

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

PAUL AND DONNA FREDRICKSON, )  
husband and wife, )  
 )  
Complainants )  
 )  
v. )  
 )  
JEFF GRELYAK, )  
 )  
Respondent. )

PCB 04-19

**RECEIVED**  
CLERK'S OFFICE  
OCT 21 2005  
STATE OF ILLINOIS  
Pollution Control Board

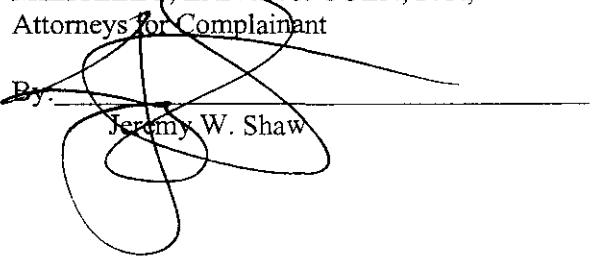
**AMENDED MOTION TO CANCEL HEARING**

Complainant, DONNA FREDRICKSON, by and through her attorneys, MILITELLO, ZANCK & COEN, and in support of her Motion for Continuance, hereby states as follows.

1. That hearing on this matter was set by the Illinois Pollution Control Board for November 3, 2005 at 9:00 a.m. in Woodstock, Illinois.
2. That Complainant's case is largely dependant upon the testimony of an expert witness who will analyze, interpret, testify and be available for cross-examination by the Respondent.
3. That Complainant's expert witness is unavailable to attend the hearing scheduled for November 3, 2005.
4. That Complainant's case will be unfairly prejudiced without the testimony of the expert witness.
5. That attached hereto is are Affidavits in support of this Motion setting forth the foundation for such request and such other information as required by Section 101.510 of Title 35 (A)(I).
6. That Respondent will not be adversely effected by a change of hearing date.

**WHEREFORE**, Complainant respectfully requests that the Illinois Pollution Control Board set a new hearing date on this matter.

Dated this 18th day of October, 2005.

Respectfully submitted,  
  
MILITELLO, ZANCK & COEN, P.C.,  
Attorneys for Complainant  
  
By:   
Jeremy W. Shaw

Jeremy W. Shaw  
MILITELLO, ZANCK & COEN, P.C.  
40 Brink St.  
Crystal Lake, IL 60014  
(815)459-8800

AFFIDAVIT

I, Jeremy W. Shaw, attorney for the Complainant in Case Number PCB 04-19, sworn on oath, hereby state as follows:

1. That Complainant has filed suit with the Illinois Pollution Control Board setting forth allegations of nuisance from a property line noise source and air pollutants emitted from Respondent's property.

2. That said noise samples have been analyzed and reviewed by Greg Zak of Noise Solutions By Greg Zak.

3. That Mr. Zak has been listed as an expert witness in this hearing since the first interrogatories were propounded by Respondent.

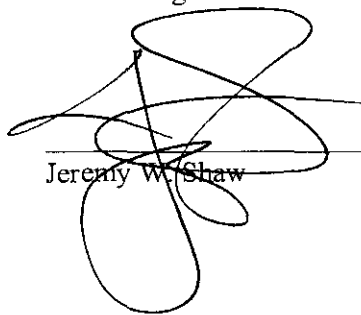
4. That Mr. Zak has been an integral part in the consultation and evaluation of Complainant's allegations and is expected to testify to the observations, studies, reviews and conclusions drawn from all available relevant evidence in this case and is expected to testify at the Illinois Pollution Control Board Hearing on same.

5. That the IPCB has not granted nor has Complainant filed any request to Cancel Hearing in this case, however, there was a tentative date set for hearing, which was later changed to the hearing date of November 3, 2005.

6. That the hearing date of November 3, 2005 is in conflict with the previous obligations of Mr. Zak.

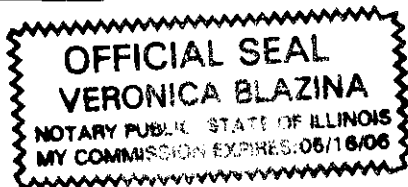
7. That Complainant will not be able to present her case in chief without the expert testimony of Mr. Zak.

8. That the parties have, in all other ways, completed the necessary pre-trial requirements including the exchange of witness lists and the exchange of all video evidence.

