

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
Civil Action No. 05-1360-BLS2
(Judge Gants)

MARCIA RHODES, HAROLD RHODES, INDIVIDUALLY,)
HAROLD RHODES, ON BEHALF OF HIS MINOR CHILD)
AND NEXT FRIEND, REBECCA RHODES,)
)
Plaintiffs,)
v.)
)
AIG DOMESTIC CLAIMS, INC. f/k/a AIG TECHNICAL)
SERVICES, INC., NATIONAL UNION FIRE INSURANCE)
COMPANY OF PITTSBURGH, PA, and ZURICH AMERICAN)
INSURANCE COMPANY)
)
Defendants.)

**RESPONSE TO DEFENDANT ZURICH AMERICAN INSURANCE
COMPANY'S REQUEST FOR PRODUCTION OF DOCUMENTS
TO PLAINTIFF MARCIA RHODES**

Pursuant to Rule 34 of the Massachusetts Rules of Civil Procedure, Marcia Rhodes hereby responds to Zurich American's Request for Production of Documents Request for Production of Documents. Mrs. Rhodes will produce the documents indicated below by making them available for inspection and copying at the offices of Brown Rudnick Berlack Israels LLP, One Financial Center, Boston, MA 02111 at a mutually convenient.

The statements below which indicate that Plaintiffs "will produce" documents do not constitute a representation that such documents exist but only that Plaintiffs will produce those documents that are in their possession, custody or control, that are not privileged, that are not confidential and that are not otherwise immune from disclosure by any reason of the objections set forth therein.

DEFINITIONS

As used herein, the term “the Accident” shall mean the crash that occurred on January 9, 2002 involving Marcia Rhodes and Carlo Zalewski.

As used herein, the term “AIGDC” shall mean and refer to AIG Domestic Claims, Inc. f/k/a AIG Technical Services, Inc., and any business entity owned, operated, or managed by, AIG Domestic Claims, Inc. and the officers, directors, employees, parents, subsidiaries, divisions, affiliates, predecessors, agents, counsel, attorneys, and other representatives of each such entity.

As used herein, the term “burdensome” means that it would be unduly burdensome, oppressive, annoying, time consuming and expensive to compile and furnish the documents called for in view of the degree of their relevance and materiality, if any.

As used herein, the term “compound” means that a request contains multiple, unrelated requests that are improperly combined together.

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.

As used herein, the term “National Union” shall mean and refer to National Union Fire Insurance Company of Pittsburgh, PA, and any business entity owned, operated, or managed by, National Union Fire Insurance Company of Pittsburgh, PA and the officers, directors, employees, parents, subsidiaries, divisions, affiliates, agents, counsel, attorneys, and other representatives of each such entity.

As used herein, the term “overly broad” means that a request is unreasonably general, vague and nonspecific.

As used herein, the term “Personal Injury Defendants” shall mean and refer collectively to Carlo Zalewski, GAF, Driver Logistics and Penske.

As used herein, the term “privileged” means that the documents requested are subject to the attorney-client privilege, the attorney work product doctrine or any other recognized privilege against disclosure.

As used herein, the term “Underlying Action” shall mean the personal injury action filed by Plaintiffs against GAF, Driver Logistics, Carlo Zalewski and Penske on or about July 12, 2002.

As used herein, the term “Zurich” shall mean, Zurich American Insurance Company and any business entity owned, operated, or managed by Zurich American Insurance Company, any parent, subsidiary, division, affiliate, or predecessor-in-interest of, Zurich American Insurance Company and the officers, directors, employees, parents, subsidiaries, divisions, affiliates, agents, counsel, attorneys, and other representatives of each such entity.

REQUESTS TO WHICH NO OBJECTION IS MADE

Where it is indicated that no objection is made to producing the documents requested, no inference should be drawn that Plaintiffs have such documents in their possession or control, but only that they do not object to endeavoring to locate and produce such documents. In addition, if any confidential or privileged document is produced, whether intentionally or inadvertently, such production shall not waive the right of Plaintiffs to decline to produce a like document on grounds of confidentiality or privilege, and plaintiffs reserve the right to demand the return of any confidential or privileged document that was produced inadvertently.

GENERAL OBJECTIONS

The following objections are incorporated by reference into each Response to the individual Requests below.

Plaintiffs object to any request for documents that are protected by any recognized privilege against disclosure, including, but not limited to, the attorney-client privilege or the attorney work-product

doctrine.

Plaintiffs object to any request for documents that are restricted in their disclosure under any state or federal law, rule or regulation or which would otherwise potentially subject them to any regulatory liability.

Plaintiffs object to any request or instruction for documents or information that is not discoverable under the Massachusetts Rules of Civil Procedure or otherwise.

