

ILLINOIS POLLUTION CONTROL BOARD
August 28, 1986

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 79-145
)
THE CELOTEX CORPORATION)
and PHILIP CAREY COMPANY,)
)
Respondents.)

ORDER OF THE BOARD (by J. Anderson):

On August 13, 1986, Celotex filed a motion for additional sanctions against the Agency relating to an August 12, 1986 letter which announced the cancellation of a long-scheduled August 15, 1986 deposition of an Agency employee. The letter stated that the witness' "wife is expecting to have a child shortly" and that "[t]herefore emergency circumstances" would prevent the taking of the deposition. In its August 18, 1986 response in opposition, the Agency stated that the employee's deposition had in fact been taken on August 15.

On August 20, Celotex filed a reply, leave to file which is hereby granted. Celotex acknowledges that the Agency deponent was produced, but nonetheless seeks sanctions. Celotex objects to the fact that at the deposition, the witness was instructed by counsel not to answer questions relating to the circumstances surrounding the aborted cancellation, and seeks to have portions of the Agency's objection stricken for this reason. Celotex further objects to having been forced "to file a motion for sanctions in order to have a deponent appear for a deposition ordered previously and agreed to by Complainant". The sanction sought is the striking of the balance of the complaint and assessment of fees and costs for preparation of the motion for sanctions.

Celotex' motions to strike and for sanctions are denied.

Finally, ruling is temporarily reserved on the two other Celotex motions which were filed on August 20.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 28th day of August, 1986 by a vote of 6-0.

Dorothy M. Gunn, Clerk
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board