**COMMONWEALTH OF MASSACHUSETTS**
**CIVIL SERVICE COMMISSION**

**SUFFOLK, ss.**

**One Ashburton Place - Room 503**
**Boston, MA 02108**
**(617) 727-2293**

**STANLEY KALLIANIDIS**,
*Appellant*

**CASE NO: C-17-028**

v.

**DEPARTMENT OF CHILDREN YOUTH & FAMILIES,**
*Respondent*

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|---|---|
| Appearance for Appellant: | Pro Se |
| Appearance for DCYF: | Ricardo Coutu, Esq.<br>Mass Health/Board of Hearings<br>100 Hancock Street<br>Quincy, MA |
| Commissioner: | Paul M. Stein |

## DECISION

The Appellant, Stanley Kallianidis, appealed to the Civil Service Commission (Commission) pursuant to G.L.c.30,§49, from the denial of his request for reclassification of his position from Counsel II to Counsel III with the Board of Hearings (BOH), Mass Health/Office of Medicaid, in the Department Children, Youth & Families (DCYF) of the Executive Office of Health & Human Services (EOHHS). A pre-hearing conference was held at the Commission's offices in Boston on February 21, 2017 and a full evidentiary hearing was held at the same location on April 11, 2017.[1] The hearing was digitally recorded.[2] Twenty-five exhibits (Exhs.1 through 23 & Exh. 25) were introduced in evidence and one document marked for identification (Exh.24ID) At the Commission's request, each party later submitted sample BOH decisions which are marked AppPHExh.26 and AAPHExh.27. Thereafter each party duly submitted a Proposed Decision.

[1] The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.00, *et seq.*, apply to adjudications before the Commission with and conflicting provisions of G.L. c.30,§49, or Commission rules, taking precedence.

[2] If there is a judicial appeal of this decision, the plaintiff becomes obligated to use the copy of the CD provided to the parties to supply the court with the written transcript of the hearing to the extent that he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion.

## FINDINGS OF FACT

Based on the Exhibits entered into evidence and the testimony of the following witnesses:

*Called by EOHHS*:

- Kim Larkin, Esq., Director, BOH
- Melanie Gurliaccio, Manager, EOHHS Employment & Staffing Unit

*Called by the Appellant:*

- Stanley Kallianidis, Esq., BOH Counsel II, Appellant

and taking administrative notice of all matters filed in the case, pertinent law and reasonable inferences from the credible evidence, a preponderance of evidence establishes these facts:

1. The Appellant, Stanley Kallianidis, currently holds the position of Counsel II with the Board of Hearings (BOH), a division of the MassHealth Office of Medicaid, Department of Children, Youth & Families (CYF), an agency that falls under the umbrella of the Executive Office of Health & Human Services (EOHHS). (*Exhs. 3, 9 through 11, 13 & 25*)

2. Atty. Kalianidis began working as a Hearing Officer with the precursor to MassHealth in 1992, initially as a "contract" employee and, since 1998, in the position of Counsel II. He is the longest-serving Counsel II among the current BOH staff. (*Exh.13; Testimony of Appellant)*

3. Atty. Kallianidis is one of approximately 24 BOH staff, of which approximately 15 are Counsel IIs who serve as BOH hearing officers. All BOH Counsel IIs, as well as the approximately 8 other administrative staff, report to the BOH Director, currently Kim Larkin. (*Exhs. 9 through 11, 13 & 25; Testimony of Appellant & Larkin*)

4. BOH Counsel IIs serve as impartial hearing officers who preside over and decide[3] adjudicatory hearings in administrative agency appeals for review of action or inaction by MassHealth, as assigned to them by the BOH Director. Appeals involve such issues as denial or

[3] Technically, eligibility issues and nursing home discharges/transfers are conducted under MassHealth's "Fair Hearing Rules", 130 CMR 610 et seq, and Decisions are approved by the BOH Director. Adjudicatory hearings brought by providers are conducted under the Standard Rules of Adjudicatory Practice & Procedure, 801 CMR 1.00 et seq. and BOH Hearing Officers produce a "Proposed Decision" that is formally issued by the Director of the Office of Medicaid. (*Exhs.9, 10, 19 & 25; AppPHExh.26 & AAPHExh.27; Testimony of Appellant & Larkin*)

limiting the amount of an applicant's eligibility for health care insurance subsidies based on the level of qualifying income and assets, review of nursing home residents' discharges or transfers, and provider challenges to overpayment claims and denials of reimbursement for service. (*Exhs.9, 10, 13 & 25; AppPHExh.26 & AAPHExh.27; Testimony of Appellant & Larkin*)

