

5/23/2006

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT

MARCIA RHODES and HAROLD RHODES,
Individually and 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.

CIVIL ACTION NO. 05-1360-BLS2
(Judge Gants)

**AIG DOMESTIC CLAIMS, INC. F/K/A AIG TECHNICAL SERVICES, INC.'S
SECOND SUPPLEMENTAL RESPONSE TO PLAINTIFFS'
FIRST SET OF INTERROGATORIES**

Defendant, AIG Domestic Claims, Inc. f/k/a AIG Technical Services, Inc. ("AIGDC"), hereby supplements its prior responses in accordance with Massachusetts Rules of Civil Procedure 33 and Superior Court Rule 30. AIGDC specifically incorporates by reference the "General Objections" previously asserted.

INTERROGATORY NO. 1:

Please identify who is responding to these interrogatories and identify all individuals consulted in the preparation of your answers to these interrogatories. Include in your response the name, official title and job responsibilities of each such person.

ANSWER TO INTERROGATORY NO. 1:

Kenneth P. Horenstein, Esq. is responding to these interrogatories on behalf of AIGDC. Mr. Horenstein consulted with AIGDC's attorneys in this matter in preparing the interrogatory responses.

SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 1:

Kenneth P. Horenstein, Complex Director, Excess Casualty Claims, is responding to these interrogatories on behalf of AIGDC. Mr. Horenstein's job duties include, inter alia: (a) managing declaratory judgment and bad faith litigation nationwide involving excess and umbrella policies; (b) preparing reservations of rights and disclaimer letters on claims involving complex coverage issues; and (c) monitoring cases that are handled in the coverage unit. Mr. Horenstein consulted with the undersigned attorneys in preparing the interrogatory responses. In addition, Mr. Horenstein consulted with the following individuals (all of whom are identified more fully in Supplemental Responses Nos. 3 and 4) in preparing the supplemental interrogatory responses: Ms. Tracey Kelly; Mr. Richard Mastronardo; Mr. Warren Nitti; Mr. Bryan Pedro; and, Mr. John Kurila.

INTERROGATORY NO. 2:

Please identify by name, employer, address and qualifications, each person you and/or National Union retained and/or relied upon as an expert in connection with the Underlying Action, including but not limited to anyone called as an expert witness at the trial of the Underlying Action, and for each such person, state the subject matter of any opinions formed and/or advice given by such person, and provide a summary of the grounds and the materials relied upon for all such opinions and/or advice.

ANSWER TO INTERROGATORY NO. 2:

Objection. AIGDC objects to Interrogatory No. 2 to the extent that it attempts to elicit information which is protected from disclosure by one or more of the following: (a) the attorney-client privilege; (b) the work product rule; (c) the confidentiality of materials prepared in anticipation of litigation; or (d) confidential information in documents containing impressions, opinions, conclusion, legal research, or theories of one or more of the attorneys for AIGDC. Subject to and without waiving these objections and the foregoing General Objections, upon information and belief Campbell & Associates and/or Nixon Peabody retained the services of: (a) Jane Mattson, Ph.D. (Life Care Planner); (b) Wendy Cummings (Life Care Planner); (c) Dr. Joseph A. Hanak, Psychiatrist; and (d) Richard A. Siegel, Ph.D. (economist). Pursuant to M.R.C.P. 33(c), AIGDC incorporates, as if fully set forth herein, the discovery and pleadings filed by the parties in the underlying matter, including the responses to interrogatories and pre-trial memoranda served upon the Plaintiffs by GAF, DLS, Zalewski, and Penske in the underlying matter.

INTERROGATORY NO. 3:

Please identify each individual who was assigned to or supervised anyone assigned to AIGDC File #169-151612 and any related files. Your response should include the official title and a description of the role each individual played with respect to AIGDC File #169-151612 and/or any related files.

ANSWER TO INTERROGATORY NO. 3:

The handling of the Rhodes claim was assigned by AIGDC at various times to the following claims examiners: (a) James Joanos; (b) Tracey Kelly; (c) E. Labanowski; (d) C. Patitucci; (e) Richard Mastronardo; (f) A. Strauss; (g) Nicholas Satriano; (h) Martin Maturine; and (i) Warren Nitti. The following individuals supervised the handling of the Rhodes matter at various times: (a) John Kurila; (b) B. Dolan; (c) Bryan Pedro; (d) Richard Mastronardo; and (e) Tracey Kelly.

SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 3:

The following claims examiners had primary responsibility for the handling of the Rhodes matter: (a) Ms. Tracey Kelly, Complex Director (Ms. Kelly handled the Rhodes matter from approximately March 2002 to January 2003); (b) Mr. Nicholas Satriano, Complex Director (Mr. Satriano handled the Rhodes matter from approximately June 6, 2003 to March 2004); (c) Mr. Martin Maturine, Complex Director (Mr. Maturine handled the Rhodes matter from approximately March 2004 to June 2004); and (d) Mr. Warren Nitti, Complex Director (Mr. Nitti handled the Rhodes matter from approximately June 2004 until its conclusion). In general, claims examiners in the excess unit are responsible for the day-to-day handling of the claim. This includes: (a) communicating with the insured, defense counsel, and the primary carrier; (b) confirming coverage of claims; (c) evaluating information supplied by the primary carrier and counsel; (d) coordinating with underlying carriers as to loss investigation; (e) retaining and directing outside counsel and experts, as warranted; and (f) evaluating liability and damages.

