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## EPA Told to Reinstate Whistle-Blower

Associated Press

The Environmental Protection Agency has been ordered to reinstate a senior scientist and pay him \$50,000 for emotional distress after he was fired for what he claimed were his whistleblowing activities, his lawyer said yesterday.

William Marcus, a senior toxicologist in the EPA's office of drinking water, was fired last May 13 after a lengthy investigation of his outside activities as an expert trial witness and how they related to his position at the EPA.

During the appeal, Marcus maintained that his superiors knew about his outside work. He argued that his dismissal stemmed from a controversial internal memorandum he wrote in 1990 challenging the agency's position on the adverse health effects of fluoride.

When the memorandum was leaked to the press, it embarrassed senior EPA officials, Marcus said.

The decision was made by a Labor Department administrative law judge under a federal whistle-blower protection statute.

"I'm elated. . . . It's removed a cloud from my reputation that was unjustly put there through lies and manufactured evidence," said Marcus, 52, an 18-year EPA employee who said he planned to return to his \$87,000-a-year EPA post soon.

In ordering Marcus's reinstatement, administrative law judge David Clarke Jr. said that three of the four charges against Marcus were not supported by fact. Instead, Clarke concluded the reasons given for the firing were "a pretext" and that he really was dismissed "because he publicly questioned and opposed EPA's fluoride policy."

The EPA had no immediate comment on the Dec. 3 ruling made public yesterday.

Clarke directed that Marcus be reinstated, be provided back pay with interest and be paid \$50,000 in compensatory damages because of emotional stress.

In firing Marcus, the EPA accused him of improperly using agency information for private gain, using working hours for his private activities as an expert trial witness and engaging without approval in outside employment that appeared to pose a conflict of interest.

The agency produced employee timecards allegedly showing Marcus on a number of occasions had been involved in his private activities when he should have been at work. He argued that he used annual leave time for the activities, although timecards at times showed him absent because of illness. The EPA also maintained that during court testimony and depositions he often implied his views were agency views.