5. The BOH received approximately 28,000 appeals each year, of which most are processed under the BOH "fair hearing" rules – promulgated to comply with federal mandates – brought by individuals, about 80% of which involve disputes over their eligibility for benefits. Nursing home discharge appeals are also handled in this manner. The bulk of these appeals include relatively routine issues focusing on an applicant/member's income that are frequently resolved without hearing or through a brief hearing (usually an hour or less) after which the Hearing Officer prepares and issues a final Decision, which is subject to judicial review under Chapter 30A. *(Exh. 1, AppPHExh. 26, AAPHExh.27; Testimony of Appellant & Larkin*)

6. A growing number of the "fair hearing" appeals involve claims for eligibility and/or reimbursement of an elderly MassHealth/Medicaid applicant who is seeking reimbursement for long-term care services. These "elder law" cases require a more complex inquiry into the applicant's assets, in addition to income, with special rules about how assets are counted in determining if a person qualifies for Medicaid/Mass Health benefits, such as, a "look back" period for assets transferred within the past five years, assets placed in trust or held by family members. These cases require an understanding of both the Medicaid/MassHealth law and regulations as well as an understanding of the developing body of "elder law". Due to the high-stakes nature of these cases, and the unsettled nature of the interface between Medicaid/Mass Health law and regulations and the developing body of "elder law", appellants in long-term care

appeals usually retain counsel. These cases have been the subject of considerable dispute, both within the BOH and in judicial appeals. (*AppPHEhc.26; AAPHExh.27; Testimony of Appellant*)[4]

7. The BOH also receives several hundred appeals each year from providers, contesting decisions that deny reimbursement, bar them as authorized providers to Medicaid/MassHealth member or dispute findings by the State Auditor that the provider received overpayments. These "provider appeals" are handled under the Standard Rules of Adjudicatory Practice and Procedure, 801 CMR 1.01 (Formal Rules). Pursuant to those rules, the BOH hearing officer produces a "Proposed Decision", which is formally approved by the Director of Medicaid, an Assistant Secretary in EOHHS, subject to further judicial review under chapter 30A. Depending on the number of issues presented, provider appeals will be scheduled for one day of hearing or more. The longest provider appeal (handled by Mr. Kallianidis) was a multi-issue appeal that took 21 hearing days over the span of a year. (*App.Exh.26; Testimony of Appellant & Larkin*)

8. Director Larkin assigns cases to the BOH hearing officers based on a number of criteria. For example, Mr. Kallianidis resides in close proximity to Taunton, which is one of the six sites at which BOH holds hearings, so that factor is, in part, the reason he mostly handles cases that are heard in Taunton. (*Testimony of Appellant & Larkin*).

9. The principal basis for Director Larkin's case assignment is "issue driven". She will assign newly hired Counsel IIs to the most routine eligibility cases, initially partnering then with a senior Counsel II. After a year or two of experience, Counsel IIs may begin to hear the less complex provider appeals. Because the "elder law" cases are often the most complex, and often involve new, unsettled legal issues, Director Larkin assigns those case to one of her "five or six"

[4] See generally, Daley v. Secretary of EOHHS, 477 Mass. 188 (2017) (reversing BOH decision that retention of applicant's right to live in her home rendered the equity in the home a "countable" asset in determining Medicaid eligibility; Heyn v. Director of Office of Medicaid, 86 Mass.App.Ct. 312 (overturning BOH decision that assets in a self-settled irrevocable intervivos trust should be as available for payment of nursing home expenses and render the plaintiff ineligible for Medicaid benefits).

most senior Counsel IIs, of which Atty. Kallianidis is one. She also considers "judicial temperament", as some cases, nursing home discharges, for example, may involve "heated" disputes that are more suited to the "style" of specific hearing officers. ( *Testimony of Larkin*)

10. Director Larkin considers Atty. Kallianidis (along with his four or five senior peers) a "statewide or agency expert on a specific aspect of the law". Atty. Kallianidis now devotes over half of his time handling "elder law" cases. He agrees that he is "not the only one doing what I do" and that other Counsel IIs "do similar things to what I do." (*Testimony of Appellant & Larkin*)

