

**Tab C**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

BUCKEYE DIAMOND LOGISTICS, INC. :  
fka BUCKEYE RECYCLERS, INC. :

Plaintiff, :

Case No. C3-01-440

v. :

Judge Walter Herbert Rice

CHEP USA, a general partnership :

Defendant. :

**PLAINTIFF'S THIRD SET OF INTERROGATORIES  
TO DEFENDANT**

Plaintiff Buckeye Diamond Logistics, Inc. fka BuckeyeRecyclers Inc., by and through its counsel, hereby submits its Third Set of Interrogatories to defendant CHEP USA to be answered fully in writing and under oath within 30 days of receipt of service of same in accordance with Rule 33 of the Federal Rules of Civil Procedure.

**DEFINITIONS AND INSTRUCTIONS**

1. The term "Plaintiff," when used herein, shall mean Buckeye Diamond Logistics, Inc. fka Buckeye Recyclers and its agents, consultants, advisors, representatives, and employees.

2. The terms "CHEP" or "Defendant" when used herein shall mean Defendant CHEP USA, as well as its present and former officers, partners, agents, directors, attorneys, accountants, investigators, employees, and all other persons known to be acting on its behalf.

3. "Person" herein shall mean natural persons as well as entities including but not limited to corporations, associations, partnerships, firms, organizations, and governmental agencies or bodies.

4. The words "and" and "or" are both conjunctive and disjunctive when used in these Interrogatories.

5. "Identify" means and includes:

- a. With respect to a natural person, his or her full name, home address, home telephone number, business address, business telephone number, employer, and job title.
- b. With respect to a document, its title, a description of its subject matter, the identity of the person or persons who prepared it, the identity of the addressor and addressee or recipients thereof, its date (if undated, its date of preparation), and its location and custodian.

6. "Describe" when referring to a document shall mean to provide the title or subject, date, originator, addressee, and a brief description of the substance therein. When referring to an event, "describe" shall mean to give the date, the names of the persons participating, the time of day, the place, and a brief description of all occurrences, statements, and conversations contiguous with and pertaining to that event. When referring to a person or persons, "describe" shall mean to provide the name or names, job title or titles, and a brief description of the person's or persons' role in any event or occurrences, or his or her relationship to the facts set forth in the text of the Interrogatory.

7. If any information called for by an Interrogatory is withheld on the basis of privilege, state the nature of the information being claimed as privileged, the type of privilege claimed, and all circumstances upon which you are relying to support each claim of privilege.

8. If these Interrogatories cannot be answered in full, after exercising due diligence to secure the full information to do so, answer to the extent possible, specify the reason for your inability to answer the remainder, state whatever information and knowledge you have regarding the unanswered portion, and detail what you did in attempting to secure the unknown information. With respect to each Interrogatory, in addition to supplying the information asked for and identifying the specific documents referred to, identify and describe all documents to which you refer in preparing your answers.

9. In each instance where an Interrogatory is answered on information and belief, it is requested that Plaintiff set forth the basis for such information and belief.

10. In each instance where Defendant denies knowledge or information sufficient to answer the Interrogatory, it is requested that Plaintiff set forth the name and address of each person, if any, known to have or whom you contend possesses such knowledge.

11. These Interrogatories are deemed to be continuing pursuant to Federal Rule of Civil Procedure 26. In the event you obtain any additional information at a later time which is different from and/or in addition to that provided in response to this

Second Set of Interrogatories, you are requested to amend or supplement the responses hereto promptly.

**INTERROGATORIES**

1. For all pallets recovered from Buckeye Diamond Logistics in August and September 2003, state:
  - a. the total number of stringer pallets contained therein;
  - b. the particular repairs made to each pallet recovered;
  - c. for each pallet scrapped, the amount of payment received or the use made of the components thereof;
  - d. CHEP's total cost of loading such pallets for removal and transportation;
  - e. the date each such pallet was received by Buckeye and from whom Buckeye received it; and
  - f. the condition of the pallet on the date it was received by Buckeye.

