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November 4th, 1983

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

REDACTED

RE:

-VS-

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

Dear Steve:

Please be advised that the deposition both oral and record, of Mr. Ken Ermer was taken by Attorney Ed McCambridge of the Offices of Epton, Mullin, Druth & Segal at 140 South Dearborn, Chicago, Illinois on November 1st, 1983. This was a continuation of the first deposition of Mr. Paul Leczynski, Area Supervisor of the paint department at buildings 197 and 200 at our company. This deposition was not as well attended as the first one. Present was certified court reporter, Jean Terry of Cochran, Pudlow, et.al at phone 236-8461. Also present was Attorney Ed McCambridge representing H. K. Porter Company and the deposer. Also present was Patrick Lamb of Katten, Muchin, Zavis, Pearl and Galler, 55 E. Monroe Street, Chicago, Illinois 60603 at phone 346-7400, representing GAF. Also present was Robert Riley of Schiff, Hardin and Waite, 7200 Sears Tower, Chicago, Illinois 60606, representing Owens, Illinois. Also present was Kathleen O'Dekirk of Burke & Burke, 200 W. Madison, Suite #3880, Chicago, Illinois 60606, representing the plaintiff, the widow of

The questions of Mr. Ken Ermer were confined to information concerning the filler and set up sections of the container and packaging department of Sherwin Williams Company in buildings #197 and #200 an area in which worked for a good part of his work life. Mr. Ermer testified that he presently lives at 1952 Grass Fork Court in ValParaiso, Indiana and has lived there for 6 months.

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He indicated that his job title is material control manager and that he has been with Sherwin Williams for one year and four months. He also indicated that he has a Bachelor of Science Degree as an Economics major and that his responsibility is to buy all raw materials to fulfill production requirements. He further testified that he didn't know who sent specifications for insulation. ~~Frequently in the course of the deposition, Don Watson's name came up as being in charge of maintenance at the plant and also possibly overseeing construction of the plant. He indicated that prior to him, George Kohlman had held his position for one year and Sharon Heckman for a time unknown.~~ He indicated that he did not know who the material control manager was in the 1960's. He further indicated that his basic job function was to get requisitions from various heads of departments or other supervisors and then place the orders.

Group exhibit #1 for identification which was introduced into evidence, was purchase orders for maintenance supplies from 1982 to the present. Mr. Ermer indicated this is all the records he had in his possession and that he had searched for additional information but apparently no records were kept and the the comptroller has now said to keep purchase orders for seven years. He indicated that he knew of no existence of any earlier purchase orders, nor did he know of any microfilming system for recording old purchase orders.

~~He indicated that the present plant manager was Victor Barr, that he would be responsible for buildings 197 and 200 plus other buildings and that he had been made the plant manager in May of 1983. Prior to Victor Barr, he indicated Russ Lyons held a similar position for 5 years and is now the manufacturing manager at Sherwin Williams.~~

Group Exhibit #2 for evidence was photocopies of the specs and contracts for buildings #197 and #200 for the years 1963 and 1964 when those buildings were apparently constructed.

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Missing from those specs were sections 4000 and 4500 which concerned insulation and air conditioning and heating. ~~unit which would be critical to this case and the witness was instructed to produce those documents, if in fact that existed and were in his possession.~~

Steve, I would ask you to follow up on that point and ask Mr. Ermer to produce those documents through me so that I may see them first. Other than the missing specs #4000 and 4500, Mr. Ermer indicated he had produced all documents in Sherwin Williams possession relating to construction of buildings 197 and 200.

Group exhibit #3 was a bid document for consolidation of paint processing department and for insulation and piping in buildings 197 and 200 for construction in 1964.

Mr. Ermer indicated that was the entire amount of documents he had concerning the two buildings in question. Attached to group exhibit 3 were blue prints both for storage tanks in 1978 and the blue prints in my possession for construction of buildings 197 and 200.

The blue prints for the storage tanks in 1978 were dated March 3, 1978 and March 10th, 1978 and concerned 4000 gallon fitting or filling tanks.

There was then a lengthy search for other people who may have knowledge about the information needed by the various defendants in this case and again, Don Watson's name as plant engineer was prominent. Also mentioned was Joe Pino and Jack Clifford who operate in a corporate purchasing function for Sherwin Williams. Also mentioned was Pat Jazman, Assistant to Joe Pino and Jack Clifford.

Probably the most critical document produced at the discovery deposition on November 1st, were the bid documents for paint consolidation, insulation of process equipment and piping for buildings 197 and 200, dated June, 1964. In that particular bid, it recites the names of various companies which will supply insulation, namely Custin-Bacon, Carey, Owens-Corning and Johns-Manville.

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This was critical information and it could well be that following the deposition, a number of summary judgments will be filed by the various defendants who apparently were not required by the construction documents to supply asbestos insulation to Sherwin Williams.

In an off the record conversation with Attorney Ed McCambridge, after the deposition, he indicated that he may also be going in for a summary judgment since H. K. Porter company, his client, does not appear to have supplied any asbestos for the new construction.

It should be pointed out that this deposition did not concern any asbestos contained in any of our old products. In fact, in my conversations with Mr. Ermer before the deposition, he did not know of any documents so indicating the use of asbestos in either roof coating or gutter insulating paint which I seem to have in my file.

I would like to know the whereabouts of those records which seem to be chemical formulas, possibly kept in our chemistry or technical department in Cleveland Ohio.

I am sure that somewhere in the search for this information this may come out and although I do not want to voluntarily disclose it at this point, it may become necessary in the future that I know where those documents are kept.

Since Ed McCambridge has been spear-heading all of this discovery to date, should he file for Summary Judgment and be dismissed from the case, it could be that the discovery process will slow down considerably.

~~Steve, the items I would like you to cover for me are 4000 and 4500 in the specs for construction of Building 197 and 200, in an addition, find out where the chemicals formulas for the roof coating and gutter paints would be kept.~~

Since this concludes my services to date, I enclose my itemized bill.

Very truly yours,

BAUM & RUFFOLO

Richard W. Baum

Richard W. Baum

RWB/ppm

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TITLE:

v. *Sherrin Williams* FILE NO.
Co.

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Code

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|------------------------------------|------------------------------------|
| 01 Opening file | 16 Abstracting record |
| 02 Continuance | 17 Prep of breifs or reply briefs |
| 03 conf. p. atty. I.C. | 18 Appearance - Cir. Court |
| 04 conf. p. atty. - office | 19 Oral Arg. in Cir. Court |
| 05 conf. p. atty. - phone | 20 Filing appeal to Supreme Ct. |
| 06 Arrange med. exam | 21 Oral Arg in Supreme Ct. |
| 07 Eval of med & or/trans to Co. | 22 Prep. of L.S.S.C. |
| 08 Eval and/or request for invest. | 23 App. at I.C. on L.S.S.C. |
| 09 Eval of hosp. records | 24 App. at I.C. on misc. petitions |
| 09a Order of hosp. records | 25 Phone Comm. with Co. |
| 10 Attend. at deposition | 26 Arrange for Pro Se settlement |
| 11 Trial of case | 27 Long distance phone |
| 12 Prep. of petition for review | 28 Filing fee |
| 13 Attend. at rev. hearing | 29 Printing charges |
| 14 Oral argument | 30 Misc. corres. to pet. atty |
| 15 Prep. of writ of Certiorari | 31 Misc. corres. to co. |
| | 32 Status report to Co. |
| | 33 Status report co Co. |
| | 34 Misc. corres. |
| | 35 Arch I.C. records |
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