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February 9, 2024

Morris James LLP

VIA CM/ECF

The Honorable Christopher Burke
United States District Court
844 North King Street
Wilmington, DE 19801

**Re: *Midwest Energy Emissions Corp., et. al v. Arthur J. Gallagher & Co., et al.*,
C.A. No. 19-1334-CJB**

Dear Judge Burke:

In advance of the February 14, 2024, pretrial conference, the parties respectfully write to provide a list of outstanding issues for the Court's consideration that the parties will be prepared to address:

1. Plaintiffs' designation of testimony from witnesses and corporate representatives of the settling defendants.
2. Defendants' recently produced trial exhibits and their relation to the applicable standard for contributory infringement.
3. Defendants' pending Motion for Reargument Regarding the Court's Memorandum Opinion and Order Denying Their Motion for Summary Judgment No. 7: No Inducement of Infringement. (D.I. 636).^{1,2}
4. Defendants' Notice in Response to Memorandum Order (D.I. 627), Objections to Expert Testimony Inconsistent Therewith, and Motion to Reconsider Denial of Motion to Exclude Testimony of Plaintiff's Damages Expert for Including Tax Credits in Patent Damages. (D.I. 639).^{1,2}

¹ ME2C does not believe that argument on these motions for reconsideration is necessary. It also notes that Defendants are not entitled to oral argument regarding motions for reconsideration, and in any event, they failed to request oral argument within seven days of filing their replies to these motions, pursuant to local rule 7.1.4.

If the Court does not take up these motions for reconsideration, ME2C believes that the remaining issues may be addressed via videoconference hearing, if the Court prefers. See D.I. 648.

² Defendants included a request for oral argument in the body of D.I. 639, and Defendants submit the issues raised in each Motion for Reargument have a substantial effect on the upcoming trial and argument is warranted. Defendants request the Pretrial Conference proceed in person, as scheduled.

The Honorable Christopher J. Burke
February 9, 2024
Page 2

Morris James_{LLP}

Respectfully submitted,

/s/ Kenneth L. Dorsney

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cc: All counsel of record (via CM/ECF and electronic mail)