

# Vorys, Sater, Seymour and Pease LLP

52 East Gay Street • Post Office Box 1008 • Columbus, Ohio 43216-1008 • Telephone (614) 464-6400 • Facsimile (614) 464-6350

Arthur I. Vorys  
1856-1833  
Lowry F. Sater  
1867-1835  
Augustus T. Seymour  
1873-1828  
Edward L. Pease  
1873-1924

In Washington  
Eleventh Floor  
1828 L Street, NW  
Washington, DC 20036-5109

Telephone (202) 467-8800  
Facsimile (202) 467-8900

In Cleveland  
3100 One Cleveland Center  
1375 East Ninth Street  
Cleveland, Ohio 44114-1724

Telephone (216) 479-6100  
Facsimile (216) 479-6060

In Cincinnati  
Suite 2000 - Atrium II  
221 East Fourth Street  
Post Office Box 0235  
Cincinnati, Ohio 45201-0230

Telephone (513) 723-4000  
Facsimile (513) 723-4056

In Alexandria  
277 South Washington Street  
Suite 310  
Alexandria, Virginia 22314

Telephone (703) 837-8999  
Facsimile (703) 549-4482

James A. Wilson  
Direct Dial (614) 464-5606  
Facsimile (614) 719-5039  
E-Mail - jawilson@vssp.com

January 15, 2003

Via facsimile  
John McDonald  
Schottenstein Zox & Dunn  
41 S. High St., Suite 2600  
Columbus, OH 43215-6106

**Re: *Buckeye Recyclers v. CHEP USA***  
**United States District Court, Southern District of Ohio,**  
**Western Division, Case No. C3-01-440**

Dear John:

This letter will confirm that Sam McAdow, Sr. will make himself available for two hours of additional deposition on Wednesday, January 22, 2003, beginning at 9:00 a.m. in our offices.

This letter will also confirm that Buckeye is willing to allow Eldon Potts to attend the inspection at Buckeye's premises with you provided that he will not be permitted to view Buckeye's remanufacturing process, which it considers proprietary. If this limitation is not agreeable, please let me know.

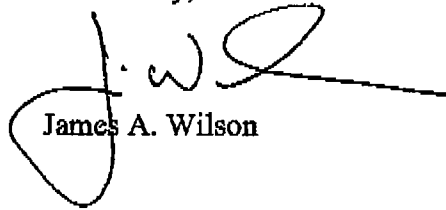
I will make every effort to provide CHEP with written responses to its two pending document requests by the close of discovery on Monday, January 27, 2003. Actual making and copying of responsive documents may take a couple additional days.

Finally, this letter will serve to supplement Buckeye's initial disclosure concerning its damage calculations. As you know, Buckeye's count indicates that it currently possesses approximately 3700 pallets with CHEP's markings. Buckeye believes that if it were free to do so, and were free to communicate with customers about CHEP's charges for lost pallets, it could sell these pallets to participating CHEP manufacturers or distributors for approximately 50% of the price due CHEP for lost CHEP pallets (i.e., between \$9 and \$12 per pallet). With respect to its claims for fair compensation for the sorting, storage and

John McDonald, Esq.  
January 15, 2003  
Page 2

transportation of such pallets, Buckeye will present the jury with two alternative theories of fair compensation: (a) the surcharge price CHEP charges for shipment of pallets to hostile or non-cooperative NPDs (i.e., approximately \$8 per pallet); and (b) the price Buckeye is paid by those who put into circulation other proprietary pallets to Buckeye for return of these pallets (i.e., \$4 to \$6.50 per pallet). I note that CHEP's initial disclosure with respect to calculation of damages states: "Unknown at this time, estimated to exceed \$75,000." Do you intend to supplement this response?

Yours truly,



James A. Wilson

JAW/jaw

cc: Bridgette Roman, Esq.

# Vorys, Sater, Seymour and Pease LLP

52 East Gay Street • Post Office Box 1008 • Columbus, Ohio 43216-1008 • Telephone (614) 464-4300 • Facsimile (614) 464-4350 • Cable vorysllp

Arthur E. Vorys  
1840 19<sup>th</sup> St.  
Columbus, Ohio 43261  
Telephone (614) 464-4300  
Facsimile (614) 464-4350

John A. Sater  
1825 1<sup>st</sup> Street, SW  
Washington, DC 20006-1005  
Telephone (202) 462-8900  
Facsimile (202) 462-8900

Stephen L. Seymour  
26000 Meridian Parkway  
Columbus, Ohio 43234-3900  
Telephone (614) 464-4300  
Facsimile (614) 464-4300

Robert J. Pease  
52 East Gay Street  
Columbus, Ohio 43215  
Telephone (614) 464-4300  
Facsimile (614) 464-4300

John McDonald  
211 North Washington Street  
Columbus, Ohio 43215  
Telephone (614) 464-4300  
Facsimile (614) 464-4300

James A. Wilson  
Direct Dial (614) 464-5600  
Facsimile (614) 719-5039  
E-Mail: jawilson@vssp.com

February 4, 2004

**VIA FACSIMILE**

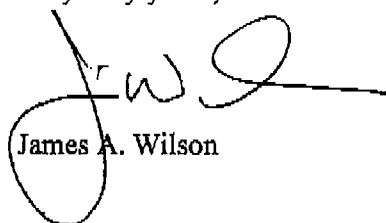
John McDonald  
Schottenstein, Zox & Dunn  
41 South High Street  
The Huntington Center, 26th Floor  
Columbus, OH 43215

Re: Buckeye Recyclers v. CHEP USA

Dear John:

I am writing in response to your letter of this afternoon, which among other things asked whether Buckeye intended to supplement its damage disclosures. I did so in my January 15, 2003 letter to you. The only additional information I have is Buckeye's calculation of the total number of pallets returned to CHEP since August, which totals 17391. A sheet detailing Buckeye's record of returns is attached.

Very truly yours,



James A. Wilson

JAW/jw

cc: Bridgette C. Roman