

PAUL J. OLEKSAK & ASSOCIATES
Attorneys at Law
100 N. Atkinson Road, Suite 110F
Grayslake, IL 60030

Phone (847) 543-9000

Fax (262) 857-4900

February 10, 2010

Mr. Bradley Halloran via fax at 312.814.3669

Re: Morrissey vs. Pahios and Alpine Automotive
PCB 09-10

Dear Mr. Halloran:

Pursuant to your ruling last week attached are the following affidavits for filing:

- 1) affidavit from Geoff Pahios
- 2) affidavit from Tom Thunder
- 3) affidavit from Paul J. Oleksak
- 4) affidavit from Bruce A. Slivnick.

Sincerely,


Paul J. Oleksak

cc: Joseph Morrissey via fax at 202.223.0324

**BEFORE THE ILLINOIS
POLUTION CONTROL BOARD**

IN THE MATTER OF

JOSEPH & VICTORIA MORRISSEY,

Complainants,

v.

**GEOFF PAHIOS and ALPINE
AUTOMOTIVE,**

Respondents.

PCB 09-10

AFFIDAVIT

Geoffrey Pahios, being duly sworn under oath, states as follows:

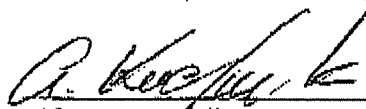
1. I am a Respondent in this case.
2. In mid September my attorneys were attempting to select a mutually acceptable date to depose Greg Zak prior to the discovery cut-off date.
3. My attorneys informed me in late September that Mr. Zak would not be called as a witness to testify at the hearing on this matter.
4. I then consulted with my attorneys and decided that it was unnecessary to depose a witness who would not be giving oral testimony.
5. My attorneys were instructed to take Mr. Zak's deposition until they were told he would not be called as a witness.
6. On October 9, 2009 I met with Tom Thunder and my attorneys at my office to discuss various aspects of this case. It was discussed at this meeting that the Complainants decided against calling any expert witnesses at time of hearing.

7. I relied on this representation when I made the decision not to take Mr. Zak's deposition.

Further, affiant sayeth naught.



Subscribed and sworn to
this 04 day of February, 2010.



Notary Public



**BEFORE THE ILLINOIS
POLUTION CONTROL BOARD**

IN THE MATTER OF)
JOSEPH & VICTORIA MORRISSEY,)
Complainants,)
v.)
GEOFF PAHIOS and ALPINE)
AUTOMOTIVE,)
Respondents.)

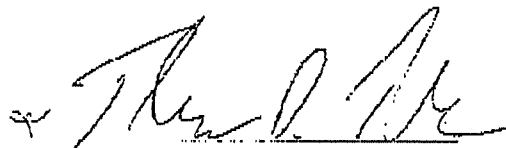
PCB 09-10

AFFIDAVIT

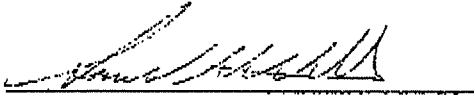
Thomas Thunder, being duly sworn under oath, states as follows:

1. I am the expert witness on behalf of Alpine Automotive.
2. On October 9, 2009 I attended a conference with Geoff Pahios and his attorneys, Paul J. Oleksak and Bruce A. Slivnick, to discuss the case.
3. During the meeting I was informed, along with Mr. Pahios, that the Complainants were not calling Greg Zak to testify as an expert witness on their behalf.

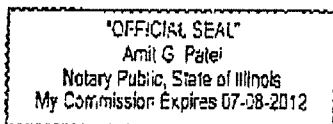
Further, affiant sayeth naught.



Subscribed and sworn to
this 9 day of February, 2010.



Notary Public



**BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD**

IN THE MATTER OF

JOSEPH & VICTORIA MORRISSEY,

Complainants,

v.

**GEOFF PAHIOS and ALPINE
AUTOMOTIVE,**

Respondents.

