

COMMONWEALTH OF MASSACHUSETTS

COPY

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT  
Civil Action No. 05-1360-BLS2  
(Judge Gants)

MARCIA RHODES, HAROLD RHODES, and	)
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.	)

**AFFIDAVIT OF HAROLD RHODES**

I, Harold Rhodes, having been duly sworn, depose and state as follows:

1. I had been told what a case manager was when my wife, Marcia, finally returned home after four months of in-patient treatment, on April 19, 2002, our wedding anniversary, but given the unknown and potentially overwhelming amount of care, medical supplies, equipment, and home renovations that we were facing because of her injuries. I decided to limit our expenditures on things or services that I could not provide – I couldn't take the place of a handicapped van or a ramp into our home – so I paid for those things. I could help transfer my wife and change her Depends or her dressings, so I could take the place of a home health aide every night and weekend, and I avoided spending more than \$20/hr for that service.

2. I could not build an addition that would allow my wife to live comfortably in her own house again, so I paid an architect, a general contractor and a slew of subcontractors to build it.

3. I could coordinate all of my wife's medical appointments and go to them with her and keep track of what the various doctors were doing; I could act as an advocate for Marcia – so I thought I could take the place of a case manager, and avoid spending more than \$75/hr for that service.

4. Neither I nor my wife had experience in recovering from a catastrophic injury – we were learning as we went along, and knowing now what I did not know then, I have nothing but regret for my decision to try to save money by not hiring a case manager right away. It would have been so much better for Marcia to have an experienced nurse or rehabilitation specialist involved in her care. The same is true for home health aides, since they have training that I do not. I wish I never had to make the decision about which services to get for Marcia, because while well-meaning and practical, some of them made portions of my wife's recovery and rehabilitation much more challenging than they needed to be. The life care planner who testified as our expert at trial recommended that we hire a case manager to implement the life care plan and revise it if necessary.

5. Before the accident, I had a very successful consulting firm, and various assignments that required me to travel. It was demanding work, but I had reached a level at which I was very well compensated. After Marcia's accident I did small consulting projects, and turned down projects that would require travel or that did not allow me flexibility to be with Marcia if necessary, such as if she had an important

doctor's appointment. In addition, there were times during her rehabilitation that two people were required to assist Marcia in her transfers – which was typically me and a home health aide. I am now working full time again, as an employee, not a consultant. My salary is less than half what I had been earning before the accident.

6. Marcia had in-patient rehabilitation at Fairlawn in February 2002. After she recovered from emergency gall-bladder surgery in mid-2002, she made progress in her rehabilitation and was adept at maneuvering in her manual wheelchair.

Unfortunately, the pressure ulcers were a big set-back for her. She was able to start rehabilitating again in the Fall of 2003, to try to make up for all the ground that had been lost. She suffered another leg fracture in early 2004, which interrupted her progress again. Once she recovered from that, she focused on rehab again, which included programs in our home gym in our basement with a physical therapist. She also started her driving lessons once more in the Spring of 2004, which will help her gain a considerable amount of independence.

7. In August 2004, I attended the mediation at Campbell, Campbell, Edwards & Conroy's offices in Charlestown. After everyone at the mediation introduced themselves in a large conference room and some preliminary remarks, I went into a smaller office with my attorneys.

8. Tom Porter met with me in the presence of my attorneys and asked me a number of questions about how our family was doing in the aftermath of the accident. Then he went to meet with the defense representatives.

9. When Mr. Porter returned, he said that the defendants offered to settle the case for \$2.75 million. I was very disappointed by that offer.

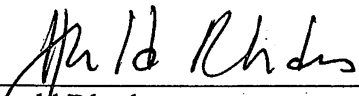
10. At some point in time, after I authorized Mr. Porter to extend an offer to the defendants, he returned and said the defense had increased their offer to \$3.5 million. Again, I was very disappointed by that offer but Mr. Porter wanted to try another technique before giving up on the mediation. He proposed a settlement range of \$6-\$10 million; meaning that we would agree to settle for \$9,999,999 or less and AIGDC would have to agree to settle for \$6,000,001 or more. I agreed to the range because Marcia and I were prepared to settle at \$8 million. Mr. Porter said that if the other side did not agree to go forward with the mediation in that range, he would not disclose that I had agreed to it. Then he left the room.

11. When Mr. Porter returned, he said the defendants did not agree to the range, and he said he was sorry he had not been able to help settle the case. As we were standing together, talking, Mr. Porter told Mr. Pritzker that he thought the case had a value of \$8 million.

12. Mr. Pritzker then asked Mr. Porter to confirm to me that they had never discussed the case before, since Mr. Porter's \$8 million valuation was the same as what Marcia and I had decided upon.

13. It was my understanding that all of the offers communicated by Zurich and AIGDC were global settlements of all claims. Neither insurer made an offer to settle my claim or Rebecca's claim separately.

SIGNED under the pains and penalties of perjury this 8<sup>th</sup> day of November, 2006.

  
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Harold Rhodes

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