

ORIGINAL

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Attorneys for Defendant Micron Electronics, Inc.

U.S. DISTRICT &  
BANKRUPT COURT

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FILED IN DISTRICT COURT  
CLERK OF DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.  
HINCKLEY, JACQUELINE T.  
HLADUN, MARILYN J. CRAIG,  
JEFFERY P. CLEVINGER, and  
TIMOTHY C. KAUFMANN, individually  
and on behalf of those similarly situated,

Plaintiffs,

vs.

MICRON ELECTRONICS, INC., a  
Minnesota corporation,

Defendant.

Case No. CIV 01-0244-S-BLW

**AFFIDAVIT OF GREGORY C.  
TOLLEFSON IN SUPPORT OF  
DEFENDANT MICRON ELECTRONICS,  
INC.'S OPPOSITION TO PLAINTIFFS'  
MOTION FOR PROTECTIVE ORDER  
FILED ON JULY 23, 2004**

**AFFIDAVIT OF GREGORY C. TOLLEFSON IN SUPPORT OF DEFENDANT  
MICRON ELECTRONICS, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR  
PROTECTIVE ORDER FILED ON JULY 23, 2004 - 1**

Boise-174240.1 0026493-00046

253

STATE OF IDAHO )  
                  ) ss.  
County of Ada    )

I, Gregory C. Tollefson, being duly sworn, depose and say:

1. I am an attorney at Stoel Rives LLP and counsel of record for Defendant Micron Electronics, Inc. I am familiar with this case and make this affidavit based on my personal knowledge. I submit this affidavit in support of Defendant Micron Electronics, Inc.'s Opposition to Plaintiffs' Motion for Protective Order filed on July 23, 2004.

2. On March 19, 2004, Chris Huntley sent a letter to Kim Dockstader requesting the depositions of fourteen individuals. A true and correct copy of the correspondence is attached hereto as **Exhibit A**. This was Plaintiffs' first request for depositions since the Court entered its Scheduling Order on May 23, 2003.

3. Also on March 19, 2004, Kim Dockstader sent a letter to Chris Huntley requesting the depositions of fifty-eight class members and a former manager and non-class member, Tawni Weaver. A true and correct copy of the correspondence is attached hereto as **Exhibit B**.

4. I sent a letter to the offices of Huntley Park LLP on March 24, 2004, requesting supplementation of all outstanding discovery responses. A true and correct copy of the correspondence is attached hereto as **Exhibit C**.

5. On April 2, 2004, Kim Dockstader sent a letter to the offices of Huntley Park LLP, attaching a calendar for the month of April, with availability each week day (except April 23, 2004) for one or more of the individuals Plaintiffs requested for deposition. A true and correct copy of the correspondence is attached hereto as **Exhibit D**.

**AFFIDAVIT OF GREGORY C. TOLLEFSON IN SUPPORT OF DEFENDANT  
MICRON ELECTRONICS, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR  
PROTECTIVE ORDER FILED ON JULY 23, 2004 - 2**

6. Dan Williams responded to Kim Dockstader's April 2, 2004 letter on April 5, 2004, by suggesting the parties agree to extend the discovery deadline for class certification issues beyond May 3, 2004, so the months of May and June could be used to schedule depositions. A true and correct copy of the correspondence is attached hereto as **Exhibit E**.

7. On April 6, 2004, Kim Dockstader responded to Dan Williams' April 5, 2004 letter, agreeing to stipulate to extend the discovery deadline for class certification issues beyond May 3, 2004, solely for the taking of depositions. A true and correct copy of the correspondence is attached hereto as **Exhibit F**.

8. Dan Williams sent a letter to Kim Dockstader on April 7, 2004, to let Defendant know that Plaintiffs were willing to work with Defendant to get the requested depositions scheduled. A true and correct copy of the correspondence is attached hereto as **Exhibit G**.

9. On April 8, 2004, I sent a letter to the offices of Huntley Park LLP, again requesting supplementation of all outstanding discovery responses. A true and correct copy of the correspondence is attached hereto as **Exhibit H**.

10. In response to Plaintiffs' Motion for Protective Order, Kim Dockstader sent a letter to the offices of Huntley Park LLP on May 5, 2004, asking Plaintiffs to withdraw their motion. A true and correct copy of the correspondence is attached hereto as **Exhibit I**.

11. On June 21, 2004, Kim Dockstader sent a letter to the offices of Huntley Park LLP requesting depositions of the twenty-five individuals in Defendant's March 19, 2004 correspondence that had not yet been deposed (not including the eleven class members Defendant withdrew) and the depositions of eighteen additional class members. A true and correct copy of the correspondence is attached hereto as **Exhibit J**.

**AFFIDAVIT OF GREGORY C. TOLLEFSON IN SUPPORT OF DEFENDANT  
MICRON ELECTRONICS, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR  
PROTECTIVE ORDER FILED ON JULY 23, 2004 - 3**

12. Kim Dockstader followed up with another letter to Plaintiffs' counsel on June 22, 2004, which attached a proposed deposition schedule for the requested depositions. A true and correct copy of the correspondence is attached hereto as **Exhibit K**.

13. On June 23, 2004, Dan Williams responded to Kim Dockstader's letters of June 21, 2004 and June 22, 2004, objecting to eighteen of the individuals requested for deposition. A true and correct copy of the correspondence is attached hereto as **Exhibit L**.

14. Kim Dockstader responded to Dan Williams' June 23, 2004 letter on the same day, indicating Defendant was unable to move the depositions of the eighteen unnamed individuals to the end of the scheduling period. A true and correct copy of the correspondence is attached hereto as **Exhibit M**.

15. On June 30, 2004, Dan Williams sent a letter to Defense counsel objecting to Ms. Smith's deposition and putting Defendant on notice that Plaintiffs would not produce Ms. Smith for her deposition on July 1, 2004. A true and correct copy of the correspondence is attached hereto as **Exhibit N**.

16. Kim Dockstader responded to Dan Williams' letter on June 30, 2004, temporarily agreeing to vacate the deposition of Ms. Smith and proposing to limit the deposition to two hours in addition to not going over the same questions covered at Ms. Smith's prior deposition and working with Plaintiffs on scheduling the deposition at a mutually agreeable time. A true and correct copy of the correspondence is attached hereto as **Exhibit O**.

17. On July 2, 2004, Kim Dockstader responded to Dan Williams' correspondence of June 29, 2004, concerning the eighteen claimants for which Plaintiffs believed it was

inappropriate for Defendant to depose. A true and correct copy of the correspondence is attached hereto as **Exhibit P**.

18. On July 8, 2004, Kim Dockstader sent a letter to the offices of Huntley Park LLP requesting a meet and confer to address the substantial number of outstanding discovery issues arising from Plaintiffs' and several claimants' failures to comply. A true and correct copy of the correspondence is attached hereto as **Exhibit Q**.

19. Pursuant to an agreement between the parties to extend the deposition period, on July 13, 2004, Kim Dockstader sent a letter to Plaintiffs' counsel attaching a proposed deposition calendar, which moved seventeen of the eighteen disputed deponents to the end of the deposition schedule. A true and correct copy of the correspondence is attached hereto as **Exhibit R**.

20. All of the depositions requested by Defendant have been noticed and are in the process of being taken. The first deposition of one of the disputed deponents subject to Plaintiffs' Motion is scheduled for August 16, 2004. Attached hereto as **Exhibit S** is a true and correct copy of the current deposition calendar.

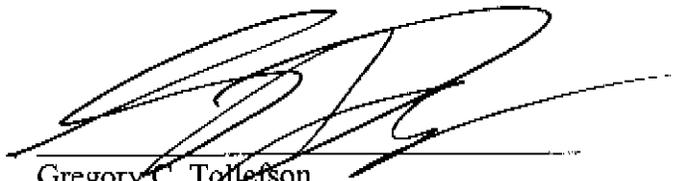
21. On July 26, 2004, Plaintiffs' counsel sent a letter to Kim Dockstader, responding to his letter of July 8, 2004 concerning outstanding discovery issues. A true and correct copy of the correspondence is attached hereto as **Exhibit T**.

22. Glenys McPherson of Huntley Park LLP sent a facsimile to Kim Dockstader and Deanna Brothers on July 29, 2004, indicating for the first time that Steven Tom lives in San Marcos, California and Patrick Revels lives in Asotin, Washington. A true and correct copy of the correspondence is attached hereto as **Exhibit U**.

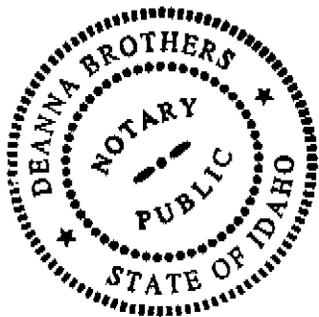
23. Other than in the subject Motion, Plaintiffs' counsel has never informed us, either verbally or in writing, that conditionally certified claimant Kevin Engle resides in Japan.

24. I took the depositions of Julie Gardner and Tom Robertson in Minneapolis, Minnesota on July 20 and 21, 2004, in addition to the deposition of Jeff Clevenger in Grand Rapids, Michigan on July 22, 2004. My itinerary involved only three days and two nights of travel, as I traveled the morning of July 20, 2004 to Minnesota for the afternoon deposition of Julie Gardner, and I traveled the morning of July 22, 2004 to Michigan for the afternoon deposition of Jeff Clevenger. After Mr. Clevenger's deposition, I flew back to Boise that very evening.

Dated this 6<sup>th</sup> day of August, 2004.

  
Gregory C. Tollefson

SUBSCRIBED AND SWORN TO BEFORE ME this 6<sup>th</sup> day of August, 2004.



  
Notary Public of Idaho  
Residing at: Boise Idaho  
My Commission Expires: 08/19/06

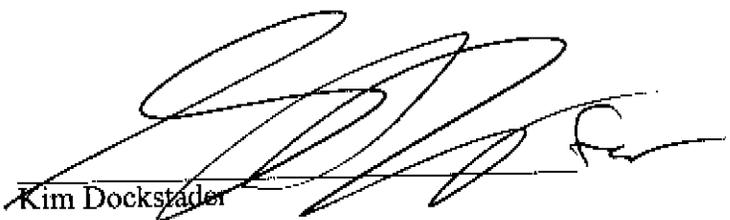
**AFFIDAVIT OF GREGORY C. TOLLEFSON IN SUPPORT OF DEFENDANT  
MICRON ELECTRONICS, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR  
PROTECTIVE ORDER FILED ON JULY 23, 2004 - 6**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 6<sup>th</sup> day of August, 2004, I caused to be served a true copy of the foregoing **AFFIDAVIT OF GREGORY C. TOLLEFSON IN SUPPORT OF DEFENDANT MICRON ELECTRONICS, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR PROTECTIVE ORDER FILED ON JULY 23, 2004** by the method indicated below, addressed to the following:

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
HUNTLEY PARK LLP  
250 South Fifth Street  
PO Box 2188  
Boise, Idaho 83701-2188  
Fax: 208 345 7894

- Via U. S. Mail
- Via Hand-Delivery
- Via Overnight Delivery
- Via Facsimile

  
Kim Dockstader

**AFFIDAVIT OF GREGORY C. TOLLEFSON IN SUPPORT OF DEFENDANT  
MICRON ELECTRONICS, INC.'S OPPOSITION TO PLAINTIFFS' MOTION FOR  
PROTECTIVE ORDER FILED ON JULY 23, 2004 - 7**

**EXHIBIT A**

# Huntley Park

Uncommon Law

March 19, 2004

**Via Fax: 389-9040  
& U.S Mail**

Kim J. Dockstader  
Stoel Rives LLP  
101 S. Capitol Blvd., Suite 1900  
Boise, ID 83702

Re: Smith, et al., v. Micron Electronics, Inc.

