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September 6th, 1983

Mr. Steve Borgstrom
Raymond Sheakley & Associates
18 W 100 22nd Street
Suite #124
Oak Brook Terrace, Illinois 60181

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Corp., East Side

RE:

-VS-

Sherwin Williams Co.
I.C.#: 82 OD 34
File#: 8209 00177IL
D/E: 1-30-81

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Dear Steve:

Please be advised that Paul Leczynski, Area Supervisor of the Paint Department in Buildings 197 and 200 at Sherwin Williams Co. was deposed at the offices of Epton, Mullin, Druth and Segal, 140 S. Dearborn, Chicago, Illinois on September 1st, 1983.

The court reporter was Leslie Wallace, 189 W. Madison, Chicago, Illinois at phone 332-5670. Also present was Kathleen O'Dekirk of Burke & Burke, 200 W. Madison Street, Suite #3880, Chicago, Illinois 60606 at phone 726-6630. Attorney Edward McCambridge represented H. K. Porter, one of the manufacturers of asbestos. Also present was Attorney James Klune of Sweeney and Riman, 135 S LaSalle Street, Suite #611, Chicago, Illinois 60603 at phone 558-9722. He represents Kean Building Products. Also present was Attorney Pat Lamb of Katten, Muchin, Zavis, Pearl and Galler, 55 E. Monroe Street, Chicago, Illinois 60603 at phone 346-7400, representing GAF. Also present was attorney Edward Michaels of Chadwell and Kayser, 233 S. Wacker Drive, Chicago, Illinois 60606, Suite #8500 at phone 876-2100, representing Raymark Industries. Also present was Attorney Susan Castagnoli of the Law Offices of Thomas J. Keevers, 230 W. Monroe Street, Chicago, Illinois, representing Eagle Pitcher. Also present was Attorney David M. Smith of Schoen and Smith, 20 North Clark Street, Suite #1100, Chicago, Illinois 60602 at phone 726-5151, representing Pittsburg Company. Also present was Michael LaBarge, Jacobs, Williams and Montgomery, 20 North Wacker Drive, Suite #3500, Chicago, Illinois 60606, representing Witco Chemical Company. Also present was Roger Pascal of Schiff, Hardin and Waite, 7200 Sears Tower, Chicago,

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Mr. Luczynski indicated that the paint department contains 200 employees, that he is not a member of the Union but that the Union in the plant is the Atomic Oil and Chemical Workers Union. He further indicated that no paint is mixed in his department but is mixed on the third floor and then sent to holding tanks on the second floor of the buildings in question and that his department fills drums, 5 gallon cans, 1 gallon cans and quarts from the holding tanks on the floor above. He indicates that the third floor is sealed off with fire doors to the stairways and that each floor has its own ventilation system.

He indicates that he reports to Sharon Heckman, Production Supervisor who has held that position for three months and before her Vic Barr and before Joe Barnes. There was considerable testimony taken of many names of individuals in supervisory capacities and I apologize that I did not get all the names and I also apologize if I am misspelling names not familiar to me.

Paul Leczynski was present pursuant to Subpoena and Notice of Deposition. He testified that he resides at 1443 E. 156th Street in Dolton, Illinois, that he was 31 years old and first employed by Sherwin Williams Company in 1971. He indicated that he was made foreman of the paint department in 1976 and Area Supervisor in 1978. He indicates that he has 50 employees under him and three foremen, one for each shift. Before he was a foreman he was a lab technician in the quality control department. He indicated his work area includes the first floor and basement of buildings 197 and building 200, both of which are enclosed buildings and indicates that Joe Barnes was the Area Supervisor before him and now works for Baltimore Paint Company and before that Harlan Jensen who is deceased.

Also present was Attorney Robert Farrar, Freeman & Rogers et al, representing Armstrong Industries, and attorney Robert Martier for Hinshaw, et al representing Owens-Corning Fiberglass.

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Then a series of questions occurred about new construction and outside contractors. Paul indicated that two new tanks for holding of paint had been built in the last year and that several years before that new tanks were built and that these tanks required insulation. Paul indicated he did not know the name of the contractors or sub-contractors but that a sub-contractor was brought to the plant on a two day basis and that they did blow insulation on the tank and then cover the insulation with cloth and then the cloth was painted.

There were also a series of questions about plant engineering and Paul did not know who was in charge of plant engineering.

I should add at this point that the purpose of this deposition is to find out what asbestos chemicals, if any were used by Sherwin Williams, when they were used and who manufactured the asbestos products. In other words, if a number of the manufacturers named in the complaint filed by the never supplied Sherwin Williams, then they will be able to be dismissed from the case on summary judgments and that is the purpose of this discovery, I believe.

There were a great number of questions about the maintenance department and he indicated that Donald Watson is in charge of the maintenance department. He indicated that the maintenance department is Ken Ermer and that he is in charge of purchasing raw materials for the paint department. He indicated that Ken Ermer would be aware of the purchase of raw asbestos if used and it could well be that Ken Ermer will be subpoenaed as the next witness along with any records he would have pertaining to any purchases of asbestos. He further indicated that paint is purchased by specifications drawn by chemists and other people in the technical department. Although he could not remember the name of the head of the technical department, the head of the technical department would also be a likely candidate as another witness under subpoena.

