

# EXHIBIT C

County of Fulton  
State of Georgia

AFFIDAVIT OF EVERETTE L. DOFFEMYRE

The undersigned, being duly sworn, hereby swears and deposes as follows:

1. My name is Everett L. Doffemyre; I am over 21 years of age, and am otherwise competent to give this affidavit.

2. I am now, and have been since 1973, licensed to practice law in the State of Georgia. I am now, and have been since my admission, a member in good standing of the bar of the State of Georgia. I have also been admitted to practice in various trial and appellate divisions of the Federal Court system, as well as in various states, on a pro hac vice basis. Included in that last group of admissions was the order of the Tennessee court authorizing my participation in the case filed in the Circuit Court for Jefferson County, Tennessee, known as *Bobby R. Posey et al v. Dryvit Systems, Inc.*, Case No. 17, 715-IV (hereinafter referred to as "Posey" or "Posey Case").

3. I graduated from the University of Virginia with a B.A. in Economics in 1970 and with a J.D. degree in 1973. Over the last fifteen years I have been deeply involved with various aspects of the University of Virginia, including serving as president of the Board of Managers of its Alumni Association and

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serving on the Board of Trustees of its College of Arts & Sciences, I currently serve as the Vice-Chair of the University's Capital Campaign.

4. After graduating from law school, I began my practice with the Atlanta firm of Kilpatrick Cody, Rogers McClatchy and Regenstern (now known as Kilpatrick Stockton LLP). I was elected to partnership in December, 1979, effective February 1, 1980.

5. In 1988 I withdrew from the Kilpatrick firm and established the Law Offices of Everett L. Doffenmyre. In 1990, two of my colleagues from the Kilpatrick firm and I formed the firm now known as Doffenmyre Shields Canfield & Knowles, LLC. I am proud of the fact that despite our small size (only 10 attorneys), the Firm has for the past number of years been ranked by *Chambers USA* as one of the seven best litigation firms in Georgia.

6. I have practiced with my Firm since it was formed and currently serve as the Manager, akin to "managing partner", of the Firm. I practice full-time. Currently, my practice is focused on business litigation. However, I have practiced extensively in past years in consumer class actions. I have served as lead or co-lead counsel on behalf of consumers in a number of nationwide and statewide class action cases. I am experienced in the conduct of class action cases and familiar with the manner in which counsel are compensated in such actions.

7. I have been fortunate to receive recognition from various entities that evaluate the competency of attorneys. I hold (and have held for many years) the highest rating given by Martindale-Hubbell. Other distinctions of note include selection by *James Magazine* as one of the "100 Best Lawyers in Georgia," as one of "Georgia's Elite" by *Georgia Trend* magazine, and as one of Atlanta's "litigation stars" by *Benchmark*. I have been designated as a "Best Lawyer" and as a "Super Lawyer" by those respective rating services.

8. Among my professional speaking experiences, I have twice had the privilege of being a presenter at seminars for state judges dealing with issues involving class actions. When the American Bar Association met in Atlanta in August 2005, I was invited by Judge Ben Terrillo, of the North Carolina Business Court, to speak to the judges on state class actions. In 2005 I was invited by the Brookings Institute in Washington, D.C. to participate in a conference it was hosting for state court judges, also dealing with state class actions. In 2007 and 2008, I served on the ABA's Task Force on the Quality of Mediations and Arbitrations.

9. During the early part of the last decade, Gary Mason, a Washington D.C. attorney, and I (and our respective firms) served as Co-Lead Counsel for the plaintiffs in the Posey Case.

10. The Posey Case was filed on November 14, 2000 as a class action against Dryvit Systems, Inc. ("Dryvit"). As certified, and with certain exceptions set forth within the definition established by the court, the Class included all persons who, as of June 5, 2002, owned homes, in any State other than North Carolina, on which Dryvit EPS had been installed after January 1, 1989. The Class thus included residents of the State of South Carolina who owned homes on which EPS had been installed during the Class Period.