Dear Kim:

In preparation for the scheduled certification hearing, we will need to schedule various individuals for depositions. While some of those listed below have already given some testimony, they are listed because subsequent to their depositions, they have provided affidavits in opposition to Plaintiffs' Motion for Conditional Class Certification. Those depositions should be relatively short. The following are the people we will want to schedule:

Marcus J. Auchampach  
Jay Church  
Mark A. Cox  
Jay W. Ellis  
David J. Groeger  
Jaime Nava  
Anthony Robinson  
David McCauley  
Gabe Weske  
Farrah Pippinger  
Vicki Quanti  
Joel Kocher  
Harry Heisler  
Mike Adkins

Robert C. Huntley  
William H. Thomas  
F. Michael Burkett  
Steven L. Olsen  
Daniel E. Williams  
Christopher F. Huntley  
Timothy D. Neville  
Barbara Beehner-Kane

Of Counsel:

W. Anthony Park  
Larry L. Goins

March 19, 2004  
Page 2

We have tried to be as inclusive as possible, however, there may be other witnesses who we will also want to depose. As soon as we identify those people, we will let you know. Also, we recognize that some of these depositions may require travel and we will do our best to accommodate your schedules. We should try to schedule those depositions first and fit the local ones around those dates. We would also be willing to double set some of the depositions in order to save time.

Our legal assistant, Glenys, will be coordinating the scheduling and is the person to contact.

Sincerely,



Chris Huntley

CFH:g

**EXHIBIT B**



101 S. Capitol Boulevard, Suite 1900  
Boise, Idaho 83702  
main 208.389.9000  
fax 208.389.9040  
www.stoel.com

KIM J DOCKSTADER  
Direct (208) 387-4287  
kjdockstader@stoel.com

March 19, 2004

**VIA FACSIMILE AND MAIL (208) 345-7894**

Christopher F. Huntley  
Huntley Park LLP  
250 South 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

**Re: Smith, et al. v. Micron Electronics, Inc.**

Dear Chris:

Thank you for your letter of today's date regarding the scheduling of depositions. We will take your letter under advisement with our client. We also will be back in touch with you shortly to set forth any potential issues or concerns, as well as to discuss any necessary scheduling logistics.

The timing of your letter is interesting, given that we were just meeting earlier today to discuss our similar request to schedule depositions of the plaintiffs and selected claimants. We presently want to schedule depositions of the following individuals:

Laura Anderson  
Michael Angus  
Kevin Aubert  
Destiny J. Baxter  
Stefanie Bistline  
David L. Blair  
William Brinckerhoff  
Carlisle C. Burnette  
Dennis R. Christensen  
Jeffery Clevenger  
Marilyn Craig  
Rory Kip DeRouen  
Hector Dimas

Ricky S. Ferrara  
Eric Fillmore  
Alan Garcia  
Julie Gardner  
Matthew L. Hagman  
Deborah E. Harris  
Tim Hedding  
Kevin Henderson  
Michael Hinckley  
Jacqueline Hladun  
Jared Hodges  
Dale Hope  
Don Hopkins

Randy P. Howell  
Timothy Kaufmann  
David R. Kestner  
Kurt A. Kluessendorf  
Michael Larscheid  
Erick Little  
Marvin Lee Masteller  
Carren Mattson  
Robert McCarter  
Charles K. McGuire  
Mark R. McKenzie  
Stephen Miller  
Deborah Monahan

Oregon  
Washington  
California  
Utah  
Idaho



Christopher F. Huntley  
March 19, 2004  
Page 2

Ginger North  
Chris Papero  
Jeffrey Parrish  
Susan Pierce  
Thomas G. Robertson  
Michelle Saari  
Michael Schoonveld

Carly D. Scader  
Matthew K. Severson  
Kimberley Smith  
Cheryl (Whitenett) Stumph  
Kurt Swanson  
Rose Thies  
David A Thom

Tawni Weaver  
Tracy Scott Wells  
Nanette S. Westenhaver  
Christopher Wing  
Camille Woodworth  
Patrick Harris Worthington

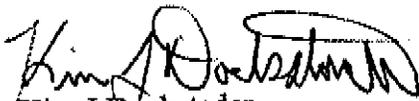
Like you, we have tried to be as inclusive as possible; however, there likely will be other persons whom we will want to depose. We are in the process of identifying those individuals and will let you know. As indicated above, we are happy to work with you as best we can to accommodate any necessary scheduling logistics, such as travel and double-setting (if necessary).

We are tentatively blocking out the following weeks or dates on our calendars for depositions in this case: April 5-9, April 12-16, April 19-22 and April 26-30, 2004. We would ask that you do the same, or that you advise us as soon as possible if any of these dates are unavailable to you.

Our point of contact for scheduling logistics will be our paralegal, Deanna Brothers. I think it makes sense to have Glenys and Deanna work out initial scheduling details, subject to approval and written confirmation by counsel of record.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

  
Kim J Dockstader

KJD:kjd:pzw

**EXHIBIT C**



101 S. Capitol Boulevard, Suite 1900  
Boise, Idaho 83702  
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fax 208.389.9040  
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GREGORY C. TOLLEFSON  
*Direct Dial*  
(208) 387-4211  
email gctollefson@stoel.com

**VIA FACSIMILE & REGULAR MAIL**

March 24, 2004

Christopher F. Huntley  
William H. Thomas  
Daniel E. Williams  
Huntley, Park, Thomas, Burkett,  
Olsen & Williams, LLP  
250 S. 5th, Suite 660  
P.O. Box 2188  
Boise, ID 83701

**Re: *Smith et al. v. Micron Electronics, Inc.***

Gentlemen:

The letter is a request for supplementation of all outstanding discovery responses, particularly discovery responses that relate to newly added claimants for whom no materials have been produced. Your prompt response is appreciated.

Thank you.

Very truly yours,

**Sent but not read to avoid delay**

Gregory C. Tollefson

Oregon  
Washington  
California  
Utah  
Idaho

**EXHIBIT D**



101 S. Capitol Boulevard, Suite 1900  
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KIM J DOCKSTADER  
Direct (208) 387-4287  
kjdockstader@stoel.com

April 2, 2004

VIA FACSIMILE AND MAIL (208) 345-7894

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
Huntley Park LLP  
250 South 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

Re: *Smith, et al. v. Micron Electronics, Inc.*

Gentlemen:

As you are aware, unless we stipulate otherwise, our current discovery cut-off deadline for class certification issues is May 3, 2004. Between the parties, we have seventy-two depositions to schedule for the month of April. Deanna Brothers, our paralegal, has contacted your secretary Glenys to try and schedule the depositions, but it appears that we do not agree as to how the depositions should be scheduled, nor has any progress been made as to the available deposition dates for the plaintiffs and claimants.

Deanna called Glenys on Tuesday, March 23, 2004 to discuss deposition scheduling. Glenys informed Deanna that she was going to start calling the plaintiffs/claimants to find out their available deposition dates for the month of April. Deanna told Glenys she would call back the following week to find out the available dates. Deanna called Glenys back on Tuesday, March 30, 2004 and left a message for Glenys.

Deanna called again on Wednesday, March 24, 2004 and spoke with Glenys, who indicated that your preference is to schedule the out of state depositions first. Therefore, Glenys had contacted only the out of state plaintiffs/claimants that we identified for depositions. Although Glenys stated that she called all of the out of state plaintiffs/claimants, she indicated that only two or three had returned her calls concerning their available deposition dates for the month of April. Glenys told Deanna that she had not contacted any of the Idaho plaintiffs/claimants to request their available deposition dates.

Oregon  
Washington  
California  
Utah  
Idaho



William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
April 2, 2004  
Page 2

This presents a problem, considering that our preference is to schedule the Idaho depositions first. Glenys also indicated that your preference is to take the depositions of the individuals you identified first, particularly the out of state depositions. In the interest of being fair, we should take turns with the depositions, alternating between Plaintiffs' depositions and Defendant's depositions.

Needless to say, if we do not have the available deposition dates for the plaintiffs/claimants, we are unable to start scheduling all of these depositions. Therefore, if we do not receive by Wednesday, April 7, 2004 the available deposition dates for the month of April for all plaintiffs/claimants we identified in our letter of March 19, 2004, we will have no choice but to start scheduling the depositions at a time most convenient for us. Because you have not provided the available dates in a timely fashion, we cannot provide the courtesy of working around your clients' schedules.

We have been in contact with all of the individuals you identified for depositions. Attached is a calendar for the month of April with all of the available dates for these individuals. As you can see from the attached calendar, at least one or more of the individuals you identified have been made available for deposition for every single week day during the month of April (excluding April 23, 2004 as Defense counsel is unavailable). Please note that although we have contacted Jay Church, Jaime Nava, Vicki Quantie and Mike Adkins, their available dates have not yet been determined. We will provide you with these dates by Wednesday, April 7, 2004.

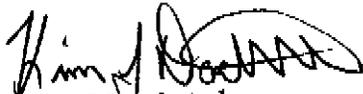
In addition, please note that we will need further information from you before we consider making Joel Kocher available for deposition. Case law indicates that the deposition of a high-ranking corporate executive, particularly a CEO like Mr. Kocher, should only be allowed where plaintiffs demonstrate that the information sought is relevant and cannot be obtained through less intrusive means. Please identify, with specificity, the relevant knowledge and involvement that Mr. Kocher allegedly possesses that you feel would warrant his deposition. Unless we receive this information, we cannot even consider making Mr. Kocher available for deposition.



William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
April 2, 2004  
Page 3

If you have any questions, please do not hesitate to contact me.