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He indicated there is no pipe insulation on the pipes but that they are black metal pipes. He further indicated that the old tanks ripped out for these replacement tanks did not have any insulation. He indicated that he talked to the insulation sub-contractor and was told that there was no asbestos in the insulation and that he knew of the dangers of asbestos from T.V. programs. He indicates that some tanks were installed while he was working in the paint department but he does not know if those particular tanks were insulated or not. He indicates that the company has its own power plant which generates steam heat and that there has been no major overhaul to his knowledge of the heating system. He also is not aware of any insulation on the ceilings of the paint department buildings 197 and 200.

He then went to a description of the entire manufacturing process with the paints being mixed on the third floors, stored in tanks on the second floor and then by pipe or hose to filler machines on the first floor where finished paints are placed in drums, 5 gallon cans, 1 gallon cans or quarts and then to the basement for packaging. He indicated that Stan Ryzyl is the safety director and that the Union has a safety committee which tours the plant every two months. He further indicated that safety meetings are held every month for all employees and that each area handles its own meeting. Stan Ryzyl could be another likely candidate for deposition.

He indicated that building 197 and 200 are heated by unit heaters plus forced air ventilation which is also heated.

In respect to questions concerning employees who may have been working at Sherwin Williams the entire time that was, Paul indicated that Peter Glaimo has been an employee as a set-up filler since 1948 and that Jack Speak has been there since 1948 as a scheduler at Sherwin Williams and was a foreman previously in the paint department. There was then a series of questions asked which firmly established that while his job description changed over the years of his employment, basically worked in the paint filling department.

He indicated he had no discussions regarding health hazards of asbestos with any plant members that he could recall. He further indicated that Don Arvia runs the air sampling test at the plant and that his title is process engineer and that is the position which makes him a member of the paint department. He indicated Don Arvia normally checks for certain chemical exposure of dangerous or hazardous chemicals and that Don Arvia would report to Vic Barr. Don Arvia is yet another candidate for subpoena and deposition, I would say.

He indicated that before he was Area Supervisor, worked the day shift and his foreman was Bill Formosa and that Bill Formosa is still there and is still a foreman and that he would be another likely candidate for subpoena and deposition. He indicated that was a good worker but that he was a nervous individual and was very happy to both retire at the end of his career and also go home at 3:30 every day. He indicated that while most workers worked four hours on the average week overtime, he did not work overtime but would go home instead. He did not know socially nor did he know if he smoked. However, he did say that he hardly ever missed any time from work, that he was never a foreman and that after he retired he came to the plant once or twice. He felt was a diligent worker. He indicated that were periodic OSHA inspections but he was aware of no OSHA citations and that Don Watson would know of any OSHA citations from mechanical problems and the safety department would know of any for health hazards.

There was then a series of questions about annual checkups and he indicated there was a health fair every year, that chest x-rays, blood work-ups and lung capacity tests were performed on a voluntary basis and not mandatory. Before the health fair which had been in effect for about 5 years, a T.B. truck came around once a year and again voluntary chest x-rays were taken but these were not mandatory. Paul Luczynski indicated there is a list of dangerous chemicals and what steps to take for preventative measures posted around the plant but he does not believe asbestos is included in that list and he never heard of anyone else in the plant having any disease related to asbestos other than

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Keeping in mind the basic thrust of the discovery deposition and those that may follow, that the various defendants are trying to determine if there was any asbestos in our manufacturing process or in construction within the plant and if so when and who the manufacturers of the asbestos products were, I believe any of the following people could be called for additional discovery: 1) Donald Watson, head of Maintenance Department for the purpose of showing if any asbestos type insulation was ever applied to any piping or tanks for insulation purposes, 2) Ken Ermer of the purchasing department to show whom these products were purchased either for the manufacturing process or for plant maintenance, 3) Peter Giamo who has been a set-up filler in the paint department since 1948, 4) Jack Speak, an employee in the paint department since 1948, 5) Stan Fryzl, the safety director, probably to show if there have been any other claims for asbestos or asbestos related disease, 6) the head of the technical department to show chemical compositions which may or may not have contained asbestos at any time in the manufacturing process since 1948, 7) the head of plant engineering for new construction since 1948 which may have included asbestos insulation on beams or pipes or tanks or other items, 8) Don Arvia, the process engineer for air samples which may have shown asbestos fibers floating in the air since 1948 in the paint department.

I would have to say that Mr. Paul Luczynski was an excellent witness on our behalf, that he never volunteered information, that he answered questions directly and when he didn't know an answer, he said he didn't know and when he didn't remember an answer, he said he didn't remember.

He indicated that the only floating dust in air would be on the third floor mixing department where bagged dry chemicals are dropped into hoppers and that there is special ventilation equipment over each hopper and that the department does have floating chemicals in the air. He indicated that there are 30 different kinds of talc he is aware of that are used by the mixing department but that no talc is used on the first floor or basement. He indicated that he knew of no flows of asbestos, asbestos labels or asbestos products in company records and that he knew of no mixing sheets showing asbestos. He further indicated that entire work history was in the paint filling department and that the technical department would know the contents of chemicals in paints.

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Richard W. Baum
BAUM & RUFFOLO

Very truly yours,

It might be necessary to statementize these individuals in anticipation of one or all of their discovery depositions in the future. Should you have any questions, please do not hesitate to contact me.

I enclose an itemized billing for my services to date.

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