

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

PENTHOUSE OWNERS ASSOCIATION, INC.

PLAINTIFF

VS.

CASE NO. 1:07CV568 HSO-RHW

CERTAIN UNDERWRITERS AT LLOYD'S, LONDON

DEFENDANTS

AMENDED PRETRIAL ORDER

1. A pretrial conference was held in this matter on the 26<sup>th</sup> day of January, 2011, at 10:30 a.m. at the Courthouse for the District of Mississippi, Southern District, at Gulfport, Mississippi, before the following judicial officer: District Court Judge Halil Ozerden. Subsequently, the Court requested an Amended Pretrial Order following the Parties' respective motions to amend the initial Pretrial Order.

2. The following counsel appeared:

a. For the Plaintiff:

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David McMullan, Jr.	Barrett Law Office 404 Court Square N. Lexington, MS 39095	(662) 834-2376
Gary Yarborough, Jr.	Hesse & Butterworth 841 Highway 90 Bay St. Louis, MS 39520	(228) 466-0020
Thomas Thrash	1101 Garland Street Little Rock, AR 72201	(501) 374-1058
Dewitt Lovelace	The Lovelace Bldg., Ste.200 12870 U.S. Highway 98W Miramar Beach, FL 32550	(850) 837-6020

b. For the Defendants:

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3. The pleadings are amended to conform with this pretrial order.

**OBJECTION:** Defendants object to the pre-trial order which acts to amend the pleadings in violation of Rule 15 of the Federal Rules of Civil Procedure, the Contracts Clause (Article 1, Section 10), and Amendments Five, Eight and Fourteen to the United States Constitution, including creation of claims never asserted by the Plaintiff in this litigation. Defendants do not agree that, under the circumstances, the pleadings can or should be amended to conform with this pre-trial order, nor do Defendants intend to waive any right to seek appellate review by agreeing that the pre-trial order amends the pleadings as set out herein. Defendants further object to the finality of the pre-trial order to the extent of any uncertainty of the issues which are actually to be tried as a result of the Court's ultimate ruling on various motions in limine.

4. The following claims (including claims stated in the complaint), counterclaims, third-party claims, crossclaims, etc. have been filed:

a) Claims stated in the Complaint:

1. Plaintiff's claim against Certain Underwriters at Lloyd's, London for negligence, gross negligence, breach of insurance contract, and bad faith breach of contract.
2. Plaintiff's claim for policy limits for damage to Plaintiff's three insured buildings located at 1515 East Beach Boulevard, Pass Christian, Mississippi 39571, with interest on all amounts due.
3. Plaintiff's claims for compensatory damages, consequential damages, extra-contractual damages, punitive and exemplary damages, attorneys' fees

and expenses, and pre-judgment and post-judgment interest.

b) Claims stated in the Counterclaim: None

As part of Underwriters' Motion for Summary Judgment dated January 9, 2009 [D.E. 268], Underwriters have raised a claim that the Penthouse policy should be voided for misrepresentation and concealment, given the testimony of the plaintiff that the property was intentionally underinsured at an amount significantly less than its purported or alleged value at the time the policy was purchased.

5. The basis for the court's jurisdiction is: Diversity of citizenship and amount in controversy in excess of \$75,000.00
6. The following jurisdictional question(s) remain(s): The Defendants acknowledge diversity of citizenship, but do not acknowledge the amount in controversy exceeds \$75,000.00.
7. The following motions remain pending:
  - a. Certain Underwriters at Lloyd's, London's Motion *in Limine* to Exclude Evidence and Testimony Regarding Individual Units and Interior Finishes, Including the Testimony of Douglas J. McColl, Jr. [D.E. 383];
  - b. Motion *in Limine* to Exclude the Testimony and Report of Plaintiff's Expert R. Ralph Sinno, Ph.D. [D.E. 384];
  - c. Plaintiff's Motion *in Limine* to Exclude any Testimony, Evidence or Argument from Dr. Lee Branscome Regarding the Cause of the Loss to Plaintiff's Insured Residence [D.E. 385]; and
  - d. Plaintiff's Motion *in Limine* to Exclude Evidence, Testimony or Argument that Certain Items of the Penthouse Condominiums are Excluded from Coverage [D.E. 386].
8. The parties accept the following concise summaries of the ultimate facts as claimed by:
  - a. Plaintiff:

1. On August 29, 2005, Hurricane Katrina, a windstorm, caused the direct physical loss of Penthouse Owners Association, Inc.'s (hereinafter "Penthouse") 84 unit condominium complex consisting of three buildings located at 1515 East Beach Boulevard, Pass Christian, Mississippi, 39571.
2. Certain Underwriters at Lloyd's, London (hereinafter "Underwriters") insured Penthouse's said three buildings under Penthouse's insurance policy through Underwriters, Policy Number AL1111 (the "Policy"). Said Policy is an all-risk policy, providing coverage for all direct physical loss or damage caused by a windstorm. Said Policy provided coverage limits as follows: \$16,000 for building number one, \$3,500,000 for building number two, and \$52,000 for building number three, with additional coverage for replacement cost of those buildings.
3. The replacement cost and actual cash value of each of the Plaintiff's three buildings exceeds the total of (1) the coverage limits for those buildings under Plaintiff's policy through Underwriters, and (2) the amount of flood benefits received.
4. At all times after Hurricane Katrina and before July 12, 2006, Underwriters planned to deny Penthouse's insurance claim, regardless of whether Plaintiff was owed coverage benefits under the Policy.
5. After discovering the damage Hurricane Katrina caused to its insured buildings, Penthouse promptly notified Underwriters of the loss and made a claim for Policy limits.
6. On or about September 2, 2005, Underwriters hired Crawford and Company (hereinafter "Crawford") to adjust Penthouse's claim.
7. Derrell Livingston, a Crawford adjuster, was assigned to inspect Penthouse's insured property after Hurricane Katrina. Livingston inspected the Plaintiff's insured property for Underwriters on or about September 5,

2005, and again in October, 2005. Livingston determined during those inspections that Penthouse's insured buildings sustained wind damage from Hurricane Katrina, but he could not determine what damages were caused by wind and what damages were caused by water.

8. On September 21, 2005, Livingston issued to Underwriters his first adjusters's report, stating that wind and water from the windstorm Hurricane Katrina caused damage to Penthouse's property.
9. In October, 2005, Underwriters hired Daniel Picou and his law firm of Larzelere, Picou, Wells, Simpson, and Lonero, LLC.
10. On December 27, 2005, Underwriters hired Rimkus Consulting Group, Inc. (hereinafter "Rimkus") to inspect Penthouse's insured property.
11. In early January, 2006, Rimkus engineer William Worsham inspected the Penthouse property.
12. On January 23, 2006, Derrell Livingston issued to Underwriters his second adjuster's report on the Penthouse property, again noting that wind caused damage to the Penthouse property. Livingston also reiterated his request for an engineer and inquired about the status of an engineer.
13. In late January, 2006, Alex N. Sill, a public adjuster hired by Penthouse, sent to Underwriters on Penthouse's behalf, an estimate of damage to the insured property.
14. In February, 2006, Penthouse provided to Underwriters an engineering report, prepared by MACTEC at the request of Allstate Insurance Company, which found that wind caused the loss of contents to a units of Penthouse's property during Hurricane Katrina. Underwriters ignored the MACTEC report.
15. On February 27, 2006, Derrell Livingston issued to Underwriters his third adjusters's report, again

stating that wind caused damage to Penthouse's insured property.

16. On March 6, 2006, Rimkus issued its engineering report on Penthouse's property. That report found wind damage to Penthouse's property. William Worsham, the author of the report, and Jason Grover, who signed the report, could not determine the amount of damage water caused to Penthouse's property.
17. On March 22, 2006, Derrell Livingston issued his fourth adjuster's report to Underwriters, stating that wind caused damage to Penthouse's insured property and requesting information from Underwriters about its hiring an engineer. Livingston also reported that Penthouse had forwarded to him evidence of payments for wind damage to other properties in the immediate vicinity of the Penthouse Property. Livingston also said, "we cannot stress (sic) the importance of having the engineer complete" his investigation.
18. On April 19, 2006, Derrell Livingston issued his fifth adjuster's report to Underwriters, stating that wind caused damage to Plaintiff's insured property and repeating his request for information about Underwriters' hiring an engineer. Livingston urged Underwriters to act on the claim, stating that otherwise Plaintiff would have no recourse but to file suit.
19. On May 3, 2006, Derrell Livingston issued to Underwriters his sixth adjuster's report, stating that wind caused damage to Penthouse's insured property and again urging Underwriters to reach a decision regarding Penthouse's claims.
20. On June 5, 2006, Derrell Livingston issued to Underwriters his seventh and final adjuster's report, stating that wind caused damage to Penthouse's property, again asking Underwriters for information regarding hiring an engineer, again urging Underwriters to act on Penthouse's claim, and attaching another letter stating that AllState paid a Penthouse tenant's insurance under another engineer's report sent to

AllState stating that "wind not the storm surge, did the damage at the insured location."

21. By letter dated July 12, 2006, Derrell Livingston denied Penthouse's insurance claim. At the time Livingston sent the denial letter, he had no personal knowledge of any reason to deny Plaintiff's claim.
22. Between June 5, 2006 (the date of Livingston's last report, which stated that wind caused damage to Penthouse's property) and the time Livingston issued the denial letter, he obtained no new information regarding Penthouse's claim.
23. Underwriters has paid Penthouse no benefits under its insurance policy.
24. Underwriters deceitfully withheld from Penthouse the March 6, 2006, Rimkus Report and the fact that such a report existed.
25. Penthouse filed suit in this matter on April 24, 2007. After Penthouse filed suit, Underwriters asked Rimkus engineer Jason Grover, who signed the March 6, 2006, Rimkus report, to determine the amount of damage caused by wind and the amount of damage caused by water. Grover discussed the matter with Paul Colman, Grover's superior at Rimkus, and Colman instructed Grover not to undertake the requested work, claiming such would be "speculative." Grover thus did not determine those amounts.
26. Underwriters relied on Livingston to perform its wind and water damage estimates. Underwriters, after Penthouse filed suit, asked Livingston to prepare an estimate of wind damage to Penthouse's property based on the March 6, 2006, Rimkus report. Livingston could not determine, based on the March 6, 2006, Rimkus report, the amount of wind damage or the amount of water damage Penthouse's insured property suffered.
27. Derrell Livingston first saw the March 6, 2006, Rimkus Report in May, 2007. After reviewing the report, he

still could not determine the amount of damage water caused to Penthouse's property.

28. Underwriters has continued to withhold payment from Penthouse even after its experts, Livingston and its experts at Rimkus, informed Underwriters that they were unable to determine the damages caused by wind and the damages caused by water.
29. Underwriters' failure to promptly and adequately adjust Plaintiff's claim, and Underwriters' denial of Plaintiff's claim each separately hindered Plaintiff's ability to obtain financing and to rebuild the property. Plaintiff entered into a contract to rebuild the property, and its contract to rebuild is currently being performed. By failing to pay those benefits to Plaintiff as required, Underwriters waived any requirement that the insured property be rebuilt before replacement cost insurance benefits are owed under the policy.

**OBJECTIONS:** Defendants, Underwriters, do not waive any rights to contest Plaintiff's asserted facts through entry of this pre-trial order.

b. Defendant:

Defendants affirmatively set forth that the policy of insurance at issue speaks for itself and all terms and conditions contained therein are applicable. By referencing portions of the policy within this statement of facts, Underwriters do not intend to waive the application of any term or condition of the insurance contract.

Defendants, Certain Underwriters at Lloyd's, London ("Underwriters") severally subscribed to policy number AL1111, with named insured Penthouse Owners Association, Inc. This policy was in effect on August 29, 2005. This policy applied to covered property as set out in the Declarations (but not the interiors of individual condos) at the Penthouse location with limits of liability of approximately \$3.5 million. By specific exclusion, the policy did not provide coverage for loss or damage caused by water, whether or not driven by wind, and whether or



not any other cause or event contributed concurrently or in any sequence to the loss. The policy further provided for a 5% deductible for damages to covered property caused, directly or indirectly, by windstorm or hail. Additionally, the Windstorm or Hail Deductible specifically stated that no payment for loss or damage would be made until the amount of loss or damage exceeds the applicable Deductible.

The Penthouse property was destroyed during Hurricane Katrina on August 29, 2005. The Plaintiff provided notice of a loss to both Underwriters and Audubon Insurance Company, through which the Plaintiff maintained National Flood Insurance Program policies. The flood adjuster calculated the Plaintiff's damage on the basis of total loss due to flooding and the Plaintiff received in excess of \$3.6 million for flood damage (policy limits).

Underwriters, through adjuster Derrell Livingston, investigated the Plaintiff's claim for wind damage. In addition to the adjuster's in-person site investigation, Underwriters hired Rimkus Engineering to perform an on-site investigation into the cause of loss. Underwriters also engaged Dr. Lee Branscome, meteorologist, who provided a report on weather conditions (including time line of weather events) for the Penthouse location on August 29, 2005. Underwriters further obtained additional documentation and information, including claim loss reports from Audubon Insurance on the Plaintiff's flood claim. Ultimately, although there was a possibility the Penthouse had incurred some non-structural damage to roof coverings, Underwriters concluded upon review of all information that the Plaintiff's loss was caused by water via storm surge, and/or by combination of wind and water which was excluded pursuant to the policy's anti-concurrent cause provision. The Plaintiff was advised of this decision through written denial letter dated July 12, 2006.

Underwriters have at all times acted reasonably and the proof will show the cause of destruction of the Penthouse condominiums was water damage, which is excluded from coverage under the policy, both as a sole cause and a concurrent cause. Moreover, there is no proof that any damage that could have been possibly caused by wind (and thus damages for which the Plaintiff has not already recovered from its flood carrier) was sufficient to meet the policy's \$178,000.00 wind deductible. Additionally, Ray Deloteus, the president of Penthouse's Board of Directors at the time of Hurricane Katrina, testified that the Board

intentionally underinsured the property for an amount significantly less than the value that it was believed to have. Assuming this to be true, the policy was issued based on Penthouse's material misrepresentations in its application for insurance and concealment of the true value of the property. In fact, had Underwriters known the true value, they would have rejected the risk. Consequently, Underwriters are entitled to rescind and void the policy *ab initio*.

9. a. The following facts are established by the pleadings, stipulation, or by admission:
- 1) The Plaintiff, Penthouse Owners Association, Inc., is a Mississippi corporation.
  - 2) At the time of Hurricane Katrina and when Plaintiff filed its Complaint, Plaintiff was a resident citizen of Mississippi.
  - 3) Hurricane Katrina's eye-wall made landfall on the Mississippi Gulf Coast during the morning of August 29, 2005.
  - 4) On or about September 2, 2005, Underwriters hired Crawford and Company to investigate and adjust Plaintiff's insurance claim.
  - 5) Derrell Livingston issued to Underwriters his September 21, 2005 adjuster's report, Crawford Report #1. Underwriters received that report.
  - 6) On January 6, 2006, William Worsham inspected Plaintiff's property and took photographs.
  - 7) At the time of Hurricane Katrina and when Plaintiff filed its Complaint, plaintiff was a resident citizen of Mississippi.
  - 8) Plaintiff purchased insurance policy through Underwriters, Policy Number AL1111, for its buildings, a policy that was in effect on the date

of Hurricane Katrina. The policy provided limits for covered losses as follows: \$16,000 for building number one, \$3,500,000 for building number two, and \$52,000 for building number three.

- 9) Plaintiff's insurance policy contains a 5% windstorm and hail deductible, with a minimum deductible of \$5,000.00.
- 10) The parties are aware of no eyewitnesses to the destruction of Plaintiff's insured buildings.
- 11) Plaintiff notified Underwriters of its loss after Hurricane Katrina on September 2 or September 3, 2005.
- 12) On December 27, 2005, Underwriters hired Rimkus.
- 13) Derrell Livingston issued to Underwriters his January 23, 2006 adjuster's report, Crawford Report #2. Underwriters received that report.
- 14) Derrell Livingston issued to Underwriters his February 27, 2006 adjuster's report, Crawford Report #3. Underwriters received that report.
- 15) On March 6, 2006, Rimkus issued a report to Underwriters. Underwriters received that report.
- 16) Derrell Livingston issued to Underwriters his March 22, 2006 adjuster's report, Crawford Report #4. Underwriters received that report.
- 17) Derrell Livingston issued to Underwriters his April 19, 2006 adjuster's report, Crawford #5. Underwriters received that report.

- 18) Derrell Livingston issued to Underwriters his May 3, 2006 adjuster's report, Crawford #6. Underwriters received that report.
- 19) Derrell Livingston issued to Underwriters his June 5, 2006 adjuster's report, Crawford #7. Underwriters received that report.
- 20) Underwriters denied Plaintiff's insurance claim on July 12, 2006.
- 21) At the time Derrell Livingston sent the denial letter he had not received or seen the March 6, 2006 Rimkus report.
- 22) Underwriters has made no payments to Plaintiff under its insurance policy.
- 23) Plaintiff has received \$3,611,000.00 under its flood insurance policy from the National Flood Insurance Program.
- 24) Plaintiff filed suit on April 24, 2007.

b. The contested issues of fact are as follows:

Plaintiff's contested issues of fact:

- 1) The amount of actual damages Penthouse is entitled to recover.
- 2) Whether Underwriters' denial of Penthouse's claim was negligence or gross negligence constituting an independent tort.
- 3) Whether Underwriters fully, adequately and promptly adjusted Penthouse's claim.

- 4) Whether Penthouse is entitled to recover extra-contractual damages, its attorney's fees, interest, costs, punitive damages and other consequential damages.
- 5) Whether Underwriters negligently, willfully, through gross negligence and/or with reckless disregard for Penthouse's rights, failed to pay Penthouse insurance benefits.
- 6) Whether Underwriters had an arguable basis for denying Penthouse's insurance claim.
- 7) Whether Underwriters negligently, willfully, grossly negligently, and/or with reckless disregard for Penthouse's rights, failed to inform Penthouse of all facts relating to its adjusting and investigation of the claim.
- 8) Whether Underwriters acted negligently, willfully, grossly negligently, and/or with reckless disregard for Penthouse's rights by not paying Penthouse's insurance claim after receiving the MACTEC report.
- 9) Whether Underwriters negligently, willfully, grossly negligently, and/or with reckless disregard for Penthouse's rights failed to further investigate Penthouse's insurance claim after receiving the MACTEC report.
- 10) Whether Underwriters acted negligently, willfully, grossly negligently, and/or with reckless disregard for Penthouse's rights by withholding payment from Penthouse after receiving each of Derrell Livingston's Crawford reports.
- 11) Whether Underwriters acted negligently, willfully, grossly negligently, and/or with reckless disregard for Penthouse's rights by withholding the March 6, 2006, Rimkus report from Derrell Livingston until May, 2007.