11. Prior to the Posey Case, Mr. Mason and I (and a number of other counsel) had fought for four years against Dryvit in the North Carolina class action that was litigated in the North Carolina Business Court. That litigation was intense and frequently contentious; involved a tremendous amount of discovery; and was settled only on the eve of trial.

12. The Posey Case also resulted, ultimately, in a class-wide settlement. The settlement was reached after extensive and extended negotiations with Dryvit's counsel. The settlement was of course subject to court approval. Mr. Mason and I took the lead in the negotiations.

13. The settlement was preliminarily approved by Judge O. Duane Sizemore on April 21, 2002. Finding the Settlement Agreement to be the result of good faith, arm's length settlement negotiations between competent and experienced

counsel for both sides, he preliminarily approved the terms of the Settlement Agreement, subject to consideration of objections, arguments and evidence presented before or at a Fairness Hearing that he set for October 1, 2002.

14. At the Fairness Hearing, lawyers from South Carolina raised certain objections to the Settlement Agreement and presented strong arguments as to why the terms of the Settlement Agreement, as previously negotiated and preliminarily approved, should be revised to make the proposed settlement more favorable to the members of the Class. As a result of those and other objections and arguments presented at the hearing, Judge Stevens withheld his approval of the Settlement Agreement, pending further negotiations between Class Counsel and Dryvit.

15. A group of the South Carolina attorneys, led by Jeff Leath, participated actively and effectively in the negotiations with Dryvit that followed the initial October 1 Fairness Hearing. The South Carolina attorneys were knowledgeable about the issues and very effective advocates for specific enhancements to the proposed settlement. As a result of their efforts, working in conjunction with Mr. Mason and me, substantial enhancements to the settlement were achieved. These included, as I recall, increasing the "cash out" recovery from \$6.00 to \$7.00 per square foot for eligible recipients; adding provisions to deal with the emerging issue of mold; making it easier for Class Members to obtain a "cash out" if they preferred rather than repairs and a warranty. These are some but not all of the

issues with respect to which the involvement of South Carolina counsel made material and highly beneficial enhancements to the settlement ultimately approved by Judge Sloane.

16. The Settlement Agreement, as revised, was presented to Judge Sloane and after due consideration and a further hearing, he entered an Order and Judgment Granting Final Approval of Settlement on January 14, 2003. In his Order, Judge Sloan awarded attorneys' fees and expenses to Co-Lead Counsel and Counsel for the Class in the amount of \$11,600,000.

17. In Paragraph 15 of his Order, a copy of which is attached as Exhibit "A", Judge Sloane acknowledged the efforts of these attorneys who worked diligently following the October 1, 2002 hearing. Judge Sloane stated:

These negotiations and discussions have resulted in an enhancement of the rights and options of Class Members and a substantial increase in the value of the benefits made available to persons who make claims under the Settlement.

While Judge Sloane did not refer by name to the South Carolina counsel who worked with Mr. Mason and me to secure these enhancements, I can state without qualification that the attorneys most responsible for securing the enhancements were the South Carolina counsel.

18. In recognition of their very substantial contributions to improving the Settlement Agreement, Mr. Mason and I agreed to share with the South Carolina counsel led by Mr. Leath \$600,000 from the attorneys' fees awarded to Class

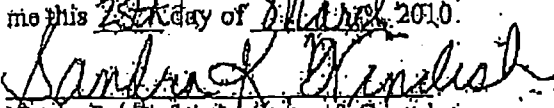
Counsel. In my opinion, their contributions to the Settlement Agreement fully merited this amount.

19. In summary, the South Carolina attorneys lead by Jeff Leath provided extremely valuable professional services to the Posey Class, which resulted in significant enhancements to the terms of the Settlement Agreement. Their efforts directly and significantly benefited the Class and justified their receiving \$600,000 from the court-awarded attorneys' fees.

FURTHER AFFIANT SAYETH NOT

  
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Everett L. Doffmyre

Sworn to and subscribed before  
me this 28th day of March, 2010.

  
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Sandra K. Kinloch  
Notary Public for the State of Georgia  
My Commission Expires:

