

CAUSE NO. 98-13429

JAMES L. AUSBORNE, et al

VS.

TYLER PIPE INDUSTRIES, INC., et al

§
§
§
§
§

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

133rd JUDICIAL DISTRICT

CAUSE NO. 98-39557

HERMAN WHITAKER and
WANDA NELL WHITAKER

VS.

TYLER PIPE INDUSTRIES, INC., et al

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

133RD JUDICIAL DISTRICT

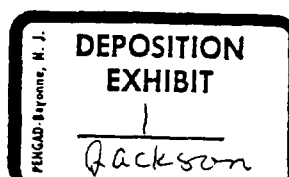
MOTION FOR PROTECTIVE ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, Briggs-Weaver, Inc., moves this Court for a protective order, pursuant to Rule 192.6 of the TEXAS RULES OF CIVIL PROCEDURE, and in support of the order shows:

I.

This Defendant did not receive adequate notice of the depositions scheduled for August 2 and 3, 1999. On July 30, 1999 at 12:57 p.m., Defendant was served by fax with two Cross Notices of Deposition upon Oral and Videotape Examination. These notices stated that the deposition of Olin Jackson was to be taken at 10:00 a.m. on Monday, August 2, 1999 at the offices of Ramey & Flock, 500 1st Place, Tyler, Texas and the deposition of James L. Milstead was to be taken at 9:00 a.m. on August 3, 1999 at the offices of Ramey & Flock, 500 1st Place, Tyler, Texas. A copy of these notices are attached as Exhibits A and B and incorporated by reference. Before these notices, this Defendant had not known that these depositions were



scheduled for these days. As a result, this Defendant does not have sufficient time to prepare for these depositions.

II.

Defendant would further show that approximately three weeks ago, it was advised that Defendant, Tyler Pipe Industries, Inc. or the present owner of the foundry, had located additional relevant documents which to date have not been produced to this Defendant despite two requests. Until such time as these documents are produced and inspected, this Defendant will not be adequately prepared to cross-examine these deponents. As a result, this Defendant seeks to reserve the right to re-depose these deponents if deemed necessary after the review of these documents.

WHEREFORE, Defendant requests that this Court grant the motion for protective order and allow this Defendant the opportunity to re-depose James L. Milstead and Olin Jackson at an appropriate time and that this Defendant have such other and further relief to which Defendant may be justly entitled.

Respectfully submitted,

McFALL, SHERWOOD & SHEEHY, P.C.

By: _____

George P. Pappas
State Bar No. 15454800
2500 Two Houston Center
909 Fannin Street
Houston, Texas 77010-1003
Tel: (713) 951-1000
Fax: (713) 951-1199
Attorney for Defendant
Briggs-Weaver, Inc.

CAUSE NO. 98-13429

JAMES L. AUSBORNE and	§	IN THE DISTRICT COURT OF
BILLIE JEAN AUSBORNE, Individually,	§	
and RUBY LEE LYLES, as	§	
representative of the estate of	§	
HIAWATHA LYLES	§	HARRIS COUNTY, T E X A S
	§	
vs.	§	
	§	
TYLER PIPE INDUSTRIES, INC., ET AL.	§	133rd JUDICIAL DISTRICT

CAUSE NO. 98-39557

HERMAN WHITAKER and	§	IN THE DISTRICT COURT OF
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	§	HARRIS COUNTY, T E X A S
	§	
vs.	§	
	§	
TYLER PIPE INDUSTRIES, INC., ET AL.	§	133rd JUDICIAL DISTRICT

**CROSS NOTICE OF DEPOSITION
UPON ORAL AND VIDEOTAPE EXAMINATION**

TO: TYLER PIPE INDUSTRIES, TYLER CORPORATION and TYLER SAND CO., through their attorney of record, JoAnne Early and Joe B. Hamison, Gardere & Wynne, L.L.P., 3000 Thanksgiving Tower, 1601 Elm Street, Dallas, Texas 75201.

PLEASE TAKE NOTICE , pursuant to Texas Rule of Civil Procedure 199, the deposition of Olin Jackson will be taken, both by non-stenographic recording (videotape) and by stenographic recording, commencing at 10:00 a.m. on Monday, August 2, 1999, at the offices of Ramey & Flock, 500 1st Place, Tyler, Texas.

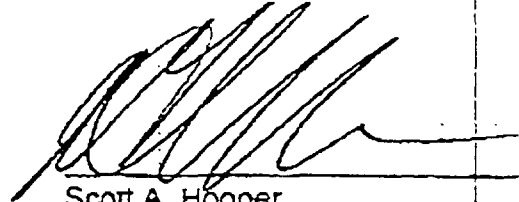
EXHIBIT

A

The examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully submitted,

SMITH & HOOPER

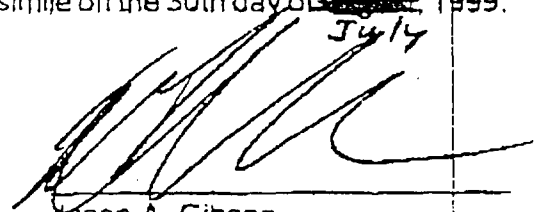


Scott A. Hooper
State Bar No. 09960300
Jason A. Gibson
State Bar No. 24000606
3850 Two Houston Center
909 Fannin at McKinney
Houston, Texas 77010-1003
Tele: (713) 659-2727
Fax: (713) 659-2813

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify a copy of the foregoing document was served to all counsel of record by certified mail, return receipt requested and/or by facsimile on the 30th day of ~~August~~ ^{July}, 1999.



Jason A. Gibson

CAUSE NO. 98-13429

JAMES L. AUSBORNE and § IN THE DISTRICT COURT OF
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and RUBY LEE LYLES, as §
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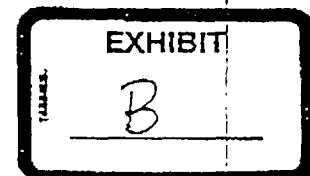
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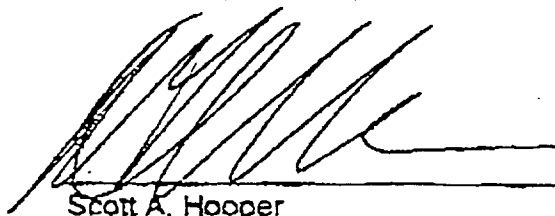
PLEASE TAKE NOTICE , pursuant to Texas Rule of Civil Procedure 199, the
deposition of James L. Milstead will be taken, both by non-stenographic recording
(videotape) and by stenographic recording, commencing at 9:00 a.m. on Tuesday, August
3, 1999, at the offices of Ramey & Flock, 500 1st Place, Tyler, Texas.



The examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully submitted,

SMITH & HOOPER

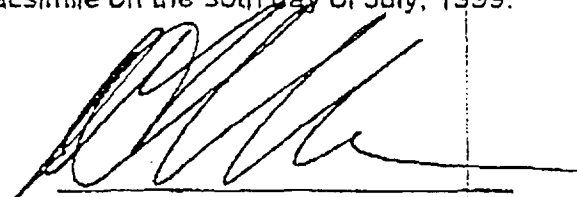


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Jason A. Gibson