Plaintiffs object to any request for documents that are confidential.

Plaintiffs object to any request for documents that are not in their possession, custody or control.

Plaintiffs object to producing any documents that were not specifically requested by Defendant and that do not fall within the scope of the Definitions and Instructions set forth by Defendant.

DOCUMENT REQUESTS AND RESPONSES

REQUEST NO. 1

All documents constituting or concerning the communications you identified in response to Zurich's Interrogatory No. 1 to Marcia Rhodes.

RESPONSE

Marcia Rhodes' deposition transcript was previously made available to Zurich on December 21, 2005. Her trial transcript will be made available at a mutually convenient time.

REQUEST NO. 2

All documents constituting or concerning the communications you identified in response to Zurich's Interrogatory No. 2 to Marcia Rhodes.

RESPONSE

Marcia Rhodes is not in possession, custody or control of responsive documents.

REQUEST NO. 3

All documents concerning the "actual damages" you described in response to Zurich's Interrogatory No. 3 to Marcia Rhodes.

RESPONSE

See Response No. 3 to Harold Rhodes' Response to First Request for Documents by Defendant Zurich American Insurance Co.

REQUEST NO. 4

All documents concerning the medical treatment and rehabilitative care you described in response to Zurich's Interrogatory No. 4 to Marcia Rhodes.

RESPONSE

Responsive documents were previously made available to Zurich on December 21, 2005.

REQUEST NO. 5

All documents concerning the medical treatment and rehabilitative care you described in your answer to Zurich's Interrogatory No. 5 to Marcia Rhodes.

RESPONSE

Marcia Rhodes is not in possession, custody or control of responsive documents.

REQUEST NO. 6

All documents concerning the medical treatment and rehabilitative care you described in your answer to Zurich's Interrogatory No. 6 to Marcia Rhodes.

RESPONSE

Responsive documents will be produced at a mutually convenient time.

REQUEST NO. 7

All documents concerning the home improvements or alterations you described in your answer to Zurich's Interrogatory No. 7 to Marcia Rhodes.

RESPONSE

Responsive documents were made available to Zurich on December 21, 2005. Additional responsive documents will be produced at a mutually convenient time.

REQUEST NO. 8

All documents concerning Plaintiffs' efforts to obtain funds or financing for improvements or alterations to their home, as described in your answer to Zurich's Interrogatory No. 7 to Marcia Rhodes.

RESPONSE

See Response No. 6 to Harold Rhodes' Response to Defendant Zurich American's First Request for Production of Documents.

REQUEST NO. 9

All documents concerning the home improvements or alterations described in your answers to Zurich's Interrogatory No. 8 to Marcia Rhodes.

RESPONSE

Responsive documents will be produced at a mutually convenient time.

REQUEST NO. 10

All documents concerning the home improvements or alterations described in your answer to Zurich's Interrogatory No. 9 to Marcia Rhodes.

RESPONSE

Responsive documents will be produced at a mutually convenient time.

REQUEST NO. 11

Your federal income tax returns for tax years 1999 through 2004, including all forms and schedules filed with such returns.

RESPONSE

Marcia Rhodes objects to this request as overly broad and unduly burdensome, seeking the production of private, confidential documents which are not relevant and will not lead to the discovery of relevant evidence regarding Plaintiffs' claim that the Defendants failed to effectuate a fair and reasonable settlement once liability became reasonably clear.

REQUEST NO. 12

All documents you reviewed in preparing your answers to Zurich's First Set of Interrogatories to Marcia Rhodes.

RESPONSE

Not applicable.

REQUEST NO. 13

All documents constituting or concerning communications between you, your attorneys, or other representatives and any employee or agent of or legal counsel for any of the Personal Injury Defendants concerning:

- (a) Plaintiffs' claims against any of the Personal Injury Defendants;
- (b) The nature or value of Plaintiffs' injuries and damages allegedly caused by the Accident;
- (c) Any settlement demand made by or on behalf of Plaintiffs prior to or during the course of the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action; and
- (d) Any settlement offer made to Plaintiffs during the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action.

RESPONSE

Responsive documents were previously made available to Zurich on December 21, 2005.

REQUEST NO. 14

All documents constituting or concerning communications between you, your attorneys, or other representatives and any employee, agent or representative of Crawford concerning:

- (a) Plaintiffs' claims against *any* of the Personal Injury Defendants;
- (b) The nature or value of Plaintiffs' injuries and damages allegedly caused by the Accident;
- (c) Any settlement demand made by or on behalf of Plaintiffs prior to or during the course of the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action;
- (d) Any settlement offer made to Plaintiffs during the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action; and
- (e) Any settlement demand made by or on behalf of Plaintiffs during or after the Underlying Action pertaining to the claims asserted in this action.

