

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 01-944-Civ-Middlebrooks  
Magistrate Judge Bandstra

FILED BY [Signature]  
01 MAY 16 PM 4:11  
CLARENCE MIDDLEBROOKS  
CLERK U.S. DIST. CT.  
S.D. OF FLA. - HIA

JERRY JACOBS, individually and, on  
behalf of all others similarly situated,

Plaintiff,

vs.

OSMOSE, INC., HICKSON CORPORATION, USA,  
HICKSON CORP., HICKSON INTERNATIONAL,  
PLC, ARCH CHEMICALS, INC., HOME DEPOT,  
U.S.A., INC., LOWE'S HOME CENTERS, INC.,  
ROY O. MARTIN LUMBER CO., L.P., ROBBINS  
MANUFACTURING CO., HOOVER TREATED  
WOOD PRODUCTS, INC., FOLLEN WOOD  
PRESERVING CO., INC., WOOD TREATERS, INC.,  
and XYZ CORPORATIONS 1 through 25,

Defendants.

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**NOTICE OF FILING AFFIDAVIT OF ROY O. MARTIN, III**

Defendant Roy O. Martin Lumber Company, Limited Partnership, hereby gives notice of the filing of the attached affidavit of Roy O. Martin, III, dated May 16, 2001, in support of its motion to dismiss the plaintiff's class action complaint for lack of personal jurisdiction.<sup>1</sup>

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<sup>1</sup> Defendant Roy O. Martin Lumber Company, Limited Partnership, was incorrectly identified in the plaintiff's class action complaint as Roy O. Martin Lumber Co., L.P.

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wsc

Respectfully submitted,

By: *Lucinda A. Hoffmann* for 882977  
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Limited Partnership

and

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CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was delivered via U.S. Mail this 16<sup>th</sup> day of May, 2001 to:

HOME DEPOT U.S.A., INC.

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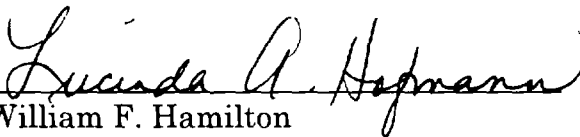
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Limited Partnership.

TPA1 #1136499 v1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO. 01-944-Civ-Middlebrooks  
Magistrate Judge Bandstra

JERRY JACOBS, individually and, on  
behalf of all others similarly situated,

Plaintiff,

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OSMOSE, INC., HICKSON CORPORATION, USA,  
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PRESERVING CO., INC., WOOD TREATERS, INC.,  
and XYZ CORPORATIONS 1 through 25,

Defendants.

AFFIDAVIT OF ROY O. MARTIN, III

STATE OF LOUISIANA            )  
  ) SS  
PARISH OF RAPIDES            )

BEFORE ME, the undersigned authority, personally appeared Roy O. Martin,  
III, who, after being duly sworn, deposes and says:

1. I am an Executive Vice-President and Secretary of Roy O. Martin  
Lumber Company, L. L. C., a general partner of Roy O. Martin Lumber Co., Limited

Partnership, successor to Roy O. Martin Lumber Company, Inc. (in dissolution) ("Martin"). I am over 18 years of age and am competent to testify in court. The information contained in this affidavit is true and based upon my personal knowledge, information, and belief.

2. Martin is a Louisiana limited partnership and is not licensed to do business in Florida.

3. Martin has no corporate officers who reside in Florida; it has no office in Florida; it has no registered Florida agent; it has no Florida employees; it has no bank account in Florida; it has no Florida telephone listing; it maintains no books or records in Florida.

4. Martin neither harvests nor purchases raw materials from Florida and stores no goods or materials in that state.

5. Martin does not own any property in Florida.

6. Martin has never contracted to insure any person, property, or risk located in Florida.

7. Martin is not involved in any partnership or joint venture located in Florida, nor has it ever been so involved.

8. Martin does not have and has not had a contract with any Florida company for the sale of CCA treated lumber or CCA treated wood.

9. Martin does not advertise in any publications aimed specifically at Florida residents and businesses.

10. Martin does not design, manufacture, market, distribute, sell, and/or advertise CCA treated wood for resale.

11. Martin has from time to time treated utility poles with CCA which are sold almost exclusively to utility companies.

12. The small number of poles not sold to utility companies (approximately 137 out of approximately 2,778) have been sold to non-Florida contractors and individuals. These contractors and individuals obtained poles only by appearing in person at Martin's Western Louisiana manufacturing facility.

13. Martin has also made isolated sales of specially ordered CCA treated construction lumber for use in bridge construction, bulkhead or retainer walls.

14. Martin does not use CCA in the treatment of any lumber suitable for decks, garden railings, playground equipment, swings, or play sets.

15. More specifically, Martin did not design, manufacture, market, distribute, sell, and/or advertise the CCA treated lumber allegedly sold to, and used by, the plaintiff Jerry Jacobs for use in constructing his deck.

16. Martin has not sold CCA treated wood products to Lowe's Home Centers, Inc., Home Depot, U.S.A., or any other Florida retailer or distributor of lumber or wood products.

17. Martin has not designed, manufactured, marketed, distributed, sold, and/or advertised any CCA treated wood products for sale or distribution in Florida -- including, but not limited to, CCA treated lumber used for building decks, handrails, or play sets.

18. Martin has not communicated by mail, phone, or electronic means with people or entities in Florida regarding the sale of CCA treated lumber.



19. I have not voluntarily appeared before this Court, rather my appearance in this action is for the limited purpose of moving this Court to dismiss the claims against Martin for lack of personal jurisdiction.

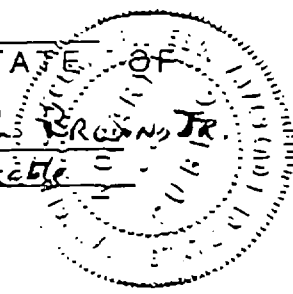
FURTHER AFFIANT SAYETH NAUGHT

Roy O. Martin, III  
Roy O. Martin, III

SWORN to and SUBSCRIBED before me this 16th day of May, 2001, by Roy O. Martin, III, who is personally known to me or who produced as identification.

LOUISIANA  
NOTARY PUBLIC, STATE OF

Printed Name: RAYMOND L. BRUNN JR.  
Commission No. Not Applicable



My Commission Expires: with life

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