PCB 09-10

AFFIDAVIT

Paul J. Oleksak, being duly sworn under oath, states as follows:

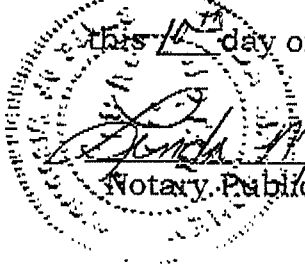
1. I am a licensed attorney in Illinois and I am one of the attorneys for the Respondents.
2. In late September I had a phone conversation with John O'Reilly, the former attorney for Mr. and Mrs. Morrissey. We were attempting to find a mutually acceptable date for Mr. Zak to be available for his deposition prior to the October 15, 2009 discovery cut-off date. During this phone conversation Mr. O'Reilly disclosed to me that Mr. Morrissey had decided not to call Mr. Zak as a witness at the hearing on this matter.
3. I informed Mr. O'Reilly that since Mr. Zak was not going to be called as a witness I had to discuss this with Mr. Pahios to see if he still wanted to proceed with the deposition.
4. On October 9, 2009 there was a meeting at Alpine Automotive to discuss this case. Present were Mr. Slivnick, myself, Geoff Pahios and Tom Thunder. One point that was discussed during our conference was the fact that the Complainants were not calling their expert to testify at the hearing on this matter.

5. Mr. Pahios then made the decision that there was no need to depose Greg Zak under those circumstances. Mr. Slivnick and I agreed and I then informed Mr. O'Reilly of this decision.
6. I can affirmatively state that had I not been told Mr. Zak was not going to be called as a witness I would have proceeded to take his deposition.

Further, affiant sayeth naught.

Paul J Oleksak

Subscribed and sworn to
this 10th day of February, 2010.



Linda A. Menchen
Notary Public Exp 11-11-12

BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
JOSEPH & VICTORIA MORRISSEY,)	
)	
Complainants,)	
)	
v.)	No. PCB 09-10
)	
GEOFF PAHIOS and ALPINE)	
AUTOMOTIVE,)	
)	
Respondents.)	

AFFIDAVIT OF BRUCE A. SLIVNICK

Bruce A. Slivnick, being first duly sworn on oath deposes and states:

1. I am an attorney duly licensed to practice law in the State of Illinois and I am one of the attorneys representing the Respondents in this matter along with Paul J. Oleksak. I have personal knowledge of the matters stated herein and if sworn as a witness can testify competently thereto.

2. Prior to the September 17, 2009 teleconference, the attorney then representing the Complainants, John O'Reilly spoke with me about the timing for taking of the deposition of the Complainants expert witness, Greg Zak in Springfield, Illinois.

3. During those conversations with Mr. O'Reilly, I deferred the scheduling to Mr. Oleksak since he was going to be the main attorney taking the deposition on behalf of the Respondents.

4. On several occasions, Mr. Oleksak and I discussed our hopes to take the deposition on a Friday afternoon so that I could go to visit my youngest son at the University of Illinois in Urbana on a football Saturday.

5. During September, 2009, after Mr. Oleksak had discussed the timing for the deposition of Mr. Zak with Mr. O'Reilly, Mr. Oleksak indicated that Mr. Morrissey did not intend to present the oral testimony of Mr. Zak during the hearing on this matter. Rather, the Complainants were going to rely solely on the written reports that Mr. Zak had previously prepared.


6. On October 9, 2009, Mr. Oleksak and I met with Geoff Pahios and the Respondent's expert witness, Thomas Thunder in order to prepare for the upcoming teleconference and to decide upon the timing for Mr. Zak's deposition if needed. During that meeting we discussed the need for taking Mr. Zak's deposition in light of the representation that Mr. Zak would not personally testify at the hearing.

7. Due to this representation, at that point the decision was made to forego taking Mr. Zak's deposition as being unnecessary for Mr. Thunder to properly prepare for his testimony at the hearing. Otherwise, the Respondents were prepared to proceed with taking Mr. Zak's deposition in Springfield.

8. I had at all times remained under the impressions that Mr. Zak's opinion would be presented in only written form as allowed by Pollution Control Board Rules at the time that I prepared the Motion in Limine that was filed on Friday January 8, 2010. It was based upon this impression and the statement of the Pollution Control Board Rules that my Motion in Limine relating to Mr. Zak's testimony was based.

9. At the time that I filed the Motion in Limine, I had not received the Complainant's witness list as I did not receive that list until the beginning of the following week.

FURTHER AFFIANT SAYETH NOT.


Bruce A. Slivnick

Subscribed to and Sworn to before me
this 10th day of February, 2010.


NOTARY PUBLIC