  
\_\_\_\_\_  
Jeremy W. Shaw

Subscribed and sworn to before me  
this 20th day of October, 2005.

  
\_\_\_\_\_  
Notary Public



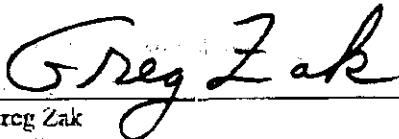
TOTAL P.04

AFFIDAVIT

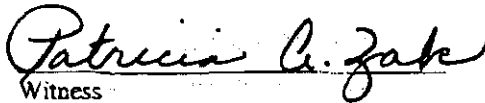
I, Greg Zak, sworn on oath, do hereby state and swear as follows:

1. That in my capacity as a sound expert for Noise Solutions by Greg Zak, I have been retained by Complainant in IPCB case PCB 04-19.
2. That I am expected to appear and give testimony as an expert witness in the IPCB case PCB 04-19 for the Complainant.
3. That I have other professional obligations on November 3, 2005 which were set in advance of the hearing date in this case which render me unavailable to attend and testify at said hearing.

Dated this 20th day of October, 2005.

  
 \_\_\_\_\_  
 Greg Zak

Greg Zak, personally known to me to be the person who appeared before me this 20th day of October, 2005 and, after review the information contained herein did sign and seal this Affidavit as an act of his own free will.

  
 \_\_\_\_\_  
 Witness

**PATRICIA A. ZAK**  
 Printed Name

STATE OF ILLINOIS  
POLLUTION CONTROL BOARD  
100 W. RANDOLPH STREET, SUITE 11-500  
CHICAGO, ILLINOIS 60601

RECEIVED  
CLERK'S OFFICE

OCT 21 2005

STATE OF ILLINOIS  
Pollution Control Board

NOTE: All items must be completed. If there is insufficient space to complete any item, additional sheets may be attached, specifying the number of the item you are completing. Once completed, you must file the original and nine copies with the Board.

BEFORE THE  
ILLINOIS POLLUTION CONTROL BOARD

PAUL AND DONNA FREDRICKSON, )  
husband and wife )  
 )  
Complainants )  
 )  
v. ) PCB 4-19  
 )  
JEFF GRELYAK, )  
 )  
Respondent. )

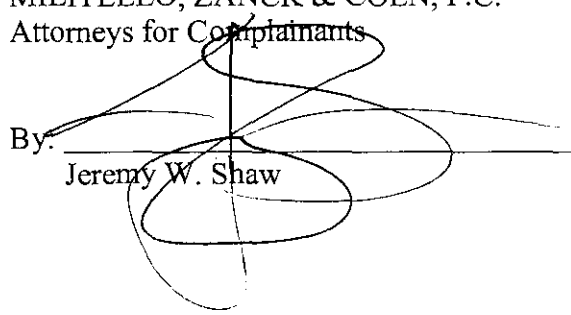
PROOF OF SERVICE

TO: Bradley P. Halloran                      George W. Tinkham  
Hearing Officer                              Attorney for Respondent  
Illinois Pollution Control Bd.              423 W. Vine Street  
James R. Thompson Center                  Springfield, IL 62704  
Suite 11-500                                      Fax: 217-744-1711  
100 W. Randolph Street  
Chicago, IL 60601

Attached is an Amended Motion to Cancel Hearing.

Respectfully submitted,

MILITELLO, ZANCK & COEN, P.C.  
Attorneys for Complainants

By:   
Jeremy W. Shaw

Jeremy W. Shaw  
MILITELLO, ZANCK & COEN, P.C.  
40 Brink Street  
Crystal Lake, IL 60014  
(815) 459-8800

PROOF OF SERVICE

STATE OF ILLINOIS        )  
  ) SS  
COUNTY OF McHENRY    )

The undersigned states, under oath, that she served the above Notice, together with the documents referred to therein, via facsimile transmittal as noted at approximately 4:25 p.m. and by mailing copies of the same to the service list above by depositing the same in the U.S. mail at Crystal Lake, Illinois, with proper postage fully prepaid, at approximately 5:00 p.m. on the 20<sup>th</sup> day of October, 2005.

*Cynthia Neumann*

SUBSCRIBED and SWORN to before  
me this 20<sup>th</sup> day of October, 2005.

*Elizabeth L. Sebesta*  
Notary Public

