

10/03/2003

10/10/2003

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR 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)

**DEFENDANT, DRIVER LOGISTICS', ANSWERS TO PLAINTIFF,
MARCIA RHODES' SECOND SET OF INTERROGATORIES**

The defendant objects to the plaintiff's pages of instructions and definitions to the extent that they attempt to place a burden on the defendant beyond that required by the Rules of Civil Procedure.

Notwithstanding nor waiving this objection, the defendant responds to these interrogatories as required by the Rules of Civil Procedure, giving words their ordinary meaning in the context of this action.

INTERROGATORY NO. 7

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 NO. 7

a.-c. No determination as to what experts, if any, will be called in this matter has been determined at this point. When and if an expert is retained in this matter, the defendant will seasonably supplement this answer to interrogatory.

INTERROGATORY NO. 8

Identify each and every fact upon which you base your denial set forth in your answer to Paragraph 5 of the Second Amended Complaint that Driver Logistics leased Zalewski's services to GAF.

ANSWER NO. 8

The defendant objects to this interrogatory on the grounds that the defendant cannot make a reasonable conclusion in which it is not capable of doing.

Notwithstanding said objection and without waiving it, the defendant responds that the term "leased" has several different meanings and in particular used in this context, the defendant is unable to answer the allegations in Paragraph 5 of the Second Amended Complaint. Further, the defendant responds that discovery is still ongoing in this matter and the defendant reserves the right to supplement this answer.

INTERROGATORY NO. 9

Identify each and every fact upon which you base your assertion that you have insufficient information to answer Paragraph 15 of the Second Amended Complaint, which alleges that Zalewski failed to stop behind Marcia Rhodes.

ANSWER NO. 9

The defendant objects to this interrogatory on the grounds that it calls on the defendant to draw a legal conclusion and that it is not capable of doing. In addition, its an improper contention interrogatory.

Notwithstanding said objection and without waiving it, the defendant responds that its answer to Paragraph 16 of the Plaintiff's Second Amended Complaint was based on the facts as known with respect to the occurrence of the accident, the accident state police reconstruction report, police reports and Mr. Zalewski's recollection of the accident. In addition, the response is based on unknown facts such as weather conditions and other circumstances surrounding the accident. As discovery is ongoing, the defendant reserves the right to supplement this response.

INTERROGATORY NO. 10

Identify each and every fact upon which you base your denial of Paragraph 28 of the Second Amended Complaint that Driver Logistics is liable for the injuries to Marcia Rhodes as a direct and proximate result of the negligence of its employee, Zalewski.

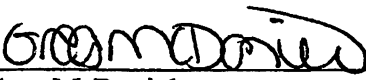
ANSWER NO. 10

The defendant objects to this interrogatory on the grounds that it asks the defendant to make a legal conclusion which is not capable of doing.

Notwithstanding said objection and without waiving it, the information concerning the employment relationship of Mr. Zalewski with DLS and GAF are still being developed through discovery. As such, the defendant reserves the right to supplement this answer.


SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 10TH
DAY OF OCTOBER, 2003.

The undersigned deposes and says that he signs the answers to plaintiff's interrogatories for and on behalf of DRIVER LOGISTICS and is authorized to do so; that the matters stated in the foregoing responses are not all within his personal knowledge; that such facts as are stated in said answers which are not within the personal knowledge of the deponent have been assembled by authorized agents, employees and counsel of said defendant and the deponent is informed and believes that the facts stated in said responses are true and so states under the pains and penalties of perjury.



Greg McDaniel

AS TO OBJECTIONS:



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DATED: Oct 29, 2003