Very truly yours,

  
Kim J Dockstader

Enclosure

## APRIL CALENDAR

### AVAILABILITY OF DEFENSE WITNESSES

Smith, et al. v. Micron Electronics, Inc.  
Case No. CIV 01-0244-S-BLW

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<b>5</b> Jay Ellis David McCauley Anthony Robinson Gabe Weske	<b>6</b> Anthony Robinson	<b>7</b> Jay Ellis David McCauley Anthony Robinson Gabe Weske	<b>8</b> Mark Auchampach Jay Ellis David McCauley Anthony Robinson	<b>9</b> Mark Auchampach Mark Cox Jay Ellis David McCauley Anthony Robinson Gabe Weske
<b>12</b> Mark Cox David Groeger Harry Heisler David McCauley Anthony Robinson Gabe Weske	<b>13</b> Mark Auchampach Mark Cox David Groeger Harry Heisler Anthony Robinson	<b>14</b> Mark Cox Jay Ellis David Groeger Harry Heisler David McCauley Anthony Robinson	<b>15</b> Mark Auchampach Mark Cox Jay Ellis David Groeger Harry Heisler David McCauley Anthony Robinson	<b>16</b> Mark Auchampach Mark Cox Jay Ellis David Groeger Harry Heisler David McCauley Anthony Robinson Gabe Weske
<b>19</b> Mark Auchampach Jay Ellis Harry Heisler Gabe Weske	<b>20</b> Mark Auchampach Jay Ellis David Groeger Harry Heisler	<b>21</b> Mark Auchampach Jay Ellis David Groeger Harry Heisler Gabe Weske	<b>22</b> Jay Ellis David Groeger Harry Heisler Gabe Weske	<b>23</b> DEFENSE COUNSEL UNAVAILABLE FOR DEPOSITIONS
<b>26</b> Mark Auchampach Mark Cox Jay Ellis David Groeger Harry Heisler Anthony Robinson Gabe Weske Farrah Zumhoff	<b>27</b> Mark Auchampach Mark Cox Jay Ellis David Groeger Harry Heisler Anthony Robinson Farrah Zumhoff	<b>28</b> Mark Cox Jay Ellis Harry Heisler Anthony Robinson Gabe Weske Farrah Zumhoff	<b>29</b> Jay Ellis David Groeger Harry Heisler Anthony Robinson Gabe Weske Farrah Zumhoff	<b>30</b> Jay Ellis David Groeger Harry Heisler Anthony Robinson Gabe Weske Farrah Zumhoff

**EXHIBIT E**

# Huntley Park

Uncommon Law

April 5, 2004

Robert C. Huntley  
William H. Thomas  
F. Michael Burkett  
Steven L. Olsen  
Daniel E. Williams  
Christopher F. Huntley  
Timothy D. Neville  
Barbara Beehner-Kane

Of Counsel:  
W. Anthony Park  
Larry L. Goins

**VIA FACSIMILE: 389-9040  
& U.S. Mail**

Kim J. Dockstader  
Stoel Rives LLP  
101 S. Capitol Blvd., Suite 1900  
Boise, ID 83702

RE: Smith, et al., v. Micron Electronics

Dear Kim:

I'm writing in response to your letter of last Friday, April 2, 2004. We appreciate your efforts to obtain available dates for depositions of the individuals we requested by our letter of March 19, 2004. I note that some witnesses were listed as available for today and this week. I am sure you realize that the availability of certain witnesses today and this week, when we received your letter at 6:52 p.m. on Friday, is of rather limited significance. I trust, however, that we will be able to pick mutually available dates for these individuals later in April.

I must admit that I was surprised to find that your response to our letter of March 19, 2004, which you sent the same day, requested available dates in April for 59 individuals, including 12 who have already been deposed at length. As you know, the Court issued its Scheduling Order almost a full year ago, on May 23, 2003. You will remember that Dave Metcalf set the trial in July, 2005, over my objection, based upon your representation that you so many depositions to take and could not possibly complete them in the time frames I was urging. Since May of last year until March 19, 2004, we have received precisely zero requests from you for depositions. Suddenly, we received a request for 59 depositions all to take place in April. Although we are willing to make these witnesses available to you over time, we see no reason why we should be forced to clear our calendars in order to accommodate such a large and late request.

I note that your response to our motion for final certification is not due until June 17, 2004. Perhaps the Court would be willing to extend the discovery deadline for class certification issues beyond May 3, 2004, so that we may use the month of May and first of June to schedule many of the individuals you have requested. We also propose setting a shorter time limit than 7 hours for the depositions of the opt-in members of the class.

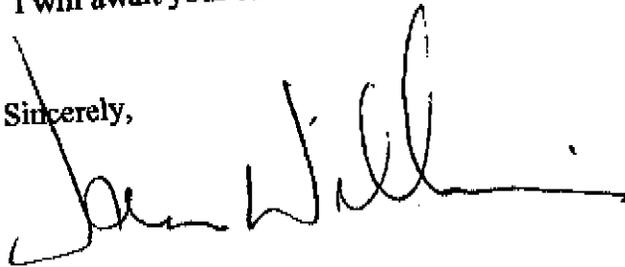
**FILE COPY**

April 5, 2004  
Page 2

Finally, with regard to the deposition of Joel Kocher, we will respond by separate letter to the points you raised in last Friday's letter regarding this witness.

I left a voice mail message with you earlier today suggesting that we discuss these matters in an effort at least to narrow our differences. I will await your call.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Williams", written in a cursive style.

Daniel E. Williams

DEW:g

**EXHIBIT F**



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Boise, Idaho 83702  
main 208.389.9000  
fax 208.389.9040  
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April 6, 2004

KIM J DOCKSTADER  
Direct (208) 387-4287  
kjdockstader@stoel.com

**VIA FACSIMILE AND U.S. MAIL (208) 345-7894**

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
Huntley Park LLP  
250 South 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

**Re: *Smith, et al. v. Micron Electronics, Inc.***

Gentlemen:

We are in receipt of Dan's letter of April 5, 2004 regarding deposition-scheduling issues, and spoke with Dan yesterday afternoon on this topic.

We agree to Dan's proposal to stipulate to extend the discovery deadline for class certification issues beyond May 3, 2004, but agree to extend the deadline solely for the taking of depositions.

Here are responses to the issues we discussed with Dan yesterday:

- As discussed with Glenys a couple weeks ago, our information indicates that only two of the individuals you seek to depose are currently residing out of state: Harry Heisler (Fairfax County, Virginia) and Joel Kocher.<sup>1</sup>
- With regard to the Plaintiffs and Claimants we seek to depose, our information appears to indicate that the following individuals reside out of state:
  - 17 Minnesota deponents (including 2 Plaintiffs);

---

<sup>1</sup> We are checking with our client regarding your April 5, 2004 letter and request for Mr. Kocher's deposition and will respond separately.

Oregon  
Washington  
California  
Utah  
Idaho



William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
April 2, 2004  
Page 2

- o William Brinkerhoff (Bismark, ND);
- o Robert McCarter (Cockeysville, MD); and
- o Plaintiff Jeffrey Clevenger (El Cajon, CA).

Of these individuals, we are willing to conduct two of these by telephone: (1) William Brinkerhoff (Bismark, ND), and (2) Robert McCarter (Cockeysville, MD). The agreement to conduct these depositions by telephone assumes the conditions we discussed with Dan yesterday (including that both counsel participate by phone only).

Because of the number of depositions in Minnesota, we do not stipulate to take these by phone and will also need to take Plaintiff Jeffrey Clevenger's deposition in person.

- As for duration of the depositions, we assume that it will take 2-3 hours for the deposition of each Claimant who has not previously been deposed, 1-2 hours for those Claimants who have already been deposed, 1/2 day for each Plaintiff, and a full day for Tawni Weaver's deposition. Please understand that these are estimates only, which we are providing as a courtesy at your request, and that there may also be particular issues that require more time.
- At Dan's request, we have reviewed our list of proposed deponents and agree for the time being to remove the following 11 individuals: Laura Anderson, Hector Dimas, Alan Garcia, Deborah E. Harris, Randy P. Howell, Carren Mattson, Charles K. McGuire, Deborah Monahan, Susan Pierce, Tracy Scott Wells and Nanette S. Westenhaver. However, our agreement to retract these 11 people must be without prejudice to change our determination and request their deposition later.

Based upon our reduced list of deponents, we are enclosing a proposed schedule for all of our remaining depositions. As set out in our Friday, April 2, 2004 letter, if you can get us preferred dates by Wednesday, April 7, 2004, we can modify our proposed schedule accordingly. But, for anyone we do not receive proposed dates for, we will proceed with issuing depositions notices on Thursday, April 8, 2004 in accordance with our attached schedule.



William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
April 2, 2004  
Page 3

If you have any questions, please do not hesitate to contact me.

Very truly yours,

  
Kim J Dockstader

Enclosure

## APRIL/MAY CALENDAR

### DEPOSITION SCHEDULE FOR PLAINTIFFS' WITNESSES

Smith, et al. v. Micron Electronics, Inc.  
Case No. CIV 01-0244-S-BLW

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<b>APRIL 12</b> <u>9:00 - 12:00</u> Michael Angus Destiny Baxter  <u>2:00 - 5:00</u> Stefanie Bistline David Blair	<b>13</b> <u>9:00 - 12:00</u> Carlisle Burnette Kip DeRouen  <u>2:00 - 5:00</u> Eric Fillmore Tim Hedding	<b>14</b> <u>9:00 - 12:00</u> Kevin Henderson Jared Hodges  <u>2:00 - 5:00</u> Dale Hope	<b>15</b> <u>9:00 - 12:00</u> Don Hopkins Mike Larshied  <u>2:00 - 5:00</u> Stephen Miller Chris Papero	<b>16</b> <u>9:00 - 12:00</u> M. Schoonveld Carly Scader
<b>19</b> <u>9:00 - 12:00</u> Cheryl Stumph  <u>2:00 - 5:00</u> Kurt Swanson	<b>20</b> <i>San Diego, CA</i> <u>1:00 - 5:00</u> Jeff Clevenger	<b>21</b>	<b>22</b> <u>9:00 - 5:00</u> Tawni Weaver	<b>23</b> DEFENSE COUNSEL UNAVAILABLE FOR DEPOSITIONS
<b>26</b>	<b>27</b>	<b>28</b> <i>Minneapolis, MN</i> <u>9:00 - 12:00</u> Kevin Aubert <u>1:00 - 3:00</u> D. Christensen <u>3:30 - 5:30</u> Ricky Ferrara	<b>29</b> <i>Minneapolis, MN</i> <u>9:00 - 12:00</u> Julie Gardner <u>1:00 - 3:00</u> Matt Hagman <u>3:30 - 5:30</u> David Kestner	<b>30</b> <i>Minneapolis, MN</i> <u>9:00 - 12:00</u> K. Klussendorf <u>1:00 - 3:00</u> Eric Little <u>3:30 - 5:30</u> Marvin Masteller
<b>MAY 3</b> <u>9:00 - 12:00</u> Rose Thies <u>2:00 - 5:00</u> David Thom  <i>Minneapolis, MN</i> <u>9:00 - 12:00</u> Mark McKenzie <u>1:00 - 3:00</u> Ginger North <u>3:30 - 5:30</u> Tom Robertson	<b>4</b> <u>9:00 - 12:00</u> Chris Wing <u>2:00 - 5:00</u> C. Woodworth  <i>Minneapolis, MN</i> <u>9:00 - 12:00</u> Michelle Saari <u>1:00 - 3:00</u> Matt Severson <u>3:30 - 5:30</u> P. Worthington	<b>5</b> <u>9:00 - 11:00</u> Jeff Parrish  <i>Minneapolis, MN</i> <u>9:00 - 1:00</u> Marilyn Craig  <u>2:00 - 6:00</u> J. Hladun	<b>6</b> <u>9:00 - 1:00</u> Mike Hinckley  <u>2:00 - 6:00</u> Tim Kaufmann	<b>7</b> <u>9:00 - 5:00</u> Kim Smith  <u>9:00 - 12:00</u> W. Brinckerhoff <i>Via telephone</i>  <u>2:00 - 5:00</u> Robert McCarter <i>Via telephone</i>

