

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT

MARCIA RHODES,
 HAROLD RHODES, INDIVIDUALLY,
 HAROLD RHODES, ON BEHALF OF HIS MINOR
 CHILD
 AND NEXT FRIEND, 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.

CIVIL ACTION NO.

05-1360BLS

**SECOND SUPPLEMENTAL ANSWER OF AIG DOMESTIC CLAIMS, INC. AND
 NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

AIG Domestic Claims, Inc. and National Union Fire Insurance Company of Pittsburgh, PA ("Defendants") ("Defendants") submit this Second Supplemental Answer to Plaintiffs' First Set of Interrogatories. This Supplemental Answer restates and incorporates by reference the General Objections and all of the specific objections set forth in Defendants' previous answers to interrogatories.

INTERROGATORY NO. 5:

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.

SECOND SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 5:

Objection and Answer. Interrogatory No. 5 seeks information about expert witnesses beyond that authorized by Mass. R. Civ. P. 26. Subject to and without waiving this objection and the General Objections incorporated herein, the previously provided expert disclosure of William T. Cormack is amended to include the following:

Mr. Cormack will offer testimony on the subject of AIGDC's conformance with its obligations as an insurer in connection with its investigation and effort to settle the Rhodes' claim resulting from Marcia Rhodes' January 9, 2002, motor vehicle accident. In the course of his testimony Mr. Cormack may make reference to McMillan's Tree Service's purported violations of "administrative code regulations" by failing to put out traffic cones and adequate signage warning of the work that it was performing. The source of Mr. Cormack's knowledge of McMillan's purported violations is the AIGDC claims file documentation that he reviewed, including the evaluation memo and Executive Claim Summaries marked as exhibits at the depositions of AIGDC witnesses. For example, the evaluation memo dated August 3, 2004, from Warren Nitti to Tracey Kelley, specifically states that "it appears that the third-party defendant McMillan will also bear some portion of responsibility, insofar as it failed to place signs and/or cones in the roadway warning of the work crew and lane closure up ahead. Pursuant to the Massachusetts Administrative Code, signs must be posted at a work site, thus creating an affirmative duty to do so, which McMillan breached." In referring to McMillan's purported violations, Mr. Cormack will not be opining that McMillan, in fact, violated any regulation. Rather, his testimony in this regard will be offered to establish that going into mediation AIGDC had a reasonable basis to believe that a settlement contribution from McMillan's insurer would include the full amount of its \$1 million policy due to the likelihood of McMillan being jointly and severally liable for the full amount any jury verdict that ultimately issued.

VERIFICATION

Kenneth P. Horenstein, for Defendants, AIG Domestic Claims, Inc. and National Union Fire Insurance Company of Pittsburgh, PA, verifies and says that the facts set forth in the foregoing answer are true and correct to the best of his knowledge, information, and belief.

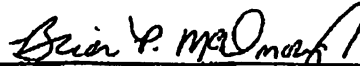


Kenneth P. Horenstein

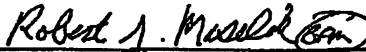
Respectfully Submitted,

**AIG Domestic Claims, Inc. and National Union
Fire Insurance Company of Pittsburgh, PA**

By its attorneys,



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