**RESPONSE:**

2. For each NPD located in Ohio or within 100 miles of Buckeye's South Charleston facility, state the average dwell time of pallets marked with CHEP's logo for each year since 1999. To the extent CHEP asserts it lacks data to compute the average

dwell time for any such NPD, provide (a) each date on which the NPD received any pallets marked with CHEP's logo and the quality received; and (b) each date CHEP or its agents received from that NPD any pallets marked with CHEP's logo and the quality received.

**RESPONSE:**

3. Identify all persons who while employed by CHEP or acting as its agents have: (a) participated in the recovery of pallets from Buckeye in August or September 2003; (b) had any responsibility for arranging or making determinations with respect to transportation, reconditioning or washing of pallets recovered of pallets from Buckeye in August or September 2003; (c) participated in any aspect of the calculations of CHEP's damages in this matter; (d) had responsibility for determining CHEP's depreciation rates for block or stringer pallets since 1999; (e) had responsibility for overseeing, monitoring or auditing the return of pallets by Abbott Foods or Mills Pride since January 1, 1999; and (f) have had knowledge of CHEP's cost of capital at any time since January 1, 1999.

**RESPONSE:**

4. Identify all sources from which CHEP obtained capital at any time since January 1, 1999, the amount of capital obtained from each and the cost of such capital to CHEP. If Brambles is the sole source of such capital, provide the same information for Brambles.

**RESPONSE:**

5. For each pallet marked with CHEP's logo returned by Buckeye to Abbott Foods or Mills Pride identify: (a) the date the pallet was returned to CHEP; (b) any physical damage CHEP claims was caused by Buckeye to the pallet and the cost of repairing such damage; (c) the length of time CHEP claims Buckeye's actions delayed the return of the pallet to CHEP; and (d) the nature and amount of any other damages CHEP asserts it suffered with respect to each such pallet as the result of Buckeye's actions.

**RESPONSE:**

6. State the number of pallets marked with CHEP's logo receive by Mills Pride and Abbott Foods for each month since January 1999, and for each year since 1999, identify the total number of pallets returned to CHEP or its agents annually by each and the amount of any shortfall or excess in the number of pallets returned by each as compared with CHEP's expected number of returns.

**RESPONSE:**

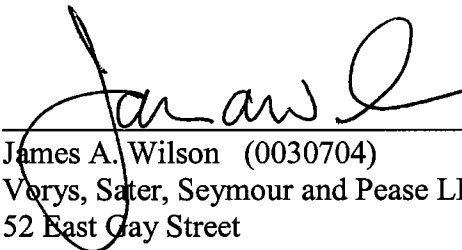
7. Identify the author of the document labeled CHEP 00795, his or her job title and responsibilities, the file in which CHEP 00795 for production and any other documents located in that file.

**RESPONSE:**

8. If you contend that any document previously produced by CHEP is responsive to any request in Buckeye's Fourth Request for Production of Documents, identify the document by Bates number and the request that you contend it is responsive to.

**RESPONSE:**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James A. Wilson", is written over a horizontal line.

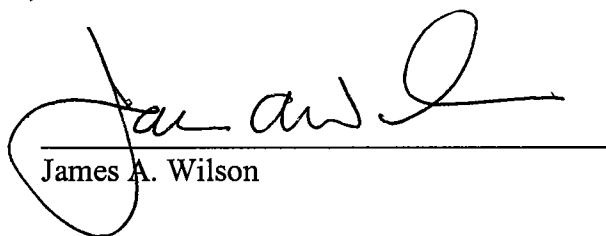
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Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of this Set of Interrogatories  
was served on February 23, 2004, by fax and e-mail upon:

John C. McDonald  
Bridgette Roman  
Schottenstein Zox & Dunn  
250 West Street  
Columbus, OH 43215

  
James A. Wilson