- 12) Whether Underwriters acted negligently, willfully, grossly negligently, and/or with reckless disregard for Penthouse's rights by waiting until after denial to further investigate the cause of Penthouse's loss.
- 13) Whether Underwriters concealed the March 6, 2006, Rimkus report from Penthouse.
- 14) Whether Underwriters acted negligently, willfully, grossly negligently, and/or with reckless disregard for Penthouse's rights by withholding payment after Rimkus' engineers told Underwriters, after Penthouse filed this action, that the engineers could not determine the damage caused by wind and the damage caused by water.
- 15) Whether Underwriters negligently, willfully, grossly negligently, and/or with reckless disregard for Penthouse's rights disregarded its duty to deal fairly and to act in good faith with Penthouse.
- 16) Whether Underwriters negligently, willfully, intentionally, grossly negligently, and/or with reckless disregard, and/or with malice, breached its duty to deal fairly and to act in good faith with Penthouse.
- 17) Whether Penthouse is entitled to replacement cost for its losses.
- 18) Whether or not Underwriters' failure to pay Plaintiff's claim interfered with, hindered or delayed Plaintiff's ability to replace its insured property.
- 19) Whether or not Underwriters waived any requirement that the insured property be rebuilt prior to replacement cost benefits being owed under the policy.

- 20) Whether or not Underwriters breached their insurance contract with Plaintiff by failing to disclose their intention regarding payment under the policy within thirty days of the submission of Plaintiff's claim.

**OBJECTION:**

Without waiver of any objection previously entered, Defendants generally object to the Plaintiff's designation of contested issues of fact as they do not comport with rulings issued to date by this Court, and many are duplicative. Defendants further object to the extent they appear to be intended for determination during the case in chief. Pursuant to Mississippi Code § 11-1-65, issues of "bad faith" and punitive damages may not be introduced during the compensatory damages phase of trial. For these reasons, the Plaintiff's contested issues of fact, as currently set out, should not be presented in a document which may be provided to a jury.

Defendants' contested issues of fact:

- 1) Whether the damage alleged to the property was caused by wind or water, and if both, the amount of damages attributable to each.
- 2) The actual cash value of the damages to the property at the time of the loss caused exclusively by wind, if any.
- 3) The actual cash value of the damages to the property at the time of the loss that were caused concurrently by flood and wind.
- 4) The actual cash value of the damages to the property at the time of the loss caused exclusively by flood.
- 5) The actual cash value of the Penthouse property on August 29, 2005.

- 6) Whether Underwriters' claim decision was correct.
- 7) The actual cash value of the damages at the time of the loss, if any, the Plaintiff is entitled to claim.
- 8) Whether Underwriters had a legitimate and reasonable basis for the decision on Plaintiff's claim.
- 9) Whether Underwriters' investigation and adjustment of the Plaintiff's claim was objectively reasonable.
- 10) Whether the Plaintiff has fulfilled its contractual duty of good faith to the carrier.
- 11) Whether the actual cash value of the alleged loss by wind exceeds the applicable deductible.
- 12) Whether Penthouse intentionally misrepresented the value of the insured property when purchasing the policy.
- 13) Whether the policy should be voided or the claim denied for misrepresentation or concealment.
- 14) To the extent the issues listed above include mixed questions of law and fact, they are included here.

c. The contested issues of law are as follows:

Plaintiff's contested issues of law:

- 1) Whether Underwriters' actions amount to negligence, gross negligence, breach of contract, and/or bad faith breach of contract.



- 2) Whether Penthouse is entitled to replacement cost for its losses.
- 3) Whether Underwriters' failure to promptly investigate and/or failure to pay Plaintiff's insurance claim excuses any Policy requirement that the repair or replacement be completed before Plaintiff can receive replacement cost benefits.
- 4) Whether Penthouse is entitled to attorney's fees and costs for being forced to bring suit. The amount of attorney's fees and interest should be decided by the Court in a separate hearing following trial.
- 5) Those issues inherent in the above statement of contested issues of fact and in Penthouse's Complaint.

Defendants' contested issues of law:

- 1) Application of the anti-concurrent cause clause.
- 2) Application of the "other insurance" clause.
- 3) Application of the policy's co-insurance requirement.
- 4) Application of the windstorm or hail deductible to the Plaintiff's claim.
- 5) Evidentiary effect of exhibits and otherwise due to bifurcation of proceedings.
- 6) The standard of proof required of Plaintiff for its various claims.
- 7) Whether Plaintiff has fulfilled its duty of good faith to the carrier.

- 8) Effect of Plaintiff's acceptance of flood insurance proceeds.
- 9) Whether Underwriters had a legitimate and arguable basis for its coverage decision.
- 10) Whether Underwriters' investigation and adjustment of the Plaintiff's claim was reasonable.
- 11) What category of damages, e.g., attorney's fees, interest, etc., the Plaintiff is entitled to seek, if any.
- 12) Whether the requirement of Mississippi Code § 11-1-65 for imposition of punitive damages on Plaintiff's claim of gross negligence have been met.
- 13) Whether Underwriters' substantive rights, including but not limited to, those rights conferred by Article I, Section 10, the Fifth, Eighth and Fourteenth Amendments to the United States Constitution would be abridged by imposition of punitive damages in this case.
- 14) Whether the Plaintiff is bound by the statement of values it provided to Underwriters in its application for insurance.
- 15) Whether the Plaintiff is bound by the statement of values it provided to NFIP in its application for insurance.
- 16) Whether evidence of bids after storms are admissible or relevant to ACV at time of storm.
- 17) Whether Penthouse intentionally misrepresented the value of the insured property when purchasing the policy.

- 18) Whether the policy should be voided or the claim denied for misrepresentation or concealment.
  - 19) Legal issues raised by pending motions and motions subsequently filed, including:
    - a. Whether evidence regarding individual condominium units and their interiors, including the testimony of Plaintiff's expert Douglas J. McColl, Jr., is admissible;
    - b. Whether the testimony and report of Plaintiff's expert R. Ralph Sinno, Ph.D., is admissible; and
    - c. Whether testimony, evidence or argument from Dr. Lee Branscome regarding the cause of the loss to Plaintiff's insured residence is admissible.
  - 20) Whether the Penthouse policy is subject to rescission for material misrepresentations regarding the value of the property.
  - 21) Application of *United Services Auto. Ass'n (USSA) v. Lisanby*, 47 So. 3d 1172 (Miss. 2010), to the facts of the case.
  - 22) To the extent the issues listed above include mixed questions of law and fact, they are included here.
10. The following is a list and brief description of all exhibits (except exhibits to be used for impeachment only) to be offered in evidence by the respective parties. Each exhibit has been marked for identification and examined by counsel.

a. To Be Offered By the Plaintiff:

P-1 Plaintiff's Underwriters Insurance Policy

P-2 Crawford Report #1

P-3 Crawford Report # 1 Stamped "RECEIVED"

P-4 December 27, 2005 Letter from Malise Dennard to Rimkus

P-5 Crawford Report #2

P-6 Crawford Report #3

P-7 Crawford Report #4

P-8 Crawford Report #5

P-9 Crawford Report #6

P-10 Crawford Report #7

P-11 MACTEC Report

P-12 March 6, 2006, Rimkus Report

P-13 March 6, 2006, Rimkus Report Signed by William Worsham

P-14 July 12, 2006, Denial Letter

P-15 Time Magazine Photograph of Penthouse Property Following Hurricane Katrina

- P-16 Photographs of Penthouse property taken by Ray Deloteus after Hurricane Katrina
- P-17 9/1/05 Email from Pat Saylor to Derrell Livingston with Attachments
- P-18 Derrell Livingston's Handwritten Notes Regarding the Penthouse Property
- P-19 9/27/05 Email Thread from James Schultz to Derrell Livingston with attachment
- P-20 9/28/05 Email from Richard Lafayette to Derrell Livingston with attachment
- P-21 10/3/05 Email from James Schultz to Derrell Livingston
- P-22 10/13/05 Email from Mr. Effer to Ms. Healings
- P-23 11/5/05 Letter from Derrell Livingston to Ms. Golden
- P-24 3/2/06 Email from James Schultz to Derrell Livingston
- P-25 Rimkus Consulting Group, Inc.'s Job Assignment
- P-26 12/09/05 Email from Mr. Refka to Derrell Livingston
- P-27 3/13/06 Email from Derrell Livingston to Ms. Totten
- P-28 3/31/06 Email from Mr. Barnes to Mr. Effer and Derrell Livingston
- P-29 Email String with Attached Crawford Report #6

- P-30 Email String Regarding Conference Call
- P-31 Derrell Livingston's June 8, 2006 and March 9, 2006, Postage Receipts
- P-32 June 12, 2006, Email String between Mr. Refka to Derrell Livingston
- P-33 July 18, 2006, Email String amongst Jeff Latham, Dan Picou and Derrell Livingston
- P-34 July 18 Email String between Derrell Livingston and Jeff Latham with attachment
- P-35 Crawford Letter Regarding Lloyd's Nonpayment
- P-36 Crawford Day Cards produced by Derrell Livingston
- P-37 10/30/07 Rimkus Report
- P-38 3/7/08 Letter from The Ward Law Firm to Ms. McAlister and Mr. Yarborough
- P-39 Rimkus Consulting Group Job Assignment 5222237 Received on 1/10/2006
- P-40 Rimkus Consulting Group Job Assignment 5222237 Received on 2/6/2006
- P-41 2/6/06 Fax from Mary Dennard to Gary Bell
- P-42 1/15/06 Letter from Gary Bell to Mary Dennard
- P-43 Rimkus Statement for Professional Services Rendered
- P-44 Email String Between Mr. Colman and Mr. Worsham

P-45 10/11/07 Email from Paul Colman to Jason Grover

P-46 10/29/07 Email from Mr. Worsham to Mr. Grover

P-47 10/30/07 Email from Mr. Worsham to Mr. Colman

P-48 11/8/07 Email from Mr. Colman to Mr. Worsham

P-49 "Evaluating Wind v. Water" Document

P-50 Draft of Rimkus Report

P-51 Draft Document Related to Hooters Restaurant

P-52 Rimkus Template Re: File No. 5220335

P-53 10/16/07 Email among William Worsham, Paul Colman  
and Jason Grover with attached "Basis of Report"

P-54 Edits to Rimkus Supplemental Report

P-55 Dr. Sinno Report

P-56 DHL Shipping Slip

P-57 Photographs attached as Exhibit "6" to William  
Worsham Deposition

P-58 March 2, 2006 Email String between Ms. Garner and  
Malcolm Craig

P-59 May 5, 2006 Email String between Mr. Effer, Mr.  
Livingston and Richard Lafayette

P-60 1/27/06 Letter from Alex N. Sill to Derrell  
Livingston

- P-61 12/19/06 Email Thread between James Schultz, Derrell Livingston and Susan Healings
- P-62 1/10/06 Email Thread between James Schultz, Derrell Livingston and Susan Healings
- P-63 May 15, 2006 Facsimile from Martin Refka to Derrell Livingston and Ray Deloteus
- P-64 2/27/06 Email Thread including Email from Derrell Livingston
- P-65 March 2, 2006 Email Thread amongst Terresa Garner, James Schultz, Malcolm Craig, Graham Avery, Peter Thomas, and Malise Dennard
- P-66 Property Loss Notice
- P-67 Press Release
- P-68 File Notes
- P-69 10/6/2005 Email Derrell Livingston to Susan Healings, Anthony Effer, and Mr. Lossie
- P-70 Mississippi Insurance Bulletin, Bulletin No.2005-6
- P-71 Alex N. Sill Report
- P-72 1/15/2006 Letter Gary Bell to Ms. Mary Dennard
- P-73 2/27/06 Email Gary Bell to Bill Worsham
- P-74 3/15/06 Letter from Martin J. Refka to Derrell Livingston
- P-75 10/18/07 Email Paul Colman and Bill Worsham



P-76 Rimkus Invoices and Billings

P-77 10/30/07 Email Thread among William Worsham, Jason Grover and Paul Colman

P-78 Mundy Contract

P-79 Restoration, Inc. Bid to Rebuild Penthouse Property

P-80 Martin Winfree's Expert Report

P-81 Withdrawn

P-82 Withdrawn

P-83 Martin Winfree's curriculum vitae

P-84 Douglas J. McColl's Expert Report

P-85 Documents relied upon by Douglas J. McColl

P-86 Estimate performed by Douglas McColl

P-87 Douglas McColl's curriculum vitae

P-88.1 Lloyd's Claim File Regarding the Penthouse property, the Crawford File (Bates Numbers 00156 through 01397)

P-88.2 Lloyd's Claim File Regarding the Penthouse property, the Dennis Clayton file (Bates Numbers 00001 through 01030)

P-88.3 Lloyd's Claim File Regarding the Penthouse Property, the Gresham file (Bates Numbers 00001 through 00874)

P-89 10/23/2005, Board Meeting

P-90 10/24/2005 Notice to Insurance Company

P-91 1/23/2006, COMPUWEATHER - Estimated Maximum  
Potential Storm Surge v. Maximum Sustained  
WindSpeed & 3-Second Wind Gust - Chart

P-92 2/11/2006 Board Meeting

P-93 Notice of Determination

P-94 2/27/2006 Email from Bill Worsham to Gary Bell

P-95 3/2/2006 Rimkus - File Memo

P-96 3/3/2006 Rimkus File Folder - MS Penthouse Owners

P-97 3/3/2006 Email from Bill Worsham to Heidi Tenorio  
and Jason Grover

P-98 4/2/2006 Board Meeting

P-99 3/1/2008 Email from Marty Refka to Derrell  
Livingston

P-100 7/6/2006 Email from Bill Worsham to Gary Bell

P-101 7/7/2006 Email from Jason Grover to Bill Worsham

P-102 7/20/2006 Email from Joan Young to Ralph S.  
Allsopp

P-103 7/20/2006 Email from Ralph S. Allsopp to Joan  
Young

- P-104 7/23/2006 Board Meeting
- P-105 7/26/2006 Board Meeting
- P-106 8/6/2006 Board Meeting
- P-107 9/7/2006 Board Meeting
- P-108 10/24/2006 Board Meeting
- P-109 8/18/2007 Penthouse - Annual Meeting
- P-110 10/16/2007 Email from Paul Colman to Bill Worsham  
and Jason Grover
- P-111 10/29/2007 Rimkus DRAFT Report to Mary K. Dennard
- P-112 10/29/2007 Email from Paul Colman to Jason Grover  
and Bill Worsham
- P-113 10/30/2007 Email from Bill Worsham to Paul Colman  
- RE: Supplemental Report
- P-114 Compton Engineering Bid Package to Rebuild the  
Penthouse Property
- P-115 Penthouse Blueprints
- P-116 Pre-storm photos of Penthouse
- P-117 Defendants' reports and accounting
- P-118 Douglas J. McColl's Report
- P-118-a Douglas J. McColl's Supplemental Report part 1

P-118-b Douglas J. McColl's Supplemental Report part 2

P-119 Mississippi Insurance Department Suspension of  
Deadline for Notification of Intent to Repair and  
Suspension of Deadline to Repair.

P-120 Statement of Plaintiff's Attorneys' Fees And  
Expenses

P-121 Withdrawn

P-122 Dr. Ralph Sinno curriculum vitae

P-123 Dr. Keith Blackwell curriculum vitae

P-124 Dr. Aaron Williams curriculum vitae

P-125 Don Baker curriculum vitae

P-126 Dr. Keith Blackwell's Report and documents  
related thereto

Plaintiff reserves the right to introduce into evidence any exhibits listed by any Defendant. Further, Penthouse reserves the right to introduce into evidence any documents submitted by Defendant after the submission of this exhibit list, and other documents compelled to be produced by Defendant.

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity and/or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specified grounds(s) for the objections.

Defendants' objections to Plaintiff's Exhibits:

Defendants generally object to the Plaintiff's designation of Exhibits to the extent they appear to be intended for use during the case in chief. Pursuant to Mississippi Code Annotated

§ 11-1-65, evidence toward "bad faith" and punitive damages may not be introduced during the compensatory damages phase of trial.

- P-2: Underwriters object to this exhibit on the grounds and to the extent that it contains reserves information. This Court granted Underwriters' Motion in Limine to exclude evidence, argument or testimony regarding reserves. [D.E. 193]. Underwriters further object on the grounds that the report constitutes hearsay to which no exception applies under F.R.E. 802 and 803, the document itself is irrelevant to the issue of the existence of coverage as the adjuster had no authority to make coverage determinations and it is inadmissible pursuant to F.R.E. 401, 402 and 403.
- P-3: Underwriters object to this exhibit on the grounds that it contains reserves information. This Court granted Underwriters' Motion in Limine to exclude evidence, argument or testimony regarding reserves. [D.E. 193]. Underwriters further object on the grounds that the report constitutes hearsay to which no exception applies, the document itself is irrelevant to the issue of the existence of coverage as the adjuster had no authority to make coverage determinations and it is inadmissible pursuant to F.R.E. 401, 402, 403, 802 and 803. Underwriters further object that it is irrelevant and cumulative as Underwriters have stipulated the report was received.
- P-4: Underwriters object to this exhibit on the ground that it is wholly irrelevant to whether or not coverage exists under the subject policy for the Plaintiff's claim and is therefore inadmissible pursuant to F.R.E. 401 and 402. It further constitutes hearsay under F.R.E. 802 and 803 to which no exception applies. The document also creates the substantial likelihood of jury confusion, unnecessary delay and undue prejudice as Rimkus is not a party to this action and the Plaintiff lacks standing to complain of any wrongdoing Underwriters allegedly committed toward Rimkus. Underwriters is willing to withdraw its objection to this exhibit, provided the Plaintiff

also admits as an exhibit the letter from Malise Dennard to Rimkus Consulting dated February 6, 2006. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-5: Underwriters object to this exhibit on the grounds and to the extent that it contains reserves information. This Court granted Underwriters' Motion in Limine to exclude evidence, argument or testimony regarding reserves. [D.E.193]. Underwriters further object on the grounds that the report constitutes hearsay to which no exception applies under F.R.E. 802 and 803, the document itself is irrelevant to the issue of the existence of coverage as the adjuster had no authority to make coverage determinations and it is inadmissible pursuant to F.R.E. 401, 402 and 403.

P-6: Underwriters object to this exhibit on the grounds and to the extent that it contains reserves information. This Court granted Underwriters' Motion in Limine to exclude evidence, argument or testimony regarding reserves. [D.E. 193]. Underwriters further object on the grounds that the report constitutes hearsay to which no exception applies under F.R.E. 802 and 803, the document itself is irrelevant to the issue of the existence of coverage as the adjuster had no authority to make coverage determinations and it is inadmissible pursuant to F.R.E. 401, 402 and 403.