The Rhodes matter also was assigned by AIGDC to Ellen Labanowski, Complex Director, from January 31, 2003 until February 4, 2003. Ms. Labanowski had no significant involvement in the handling of the Rhodes matter. The Rhodes matter was assigned to Charles Patitucci, Complex Director, from February 4, 2003 to April 24, 2003. Mr. Patitucci had no significant involvement in the handling of the Rhodes matter. The Rhodes matter was assigned to Andrew Strauss from April 24, 2003 until June 6, 2003. Mr. Strauss had no significant involvement in the handling of the Rhodes matter.

The following supervisors were involved in the handling of the Rhodes matter: (a) Mr. Bryan Pedro, Vice President (Mr. Pedro supervised the Rhodes matter from approximately March 6, 2002 to April 24, 2003; Mr. Pedro supervised Ms. Kelly); (b) Mr. Richard Mastronardo, Assistant Vice President (Mr. Mastronardo supervised the Rhodes matter from approximately April 24, 2003 to April 28, 2004; Mr. Mastronardo supervised Mr. Satriano and Mr. Maturine); and (c) Ms. Tracey Kelly, Assistant Vice President (Ms. Kelly supervised the Rhodes matter from approximately April 28, 2004 until its conclusion; Ms. Kelly supervised Mr. Nitti and Mr. Maturine). The claims supervisors' general role is to provide supervision and direction, as necessary, for the claims examiners.

Mr. John Kurila, Vice-President of Segmentation, and James Joanos, Segmentation Technician, initially opened the Rhodes file and assigned it the appropriate claims handling unit.

INTERROGATORY NO. 4:

Please identify every person with knowledge or information concerning the Accident, the Plaintiffs and/or the Underlying Action. Your response should include the official title and a description of the role each individual played with respect to the Accident, the Plaintiffs and/or the Underlying Action.

ANSWER TO INTERROGATORY NO. 4:

Objection. Interrogatory No. 4 is overly broad and unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. Further, the use of "every" is overly broad, unduly burdensome, and harassing. Interrogatory No. 4 also is too vague to form a reasoned response. AIGDC also objects to this discovery request insofar as it attempts to elicit information which is protected from disclosure by one or more of the following: (a) the attorney-client privilege; (b) the work product rule; (c) the confidentiality of materials prepared in anticipation of litigation; or (d) confidential information in documents containing impressions, opinions, conclusion, legal research, or theories of one or more of the attorneys for AIGDC.

Subject to and without waiving these objections and the foregoing General Objections, upon information and belief the following individuals may have discoverable knowledge about the underlying matter: (a) Marcia Rhodes; (b) Harold Rhodes; (c) Rebecca Rhodes; (d) Santos Ramirez; (e) Ramon DeBriac; (f) Carlo Zalewski; (g) Jane Mattson, Ph.D.; (h) Wendy Cummings; (i) Dr. Joseph A. Hanak; (j) Richard A. Siegel, Ph.D.; (k) Greg McDaniel; (l) John Hille; (m) Octavio Rankin; (n) Carlo Melia; (o) Jerry McMillan; (p) Sergeant William Boultenhouse; (q) Officer William Kingsbury; (r) Trooper Edward O'Hara; (s) Ronald Dolloff; (t) Greg Balukonis; (u) all of Plaintiffs' medical providers; (v) all experts retained and/or consulted by the plaintiffs in connection with the Rhodes matter. Pursuant to M.R.C.P. 33(c), AIGDC incorporates, as if fully set forth herein, the discovery and pleadings filed by the parties in the underlying matter, including the responses to interrogatories and pre-trial memoranda served upon the Plaintiffs by GAF, DLS, Zalewski, and Penske in the underlying matter.

SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 4:

In addition to the individuals identified in Supplemental Response No. 3, the following individual played a limited role in the handling of the Rhodes matter: Mr. Andrew J. Barberis, Executive Vice President of the Excess Department. Mr. Barberis provided general supervision to Ms. Kelly, Mr. Pedro, and Mr. Mastronardo, and has some limited knowledge of the handling of the Rhodes matter.

