

3/25/2004

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
Civil Action No. 02-01159A

MARCIA RHODES; HAROLD RHODES,)
Individually; HAROLD RHODES, on)
Behalf of His Minor Child and Next)
Friend, REBECCA RHODES,)
)
Plaintiffs,)
)
v.)
)
CARLO ZALEWSKI, DRIVER LOGISTICS,)
PENSKE TRUCK LEASING CORP. and)
BUILDING MATERIALS CORP. OF)
AMERICA d/b/a GAF MATERIALS CORP.,)
)
Defendants.)

**PLAINTIFF HAROLD RHODES'
RESPONSE TO BUILDING MATERIALS
CORPORATION OF AMERICA'S FIRST
REQUEST FOR PRODUCTION OF
DOCUMENTS**

Pursuant to Rule 34 of the Mass. Rules of Civ. P., the plaintiff, Harold Rhodes, hereby responds to Defendant BMCA's First Request for Production of Documents.

As used herein, the term "confidential" means the documents requested are retained in confidence at the express or implied request of a third party or that it is the custom of the trade to retain such records in confidence.

RESPONSES

REQUEST NO. 1

All documents referring or relating to Harold Rhodes' mental, therapeutic, or psychiatric history from January 9, 2002, to the present.

RESPONSE

Harold Rhodes objects to this Request as it was not received until after the close of the discovery deadline in this case, and further objects on the basis that this Request seeks the

discovery of confidential and privileged information that is protected from disclosure under M.G.L. c. 233, §20B and c. 112, §135B and further objects on the grounds that Harold Rhodes' mental, therapeutic or psychiatric history is not relevant to the claim he has asserted in this lawsuit, nor will it lead to the discovery of relevant information.

REQUEST NO. 2

All documents in support of Harold Rhodes' loss of consortium claim.

RESPONSE

Harold Rhodes objects to this Request as it was not received until after the close of the discovery deadline in this case, and further objects to the extent BMCA seeks confidential or privileged documents through this Request, and on the basis that he does not understand what BMCA means by identifying all documents "in support of" his claim. Without waiving these objections, and to the extent that BMCA seeks the production of all documents that Harold Rhodes intends to introduce at trial, there has, as of yet, been no determination made as to which documents will be introduced at trial, and Harold Rhodes, therefore, reserves his right to supplement this Response.

REQUEST NO. 3

All documents in support of any and all damages you allege you suffered as a result of BMCA's conduct.

RESPONSE

Harold Rhodes objects to this Request as it was not received until after the close of the discovery deadline in this case, and further objects to the extent BMCA seeks confidential or privileged documents through this Request, and on the basis that he does not understand what BMCA means by identifying all documents "in support of" his claim. Without waiving such objections, Harold Rhodes states that documents listing his out-of-pocket expenses caused by his wife's injuries were previously produced.

REQUEST NO. 4

Each and every document identified or referred to in your responses to BMCA's First Set of Interrogatories to Plaintiff Harold Rhodes.

RESPONSE

All documents identified or referred to in Response to BMCA's First Set of Interrogatories were previously produced.

Respectfully submitted,

HAROLD RHODES,

By his attorneys,


Margaret M. Pinkham (BBO #561920)

BROWN RUDNICK BERLACK ISRAELS LLP

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DATED: March 25, 2004

CERTIFICATE OF SERVICE

I, Margaret M. Pinkham, counsel for the plaintiffs, hereby certify that I have this 25th day of March, 2004 served a copy of the foregoing Plaintiff Harold Rhodes' Response to Building Materials Corporation of America's First Request for Production of Documents upon all counsel of record by mailing a copy of same by first-class mail, postage pre-paid, to:

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