P-7: Underwriters object to this exhibit on the grounds and to the extent that it contains reserves information. This Court granted Underwriters' Motion in Limine to exclude evidence, argument or testimony regarding reserves. [D.E. 193]. Underwriters further object on the grounds that the report constitutes hearsay to which no exception applies under F.R.E. 802 and 803, the document itself is irrelevant to the issue of the existence of coverage as the adjuster had no authority to make coverage determinations and it

is inadmissible pursuant to F.R.E. 401, 402 and 403.

P-8: Underwriters object to this exhibit on the grounds and to the extent that it contains reserves information. This Court granted Underwriters' Motion in Limine to exclude evidence, argument or testimony regarding reserves. [D.E. 193]. Underwriters further object on the grounds that the report constitutes hearsay to which no exception applies under F.R.E. 802 and 803, the document itself is irrelevant to the issue of the existence of coverage as the adjuster had no authority to make coverage determinations and it is inadmissible pursuant to F.R.E. 401, 402 and 403.

P-9: Underwriters object to this exhibit on the grounds and to the extent that it contains reserves information. This Court granted Underwriters' Motion in Limine to exclude evidence, argument or testimony regarding reserves. [D.E. 193]. Underwriters further object on the grounds that the report constitutes hearsay to which no exception applies under F.R.E. 802 and 803, the document itself is irrelevant to the issue of the existence of coverage as the adjuster had no authority to make coverage determinations and it is inadmissible pursuant to F.R.E. 401, 402 and 403.

P-10: Underwriters object to this exhibit on the grounds and to the extent that it contains reserves information. This Court granted Underwriters' Motion in Limine to exclude evidence, argument or testimony regarding reserves. [D.E. 193]. Further, an attachment to that exhibit contains a statement forwarded by the Plaintiff's public adjuster which purports to contain expert conclusions regarding weather conditions, engineering conclusions and similar matters. Neither the author of the statement nor the individuals quoted in the statement have been designated or qualified as experts in this cause, the report has never been subjected to *Daubert* scrutiny to determine relevance or reliability and

the admission of it, either singularly or as an attachment to this exhibit would cause confusion, waste of time and substantial undue prejudice to Underwriters. F.R.E. 403.

Further still, another attachment includes a statement from the Plaintiff's public adjuster regarding payment of an unrelated claim by an entirely different insurer. This is clearly irrelevant to the claim at issue, will confuse the jury and unduly prejudice Underwriters and has no evidentiary value tending to make a fact of consequence in this case more likely than not. F.R.E. 401, 402 and 403.

P-11: Underwriters object to this exhibit as it constitutes inadmissible hearsay, without any applicable exception thereto, and the Plaintiff clearly intends to offer it for the truth of its content. F.R.E. 802 and 803. The report further constitutes expert conclusions for which none of the authors have been designated or qualified as experts and which has never been subject to *Daubert* scrutiny to determine whether it meets the requirements for admissibility of expert opinions. In addition, the MACTEC Report is unduly prejudicial (inasmuch as it has never been subject to *Daubert* scrutiny and has no sponsoring expert witness), was not prepared for the Plaintiff's claim, nor this litigation, and is therefore inadmissible pursuant to F.R.E. 403.

P-12: Underwriters further object on the grounds that the report constitutes hearsay to which no exception applies under F.R.E. 802 and 803, the document itself is irrelevant to the issue of the existence of coverage as the adjuster had no authority to make coverage determinations and it is inadmissible pursuant to F.R.E. 401, 402 and 403. Further duplication of P-13, to which no objection is being made.

P-15: Underwriters object to this exhibit on the ground and to the extent that the photograph which appeared in Time Magazine contains wording which



can be construed as improper conclusions, i.e., the photograph is captioned "Blown Away." Time Magazine further identified the property as being in Long Beach, Mississippi. Generally, Underwriters do not object to use of the photograph if the plaintiff redacts any and all writing on, around, or adjacent to the photograph itself, only the photograph itself is offered and if the Plaintiff is prohibited from arguing or providing any argument or evidence, testimonial or otherwise, that the photograph appeared and/or originated in Time Magazine. The contents of the photograph are arguably relevant but reference to its appearance in Time is irrelevant and prejudicial. F.R.E. 401, 402, and 403.

P-16: Underwriters object to this exhibit on the ground and to the extent that the exhibit is insufficiently identified. Underwriters did receive photographs purportedly taken by Mr. DeLoteus. However, the photographs which have been produced were taken on a particular date. Underwriters are without sufficient information to determine if the photographs referenced by this exhibit are the same photographs which have been produced. Until such time as the photographs are sufficiently identified, Underwriters are without sufficient information to make specific objections and therefore object to the exhibit in its entirety.

P-17: Underwriters object to this exhibit on the ground that it is irrelevant to any issue in controversy in this cause. F.R.E. 401 and 402. Mr. Livingston testified at his deposition that the email was an administrative notice to him from within Crawford & Company of the notice of loss. Underwriters have stipulated Crawford & Company was hired to adjust the loss. The email is unnecessary, cumulative and irrelevant. Underwriters further object on the ground that the exhibit constitutes hearsay to which no exception applies. F.R.E. 802 and 803.

Further, the email in question does not appear to have had any attachments to it. What the

Plaintiff attached as collective exhibit "4" to Mr. Livingston's deposition (and which Plaintiff is presumably calling an attachment here) were "attached" by Plaintiff's counsel during the deposition because they were "subsequent to this e-mail in [Livingston's] file," not by Mr. Livingston or the author of the email.

- P-18: Underwriters object to this exhibit on the ground that it is irrelevant to any issue in controversy in this cause. The handwritten notes are unnecessary and irrelevant. F.R.E. 401 and 402. Underwriters further object on the ground that the exhibit constitutes hearsay to which no exception applies. F.R.E. 802 and 803.
- P-19: Underwriters object to this exhibit on the grounds that it constitutes hearsay to which no exception applies, it is irrelevant and likely to cause confusion as there is no evidence the Plaintiff ever received the draft reservation of rights letter attached to the email. F.R.E. 401, 402, 802, and 803.
- P-20: Underwriters object to this exhibit on the grounds that it constitutes hearsay to which no exception applies, it is irrelevant and likely to cause confusion as there is no evidence the Plaintiff ever received the draft reservation of rights letter attached to the email. F.R.E. 401, 402, 403, 802, and 803.
- P-21: Underwriters object to this exhibit on the grounds that it is irrelevant, constitutes hearsay to which no exception applies and is cumulative and unnecessary as Underwriters have stipulated it received Crawford's first report to which the email refers as having been sent. F.R.E. 401, 402, 802, and 803.
- P-22: Underwriters object to this exhibit on the grounds that it constitutes hearsay to which no exception applies, neither the author nor the named recipient have ever been identified by the

Plaintiff as witnesses in this case, and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803.

P-23: Underwriters object to this exhibit to the extent it is misidentified as an email.

P-24: Underwriters have no objection to this exhibit to the extent it is limited to the electronic mail designated by the Plaintiff, not other electronic mail to and between any person other than Mr. Schultz and Mr. Livingston.

P-25: Underwriters object to this exhibit on the grounds that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-26: Underwriters object to this exhibit on the grounds that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803.

P-27: Underwriters object to this exhibit on the grounds that it contains reserves information, which this Court has already ruled inadmissible. [D.E. 193]. Underwriters further object on the grounds that it constitutes hearsay to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803.

- P-28: Underwriters object to this exhibit on the grounds that it constitutes hearsay to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803.
- P-29: Underwriters object to this exhibit on the grounds that it constitutes hearsay (including double hearsay) to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803.
- P-30: Underwriters object to this exhibit on the grounds that it constitutes hearsay (including double hearsay) to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803.
- P-31: Underwriters object to this exhibit on the grounds that it is irrelevant to any issue in controversy in this cause. Further, there is no correlation between any specific document and the mail receipts. This exhibit will confuse the jury and create improper speculation. F.R.E. 401, 402, and 403.
- P-32: Underwriters object to this exhibit on the grounds that it constitutes hearsay (including double hearsay) to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803.
- P-33: Underwriters object to this exhibit on the grounds that it constitutes hearsay (including double hearsay) to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803. Further, the email includes demonstrably false statements by one of the authors, Jeff Latham, wherein he stated the Plaintiff "has had to take out a loan from the

U.S. Small Business Administration to undertake repair/replacement of the completely destroyed location..." Plaintiff's agent, Becky Williams, testified at deposition that Penthouse had not taken out an SBA loan and this Court has already taken judicial notice that the property had not been repaired or replaced. Underwriters submits the proposed exhibit is incompetent and should not be admitted. Further, contents of the email constitute lay opinions, in addition to hearsay, which do not meet the admissibility requirements of F.R.E. 701.

- P-34: This exhibit is merely a truncated version of P-33. As such, Underwriters adopt and incorporate here its objections as set forth for Exhibit 9-33. Additionally, Underwriters object to the exhibit on the ground that it is cumulative.
- P-35: Underwriters object to this exhibit on the grounds that it is not a letter of "nonpayment," but merely a cover letter for an invoice. There is no reference whatsoever to "nonpayment" by Underwriters or any other person or entity. The proposed exhibit is not, therefore, what the Plaintiff asserts it to be. Additionally, the document constitutes hearsay to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803. Further, if the document were as described by Plaintiff, it would also constitute improper character opinion, offered solely for the purpose of establishing (by innuendo) that Underwriters acted in conformity therewith on a particular occasion. Such evidence is inadmissible. F.R.E. 404.
- P-36: Underwriters object to this exhibit on the grounds that it constitutes hearsay (including double hearsay) to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803. Additionally, contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

- P-38: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, and both this Court and the District Court for the Western District of Texas have previously refused to compel production and/or disclosure of the information and documents sought by the subpoena duces tecum to Rimkus referenced in this exhibit. F.R.E. 802 and 803. Referring to the subpoena before the jury, and Rimkus' objections thereto, is intended to create the improper impression in the mind of the jury that documents and/or information have been withheld, an impression that is both incorrect and impermissible. Rimkus is not even a party to this action. This exhibit therefore is irrelevant, calculated to create confusion and undue prejudice without any probative value and should not be admitted. F.R.E. 401, 402, and 403.
- P-39: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.
- P-40: Underwriters object to this exhibit on the grounds that it is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402 and 403. It further constitutes hearsay under F.R.E. 802 and 803 to which no exception applies. Also, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.
- P-42: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception

applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803.

P-43: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-44: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-45: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-46: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in

controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-47: Underwriters object to this exhibit to the extent it contains reference to the MACTEC report to which Underwriters also objects as inadmissible expert testimony (see Exhibit P-11 above) and Dr. Ralph Sinno's report, as Underwriters have filed a motion to strike and exclude Dr. Sinno's testimony. [D.E.384]. Underwriters further object on the grounds of hearsay to which no exception applies, and the exhibit will cause confusions and undue delay and waste of time. F.R.E. 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-48: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-50: Underwriters object to this exhibit on the grounds that the Court has granted the motion in limine to exclude evidence regarding other properties investigated by Rimkus. [D.E. 193]. The exhibit is erroneously labeled a "draft" report, however it is not; it is completely unrelated to investigation of the Penthouse site and therefore falls within the exclusionary grant of the motion in limine. [D.E. 193]. Additionally, it contains hearsay to which no exception applies and will



cause confusion in the mind of the jury and undue prejudice to Underwriters. F.R.E. 401, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-51: Underwriters object to this exhibit on the grounds that the Court has granted the motion in limine to exclude evidence regarding other properties investigated by Rimkus. [D.E. 193]. The exhibit is erroneously labeled a "draft" report, however it is not; it is completely unrelated to investigation of the Penthouse site and therefore falls within the exclusionary grant of the motion in limine. Additionally, it contains hearsay to which no exception applies and will cause confusion in the mind of the jury and undue prejudice to Underwriters. F.R.E. 401, 403, 802, and 803.

P-52: Underwriters object to this exhibit on the grounds that the Court has granted the motion in limine to exclude evidence regarding other properties investigated by Rimkus. [D.E. 193]. The exhibit is completely unrelated to investigation of the Penthouse site and therefore falls within the exclusionary grant of the motion in limine. Additionally, it contains hearsay to which no exception applies and will cause confusion in the mind of the jury and undue prejudice to Underwriters. F.R.E. 401, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-53: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information

arguably protected by attorney-client privilege and/or the work-product doctrine.

P-54: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-55: Underwriters object to this exhibit on the ground that the report is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Underwriters have filed a motion to strike and exclude Dr. Sinno's report, as it lacks any factual or scientific foundation whatsoever. [D.E. 384]. This Court has ruled the Plaintiff is prohibited from arguing or putting forth any evidence that the Penthouse property was destroyed solely by wind, which is the conclusion of Dr. Sinno's report and is therefore excluded by prior order. [D.E. 193]. Additionally, it constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission (particularly since its conclusions have already been excluded) pursuant to F.R.E. 401, 402, 403, 802, and 803. Underwriters also object to this exhibit because it was generated for litigation purposes as disclosure of this witness's opinions, and it is cumulative to the testimony of this witness. It further constitutes hearsay for which there is no exception.

P-56: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters

would be unduly prejudiced by its admission.  
F.R.E. 401, 402, 403, 802, and 803.

- P-58: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission.  
F.R.E. 401, 402, 403, 802, and 803.
- P-59: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission.  
F.R.E. 401, 402, 403, 802, and 803.
- P-60: Underwriters object to this exhibit on the ground that it relates to a claim for replacement cost coverage, which this court has already ruled the Plaintiff is not entitled to claim. [D.E. 193, 202, 210, 213, 255]. Any reference to replacement cost is irrelevant, will necessarily cause confusion and undue prejudice. F.R.E. 401, 402, and 403. The exhibit also constitutes hearsay to which no exception applies. F.R.E. 802 and 803.
- P-61: Underwriters object to this exhibit on the ground that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission.  
F.R.E. 401, 402, 403, 802, and 803.
- P-62: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission.  
F.R.E. 401, 402, 403, 802, and 803.

- P-63: Underwriters object to this exhibit on the grounds that it is irrelevant to any issue in controversy in this cause, contains hearsay to which no exception applies, contains an unauthenticated document to which no exception applies, it specifically references payments made by other carriers and is intended to create a false impression that Plaintiff's claim should have been paid merely because other, separate claims were paid by other insurers. The exhibit will create confusion, bias and unduly prejudice Underwriters and should be excluded. F.R.E. 401, 402, 403, 802, 803, and 902.
- P-64: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, contains reference to repair or rebuild costs, which this Court has already ruled the plaintiff is not entitled to seek, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803.
- P-65: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, contains reference to repair or rebuild costs, which this Court has already ruled the plaintiff is not entitled to seek, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803.
- P-66: Underwriters object to this exhibit on the ground that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803.

- P-67: Underwriters object to this exhibit on the grounds that it is wholly irrelevant to any issue in controversy in this cause and calculated to create bias and prejudice by implying to the jury the devastation of Hurricane Katrina is nothing more to Rimkus than a profit-making opportunity. Rimkus is not a party to this litigation and such inferences are both highly inflammatory and highly prejudicial to Underwriters, who are parties to this litigation. F.R.E. 401, 402, and 403.
- P-68: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is irrelevant to any issue in controversy in this cause, and is intended to create improper bias on the part of the jury. F.R.E. 401, 402, 403, 802, and 803. Additionally, Underwriters object to this exhibit on the ground and to the extent that the exhibit is insufficiently identified. Until such time as the documents are sufficiently identified, Underwriters are without sufficient information to make specific objections and therefore object to the exhibit in its entirety.
- P-69: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is irrelevant to any issue in controversy in this cause, and is intended to create improper bias on the part of the jury. F.R.E. 401, 402, 403, 802, and 803.
- P-70: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, legal conclusions, and is intended to create improper bias on the part of the jury. F.R.E. 403, 802, and 803. Further, this Court has repeatedly ruled that such bulletins are generally inadmissible in the absence of an affirmative defense based thereon by the insurer or contradictory behavior by the insurer, neither of which has been alleged (nor is there evidence to support) in this litigation.

- P-71: Underwriters object to this exhibit on the grounds that it is an estimate of replacement cost which this court has previously ruled the Plaintiff is not entitled to seek. [D.E. 193, 202, 210, 213, 255]. Additionally, the estimate includes many items which were not covered by the applicable policy, nor did either party contemplate that such was covered, including the interiors of the condominiums. Underwriters have moved the Court *in limine* to exclude evidence of damage to individual units and interior finishes. [D.E. 383]. Even had the Court not already ruled on replacement cost evidence, this estimate would remain irrelevant, unreliable as expert opinion, and would serve only to cause confusion and unnecessary waste of time. F.R.E. 401, 402, and 403. Additionally, it constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters also object to this exhibit because it was generated for litigation purposes as disclosure of this witness's opinions, and it is cumulative to the testimony of this witness.
- P-72: Underwriters object to this exhibit on the ground that the contents, confirmation of Rimkus engagement to investigate the Penthouse cause of loss, is irrelevant to any issue in controversy in this litigation. Further, the exhibit constitutes hearsay to which no exception applies, will cause unnecessary confusion and waste of time. F.R.E. 401, 402, 403, 802, and 803. Additionally, the exhibit is cumulative.
- P-73: Underwriters object to this exhibit on the ground that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information

arguably protected by attorney-client privilege and/or the work-product doctrine.

- P-74: Underwriters object to this exhibit on the grounds that it contains reference to costs to repair/replace, which this Court has previously ruled the Plaintiff is not entitled to claim. It further constitutes hearsay to which no exception applies, is irrelevant to any genuine issue in controversy in this cause and will create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803.
- P-75: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies, is irrelevant to any issue in controversy in this cause, and is intended to create improper bias on the part of the jury. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.
- P-76: Underwriters object to this exhibit on the grounds that it constitutes hearsay (including double hearsay) to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 802, and 803. Additionally, contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.
- P-77: Underwriters object to this exhibit on the ground that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Underwriters further object to the extent it contains reference to the MACTEC report to which Underwriters also object as inadmissible expert testimony (see

Exhibit P-11 above) and Dr. Ralph Sinno's report, as Underwriters have filed a motion to strike and exclude Dr. Sinno's testimony. [D.E. 384]. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-78: Underwriters object to this exhibit on the grounds that the Court has previously ruled the Plaintiff is not entitled to claim repair/replacement cost damages since the property has neither been repaired nor replaced by the Plaintiff. [D.E. 193, 202, 210, 213, 255]. Underwriters further object on the ground that the contract is misleading inasmuch as the contract price listed in this document is far in excess of the policy limits and the Plaintiff would not, under any circumstances, be entitled to collect that amount under the terms of the insurance contract. Further, the contract is not for the like kind or quality construction and is, therefore, irrelevant and unduly prejudicial. Providing such information to the jury will necessarily confuse, mislead, waste time and cause irreparable undue prejudice to Underwriters. F.R.E. 401, 402, and 403.

