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LAW OFFICES OF MARTIN DIES
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March 1, 1995

Dr. Barry Castleman

Re: Cause No. B-143539; Sharon Bowen Ellis, et al. vs. A. C. & S., Inc., et al, In the 60th Judicial District Court of Jefferson County, Texas.

Dear Barry:

As indicated in my letter of February 8, 1995, one of the Defendants in this case is Bird Incorporated ("Bird"), formerly called ("Bird & Son.") Mr. Ellis, a sheet metal worker by trade, was exposed to various asbestos-containing roofing products manufactured and marketed by this company. Additionally, Mr. Ellis performed sheet metal work on multiple occasions at Bird's Shreveport roof plant, where Bird manufactured asbestos-containing roof products, and whereby Mr. Ellis was exposed to asbestos.

I want to provide you with additional background information concerning this Defendant. According to Bird, the company traces its roots back to 1795, at which time Bird was primarily in the paper business, and was making currency for the United States Government. Bird was incorporated in 1918, and was known as Bird & Son, Inc. until 1983. In 1983, a name change occurred, whereby the company became known as Bird, Inc.

According to documents produced by Bird, one of which is attached hereto as Exhibit "A", Bird began manufacturing asbestos-containing roof cements in 1923. Bird continued to manufacture asbestos-containing products, including its cements, until approximately 1984, at which time Bird sold several of its manufacturing facilities. Even after such date, Bird continued to sell under its name asbestos-containing cements manufactured by other companies, and further continued to saturate and sell asbestos roof felts manufactured by other companies.

I am enclosing the deposition of Leonard Weaver, who worked for Bird from 1941 until 1982, and retired in the capacity of Technical Center Manager. For most of his career, Mr. Weaver worked within Bird's Research and Development Department. Mr. Weaver testified in his deposition (a copy of which is attached)

that at the time that he joined Bird in 1941, he knew that "asbestos fibers were not healthy to breath," and in fact had heard of the term "asbestosis." Mr. Weaver, a geologist by education, indicated that he had learned that asbestos could be harmful by reading trade journals, including reports from the Bureau of Mines and other organizations. In fact, in 1978, Mr. Weaver wrote a letter to the editor of the magazine "Plastics Design Form," wherein Mr. Weaver stated in part:

> "Your discussions of asbestos in the Readers Forum/Opinion section of your November/December issue seem to place the emphasis in the wrong place. In the first place, the recognition of the hazardous nature of asbestos is belated, to say the least. It was back in the 1930's that public health officials identified most of the problems related to asbestos fiber, and the more enlightened industrial firms took steps to protect the health of the workers."

(See letter attached hereto as Exhibit "B").

In regard to Bird's knowledge of the health hazards associated with exposure to asbestos, even as late as 1970, Bird was receiving notice from its asbestos suppliers that the inhalation of chrysotile asbestos fibers may be harmful (See letter of January 13, 1970 from Asbestos Corporation, Ltd. to Mr. H. W. Church of Bird & Son, Inc., attached hereto as Exhibit "C"). Nevertheless, according to Bird's representative, Bird has <u>never</u> placed a warning on any of its asbestos-containing products that asbestos can be harmful.

Again, the above information, and attached documents and deposition are merely background information regarding this Defendant. As always, I appreciate your assistance.

Very truly yours,

Martin

MARTIN DIES

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Enclosures

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FACSIMILE
(409) 883-4814

February 8, 1995

Dr. Barry Castleman
VIA FACSIMILE (410) 462-1039

Re: Cause No. B-143539; Sharon Bowen Ellis, et al. vs. A. C. & S., Inc., et al, In the 60th Judicial District Court of Jefferson County, Texas.

Re: Cause No. A 920809-C; Billie Louise Miller, Individually and as Independent Executrix of the Estate of Frankie D. Miller, Deceased vs. A. C. & S. Inc., et al., In the 128th Judicial District Court of Orange County, Texas.

Dear Barry:

I appreciate your assistance in the above-referenced cases, both of which involve mesothelioma deaths. This will confirm that in regard to the Ellis case (scheduled for jury selection on Monday, March 20, 1995), you will travel to Beaumont on Tuesday, March 21, 1995, for testimony to begin on Wednesday, March 22, 1995. In regard to the Miller case (scheduled for jury selection on Monday, May 15, 1995), it is my understanding that you will travel to Beaumont on Tuesday, May 16, 1995, for testimony to be given on Wednesday, May 17, 1995.

I will obtain hotel accommodations for you, for both of your trips. Please schedule your arrival in Beaumont so as to provide us an opportunity to visit for a short time on the Tuesday evening prior to your testimony.

Also, we will soon be sending you a couple of depositions taken of an employee and former employee of Bird Corporation (formally called Bird & Son), one of the Defendants in this case. Bird is an extremely old company, which traces its roots back to the year 1795. Bird manufactured and/or sold various asbestos-containing roofing products, including cements, coatings, and felts

that Mr. Ellis routinely used. These depositions make clear that Bird knew that asbestos posed a health hazard as early as the 1930's.

I look forward to seeing and visiting with you further.

Very truly yours,

MARTIN DIES

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