11. In August 2013, pursuant to a Memorandum of Agreement between the Massachusetts Human Resources Division (HRD) and SEIU/NAGE, HRD promulgated a revised Classification Specification for the Counsel Series, which expanded the series to add a third level, Counsel III, to the existing two levels, Counsel I and Counsel II. (*Exhs. 15 & 18*)[5]

12. In November 2014, Atty. Kallianidis, acting pursuant to G.L.c.30,§49, sought a reclassification of his position with BOH from Counsel II to the newly created Counsel III level. (*Exhs. 12 through 15 & 16; Testimony of Appellant*)

13. After review by the EOHHS human resources personnel, the EOHHS Planning and Staffing Manager, Erin Geoghegan, informed Atty. Kallianidis that his reclassification request was denied. (*Exh. 6 through 8; Testimony of Geoghegan*)

[5] The Memorandum of Agreement is not in evidence. Director Larkin was not a party to the negotiations that produced the Memorandum of Agreement or the new Counsel Series Class Specifications. At the time of the Commission hearing she had received limited direction from HRD about the revisions and professed to be somewhat still at a "loss" to know how they should be applied to the BOH in general and to Atty. Kallianidis, in particular. (*Testimony of Larkin*) Atty. Kallianidis produced an excerpt from the SEIU/NAGE website that distinguished the new Counsel III job title as a person with a "high level of expertise", the Counsel II as the "journeyman level" in the series and Counsel I as the "entry-level, attorney in "training". (*Exhs. 20 & 23; Testimony of Appellant*) I have taken account of SEIU/NAGE's notions; they do not carry as significant weight with the Commission as the letter of the Classification Specification itself..

14. Atty. Kallianidis duly appealed the EOHHS denial to HRD which conducted a classification appeal hearing on June 19, 2015. (*Exh. 5*)

15. By letter dated January 24, 2017 [not a typo], HRD informed Atty. Kallianidis that the decision to deny his reclassification request was affirmed. *(Exh. 4*)

**APPLICABLE CIVIL SERVICE LAW**

G.L.c.30, §49 provides:

> Any manager or employee of the commonwealth objecting to any provision of the classification affecting his office or position may appeal in writing to the personnel administrator. . . Any manager or 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 reallocation . . . it shall be effective as of the date of appeal . . .

"The determining factor of a reclassification is the distribution of time that an individual spends performing the function of a job classification." Roscoe v. Department of Environmental Protection, 15 MCSR 47 (2002). As a general rule, an employee must establish that she is 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%); Morawski v. Department of Revenue, 14 MCSR 188 (2001) (more than 50%); Madison v. Department of Public Health, 12 MCSR 49 (1999) (at least 50%); Kennedy v. Holyoke Community College, 11 MCSR 302 (1998) (at least 50%).

Because of its unique structure as compared with other civil service class specifications, however, the Commission has used a somewhat different approach to requests for reclassification of attorneys under the 2013 revision of the Counsel Series Class Specifications. In Thomson v. Division of Insurance., 29 MCSR 585 (2016), the first appeal to come before the Commission under the 2013 Class Specifications, the Commission approved reclassification of

that Appellant, a Counsel II, to the newly-created position of Counsel III. The Commission's Decision summarized the rationale for applying a different approach to Counsel Series appeals:

> Clearly, a considerable amount of time, effort and thought was devoted to the development of the new Counsel Series Specifications. The Commission acknowledges that the process was especially complicated because it presented challenges to craft a specification that would be effective to distinguish, by level of expertise, the work performed by skilled legal counsel employed in a wide variety of diverse jobs across state government. By definition, all legal counsel employed by the Commonwealth hold a post-graduate doctorate-level degree and have attained some level of accomplishment in the law. Many come into state government with prior, often extensive experience in a particular field within the practice of law. In addition, unlike many other job specifications that provide a clear civil service "career ladder" from entry level into management roles, the new Counsel Specifications were not intended to be used to provide such a path; indeed, the original drafts were expressly rejected because they overlapped with management positions in the legal area.
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> Given these factors, the new Counsel Specifications, understandably, depart from the typical job and class specifications that have been the focus of prior Commission reclassification appeals. In addition, the degree of overlap from one Counsel job title to another . . . is much more pronounced than found in most other class specifications.
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> Accordingly, the Commission reviewed this reclassification appeal under a slightly modified paradigm tailored to resolve the ambiguities in the unique terminology used and to fit that terminology into a workable means to differentiate the work performed by each of the three Counsel job titles. In brief, the Commission has applied a three-prong test to distinguish the job performed by a Counsel III: (a) the Counsel III must have the "Knowledge Education and Experience" as well as the additional requirements described for a Counsel III in the section of the specification entitled "Incumbents are required to have the following at the time of hire"; (b) a Counsel III must have the "distinguishing characteristic" as THE most expert and experienced attorney in the agency in a specific area of expertise essential to a core mission of the agency; and (c) the Counsel III must perform, in the aggregate, at least a majority of the time, duties listed in the Counsel III class specifications under "Supervision Exercised", "Additional Functions Performed", "Additional Key Accountabilities" and "Relationships with Others", with the "Supervision Received" by a Counsel III.
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> In applying the "distinguishing characteristic" criterion, the Commission will consider the significance of the area of expertise to the core mission of the agency and the degree of specialization involved. Generalized expertise, such as knowledge of administrative law or trial practice, would be less likely to meet the "distinguishing characteristic" criterion than, say, a subject-specific expertise, such as the automobile insurance market expertise held by the Appellant in this case. In addition, the Commission would consider the frequency with which the agency (or a person outside the agency) relies on that expertise, i.e., is it sporadic or regular and sustained and is it current. Although some regular level of work above de minimus would be expected in the area of expertise, the Commission does not construe the Counsel III specification to require that the employee must be working in the area of expertise more than 50% of the time; that threshold can be

> met so long as the aggregate duties performed a majority of the time involve any combination of the duties covered by the Counsel III job description as noted herein. Finally, in view of the unusual level of overlap between Counsel II and Counsel III, and the ambiguity in the language used in the specification that purports to "distinguish" those duties, the fact that some of the duties may describe work that can be done by either a Counsel II or Counsel III, the Commission will not exclude from the calculation of the over 50% paradigm work solely because it fits both categories, but will consider all of the facts presented on a case-by-case basis.

Since the Thompson Decision, the Commission has decided five other Counsel Series reclassification appeals.

- In Rubin v. HRD, 30 MCSR 8 (2017) the Commission allowed the Appellant's appeal for reclassification to a Counsel III, finding that she was the Division of Insurance "go to" expert in several substantive core areas of insurance law and performed those duties, along with others, at the Counsel III level a majorityof her time.
- In Phelan v. Division of Insurance, 30 MCSR 45 (2017), the Commission upheld the denial of that Appellant's appeal for reclassification of his positions from Counsel II to Counsel III, finding that he did not meet the Commission['s modified test for reclassification to the newly created Counsel III position.
- In Tannenbaum v. Department of Revenue, 30 MCSR 167 (2017), the Commission upheld the denial of a request for reclassification from Counsel I to Counsel II. Although the Appellant had over ten years of experience as a Counsel I, her duties had not expanded to include any Counsel II-specific tasks, she was not handling cases of particularly more complexity than others, she had one of the largest backlogs on the staff, and did not possess any specialized expertise in any core area of practice.
- In Duvall-Paprocki v. Department of Revenue, 30 MCSR 188 (2017), the Commission denied an appeal for reclassification from Counsel I to Counsel II. Although the Appellant had seven years' experience as a Counsel I and performed with greater

efficiency, and productivity her duties had not changed or become particularly more specialized or complex and still required supervision over non-routine matters. In addition, she lacked supervisory responsibility which, for the particular unit to which she was assigned, DOR had consistently specified was a required duty for all Counsel IIs.

- In Walleigh v. Department of Housing & Community Development, 30 MCSR 505 (2017), the Commission allowed the appeal for reclassification from Counsel I to Counsel II who, after five years with the DHCD's Office of General Counsel OGC)l, had assumed formal responsibility as the primary, lead attorney for the management and program staff of the largest agency within the DHCD umbrella, essentially, inheriting the duties formerly performed by two Counsel IIs and "stepping into the shoes" of the Counsel II who trained and mentored him when he started with the OGC.

**ANALYSIS**

As is often true in most classification appeals, Mr. Kallianidis, by all accounts, comes before the Commission as a seasoned and dedicated public servant who works hard at his job. However, reclassification of a position requires proof that the specified duties of the higher title are, in fact, actually being performed as the major part of his current position. Accordingly, the issue before the Commission is limited to that narrow question.

