

3125/2001

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', ON
BEHALF OF HIS MINOR CHILD
AND NEXT FRIEND, REBECCA
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, on behalf of his minor child and next friend, Rebecca Rhodes, hereby responds to Defendant Building Materials Corporation of America's ("BMCA") First Request for Production of Documents.

RESPONSES

REQUEST NO. 1

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

RESPONSE

Rebecca Rhodes, through her father and next friend, 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 Rebecca Rhodes' mental, therapeutic or psychiatric history is

not relevant to the claim she has asserted in this lawsuit, nor will it lead to the discovery of relevant information.

REQUEST NO. 2

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

RESPONSE

Rebecca Rhodes, through her father and next friend, 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 she does not understand what BMCA means by identifying all documents "in support of" her claim. Without waiving these objections, and to the extent that BMCA seeks the production of all documents that Rebecca 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 Rebecca Rhodes, therefore, reserves her 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

Rebecca Rhodes, through her father and next friend, 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 she does not understand what BMCA means by identifying all documents "in support of" her claim. Without waiving these objections, and to the extent that BMCA seeks the production of all documents that Rebecca 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 Rebecca Rhodes, therefore, reserves her right to supplement this Response.

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, on behalf of his minor child and next friend, Rebecca Rhodes.

RESPONSE

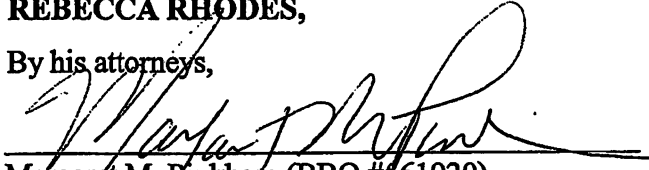
Rebecca Rhodes, through her father and next friend, Harold Rhodes, objects to this Request as it was not received until after the close of the discovery deadline, and without waiving

such objection, Rebecca Rhodes states that there were no documents identified or referred to in her responses to BMCA's First Set of Interrogatories.

Respectfully submitted,

**HAROLD RHODES, ON BEHALF OF HIS
MINOR CHILD AND NEXT FRIEND,
REBECCA RHODES,**

By his attorneys,


Margaret M. Pinkham (BBO #561920)
BROWN RUDNICK BERLACK ISRAELS LLP
One Financial Center
Boston, MA 02111
(617) 856-8200

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', on Behalf of His Minor Child and Next Friend, Rebecca Rhodes, Response to Building Material 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:

John Knight, Esq.
Morrison, Mahoney & Miller
250 Summer Street
Boston, MA 02110

Grace C. Wu, Esq.
Nixon Peabody LLP
100 Summer St., 25th Flr.
Boston, MA 02110

J. William Chamberlain, Jr., Esq.
Lynch & Lynch
45 Bristol Drive
South Easton, MA 02375

John Johnson, Esq.
Corrigan Johnson & Tutor
141 Tremont Street
Boston, MA 02111

John J. Davis, Esq.
Pierce Davis Perritano
10 Winthrop Square
Boston, MA 02110


Margaret M. Pinkham

3/25/2004

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT OF THE
TRIAL DEPARTMENT
CIVIL ACTION NO. 0201159A

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

Pursuant to Rule 34 of the Massachusetts Rules of Civil Procedure, the Plaintiff, Marcia Rhodes ("Marcia Rhodes"), hereby responds to Defendant Building Materials Corporation of America's First Request for Production of Documents.

REQUEST NO. 8

All documents referring or relating to Marcia Rhodes' medical history, included but not limited to any mental or psychiatric history.

RESPONSE

The plaintiff, Marcia Rhodes, objects to this Request as it is overbroad and unduly burdensome as it seeks medical records for five years preceding the accident. Without waiving said objection, and expressly reserving the same, Marcia Rhodes will produce documents in her possession, custody or control responsive to Request No. 8.

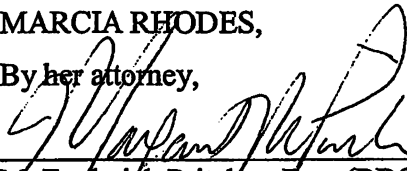
SUPPLEMENTAL RESPONSE

Plaintiff Marcia Rhodes 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 her mental, therapeutic or psychiatric history is not relevant to the claim she has asserted in this lawsuit, nor will it lead to the discovery of relevant information.

Respectfully submitted,

MARCIA RHODES,

By her attorney,


M. Frederick Pritzker, Esq. (BBO#406940)
Margaret M. Pinkham, Esq. (BBO#561920)
Carlotta M. Patten, Esq. (BBO#641035)
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston, Massachusetts 02111
(617) 856-8200

DATED: March 25, 2004

CERTIFICATE OF SERVICE

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

John Knight, Esq.
Morrison, Mahoney & Miller
250 Summer Street
Boston, MA 02110

Grace C. Wu, Esq.
Nixon Peabody LLP
100 Summer St., 25th Flr.
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Margaret M. Pinkham