SECOND SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 4:

Notwithstanding its prior objections to this interrogatory, and without waiving same, AIGDC further identifies the following individuals: John Chaney, former liability adjuster for Crawford & Company (the third party administrator for Zurich); Jodie Mills, liability adjuster for Crawford & Company; Stephen Penick, Branch Manager for Crawford & Company; Kathleen Fuell, Liability TPA Claims Oversight Unit for Zurich; David McIntosh, Liability TPA Claims Oversight Unit for Zurich; John Kalariotes, Claim Representative for Zurich; Daina Kojelis, Senior Coverage Counsel for Zurich; Thomas Gannon, claims adjuster for Gallagher Bassett (successor third party administrator for Zurich beginning December 2004); Vinicio E. Jacobo, claims adjuster for Gallagher Bassett; Ronald Doloff, Town of Medway Tree Warden; Elizabeth Roaf, M.D., physiatrist who examined Marcia Rhodes; Norman Beisaw, M.D., orthopedic surgeon who examined Marcia Rhodes; Donna Krauth, M.D., Marcia Rhodes' treating physician; Adele Pollard, life care planner for Marcia Rhodes; Dana Hewins, PhD, economist for Marcia Rhodes; Gregory P. Deschenes, Nixon Peabody, outside counsel for GAF Materials Corp. ("GAF"); Grace Wu, Nixon Peabody; Melissa Bayer Tearney, Nixon Peabody; Dennis M. Duggan, Nixon Peabody; Jane Gordon, in-house counsel for GAF; Ann Peri, GAF Risk Manager; Robert Manning, Claim Manager for GAF; Robert Flugger, Building Materials of America Corp.; Fred Hohn, Willis Corroon; Lawrence F. Boyle, Morrison Mahoney, counsel for Carlo Zalewski and Driver Logistic Services; John Knight, Morrison Mahoney; William Chamberlain, Jr., Lynch & Lynch, counsel for Jerry McMillan's Professional Tree Service; Mary Ann Scheneman, Corporate Litigation Examiner for Penske; John B. Johnson, Corrigan, Johnson & Tutor, counsel for Penske; Peter E. Mueller, Harwood Lloyd, LLC, coverage counsel for AIGDC; Anthony Bartell, McCarter & English, LLP, coverage counsel for GAF; Yvonne Santy, McCarter & English; William Conroy, Campbell, Campbell, Edwards & Conroy, defense counsel retained by AIGTS; William A. Rubert, Campbell, Campbell, Edwards & Conroy; Russell X. Pollock, Campbell, Campbell, Edwards & Conroy; Diane L. Scialabba, Campbell, Campbell, Edwards & Conroy; Robert Toland, Campbell, Edwards & Conroy; Myles McDonough, Sloane & Walsh, GAF appellate counsel; Hon. Steven W. Rhodes, brother of Harold Rhodes; M. Frederick Pritzker, counsel for Rhodes family; Margaret M. Pinkham, counsel for Rhodes family; Daniel J. Brown, counsel for Rhodes family.

INTERROGATORY NO. 5:

Identify by name, employer, address and qualifications, each person you expect to call as an expert witness at the trial of this action and for each such person:

- a. State the subject matter on which such person is expected to testify;
- b. State the substance of the facts and opinions to which each such person is expected to testify; and
- c. Provide a summary of the grounds and the materials relied upon for each such opinion.

ANSWER TO INTERROGATORY NO. 5:

Objection. Interrogatory No. 5 seeks information about expert witnesses beyond that authorized by Mass. R. Civ. P. 26. Subject to and without waiving this objection and the foregoing General Objections, AIGDC has not yet decided what expert witnesses it may call to testify at the trial of this matter.

Verification

I, Kenneth P. Horenstein, hereby depose and state that I verify the foregoing answers to interrogatories, that I am authorized to sign the answers for and on behalf of AIG Domestic Claims, Inc., and that certain of the matters contained in said answers are not based upon my personal knowledge but upon information available to AIG Domestic Claims, Inc.



AIG Domestic Claims, Inc.
By: Kenneth P. Horenstein
Title: Counsel Director, Cross Specialty Claims

As to Objections:

Defendants,

AIG Domestic Claims, Inc.
E/A AIG Technical Services, Inc.,

By its counsel,


Mark E. Cohen, BBO #089800

Stephen D. Rosenberg, BBO #558415
Robert J. Masielek, BBO #564690

The McCormack Firm, LLC
One International Place - 7th Floor

Boston, MA 02110
(617) 951-2929
(617) 951-2672 (Fax)

and


Anthony R. Zelle, BBO #548141

Brian P. McDonough, BBO #637999
Zelle McDonough LLP (Co-Counsel)
Four Longfellow Place - 35th Floor

Boston, MA 02114
(617) 742-6520
(617) 973-1562 (Fax)

Dated: May 1, 2006

CERTIFICATE OF SERVICE

I, Brian P. McDonough, certify that on this 23rd day of May, 2006, I caused a copy of the foregoing to be served by first class mail upon the following:

Daniel J. Brown
Brown, Rudnick Berlack Israels LLP
One Financial Center
Boston, MA 02111
*Counsel for Marcia Rhodes, Harold
Rhodes, and Rebecca Rhodes*

Robert J. Maselek, Jr.
The McCormack Firm
One International Place
Boston, MA 02110
*Co-Counsel for AIG Domestic Claims,
Inc. and National Union Fire Ins. Co.*

Danielle Andrews Long
Robinson & Cole LLP
One Boston Place
Boston, MA 02108
(617) 557-5900
*Counsel for Zurich American
Insurance Co.*



Brian P. McDonough