

1 JUDGE ROSENSTEIN: Back on the  
2 record, please. General Counsel has marked for  
3 identification General Counsel's Exhibits 21, 34, 52,  
4 70, 71, 72, 73, 74 and 75.

5 There are some other exhibits that we'll  
6 deal with but those are the ones that are in the  
7 packet. They have been shown to all parties.

8 It's my understanding that Charging Party  
9 does not object to their authenticity nor does  
10 Respondent Voith nor does Respondent UAW, is that  
11 accurate?

12 MR. WALLINGTON: Yes, Your Honor.

13 JUDGE ROSENSTEIN: All right. Under  
14 those circumstances I'm going to admit into evidence  
15 General Counsel Exhibit 21, General Counsel Exhibit  
16 34, General Counsel Exhibit 52 and General Counsel  
17 Exhibits 71, excuse me 70 to 75 inclusive.

18 (Whereupon General Counsel's Exhibits Number 21,  
19 34, 52, 70, 71, 72, 73, 74, 75 were received into  
20 evidence)

21 JUDGE ROSENSTEIN: I have indicated  
22 to the General Counsel who wanted to call a witness  
23 affiliated with the Respondent UAW that I am admitting  
24 the documents into evidence based on no objections  
25 having been raised as to their authenticity and that

1 any arguments to be made about the weight of those  
2 documents will be addressed to me in post-hearing  
3 brief or oral argument.

4 MR. WALLINGTON: Your Honor, Your  
5 Honor --

6 JUDGE ROSENSTEIN: All right. Do you  
7 have two other --

8 MR. WALLINGTON: -- if I may ask.  
9 Does that ruling go to the extent that the Respondent  
10 placed witness up for examination whether these  
11 records --

12 JUDGE ROSENSTEIN: On these documents  
13 that have been introduced as well as the documents  
14 that went in through the Aerotek witness with the  
15 exception of the contract itself, that we've already  
16 had questions upon by yourself and Mr. Marsack.

17 MR. WALLINGTON: Yes.

18 JUDGE ROSENSTEIN: I think that's  
19 G.C. 81, is that correct?

20 MR. WALLINGTON: So in other words in  
21 the later no witness can be examined in reference to  
22 these documents?

23 JUDGE ROSENSTEIN: That's correct.

24 MR. TAYLOR: Your Honor did I  
25 understand your ruling that was regard to 21, 34, 52,

1 and 70 through 75?

2 JUDGE ROSENSTEIN: Correct.

3 MR. TAYLOR: All right. I would like  
4 to state for the record that I object to your ruling  
5 Your Honor.

6 JUDGE ROSENSTEIN: I understand.

7 MR. TAYLOR: And I object, if I  
8 could, I wont belabor the issue, not all of these  
9 documents would require a live body but I would like  
10 to state for the record that General Counsel 70 and 74  
11 in particular, I think, would benefit from a live body  
12 testimony because I do not think the documents are  
13 self-explanatory.

14 74 in particular is an isolated document,  
15 not even attached to an e-mail. So we don't know  
16 where it came from, who it was from, who generated it  
17 and what purpose it was for.

18 JUDGE ROSENSTEIN: And as I indicated  
19 previously off the record Mr. Taylor I believe that I  
20 am charged with making a finding as it concerns  
21 Respondent UAW on the allegations in Paragraphs 19 and  
22 20 of the complaint.

23 I have much testimony from numerous  
24 witnesses called by the General Counsel that address  
25 Paragraphs 19 and 20 and I am confident that I will be

1 able to make a reasoned decision as it impacts those  
2 two paragraphs.

3 MR. TAYLOR: I understand Your Honor  
4 and also as I indicated off the record, it would be  
5 our position at least some of the material in this  
6 document or these documents also goes to the CA  
7 portion of the consolidated complaint and would have  
8 bearing on unlawful motivation among other things.

9 JUDGE ROSENSTEIN: I understand your  
10 position and in that regard I've had testimony from  
11 the General Counsel witnesses as it concerns unlawful  
12 motivation, which, all of which is on the record and I  
13 will take it into consideration when rendering my  
14 final decision.

15 MR. TAYLOR: All right. Thank you  
16 Your Honor.

17 JUDGE ROSENSTEIN: All right.

18 MR. WALLINGTON: Just note that the  
19 Charging Party would join in the objection with acting  
20 General Counsel.

21 JUDGE ROSENSTEIN: So noted for the  
22 record.

23 MR. MARSACK: Your Honor I would have  
24 to ask this question so that I can form an opinion as  
25 to whether to join with them or not.

1                   Exhibit 70, I pick that one out Your Honor  
2 because Counsel for the General Counsel seems to be  
3 convinced that this document establishes a  
4 discriminatory motive or at least --

5                   MR. TAYLOR: Putting words in my  
6 mouth again, counsel.

7                   MR. MARSACK: -- or at least, or -- I  
8 think I'm speaking, or at least supports the scheme  
9 theory.

10                   There is nothing on this document in terms  
11 of people who sent or people who received it who are  
12 in any way agents or supervisors of Voith.

13                   And if I understand your ruling, I would  
14 not be allowed to have a witness take the stand and  
15 assert that the Company has never seen this document  
16 before.

17                   JUDGE ROSENSTEIN: The document's in  
18 evidence and you can argue to me on its face what it  
19 says and any other arguments you want to make about  
20 what weight I should apply to the underlining  
21 allegations in the complaint.

22                   MR. MARSACK: The problem I'm having  
23 is with whether or not this document without more is  
24 attributable in any way to Voith.

25                   JUDGE ROSENSTEIN: Well, doesn't -- I

1 don't see anything on Voith in that document. You can  
2 argue that to me.

3 All right, now there were two documents we  
4 held in abeyance, General Counsel Exhibit 24 and  
5 General Counsel Exhibit 76 has not been identified  
6 yet. I returned that document to Mr. Duffy.

7 Do you intend to offer those documents into  
8 evidence?

9 MR. TAYLOR: Yes, Your Honor we do.

10 JUDGE ROSENSTEIN: All right. Have  
11 you shown those documents -- I know 24 has been  
12 initially shown and then removed but at least describe  
13 for the record what the documents are that you're  
14 interested in moving forward.

15 MR. TAYLOR: Well let me start with  
16 76 first, Your Honor.

17 JUDGE ROSENSTEIN: Okay.

18 MR. TAYLOR: General Counsel 76 are  
19 authorization cards that were provided by Respondent  
20 UAW in response to the subpoena duces tecum.

21 They are cards that were provided, correct  
22 me if I'm wrong about this Mr. Duffy, they were  
23 provided with respect to a subpoena paragraph seeking  
24 those authorization cards that were utilized by the  
25 UAW in support of its request for recognition, the