

THE LANIER LAW FIRM

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FAX COVER SHEET

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DATE: August 8, 2003 **NUMBER OF PAGES**
INCLUDING COVER PAGE: 10

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TO: Dr. David Egilman
Meagan Roberts

FAX NO: 508-546-5888
425-699-7033

(HARD COPY OF THIS TRANSMISSION WILL NOT BE SENT BY REGULAR MAIL)

FROM: Maura Kolb

RE: Cause No. 19785*BH02; *Kelly-Moore Paint Company, Inc. vs. Dow Chemical Company, et al*; In the 23rd Judicial District Court of Brazoria County, Texas

MESSAGE: Following are two notices to your depo in Kelly-Moore (one from UCC and one from Dow). There are a few differences but much is overlap. Please look specifically at #2. Although you are not under any obligation to create a document, please let me know if you can instead provide something similar to what you have created in the past for state court.

Also, please look at request #11 from UCC and #15 from Dow and call me so we can discuss. I will be filing objections soon.

Charge to: Kelly-Moore (1048)

The information contained in this facsimile transmission is attorney privileged and confidential information intended only for the use of the individual or entity named herein. If you are not intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone and return the original message to us via U.S. mail at the address indicated on the letterhead above.

NO. 19785-BH02

KELLY-MOORE PAINT COMPANY,
INC.

Plaintiff,

v.

DOW CHEMICAL COMPANY,
ET AL.,

Defendants.

IN THE DISTRICT COURT OF

BRAZORIA COUNTY, TEXAS

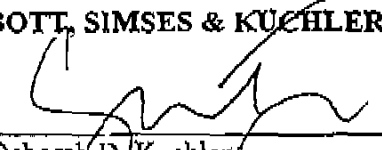
23RD JUDICIAL DISTRICT

**CROSS-NOTICE OF ORAL DEPOSITION OF
DAVID EGILMAN AND SUBPOENA DUCES TECUM**

TO: Plaintiff, Kelly-Moore Paint Company, by and through its attorneys of record, W. Mark Lanier, Patrick N. Haines, and Eugene R. Egdorf, The Lanier Law Firm, PC, 6810 FM 1960 West, Houston, Texas 77069.

Pursuant to TEX. R. CIV. P. 199.2(b), defendant THE DOW CHEMICAL COMPANY ("DOW") hereby cross-notices the oral deposition of DAVID EGILMAN, on August 21, 2003, at 9:30 a.m., at the offices of The Lanier Law Firm, PC, 6810 FM 1960 West, Houston, Texas 77069. The deposition will be recorded stenographically, and will continue from day to day until completed. The deposition may be videotaped.

Respectfully submitted,

ABBOTT, SIMSES & KUCHLERBy: 

Deborah D. Kuchler

State Bar Number: 24038606

Sarah E. Hams

State Bar Number: 24038718

Lawrence E. Abbott

State Bar Number: 00795846

R. Bruce Evanick

LA Bar Number: 24789

Attorneys For Defendant,
The Dow Chemical Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the CROSS-NOTICE OF ORAL DEPOSITION OF DAVID EGILMAN AND SUBPOENA DUCES TECUM was served via facsimile and certified mail, return receipt requested, on August 4, 2003, as follows:

Via Facsimile and
Via Certified Mail/RRR
7002 2030 0006 4813 5661
W. Mark Lanier
Patrick N. Haines
Eugene R. Egdorf
The Lanier Law Firm, PC
6810 FM 1960 West
Houston, Texas 77069
Telephone: (713) 659-5200
Facsimile: (713) 659-2204

*Counsel for Plaintiff Kelly-Moore Paint
Company, Inc.*

Via Facsimile and
Via Certified Mail/RRR
7002 2030 0006 4813 5685
John F. Unger
C. Scott Kinzel
Royston, Rayzor, Vickery & Williams, LLP
1001 McKinney, Suite 1100
Houston, TX 77002-6418
Telephone: (713) 224-9390
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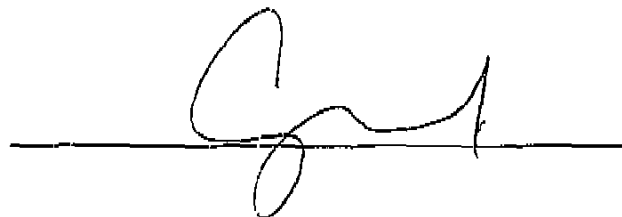
Counsel for Defendant Cooper Industries, Ltd.

