

CITY, COUNTY & STATE OF NEW YORK : SS:

ARTHUR BROWN, being duly sworn, deposes and says that he resides at 541 North First Street, New Hyde Park, Long Island.

I was employed as forman by Tuller & Moosman since they were in business for the last six years, and was the forman on the Queens General Hospital job from on or about the 12th day of September, 1932, until the job was completed, to wit, on or during the week of June 2nd, 1933.

I had as my assistant Harry Levine, who was with me during the same period.

Tuller & Moosman bought paints from the DuPont Company as well as from Peerless Paint Company. The cans from the Peerless Paint Company had no stencilling of any kind except a stencilled number. All this Peerless material was kept in a separate locker and moved from time to time. The reason for this being, as I was told by Tuller & Moosman, because they didn't want the DuPont man who took an inventory every month, to see that paint on the job. I was also told to mix the Peerless paint with the DuPont paint, which I did. This I did in a great many cases.

From my observation, there must have been between six and seven hundred gallons of that paint. This paint I used up mostly in mixing. Some of the ceilings and some of the walls were done exclusively with Peerless and exclusively with DuPont paint, and some of the ceilings and walls were done with a mixture of both.

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I also received at the building four drums of lead oil paint. These four drums were kept separate, out in the yard. The four drums had the name of DuPont & Company stencilled, as well as the number. These drums were used up in painting of

the diningrooms, hallways, and in such rooms that had to be glazed, and part of the outside. This material was also used when the inspector from the City came around to test the paint.

MacElroy, the architect's assistant, was on the job every day. He came into the job every day and looked over the DuPont paints, and told me that if I had any other paint in there except DuPont there would be trouble. The paints of the Peerless Company were not in the room, but were in another room, but McElroy did not know of the other room, nor did he know of the Peerless Paints.

One day Moosman came to me and asked me to mix four different tints of oil lead paint. The four tints were grey, buff, seafoam green, and another - perhaps light ivory. He said the inspector would call for it and to give him that. I turned to Mr. Levine, who was standing near, and asked him to mix up the colors, - the inspector would be around in a half hour to pick them up.

I remember before the inspection that I was passing when I saw Smyth and Moosman talking and I heard Moosman say to Smyth, "If you were using a lead and oil, as I am, you would get the effect required."

After Levine made the mixtures, I examined them and know that the mixtures were made in five gallon cans, and afterwards I poured them into a working pot and carried the four pots into Building A and set them alongside of where the men were working and instructed the men that in case the inspector came over they should give him the paint out of that bucket instead of out of the bucket they were working out of. This was done in accordance with Moosman's instruction,

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Moosman being there all day from morning till evening.

When the inspector came around I went into the room where the men were working, I took the bucket that they were supposed to be working from and poured this paint into the bucket for the inspector to take away, and that was the lead and oil paint. I heard afterwards from the inspector that this paint that I had given them, outweighed the paints of Smyth.

When I started on the job I succeeded another formen, named Carl Buck. Buck had made a sample for the inspection of the architect by painting a room in Building B and one in Building C, which in Building C was on the second floor and in building B on the first floor.

I was told to fix up these two rooms with an additional coat of stipple so as to satisfy the architect. Before I did anything I inspected the two rooms which were prepared by Buck and found that they were full of flashes. This indicated to me that the stuff had been thinned or there weren't sufficient coats. I was satisfied from this inspection that both the troubles were there, - that there weren't enough coats on and that the paint had been thinned to excess.

I know that for the inside work we used varnoline and benzine and kerosene for the purpose of thinning. Frequently either I or Levine or Moosman would run out and buy five gallons of kerosene. We would store it in the shop maintained at the building under lock and key and kept in other store rooms with the other thinners.

At least once a week Moosman would bring thirty to forty gallons of five gallon cans of benzine from his shop at 284 Hicks Street to the building, and we would use that benzine and kerosene in mixing DuPont's paints. He told me

and Mr. Levine to do that. Levine and I were the only ones who had the right to mix paints. I was also told that in case anyone asked why benzine and kerosene were there, that they were used for the purpose of washing brushes.

In doing over the two rooms that were prepared by Buck, I took a bucket of five gallons of DuPont's stippling flat, prepared it by mixing it with tinting colors, and thinned it with either benzine or varnoline and then applied one coat to each of the rooms done by Buck and stippled by using a stippling brush.

No turpentine was used on the job except for outside purposes, and whenever we used thinner it was either benzine, varnoline or turpentine, or a mixture of these three.

In doing these two rooms over again, I had Buck assisting, who worked under my instructions.

Before I used any of the paints Moosman said to me as follows: "Here are three five gallon cans. This one (meaning one of the three), is flowing flat, - put that aside, and the other two you will mix up the colors. I'll stay here with you and see that you don't go off color, and then I'll go over and get Buck and let Buck go to C building and you do B building."

I opened up both, took an empty five gallon bucket and poured some of the paints from each of the two five gallon buckets into the empty bucket, and carefully boxed it. By "boxed" I mean poured them back and forth. Then I tinted the paint to Moosman's satisfaction and got Carl Buck and put him to work in C building. After boxing it in the fashion just given, I gave Buck one of these buckets and kept one myself and he went to C building and I to the B building. I applied the paint in my room and he applied it in his room.