**EXHIBIT G**

APR 09 2004

April 7, 2004

Kim J. Dockstader  
Stoel Rives LLP  
101 S. Capitol Blvd., Suite 1900  
Boise, ID 83702

VIA FACSIMILE: 389-9040  
& U.S. MAIL

Robert C. Huntley  
William H. Thomas  
F. Michael Burkett  
Steven L. Olsen  
Daniel E. Williams  
Christopher F. Huntley  
Timothy D. Neville  
Barbara Beehner-Kane

Of Counsel:

W. Anthony Park  
Larry L. Goins

RE: Smith, et al., v. Micron Electronics

Dear Kim:

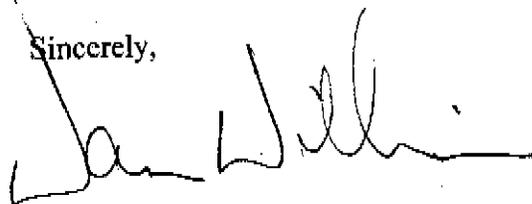
I am writing in response to your letter of late yesterday.

As I indicated yesterday on the telephone and in my letter of April 5, 2004, despite the large number of witnesses you have requested and the very short time frame to schedule them, we are willing to work with you to get these set, based on your agreement to keep them short. As you can imagine, it is a time-consuming task to contact all of these individuals and obtain available dates that correspond with a workable schedule for all the attorneys involved. Your letter of yesterday proposed a deposition schedule with which we are now trying to work, although combining your proposed schedule of plaintiffs' witnesses with your earlier proposed schedule of defendant's witnesses is proving extremely difficult.

Your suggestion, however, that we must provide you with alternatives no later than tomorrow is neither helpful nor reasonable. You may issue whatever deposition notices you wish on Thursday, but I suggest that the Court may take a dim view of your stance regarding this entire issue.

Contrary to some of the assertions of your earlier letter of April 2, 2004, our assistant Glenys has been and continues to work on scheduling the people you have identified, including the eleven that your letter of yesterday indicates you no longer wish to depose. We will continue to work on the remaining 48 deponents, but will not labor under an artificial and unreasonable deadline.

Sincerely,



Daniel E. Williams

DEW:g

**EXHIBIT H**



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GREGORY C. TOLLEFSON  
Direct (208) 387-4211  
gctollefson@stoel.com

April 8, 2004

VIA FACSIMILE AND MAIL (208) 345-7894

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
Huntley Park LLP  
250 South 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

Re: *Smith, et al. v. Micron Electronics, Inc.*

Gentlemen:

On March 24, 2004, we sent you a letter requesting supplementation of all outstanding discovery responses, particularly responses that relate to new claimants for whom no responses have been afforded. This letter is to provide you with specific examples of discovery responses that need to be supplemented, in accordance with Rule 26(e) of the Federal Rules of Civil Procedure and Idaho Local Rule 26.2.

On October 2, 2001, Defendant served its First Set of Interrogatories and First Set of Requests for Production to Plaintiffs via hand delivery. The terms "Plaintiff," "you," "your," and "yourself" were defined in both the Interrogatories and Requests for Production as being interchangeable and referred "to the named Plaintiffs Kimberley Smith and Michael B. Hinckley, all persons who file consents to 'opt-in' or join this lawsuit, and all agents, employees, counsel and all other person(s) acting or purporting to act on behalf of any of the foregoing persons."<sup>1</sup>

Consequently, the discovery requests require supplementation to cover all six Plaintiffs and eighty-five claimants/class members.

<sup>1</sup> Please note that as of the date of this definition, Jacqueline T. Hladun, Marilyn J. Craig, Jeffery P. Clevenger and Timothy C. Kaufmann were still "opt-in" claimants. They were not added as Plaintiffs until Plaintiffs' filed their Second Amended Complaint and Demand for Jury Trial on April 23, 2002 (Docket No. 94).

Oregon  
Washington  
California  
Utah  
Idaho



William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
April 8, 2004  
Page 2

The following Interrogatories in Defendant's First Set of Interrogatories require supplementation: Nos. 1, 5, 8, 9, 10, 11, 13 and 14.

The following Requests for Production in Defendant's First Set of Requests for Production require supplementation: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19 and 20.

On December 21, 2001, Defendant served its Second Set of Requests for Production to Plaintiffs via U.S. Mail. Request for Production No. 21 requested production of specific documents for Marilyn Craig, Alan Garcia, Jacqueline Hladun, Cheryl Kunshier, Linda C. Lee, Anthony Limani, Carren Mattson, Stephen Miller, Collin Reynolds, Michael Schoonveld and Nanci Uli.

Plaintiffs served their responses to Defendant's Second Set of Requests for Production on February 20, 2003. Plaintiffs' response to Request for Production No. 21 stated that documents were attached for Nanci Uli, Jacqueline Hladun and Marilyn Craig. The response also stated, "[t]his answer will be supplemented."

Please supplement Plaintiffs' response to Request for Production No. 21 including the specific documents requested for Alan Garcia, Cheryl Kunshier, Linda C. Lee, Anthony Limani, Carren Mattson, Stephen Miller, Collin Reynolds and Michael Schoonveld, in addition to any supplemental documents for Nanci Uli, Jacqueline Hladun and Marilyn Craig.

We look forward to receiving the supplemented interrogatory and request for production responses as soon as possible.

Very truly yours,



Gregory C. Tolleson

**EXHIBIT I**



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May 5, 2004

VIA FACSIMILE AND MAIL (208) 345-7894

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
Huntley Park LLP  
250 South 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

Re: *Smith, et al. v. Micron Electronics, Inc.*

Gentlemen:

We are in receipt of your Motion for Protective Order (Docket No. 176), your supporting Affidavit (Docket No. 177), and Motion to Shorten Time for Hearing on Protective Order (Docket No. 178). Initially, we take issue with your statements and representations to the Court in several respects.

First, your office has raised only one (albeit belated) objection to the deposition of Kim Smith on May 7, 2004 to which we did not consent. Specifically, your office recently informed us that, despite our prior agreement to the contrary, no counsel from your office would be available to defend the deposition on May 7, 2004.

Second, your office recently informed us that Ms. Smith would not be available until after May 21, 2004 (notably, without mentioning or stating at that time any objection to the length of the deposition). Your office further represented to us that Ms. Smith would be unavailable during May 9-21, 2001 due to her plans to go on vacation. In our view, and given the issue noted above concerning your ignoring our prior understanding concerning availability of counsel, we were not willing to reschedule the deposition simply because the primary named party was going on vacation. We have been trying diligently to get Ms. Smith's deposition scheduled through your office since at least March 19, 2004. Our efforts have been continually thwarted or ignored for a myriad of reasons (known or unknown).



William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
May 5, 2004  
Page 2

Interestingly, you now represent to the Court in your moving papers that Ms. Smith is "working in a new job and her new employer would find it very difficult for her to appear on May 7, 2004, at the scheduled time," yet you tell the Court nothing about (i) the purported vacation of Ms. Smith, or (ii) the unavailability of any attorney from your office to attend the deposition. You also made passing reference to me on the point about Ms. Smith's new employer on a break during another deposition on May 3, 2004. As I told you at that time, we would be happy to provide Ms. Smith with a subpoena that she can provide to her employer showing the necessity of her attendance at the deposition. You did not take us up on this offer.

Third, you have the temerity to state that we did not agree to a limitation on the length of the deposition. Initially, your office actually contacted us to confirm the deposition would be no more than 1/2 a day. We agreed and offered to send an amended notice of deposition to this effect. Moreover, contrary to your representations or inferences to the Court, we told you in our meeting on April 20, 2004 that we anticipated Ms. Smith's deposition would probably require 1-2 hours. We also committed as much as possible (and as we have done in every other deposition), not to ask questions previously addressed in her earlier deposition in this case. We also told you that we had not completed our review of the earlier deposition transcript as of April 20, and that we would do so in an effort to confirm whether the time limitation/estimation we discussed would be accurate. We have since done so, and it is good estimate; provided, however, we have a willing witness who is able to give forthright answers. Finally, it is of particular note that you did not say anything to me on May 3, 2004 about any purported problem over a time limitation on Ms. Smith's deposition. Had you done so, I would have confirmed on that date what we previously agreed to in principle as a limitation of 1-2 hours.

We have since taken the deposition of your leading witness and protagonist in this case, Tawni Weaver (also a long-time client of your firm), yesterday on May 4, 2004. At that deposition (which you did not attend), we discovered for the first time that a dispute and lawsuit is pending between Ms. Weaver and Ms. Smith in Canyon County involving, among other things, a dissolution of their partnership. This new fact suggests that Ms. Smith's deposition may take slightly longer than the estimate of 1-2 hours, although we do not expect Ms. Smith will be as difficult a witness as Ms. Weaver. Accordingly, while we will do our best to meet the 1- to 2-hour limitation, it is possible the deposition may take slightly longer but in any event will not exceed 1/2 a day as we previously agreed with your office concerning the scheduled deposition of May 7, 2004.



William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
May 5, 2004  
Page 3

In an effort to further accommodate you on this issue, we will agree to reschedule Ms. Smith's deposition for May 21, 2004. However, we are willing to do so only as a professional courtesy to you given the unavailability of counsel on May 7, and not because of Ms. Smith's desire to take a vacation thereafter.

The dispute before the Court that you have created over Ms. Smith's deposition could and should have been avoided. Frankly, we do not believe that your motion (or efforts) meets the requirements of Civil Rule 37.1.

Notwithstanding the foregoing, we write to ask that you reconsider your Motions, withdraw them immediately, and confirm your consent to proceed with Ms. Smith's deposition on May 21, 2004 as indicated above. Please advise by close of business today if you will do so. If you proceed with the Motions, we will have no choice but to aggressively resist your ill-founded Motions in order to defend our right to examine Ms. Smith; if required to do so, we also will seek an award of attorneys' fees and costs related to such efforts.