The preponderance of the evidence establishes that Mr. Kallianidis's job duties fit the classification specification for a Counsel II and do not qualify him for reclassification to Counsel III, primarily because he does not perform as the most expert legal professional in the agency, which is a core distinguishing characteristic required for a Counsel III.

First, Mr. Kallianidis has served as a BOH hearing officer for over twenty years, longer than any of his peers, and has seen the work evolve as the laws governing Medicaid and MassHealth

have evolved and require more sophisticated analysis. Atty. Kallianidis clearly brings a long-career of competence as a BOH hearing officer that enables him to work more deftly and to adapt more quickly to new tasks than others with less experience. Longevity and experience, alone, however, do not supply the necessary distinguishing characteristics that make a Counsel III. To be sure, the classification specification could have defined the levels on such chronological grounds, but it does not. Rather, the requirement of the specification, as the commission's decisions have construed tem, focuses not simply on the incumbent's prior depth of "experience", but on the candidate's present performance at a singularly high level of specific "expertise" that is unique to the agency and sets the incumbent apart from his or her peers.

Second, I have carefully reviewed the work product provided by Atty. Kallianidis and those of other BOH hearing officers. Atty. Kallianidis clearly has demonstrated that he has a produced a solid record of high-quality BOH hearing decisions on a variety of substantive disputes. For the most part, however, the quality and quantity of his work product does not appear to be of the nature that would qualify as setting his work as unique among his peers. Of the fourteen Decisions he provided, authored from 2012 to 2017, twelve of them are typical of the length (6 to 8 pages) and concern substantially comparable issues of income and asset eligibility and denial of services, or calculation of benefits, as the Decisions provided by the Respondent authored by other Counsel IIs. Atty. Kallianidis candidly agrees that he is "not the only one doing what I do" and that other Counsel IIs "do similar things to what I do."

Atty. Kallianidis did produce copies of two decisions that he authored in 2014 that appear more extensive than most others that he and his peers wrote. One decision involved a consolidated appeal by a Massachusetts hospital provider from denial of eleven different requests for inpatient admission of MassHealth members as medically unnecessary. The 18-page Decision

made findings of fact as to each of the requested admissions, and applied the applicable "medical necessity" standard contained in the MassHealth regulations to each of the fact scenarios, concluding that the hospital had failed to establish that, in each of the eleven cases, the "treatments could not have been produced in the more conservative, less costly outpatient setting." The second more complex 2014 Decision provided by Atty. Kallianidis involved the appeal of a provider who had been terminated from the MassHealth orthodontics program and assessed $253,519 in overpayment. Atty. Kallianidis authored a 29 page-decision which upheld MassHealth's termination decision, but reduced the amount of overpayment to $40,491. I agree with Atty. Kallianidis that this decision presented some novel, unsettled issues and required application of a specific subpart of the MassHealth regulations governing dental services that may not be something that would commonly arise,

Neither of these two more complex decisions (both authored four years ago), nor the other dozen decisions provided by Mr. Kallianidis, demonstrate a level of unique agency expertise that is necessary to distinguish a Counsel II from a Counsel III. At bottom, all of these decisions call for the ability to identify and apply the same body of applicable statutes and regulations governing MassHealth members and providers and, in some cases "elder law", and applies the law and regulations to the specific facts presented, subject to approval of the BOH Director (Fair Hearing cases) or the Assistant Secretary of EEOC (provider appeals) and further subject to judicial review. Having been assigned a case that required learning about one or more specific, and possibly infrequently invoked, parts of those regulations (i.e. complex and unsettled "elder law" and asset issues or rules unique to orthodontists) does not equate to possession of the "specialized expertise" in a "specific area of the law" required for elevation to a Counsel III. I can find no plausible reason to interpret the Counsel Class Specifications to intend that

experience with pieces of what is essentially the same body of law in which at least four or five other senior Counsel IIs are also "experts" meets the test for distinguishing a Counsel II from a Counsel III.

