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June 29, 1982

Steven L. Hoch, Esq.
Haight, Dickson, Brown & Bonesteel
2800 Twenty-Eighth St., Suite 300
P.O. Box 4032
Santa Monica, CA 90405

Re: Dr. Merrill Deposition

Dear Steve:

This is simply to confirm our conversation regarding the attempt by attorney Simon to depose Dr. Merrill. Having spoken with both Dave Gross and Dave Novack I am left without any doubt that Dr. Merrill will only damage our position in Los Angeles if he testifies. For that reason I feel we should do everything in our power to block this deposition beginning with the filing of a formal motion to quash it on the grounds that Dr. Merrill's treatment of plant employees and the Johns-Manville Corporate Medical Policy has absolutely no relevance as to products liability suits arising out of Long Beach Naval Shipyard. You certainly can represent to the court that Dr. Merrill had no connection with corporate policy and simply was the treating physician at the Manville, New Jersey plant only. Assuming we do not prevail on this motion, we should insist that Simon obtains proper service upon Merrill and not assist him in any fashion whatsoever to accomplish this task. If Simon is ultimately successful in obtaining proper service, I would ask that you contact David Gross who, in discussing the matter with me, has suggested that perhaps we have a chance at obtaining a protective order in Maine quashing or limiting the deposition. Dave has become friendly with one of the Maine judges and feels he might be favorably disposed towards our position. Assuming this motion is also denied then I would suggest that we wait and see if Simon really intends on journeying to Maine to take the deposition. Presumably he will after having gone that far.

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At that time, I would suggest we enter into a stipulation whereby some prior deposition testimony be used instead. I do not want to make that offer though, until such time as we have lost on all grounds. I realize this may be too late but nonetheless still wish to proceed on this basis.

Very truly yours,

Rich Evans HD

George F. Evans,
Senior Attorney

GFE/llb

cc: David Gross

(Dictated but not read)

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