Very truly yours,



Kim J Dockstader  
KJD:pzw

**EXHIBIT J**



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June 21, 2004

KIM J DOCKSTADER  
Direct (208) 387-4287  
kjdockstader@stoel.com

**VIA FACSIMILE AND U.S. MAIL (208) 345-7894**

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
Huntley Park LLP  
250 South 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

**Re: Smith, et al. v. Micron Electronics, Inc.**

Gentlemen:

Since we were unsuccessful in resolving this case at the June 16, 2004 mediation, we must, unfortunately, get started right away on completing the depositions that each side needs to take.

Following are the depositions Defendant will be taking:

Michael Angus  
Destiny Baxter  
Stefanie Bistline  
David Blair  
William Brinckerhoff  
Michael Browning  
Alan Clafin  
Jeffery Clevenger  
Hector Dimas  
Shelly Dyer  
Kevin Engle  
Julie Gardner  
Deborah Harris  
Michael Hazen  
Tim Hedding

Don Hopkins  
Randy Howell  
John Paul Kurtin  
Michael Larscheid  
Anthony Limani  
Jay Madison  
Robert McCarter  
Christopher McCullough  
Charles McGuire  
Don McMurrian  
Stephen Miller  
Janice Nitz  
Chris Papero  
Susan Pierce  
Patrick Revels

Colin Reynolds  
April Rinehart  
Thomas Robertson  
Cheryl L. Sanderson  
John Seale  
Kim Smith  
Cheryl Stumph  
Rose Thies  
Steven Tom  
Nanci Uli  
Nanette Westenhaver  
Christopher Wing  
Camille Woodworth

Oregon  
Washington  
California  
Utah  
Idaho



William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
June 21, 2004  
Page 2

We would like to proceed with cooperating to set both sides' depositions in an expedient and orderly manner. Unfortunately, the previously proposed briefing schedule (which has not yet been entered by Judge Winmill) imposes too great of a time constraint. Therefore, we would propose an amended briefing schedule, albeit one which retains the parties' previously-agreed upon date of September 22, 2004 for the certification hearing.

We would propose the following schedule:

Plaintiffs' motion and supporting briefing for final class certification shall be filed on or before August 13, 2004.

Defendants' response briefing opposing final certification and seeking decertification shall be filed on or before September 3, 2004.

Plaintiffs' reply briefing shall be filed on or before September 13, 2004.

Please let us know if this schedule meets with your approval, and, if so, we will provide a proposed order for Judge Winmill (or just modify the proposed order which he has not entered yet, at ¶ 7).

Very truly yours,



Kim J. Dockstader

**EXHIBIT K**



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June 22, 2004

**VIA FACSIMILE AND MAIL (208) 345-7894**

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
Huntley Park LLP  
250 S. 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

**Re: Smith v. Micron Electronics, Inc.**

Dear Gentlemen:

We write in follow up to our recent correspondence with respect to the setting of depositions in this case. We attach a copy of our proposed deposition calendar in this regard.

We hope this calendar will assist you in making prompt scheduling arrangements. Please review the calendar and let us know immediately if you have any necessary changes to request.

Otherwise, we will follow up with a formal notice of deposition.

Very truly yours,

  
Kim J Dockstader

Oregon  
Washington  
California  
Utah  
Idaho

**JUNE-AUGUST CALENDAR  
DEPOSITION SCHEDULE  
(Revised 06/22/04)**

Smith, et al. v. Micron Electronics, Inc.  
Case No. CIV 01-0244-S-BLW

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<b>JUNE 28</b> <u>9:00 - 12:00</u> Stefanie Bistline  <u>2:00 - 5:00</u> Tim Hedding	<b>29</b> <u>9:00 - 12:00</u> Tom Robertson  <u>2:00 - 5:00</u> Cheryl Stumph	<b>30</b> <u>9:00 - 12:00</u> Chris Wing	<b>1</b> <u>9:00 - 12:00</u> Kim Smith  <u>2:00 - 5:00</u> Michael Angus	<b>2</b>
<b>JULY 5</b> OFFICE IS CLOSED FOR 4 <sup>TH</sup> OF JULY HOLIDAY	<b>6</b> <u>9:00 - 12:00</u> Destiny Baxter  <u>2:00 - 5:00</u> David Blair	<b>7</b> <u>9:00 - 12:00</u> M. Browning  <u>2:00 - 5:00</u> Alan Clafin	<b>8</b> <u>9:00 - 12:00</u> Shelly Dyer  <u>2:00 - 5:00</u> Kevin Engle	<b>9</b> <u>9:00 - 12:00</u> Deborah Harris  <u>2:00 - 5:00</u> Michael Hazen
<b>12</b> <u>9:00 - 12:00</u> Don Hopkins	<b>13</b> <u>9:00 - 12:00</u> Randy Howell	<b>14</b>	<b>15</b> <u>2:00 - 5:00</u> John P. Kurtin	<b>16</b> <u>2:00 - 5:00</u> M. Larscheid
<b>19</b> <u>2:00 - 5:00</u> Anthony Limani  <i>Bismarck, ND</i> <u>2:00 - 5:00</u> W. Brinckerhoff	<b>20</b> <u>2:00 - 5:00</u> Jay Madison  <i>Minneapolis, MN</i> <u>2:00 - 5:00</u> Julie Gardner	<b>21</b> <u>2:00 - 5:00</u> C. McCullough  <i>Grand Rapids, MI</i> <u>2:00 - 5:00</u> Jeff Clevenger	<b>22</b> <u>2:00 - 5:00</u> C. McGuire  <i>Towson, MD</i> <u>2:00 - 5:00</u> R. McCarter	<b>23</b>
<b>26</b> <u>9:00 - 12:00</u> Don McMurrian  <u>2:00 - 5:00</u> Stephen Miller	<b>27</b> <u>9:00 - 12:00</u> Janice Nitz  <u>2:00 - 5:00</u> Chris Papero	<b>28</b> <u>9:00 - 12:00</u> Susan Pierce  <u>2:00 - 5:00</u> Patrick Revels)	<b>29</b>	<b>30</b> <u>2:00 - 5:00</u> Collin Reynolds  <i>Seattle, WA</i> <u>2:00 - 5:00</u> Hector Dimas
<b>AUGUST 2</b> <u>9:00 - 12:00</u> April Rinehart  <u>2:00 - 5:00</u> Cheryl Sanderson	<b>3</b> <u>9:00 - 12:00</u> John Seale  <u>2:00 - 5:00</u> Rose Thies	<b>4</b> <u>9:00 - 12:00</u> Steven Tom  <u>2:00 - 5:00</u> Nanci Uli	<b>5</b> <u>9:00 - 12:00</u> N. Westenhaver  <u>2:00 - 5:00</u> C. Woodworth	<b>6</b>
<b>9</b> DEFENSE COUNSEL NOT AVAILABLE FOR DEPOSITIONS	<b>10</b> 8:30 a.m. Hearing on Defendant's Pending Motions	<b>11</b>	<b>12</b>	<b>13</b>

**EXHIBIT L**

# Huntley Park

Uncommon Law

June 23, 2004

**Via Facsimile: 389-9040**

Kim J. Dockstader  
Gregory C. Tollefson  
Stoel Rives LLP  
101 S. Capitol Blvd., Suite 1900  
Boise, ID 83702

RE: Smith, et al., v. Micron Electronics

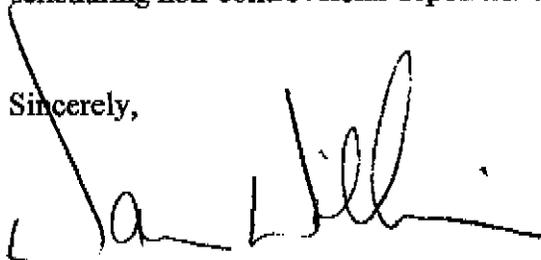
Gentlemen:

I am writing in response to Kim's two letters of June 22, 2004, regarding the depositions of certain opt-in claimants.

According to our review, eighteen (18) of the forty-three (43) individuals whose depositions you are requesting have never been identified previously. We object to your sudden inclusion of this additional number of individuals on a number of grounds, which I will detail for you in the next day or so by follow-up letter.

In the meantime, for planning purposes I suggest that we move these eighteen individuals to the end of our scheduling period, so that the Court does not have to consider this matter on an emergency basis and we can proceed with re-scheduling non-controversial depositions.

Sincerely,



Daniel E. Williams

DEW:g

**EXHIBIT M**



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June 23, 2004

KIM J DOCKSTADER  
Direct (208) 387-4287  
kjdockstader@stoel.com

**VIA FACSIMILE AND MAIL (208) 345-7894**

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
Huntley Park LLP  
250 South 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

**Re: *Smith, et al. v. Micron Electronics, Inc.***

Gentlemen:

This letter responds to Dan's letter of today's date regarding the depositions requested (and now set pursuant to notice) of certain claimants and Plaintiffs.

Glenys and Deanna have already worked on the deposition schedule and we revised it accordingly before finalizing the omnibus deposition notice which we sent to you earlier today.

We will continue, to the extent possible, to cooperate with you to move the depositions which have been set, if it is absolutely necessary.

However, we cannot agree to your request to move eighteen (unnamed) deponents to the end of the scheduling period. This is unworkable and unrealistic.

Moreover, we are puzzled by your objection to our list of deponents. We have never waived our right to take whichever depositions we deemed necessary. For example, our March 19, 2004 correspondence stated with regard to the requested deponent list: "Like you, we have tried to be as inclusive as possible; however, there likely will be other persons whom we will want to depose."



William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
June 23, 2004  
Page 2

Very truly yours,



Kim J Dockstader

KJD:pzw

**EXHIBIT N**



June 30, 2004

**Via Facsimile: 389-9040**

Kim J. Dockstader  
Gregory C. Tollefson  
Stoel Rives LLP  
101 S. Capitol Blvd., Suite 1900  
Boise, ID 83702

**RE: Smith, et al., v. Micron Electronics**

Gentlemen:

As Kim and I discussed yesterday, we continue to object to yet another round of deposition questioning of Kim Smith for the reasons set forth in our earlier Motion for Protective Order. If you would convince us that there are relevant lines of inquiry which you have not yet explored and would agree to work within the parameters of her schedule, we would likely agree to a further short session. In the absence of such a showing and agreement, we will renew our Motion for Protective Order with Judge Williams.

Please let me know your client's position. As we have indicated, we will not be producing Kim Smith as indicated on your global notice of June 23, 2004.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Williams", written over a horizontal line.

Daniel E. Williams

DEW:g

**EXHIBIT O**



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June 30, 2004

**VIA FACSIMILE AND U.S. MAIL (208) 345-7894**

Daniel E. Williams  
Huntley Park LLP  
250 South 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

**Re: Smith, et al. v. Micron Electronics, Inc.**

Dear Dan:

This will confirm our discussions this week concerning the deposition of Kim Smith, which was set for tomorrow, July 1, 2004, at 9:00 a.m. here in Boise. I agreed to temporarily vacate this deposition tomorrow for two reasons: (1) based on your representation that Ms. Smith was not available for a deposition tomorrow; and (2) because we have an unresolved dispute concerning her continued deposition and neither of us wanted to bring this issue on an expedited basis to the court's attention without first trying to work it out.

