

EXHIBIT “3”

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

IN RE: LUMBER LIQUIDATORS)
CHINESE-MANUFACTURED FLOORING)
PRODUCTS MARKETING, SALES) MDL No.: 1:15-md-02627-AJT-TRJ
PRACTICES AND PRODUCTS LIABILITY)
LITIGATION,)
_____)

THIS DOCUMENT RELATES TO:
Stein, et al. v. Lumber Liquidators Inc. 1:16-cv-02794

RESPONSE TO DEFENDANT LUMBER LIQUIDATORS' OPPOSITION TO
PLAINTIFFS' MOTION FOR RELIEF FROM THE SCHEDULING ORDER

AFFIDAVIT OF EXPERT TOXICOLOGIST DR. WILLIAM R. SAWYER

STATE OF FLORIDA ,
 ,
COUNTY OF LEE ,

Before me, the undersigned notary, on this day personally appeared WILLIAM R. SAWYER, a person whose identity is known to me. After I administered an oath to him, upon his oath, he said:

A. Identification

Name and Purpose

1. My name is William R. Sawyer, Ph.D. I have been retained as an expert toxicologist to review and assess the potential toxicity and safety of Lumber Liquidators flooring installed in the homes of *Stein, et al. v. Lumber Liquidators Inc. 1:16-cv-02794*.

B. Qualifications and Training

2. I am a professional toxicologist with a doctorate in toxicology from the Indiana University School of Medicine. I earned an associate degree from the State University of New York Agricultural and Technical College at Morrisville in 1976. I earned a bachelor of science degree in biology from the State University of New York at Geneseo in 1978. I earned a master's degree in cellular and molecular

biology, also from the State University of New York at Geneseo, in 1982. I subsequently earned a doctorate in toxicology from the Indiana University School of Medicine in 1988. This required three years of medical school curriculum with three years of course work in toxicology as well as training in the State Department of Toxicology and original, peer-reviewed and published toxicological research.

3. During my training at the Indiana University School of Medicine Department of Toxicology and Pharmacology, I studied under the late Robert B. Forney, Sr., Ph.D. Dr. Forney was the department chairman, the director of the State Department of Toxicology and one of the top researchers in his field and gained international recognition. I received considerable training with respect to toxic exposure evaluations of alcohol, numerous pharmaceuticals, natural products and toxic chemicals including formaldehyde. I also worked in the State Department of Toxicology facility at the medical center in Indianapolis, Indiana, performing forensic analyses for poisons (including heavy metals), pharmaceuticals, drugs of abuse and alcohol.
4. I am a diplomate of the American Board of Forensic Medicine. I have been previously certified by the State of New York Department of Health as a clinical laboratory director in forensic toxicology (License No. SAWYW1) and as a licensed environmental laboratory director by the states of New York, New Jersey, California and South Carolina. I have previously been trained and certified under OSHA 29 CFR1910.120 for Hazardous Waste Operations and Emergency Response.
5. I am an active member of various professional societies including, Sigma Xi, the Scientific Research Society, the American Academy of Forensic Sciences and the International Association of Forensic Toxicologists.
6. I am presently chief toxicologist at Toxicology Consultants and Assessment Specialists, LLC, in Sanibel, Florida, (also registered to operate in New York). I have served as a peer-reviewer for the journal "*The Forensic Examiner*" and as a member of its editorial board. I was previously an adjunct assistant professor at the Upstate Medical Center in the Department of Medicine at S.U.N.Y. Health Science Center in Syracuse, New York for 22 years.
7. Subsequent to my training, I served full time in public health as the toxicologist for the Onondaga County Department of Health, Syracuse, New York, from 1988 through 1993. My previous work experience included considerable municipal and civil risk assessment, evaluation of environmental toxic exposures, design and execution of environmental monitoring, health assessment studies, methods to identify and effectively reduce community toxic exposures and assessment of public health matters. During my employment as toxicologist for the health department, I assisted the medical examiner's office with investigations of accidental and intentional poisonings.

