related programs. The manual is established and reviewed by the Diving Control Board, Director of DMG and legal counsel. (*Respondent Exhibit 4; Testimony of McKiernan*)

19. As Chair of the Diving Control Board, the Appellant may recommend disciplinary action against DMF divers for violations of DMF scientific diving policies. The Board itself is responsible for making decisions regarding the issuance of discipline and penalties. (*Respondent Exhibit 4; Testimony of Appellant*)

20. DMF divers are DMF employees in various positions and sections of DMF. Their participation in diving programs is typically limited to three days per month in the summer season. They are employed in various classifications and report to their respective supervisors and section heads. (*Testimony of McKiernan*)

21. As DMF Vessel Safety Manager, the Appellant provides "administrative support, technical assistance, and training for vessel operations conducted under DMF auspices." This work includes monitoring compliance with DMF Vessel Policy, design of scientific studies, and budgeting and resource management. The Appellant estimates that these responsibilities take up 10 – 20% of his working time, varying by season. (*Respondent Exhibit 4*)

22. Additionally, the Appellant oversees management and contracts for the South Coast Field Station and associated storage facilities, as well as co-management of the SMAST East and West facilities. The Appellant's role is largely concerned with maintenance, security, and repairs. Combined, these duties take up an estimated 10 – 20% of the Appellant's working time. (*Respondent Exhibit 4; Respondent Exhibit 7*).
23. The Appellant also oversees the maintenance and operation of DMF capital assets. He describes this function as “including purchasing and upgrading of DMF vessels...keeping operational and service records for each vehicle or boat, ensuring maintenance as required, scheduling service, safety inspections, registration and disposal of vehicles,” as well as managing budgets and facilitating purchases. The Appellant estimates that this work takes up 10 – 20% of his working time, varying by season. (*Respondent Exhibit 4; Respondent Exhibit 5*).
24. The Appellant spends approximately 5% of his working time overseeing the collection of samples from the New Bedford harbor. (*Respondent Exhibit 4; Respondent Exhibit 7*)
25. The Appellant spends a further 7% of his time serving as the Department of Fish and Game's representative to the EEA Health and Safety Team, and for the emergency planning and decommissioning of the Pilgrim and Seabrook Nuclear Power Stations. (*Respondent Exhibit 4; Respondent Exhibit 5*)
26. The Appellant spends approximately 2% of his working time liaising with the Environmental police to facilitate the enforcement of seasonal priorities, particularly as related to fixed gear fisheries in the habitat of right whales. (*Respondent Exhibit 4; Respondent Exhibit 7*)
27. The Appellant spends a final 2% of his working time delivering educational presentations to schools, clubs, and constituent groups, and assisting with research, training, and field

support. (*Respondent Exhibit 4; Respondent Exhibit 7*)

APPLICABLE LAW

Section 49 of G.L. c. 30 provides:

A manager or an employee of the commonwealth objecting to any provision of the classification affecting the manager or employee's office or position may appeal in writing to the personnel administrator. Any . . . employee or group of employees further aggrieved after appeal to the personnel administrator may appeal to the civil service commission. Said commission shall hear all appeals as if said appeals were originally entered before it. If said commission finds that the office or position of the person appealing warrants a different position . . . it shall be effective as of the day of the appeal.

As a general rule, the Appellant must prove, by a preponderance of evidence, that they perform a majority of the functions of the reclassification they seek and that they perform those functions a majority of the time. See, e.g., Thompson v. Division of Insurance and HRD, 29 MCSR 565 (2016). Stated differently, in order to justify a reclassification, an employee must establish that they are performing duties encompassed within the higher-level position the majority (i.e., at least 50% or more) of the time. See, e.g., Pellegrino v. Department of State Police, 18 MCSR 261 (2005) (at least 51%). “The bar for proving that one's position is misclassified is set very high.” Shields v. Department of Revenue, 21 MCSR 263, 266 (2008).

Further, “[w]here duties are equally applicable to both the lower and higher titles, although they may be described slightly differently for each title, those types of overlapping duties are not distinguishing duties of the higher title.” Saunders v. Dep’t. of Labor Standards, 32 MCSR 413, 415 (2019).

ANALYSIS

In the course of his service to DMF, the Appellant has clearly accumulated knowledge, skills, and responsibilities beyond those ordinarily required of an Aquatic Biologist. However, the Appellant has failed to prove by a preponderance of the evidence that he regularly spends a

majority of his time performing the level-distinguishing duties of an EA-V and, consequently, has failed to prove that he is improperly classified.