You have indicated concern over the length of time for Ms. Smith's continued deposition. I have proposed limiting the deposition to two additional hours, provided that Ms. Smith cooperates and does not unreasonably delay the deposition proceedings. And, of course, I will not plan to go over any of the same questions covered at her prior deposition. I also have expressed a willingness to work with you on calendaring her deposition at a mutually agreeable time. These are very reasonable concessions, and ones which I'm confident the court would grant in allowing the main plaintiff to be deposed.

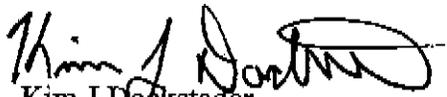
Oregon  
Washington  
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Idaho



Daniel E. Williams  
June 30, 2004  
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I await your response. Please let me know as soon as possible this week so that we may proceed accordingly.

Very truly yours,

  
Kim J Dockstader

**EXHIBIT P**



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www.stoel.com

July 2, 2004

KIM DOCKSTADER  
Direct (208) 387-4287  
kdockstader@stoel.com

**VIA U.S. MAIL AND FACSIMILE**

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
HUNTLEY PARK LLP  
250 South 5th, Suite 660  
Boise, Idaho 83701

**Re: *Kimberley Smith, et al. v. Micron Electronics, Inc.***

Gentlemen:

This letter is in response to Dan Williams' correspondence of June 29, 2004, concerning the eighteen claimants for which you believe it is inappropriate for us to depose.

On August 23, 2001, the parties submitted a Joint Litigation Plan Form and Report to the Court (docket no. 53) (the "Joint Litigation Plan"). Section 10(b) pertained to oral depositions and stated, "[b]ecause of the potential number of individuals involved and the complexity of potential issues, *the parties wish to initially waive the limitation on the number of depositions set forth in Local Civil Rule 30.1.*" (Docket No. 53 at 5.) (Emphasis added.) Section 10(b) also states that, "[a]ny requests to limit the number of depositions...must be presented by motion or stipulation." (*Id.*)

Although you may choose to file a motion with the Court concerning this issue, we believe that any such efforts are ill-advised. We cannot allow the plaintiffs to continue to thwart our efforts to discover relevant information pertaining to these individuals. In order to serve our client's best interests, we must maintain the right to depose each of the claimants who have joined in this lawsuit.

On August 16, 2001, we prepared document subpoenas for all of the claimants that had filed consents to join the collective action. John Paul Kurtin, Shelly Dyer, Christopher McCullough, John Seale, April Rinehart and Cheryl L. Sanderson were served with subpoenas, ordering them to produce documents relevant to this case. Plaintiffs' counsel produced documents for several of the claimants on September 14, 2001, but John Paul Kurtin, Shelly Dyer, Christopher McCullough and John Seale did not produce documents in response to the subpoenas.

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As a result, on September 25, 2001, November 14, 2001, November 21, 2001 and December 11, 2001, we sent letters to Dan Williams and/or Bill Thomas requesting documents for these individuals in response to the subpoenas (or affidavits verifying they have no such documents). As of the date of this letter, John Paul Kurtin, Shelly Dyer, Christopher McCullough and John Seale have never produced a single document in response to the subpoenas.

These claimants already have refused to comply with a lawful subpoena. Accordingly, we have no choice but to seek discovery of information by taking the depositions of John Paul Kurtin, Shelly Dyer, Christopher McCullough and John Seale.

Although April Rinehart and Cheryl L. Sanderson both produced documents on September 14, 2001 in response to the subpoenas, Ms. Rinehart produced a meager five (5) pages of documents and Ms. Sanderson produced just two (2) pages of documents. The documents produced by Ms. Rinehart and Ms. Sanderson are not sufficient to provide Defendant with the information it needs in lieu of these claimants' deposition testimony.

On December 21, 2001, we served you with Defendant's Second Set of Requests for Production, (which consisted solely of Request for Production No. 21), seeking specific documents for claimants including Anthony Limani, Collin Reynolds and Nancy Uli. Plaintiffs did not respond to this discovery request within the time frame set forth in Rule 34(b) of the Federal Rules of Civil Procedure.

In fact, more than a year later, having received no response to Request for Production No. 21, we sent you a letter on February 12, 2003, asking for a response. On February 20, 2003, we finally received Plaintiffs' response to Requests for Production No. 21. However, your belated response was incomplete and inadequate as it did not include any documents for Mr. Limani or Mr. Reynolds (but indicated the response would be supplemented). As of today, Anthony Limani and Collin Reynolds have never produced a single document in response to Defendant's Request for Production No. 21.

Plaintiffs' response to Request for Production No. 21 did attach some documents for Nancy Uli, but contained only thirty-six (36) pages, which did not cover the categories of information sought (sub-parts (a) - (o)) in Request 21. Furthermore, the exact same 36 pages of documents had already been previously produced by Plaintiffs back on November 19, 2001. Again, Plaintiffs indicated in their written response that this document production would be supplemented. However, despite our letters of March 24, 2004 and April 8, 2004 requesting supplementation of Plaintiffs' Responses to Defendant's Second Set of Requests for Production,



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Plaintiffs have failed to produce any additional documents for Nanci Uli and as indicated above, never produced any documents for Anthony Limani or Collin Reynolds.

We thus have no choice but to demand the depositions of Anthony Limani, Collin Reynolds and Nanci Uli. We have sent out proper notice of these depositions and we intend to proceed with taking the depositions. We are willing to work with your office on reasonable scheduling change requests, but we cannot allow the Plaintiffs to continue to delay or thwart our discovery relating to these individuals.

Michael Browning, Alan Claflin, Kevin Engle, Michael Hazen, Jay Madison, Don McMurrian, Janice Nitz, Patrick Revels and Steven Tom are new claimants who consented to join the collective action during the first and second notice periods. Plaintiffs have a duty to supplement their discovery responses in accordance with Rule 26(e) of the Federal Rules of Civil Procedure and Idaho Local Rule 26.2. To date, we have received no information from Plaintiffs in response to our outstanding discovery with respect to these claimants.

For example, on October 2, 2001, Defendant served its First Set of Interrogatories and First Set of Requests for Production to Plaintiffs via hand delivery. The terms "Plaintiff," "you," "your," and "yourself" were defined in both the Interrogatories and Requests for Production as being interchangeable and referred "to the named Plaintiffs . . . all persons who file consents to 'opt-in' or join this lawsuit, and all agents, employees, counsel and all other person(s) acting or purporting to act on behalf of any of the foregoing persons."

When Plaintiffs did not fulfill their duty to supplement the discovery responses with information relating to the additional claimants, we followed up with written letters on March 24, 2004 and April 8, 2004 requesting supplementation of Plaintiffs' discovery responses. As of the date of this letter, Plaintiffs have never supplemented their discovery responses to include information for the new claimants.

We have no choice but to demand the depositions of Michael Browning, Alan Claflin, Kevin Engle, Michael Hazen, Jay Madison, Don McMurrian, Janice Nitz, Patrick Revels and Steven Tom. We have sent out proper notice of these depositions and we intend to proceed with taking the depositions. We are willing to work with your office on reasonable scheduling change requests, but we cannot allow the Plaintiffs to continue to delay or thwart our discovery relating to these individuals.



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We have also tried other efforts to obtain discovery -- on April 2, 2004, we served you with Defendant Micron Electronics, Inc.'s Second Set of Interrogatories, MEI's First Set of Requests for Admission, MEI's Third Set of Requests for Admission and MEI's Fourth Set of Requests for Admission. All of these pleadings asked for specific information concerning all of the class members, including the eighteen claimants whose depositions you have questioned.

However, the answers you provided on May 20, 2004, to these sets of discovery were woefully inadequate, and provide us with additional cause to take the depositions at issue.

For example, we served the following Interrogatories:

**INTERROGATORY NO. 23:** Please separately describe in detail for each Plaintiff/Claimant, the reasons he or she alleges they performed off-the-clock work at Micron Electronics.

**INTERROGATORY NO. 24:** Please separately describe in detail for each Plaintiff/Claimant, the amount of off-the-clock work he or she claims to have performed at Micron Electronics, including the total number of overtime hours each person claims to have worked for which they were not paid.

**INTERROGATORY NO. 25:** Please state separately for each Plaintiff/Claimant the total dollar amount which each person claims they are owed for work which they performed off-the-clock.

Plaintiffs provided no substantive response whatsoever to any of these interrogatories. Instead, your answer to each interrogatory included (along with objections and a promise to supplement) this statement:

*"Plaintiffs direct Defendant to the deposition and affidavit testimony of all those individuals on record in this matter."*

With regard to the eighteen claimants at issue, this response is worthless as there are no depositions or affidavit testimony to which we can refer (moreover, even if affidavit testimony existed, such one-sided testimony is inadequate and provides further cause for a deposition).



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Next, with regard to MEI's First Set of Requests for Admission, your responses for the eighteen claimants at issue are similarly unhelpful. The responses insert additional words which simply compel the need for deposition questioning (for example, changing "prevented" (from recording overtime) in the request to "physically prevented"). Also, for John Paul Kurtin, Anthony Limani, and Collin Reynolds, there is no substantive response, but instead a blanket claim that "*Plaintiffs do not have sufficient knowledge to admit or deny this interrogatory, despite reasonable inquiry . . .*"

With MEI's Third Set of Requests for Admission, you have denied the Requests for Admission regarding Nancy Uli (Nos. 402, 403) on the basis that "*Plaintiffs do not have sufficient knowledge to admit or deny this interrogatory, despite reasonable inquiry . . .*"

With MEI's Fourth Set of Requests for Admission, you have denied every single request for admission for each of the eighteen claimants at issue, all on the basis that Plaintiffs "*do not have sufficient knowledge to admit or deny this interrogatory, despite reasonable inquiry . . .*"

All of your myriad assertions that you cannot respond to our discovery regarding these eighteen claimants because you lack "sufficient knowledge" provides yet further cause for us to take the depositions.

In summary, your apparent assertion that we have somehow "added" an additional 18 individuals whom we had not identified before is erroneous and irrelevant. We never stipulated to limit the depositions in this case. On the contrary, in addition to the Joint Litigation Plan we direct you to our correspondence of March 19, 2004, in which we state that, "there likely will be other persons whom we will want to depose. We are in the process of identifying those individuals and will let you know." We have identified each of these individuals as persons it is necessary for us to depose in order to best serve the interests of our client. Our client is entitled to discovery of information relating to these individuals. Given the size and complexity of this case, the taking of an additional 18 depositions is to be expected, particularly now when the putative class of more than 525 individuals is at issue.

