

EXHIBIT “2”

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

DECLARATION OF THOMAS G. CHAMBERS
IN REPLY TO LUMBER LIQUIDATORS, INC.'S OPPOSITION
TO PLAINTIFFS' MOTION FOR RELIEF FROM THE SCHEDULING ORDER

I, THOMAS G. CHAMBERS, declare as follows:

1. I am an attorney duly licensed to practice in all courts of the State of California and am an associate in the law firm of Chambers and Noronha, associate counsel of record for plaintiffs, Tiffany Stein and Cami Stein. This declaration is made on my own personal knowledge of the facts set forth herein, and if called as a witness, I could and would competently testify as to those matters stated herein.

2. Due to a calendaring conflict your declarant was asked to cover a deposition in Fort Myers, Florida which had been previously scheduled and involved Dr. Sawyer, a retained expert on behalf of plaintiffs, Tiffany and Cami Stein, to comply with the case scheduling order.

3. It was your declarant's understanding that the deposition was scheduled to commence at 9:00 a.m. for a half day based upon defendant's payment of expert fees. Due to the fact that your declarant was present for pre-deposition discussions between trial counsel and Dr. Sawyer, I believed that the deposition would conclude at or around 1:00 p.m.

3. On the morning of the deposition I met with Dr. Sawyer to discuss his opinions as outlined in the Rule 26 report. I was informed by Dr. Sawyer that he did, in fact, have opinions as outlined in his report regarding Tiffany Stein's autoimmune diseases as exacerbated by formaldehyde exposure.

4. The deposition was scheduled to commence at approximately 9:00 a.m. Again, it was your declarant's understanding that the deposition was to conclude before 1:00 p.m.

5. Also prior to the deposition, I was informed by Dr. Sawyer that he had other engagements in the afternoon and that he would be departing sometime around the 1:00 p.m. hour anticipating a start time of 9:00 a.m.

6. It was your declarant's understanding that such an agreement had already been reached before the deposition further believing it was not an issue until Dr. Sawyer informed defense counsel that he believed the deposition would conclude by 1:00 p.m. based upon defendant's payment of his fees from 9:00 a.m. to 1:00 p.m.

7. Your declarant has been an attorney since 1987 and has focused my practice primarily on litigation as an insurance defense lawyer for the majority of my practice, taking and defending hundreds, if not thousands, of depositions over my career.

8. Out of the approximate 30 years of litigation practice I would rate the aggressiveness of defense counsel's questioning towards the top of the list.

9. The deposition was located in a conference room at the Hampton Inn. The witness and the court reporter were placed directly in front of an air conditioning unit that was loud and distracting. The air conditioning unit and thermostat could not be adjusted.

10. As a result, the court reporter had difficulties hearing Dr. Sawyer; questions of defense counsel and comments of plaintiffs' counsel.

11. Due to the court reporter's difficulty in hearing and transcribing Dr. Sawyer's testimony, a decision was eventually made to relocate the deposition across the hall to a larger conference room. As a result, there was an approximate 20-minute delay in the deposition.

12. Conflict began from the outset of this deposition, initially related to Dr. Sawyer believing the Federal Rules allow him to explain his answers. Defense counsel presumably disagreed and attempted to limit him to closely-drafted "yes" or "no" responses. Within minutes, extreme tension developed due to defense counsel's questioning relating to a prior deposition in which Dr. Sawyer testified as a toxicological expert; which increased at this point and with Mr. Redmond threatening to "get Judge Jones" on the phone.

13. When Dr. Sawyer attempted to qualify his answer defense counsel became aggressive and accusatory, stating that he was "impeaching" Dr. Sawyer and subsequently threatened that if Dr. Sawyer did not answer the question without qualification, Mr. Redmond would call the judge who would compel him to answer the questions. At the same time, Mr. Redmond appeared to be scanning his phone for a number to call.

14. The questioning went on long enough to result in multiple objections as being asked and answered and argumentative. Eventually, Mr. Redmond backed off on the line of questions after I met with Dr. Sawyer and suggested he may want to concede on the unimportant questions and certainly where Mr. Redmond had prior testimony.

15. Dr. Sawyer also misspoke in the very beginning of the deposition testifying that he was retained by "Tammy" and Cami Stein. In your declarant's opinion, defense counsel then attempted to, in essence, embarrass Dr. Sawyer after we took a short break to address issues with the

facilities, pointing out that he had testified to the wrong name and that the plaintiff's name was actually "Tiffany", not "Tammy".

16. Your declarant is of the opinion that Mr. Redmond confronted Dr. Sawyer with numerous documents in an effort to attack both Dr. Sawyer's competence and expertise, as well as his qualifications. These included articles about the CBS report which Dr. Sawyer identified as background data generating additional studies, as well as additional background information not germane to Dr. Sawyer's overall toxicology opinions.

17. The questions asked by defense counsel appeared to be directed to Dr. Sawyer's qualifications and expertise.

18. When your declarant learned that there was a dispute as to scheduling, I contacted trial counsel, John Adams, who was in court at the time and was able to discuss the matter with Mr. Redmond in an effort to work out the scheduling dispute.

19. Not knowing that Dr. Sawyer was suffering from the ill effects of a prior heart procedure, and believing that this conflict was due to a scheduling error, your declarant agreed to reschedule the deposition; allowing defense counsel the opportunity to complete his questioning within the 7-hour time constraint.

20. Your declarant attempted to convince Dr. Sawyer to stay through mid-afternoon. However, due to Dr. Sawyer's prior scheduling conflicts, he was unable to commit.

21. In response to defense counsel's inquiry as to why Dr. Sawyer or this declarant did not make a contemporaneous objection to Mr. Redmond's allegedly intimidating demeanor during the deposition, your declarant typically attempts to facilitate disputes between experts and examiners when the examiner's demeanor is intimidating. In that regard, your declarant made numerous objections that the questions were asked and answered, and when asked multiple times, objected

that they were argumentative. At one time, due to Mr. Redmond's aggressive questioning relating to Dr. Sawyer's testimony in the *Kopper's Case* and your declarant's observation that the deposition was becoming combative, I asked Dr. Sawyer to step out of the deposition room in an effort to calm the situation.

22. Your declarant did observe that Mr. Redmond sat close to Dr. Sawyer during the deposition, leaning towards Dr. Sawyer while he questioned him. Your declarant's belief at that time was that Mr. Redmond was moving close to Dr. Sawyer due to the difficulties with the air conditioner and the inability of the court reporter to hear in the initial room where the deposition started.

23. However, upon moving to the other meeting room to continue the deposition, it became evident that Mr. Redmond again placed himself in close enough proximity to Dr. Sawyer to be intimidating. Your declarant did not learn that the placement of Mr. Redmond in close proximity to Dr. Sawyer was a concern for Dr. Sawyer until the end of the deposition.

24. It is your declarant's understanding that Dr. Sawyer will be submitting his own affidavit to address the additional issues directed to him in Lumber Liquidators' Opposition and to which I am not able to respond.

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, 2018, at Santa Ana, California.


THOMAS G. CHAMBERS