

1/23/2003

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 MARCIA RHODES' SECOND SET OF REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO DEFENDANT  
GAF MATERIALS CORP.**

Pursuant to Rule 26 of the Massachusetts Rules of Civil Procedure, Plaintiff Marcia Rhodes by her attorneys, Brown Rudnick Berlack Israels LLP, hereby requests that GAF Materials Corp. produce for examination, inspection, and copying the documents or things requested below in its possession, custody, or control and further requests that production take place at the offices of Brown Rudnick Berlack Israels LLP, One Financial Center, Boston, Massachusetts 02111, within thirty (30) days after service hereof.

This request is to be deemed continuing and any information secured subsequent to the service of the response hereto must be furnished with supplemental responses immediately upon receipt of such information.

## DEFINITIONS

- A. As used herein, the term “communication” means the transmittal of information (in the form of facts, ideas, inquires, or otherwise).
- B. As used herein, the term “document” is defined to be synonymous in meaning and equal with the definition set forth in Mass. R. Civ. P. 34(a) and consistent with the scope of Mass. R. Civ. P. 26, including, but not limited to, electronic communication and website postings.
- C. As used herein, the term “person” is defined as any natural person or any business, legal, or governmental entity or association.
- D. As used herein, the term “concerning” means referring to, describing, evidencing or constituting.
- E. As used herein, the terms “you,” “your,” “yours,” or “GAF” shall mean and refer to Building Materials Corp. of America d/b/a GAF Materials Corp., and any business entity owned, operated, or managed by GAF Materials Corp., any parent, subsidiary, division, affiliate, or predecessor-in-interest of, GAF Materials Corp. and the officers, directors, employees, parents, subsidiaries, divisions, affiliates, agents, counsel, attorneys, and other representatives of each such entity.
- F. As used herein, the term “Penske” shall mean and refer to Penske Truck Leasing Corporation and , any business entity owned, operated, or managed by Penske Truck Leasing Corporation including Penske Truck Leasing Co. LP and the officers, directors, employees, parents, subsidiaries, divisions, affiliates, agents, counsel, attorneys, and other representatives of each such entity.

G. As used herein, the term "Driver Logistics" shall mean and refer to Driver Logistics and/or Driver Logistics Services, and any business entity owned, operated, or managed by Driver Logistics, and the officers, directors, employees, parents, subsidiaries, divisions, affiliates, agents, counsel, attorneys, and other representatives of each such entity.

H. As used herein, the term "Agreement" shall mean each and every agreement, contract arrangement or understanding, oral or written, made or proposed, whenever and by whomever made or proposed, of whatever kind or character, concerning a specified subject matter.

I. As used herein, the term "Tractor-Trailer" shall refer to both the Tractor or cab, Registration No. NJ AD870W, and the Trailer, Registration No. NJ T76H6V, that was involved in an accident on January 9, 2002 on Route 109 in Medway, Massachusetts.

J. As used herein, the term "representative" shall mean any present or former partners, directors, officers, attorneys, agents or employees, as applicable, and all other persons acting on behalf of any particular person.

K. Any word written in the singular shall include the plural and vice versa.

L. Each document request refers to all documents in the possession, custody, or control, of you, your agents, and representatives.

M. The term "discussions" shall mean any communication, whether oral, written, or implied.

N. As used herein, the term "any" means "any and all."

O. As used herein, the term "or" and the term "and" shall mean "and/or."

P. In case of doubt as to the scope of a clause including “and,” “or,” “any,” “all,” “each,” or “every,” the intended meaning is inclusive rather than exclusive.

#### INSTRUCTIONS

A. This Document Request shall be deemed continuing, so as to require the immediate production of additional answers and documents if you obtain further information or documents between the time this Document Request is served and the time of trial of this action.

B. When an objection is made to any request or any subpart thereof, state with specificity all grounds for the objection.

C. If any document sought by this Request has been destroyed, you are requested to state, as to each such document, its date, author(s), recipient(s) and the date and circumstances of its destruction.

D. Unless otherwise indicated, the time period for each document request shall be from January 1, 1997 to the date of the response, and shall include all documents and information which relate in whole or in part to such period, or to events or circumstances during such period, even though dated, prepared, generated or received prior or subsequent to that period.

E. With respect to each document that is withheld from production for any reason, or any portion of a document that has been redacted in connection with the production for any reason, provide a statement setting forth:

- (i) the name and title of the document's author(s);
- (ii) the name and title of the person(s) to whom the document was addressed;

(iii) the name and title of the person(s) to whom copies of the document were sent;

(iv) the dates on which the document was written or otherwise produced, and the date on which it was mailed, sent, or otherwise delivered to its addressee(s);

(v) the number of pages;

(vi) a brief description of the document's nature and subject matter;

(vii) all grounds on which the document, or portion of the document, is being withheld;

(viii) the present location of the document and all copies thereof.

#### **DOCUMENTS AND THINGS TO BE PRODUCED**

22. Any and all documents referring or relating to GAF/BMCA written approval of assignment of Carlo Zalewski, and any other DL driver to GAF/BMCA.

22. Any and all documents referring or relating to reports furnished to Rollins/Penske for any accident or collision involving vehicle leased to GAF/BMCA.

23. Any and all documents referring or relating to GAF's payment to or reimbursement of damages to vehicles leased from Rollins/Penske.

24. Any and all documents referring or relating to initial orientation or other meeting for GAF drivers in which Penske assisted or participated in making safety presentations.

25. All documents referring or relating to Carlo Zalewski's request for, and any approvals of vacation time, personal time, sick time or holidays.

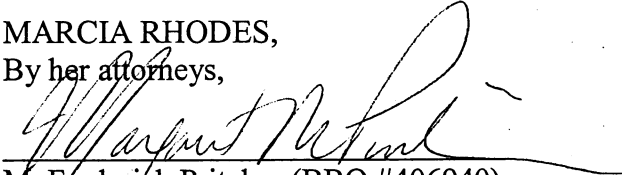
26. All documents referring or relating to written or oral complaints from Rollins/Penske on reckless, careless or abusive handling of leased vehicles.

27. All documents referring or relating to GAF's reimbursement for any liability, loss or expense as the result of operation of a leased vehicle by a person who was the subject of a written complaint from Rollins/Penske.

28. All documents referring or relating to safety meetings at GAF locations conducted by DL.

Dated: January 23, 2003

MARCIA RHODES,  
By her attorneys,



M. Frederick Pritzker (BBO #406940)  
Margaret M. Pinkham (BBO#561920)  
BROWN RUDNICK BERLACK ISRAELS LLP  
One Financial Center  
Boston, MA 02111  
(617) 856-8200

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served on all counsel of record by mail on January 23, 2003:

Grace C. Wu, Esq.  
Nixon Peabody LLP  
101 Federal Street  
Boston, MA 02110-1832

Timothy F. Corrigan, Esq.  
Corrigan Johnston & Tutor  
141 Tremont Street  
Boston, MA 02111

Steven W. Leary, Esq.  
95 State Street  
Springfield, MA 01103



Margaret M. Pinkham

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