8. I have studied the toxicological effects and conducted toxicological assessments of pharmaceuticals, hazardous chemicals, herbal products and alcohol for more than 35 years as part of my training in toxicology and daily work experience as a toxicologist. With regard to qualifications specific to the current matter, as early as 1990 while working for the Department of Health, I instituted and directed large scale studies of governmental workers and indoor air contaminated with formaldehyde from "Corecraft" furniture desks (composed of formaldehyde-containing particle board) within the Onondaga County office buildings. I have been recognized as an expert in the field of toxicology by courts in more than 30 states and have routinely consulted and testified in Federal and State courts on civil and criminal matters involving toxic substances, alcohol and pharmaceutical abuse.

C. Defendant's Contention: "Claimed medical issue is a pretext"

9. In reviewing Mr. Redmond's Opposition to Plaintiffs' Motion for Relief from the Scheduling Order (page 3), Mr. Redmond stated, "Of great significance is that Plaintiffs' expert Dr. Sawyer, did not associate any auto-immune diseases including lupus or hypogammaglobinemia with formaldehyde exposure." Apparently, Mr. Redmond is attempting to use my resignation from the case to enhance his client's position in litigation. Although I did not specifically link lupus or hypogammaglobulinemia with Tiffany Stein's formaldehyde exposure, my Lone Pine report¹ and FR-26 report² both reference human case history and epidemiological study data that demonstrate increased dose-potency through immunological sensitization by formaldehyde and immunological disease causation/exacerbation. As demonstrated within the referenced studies in my report, all of the causally-linked formaldehyde effects I identified within the Stein's are significantly exacerbated through immunological sensitization.
10. On August 20th, 2018 I was deposed at approximately 9:15 am by Robert F. Redmond, Jr. (VA State Bar No. 32292). The deposition was scheduled as a ½ day session (as I understood based on our office scheduling requests and confirmed with ½ day advanced payment which I received as authorized by Mr. Redmond). The deposition initially proceeded similar to that of approximately 200 to 300 depositions which I have been through over the past 30 years. Up until the August

¹ See pg. 6, paragraph 1 and bullets; pg. 8, Table 2, 2nd row; footnote No. 12, 16.

² See page 27, "IgE antibodies" paragraph No. 3, footnote 63. See pg. 30 "Immunological changes" - last bullet in left column. See pg. 28, Section on "Formaldehyde Sensitization and Dermal Injury" last paragraph and page 29; references 67, 68, 69, 70, 71, 72, 73, 74, 75. Page 56, Table 14, "Symptoms and Diagnoses During Exposure to Lumber Liquidators' Flooring" 5th row down. Also footnotes 41, 45, 51, 55, 63. See page 40, "Reported Symptoms and Diagnoses, Tiffany has suffered with hypothyroidism, lupus, hypogammaglobulinemia (an immune disorder). Also see page 59, "Furthermore, Dr. Landon stated in his letter of January 18, 2017, that "this form of cystic fibrosis is not associated with rheumatologic difficulties, immune deficiency, systemic lupus erythematosus, hypothyroidism or hypogammaglobulinemia."

20th, 2018 deposition, I had never terminated my work in any case or deposition for any reason.


11. However, just prior to the start of the deposition, plaintiff's attorney and I were speaking briefly about the recent Monsanto RoundUp trial in San Francisco and after the conversation Mr. Redmond interjected and stated to me (just prior to the swearing in) that "*you may be able to get away with that in California, but not with me in the Northern VA court, -we will see about that*". The deposition then started.
12. During certain portions of the deposition, Mr. Redmond became abusive, including repeated threats of "*getting the judge on the line*" in an attempt to force yes or no responses without allowing any justified short sentence explanations. Specifically, I was often not permitted to offer a short explanation to questions that I first answered as "yes" or "no". Mr. Redmond even announced on the record that he was trying to impeach me. This developed into a hostile environment at which time I was accused of being obstructive. At times Mr. Redmond presented with an out stretched neck and "in my face" voice. After the first morning break, I moved my chair near/partially in front of the court reporter to avoid these in-the-face insults. Additionally, personal attacks were instituted. Mr. Redmond also attempted to implicate that my board certification with the American Board of Forensic Medicine was invalid due to a newspaper story involving another board certification program. Mr. Redmond questioned me regarding a "cat" that had become "board certified" by an affiliated board based on the newspaper article along with other unsettling matters involving the affiliated board. Also during the deposition, Mr. Redmond asked some very pertinent science-related questions that required an explanation to prevent my answer from being potentially twisted or misrepresented. However, I was not allowed to provide very brief explanations to my "yes" or "no" answers. Mr. Redmond stated more than once on the record the threat of, "*getting the judge on the line*". I felt like a prisoner before a Nazi-administered trial and became seriously concerned and stressed about what was happening. More importantly, at this point I could feel/hear my heart echoing within my ears and simultaneously could feel my heart pounding with palpitations within the chest. At this time I realized that I was at risk of another serious cardiac arrhythmia.³
13. Suddenly, around 12 noon, Mr. Redmond requested another break and stated that the deposition would resume after lunch at approximately 12:45 pm. I was asked by plaintiff's council to go to lunch and to please continue the deposition as of the 4 hours, only less than 3 hours had been recorded on the record. I did not let anyone know at this point that I was undergoing chest palpitations as I felt it was a personal medical/confidential matter. I did go to lunch hoping I could relax and feel better.

