

COMMONWEALTH OF MASSACHUSETTS

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NORFOLK, SS.

SUPERIOR COURT OF THE
TRIAL DEPARTMENT
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.)
_____)

DEFENDANT BUILDING MATERIALS CORPORATION OF AMERICA D/B/A GAF MATERIALS CORPORATION'S RESPONSE TO PLAINTIFF MARCIA RHODES' SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Rules 26 and 34 of the Massachusetts Rules of Civil Procedure, Defendant, Building Materials Corporation of America d/b/a GAF Materials Corporation ("BMCA"), hereby responds to Plaintiff Marcia Rhodes' Second Request for Production of Documents (the "Requests") as follows:

PRELIMINARY STATEMENT

The General Objections set forth below are applicable to the Requests in their entirety, as well as to each individual Request. By reference, BMCA incorporates each General Objection into its objections to each of the individual Requests. To the extent that specific objections are cited in response to specific Requests, those objections are provided because they are believed to

be applicable to the specific Request, and are not to be construed as a waiver of any of these General Objections.

GENERAL OBJECTIONS

1. BMCA objects generally to the Requests on the grounds that they are vague, ambiguous, and overly broad and to the extent they require a search that is oppressive, unduly burdensome and prohibitively expensive.
2. BMCA objects to the Requests to the extent that they seek the disclosure of information and/or documents not relevant to the issues raised in this lawsuit and not reasonably calculated to lead to the discovery of admissible evidence.
3. BMCA objects to the Requests to the extent that they seek the disclosure of information and/or documents protected from disclosure by the attorney/client privilege or the work product doctrine, without the showing required by the Massachusetts Rules of Civil Procedure.
4. BMCA objects to the Requests to the extent that they purport to require BMCA to search for information not within its possession, custody, or control.
5. BMCA objects to the Instructions and Definitions in the Requests to the extent they seek to expand BMCA obligations. BMCA further objects to the Instructions and Definitions on the grounds that they are vague, ambiguous, overly broad and unduly burdensome.
6. These responses are given without waiver of and with specific preservation of:
 - (a) All objections as to competency, relevancy, materiality, privilege and admissibility of the information or the subject matter thereof, as evidence for any purpose and any proceeding in this action (including trial) and in other actions;
 - (b) The right to object on any grounds at any time to a demand for further responses to these or any other discovery Requests or other discovery proceedings involved or related to the subject matter of the discovery to which information or documents are provided; and
 - (c) The right at any time to review, correct, add to, supplement or clarify any of these answers.

INDIVIDUAL OBJECTIONS AND RESPONSES

Request No. 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.

Response to Request No. 22

BMCA objects to this Request on the grounds that it is vague, ambiguous, over broad, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its objections, BMCA states that it does not have any such documents in its possession, custody or control. BMCA expressly reserves the right to amend this response.

Request No. 22 (sic)

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

Response to Request No. 22 (sic)

BMCA objects to this Request on the grounds that it is vague, ambiguous, and over broad. BMCA further objects to this Request on the grounds it is not reasonably calculated to lead to the discovery of admissible evidence because it seeks documents that do not relate to the accident or vehicle at issue in this action. Subject to and without waiving its objections, BMCA states that it will produce documents relating to the vehicle at issue in this case.

Request No. 23

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

Response to Request No. 23

BMCA objects to this Request on the grounds that it is vague, ambiguous, and over broad. BMCA further objects to this Request on the grounds it is not reasonably calculated to lead to the discovery of admissible evidence because it seeks documents that do not relate to the accident or vehicle at issue in this action. Subject to and without waiving its objections, BMCA states that it will produce documents relating to the vehicle at issue in this case.

Request No. 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.

Response to Request No. 24

BMCA objects to this Request on the grounds that it is vague, ambiguous, over broad, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its objections, BMCA states that it does not have any such documents in its possession, custody or control. BMCA expressly reserves the right to amend this response.

Request No. 25

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

Response to Request No. 25

BMCA objects to this Request on the grounds that it is vague, ambiguous, over broad, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its objections, BMCA states that it does not have any such documents in its possession, custody or control. BMCA expressly reserves the right to amend this response.

Request No. 26

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

Response to Request No. 26

BMCA objects to this Request on the grounds that it is vague, ambiguous, over broad, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its objections, BMCA states that it does not have any such documents in its possession, custody or control. BMCA expressly reserves the right to amend this response.

Request No. 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.

Response to Request No. 27

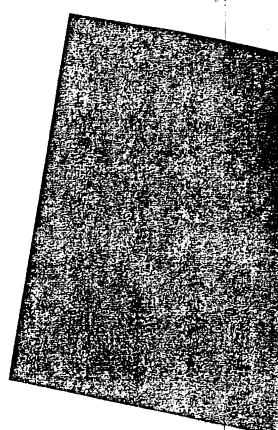
BMCA objects to this Request on the grounds that it is vague, ambiguous, over broad, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its objections, BMCA states that it does not have any such documents in its possession, custody or control. BMCA expressly reserves the right to amend this response.

Request No. 28

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

Response to Request No. 28

BMCA objects to this Request on the grounds that it is vague, ambiguous, over broad and not reasonably calculated to lead to the discovery of admissible evidence. BMCA further objects



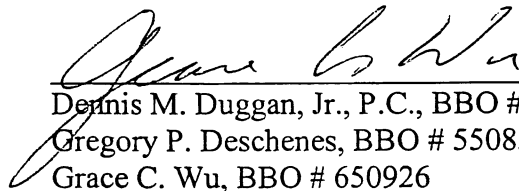
to this Request on the grounds it is unduly burdensome inasmuch as it seeks documents from all BMCA locations. Subject to and without waiving its objections, BMCA states that it will produce responsive documents from its Linden and/or Wayne, New Jersey, location.

PRODUCTION OF DOCUMENTS

Subject to the foregoing objections, the responsive, non-privileged documents that BMCA has agreed to produce shall be made available for inspection or copying at the offices at Nixon Peabody, 101 Federal Street, Boston, Massachusetts, at a mutually convenient date, during normal business hours, and upon reasonable notice from plaintiffs' counsel.

BUILDING MATERIALS CORP. OF AMERICA,

By its attorneys,

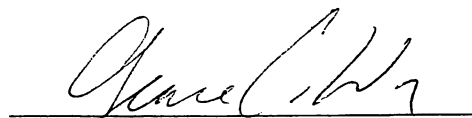


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Dated: March 10, 2003

CERTIFICATE OF SERVICE

I, Grace C. Wu, hereby certify that on the 10th day of March, 2003, I served the foregoing Responses to Plaintiff's Second Set of Request for Production of Documents upon all interested parties by forwarding the same via U.S. Mail Postage pre-paid to the following:



Grace C. Wu