The various written and oral descriptions of his job responsibilities are substantially consistent and have been assigned clear percentages of his working time. These duties do not, however, tend to fall within those contemplated by the EA series, which is primarily concerned with the analysis and control of environmental pollutants in air, water, and soil. Furthermore, virtually all the Appellant's job duties fall within the remit of the AB Classification Specifications, and may not properly be considered level-distinguishing duties of an EA-V. See Saunders, 32 MCSR at 415 (holding that overlapping duties which apply to both a higher and lower title are not distinguishing duties of the higher title).

The job duties which take up the largest portion of the Appellant's working time (between 25 and 50%, depending on the season) are those related to his position as the DMF's Scientific Diving Program Manager and Diving Safety Officer. In this capacity, the Appellant provides administrative oversight and technical assistance for all diving which occurs under DMF auspices (e.g., budgeting, compliance with safety procedures, trainings). The AB Classification Specifications describe similar duties to "train agency personnel in laboratory and field procedures," to "design scientific field investigations," and to "plan and coordinate activities and programs undertaken mutually by the agency and other organizations...to ensure compliance with established deadlines, standards and procedures". The EA Classification Specifications contain some comparable descriptions (i.e., related to the design and implementation of scientific field investigations), but given the applicability of the AB Classification Specifications, these are plainly not level-distinguishing duties of an EA-V.

The Appellant spends a further 20 – 40% of his working time overseeing the maintenance

and operation of the DMF's capital assets, in particular DMF boats and vehicles. These duties include budgeting, the provision of training, the ensuring of timely safety inspections and repairs, the monitoring of vehicle usage, and the management of purchases. Again, this falls substantially within the AB Classification Specifications, which enumerate duties to "train agency personnel," "schedule daily use of agency equipment," "purchase...needed supplies and equipment," and "review daily itineraries, monthly and annual reports and inventories for completeness and accuracy". And again, where duties are appropriate to the Appellant's current classification, they may not be considered level-distinguishing duties of his requested classification.

An additional 10 – 20% of the Appellant's working time is devoted to the management of the South Coast Field Station and SMAST East and West facilities, dealing primarily with maintenance, security, and repairs. Facilities management includes some duties clearly laid out by the AB Classification Specifications (e.g., purchase of supplies and equipment) but is otherwise mostly outside the scope of both the Appellant's contemplated and requested positions. As such, while it may be outside the scope of his current position to some degree, it is also not a level-distinguishing duty of an EA-V.

Approximately 9% of the Appellant's working time is spent serving as a liaison from or representative of the DMF or the Department of Fish and Game. The Appellant is a member of the EEA Health and Safety Team, works with the Environmental Police to facilitate enforcement of seasonal habitats, and is involved in emergency planning and decommissioning for the Pilgrim and Seabrook Nuclear Power Stations. This is commensurate with the AB-II duties to "inform the public and local officials on environmental law, rules, regulations and regulatory and policy changes," and "attend or speak at meetings, seminars and conferences and represent the agency at...meetings and legislative hearings".

The job duty which fits most squarely under the heading of EA-V is the Appellant's oversight of the DMF's annual collection of samples from the New Bedford Harbor, which comprises 5% of his working time. This responsibility also, however, falls under the duty of an AB-II to collect "biological and hydrological field samples" and "conduct scientific field investigations". Likewise, depending on the subject matter of the various educational activities, research, and training the Appellant undertakes for the DMF as needed (for approximately 2% of his working time), those duties may fall within the description of an EA-V. However, such activities are also encompassed by the AB duties to "prepare materials and lectures for presentation," "train agency personnel," and "perform related duties such as writing general and technical reports and memoranda".

It is clear from the record that the Appellant is a capable, hardworking employee who—in large part because of his competence—has been entrusted with greater managerial responsibilities. He has not, however, shown that he regularly spends the majority of his time performing the level-distinguishing duties of an EA-V, as the law requires for a successful reclassification appeal.

CONCLUSION

For all of the above reasons, the Appellant has failed to prove that he is improperly classified, and his appeal under Docket No. C-23-23 is hereby *denied*.

Civil Service Commission

/s/ Shawn C. Dooley
Shawn C. Dooley
Commissioner

By vote of the Civil Service Commission (Bowman, Chair; Dooley, McConney, Stein, and Tivnan, Commissioners) on November 30, 2023.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(1), the motion must identify a clerical or mechanical error in the decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his/her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Vincent J. Malkoski (Appellant)

Eric Klein, Esq. (for Respondent)