

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, and HAROLD RHODES,)
 On Behalf Of His Minor Child)
 And Next Friend, REBECCA RHODES,)
)
 Plaintiffs,)
)
 v.)
)
 CARLO ZALEWSKI, DRIVER LOGISTICS)
 PENSKE TRUCK LEASING CORP., and)
 GAF BUILDING MATERIALS CORP.,)
)
 Defendants.)

**PLAINTIFF MARCIA RHODES'
FIRST SET OF INTERROGATORIES
TO DEFENDANT, GAF BUILDING
MATERIALS CORP.**

Pursuant to Rule 33 of the Massachusetts Rules of Civil Procedure, the plaintiffs hereby request that the defendant, GAF Building Materials Corp. ("GAF"), respond within forty-five (45) days from service hereof to each of these specific interrogatories set forth below to Margaret M. Pinkham, BROWN RUDNICK BERLACK ISRAELS LLP, One Financial Center, Boston, Massachusetts 02111.

DEFINITIONS AND INSTRUCTIONS

1. The term "communication" as used herein includes, without limitation, the following: conversations, telephone conversations, e-mails, statements, discussions, debates, arguments, disclosures, interviews, consultation and every other manner of oral utterance, or electronic or written transmittals of information or messages.

2. The terms "identify," or "identity" mean, with respect to a natural person, to set forth his or her full name, present or last known business and residence address, his or her employer, the position or positions held with that employer and a description of the job responsibilities of such person.

3. The term "fact" as used herein includes, without limitation, the following: circumstances, occurrences, occasions, events, incidences, oral communications, writings, episodes, experiences, happenings, transactions and all manner of other affairs, matters or things.

4. 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.

5. As used herein, the terms "DL" shall mean and refer to Driver Logistics, and any business entity owned, operated, or managed by Driver Logistics, any parent, subsidiary, division, affiliate, or predecessor-in-interest of, Driver Logistics and the officers, directors, employees, parents, subsidiaries, divisions, affiliates, agents, counsel, attorneys, and other representatives of each such entity.

6. 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, and the officers, directors, employees, parents, subsidiaries,

divisions, affiliates, agents, counsel, attorneys, and other representatives of each such entity including Penske Truck Leasing Co. LP.

7. If any of these interrogatories cannot be answered in full, then the respondent should answer to the extent possible, specify each reason for its inability to answer the remainder and state whatever information or knowledge it has concerning the unanswered portion. In answering the Interrogatories, furnish such information as is available to respondent, regardless of whether or not it is based on personal knowledge or records of respondent, its agents or representatives, or from others or others' records, regardless of source.

8. If any of these interrogatories call for the identification of documents or oral communications which you contend are protected by the attorney-client privilege or another claimed privilege or by the work product rule, furnish the information identifying such document or oral communication nevertheless (except for a summary of contents or substance) and also state all reasons for your claim that the document or oral communication is so privileged or protected.

INTERROGATORIES

1. Identify all facts upon which you rely for your affirmative defenses claiming:
 - a. Plaintiff's injuries were caused by persons over whom BMCA/GAF had no control;
 - b. Plaintiff's claim for damages is either reduced or completely barred by contributory negligence;
 - c. Plaintiff's injuries were caused by intervening/superseding acts.

2. Identify all facts upon which you rely in denying the allegations contained in paragraph 7 of the Complaint, i.e., that the defendant, GAF, directed Carlo Zalewski's daily driving activities.

3. Identify the person who instructed, dispatched or otherwise assigned Zalewski to drive on GAF routes or deliver GAF loads. Your response should encompass all time frames in which Carlo Zalewski drove a GAF route or otherwise delivered GAF loads.

4. Identify every date on which the defendant, Carlo Zalewski, drove a route for GAF. Your response should include all dates, including those preceding Zalewski's employment by DL and all dates on which Zalewski was employed by VanGuard Services in connection with employee leasing services provided by VanGuard to GAF.

5. Describe initial orientation or subsequent meetings conducted with the assistance, support or participation of Rollins/Penske. Your response should include the date, location, time, attendees and presenters, agenda and substance of meetings.

6. Identify all individuals GAF/BMCA "removed" from operating Rollins/Penske-owned tractors or trailers in response to any written or oral complaint from Rollins/Penske. Your response should include name of driver, date of complaint, substance of complaint, and date of removal.

7. Identify all claims, causes of action or suits in which BMCA/GAF has defended or indemnified Rollins/Penske for death or injury or property damage arising out of use or operation of any tractor or trailer owned by Rollins/Penske.

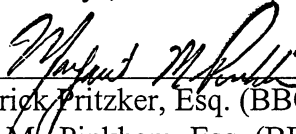
8. Identify all safety meetings conducted by Driver Logistics at GAF/BMCA locations, including date, time, location, presenters and attendees, agenda and substance of meetings.

9. Identify the person(s) who approved any request by DL drivers, including Carlo Zalewski, for vacation, holiday, personal and sick time.

Respectfully Submitted,

MARCIA RHODES, HAROLD RHODES,
Individually, and HAROLD RHODES on
Behalf of His Minor Child and Next Friend,
REBECCA RHODES,

By their attorneys,


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

DATED: January 23, 2003

CERTIFICATE OF SERVICE

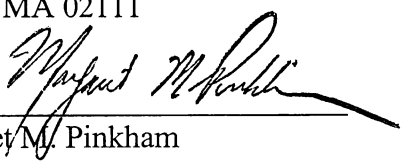
I, Margaret M. Pinkham, counsel for the plaintiffs, hereby certify that I have served a copy of the foregoing Plaintiffs First Set of Interrogatories to Defendant, GAF Building Materials Corp., upon all counsel of record by mailing a copy, postage pre-paid to:

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

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

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


Margaret M. Pinkham
DATED: January 23, 2003