Via Facsimile and
Via Certified Mail/RRR
7002 2030 0006 4813 5678
James M. Harris, Jr.
Harris, Lively, Duesler & Hatfield, L.L.P.
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Counsel for Defendant The Flintkote Company

Via Facsimile and
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7002 2030 0006 4813 5692
Harry P. "Hap" Weitzel
Mayor, Brown, Rowe & Maw
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Houston, Texas 77002
Telephone: (713) 547-9612
Facsimile: (713) 632-1841

*Counsel for Defendant The Dow Chemical
Company*



SUBPOENA DUCES TECUM

1. A current copy of your curriculum vitae.
2. A list of cases in which you have testified in the last 5 years including:
 - a. name and jurisdiction of case;
 - b. whether the testimony was in court or by deposition, including the case name, the jurisdiction, the cause number, and the date;
 - c. whether the case concerned an asbestos-related disease, and if so, the nature of the condition;
 - d. whether the testimony was offered on behalf of the plaintiff(s) or defendant(s);
 - e. the name and address of the law firm that retained your services.
3. All copies of any prior testimony or trial testimony given by you and in your possession, custody, or control.
4. All correspondence between you and counsel for Kelly-Moore in the above-captioned matter.
5. Copies of everything published on your web site, and/or the website represented by the domain "<http://www.egilman.com>", over the past 5 years, whether on the protected or unprotected portion, without reference to whom you may believe posted those items, that mentions The Dow Chemical Company, either directly or indirectly.
6. Your entire file relating to the above-captioned matter, including but not limited to, all records, reports, memoranda, interviews and notes relating to your review of any materials regarding or related to the above-captioned matter.
7. All articles or books in your possession, custody, or control upon which you intend to rely at the trial for the above-mentioned matter.
8. All billing records relating to the above-mentioned matter.
9. All demonstrative exhibits upon which you intend to rely at trial.
10. All contracts, terms of employment, terms of compensation and records of compensation for every counsel for whom you have testified or by whom you have been retained, including but not limited to Baron and Budd; Bergman, Senn, Pageler & Frockt; Brayton Purcell; Waters & Kraus; Williams Bailey; and Ness Motley.

11. Copies of the "dirty document non-release memo" that you mentioned in your deposition in *Latham v. Garlock*.
12. Copies of documents in your possession that relate to the TLVs and The Dow Chemical Company that you mentioned in your deposition in *Latham v. Garlock*.
13. Copies of documents in your possession referring to The Dow Chemical Company wanting to remove language about asbestos TLVs that you mentioned in your deposition in *Latham v. Garlock*.
14. Copies of documents in your possession that relate to Mr. Hervey Elkins, Director of ACGIH, being fired because he refused to go along with a request by The Dow Chemical Company to raise TLVs or keep them high as mentioned in your deposition in *Latham v. Garlock*.
15. A live and working copy of <http://www.egilman.com>, accessible through a live web connection during your deposition. It is further requested that, to the extent feasible, no materials relating to The Dow Chemical Company that were present on the website on August 4, 2003, should be removed between that date and the date of the deposition so that you may be examined thereon.

NO. 19785-BH02

KELLY-MOORE PAINT COMPANY,
INC.

Plaintiff,

v.

DOW CHEMICAL COMPANY,
ET AL.,

Defendants.

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IN THE DISTRICT COURT OF

BRAZORIA COUNTY, TEXAS

23RD JUDICIAL DISTRICT

**AMENDED NOTICE OF ORAL DEPOSITION OF
DAVID EGILMAN AND SUBPOENA DUCES TECUM**

TO: Plaintiff, Kelly-Moore Paint Company, by and through its attorneys of record,
W. Mark Lanier, Patrick N. Haines, and Eugene R. Egdorf, The Lanier Law Firm,
PC, 6810 FM 1960 West, Houston, Texas 77069.

Pursuant to TEX. R. CIV. P. 199.2(b), defendant UNION CARBIDE CORPORATION ("UCC") will take the oral deposition of **DAVID EGILMAN**, on August 21, 2003, at 9:30 a.m., at the offices of The Lanier Law Firm, PC, 6810 FM 1960 West, Houston, Texas 77069. The deposition will be recorded stenographically, and will continue from day to day until completed. The deposition may be videotaped.

Respectfully submitted,

WEIL, GOTSHAL & MANGES LLP

By: Scott D. Lassetter *WTE*

Scott D. Lassetter

State Bar No. 11968900

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State Bar No. 24012460

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- and -

John R. Gilbert

Texas State Bar No. 07898500

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Facsimile: (979) 849-7729

**ATTORNEYS FOR UNION CARBIDE
CORPORATION**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of AMENDED NOTICE OF ORAL DEPOSITION OF DAVID EGILMAN AND SUBPOENA DUCES TECUM was served via facsimile and certified mail, return receipt requested, on August 4, 2003, as follows:

Via Facsimile and
CM/RRR # 7002 2410 0003 7561 6886

Mr. W. Mark Lanier
Mr. Patrick N. Haines
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*Counsel for Plaintiff Kelly-Moore Paint
Company, Inc.*

Via Facsimile and
CM/RRR # 7002 2410 0003 7561 6909

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Counsel for Defendant The Flintkote Company

Via Facsimile and
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Ms. Sarah E. Hams
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*Counsel for Defendant The Dow Chemical
Company*

Via Facsimile and
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Facsimile: (713) 225-9945

Counsel for Defendant Cooper Industries, Ltd.

Via Facsimile and
CM/RRR # 7002 2410 0003 7561 6916

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700 Louisiana, Suite 3600
Houston, Texas 77002

*Counsel for Defendant The Dow Chemical
Company*



Dolores Cavatore

SUBPOENA DUCES TECUM

1. A current copy of your curriculum vitae.
2. A list of cases in which you have testified in the last 5 years including:
 - a. name and jurisdiction of case;
 - b. whether the testimony was in court or by deposition, including the case name, the jurisdiction, the cause number, and the date;
 - c. whether the case concerned an asbestos-related disease, and if so, the nature of the condition;
 - d. whether the testimony was offered on behalf of the plaintiff(s) or defendant(s);
 - e. the name and address of the law firm that retained your services.
3. All copies of any prior testimony or trial testimony given by you and in your possession, custody and/or control.
4. All correspondence between you and the counsel for Kelly-Moore in the above-captioned matter.
5. Copies of everything published on your web site or the website represented by the domain name <http://www.egilman.com> over the past 5 years, whether on the protected or unprotected portion, that mentions Union Carbide Corporation, either directly or indirectly.
6. Your entire file relating to the above-captioned matter, including but not limited to, all records, reports, memoranda, interviews and notes relating to your review of any materials regarding or related to the above-captioned matter.
7. All articles or books in your possession, custody and/or control upon which you intend to rely at trial for the above-mentioned matter.
8. All billing records relating to the above-mentioned matter.
9. All demonstrative exhibits upon which you intend to rely at trial.
10. All contracts, terms of employment, terms of compensation and records of compensation for every counsel for whom you have testified or by whom you have been retained, including but not limited to Baron and Budd; Bergman, Senn, Pageler & Frockt, Brayton Purcell; Waters & Krauss and Ness Motley.

11. A live and working copy of <http://www.egilman.com>, accessible through a live web connection during your deposition. It is further requested that, to the extent feasible, no materials relating to Union Carbide Corporation that were present on the website on August 4, 2003, should be removed between that date and the date of the deposition so that you may be examined thereon.