RESPONSE

Responsive documents were previously made available to Zurich on December 21, 2005.

REQUEST NO. 15

All documents constituting or concerning communications between you, your attorneys, or other representatives and any employee, agent or representative of Zurich concerning:

- (a) Plaintiffs' claims against any of the Personal Injury Defendants;
- (b) The nature or value of Plaintiffs' injuries and damages allegedly caused by the Accident;
- (c) Any settlement demand made by or on behalf of Plaintiffs prior to or during the course of the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action;
- (d) Any settlement offer made to Plaintiffs during the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action; and
- (e) Any settlement demand made by or on behalf of Plaintiffs during or after the Underlying Action pertaining to the claims asserted in this action.

RESPONSE

Responsive documents were previously made available to Zurich on December 21, 2005.

REQUEST NO. 16

All documents constituting or concerning written communications you sent to or received from

any lawyer or employee of Brown Rudnick Berlack & Israels relating to any of the following topics, which documents were also sent to or reviewed by any person other than Harold or Rebecca Rhodes:

- (a) Plaintiffs' claims against any of the Personal Injury Defendants;
- (b) The nature or value of Plaintiffs' injuries and damages allegedly caused by the Accident;
- (c) Any settlement demand made by or on behalf of Plaintiffs prior to or during the course of the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action;
- (d) Any settlement offer made to Plaintiffs during the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action; and
- (e) Any settlement demand made by or on behalf of Plaintiffs during or after the Underlying Action pertaining to the claims asserted in this action.

RESPONSE

Marcia Rhodes is not in possession, custody or control of responsive documents.

REQUEST NO. 17

All documents, notes, reports, memoranda and other documents concerning:

- (a) Any settlement demand made by or on behalf of Plaintiffs prior to or during the course of the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action;
- (b) Any settlement offer made to Plaintiffs during the Underlying Action pertaining to the claims asserted by Plaintiffs in the Underlying Action; and
- (c) Any settlement demand made by or on behalf of Plaintiffs during or after the Underlying Action pertaining to the claims asserted in this action.

RESPONSE

Marcia Rhodes objects to this request to the extent it seeks the production of attorney work product. Non-privileged documents were previously made available to Zurich on December 21, 2005.

REQUEST NO. 18

All documents reflecting any assessment or computation of the actual or potential value of Plaintiffs' tort claims against the Personal Injury Defendants in the Underlying Action (other than those that may be

reflected in documents produced by the Defendants during discovery in this action).

RESPONSE

Marcia Rhodes objects to this request to the extent it seeks the production of attorney work product. Non-privileged documents were previously made available to Zurich on December 21, 2005.

REQUEST NO. 19

All documents Plaintiffs intend to offer into evidence at the trial of this action.

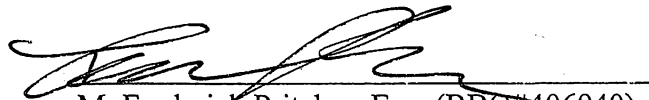
RESPONSE

Marcia Rhodes objects to this request to the extent it seeks the production of attorney work product. Without waiving such objection, she states that the Plaintiffs have not yet determined what documents will be offered at trial, and they reserve their right to supplement this Response.

Respectfully submitted,

MARCIA RHODES,

By her attorneys,



M. Frederick Pritzker, Esq. (BBO#406940)

Margaret M. Pinkham (BBO#561920)

Daniel J. Brown (BBO#654459)

BROWN RUDNICK BERLACK ISRAELS LLP

One Financial Center

Boston, Massachusetts 02111

(617) 856-8200

DATED: May 18, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing Response To Defendant Zurich American Insurance Company's Request For Production Of Documents To Plaintiff Marcia Rhodes upon all counsel of record via first class mail to:

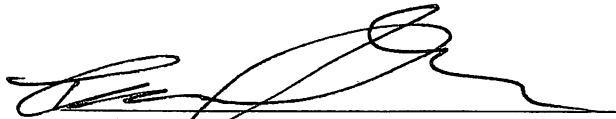
Robert J. Maselek, Jr., Esq.
The McCormack Firm, LLC
One International Place, 7th Flr.
Boston, Massachusetts 02110

Danielle Andrews Long, Esq.
Robinson & Cole LLP
One Boston Place
Boston, Massachusetts 01208-4404

Anthony R. Zelle, Esq.
Brian P. McDonough, Esq.
Zelle McDonough LLP
Four Longfellow Place, 35th Flr.
Boston, MA 02114

Gregory Varga, Esq.
Robinson & Cole LLP
280 Trumbull St.
Hartford, CT 06103-3597

DATED: May 18, 2006


Daniel J. Brown