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A day or so later, Kleiss came around to inspect the two samples. There was also present Mr. Cynott, Mr. MacElroy, Jim Kennedy and Tommy Stevens. Mr. Kleiss said it was a very good job and asked me if I would give him the same throughout and I told him that I would try to see that he would get that kind of a job.

A few days later, I think it was on a Saturday, and it was in the office of Moosman, I told Moosman, in the presence of Fauzer, how much material we would need immediately, and I remembered giving a large order. He told Fauzer what paint to send and what colors.

Between finishing of this sample and the starting of the finishing coat on the large number of rooms, we were second coating in B and C Buildings, and working on A building when weather permitted. Around the first week of December I started putting in a large number of men to stipple. When I was ready to start the stippling job there were between thirty and forty drums of stippling material in the place.

My helpers and I prepared the paint for the men by straining the paint out in the morning, getting it ready in the buckets and thinning it when necessary. It seemed to me to be alright.

I first did C building, which contained seventy four rooms. I put a gang of approximately eight men on the job. These men were finished in about two days. They then went over to B building. We did the top floor, and third floor rooms exclusive of solariums. It took these men about a day and a half. After we got through with these two floors in the B building, MacElroy complained about the appearance of the rooms. Then we stopped work and got in touch with DuPont,

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and then DuPont had their representative out there. At that time Levine was already my assistant.

After an inspection was made and some more material was sent over from DuPont, we finished up the rest of the B building with this new material.

I put four men in C building, named A. Horowitz, I. Horowitz, Mike Tanshan and Carl Johnson. They worked on that building doing over the rooms that had been done before, one week. These names at this time I have in a separate book kept by me personally. These four men were engaged five days in doing over the rooms that had been done before in C building.

In Building B I had four men named Carl Buck, Levenson, Remer and Goldberg. I took them four days to do over the rooms in that building. After the rooms were done over MacElroy looked them over and pronounced them O. K. When MacElroy made this inspection he called my attention to the condition of the closets, and told me some would have to be done over because they weren't good enough. They had suction spots and fire cracks. The reason for that is that we put only two coats, when MacElroy made the inspection. We should have put on, according to specification, four.

Before I put the finishing stippling coat on the rooms in Building B and the two floors in Building C, which were later condemned, I had put ^{on} only two coats, - the primer and a second coat. The specifications called for a primer, a second and third coat before the finishing coat. As a primer I used DuPont's regular primer sealer. For the second coat I used a mixture of sealer and flat wall paint. In the B building on the two floors of the condemned work, I used only a primer and a second coat, and then the final and the finish-

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ing coat, and used no shellac.

After the doing over of the condemned work, we did the walls on the white plaster - first primer sealer, then a mixture of primer sealer and flat, then a coat of shellac and then the coat of stipple

I knew all along that the specifications required the use of lead and oil. I read that in the specifications.

The solariums also required four coats. In the solariums, which are only in the A building, I finished the walls as follows:

The first coat of wall sealer; the second coat of wall sealer and flat mixed; third coat of shellac; fourth coat of stippled finish. On the dados in the solarium, they received a first coat of blue size, and two coats of paint.

The metal trim in the solariums in the inside changed color. These metal trim on the outside we painted with prepared lead and oil paint of DuPont, which comes already tinted to shade. The inside, however, we painted with DuPont metal trim enamel tinted to special colors.

On the outside we put only two coats. On the inside we painted as follows:

Canary yellow	2 coats
Light blue	2 coats
Ivory	2 coats
Jade green	1 coat
Holland blue	1 coat
Orchid	1 coat

and touched with a second coat where necessary.

Tangerine	1 coat
Mandarin Red	2 coats

In the white rooms the metal was also to be painted white and that metal received three coats.

I know these facts to be so because I supervised the

work and Levine was my assistant. None of these metal trim was done over while I was there.

Just before certain material was shipped back to DuPont photographs were taken. The photographs were taken of the stippling paints that were sent back. They photographed the heads of the barrels only and the five gallon buckets.

A chemist employed by Tuller & Moosman came around one day, by the name of Joachim. He is the one who suggested putting shellac on. I said, "Isn't shellac a paint remover" and he said "No." He took samples of the plaster and of the paint. I gave him samples out of two gallon cans.

Prior to the complaint I saw several drums marked on the bottom "lithofoam." When I saw that I called it to Moosman's attention and he said "Turn them up quick," which I did.

In addition to the book in which I kept the separate time of the men in doing over the Building C and part of Building B, I also kept two other books - one called the Time Book and the other a memorandum showing what I am to do from day to day. In this time book I have noted all the men that worked on the job daily, - also the names of the men and the hours they worked. The way I kept the time book is as follows: Each man daily signs his name in his own handwriting on the daily report sheet, which is hung in the shop. At the end of the day I put down alongside of the name the number of hours each man worked. Each day I take this around three o'clock in the afternoon and I go over this time sheet and put down the number of hours that the man has worked during the day and I estimate how long for the rest of the day it is to continue to work. I

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then take this daily time sheet home with me and in the evening I put it in my time book. At the end of the week I figure up the time of each man and hand it in the office for payment. One of these daily reports I am leaving here.

The daily reports I send in every night to the job, but the time book, which is my own, I keep and now have in my possession.

Sworn to before me this :
15th day of December, 1933.:

ARTHUR BROWN

SADELLE STRAUSS

Notary Public