³ I underwent emergency cardiac electroversion on May 18, 2018 and was warned to avoid extreme stressors, but yet, to maintain swimming biking and healthy forms of exercise.

14. Upon returned, arguments broke out between defendant's and plaintiff's council (regarding me) prior to going "on the record". Back on the record I continued to experience dangerous symptoms and ceased the deposition at approximately 1:15 pm. Mr. Redmond states in his motion that I agreed to reschedule the deposition. I agreed to this prior to recognizing the full hazard of continuing under such conditions.
15. Later that evening, my heart was still pounding while trying to sleep and I realized that there was no way I would ever subject myself to that person (Redmond) again. The next morning I called my primary physician and also contacted my cardiologist's office. I also prepared my letter dated August 21, 2018 withdrawing from the matter (*meaning all Plaintiffs v. Lumber Liquidators Inc. matters*).
16. On August 23rd, 3-days later, I was again deposed by a various attorneys on the Hall vs. Monsanto Company matter (2nd RoundUp trial). This was a very serious and important deposition (scheduled as a full day). Although defendant's council seemingly wasted enormous time on non-Hall related questions, the defendant's council members performed as true professionals, asked intelligent scientific questions and were very courteous. I actually enjoyed the scientific challenge they posed to me as there was no abuse. I experienced no significant stress or palpitations. As stated earlier, I have been through 200 to 300 depositions over the past 30 years and have never experienced anything as aggressively malicious as that presented by Mr. Redmond. I truly believe that corrective discipline should be administered with respect to Mr. Redmond's unprofessional courtroom conduct as he ordered a video for use in front of the jury. I believe that Mr. Chambers was aware of the abusive behaviors and the transcript will reveal several objections that resulted in Mr. Redmond confronting and bullying Mr. Chambers (at one point shortly after Mr. Redmond threatened to "get the judge on the line"). Mr. Redmond has asked in his motion, "Why is Dr. Sawyer still planning to testify in Choe, Thomas and potentially hundreds of other Roundup cases?" The answer is I am not participating in the Choe, Thomas matter and have notified council. With respect to other non-Lumber Liquidator cases (see lines 1-7, above).

Addendum

I received an email on Thursday, September 6, 2018 through "DocketBird" (including 12 attachments) which is "*following filings*" in the Lumber Liquidators matter. I am concerned that HIPAA (Health Insurance Portability and Accountability Act of 1996) United States laws may have been disregarded or violated by disseminating my medical diagnoses (within the documents) and medical records from Dr. Hauser and Dr. Burton. I trust that this information has been handled correctly and not disseminated publicly.



William R. Sawyer, Ph.D., D-ABFM

SWORN TO and subscribed before me this
7 day of September, 2018



NOTARY PUBLIC

My commission expires Jul 30, 2022



PROOF OF SERVICE
1013A(3) CCP

STATE OF CALIFORNIA COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 years and am not a party to the within action; my business address is 2070 North Tustin Avenue, Santa Ana, California 92705.

On September 10, 2018, I hereby certify that a copy of the foregoing has been served via E-Mail to:

Diane Flannery
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Gateway Plaza
800 East Canal Street
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Robert Redmond
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 10th day of September, at Santa Ana, California.


DONNALEE COOPER