Third, Atty. Kallianidis argues that the Commission's three-part test for distinguishing Counsel II and Counsel III positions is erroneous as a matter of law, specifically, that the second prong – requiring that an attorney be THE expert in some core area of the law – misreads the Classification Specifications. He points out that the Counsel III Distinguishing Characteristics "merely" describes a Counsel III as "*the* most expert and experienced attorney *in this series*" *(emphasis added)* but also states: "Incumbents at this level serve as subject matter experts and have *advanced knowledge* of laws, legal principles and practices. The distinguishing characteristic of the Level III is incumbents at this level are statewide or agency expert [sic] with *more* legal experience and have *greater* expertise in a specialized area of the law." (Exh.15) Atty. Kallianidis argues that the second prong of the Commission's three-part test incorrectly conflates these provisions and that the "most expert . . . in the series" is a generic reference to the fact that Counsel IIIs have more experience than others "in the series", i.e., Counsel IIs (whom he characterizes as "journeymen") and Counsel Is (entry-level attorneys with little or no experience). In other words, the Class Specifications cannot be read to mean that, in effect, only one attorney in any particular agency can be THE expert in a particular area of the law to qualify as a Counsel III, but that it is possible that a group of senior attorneys with an equivalent level of "greater experience" and "advanced knowledge" may all be considered to be working at the Counsel III level.

Atty. Kallianidis's point is certainly fair argument. The Commission has wrestled with the ambiguities in the new Counsel Series Class Speculations, which are not a model of clarity and

precision. It was not after considerable deliberation that the Commission arrived at the "three part test" as the most rational and practical solution to reconciling the somewhat ambiguous language of the Counsel Series Class Specifications with HRD's expressed intent in promulgating it. This conclusion took into account the fact that it was clear that the new specifications were not meant to create a "career ladder" but intended to provide for distinguishing the very few counsel at an agency (generally working under a General Counsel) who were relied upon to provide unique "subject matter" legal advice that no one else could provide. I do not see good cause to revisit that analysis or to change the Commission's "three part test" as a general rule.

I do find it plausible that, in drafting these specifications, little attention was given to the many so-called "quasi-judicial" agencies such as the BOH, where attorneys serve not as legal advisors to agency management on a particular "subject matter", but serve as independent hearings officers. HRD did not participate in this hearing and BOH Director Larkin was not fully informed on the development of the new specifications. The fact that she candidly stated that she was at a "loss" to know how the new specifications were to be applied to BOH reinforces the conclusion that the new specifications may not be as suitable a fit for an agency such as the BOH as they would in a Office of General Counsel organization. However, were the Commission to make an exception to the "three part test" general rule for the BOH, it would open the door to many other senior attorneys with "advanced knowledge" who serve as hearing officers in other similarly-situated agencies to seek reclassifications. I am convinced that HRD did not intend that the new Counsel III title would become as widely available, either in the context of an Office of General Counsel organization or in a BOH-type agency, in such a manner as to create a de facto "career ladder" which, in effect, would enable all Counsel IIs to convert their position

into a Counsel III upon achieving some senior level of "advanced knowledge" in their field. Absent further clarification or modification of the new specifications by HRD to suggest that result is consistent with the intent of the specifications, the Commission must tread carefully here and continue to apply the "three part test" without exception to all reclassification requests under the new Counsel Series Classification Specifications.

Finally, Mr. Kallianidis took exception to the eighteen month delay between the date he received a hearing on his classification appeal from HRD (June 2015) and the date he received what was, in effect, a form letter denying his appeal. His objection is well-taken. While the Commission is aware that there may be extenuating, and not systemic, circumstances in this or another particular case, the Commission urges HRD to assure that future review of classification appeals are handled in a timely manner.

In sum, I do not doubt that Mr. Kallianidis is one of, and probably the most experienced BOH attorney now working for the BOH. But being the "most experienced" does not equate to being the "most expert" in some unique field, which is the required yardstick for promotion to Counsel III.

Accordingly, for the reasons stated above, the appeal of the Appellant, Stanley Kallianidis, under Docket No. C-17-028, is ***dismissed.***

Civil Service Commission

*/s/ Paul M. Stein*
Paul M. Stein
Commissioner

By vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Tivnan & Stein, Commissioners) on March 15, 2018.

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)(l), the motion must identify a clerical or mechanical error in this order or 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 a final decision or order of the Commission may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of such order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of the Commission's 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:
Stanley Kallianidis, Esq. (Appellant)
Ricardo Coutu, Esq. (for Respondent)
John Marra, Esq. (HRD)