Therefore, we intend to go forward with the depositions of these eighteen individuals (Michael Browning, Alan Claflin, Shelly Dyer, Kevin Engle, Michael Hazen, John Paul Kurtin, Anthony Limani, Jay Madison, Christopher McCullough, Don McMurrian, Janice Nitz, Patrick Revels, Colin Reynolds, April Rinehart, Cheryl L. Sanderson, John Seale, Steven Tom and Nanci Uli) as noticed in Defendant Micron Electronics, Inc.'s Notice of Deposition Duces Tecum of Plaintiffs



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and Selected Class Members. Again, we are amenable to discussing necessary changes to the scheduling of these depositions, but we must do so quickly. Please do not delay further.

Very truly yours,



Kim Dockstader

**EXHIBIT Q**



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July 8, 2004

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**VIA FACSIMILE AND MAIL (208) 345-7894**

William H. Thomas  
Daniel E. Williams  
Christopher F. Huntley  
Huntley Park LLP  
250 South 5th, Suite 660  
P.O. Box 2188  
Boise, Idaho 83701

**Re: *Smith, et al. v. Micron Electronics, Inc.***

Gentlemen:

We need to address a substantial number of outstanding discovery issues arising from Plaintiffs' and several claimants' failures to comply. This letter constitutes our request to meet and confer on all of the following issues. We would like to meet and confer with one or more of you on all of these issues tomorrow, if at all possible, or in any event no later than Wednesday, July 14, 2004. Please let me know as soon as possible when you are available to meet and confer.

Due to the pressing deadlines in the case, we must insist on compliance by Plaintiffs with all of the outstanding discovery issues no later than July 19, 2004. This should not come as a surprise to the Plaintiffs, as we have raised these issues and demanded compliance with this discovery for several months or in some cases for more than a year. In any event, we must also reserve our client's right to file a motion to compel before July 19, 2004, should we be unable to reach a prompt resolution or obtain adequate assurances of timely compliance before then. Of course, we would prefer to be able to work out these issues without the need for judicial intervention. We encourage your prompt response in this regard.

***Summary of Outstanding Discovery Issues re: Plaintiffs'/Claimants' Failures to Comply***

**1. *Supplementation of Initial Disclosures.*** On September 28, 2001, Plaintiffs served their Initial Disclosures upon Defendant via hand delivery. Since that time, we have requested

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supplementation of Plaintiffs' Initial Disclosures on several occasions, including in our letters of December 13, 2002 and March 17, 2003.

According to Rule 26(a)(1)(E) of the Federal Rules of Civil Procedure, "[a]ny party first served or otherwise joined after the Rule 26(f) conference must make these disclosures *within 30 days after being . . . joined* unless a different time is set by stipulation or court order." (Emphasis added.) After Plaintiffs filed their Second Amended Complaint on April 23, 2002, joining Jeffery Clevenger, Timothy Kaufmann, Marilyn Craig and Jacqueline Hladun as Plaintiffs in this case, Plaintiffs neglected to supplement their Initial Disclosures as required by Rule 26(a)(1)(E).

Rule 26(e) of the Federal Rules of Civil Procedure requires supplementation of disclosures. Plaintiffs have never supplemented their Initial Disclosures to include any additional individuals with discoverable information, or any additional relevant documents and tangible things. With regard to information related to calculation of damages, Plaintiffs stated that "[t]he total damages are not available as of the date of these disclosures because the number of employees who will file consents to join this litigation is unknown." On August 14, 2003, Dan Williams filed his second affidavit attaching consents to join the collective action for the second (and final) notice period. (Docket No. 170.) Since that date, the parties have been aware that a total of ninety-one (91) former employees have filed consents to join this litigation. Therefore, we once again ask Plaintiffs to supplement their Initial Disclosures.

**2. Document Production in Response to Subpoena Requests.** In August of 2001, we prepared document subpoenas for all of the claimants that had filed consents to join the collective action. On September 14, 2001, Plaintiffs produced documents for several claimants in response to the subpoenas, but did not produce documents for sixteen claimants: Stefanie Bistline, John Caprai, Jeff Clevenger, Rory Kip DeRouen, Shelly Dyer, Mathew Jarame Ell, Eric Fillmore, Ken Ford, Tim Hedding, John Paul Kurtin, Christopher McCullough, Isaac Moffett, Michael Moser, Jeff Parrish, John Seale and Christopher Wing.

As a result, on September 25, 2001, November 14, 2001, November 21, 2001 and December 11, 2001, we sent letters to Dan Williams and/or Bill Thomas requesting documents for these individuals in response to the subpoenas (or affidavits verifying they have no such documents). As of the date of this letter, Stefanie Bistline, Jeff Clevenger, Shelly Dyer, Tim Hedding, John Paul Kurtin, Christopher McCullough, John Seale and Christopher Wing have never produced a single document in response to the subpoenas (or in response to any other request), nor have they provided affidavits verifying they have no such documents. Therefore, we once again ask



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Plaintiffs to provide documents for these claimants in response to the subpoenas that were served in August of 2001.

**3. Supplementation and Compliance with Written Discovery Requests.** On December 13, 2002, March 17, 2003, March 24, 2004 and April 8, 2004, we sent letters to your office requesting supplementation of all outstanding discovery responses. As of the date of this letter, many of the discovery responses remain outstanding, particularly responses that relate to new claimants for whom no responses have been afforded. Plaintiffs' discovery responses must be supplemented, in accordance with Rule 26(e) of the Federal Rules of Civil Procedure and Idaho Local Rule 26.2. In addition to the general obligation to supplement discovery responses, there are specific requests where Plaintiffs' responses and production have been incomplete or inadequate. These requests require Plaintiffs' immediate attention.

On October 2, 2001, Defendant served its First Set of Interrogatories and First Set of Requests for Production to Plaintiffs via hand delivery. The terms "Plaintiff," "you," "your," and "yourself" were defined in both the Interrogatories and Requests for Production as being interchangeable and referred "to the named Plaintiffs . . . all persons who file consents to 'opt-in' or join this lawsuit, and all agents, employees, counsel and all other person(s) acting or purporting to act on behalf of any of the foregoing persons."

Consequently, the discovery requests require supplementation to cover all six Plaintiffs and eighty-five claimants/class members. To date, and despite our prior requests, we have received no such responses, documents or information in response these requests.

We direct your attention to the following specific Interrogatories in Defendant's First Set of Interrogatories require supplementation: Nos. 1, 5, 8, 9, 10, 11, 13 and 14.

In addition, we direct your attention to the following specific Requests for Production in Defendant's First Set of Requests for Production require supplementation: Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19 and 20.

Similarly, on December 21, 2001, we served you with Defendant's Second Set of Requests for Production, (which consisted solely of Request for Production No. 21), seeking specific documents for eleven Plaintiffs/Claimants: Marilyn Craig, Alan Garcia, Jacqueline Hladun, Cheryl Kunshier, Linda C. Lee, Anthony Limani, Carren Mattson, Stephen Miller, Collin



William H. Thomas  
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July 8, 2004  
Page 4

Reynolds, Michael Schoonveld and Nanci Uli. Plaintiffs did not respond to this discovery request within the time frame set forth in Rule 34(b) of the Federal Rules of Civil Procedure.

In fact, more than a year later, having received no response to Request for Production No. 21, we sent you a letter on February 12, 2003, asking for a response. On February 20, 2003, we finally received Plaintiffs' response to Requests for Production No. 21. However, your belated response was incomplete and inadequate as it did not include any documents for Alan Garcia, Cheryl Kunshier, Linda C. Lee, Anthony Limani, Carren Mattson, Stephen Miller, Collin Reynolds and Michael Schoonveld. As of today, Alan Garcia, Cheryl Kunshier, Linda C. Lee, Stephen Miller and Michael Schoonveld have never produced a single document in response to Defendant's Request for Production No. 21 (or in response to any other request).

Plaintiffs indicated in their written response that this document production would be supplemented. However, despite our letters of March 24, 2004 and April 8, 2004 requesting supplementation of Plaintiffs' Responses to Defendant's Second Set of Requests for Production, Plaintiffs have failed to produce any additional documents for Marilyn Craig, Jacqueline Hladun or Nanci Uli and as indicated above, never produced any documents for Alan Garcia, Cheryl Kunshier, Linda C. Lee, Stephen Miller and Michael Schoonveld. Therefore, we once again ask Plaintiffs to supplement their response to Defendant's Second Set of Requests for Production.

Further, on April 2, 2004, we served you with Defendant Micron Electronics, Inc.'s Second Set of Interrogatories, MEI's First Set of Requests for Admission, MEI's Second Set of Requests for Admission, MEI's Third Set of Requests for Admission and MEI's Fourth Set of Requests for Admission. All of these pleadings asked for specific information concerning each of the class members. However, the answers you provided on May 20, 2004, to these sets of discovery were woefully inadequate or improper under the rules, despite the fact that you were granted additional time in which to provide complete answers to this discovery. For example, some of the discovery responses promised supplementation or generally indicated Plaintiffs did not have sufficient knowledge to admit or deny the request despite reasonable inquiry. We ask Plaintiffs to supplement their answers to MEI's Second Set of Interrogatories and their responses to MEI's First, Second, Third and Fourth Sets of Requests for Admission. And, as noted in the Parties Amended Stipulated Motion to Establish New Briefing Schedule on Final Class Certification and Address Certain Discovery Matters (Docket No. 205), Plaintiffs have until July 16, 2004 to respond to all of these discovery requests. We encourage Plaintiffs to take this opportunity to provide written complete responses in compliance with the rules and to correct the obvious deficiencies in the prior written responses. Failure to do so will likely result in a motion to

**EXHIBIT R**



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July 13, 2004

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**VIA FACSIMILE AND MAIL (208) 345-7894**

William H. Thomas  
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Huntley Park LLP  
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P.O. Box 2188  
Boise, Idaho 83701

**Re: *Smith, et al. v. Micron Electronics, Inc.***

Gentlemen:

Please find enclosed a revised proposed deposition calendar.

Per our agreement, we have moved 17 of the 18 disputed deponents (you agreed to proceed with Michael Hazen's deposition in Minneapolis on July 21) to the end of the schedule – beginning on August 16, 2004. We set them in order to allow time to address the discovery disputes, and also tried to space out the 17 depositions, rather than crowding them into a short time span.

The remaining undisputed deponents have retained their depositions as noticed and are also included on the calendar.

Please let me know very soon whether you have any insurmountable difficulties with regard to this proposed schedule. If I do not hear back from you by noon on Friday, July 16, we will send out an amended deposition notice to cover these 17 depositions.

Thank you in advance for your prompt attention and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kim Dockstader", is written over a horizontal line. Below the signature, the name "Kim Dockstader" is printed in a standard font.

