

Steven Mark Gordner
April 23, 2008

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

SOILWORKS, LLC,

Plaintiff,

-vs-

MIDWEST INDUSTRIAL SUPPLY, INC.

Defendant.

Case No. 2:06-cv-02141

COPY

VIDEOTAPED DEPOSITION OF STEVEN GORDNER

April 23, 2008
2:03 p.m.

Taken at:
DeLisio Moran Geraghty & Zobel, P.C.
943 West 6th, Avenue
Anchorage, Alaska

Reported by:
Britney Dudley, Shorthand Reporter

Steven Mark Gordner
April 23, 2008

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A-P-P-E-A-R-A-N-C-E-S

For the Plaintiff: KUTAK ROCK, LLP
Douglas H. Allsworth, Esquire
8601 N. Scottsdale Road, Suite 300
Scottsdale, AZ 85253

For the Defendant: BROUSE MCDOWELL
Craig A. Marvinney, Esquire
1001 Lakeside Avenue, Suite 1600
Cleveland, Ohio 44114

Also Present: HOLMES WEDDLE & BARCOTT
Grant Watts, Esquire,
701 West Eighth Avenue, Suite 700
Anchorage, AK 99501

Bob Vitale,
Midwest Industrial Supply, Inc.

Steven Mark Gordner
April 23, 2008

1

I-N-D-E-X

2

STEVEN GORDNER

APRIL 23, 2008

3

4

5

EXAMINATION BY:

PAGE

6

Mr. Marvinney

5

7

8

9

10

11

EXHIBITS

12

NUMBER

DESCRIPTION

PAGE

13

14

15

16

17

18

19

20

21

22

23

24

25

Steven Mark Gordner
April 23, 2008

1 THE VIDEOGRAPHER: One moment, please.

2 We're on the record, today's April 23rd, 2008.

3 And the time is approximately 2:03 p.m. This is
4 tape 1 of the videotaped deposition of Steven Mark
5 Gordner, being taken on behalf of the defendant in
6 the matter of Soilworks, LLC, versus Midwest
7 Industrial Supply, Inc. Filed in the United States
8 District Court for the District of Arizona. Case
9 number 2:06-cv-02141. We're in the conference room
10 of the Offices of DeLisio Moran Geraghty & Zobel,
11 PC, located at 943 West Sixth Avenue in Anchorage,
12 Alaska.

13 My name is Steve Miedzwiadok, and I'm the
14 Videographer. My business address is 545 East 12th
15 Avenue, in Anchorage, Alaska. The court reporter is
16 Britney Dudley with Northern Lights Realtime &
17 Reporting.

18 would counsel identify themselves for the
19 record, please.

20 MR. MARVINNEY: Craig Marvinney of the law firm
21 Brouse McDowell from Cleveland, Ohio, on behalf of
22 Midwest Industrial Supply.

23 MR. ALLSWORTH: Douglas Allsworth of Kutak Rock
24 on behalf of the Plaintiff Soilworks, LLC.

25 MR. WATTS: Grant Watts, Holmes Weddle & Barcott

Steven Mark Gordner
April 23, 2008

1 here on behalf of Polar Supply.

2 THE VIDEOGRAPHER: Would the court reporter
3 please swear the witness.

4 THEREUPON:

5 STEVEN GORDNER
6 was called as a witness herein, after having been duly
7 sworn upon oath by Britney Dudley, Notary Public, was
8 examined and testified as follows:

9 EXAMINATION

10 BY MR. MARVINNEY:

11 Q. Good afternoon, sir, how are you feeling?

12 A. Pretty good.

13 Q. My name's Craig Marvinney. And as I said at the
14 outset, I represent a company known as Midwest Industrial
15 Supply out of Canton, Ohio. I'll be asking you a few
16 questions today, sir. And if you would, please answer
17 each question out loud, verbally, so that we can have as
18 clear an understanding as we can.

19 A. Uh-huh.

20 Q. Is that all right?

21 A. Yep.

22 Q. And as well, if I ask you a question that you
23 find to be confusing or ambiguous or in any way in need
24 of clarification, please straighten that out with me on
25 the record before you put your answer down. Is that

Steven Mark Gordner
April 23, 2008

1 okay?

2 A. Okay.

3 Q. As well, if at any time you feel like you need
4 to take a break, please let us know, and we'll be happy
5 to accommodate you as best we possibly can.

6 A. Okay.

7 Q. If you want me to restate a question or in any
8 way don't understand a question, please, as well, clarify
9 that. You're in charge and you can answer -- you can ask
10 me questions to make me elucidate or clarify what I'm
11 asking.

12 A. Okay.

13 Q. You understand that?

14 MR. MARVINNEY: If you will, this is the
15 deposition, then, of Steve Gordner in the case that
16 we've all -- are here on. We're here pursuant to
17 subpoena. And there are no objections as to the
18 subpoena or the service of the subpoena involved,
19 correct?

20 MR. ALLSWORTH: As I said in the earlier
21 deposition, I'm aware of none.

22 MR. MARVINNEY: Mr. Watts?

23 MR. WATTS: I'm presently unaware of any.

24 MR. MARVINNEY: All right.

25 And as to the court reporter, the court reporter

Steven Mark Gordner
April 23, 2008

1 Q. Was there a written contract that was put in
2 place between Polar Supply and Soilworks, to your
3 knowledge?

4 A. There's a written document. Don't know that
5 I'll call it a contract or not, because there are no hard
6 and fast -- what's the word I'm looking for --
7 expectations, I guess.

8 Q. As you sit here today, over the last -- looking
9 back, over the last five years, has Polar Supply been, in
10 essence, an approved distributor of products by
11 Soilworks?

12 A. Yes.

13 Q. And are you aware of any other companies such as
14 yours, here in Alaska, that are approved distributors of
15 Soilworks products?

16 A. Not that I know of.

17 Q. Do you understand that your company, Polar
18 Supply, has an exclusive distributorship for Soilworks
19 here in Alaska?

20 A. That's how I would view it. I don't know if it
21 is, in fact, an exclusive distributorship.

22 Q. But in practice, custom, in your relationship as
23 you have it with Polar Supply and Soilworks, you
24 understand it to be largely an exclusive distributorship?

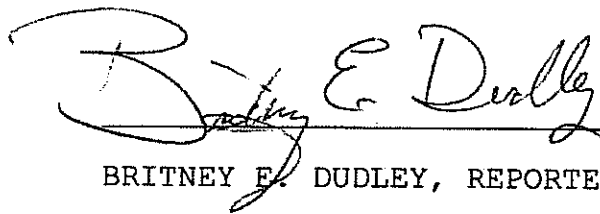
25 A. From my standpoint, yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, Britney E. Dudley, Notary Public for the State of Alaska, and Shorthand Reporter, do hereby certify that the forgoing proceedings were taken before me at the time and place herein set forth; that the witness was sworn to tell the truth; that the proceedings were reported stenographically by me and later transcribed by computer transcription; taht the waived signature; that the foregoing is a true record of the proceedings taken at that time; and that I am not a party to, nor do I have any interest in the outcome of the action herein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 2nd day of May, 2008.



BRITNEY E. DUDLEY, REPORTER

Notary Public - State of Alaska

