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April 24, 2024

Via E-mail & NYSCEF

Joseph W. Belluck, Esq.
Belluck & Fox, LLP
546 Fifth Avenue, 5th Floor
New York, NY 10036

RE: *Troy Shane Smith v. 84 Lumber Company, et al., Erie County*
Index No.: 814633/2023

Dear Mr. Comerford:

We have reviewed the discovery conducted to date in this case. Plaintiffs have failed to provide any evidence that any product manufactured, sold, or distributed by **Gardner Denver, Inc.** or **Gardner Denver Nash LLC** caused Plaintiffs' alleged exposure to asbestos. Accordingly, we are enclosing a Stipulation of Discontinuance as to **Gardner Denver, Inc.** and **Gardner Denver Nash LLC** and request that you execute and return same to me at your earliest convenience.

If you object to executing the order, please advise of any evidence upon which Plaintiffs intend to rely to establish product identification as soon as possible and no later than **May 22, 2024**. Please identify the specific product name(s) and product type(s); the location of use in Plaintiffs' presence; the nature of Plaintiffs' exposure and the date of Plaintiffs' alleged exposure.

If Plaintiffs intend to rely upon deposition testimony of co-workers or other witnesses, please provide the name, address and telephone number of each witness, together with a copy of all deposition transcripts corresponding to any testimony previously provided by them relating to Plaintiffs' claims against **Gardner Denver, Inc.** or **Gardner Denver Nash LLC**. In addition, if Plaintiffs intend to rely upon any documents as against **Gardner Denver, Inc.** or **Gardner Denver Nash LLC**, please identify all such documents and provide copies of the same. **Gardner Denver, Inc., and Gardner Denver Nash LLC** will object to Plaintiffs' use of any evidence at trial or in opposition to its Summary Judgment motion which is not disclosed in response to this letter.

Please be advised that should you fail to respond to this request, we will submit an Order of Dismissal to the Court for execution. By this letter, all co-defendants are given notice that we seek dismissal of any and all cross-claims. Any objections shall be made in writing, stating the



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basis of objection, to the Court, and all parties by the corresponding date in the current Scheduling Order.

Please do not hesitate to contact me with any questions or if you would like to discuss the matter further. Thank you for your attention to this matter.

Very truly yours,

Gene

Eugene Fleischer

Attachment

cc: All defense counsel of record

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ERIE

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This Document Relates To:

Index No.: 814633/2023

TROY SHANE SMITH and ALLYSON JANE SMITH,

Plaintiffs,

- against -

84 LUMBER COMPANY, et al.,

Defendants.
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**STIPULATION OF
DISCONTINUANCE AS AGAINST
GARDNER DENVER, INC., and
GARDNER DENVER NASH LLC**

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, the attorneys of record for the parties to this stipulation that whereas no party hereto is an infant, incompetent person for whom a committee has been appointed or conservatee, and no person not a party has an interest in the subject matter of the action, the above-entitled action be, and the same hereby is, discontinued, as against **Gardner Denver, Inc. incorrectly named as “Gardner Denver Inc., Individually and as Successor to Nash Engineering Company,” and Gardner Denver Nash LLC, incorrectly named as “Gardner Denver Nash LLC, Individually and as Successor to Nash Engineering Company”** with prejudice and without costs to either party as against the other. This stipulation may be filed without further notice with the Clerk of the Court.

Dated:

Belluck & Fox, LLP

MANNING GROSS + MASSENBURG LLP

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