Enclosure

Oregon  
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Idaho

**JULY-AUGUST-SEPTEMBER 2004 DEPOSITION SCHEDULE**  
**(Revised 07/13/04)**

Smith, et al. v. Micron Electronics, Inc.  
Case No. CIV 01-0244-S-BLW

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<b>JULY 12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b> <u>2:00 – 5:00</u> M. Larscheid
<u>2:00 – 5:00</u> Rose Thies	<b>19</b> <i>Minneapolis, MN</i> <u>2:00 – 5:00</u> Julie Gardner	<u>2:00 – 5:00</u> N. Westenhaver (KJD) <i>Minneapolis, MN</i> <u>9:00 – 12:00</u> <del>██████████</del> <u>2:00 – 5:00</u> Tom Robertson	<b>21</b> <i>Grand Rapids, MI</i> <u>2:00 – 5:00</u> Jeff Clevenger	<b>22</b> <u>2:00 – 5:00</u> C. Woodworth
<b>26</b> <u>2:00 – 5:00</u> Stephen Miller	<b>27</b> <u>9:00 – 12:00</u> Stefanie Bistline <u>2:00 – 5:00</u> Chris Papero	<b>28</b> <u>9:00 – 12:00</u> Susan Pierce	<b>29</b> <u>2:00 – 5:00</u> Cheryl Stumph	<b>30</b> <u>9:00 – 12:00</u> Randy Howell <u>2:00 – 5:00</u> Deborah Harris
<b>AUGUST 2</b>	<b>3</b>	<b>4</b>	<b>5</b> <u>9:00 – 12:00</u> C. McGuire	<b>6</b>
<b>9</b>	<b>10</b> 8:30 a.m. Hearing on Defendant's Pending Motions	<b>11</b>	<b>12</b> <i>Minneapolis, MN</i> <u>2:00 – 5:00</u> Brinckerhoff	<b>13</b> <i>Towson, MD</i> <u>2:00 – 5:00</u> R. McCarter
<u>2:00 – 5:00</u> <del>██████████</del> <i>Seattle, WA</i> <u>9:00 – 12:00</u> Hector Dimas <u>2:00 – 5:00</u> Tim Hedding	<b>16</b>	<b>17</b>	<b>18</b> <u>2:00 – 5:00</u> <del>██████████</del>	<b>19</b> <u>9:00 – 12:00</u> <del>██████████</del> <u>2:00 – 5:00</u> <del>██████████</del>
<b>23</b> <u>9:00 – 12:00</u> <del>██████████</del> <u>2:00 – 5:00</u> <del>██████████</del>	<b>24</b>	<b>25</b>	<b>26</b> <u>9:00 – 12:00</u> <del>██████████</del>	<b>27</b>

**EXHIBIT S**

# JULY-SEPTEMBER 2004 DEPOSITION SCHEDULE

*Smith, et al. v. Micron Electronics, Inc.*  
Case No. CIV 01-0244-S-BLW

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
<b>JULY 12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>  <del>2:00 – 5:00</del> Michael Larscheid
<b>19</b>	<b>20</b> <i>Minneapolis, MN</i> <del>2:00 – 5:00</del> Julie Gardner	<b>21</b> <i>Minneapolis, MN</i> <del>2:00 – 5:00</del> Tom Robertson	<b>22</b> <i>Grand Rapids, MI</i> <del>2:00 – 5:00</del> Jeff Clevenger	<b>23</b> <del>2:00 – 5:00</del> Camille Woodworth OPTED OUT
<b>26</b> <del>2:00 – 5:00</del> Stephen Miller (OUT – accepted offer of judgment)	<b>27</b> <del>9:00 – 12:00</del> Stefanie Bictline OPTED OUT <del>2:00 – 5:00</del> Chris Papero	<b>28</b> <del>9:00 – 12:00</del> Susan Pierce OPTED OUT	<b>29</b>  <del>2:00 – 5:00</del> Cheryl Stumph	<b>30</b>
<b>AUGUST 2</b>	<b>3</b>  <del>2:00 – 5:00</del> Rose Thies OPTED OUT	<b>4</b>  <del>2:00 – 5:00</del> Deborah Harris OPTED OUT	<b>5</b> <del>9:00 – 12:00</del> C. McGuire <del>2:00 – 5:00</del> N. Westenhaver DID NOT APPEAR	<b>6</b>
<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>
<b>16</b> <del>2:00 – 5:00</del> Steven Tam Seattle, WA <del>9:00 – 12:00</del> Hector Dimas <del>2:00 – 5:00</del> Tim Hedding	<b>17</b>	<b>18</b>  <del>2:00 – 5:00</del> Collin Reynolds April Rinehart	<b>19</b>  <del>2:00 – 5:00</del> Randy Howell	<b>20</b>  <del>9:00 – 12:00</del> Janice Nitz  <del>2:00 – 5:00</del> Patrick Revels
<b>23</b>  <del>9:00 – 12:00</del> Jay Madison  <del>2:00 – 5:00</del> Don McMurrian	<b>24</b>	<b>25</b>	<b>26</b>  <del>9:00 – 12:00</del> Nanci Uff <i>Minneapolis, MN</i> <del>9:00 – 12:30</del> Michael Hazen <del>2:00 – 5:00</del> W. Brinckerhoff	<b>27</b>  <i>Towson, MD</i> <del>2:00 – 5:00</del> Robert McCarter
<b>30</b>  <del>2:00 – 5:00</del> John Seale	<b>31</b>	<b>SEPT 1</b>  <del>9:00 – 12:00</del> Cheryl L. Sanderson <del>2:00 – 5:00</del> Alan Clafin	<b>2</b>	<b>3</b>  <del>9:00 – 12:00</del> Michael Browning <del>2:00 – 5:00</del> Chris McCullough
<b>6</b>	<b>7</b>  <del>9:00 – 12:00</del> John Paul Kurtin <del>2:00 – 5:00</del> Anthony Limani	<b>8</b>  <del>9:00 – 12:00</del> Shelly Dyer Kim Smith	<b>9</b>  <del>9:00 – 12:00</del> Kevin Engle	<b>10</b>

**EXHIBIT T**

JUL 27 2004



July 26, 2004

**HAND DELIVERED**

Kim J. Dockstader  
Stoel Rives LLP  
101 S. Capitol Boulevard, Suite 1900  
Boise, Idaho 83702

Robert C. Huntley  
William H. Thomas  
F. Michael Burkett  
Steven L. Olsen  
Daniel E. Williams  
Christopher F. Huntley  
Timothy D. Neville  
Barbara Beehner-Kane

Of Counsel  
W. Anthony Park  
Larry L. Goins

Dear Kim:

This letter is written in response to your letter of July 8, 2004 regarding outstanding discovery issues. I will address each of the issues in the order outlined in your letter.

**1. Supplementation of Initial Disclosures.**

We are currently in the process of contacting and updating disclosure information for the following named plaintiffs/claimants:

1. Destiny J. Baxter
2. David Blair
3. William Todd Brinkerhoff
4. Michael Browning
5. Hector Dimas
6. Ricky S. Ferrara
7. Alan Garcia
8. Julie Gardner
9. Matthew Hagman
10. Debbie E. Harris
11. Michael Hazen
12. Jacqueline Hladun
13. Dale Hope
14. Randy P. Howell
15. David R. Kestner
16. Linda C. Lee
17. Jay Madison
18. Marvin L. Masteller
19. Robert McCarter
20. Charles McGuire

July 26, 2004

Page 2

21. Don McMurrian
22. Janice C. Nitz
23. Chris Papero
24. Patrick Revels
25. Thomas Robertson
26. Michelle Saari
27. Rose Thies
28. David A. Thom
29. Nanette Westenhaver

As soon as we have complete updated information, we will produce a formal disclosure statement for each of the above-named Plaintiffs.

**2. Document Production in Response to Subpoena Requests.**

We are in the process of contacting fourteen of the plaintiffs/claimants listed in Section 2 of your letter to determine whether there are any outstanding records or information responsive to previous subpoena requests. (*Plaintiffs agree that John Caprai and Jeff Parrish are not properly designated as members of the class of plaintiffs/claimants, and as such, will not be providing further documentation pertaining to them.*) Any additional records or documentation responding to this request will be Bates numbered and provided to Defendant.

**3. Supplementation and Compliance with Written Discovery Requests.**

Concerning supplementation of written discovery requests, Plaintiffs refer Defendant to the letter from Chris Huntley dated July 27, 2004, which will be sent under a separate cover.

**4. Legible or Complete Copies of Documents.**

Attached to this letter you will find copies of the missing or "cut-off" documents with corresponding Bates numbers that you requested. All Bates numbered documents attached to this letter are the best possible copies available to Plaintiffs. (On January 24, 2003, Plaintiffs recopied and reproduced for a second time the same documents now being requested a third time in the first paragraph of Section 4 of your letter.)

In the second paragraph of Section 4 of your letter, you asked for copies of charts produced within the Bates range of 007260 to 007554, and also document number 009280, all of which were initially produced by Scott Wells in response to Defendant's Notice of Deposition Duces Tecum. Our own "original" hard copies of these charts produced by Scott Wells are just as illegible as the copies previously produced to Defendant. These particular charts have been reduced to such an extent that the format is unreadable. We have been unable to locate the exact electronic file for the charts within the Bates range requested. At a date and time mutually

July 26, 2004

Page 3

electronic file for the charts within the Bates range requested. At a date and time mutually agreed upon, Plaintiffs will produce for review and inspection, hard copies of all documents encompassing the Bates range of 007260 to 007554 and also document 009280. If copies of the electronic file containing the documents within the above-referenced Bates range can be found and reproduced in a more legible format, Plaintiff will produce them.

The documents previously produced by Plaintiffs containing "strange codes" such as "#VALUE!" or "#N/A" (as in documents 007263 and 007273) are exact copies of the charts as they appear in the electronic file. We previously indicated to you in our letter dated January 24, 2003, that these codes are not a result of the columns being too narrow.

**5. Documents Requested Before, During and After Depositions Duces Tecum of Plaintiffs and Claimants.**

After we have completed the process of contacting each of the Plaintiffs/Claimants specifically noted in Section 5 of your letter, we will Bates number and produce for Defendant all available records responsive to this request.

Sincerely,

*Chill For*

Daniel E. Williams

DEW:cb

Enclosures

**EXHIBIT U**



Telephone (208) 345-7800 Fax (208) 345-7894

DATE: July 29, 2004
TO: Kim Dockstader/Deanna Brothers
FAX NO: 389-9040
FROM: Glenys
RE: Smith, et al. v. Micron Electronics
Depos - week of August 16

YOU WILL RECEIVE 1 PAGES OF COPY - INCLUDING THIS COVER SHEET.
(If you do not receive all pages, please call the above telephone number as soon as possible.)

MESSAGE: This is to inform you that Steven Tom lives in San Marcos, California, and Patrick Revels now lives in Asotin, Washington.

\*\*\*IMPORTANT MESSAGE\*\*\*

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

X Original will not follow. Please call upon receipt.