P-79: Underwriters object to this exhibit on the grounds that the exhibit is irrelevant because the Court has previously ruled the Plaintiff is not entitled to claim repair/replacement cost damages since the property has neither been repaired nor replaced by the plaintiff. [D.E. 193, 202, 210, 213, 255]. F.R.E. 401 and 402. To the extent proper evidence of replacement cost at the time of the loss may be used in calculating actual cash value, this exhibit is inadmissible because the Court has ruled that the calculation of ACV is an expert issue, and the proper foundation for use of this exhibit has not been established by Plaintiff. Underwriters further object on the ground that the contract is misleading inasmuch as the bid listed in this document is far in excess of the policy limits and the Plaintiff would not, under any circumstances, be entitled to collect that amount



under the terms of the insurance contract. Providing such information to the jury will necessarily confuse, mislead, waste time and cause irreparable undue prejudice to Underwriters. F.R.E. 403. Additionally, Underwriters note that this exhibit is subject to exclusion under the Motion *in Limine* to Exclude Evidence and Testimony of Post-Katrina Construction Bids and Estimates and Motion *in Limine* to Strike Witnesses and Evidence Previously Disclosed Regarding Post-Katrina Construction Bids and Estimates.

P-80 (Martin Winfree's expert report):

Underwriters object to this exhibit designation on the ground that this exhibit is vague and ambiguous as Mr. Winfree produced at least two separate reports and it is unclear which (or both) report this exhibit refers to. Underwriters further object to this exhibit on the ground that it lacks any factual or scientific foundation whatsoever. To the extent the exhibit does not seek to calculate actual cash value in the proper method (replacement cost at the time of loss minus depreciation) determined by this Court in its previous orders, the report(s) is irrelevant. [D.E. 193, 202, 210, 213, 255]. Mr. Winfree's initial report is irrelevant and inadmissible per the Court's March 10, 2009 Order [D.E. 327]. In any event, both Winfree reports constitute hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 402, 403, 802, and 803. Further, both reports are unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Underwriters also object to this exhibit because it was generated for litigation purposes as disclosure of this witness's opinions, and it is cumulative to the testimony of this witness.

P-83: Underwriters object to this exhibit designation on the ground that this exhibit contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 402, 403, 802, and 803.

P-84: Underwriters object to this exhibit designation on the ground that this exhibit lacks any factual or scientific foundation whatsoever. This exhibit constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Further, Mr. McColl's report is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Underwriters also object to this exhibit because it was generated for litigation purposes as disclosure of this witness's opinions, and it is cumulative to the testimony of this witness. Further, Underwriters have moved the Court *in limine* to exclude the testimony of Mr. McColl. [D.E. 383].

P-85: Underwriters object to this exhibit designation on the ground that this exhibit designation is vague and ambiguous as it is unclear which documents this exhibit refers to. Until such time as the documents are sufficiently identified, Underwriters are without sufficient information to make specific objections and therefore object to the exhibit in its entirety. Underwriters further object to this exhibit designation on the ground that the documents in this exhibit contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Further, these documents are unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Additionally, Underwriters have moved the Court *in limine* to exclude the testimony of Mr. McColl. [D.E. 383].

P-86: Underwriters object to this exhibit designation on the ground that this exhibit lacks any factual or scientific foundation whatsoever. This exhibit constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Further, Mr. McColl's

estimate is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Additionally, Underwriters have moved the Court *in limine* to exclude the testimony of Mr. McColl. [D.E. 383].

P-87: Underwriters object to this exhibit designation on the ground that this exhibit contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Further, Underwriters have moved the Court *in limine* to exclude the testimony of Mr. McColl. [D.E. 383].

P-88.1--P-88.3: Underwriters object to this exhibit designation on the grounds that it is based on incorrect assumptions regarding the materials contained in the "Lloyd's claim file." As such, the exhibit is both incomplete and/or overly broad. Underwriters further object to the exhibit on the ground that its designation is vague and ambiguous. Further, certain of the documents within the broad range of Bates numbers listed in the exhibit designation contain hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402. Additionally, Underwriters do not waive any claim of privilege applicable to these documents.

Further, Underwriters object to these exhibits on the ground and to the extent that the exhibits are insufficiently identified. These exhibits together contain over 3,000 pages. Until such time as the documents are sufficiently identified, Underwriters are without sufficient information to make specific objections and therefore object to the exhibit in its entirety. Also, Underwriters object to these exhibits on the grounds and to the extent that they contain reserves information.

This Court granted Underwriters' Motion in Limine to exclude evidence, argument or testimony regarding reserves. [D.E. 193].

- P-89: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402.
- P-90: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803.
- P-91: Underwriters object to this exhibit designation on the ground that the exhibit contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Further, this exhibit is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703.
- P-92: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402.
- P-94: Underwriters object to this exhibit on the ground that it contains hearsay to which no exception

applies, is wholly irrelevant to any issue in controversy in this cause, is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-95: Underwriters object to this exhibit designation on the ground that it is vague and ambiguous as it is unclear which document(s) this exhibit refers to. Underwriters further object to this exhibit on the grounds that it constitutes hearsay (including double hearsay) to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, and 803. Additionally, contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-96: Underwriters object to this exhibit designation on the ground that it is vague and ambiguous as it is unclear which document(s) this exhibit refers to. Underwriters further object to this exhibit on the grounds that it constitutes hearsay (including double hearsay) to which no exception applies and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, and 803. Additionally, contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-97: Underwriters object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, and 803. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by

attorney-client privilege and/or the work-product doctrine.

- P-98: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402.
- P-99: Underwriters object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, 803, and 902.
- P-100: Underwriters object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, 803, and 902. Additionally, contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.
- P-101: Underwriters object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, 803, and 902. Additionally, contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

- P-102: Underwriters object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, 803, and 902.
- P-103: Underwriters object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, 803, and 902.
- P-104: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402.
- P-105: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402.
- P-106: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402.

- P-107: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402.
- P-108: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402.
- P-109: Underwriters object to this exhibit designation on the grounds that it contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters further object that the exhibit is irrelevant, unnecessary and cumulative. F.R.E. 401 and 402.
- P-110: Underwriters object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, 803, and 902. Additionally, contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.
- P-111: Underwriters object to this exhibit on the grounds that it contains hearsay to which no exception applies and will cause confusion in the mind of the jury and undue prejudice to Underwriters.



F.R.E. 401, 403, 802, and 803. Additionally, the exhibit may be erroneously labeled a "draft" report, as it may not be. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-112: Underwriters object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, 803, and 902. Further, Underwriters object on the grounds that the contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-113: Underwriters object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, 803, and 902. Additionally, contents of this exhibit include information arguably protected by attorney-client privilege and/or the work-product doctrine.

P-114: Underwriters object to this exhibit on the grounds that, in spite of having requested they be provided with a copy of this exhibit, Plaintiff has failed to do so. Underwriters frankly doubt whether this exhibit even exists. Underwriters further object to this exhibit on the grounds that the exhibit is irrelevant because the Court has previously ruled the Plaintiff is not entitled to claim repair/replacement cost damages since the property has neither been repaired nor replaced by the plaintiff. F.R.E. 401 and 402. [D.E. 193, 202, 210, 213, 255]. To the extent proper evidence of replacement cost at the time of the loss may be used in calculating actual cash value, this exhibit is inadmissible because the Court has

ruled that the calculation of ACV is an expert issue, and the proper foundation for use of this exhibit has not been established by Plaintiff. Underwriters further object on the ground that the contract is misleading inasmuch as the bid listed in this document is likely far in excess of the policy limits and the Plaintiff would not, under any circumstances, be entitled to collect that amount under the terms of the insurance contract. Providing such information to the jury will necessarily confuse, mislead, waste time and cause irreparable undue prejudice to Underwriters. F.R.E. 403. Additionally, Underwriters note that this exhibit is subject to exclusion under the Motion to Strike and Motion in Limine to Exclude Evidence and Testimony of Post-Katrina Construction Bids and Estimates [Docket No. 328].

P-115 Underwriters object to this exhibit designation on the ground that this exhibit designation is vague and ambiguous as it is unclear which blueprints this exhibit refers to. Until such time as the documents are sufficiently identified, Underwriters are without sufficient information to make specific objections and therefore object to the exhibit in its entirety.

P-116: Underwriters object to this exhibit on the ground that it has not been furnished to or seen by Underwriters.

P-117: Underwriters object to this exhibit on the ground of relevance. Further, Underwriters object to this exhibit on the ground and to the extent that the exhibit is insufficiently identified. Until such time as the documents are sufficiently identified, Underwriters are without sufficient information to make specific objections and therefore object to the exhibit in its entirety.

P-118, 118-a and P-118-b: Underwriters object to these exhibit designations on the ground that these exhibits lacks any factual or scientific foundation whatsoever. These exhibits constitute hearsay to which no exception applies and is

calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Further, Mr. McColl's reports are unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Underwriters further object to the introduction of any part of Mr. McColl's reports which were not produced in discovery. Underwriters also object to these exhibits because they were generated for litigation purposes as disclosure of this witness's opinions, and they are cumulative to the testimony of this witness. Further, Underwriters have moved the Court *in limine* to exclude the testimony of Mr. McColl. [D.E. 383].

P-119: Objection is interposed on the grounds of relevance, in particular F.R.E. 401 and 403. Additionally, the attempt to change contractual terms is in violation of the Tenth Amendment to the United States Constitution, which prohibits state action altering the terms of existing contracts. Underwriters also object to this exhibit on the ground that it constitutes hearsay to which no exception applies, no sponsoring witness has been identified, the document lacks authentication and is completely irrelevant to any issue of material fact in controversy in this cause. F.R.E. 401, 402, 403, 802, 803, and 902. Further, it is a comment on a legal matter and not properly before the jury.

P-120: Underwriters object to this exhibit on the ground that it has not been produced. Further, Underwriters object to this exhibit because it is wholly irrelevant to whether or not coverage exists under the subject policy for the Plaintiff's claim and is therefore inadmissible pursuant to F.R.E. 401 and 402. Underwriters further object to this exhibit on the grounds that it is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission. F.R.E. 401 and 403.

P-122: Underwriters object to this exhibit designation on the ground that this exhibit contains hearsay to

which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803.

P-123: Underwriters object to this exhibit designation on the ground that this exhibit contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803.

P-124: Underwriters object to this exhibit designation on the ground that this exhibit contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803.

P-125: Underwriters object to this exhibit designation on the ground that this exhibit contains hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803.

P-126: Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what documents the Plaintiff is referring. The Plaintiff has produced two disks of information purported to be Dr. Blackwell's documents. These disks contain 902 folders, subfolders, and sub-subfolders. Those numerous folders contain three power point displays, 4750 documents and images, and 1081 documents and images Underwriters have been unable to open and view. Unless and until the plaintiff sets out each and every document to which it is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety.

Further, Underwriter object to these exhibits on the grounds that they are irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

Further, Underwriters object to this exhibit on the ground that the report is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Additionally, it constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Underwriters also object to this exhibit because it was generated for litigation purposes as disclosure of this witness's opinions, and it is cumulative to the testimony of this witness.

- b. To be offered by Defendant Certain Underwriters at Lloyd's, London:

- D-1 (52 pgs) Underwriters policy number All11
- D-2 (2 pgs) Reservation of Rights letter dated November 5, 2005
- D-3 (2 pgs) Underwriters denial letter dated July 12, 2006
- D-4 (13 pgs) Rimkus Consulting Group, Inc.'s report dated March 6, 2006, with attached photographs and exhibits to Rimkus report dated March 6, 2006
- D-5 (16 pgs) Dr. Lee Branscome's report dated March 10, 2006, with attached exhibits (graphs or picture exhibits to Dr. Lee Branscome's report dated March 10, 2006 may be offered separately); Appendix Data and Information; and CV
- D-6 (26 pgs) Dr. Lee Branscome's supplemental report dated October 30, 2007, with graphs or

picture exhibits to Branscome supplemental report dated October 30, 2007 (may be offered separately)

- D-7 (23 pgs) Rimkus Consulting Group, Inc., supplemental report dated October 30, 2007, with attached photographs and exhibits to Rimkus supplemental report dated October 30, 2007 (may be offered separately)
- D-8 (19 pgs) Stennis Space Center Preliminary Model Hindcast of Hurricane Katrina storm surge dated November 21, 2005, excerpts
- D-9 (4 pgs) Compuweather report dated January 23, 2006
- D-10 (9 pgs) Thompson Engineering report dated June 26, 2007
- D-11 (1 pg) Post-Katrina SLOSH model excerpts
- D-12 (16 pgs) Post-Katrina ADCIRC model excerpts
- D-13 (3 pgs) National Weather Service at Slidell, Louisiana doppler graphs for Hurricane Katrina
- D-14 (4 pgs) Post-Katrina satellite photographs
- D-15 (42 pgs) National Oceanic and Atmospheric Administration Post-Tropical Cyclone Report with Table 1 - Best Track for Hurricane Katrina; Table 2 - Selected Shipment Reports; Table 3 - Selected Surface Observations; Table 4 - Preliminary Forecast Evaluation; Table 5 - Coastal Warning and Watch Summary; Figure 1 - Best Track Positions; Figure 2 - Selected wind observations and best

track maximum sustaining surface wind speed curve; Figure 3 - Selected pressure observations and best track minimum central pressure curve; Figure 4 - Radar reflectivity image from Miami WSR-88D radar; Figure 5 - NASA Passive Microwave Imagery; Figure 6 - GOES-12 Visible Katrina Image; and Figure 7 -Airborne Doppler radar from NOAA

- D-16 (4 pgs) Various photographs taken by Ray Deloteus on September 12, 2005
- D-17 (2 pgs) Penthouse annual owners' meeting minutes dated May 25, 2002
- D-18 (1 pg) Penthouse Executive Board meeting minutes dated August 31, 2002
- D-19 (1 pg) Penthouse Board meeting minutes dated October 23, 2005
- D-20 (3 pgs) Correspondence from City of Pass Christian to Plaintiff dated February 17, 2006 with certificate
- D-21 Increased Cost of Compliance Federal Grant Application, promised by Plaintiff but not yet produced
- D-22 (4 pgs) Penthouse Press dated November/December, 2005
- D-23 (15 pgs) Appraisal of Penthouse property dated September 28, 2006, with email from Al Lewando
- D-24 (1 pg) Letter from Becky Williams to State Farm insurance dated November 3, 2005

- D-25 (30 pgs) Penthouse property building plans  
(post-Camille)
- D-26 (42 pgs) Photographs taken by William "Bill"  
Worsham, numbers 15-55 as attached as  
exhibits to Mr. Worsham's deposition
- D-27 (1 pg) Becky Williams email to August Reinhard  
dated January 13, 2006
- D-28 (1 pg) Penthouse Owners Association email to  
Edgar Appel dated January 22, 2007
- D-29 (1 pg) Email from Ray Deloteus to "Fellow  
Owners" dated October 23, 2005
- D-30 (1 pg) Email from Gayle Abadie to Penthouse  
Owners Association dated August 13, 2006
- D-31 (2 pgs) Email from Robert Walker to August  
Reinhard dated November 24, 2005
- D-32 (2 pgs) Email from Samuel Scandaliato to Ray  
Deloteus dated July 17, 2006
- D-33 (3 pgs) Letter from James H. Collins, Esquire to  
Edgar Appel dated February 12, 2007
- D-34 (1 pg) Penthouse Owners Association  
Supplemental Application to Colony  
Insurance dated November 27, 2005
- D-35 (1 pg) FEMA Provisional Topographic Elevation  
Contour Map dated December 15, 2005
- D-36 (65 pgs) Coastal Construction Manual, Chapter 11:  
Determining Site-Specific Loads



- D-37 (2 pgs) Center for Operational Oceanographic Products & Services Meteorological Observations
- D-38 (1 pg) Email from Ray Deloteus to Penthouse owners dated September 9, 2005
- D-39 (2 pgs) Board meeting minutes dated February 11, 2006
- D-40 (2 pgs) Board meeting minutes dated April 2, 2006
- D-41 (13 pgs) Letter from Mary K. "Malise" Dennard to Sid Backstrom dated April 20, 2007
- D-42 (1 pg) Email from Carol Weaver to Terressa Garner dated November 30, 2004
- D-43 (2 pgs) Letter from Sid Backstrom to Mary K. "Malise" Dennard dated May 7, 2007
- D-44 (2 pgs) Board Meeting minutes dated July 24, 2005
- D-45 (1 pg) Wind direction chart
- D-46 (22 pgs) NIST Technical Note 1476
- D-47 (5 pgs) Audubon Insurance Group Flood Policy Declarations pages
- D-48 (2 pgs) Facsimile to Becky Williams from Audubon Flood Processing Center with flood insurance claim summaries dated December 6, 2005

- D-49 (1 pg) Email from Shaun Mundy to Al Lewando and POA Board members dated December 15, 2007
- D-50 (1 pg) Email from Al Lewando to Penthouse Owners dated September 28, 2007
- D-51 (1 pg) Email from Ray DeLoteus to POA Board members dated October 23, 2005
- D-52 (1 pg) Letter from Becky William regarding "Insurance Claim for Janet and Peter Thriffiley" dated November 17, 2005
- D-53 (1 pg) Email thread from and between Phillip Norwood, Al Lewando and POA Board members dated December 18, 2007
- D-54 (1 pg) National Flood Insurance Program Property Loss History
- D-55 (3 pgs) Letter from M. Andrew McDonald to Ray Deloteus dated August 15, 2006
- D-56 (2 pgs) Letter from M. Andrew McDonald to Al Lewando dated October 20, 2006
- D-57 (4 pgs) McGuffey & Associates, LLC, Commercial Package Inspection Report dated December 29, 2004
- D-58 Withdrawn
- D-59 (1 pg) Email from Ray DeLoteus to Penthouse owners dated February 13, 2006
- D-60 (22 pgs) Post-storm aerial color photograph of Penthouse site from July 2007 with insurance quote request

D-61 (1 pg) Saffir-Simpson Hurricane Scale

D-62 (2 pgs) Letter from Malise Dennard to Rimkus Consulting dated February 6, 2006

D-63 Withdrawn

D-64 (7 pgs) POA Commercial Insurance Application (Acord) dated September 17, 2004

D-65 (10 pgs) Curriculum vitae for Dr. Lee Branscome

D-66 (3 pgs) Curriculum vitae for Mark Saunders, P.E.

D-67 (3 pgs) Curriculum vitae for Robert Harvey, P.E.

D-68 (1 pg) Curriculum vitae for Paul Colman, P.E.

D-69 (1 pg) Curriculum vitae for William Worsham, P.E.

D-70 (1 pg) Curriculum vitae for Jason Grover, P.E.

D-71 Withdrawn

D-72 (3 pgs) Curriculum vitae for Bret O'Steen

D-73 (7 pgs) Curriculum vitae for Jonathan Held

D-74 (72 pgs) Expert Report of Allen Purvis with CV

D-75 (10 pgs) Expert Report of Jonathan Held

D-76 (2 pgs) Expert Report of Bret O'Steen

D-77 (1069 pgs) Xactimate pricelist MSGU2S5C, Third Quarter

D-78 (779 pgs) Xactimate pricelist MSGU4B5C, Third Quarter

D-79 Withdrawn

D-80 Withdrawn

D-81 (58 pgs) Thompson Engineering report dated October 30, 2007 and Penthouse Owners Blueprints

D-82 Withdrawn

D-83 Withdrawn

D-84 Withdrawn

D-85 (1 pg) Broker/Agent of Record Letter from Ray Deloteus dated November 18, 2004

D-86 Withdrawn

D-87 (7 pgs) E-mail and Quotation dated November 23, 2004

D-88 (5 pgs) November 24, 2004 Facsimile from Gresham to Carol Weaver enclosing the Windstorm or Hail Deductible Endorsement with cover email to Deloteus

D-89 (17 pgs) Proposal of Insurance (the "Proposal")

D-90 (1 pg) E-mail from Carol Weaver to Gresham, Inc. dated November 30, 2004

D-91 (4 pgs) E-mail from Ray Deloteus to Penthouse homeowners dated January 24, 2006

D-92 Withdrawn

D-93 (4 pgs) Letter from Bob Ward to Ray Deloteus and Becky Williams dated November 18, 2004

D-94 (1 pg) E-mail from Carol Weaver to Teressa Garner dated November 18, 2004

D-95 (1 pg) Letter from Margaret Wells to Becky Williams dated December 1, 2004

D-96 (3 pgs) Letter from Ray Deloteus to Penthouse Board Members regarding insurance proposals (Bates Nos. MSW4-MSW6)

D-97 (33 pgs) Condominium Declarations of Penthouse Condominiums

D-98 (3 pgs) Confirmations of Coverage from McGriff, Seibels & Williams (Bates Nos. Penthouse 55-57)

D-99 Withdrawn

D-100 (1 pg) Board Meeting Minutes dated November 20, 2004

D-101 (2 pg) Board Meeting Minutes dated November 9, 2002

D-102 (5 pg) Letter from Bob Ward to Ray Deloteus and Becky Williams dated November 24, 2004 (and attached proposal for insurance)

D-103 (1 pg) E-mail from Robert Walker to Al Lewando dated September 12, 2006

D-104 (1 pg) Stewart, Sneed, Hewes documents (initial production) (part of deposition Exhibit 3), page 323

D-105 (18 pgs) Stewart, Sneed, Hewes documents (produced at deposition and part of deposition Exhibit 3), pages 11-28

D-106 Withdrawn

D-107 Withdrawn

D-108 (34 pgs) Declaration of Condominium and By-Laws of the 1515 East Beach Property Owners Association

D-109 Withdrawn

D-110 Withdrawn

D-111 (1 pg) NOAA Katrina Impact Assessment

D-112 (1 pg) NOAA Hurricane Katrina Wind Gust Analysis

D-113 (1 pg) Excerpt from FEMA Surge Inundation and Advisory Base Flood Elevation Map

D-114 (1 pg) Cover Pages for publications: a) Minimum Design Loads for Buildings and Other Structures, and b) Coastal Construction Manual

D-115 (1 pg) Chart re Structural Components and Loads

D-116 (1 pg) Dr. Fitzpatrick Timeline

D-117 (2 pgs) Graph re Wind Force vs. Wave Force (w/explanatory text)

- D-118 (1 pg) Diagram re Failur [sic] Mode for Building-Slab Anchorage Failure
- D-119 (1 pg) Graph re Penthouse Condominium Sill-Plate Uplift Force (Wind vs. Wave)
- D-120 (779 pgs) Exhibit to Bret O'Steen Report(Xactimate estimate)
- D-121 (1 pg) Aerial Photograph of Coast Line
- D-122 (1 pg) Stewart, Sneed, Hewes documents (initial production) (part of Hoda deposition Exhibit 3), page 338
- D-123 (4 pgs) Stewart, Sneed, Hewes documents (initial production) (part of Hoda deposition Exhibit 3), pages 329-32
- D-124 (5 pgs) Stewart, Sneed, Hewes documents (initial production) (part of Hoda deposition Exhibit 3), pages 324-328
- D-125 (8 pgs) Accord Property Loss Notices (initial production) (part of Hoda deposition Exhibit 3), pages 4-11
- D-126 (1 pg) Picture on page 17 of Winfree Appraisal Consultation, Effective Date August 28, 2005

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity and/or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specific ground for the objection.

Plaintiff's Objections: Plaintiff objects to use of any video by Defendant or its experts as Defendant did not produce any videos in discovery. Plaintiff also objects to the use of any

video not taken on or from the Penthouse property based on relevancy and Rule 403 of the Federal Rules of Evidence. Further, Plaintiff objects to the use of any exhibit not produced by Defendant in discovery. Plaintiff also objects, at this time, to the authenticity of the documents contained within these exhibits, as Plaintiff's have yet to see Defendants' exhibits and cannot currently attest to their authenticity. Plaintiff also objects to Defendant's exhibits as follows:

D-1 No Objection

D-2 No Objection

D-3 No Objection

D-4 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.

D-5 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.

Further, Plaintiff objects to any testimony, mention or reference regarding a simulation performed by Dr. Branscome of Hurricane Katrina's storm surge, RMA-2, which he indicates in his report will be forthcoming but which Defendant never produced in discovery.

Further, Plaintiff objects to testimony from Dr. Branscome regarding the structural damage effect of wind and water. Dr. Branscome is not an engineer and not qualified to testify or opine, as he does in his report, as a civil engineer on the extent of structural damages. Plaintiff further objects to the introduction of any evidence or testimony from Dr. Branscome included in Plaintiff's motion in limine [d.e. 385] to exclude causation testimony or evidence from or by Dr. Branscome. Plaintiff's objects to all such references, testimony or mention, including but not limited to such mentions on page 5, regarding "water forces greatly surpassing the forces



applied by the wind" and "damage caused by waves." Any testimony, mention or reference to those statements or opinions by Dr. Branscome is irrelevant to any contested issue in this cause because Dr. Branscome is unqualified to make or give such opinions. Any probative value his statements or opinions may have is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-6 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to the introduction of any evidence or testimony from Dr. Branscome included in Plaintiff's motion in limine [d.e. 385] to exclude causation testimony or evidence from or by Dr. Branscome. Plaintiff further incorporates by reference his objection to D-05 supra. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-7 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to this document because Defendant had no knowledge of the document until after Defendant denied Plaintiff's claim. Any probative value this document possible has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to any testimony from William Worsham as to the substance of this document. William Worsham testified this was not his report. Further, Plaintiff objects to videos, reports, statements or other document identified in 28-36 of this report, as those documents have not been produced in this litigation and have not been authenticated. These documents are irrelevant to any contested issue in this cause. Any probative value these videos have is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-8           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802.

D-9           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802.

D-10           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to this document as it is speculative and irrelevant to any matter at issue in this cause. Mr. Saunders and Mr. Harvey admit in the first page of this document that "the purpose of this review was to give an informed Engineer's opinion of the cause of loss (wind v. water) and give my assessment of the likely extent of wind damage if any." Mr. Saunders and Mr. Harvey then concede that they could not perform that task, with them stating "the actual extent of wind-caused damage could not be determined." As such, the entire report and any evidence, mention or testimony from either Mr. Saunders and Mr. Harvey regarding the amount of damage caused by wind or wind driven rain is speculative, and thus irrelevant. Further, any probative value in their opinions is outweighed by its ability to create prejudice and confuse the jury, and is thus inadmissible under Rule 403 of the Federal Rules of Evidence.

Plaintiff further objects to this document because this document was not created and Defendant had no knowledge of the document until after Defendant denied Plaintiff's claim. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

Further, Plaintiff objects to any and all mentions or discussion by Mr. Saunders or Mr. Harvey in the document regarding the accuracy of information regarding wind speeds, wave heights, and wind event occurrences, as Mr. Saunders and Mr. Harvey

admit they are not meteorologists and are unqualified to gauge the accuracy of such assessments. Likewise, Plaintiff also objects to testimony from Mr. Saunders or Mr. Harvey regarding the accuracy of such information.

Specifically, Plaintiff objects to Mr. Saunders or Mr. Harvey testifying regarding the accuracy Dr. Branscome's wind speed estimates, accuracy Mr. Saunders and Mr. Harvey questioned in page 2 of this document. Mr. Saunders and Mr. Harvey admit they are not meteorologists and are unqualified to testify to the accuracy of wind speed estimates. Such statements are irrelevant and certain to confuse the jury. Any probative value those statements or such testimony has would be substantially outweighed by its prejudicial effect, and is thus inadmissible under Fed. Rule Evid. 403.

Further, Plaintiff objects to testimony from Mr. Saunders or Mr. Harvey regarding their statement on page 6 of this documents that "sustained winds were Category II" and not capable of causing destruction to the Penthouse property. Mr. Saunders and Mr. Harvey are admittedly not meteorologists and are unqualified to determine the accuracy of wind speed estimates. Such statements are irrelevant and certain to confuse the jury. Any probative value those statements or such testimony has would be substantially outweighed by its prejudicial effect, and is thus inadmissible under Fed. Rule Evid. 403.

Further, Plaintiff objects to testimony from Mr. Saunders or Mr. Harvey regarding their statement on page seven of this document that there was no clear evidence of tornadoes or other wind events. Mr. Saunders and Mr. Harvey are admittedly not meteorologists and are unqualified to determine the accuracy of wind speed estimates, or whether certain wind events occurred. Such statements are irrelevant and certain to confuse the jury. Any probative value those statements or such testimony has would be substantially outweighed by its

prejudicial effect, and is thus inadmissible under Fed. Rule Evid. 403.

- D-11           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to this document as it is irrelevant to all contested issues in this matter. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-12           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to this document as it is irrelevant to all contested issues in this matter. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-13           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to this document as it is irrelevant to all contested issues in this matter. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-14           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to this document as it is irrelevant to all contested issues in this matter. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-15           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.

D-16 No Objection.

D-17 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to this document on the grounds that it is irrelevant because it was not created until after Defendant denied Plaintiff's claim. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-18 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to this document on the grounds that it is irrelevant because this document was not created and Defendant had no knowledge of the document until after Defendant denied Plaintiff's claim. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-19 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to this document on the grounds that it is irrelevant because document was not created and Defendant had no knowledge of the document until after Defendant denied Plaintiff's claim. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-20 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed.

Rule Evid. 802 without an exception. Plaintiff further objects to this document on the grounds that it is irrelevant . Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-21 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to this document on the grounds that it is irrelevant because this document was not created and Defendant had no knowledge of the document until after Defendant denied Plaintiff's claim. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-22 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-23 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to this document on the grounds that it is irrelevant. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-24 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to this document on the grounds

that it is irrelevant. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-25 No Objection.

D-26 No Objection.

D-27 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy.

D-28 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-29 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-30 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

- D-31           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-32           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-33           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-34           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-35           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.
- D-36           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.



- D-37           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.
- D-38           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.
- D-39           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-40           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-41           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Further, this document is irrelevant as it is sent post denial and is not related to continuing claims investigation. Further, this document is inadmissible based on the Court's ruling on Plaintiff's Motion *in Limine* to Exclude Evidence, Mention or Testimony Regarding Certain Persons. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further objects to the admissibility of this document as it involves settlement negotiations and is inadmissible under Fed. Rule of Evid. 408.

- D-42           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-43           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any duties owed under the policy. Further, this document is irrelevant as it is sent post denial and is not related to continuing claims investigation. Further, this document is inadmissible based on the Court's ruling on Plaintiff's Motion *in Limine* to Exclude Evidence, Mention or Testimony Regarding Certain Persons. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further objects to the admissibility of this document as it involves settlement negotiations and is inadmissible under Fed. Rule of Evid. 408.
- D-44           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-45           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

- D-46           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.
- D-47           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation and is further made moot by Plaintiff's stipulation that it received flood benefits. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-48           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or to any duties owed under the policy. Any probative value this document possible has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-49           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Any probative value this document possible has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-50           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-51           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed.

Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-52           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-53           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-54           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Plaintiff also objects to this document as irrelevant. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-55           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value

this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

- D-56           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-57           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-58           Objection. As Defendant has represented that D-58 is withdrawn, Plaintiff objects to the use of any document as D-58 as it was not disclosed to Plaintiff.
- D-59           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-60           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to this document as it is irrelevant to all contested issues in this matter.

Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

- D-61           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. This document is also irrelevant and inadmissible under Fed. Rules of Evidence 401 and 403.
- D-62           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.
- D-63           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-64           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as these document have no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.
- D-65           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.
- D-66           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to this document on the grounds that it is irrelevant because Defendant did not

rely on Mark Saunders' opinions in its denial. Further, Saunders' testimony is irrelevant as he admits he cannot distinguish water versus wind damage on Penthouse's property.

- D-67           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Plaintiff further objects to this document on the grounds that it is irrelevant because Defendant did not rely on Robert Harvey's opinions in its denial. Further, Mr. Harvey's testimony is irrelevant as he admits he cannot distinguish water versus wind damage on the Penthouse's property.
- D-68           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.
- D-69           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.
- D-70           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.
- D-71           Objection. As Defendant has represented that D-71 is withdrawn, Plaintiff objects to the use of any document as D-71 as it was not disclosed to Plaintiff.
- D-72           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to any testimony, mention or reference to any opinions of Bret O'Steen as he did not provide a report for any purported F.R.E. 702 testimony as required by F.R.C.P. 26. Contrary to Rule 26 of the F.R.C.P., Bret O'Steen merely provided Plaintiff with a document labeled a "draft for discussion purposes only." Bret O'Steen's testimony and evidence related to any of

his opinions should be excluded pursuant to Rules 26 and 37 of the F.R.C.P., and local rule 37. Any testimony, mention or reference to those statements or opinions by Bret O'Steen is irrelevant to any contested issue in this cause because he is unqualified to make or give such opinions. Any probative value his statements or opinions may have is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Mr. O'Steen's opinion and testimony is also irrelevant and inadmissible as it does not include all of Penthouse's losses, and provides that some of Penthouse's property is excluded from coverage.

D-73 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to any testimony, mention or reference to any opinions of Jonathan Held as his opinions are irrelevant and inadmissible. Jonathan Held's purported expert report uses pricing from 2008, and, thus, is irrelevant to any issue of fact or law as it does not provide evidence of the actual cash value at the time of Plaintiff's loss. Any testimony, mention or reference to those statements or opinions by Jonathan Held is irrelevant to any contested issue in this cause because Jonathan Held is unqualified to make or give such opinions and because he does not provide any testimony or expert opinions related to the actual cash value of the Penthouse insured property at the time of the loss. His testimony is thus inadmissible under F.R.C.P. 26 and 37, local rule 37, and Rules 602, 702, 401, and 402 of the F.R.E. Any probative value his statements or opinions may have is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Mr. Held's opinion and testimony is also irrelevant and inadmissible as it does not include all of Penthouse's losses, and provides that some of Penthouse's property is excluded from coverage.

D-74 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed.



Rule Evid. 802 without an exception. Further, Plaintiff objects to any testimony, mention or reference to any opinions of Allen Purvis, as his opinions are rendered irrelevant and inadmissible by the Order of this Court dated March 10, 2009, [D.E. 327], which excludes the expert testimony of Martin Winfree to the extent he did not calculate actual cash value using the methodology of replacement cost minus depreciation. Any testimony, mention or reference to those statements or opinions by Allen Purvis is irrelevant to any contested issue in this cause because Allen Purvis is unqualified to make or give such opinions and because he used the incorrect methodology to determine actual cash value. Any probative value his statements or opinions may have is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Mr. Purvis' opinion and testimony is also irrelevant and inadmissible as it does not include all of Penthouse's losses, and provides that some of Penthouse's property is excluded from coverage.

D-75 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to any testimony, mention or reference to any opinions of Jonathan Held as his opinions are irrelevant and inadmissible. Jonathan Held's purported expert report uses pricing from 2008, and, thus, is irrelevant to any issue of fact or law as it does not provide evidence of the actual cash value at the time of Plaintiff's loss. Any testimony, mention or reference to those statements or opinions by Jonathan Held is irrelevant to any contested issue in this cause because Jonathan Held is unqualified to make or give such opinions and because he does not provide any testimony or expert opinions related to the actual cash value of the Penthouse insured property at the time of the loss. His testimony is thus inadmissible under F.R.C.P. 26 and 37, local rule 37, and Rules 602, 702, 401, and 402 of the F.R.E. Any probative value his statements or opinions may have is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed.

Rule of Evidence 403. Mr. Held's opinion and testimony is also irrelevant and inadmissible as it does not include all of Penthouse's losses, and provides that some of Penthouse's property is excluded from coverage.

D-76           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to any testimony, mention or reference to any opinions of Bret O'Steen as he did not provide a report for any purported F.R.E. 702 testimony as required by F.R.C.P. 26. Contrary to Rule 26 of the F.R.C.P., Bret O'Steen merely provided Plaintiff with a document labeled a "draft for discussion purposes only." Bret O'Steen's testimony and evidence related to any of his opinions should be excluded pursuant to Rules 26 and 37 of the F.R.C.P., and local rule 37. Any testimony, mention or reference to those statements or opinions by Bret O'Steen is irrelevant to any contested issue in this cause because he is unqualified to make or give such opinions. Any probative value his statements or opinions may have is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Mr. O'Steen's opinion and testimony is also irrelevant and inadmissible as it does not include all of Penthouse's losses, and provides that some of Penthouse's property is excluded from coverage.

D-77           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant and inadmissible as it does not include all of Penthouse's losses, and assumes that some of Penthouse's property is excluded from coverage.

D-78           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant and inadmissible as it does not include all of Penthouse's losses, and assumes

that some of Penthouse's property is excluded from coverage.

- D-79           Objection. As Defendant has represented that D-79 is withdrawn, Plaintiff objects to the use of any document as D-79 as it was not disclosed to Plaintiff.
- D-80           Objection. As Defendant has represented that D-80 is withdrawn, Plaintiff objects to the use of any document as D-80 as it was not disclosed to Plaintiff.
- D-81           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to this document as it is speculative and irrelevant to any matter at issue in this cause. Plaintiff incorporates here by reference its objections to the testimony and opinions of Mr. Saunders and Mr. Harvey, as stated in D-80, supra. Any testimony by them is irrelevant to any issue in this cause and, any little relevance it has is outweighed by its prejudicial effect, and is thus inadmissible under Fed. Rule Evid. 403.

Further, Plaintiff objects to testimony from Mr. Saunders or Mr. Harvey regarding their statement on page seven of their first report that there was no clear evidence of tornadoes or other wind events. Mr. Saunders and Mr. Harvey are admittedly not meteorologists and are unqualified to determine the accuracy of wind speed estimates, or whether certain wind events occurred. Such statements are irrelevant and certain to confuse the jury. Any probative value those statements or such testimony has would be substantially outweighed by its prejudicial effect, and is thus inadmissible under Fed. Rule Evid. 403.

- D-82           Objection. As Defendant has represented that D-82 is withdrawn, Plaintiff objects to the use of any

document as D-82 as it was not disclosed to Plaintiff.

D-83 Objection. As Defendant has represented that D-83 is withdrawn, Plaintiff objects to the use of any document as D-83 as it was not disclosed to Plaintiff.

D-84 Objection. As Defendant has represented that D-84 is withdrawn, Plaintiff objects to the use of any document as D-84 as it was not disclosed to Plaintiff.

D-85 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-86 Objection. As Defendant has represented that D-86 is withdrawn, Plaintiff objects to the use of any document as D-86 as it was not disclosed to Plaintiff.

D-87 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-88 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed

under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law. Further, Plaintiff objects to this document to the extent it contains evidence of premium calculation or value of the Penthouse property, as evidence from McGriff on those subjects has been excluded by d.e. 330.

D-89 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law.

D-90 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law.

D-91 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to

any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it contains evidence of premium calculation or value of the Penthouse property, as evidence from McGriff on those subjects has been excluded by d.e. 330.

D-92 Objection. As Defendant has represented that D-92 is withdrawn, Plaintiff objects to the use of any document as D-92 as it was not disclosed to Plaintiff.

D-93 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff also objects to the testimony or evidence from Bob Ward as per Plaintiff's motion in limine, which was denied by d.e. 322.

D-94 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it contains evidence of policy interpretation, premium calculation or value of the Penthouse property, as evidence from McGriff on those subjects has been excluded by d.e. 330.

D-95 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed.

Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-96 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law.

D-97 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-98 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law. Further, Plaintiff objects to this document to the extent

it contains evidence of policy interpretation, premium calculation or value of the Penthouse property, as evidence from McGriff on those subjects has been excluded by d.e. 330.

D-99 Objection. As Defendant has represented that D-99 is withdrawn, Plaintiff objects to the use of any document as D-99 as it was not disclosed to Plaintiff.

D-100 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-101 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-102 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law. Plaintiff also objects to the introduction of evidence or testimony from Bob Ward as per its motion in limine, which was denied by d.e. 322.



- D-103           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law.
- D-104           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law. Evidence of flood policy interpretation has been excluded by d.e. 306. Stewart Sneed and Hewes evidence and testimony is also excluded by an order granting a motion in limine [d.e. 279].
- D-105           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law. Evidence of flood policy interpretation has been excluded by d.e. 306.

- D-106           Objection. Plaintiff objects to Defendants' introduction of an exhibit as D-106, since Defendants have represented that such exhibit is withdrawn.
- D-107           Objection. Plaintiff objects to Defendants' introduction of an exhibit as D-107, since Defendants have represented that such exhibit is withdrawn.
- D-108           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. This document description is also vague as to how it differs from D-97.
- D-109           Objection. Plaintiff objects to Defendants' introduction of an exhibit as D-109, since Defendants have represented that such exhibit is withdrawn.
- D-110           Objection. Plaintiff objects to Defendants' introduction of an exhibit as D-110, since Defendants have represented that such exhibit is withdrawn.
- D-111           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-10.

D-112           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-10.

D-113           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-10.

D-114           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-10.

D-115           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy.

Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-10.

D-116           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-10.

D-117           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-10.

D-118           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-10.

D-119           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-10.

D-120           Objection. Plaintiff does not believe it has seen this document. Further, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further incorporates its objections as outlined to Exhibit D-76 and D-75.

D-121           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, Plaintiff objects to this document as it is irrelevant to all contested issues in this matter. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403.

D-122           Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of

insurance and is thus rendered inadmissible under the motions in limine and case law. Evidence of flood policy interpretation has been excluded by d.e. 306. Stewart Sneed and Hewes evidence and testimony is also excluded by an order granting a motion in limine [d.e. 279].

D-123 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law. Evidence of flood policy interpretation has been excluded by d.e. 306. Stewart Sneed and Hewes evidence and testimony is also excluded by an order granting a motion in limine [d.e. 279].

D-124 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law. Evidence of flood policy interpretation has been excluded by d.e. 306. Stewart Sneed and Hewes evidence and testimony is also excluded by an order granting a motion in limine [d.e. 279].

D-125 Objection. Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this

document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Further, Plaintiff objects to this document to the extent it may contain parole evidence of the contract of insurance and is thus rendered inadmissible under the motions in limine and case law. Evidence of flood policy interpretation has been excluded by d.e. 306. Stewart Sneed and Hewes evidence and testimony is also excluded by an order granting a motion in limine [d.e. 279].

D-126 Objection. Plaintiff objects to this document on the grounds that it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible as per Fed. Rule of Evidence 403.

Plaintiff's General Objections:

Plaintiff objects to the introduction of any exhibit to the extent it is used to offer parole evidence regarding interpretation of Plaintiff's policy through Defendant. Plaintiff objects to the introduction of any evidence, exhibit or testimony contrary to any motion in limine filed by Plaintiff in this matter. Plaintiff objects to the introduction of any exhibit to the extent it is used to offer evidence or attempts to demonstrate that any part of the Penthouse property is excluded from coverage. Plaintiff objects to the introduction of any exhibit to the extent it purports to demonstrate the value of Penthouse's losses, that does not include all items of the Penthouse property. Plaintiff objects to the introduction of any exhibit to the extent it is used to offer any evidence or testimony from Derrell Livingston, Jason Grover, Paul Colman or William Worsham of estimates, percentages or comparisons of the amount of wind damage and water damage to the Penthouse property. Plaintiff objects to the introduction or use of any exhibit that was not created and in Defendants' possession on June 12, 2006 to the extent such would be offered to demonstrate a basis of denial of Penthouse's insurance claim through its policy through Defendants. Plaintiff objects to any expert opinion offered by

Underwriters from any expert not properly disclosed. Plaintiff also objects to any testimony offered by Defendants, other than those against their interest, from James Schultz, given the payments he received from Defendants. Plaintiff objects to the introduction of any exhibit from one of Defendants' experts that were not relied upon at the time of denial. Plaintiff objects to the introduction of any exhibit for use by Dr. Branscome attempting to demonstrate the cause of the loss to Penthouse's property. Plaintiff further objects to the introduction of evidence or testimony of opinions regarding the cause of loss to Penthouse's property from Mr. Saunders or Mr. Harvey as those persons have admitted they are unable to make such a determination.

11. The following is a list and brief description of charts, graphs, models, schematic diagrams, and similar objects which will be used in opening statements or closing statements, but which will not be offered in evidence:

- a) Plaintiffs: The Plaintiff may use "blow ups" from, any of the Exhibits listed by any party. The Plaintiff may also use charts during the opening statement and/or the closing argument based on materials put into evidence and/or testimony that is anticipated and/or presented at trial.

Plaintiff may offer the following documents as demonstrative exhibits:

- |                     |  |
|---------------------|--|
| P-Demonstrative-1   | Information on Dr. Keith Blackwell's two disks and in Dr. Keith Blackwell's report, including radar data and images, IPET information, and other information sources |
| P-Demonstrative-1-a | Timeline prepared by Dr. Blackwell   |
| P-Demonstrative-1-b | Summary of Testimony Regarding Weather Conditions  |



P-Demonstrative-1-c	Figures, Charts, Maps, Graphs, Powerpoints, and/or Timelines used by and/or prepared by Dr. Keith Blackwell
P-Demonstrative-1-d	Charts demonstrating Hurricane Katrina's wind field
P-Demonstrative-1-e	Data and images from National Weather Services (NWS) Dopplar weather radar stations at Slidell and Mobile for August 29, 2005
P-Demonstrative-2	Dr. Ralph Sinno Photographs and Charts
P-Demonstrative-2-a	Chart of Wind Speeds at Penthouse Condominiums
P-Demonstrative-2-b	Figures, Charts, Maps, Graphs, Powerpoints, Summary of Wind speeds and/or Timelines used and/or prepared by Dr. Ralph Sinno
P-Demonstrative-2-c	Photographs of Penthouse property produced in discovery
P-Demonstrative-2-d	Powerpoint Presentations produced by Dr. Blackwell and Dr. Sinno
P-Demonstrative-2-e	Surface weather observations from airports, emergency operation centers, Ingall's Shipyard, temporary weather stations, agricultural stations, coastal weather stations and weather reporting stations in LA, MS and AL for August 28-29, 2005

Plaintiff may offer any potential demonstrative exhibit identified by Defendants as a demonstrative exhibit.

Defendants' objections to Plaintiff's Demonstrative Exhibits:

P-Demonstrative-1 Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what documents the Plaintiff is referring. The two disks of information the Plaintiff references contains 902 folders, subfolders, and sub-subfolders. Those numerous folders contain three power point displays, 4750 documents and images, and 1081 documents and images Underwriters have been unable to open and view. Unless and until the plaintiff sets out each and every document to which it is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety. Further, Underwriters object to these exhibits on the grounds that they are irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

Further, Underwriters object to this exhibit on the ground that the report is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Additionally, it constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803.

P-Demonstrative-1-a

Underwriters object to this exhibit on the ground that it is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Additionally, it constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803. Further, Underwriters object to this exhibit on the grounds that it is irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

P-Demonstrative-1-b

Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what document or testimony the Plaintiff is referring. Unless and until the plaintiff more clearly describes the document to which it is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety. Further, Underwriters object to this exhibit on the ground that it is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Additionally, it constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803.

Further, Underwriters object to this exhibit on the grounds that it is irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

P-Demonstrative-1-c

Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what figures, charts, maps, graphs, PowerPoints, and/or timelines the Plaintiff is referring. The Plaintiff has provided two disks of information from Dr. Blackwell which contains 902 folders, subfolders, and sub-subfolders. Those numerous folders contain three power point displays, 4750 documents and images, and 1081 documents and images Underwriters have been unable to open and view. Unless and until the plaintiff sets out each and every figure, chart, map, graph, PowerPoint, and/or timeline to which it is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety. Further, Underwriters object to these exhibits on the grounds that they are irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

Additionally, Underwriters object to this exhibit on the ground that these exhibits are unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Also,

they constitute hearsay to which no exception applies and are calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by their admission pursuant to F.R.E. 401, 403, 802, and 803.

P-Demonstrative-1-d

Underwriters object to this exhibit on the ground that it is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Further, Underwriters object to this exhibit on the grounds that it is irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403. Also, it constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803.

P-Demonstrative-1-e

Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what data and images the Plaintiff is referring. The Plaintiff has provided two disks of information from Dr. Blackwell which contains 902 folders, subfolders, and sub-subfolders. Those numerous folders contain three power point displays, 4750 documents and images, and 1081 documents and images Underwriters have been unable to open and view. Unless and until the plaintiff sets out each and every item of data and image to which it

is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety. Further, Underwriters object to these exhibits on the grounds that they are irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

Additionally, Underwriters object to this exhibit on the ground that these exhibits are unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Also, they constitute hearsay to which no exception applies and are calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by their admission pursuant to F.R.E. 401, 403, 802, and 803.

P-Demonstrative-2

Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what photographs and charts the Plaintiff is referring. Unless and until the plaintiff sets out each and every photograph and chart to which it is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety. Further, Underwriters object to these exhibits on the grounds that they are irrelevant and

inadmissible pursuant to  
F.R.E. 401, 402 and 403.

Additionally, Underwriters object to this exhibit on the ground that these photographs and charts are unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Underwriters incorporate their motion to exclude the testimony of Dr. Sinno herein. [D.E. 384]. Also, they constitute hearsay to which no exception applies and are calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by their admission pursuant to F.R.E. 401, 403, 802, and 803. Further, since Dr. Sinno will not be allowed to testify that the property was destroyed by wind before the storm surge, this exhibit is irrelevant and inadmissible pursuant to F.R.E. 401, 402, and 403. [D.E. 193].

P-Demonstrative-2-a

Underwriters object to this exhibit on the grounds that it is irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403. Additionally, Underwriters object to this exhibit on the ground that it is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Also, it constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by its admission pursuant to F.R.E. 401, 403, 802, and 803.

P-Demonstrative-2-b

Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what figures, charts, maps, graphs, PowerPoints, and/or timelines the Plaintiff is referring. Unless and until the plaintiff sets out each and every figure, chart, map, graph, PowerPoint, and/or timeline to which it is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety. Further, Underwriters object to these exhibits on the grounds that no PowerPoint presentation by Dr. Sinno has ever been produced by the Plaintiff and on the grounds that the exhibits are irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

Additionally, Underwriters object to this exhibit on the ground that these exhibits are unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703.

Underwriters incorporate their motion to exclude the testimony of Dr. Sinno herein. [D.E. 384]. Also, they constitute hearsay to which no exception applies and are calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by their admission pursuant to F.R.E. 401, 403, 802, and 803. Further, since Dr. Sinno will not be allowed



to testify that the property was destroyed by wind before the storm surge, this exhibit is irrelevant and inadmissible pursuant to F.R.E. 401, 402, and 403. [D.E. 193].

P-Demonstrative-2-c

Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what photographs the Plaintiff is referring. Unless and until the plaintiff sets out each and every photograph to which it is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety. Further, Underwriters object to this exhibit on the grounds that it is irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

Additionally, to the extent these photographs were purportedly take by or are intended to be used by Plaintiff's expert(s), Underwriters object to this exhibit on the ground that it is unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Also, it constitutes hearsay to which no exception applies and is calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by their admission pursuant to F.R.E. 401, 403, 802, and 803.

P-Demonstrative-2-d

Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what PowerPoints of Dr. Blackwell the Plaintiff is referring, as the Plaintiff has provided three PowerPoints for Dr. Blackwell. Unless and until the plaintiff sets out which PowerPoint to which it is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety. Additionally, Underwriters object to this exhibit on the grounds that no PowerPoint presentation by Dr. Sinno has ever been produced. Further, Underwriters object to the PowerPoints in this exhibit on the grounds that they are irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

Additionally, Underwriters object to this exhibit on the ground that these exhibits are unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703.

Underwriters incorporate their motion to exclude the testimony of Dr. Sinno herein. [D.E. 384]. Also, it constitutes hearsay to which no exception applies and are calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by their admission pursuant to F.R.E. 401, 403, 802, and 803. Further, since Dr. Sinno will not be allowed

to testify that the property was destroyed by wind before the storm surge, this exhibit is irrelevant and inadmissible pursuant to F.R.E. 401, 402, and 403. [D.E. 193].

P-Demonstrative-2-e

Underwriters object to this exhibit because its designation is vague, and Underwriters are unable to determine to what weather observations the Plaintiff is referring. Unless and until the plaintiff sets out more specifically the weather observations to which it is referring, Underwriters are without sufficient information to make specific objections thereto. Underwriters therefore object to this exhibit in its entirety. Further, Underwriters object to these exhibits on the grounds that they are irrelevant and inadmissible pursuant to F.R.E. 401, 402 and 403.

Additionally, Underwriters object to this exhibit on the ground that these exhibits are unreliable, irrelevant and inadmissible pursuant to F.R.E. 702 and 703. Also, they constitute hearsay to which no exception applies and are calculated to create confusion in the mind of the jury and Underwriters would be unduly prejudiced by their admission pursuant to F.R.E. 401, 403, 802, and 803.

b) Defendants: The Defendants may use "blow ups" from any of the Exhibits listed by any party. The Defendants may also use charts during the opening statement and/or the closing argument based on materials put into evidence and/or testimony that is anticipated and/or presented at trial.

D-Demonstrative-1 (a-o) Appendix A to Lee Branscome's March 10, 2006 Report

D-Demonstrative-1-a Data and images from National Weather Service (NWS) Doppler weather radar stations at Slidell and Mobile for August 29, 2005.

D-Demonstrative-1-b *Eyewall wind provides in hurricanes determined by GPS dropwindsondes*, by J. Franklin, M. Black & K. Valde, published by the National Hurricane Center, April 2000.

D-Demonstrative-1-c FEMA maps of the storm surge in the Pass Christian area

D-Demonstrative-1-d *Gust factors applied to hurricane winds*, by W. Krayner & R. Marshall, Bulletin of the American Meteorological Society, 1992.

D-Demonstrative-1-e Maps of LA, MS & Harrison Co.

D-Demonstrative-1-f *Preliminary Storm Report for Hurricane Katrina*, prepared by National Weather Service Offices in Slidell (New Orleans) and Mobile.

D-Demonstrative-1-g SLOSH model from National Oceanic and Atmospheric Administration

D-Demonstrative-1-h Storm Event reports for Harrison County, MS, for August 28-29, 2005, from National Climatic Data Center and NOAA's Storm Prediction Center

D-Demonstrative-1-i Surface weather observations from airports, temporary weather stations, agricultural stations, coastal weather stations and hydrological stations in LA, MS and AL for August 28-29, 2005.

D-Demonstrative-1-j Surface wind analyses for Hurricane Katrina, prepared by National Oceanic and Atmospheric Administration's Atlantic Oceanographic and Meteorological Laboratory.

D-Demonstrative-1-k Tidal data for the Gulf Coast.

D-Demonstrative-1-l Tornado Warnings and Severe Weather Statements issued by National Weather Service Office, Slidell on August 28-29, 2005.

D-Demonstrative-1-m *Tropical Cyclone Report - Hurricane Katrina*, prepared by R. Knabb, J. Rhome and D. Brown of the National Hurricane Center, December 20, 2005.

D-Demonstrative-1-n US Navy Fleet Numerical Meteorology and Oceanography

Center simulation of Katrina surge using ADCIRC model.

- D-Demonstrative-1-o *Wind Effects on Structures - Fundamentals and Applications to Design*, by E. Simiu and R. Scanlan, published by John Wiley & Sons, 1996.
- D-Demonstrative-2 (a-z) Appendix A to Lee Branscome's October 30, 2007 Report
- D-Demonstrative-2-a An Examination of Tropical and Extratropical Gust Factors and the Associated Wind Speed Histogram, by B. Paulsen and J. Schroeder, *J. Applied Meteorology*, 2005.
- D-Demonstrative-2-b Beach Processes & Sedimentation, by P. D. Komar, Prentice-Hall, 1976.
- D-Demonstrative-2-c FEMA glossary for Residential Coastal Construction.
- D-Demonstrative-2-d FEMA Hurricane Katrina Flood Recovery (Mississippi) - Mapping Methods and Data Sources
- D-Demonstrative-2-e FEMA map of Katrina Surge Inundation and Advisory Base Flood Elevation Map for Harrison County, MS, March 10, 2006.
- D-Demonstrative-2-f FEMA Coastal and Riverine High Water Mark Collection for Hurricane Katrina in Mississippi, FEMA, March 14, 2006.

D-Demonstrative-2-g Hurricane Andrew's landfall in South Florida. Part I. Standardizing measurements for documentation of surface wind fields, by M. Powell and S. Houston, *Weather and Forecasting*, 1996.

D-Demonstrative-2-h Hurricane Andrew's landfall in South Florida. Part II. Surface wind fields and potential real-time applications, by M. Powell and S. Houston, *Weather and Forecasting*, 1996.

D-Demonstrative-2-i Hurricane gust factors revisited, by P. Vickery and P. Skerlj, *Journal of Structural Engineering*, 2005.

D-Demonstrative-2-j Hurricane Katrina Deployment Summary, prepared by Texas Tech University Hurricane Research Team, November 16, 2006.

D-Demonstrative-2-k Information on the elevations of the Penthouse Owners property, provided by Mark Saunders, P.E.

D-Demonstrative-2-l Introduction to Micrometeorology, by S. P. Arya, Academic Press, 1988

D-Demonstrative-2-m Katrina Impact Assessment for Harrison County, MS, prepared by NOAA  
[www.ncddc.noaa.gov/webside/Katrina\\_Harrison/viewer.htm](http://www.ncddc.noaa.gov/webside/Katrina_Harrison/viewer.htm)

D-Demonstrative-2-n Maps, topographic maps, photos and satellite images of Harrison County, MS.

D-Demonstrative-2-o NIST Technical Note 1476 - Performance of Physical Structures in Hurricane Katrina and Hurricane Rita: A Reconnaissance Report, June 2006

D-Demonstrative-2-p Performance Evaluation of the New Orleans and Southeast Louisiana Hurricane Protection System - Final Report of the Interagency Performance Evaluation Task Force - Volume IV - The Storm, US Army Corps of Engineers, March 2007.

D-Demonstrative-2-q Photographs of the Mississippi coast, taken by USGS and NOAA, after Katrina.

D-Demonstrative-2-r Post-Tropical Cyclone Reports for Hurricane Katrina, prepared by National Weather Service Offices in Slidell (New Orleans) and Mobile.

D-Demonstrative-2-s Reconstruction Guidance Using Hurricane Katrina Surge Inundation and Advisory Base Flood Evaluations Maps, FEMA

D-Demonstrative-2-t Reduced Drag Coefficient For High Wind Speeds In Tropical Cyclones, by M. Powell, P. Vickery and T. Reinhold, *Nature*, 20 March 2003.

D-Demonstrative-2-u Service Assessment, Hurricane Katrina, August 23-31, 2005,



National Weather Service, June 2006.

D-Demonstrative-2-v Shore Protection Manual Vols. 1 and 2, US Army Corps of Engineers, 1984

D-Demonstrative-2-w Updated surface wind analyses for Hurricane Katrina, prepared by National Oceanic and Atmospheric Administration's Atlantic Oceanographic and Meteorological Laboratory's Hurricane Research Division

D-Demonstrative-2-x Tidal data for the Gulf Coast, including stations at Ocean Springs, MS, and Waveland, MS, for August 27-29, 2005.

D-Demonstrative-2-y Tropical Cyclone Report - Hurricane Katrina, prepared by R. Knabb, J. Rhome and D. Brown of the National Hurricane Center, December 20, 2005, rev. August 10, 2006.

D-Demonstrative-2-z Wind data and documentation from the Florida Coastal Monitoring Program for Hurricane Katrina.

D-Demonstrative-3 Figures, charts, maps and/or graphs used by Dr. Lee Branscome

D-Demonstrative-4 Figures, charts, maps and/or graphs used by Mark Saunders, P.E.

D-Demonstrative-5 Timeline prepared by Dr. Lee Branscome

D-Demonstrative-6 Animation of water destruction of complex

Objections by Plaintiff:

D-Demonstrative-1 (a-o) Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-a Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that

those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein.

D-Demonstrative-1-b

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-c

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general

objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-d

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid.

802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-e

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further

objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-f

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-g

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to

this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-h

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no

relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-i

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein.

D-Demonstrative-1-j

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.



Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-k

Objection Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this

document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-1

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-m

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any

purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-n

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this

litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-1-o

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2 (a-z) Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-a Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as

stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-b

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by

its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-c

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-d

Objection. Plaintiff hereby incorporates by reference its

objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-e

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the



grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-f

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and

its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-g

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-h

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants'

exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-i

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.

Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-j

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this

document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-k

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-l

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as

stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-m

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by

its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-n

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-o

Objection. Plaintiff hereby incorporates by reference its

objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-p

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the



grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-q

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and

its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-r

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-s

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants'

exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-t

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception.

Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-u

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this

document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-v

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-w

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any

purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-x

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this

litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-y

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-2-z

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-3

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further



objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-4

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-10 and its general objections and D-6, and asserts that those objections pertain to this documents and any purported reliance by Mr. Saunders on it, and to Mr. Saunders' testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed.

Rule of Evidence 403, and it accordingly should not be used at trial. Further, any testimony or evidence (demonstrative or otherwise) from or related to Mr. Saunders or Mr. Harvey is irrelevant and inadmissible, and should thus be excluded, because their statements are admittedly speculative and would thus only lead to confusion of the jury. Their evidence and testimony (and matters and exhibits related thereto) have no probative value for the issues contested in or relevant to this matter.

D-Demonstrative-5

Objection. Plaintiff hereby incorporates by reference its objections as stated in D-5 and D-6 and the general objections to Defendants' exhibits, and asserts that those objections pertain to this documents and any purported reliance by Dr. Branscome on it, and to Dr. Branscome's testimony or reference to his opinion, as stated therein. Further objecting, Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and

its use should not be allowed at trial. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703.

D-Demonstrative-6

Plaintiff objects to this document on the grounds that it constitutes hearsay under Fed. Rule Evid. 802 without an exception. Further, this document is irrelevant as it has no relevance to any issue in this litigation or any duties owed under the policy. Any probative value this document possibly has is outweighed by its prejudicial effect and is thus inadmissible, as per to Fed. Rule of Evidence 403, and its use should not be allowed at trial. Plaintiff further objects because this animation has not been produced. Plaintiff further objects stating that this document is inadmissible and unreliable under F.R.E. 702 and 703, and would just serve to confuse the jury.

If any other such objects are to be used by any party, they will be submitted to opposing counsel at least three days prior to trial. If there is then any objection to their use, the dispute will be submitted to the Court at least one day prior to trial.

12. The following is a list of witnesses Plaintiff anticipates calling at the trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge prior to commencement of trial. The listing of a WILL CALL witness constitutes a professional representation, upon which

opposing counsel may rely, that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.

<u>Name</u>	<u>Will Call</u>	<u>May Call</u>	<u>Fact Liability Damages Expert</u>	<u>Residence Address &amp; Tel. No.</u>	<u>Business Address &amp; Tel. No.</u>
Dr. Keith Blackwell		X	Expert/Liability Damages/Fact	Coastal Weather Research Center Mitchell Center, Rm. 1623 University of South Alabama Mobile, AL 36688	
Dr. Aaron Williams		X	Expert/Liability Damages/Fact	Coastal Weather Research Center Mitchell Center, Rm. 1623 University of South Alabama Mobile, AL 36688	
Dr. Ralph Sinno		X	Expert/Liability Damages/Fact	P.O. Box 1798 Mississippi State Univ., MS 39768	
Don Baker		X	Fact/Liability Damages/Expert	6000 Lombardo Center Suite 600 Cleveland, OH 44131	
Derrell Livingston		X	Fact/Liability	6604 Paul Schadt Lane Charlotte, NC 28227 704-364-1161	
James Schultz		X	Fact/Liability		
William Worsham		X	Fact/Liability		
Jason Grover		X	Fact/Liability		
Paul Colman		X	Fact/Liability		
Certain Underwriters at Lloyd's, London Representative		X	Fact/Liability		
Douglas J. McColl, Jr.		X	Fact Liability Damages Expert	1556 Regency Dr. Mobile, AL 36693 (251) 666-6490	
Ray Deloteus		X	Fact Liability Damages Expert	3025 Old Stone Ave. Birmingham, AL 35242 205-936-0226	
Al Lewando		X	Fact Liability Damages Expert	553 Mockingbird Dr. Long Beach, MS 39560 228-363-0538	
Shaun Mundy		X	Fact Liability Damages	3606 S. Memorial Pkwy. Huntsville, AL 35801 Tel. (256) 880-8484	

Jimmy Levins	X	Fact Liability Damages
Jeff Clement	X	Fact Liability Damages

Plaintiff reserves the right to call any witness listed by Defendant.

May testify by deposition: Listed below, with designations and objections.

Derrell Livingston (may testify live if present at trial)	X	Fact/Liability
James Schultz (may testify live if present at trial)	X	Fact/Liability
William Worsham (may testify live if present at trial)	X	Fact/Liability
Jason Grover (may testify live if present at trial)	X	Fact/Liability
Certain Underwriters at Lloyd's, London Representative (may testify live if present at trial)	X	Fact/Liability

State whether the entire deposition, or only portions, will be used.

Plaintiff will use portions of the listed depositions, as designated by Plaintiff and Defendant, with objections as listed below.

**Plaintiff's General Objections to use of Depositions of Livingston, Schultz, Grover, Britton and Worsham by Defendants:**

Plaintiff objects to the presentation by video deposition or other deposition by Defendants of Derrell Livingston, James Schultz, Jason Grover, Bob Britton and William Worsham. This objection concerns all of the "cross-designations" Defendants have listed below to Plaintiff's designation of those witnesses' depositions. Derrell Livingston, James Schultz, Jason Grover and William Worsham are all the hired expert agents and servants of Defendants, and their testimony designated by Plaintiff relates to their work and employment by and for Defendants. Livingston,

Schultz, Grover and Worsham were paid during the adjustment of Plaintiff's claim, were designated as experts by Defendants (see docket entry 14) during this litigation, and have been paid by Defendants during this litigation. Further, Bob Britton testified as the 30 (b)(6) representative of Defendants, and he is their agent. Accordingly, Defendants cannot present the prior testimony of Derrell Livingston, James Schultz, Jason Grover, William Worsham or Bob Britton via deposition, since that testimony from Defendants is hearsay without an exception, and those people are available to Defendants.

**Designation of Deposition of Derrell Livingston on March 19, 2008:**

Plaintiff's Designation (Page, Lines)	Defendant Objection to Plaintiff's Designation	Defendant's Cross-Designation	Plaintiff's Objections to Defendant's Cross-Designation
6, 22-25			Plaintiff objects to all of Defendant's cross-designations of this deposition as outlined in the "Plaintiff's General Objections to use of Depositions of Livingston, Schultz, Grover, Britton and Worsham by Defendants." Defendants cross-designations are hearsay without exception. Plaintiff otherwise objects to Defendants' cross-designations as noted by each of Defendants' page and line designations .
12, 4-13		12, 7-13	

		15, 3-21	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403.
		28, 5-17	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403.
		29, 10-13	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Witness is speculating. F.R.E. 602.
34, 12-15			



		35, 23-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury.
		36, 1-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury.

		37, 1-22	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury.
		38, 15-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury.

		39, 1-11	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury.
41, 14-25		41, 23	
		42, 1-15	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury.
43, 10-25	Underwriters object to this designation as the testimony constitutes expert opinion/conclusions for which the deponent was neither designated nor qualified. Even if not expert opinion, the testimony does not qualify as admissible lay opinion testimony under F.R.E. 701. Underwriters also object as to relevance. F.R.E. 401, 403.		

<p>44, 1-6</p>	<p>Underwriters object to this designation as the testimony constitutes expert opinion/conclusions for which the deponent was neither designated nor qualified. Even if not expert opinion, the testimony does not qualify as admissible lay opinion testimony under F.R.E. 701. Underwriters also object as to relevance. F.R.E. 401, 403.</p>		
		<p>45, 2-8</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury.</p>
<p>46, 13-25</p>	<p>Underwriters object to this designation as the testimony constitutes expert opinion/conclusions for which the deponent was neither designated nor qualified. Even if not expert opinion, the testimony does not qualify as admissible lay opinion testimony under F.R.E. 701. Underwriters also object as to relevance. F.R.E. 401, 403.</p>		

<p>47, 1-3 and 6-8 and 16-18</p>	<p>Underwriters object to this designation as the testimony constitutes inadmissible legal conclusions. Underwriters also object as to form. F.R.E. 401, 403.</p>	<p>47, 19-25</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury. Answer is also unresponsive .</p>
		<p>48, 1-25</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury. Answer is also unresponsive .</p>

<p>49, 21-24</p>	<p>Underwriters object to this designation as the testimony constitutes inadmissible legal conclusions. F.R.E. 401, 403.</p>	<p>49, 1-20</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only serve to waste time and confuse the jury.</p>
<p>50, 5-10 and 12-16</p>	<p>Underwriters object to this designation as the testimony constitutes inadmissible legal conclusions. F.R.E. 401, 403.</p>	<p>lines 8-10 and 17-25</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only confuse the jury.</p>
<p>51, 1-8</p>		<p>lines 21-25</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only confuse the jury. Also out of context.</p>

52, 11-18	Underwriters object to this designation as the testimony constitutes expert opinion/conclusions for which the deponent was neither designated nor qualified. Even if not expert opinion, the testimony does not qualify as admissible lay opinion testimony under F.R.E. 701. F.R.E. 401, 403.	lines 1-6	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only confuse the jury. Also out of context.
55, 17("you inspected)-20			
60, 17-22			
63, 7-12		63, 13-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.

		64, 1-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.
65, 7-10 and 14-16	Underwriters object to this exhibit on the ground that it is irrelevant to any issue in controversy in this cause. Mr. Livingston testified at his deposition that the email was an administrative notice to him from within Crawford & Company of the notice of loss. Underwriters have stipulated Crawford & Company was hired to adjust the loss. The email is unnecessary, cumulative and irrelevant. Underwriters further object on the ground that the exhibit constitutes hearsay to which no exception applies.	65, 1-2	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.
66, 1-4			



<p>67, 6-10</p>		<p>67, 11-14</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.</p>
<p>68, 2("Also")-25</p>	<p>Underwriters object to this exhibit on the ground that it is irrelevant to any issue in controversy in this cause. The handwritten notes are unnecessary and irrelevant. Underwriters further object on the ground that the exhibit constitutes hearsay to which no exception applies.</p>		
<p>70, 18-20</p>		<p>Pg. 70, 18-25</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.</p>

		pg. 71, 1-16	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.
72, 23 ("When...") )-25			
73, 1-8 and 12-24		73, 9-11, 25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.

74, 18-25		74, 1-10	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.
75, 1-7 and 11-25		pg. 75, 8-10 Pg. 76, 14-25 pg. 77,1-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.
76, 1-3 (ending at "was this.")			
77, 16-25			
78, 1-8 and 24-25	Defendants object on the grounds that there has never been an allegation or claim for damage caused by water-borne debris and will cause confusion, undue delay and prejudice to Underwriters. F.R.E. 401, 403.		

79, 1-25	Defendants object on the grounds that there has never been an allegation or claim for damage caused by water-borne debris and will cause confusion, undue delay and prejudice to Underwriters. F.R.E. 401, 403.		
80, 1		Pg. 80, 2-10	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.

<p>83, 2-16</p>	<p>Underwriters object to this excerpt through line 20 as it contains information regarding reserves, which this Court has already excluded and reference to written documents to which Underwriters have objected to as Plaintiff's exhibits. F.R.E. 401, 403. Underwriters further object on the grounds that the report constitutes hearsay to which no exception applies under F.R.E. 802, the document itself is irrelevant to the issue of the existence of coverage as the adjuster had no authority to make coverage determinations and it is inadmissible pursuant to F.R.E. 401, 402 and 403.</p>		
		<p>pg. 84, ln. 6 - pg. 85, ln. 25</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403.</p>
<p>86, 1-4 and 13-24</p>	<p>Underwriters object to this excerpt as it contains information regarding reserves, which this Court has already excluded and reference to written documents to which Underwriters have objected to as Plaintiff's exhibits. F.R.E. 401, 403.</p>	<p>Pg. 86, ln. 25 - pg. 87, ln. 17</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403.</p>

88, 7-10 and 17-25	Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.	Pg. 88, ln. 11-16	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403.
89, 1-17	Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.	89, 18-22	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.
90, 2-5	Defendants object to this excerpt as it lacks factual foundation, was asked without context, without connection to any prior testimony, assumes facts not in evidence and gives the inaccurate impression the deponent had authority to deny the claim. F.R.E. 401, 403.	Pg. 90, ln. 6-13	
91, 12-25	Underwriters object to this excerpt as it contains reference to and discussion of written documents to which Underwriters have objected to as Plaintiff's exhibits. F.R.E. 401, 403.		

92, 1-8 and 11 ("At this point...)-15	Underwriters object to this excerpt as it contains reference to and discussion of written documents to which Underwriters have objected to as Plaintiff's exhibits. F.R.E. 401, 403.		
94, 23-25	Underwriters object to this excerpt as it contains reference to and discussion of written documents to which Underwriters have objected to as Plaintiff's exhibits. Underwriters object to reference to counsel. F.R.E. 401, 403.		
95, 1-9 and 15-23	Underwriters object to this excerpt as it contains reference to and discussion of written documents to which Underwriters have objected to as Plaintiff's exhibits. F.R.E. 401, 403.	Pg. 95, ln. 10-14; pg. 95, ln. 24 - p. 96, ln. 3	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403.
96, 4-25	Underwriters object to this excerpt as it contains reference to and discussion of written documents to which Underwriters have objected to as Plaintiff's exhibits. Underwriters object to reference to counsel. F.R.E. 401, 403.		
97, 1 (ending at "counsel.")	Underwriters object to this excerpt as it contains reference to and discussion of written documents to which Underwriters have objected to as Plaintiff's exhibits. F.R.E. 401, 403.	Pg. 97, 1 (beginning with "underwriters")-24	Irrelevant and inadmissible under F.R.E. 401 through 403. Would only waste time and confuse the jury.

98, 4-14 and 19-21	Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.	Pg. 98, ln. 15-18	
106, 7-20			
107, 20-23	Defendants object to this excerpt as it does not constitute testimony and is irrelevant to any issue in controversy in this cause. F.R.E. 401, 403.		
108, 3-11 and 15-25	Defendants object to this designation as irrelevant to any issue in controversy in this cause. Additionally, based upon the following testimony, Underwriters anticipates the Plaintiff's intended use is to make improper commentary or inferences regarding counsel and legal services. For the reasons previously set out above, Underwriters object. F.R.E. 401, 403.		



109, 1-13	Same objection as above.	109, 14-23	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.
114, 11-25	Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.		
116, 19 ("And...)-25	Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.		

117, 1-6		117, 8-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.
		118, 1-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.
		119, 1-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.

<p>120, 12-25</p>	<p>Defendants object to this excerpt as it assumes facts not in evidence, is without context and likely to cause confusion. F.R.E. 401, 403.</p>	<p>120, 1-11</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury. Also, there is no response to lines 10 and 11; counsel was making a statement.</p>
<p>121, 1-4</p>	<p>Defendants object to this excerpt as it assumes facts not in evidence. Defendants also object to leading form, and question calls for legal conclusion as to lines 5-10. F.R.E. 401, 403.</p>		
<p>122, 11-14</p>	<p>Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.</p>		

<p>126, 2-5</p>	<p>Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.</p>		
<p>129, 6-19 and 21-22</p>	<p>Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.</p>		
<p>139, 13-19 and 22-23</p>		<p>139, 25 (beginning "Is it possible...")</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury. Witness is speculating.</p>

		140, 1-25	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury. Witness is speculating.
142, 8-25	Defendants object to this excerpt as it contains reference to and discussion of the contents of a document the Plaintiff has not designated as an trial exhibit. The document constitutes hearsay to which no exception applies. Underwriters reserve the right to make further objections should the Plaintiff produce the document at issue. Further, the testimony constitutes inadmissible lay opinion pursuant to F.R.E. 701 and inadmissible legal conclusions. F.R.E. 401, 403.		
143, 1-3 and 6-10	Defendants object to this excerpt as the testimony constitutes inadmissible lay opinion pursuant to F.R.E. 701 and inadmissible legal conclusions. Further, the excerpt is incomplete and out of context. F.R.E. 401, 403.		

146, 16-25	Defendants object to this excerpt as it contains testimony regarding a document to which Underwriters have objected as a trial exhibit. F.R.E. 401, 403.		
147, 1-7	Defendants object to this excerpt as it contains testimony regarding a document to which Underwriters have objected as a trial exhibit. The excerpt is also incomplete and out of context. F.R.E. 401, 403.		
149, 3-5 and 12-21	Defendants object to this excerpt as it contains testimony regarding a document to which Underwriters have objected as a trial exhibit. The excerpt is also incomplete and out of context. F.R.E. 401, 403.		
150, 2-14 and 23-25	Defendants object to this excerpt as it contains testimony regarding a document to which Underwriters have objected as a trial exhibit. The excerpt is also incomplete and out of context. Further, the excerpt contains inadmissible lay opinion, legal conclusions and assumes facts not in evidence. F.R.E. 401, 403.		
151, 1-5 and 9-25	Objection as above.		

152, 1-16	Defendants object to this excerpt as it contains testimony regarding a document to which Underwriters have objected as a trial exhibit. The excerpt is also incomplete and out of context. Further, the excerpt contains inadmissible lay opinion, legal conclusions and assumes facts not in evidence, especially given comments of "I would assume" and "I'm guessing." F.R.E. 401, 403.		
153, 11-25			
154, 1-9 and 16-18	Defendants object to opinion lines 16-18. F.R.E. 401, 403.		
162, 18-25	Defendants object as to relevance. F.R.E. 401, 403.		
163, 1-3 and 18-25	Defendants object to this excerpt as it is irrelevant, is incomplete and out of context. F.R.E. 401, 403.		
164, 1-9 and 19-21	Defendants object to this excerpt as it is irrelevant, is incomplete and out of context. F.R.E. 401, 403. Further, Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.	164, 10-18	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.

167, 1-9 and 19-24	Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. Further, the testimony is irrelevant and contains reference to a document to which Underwriters have objected as a trial exhibit. Defendants also object as to form. F.R.E. 401, 403.		
168, 6-25	Defendants object to this excerpt as it contains inadmissible legal conclusions, lay opinions and assumes facts not in evidence. Further, the testimony is irrelevant to any issue in controversy in this cause. F.R.E. 401, 403.		
169, 1-16	Objection as above.		
177, 5-25	Defendants object to this excerpt as it contains testimony regarding a document to which Underwriters have objected as a trial exhibit as containing expert conclusions for which no sponsoring expert has been designated or qualified. The excerpt is also incomplete and out of context. F.R.E. 401, 403.		
178, 1-21	Objection as above.		
		pg. 179, ln. 11 - pg. 181, ln. 12	



<p>181, 13-16</p>		<p>Pg. 181, ln. 18 - Pg. 182, ln. 11</p>	<p>Witness is speculating, and, thus, this testimony is inadmissible under F.R.E. 401 through 403 and 602. Witness has no personal knowledge of form of waves at property, or wall of water. could not determine the cause of loss, so his statements about what may have caused damage are speculation. It also contains a question without an answer. Witness is speculating in p. 181, line 22 through p. 182, line 11, and it is out of context. Would only confuse the jury.</p>
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<p>182, 13-23 (ending "underwrite rs' counsel.")</p>	<p>Defendants object to this excerpt as it contains testimony regarding a document to which Underwriters have objected as a trial exhibit. The excerpt is also incomplete and out of context. Further, the excerpt contains inadmissible lay opinion, legal conclusions and assumes facts not in evidence. F.R.E. 401, 403.</p>		
<p>183, 3-5 and 9-14 and 20-25</p>	<p>Defendants object to this excerpt as it contains references to several documents to which Underwriters have objected as trial exhibits, including a report containing expert conclusions without a sponsoring designated and qualified expert, a report which contains hearsay and inadmissible lay opinions. F.R.E. 401, 403.</p>		
<p>184, 1-9</p>	<p>Defendants object to this excerpt as it contains speculation, assumes facts not in evidence and is irrelevant to any issue in controversy to this cause, especially as to lines 13-19. F.R.E. 401, 403.</p>	<p>Pg. 184, ln. 20 - Pg. 185, ln. 2</p>	<p>Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403. Would only waste time and confuse the jury.</p>
		<p>Pg. 187, ln. 7 - pg. 188, ln. 6</p>	

190, 21-25	Defendants object to this excerpt as it contains inadmissible legal conclusions, lay opinions, improper reference to counsel and reference to a document to which Underwriters have objected as a trial exhibit. Defendants also object to this excerpt as it uses incorrect legal standard ("good claims practice"). F.R.E. 401, 403.		
191, 1-7	Defendants object to this excerpt as it contains inadmissible legal conclusions, lay opinions, improper reference to counsel and reference to a document to which Underwriters have objected as a trial exhibit. Defendants also object to this excerpt as it uses incorrect legal standard ("good claims practice"). F.R.E. 401, 403.		
192, 14-19	Defendants object to this excerpt as it contains reference to a document to which Underwriters have objected as a trial exhibit, is irrelevant to any issue in controversy in this cause. F.R.E. 401, 403.		
194, 5-18	Defendants object to this excerpt as it contains references to several documents to which Underwriters have objected as trial exhibits, hearsay, assumes facts not in evidence and improper reference to counsel. F.R.E. 401, 403.		

195, 24 ("you respond..." )-25	Objection as above.		
196, 1-25	Objection as above.		
197, 1-9 and 25	Defendants object to this excerpt as it contains references to several documents to which Underwriters have objected as trial exhibits, hearsay, assumes facts not in evidence and improper reference to counsel. F.R.E. 401, 403. Further, Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.		
198, 1-11	Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.	Pg. 198, ln. 21 - pg. 199, ln. 22	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403.
200,23 ("If you...")-25	Objection as above.		

201, 1-25	Defendants object to this excerpt as it contains reference to a document to which Underwriters have objected as trial exhibits, is irrelevant to any issue in controversy in this litigation, assumes facts not in evidence, speculation and inadmissible lay opinions. F.R.E. 401, 403.		
202, 1-3 and 8-13	Objections as above.		
203, 5-10	Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.		
204, 4-12			
208, 20-25			
209, 1-9 and 19-25	Defendants object to this excerpt as it contains reference to a document to which Underwriters have objected as a trial exhibit and is irrelevant to any issue in controversy in this litigation. F.R.E. 401, 403.		

210, 1-25	Defendants object to this excerpt as it contains reference to a document to which Underwriters have objected as a trial exhibit, contains inadmissible hearsay, improper reference to counsel, assumes facts not in evidence and speculation. F.R.E. 401, 403.		
211, 1-25	Objection as above.		
212, 1-4	Defendants object to this excerpt as it is incomplete, out of context, assumes facts not in evidence. F.R.E. 401, 403.		
		pg. 219, ln. 23 - pg. 220, ln. 10	Plaintiff objects to this designation as it is out of context and contains irrelevant information inadmissible under F.R.E. 401, 403.

**Designation of Deposition of James Schultz on April 30, 2008:**

Plaintiff's Designations	Defendant's Objections	Defendant's Cross-Designations	Plaintiffs' Objections to Cross-Designations
5, 14-18			Plaintiff objects to all of Defendant's cross-designations of this deposition as outlined in the "Plaintiff's General Objections to use of Depositions of Livingston, Schultz, Grover, Britton and Worsham by Defendants." Defendants cross-designations are hearsay without exception. Plaintiff otherwise objects to Defendants' cross-designations as noted by each of Defendants' page and line designations.
6, 11-15			
9, 15-25			
10, 1-4			
11, 12-17			
12, 4-7			
16, 14-25			
17, 1-14			
20, 2-25			
21, 1-25			
22, 1			
23, 7-25			
24, 1-2		Pg. 24, lines 3-11	F.R.E. 401 through 403. Incomplete without lines 12 through 14.
27, 1-23		Pg. 27, line 24 - pg. 31, line	F.R.E. 401 through 403.

		12	
40, 5-11		Pg. 35, line 23; Pg. 36, line 13	
51, 20-21	Objection as to relevance. F.R.E. 401, 403.		
52, 4-10	Objection as to relevance. F.R.E. 401, 403.		
53, 2 ("Was") - 11	Objection as to relevance. F.R.E. 401, 403.		
54, 2-18 and 25	Objection as to relevance. F.R.E. 401, 403.		
55, 1-15	Objection as to relevance. F.R.E. 401, 403.		
56, 1-23 and 24-25	Objection as to relevance. F.R.E. 401, 403.		
57, 1-5 and 23 ("But") - 25	Objection as to relevance. F.R.E. 401, 403.		
58, 1-25	Objection as to relevance. F.R.E. 401, 403.		
59, 1-14	Objection as to relevance. F.R.E. 401, 403.		
60, 10-14	Objection as to relevance. F.R.E. 401, 403.		
67, 2-25	Objection as to relevance. F.R.E. 401, 403.		
68, 1-8	Objection as to relevance. F.R.E. 401, 403.		
80, 8-13	Objection as to relevance. F.R.E. 401, 403.		
99, 25	Objection as to relevance. F.R.E. 401, 403.		
100, 1-19	Objection as to relevance. F.R.E. 401, 403. Also, reference to inadmissible MACTEC report		



	should be struck.		
104, 7-11			

**Designation of Deposition of William Worsham on March 18, 2008:**

Plaintiffs' Designations	Defendant's Objections	Defendant's Cross-Designations	Plaintiffs' Objections to Cross-Designations
Pg 5, 9-13; 17-25			Plaintiff objects to all of Defendant's cross-designations of this deposition as outlined in the "Plaintiff's General Objections to use of Depositions of Livingston, Schultz, Grover, Britton and Worsham by Defendants." Defendants cross-designations are hearsay without exception. Plaintiff otherwise objects to Defendants' cross-designations as noted by each of Defendants' page and line designations.
Pg 6, 2-7; 12-16			
11, 10-15; 22-25		lines 19-22	
12, 1-6			
14, 13-25			
15, 1-8			
16, 1-25			
17, 1-11		lines 12-25	Irrelevant and Inadmissible. F.R.E. 401, 403.
18, 5-18		lines 1-4, 19-25	
19, 18-25		lines 1-17	
20, 1-3		lines 24-25	Irrelevant and

			Inadmissible. F.R.E. 401, 403.
21, 17-20		lines 1-16, 22 - pg. 22, line 16; Pg. 24, lines 3-17	Irrelevant and Inadmissible. F.R.E. 401, 403.
26, 23-25			
27, 1-7		line 8 - pg. 28, line 3 (issues)	Incomplete without lines 4 through 7. F.R.E. 401, 403.
30, 21-25			
31, 1-21			
35, 12-25			
36, 12-20		lines 1-11, 21-24	F.R.E. 401 through 403.
38, 8-15; 18 ("what") - 25			
39, 1-25			
40, 1-25			
41, 1-24			
43, 8-11		Pg. 42, line 10 - pg. 43, line 11	Irrelevant and inadmissible. F.R.E. 401, 403.
50, 12-15		Pg. 46, line 9 - pg. 49, 2	
57, 13-25	Objection to relevance. F.R.E. 401, 403.		
58, 1-5			
64, 13-25			
65, 1-9			
66, 13-24		Pg. 66, line 25 - pg. 67, line 24	F.R.E. 401 through 403 and 602.
69, 2-7; 11-25			
70, 1-5; 14-22			
72, 11-18; 24-25		lines 20-23	F.R.E. 401, 403.
73, 1-5; 11-21			
74, 4-17			
77, 16-25		lines 3-15	
78, 24-25			
79, 1-13			
81, 5 ("when you")-20			
84, 12-23		line 24 - pg. 85, line 4	F.R.E. 401, 403.
86, 24-25		lines 1-23	F.R.E. 401, 403.
87, 1-5; 8-25		lines 6-7	Inadmissible and irrelevant. 403.
88, 2-8		lines 9-25	
89, 5-25		lines 1-4	
90, 1-25			
92, 12-25	Objection to		

	relevance. F.R.E. 401, 403.		
93, 4-9	Objection to relevance. F.R.E. 401, 403.		
94, 18-25	Objection to relevance. F.R.E. 401, 403.	lines 1-17 (if objection overruled)	
95, 1-10	Objection to relevance. F.R.E. 401, 403.		
107, 24 ("When")-25			
108, 1-18	Objection to relevance. F.R.E. 401, 403.	lines 19-25	
109, 3-11	Objection to relevance. F.R.E. 401, 403.	lines 1-2	
110, 1-10	Objection to relevance since draft never provided to defendants. F.R.E. 401, 403.		
113, 5-18			
119, 3-25	Objection on grounds of relevance (this witness' comments on document authored by another). F.R.E. 401, 403.		
120, 1-2	same as above		
121, 2-6; 9-13; 15-25	same as above		
122, 1; 4-11		line 11 - pg. 24, line 7	Witness is speculating and would confuse and mislead the jury. Inadmissible under 401, 403 and 602.
124, 9 ("There's")-25			
125, 1-20			
130, 7-21	Object on grounds of relevance since Rimkus is not a defendant. F.R.E. 401, 403. Also, witness didn't say he used them;		

	documents themselves are inadmissible as no proof defendants had them.		
131, 9-11	Object on grounds of relevance since Rimkus is not a defendant. F.R.E. 401, 403. Also, witness didn't say he used them; documents themselves are inadmissible as no proof defendants had them.		
135, 17-25			
136, 1-12; 15-24	(lines 8-12) reference to template for reasons above. F.R.E. 401, 403.		F.R.E. 401 through 403 and 602.
137, 6-17		Pg. 136, line 25 - pg. 137, line 5; pg. 137, line 18 - pg. 138, line 12	F.R.E. 401 through 403 and 602.
143, 19 ("Did you")-25			
144, 1-25			
147, 16("Did you")-19			
148, 1-14; 25		lines 15-18	
149, 1-25	Objection to MACTEC report as inadmissible "expert". F.R.E. 401, 403. Testimony contradicted by plaintiff's own expert, Sinno.	If admissible, pg. 152, line 22 - pg. 153, line 25	
150, 1-4	Objection to MACTEC report as inadmissible "expert". F.R.E. 401, 403. Testimony contradicted by	If admissible, pg. 152, line 22 - pg. 153, line 25	

	plaintiff's own expert, Sinno		
153, 13-25	Objection on speculation. F.R.E. 401, 403.		
154, 1	Objection on speculation. F.R.E. 401, 403.		
157, 22-25			
158, 1-4			
170, 4-19		line 21 - pg. 171, line 7	
191, 17-25			
194, 20-22	Object on relevance and excerpt is incomplete and out of context. F.R.E. 401, 403.		
201, 3-24		Pg. 200, line 20 - pg. 201, line 2	
202, 1-25			
203, 1-20		Pg. 203, line 21 - pg. 204, line 7	F.R.E. 401 through 403 and 602.

**Designation of Deposition of Jason Grover on March 28, 2008:**

Plaintiffs' Designations	Defendant's Objections	Defendant's Cross-Designations	Plaintiffs' Objections to Cross-Designations
6, 14("If you")-16			Plaintiff objects to all of Defendant's cross-designations of this deposition as outlined in the "Plaintiff's General Objections to use of Depositions of Livingston, Schultz, Grover, Britton and Worsham by Defendants." Defendants cross-designations are hearsay without exception. Plaintiff otherwise objects to Defendants' cross-designations as noted by each of Defendants' page and line designations.
9, 16-18		9, 19-25	Irrelevant and Inadmissible. F.R.E. 401, 403.
10, Line 7 ("I went") through line 11		10, 1-7	Irrelevant and Inadmissible. F.R.E. 401, 403.
17, 1-9		17, 1-9	
23, 19-25		23, 19-25	
24, 1-2		24, 3-10	Irrelevant and Inadmissible. F.R.E. 401, 403.
38, 22-25	Objection to relevance - he did not make site inspection, so what he did		

	has no relevance. F.R.E. 401, 403.		
39, 1-2	Objection to relevance - he did not make site inspection, so what he did has no relevance. F.R.E. 401, 403.	line 4-10 (if objection overruled)	
40, 1-7			
42, 5-8			
43, 19-25			
44, 1-7			
56, 19-22	Objection to reference about edits/or revisions to report as irrelevant. F.R.E. 401, 403. Rimkus is not a defendant and no proof defendants got drafts.		
57, 9-13	Objection to reference about edits/or revisions to report as irrelevant. F.R.E. 401, 403. Rimkus is not a defendant and no proof defendants got drafts.		
58, 7-10 and 14-15 and 22-25	Objection to reference about edits/or revisions to report as irrelevant. F.R.E. 401, 403. Rimkus is not a defendant and no proof defendants got drafts.		
59, 1-9	Objection to		

	reference about edits/or revisions to report as irrelevant. F.R.E. 401, 403. Rimkus is not a defendant and no proof defendants got drafts.		
67, 15-21	Objection to relevance. F.R.E. 401, 403.		
73, 7-10		72, 18-25; 73, 11-25; 74, 1-18	Irrelevant and Inadmissible. F.R.E. 401, 403. Further, witness is speculating in p. 73, line 11-25 saying "he doesn't know," and this speculation for the basis for the rest of his testimony.
76, 20-25			
77, 1-10			
85, 9 ("you mentioned")-15 and Line 19 ("Tell me...") through 23	Objection to relevance plus calls for speculation. F.R.E. 401, 403.		
86, 15-20	Objection to relevance plus reference to inadmissible MACTEC report. F.R.E. 401, 403.		
88, 6-14			
89, 3-10			
90, 3-12 and 15-25	Objection to relevance, hearsay, plus calls for speculation. F.R.E. 401, 403.		
91, 1	Objection to relevance, hearsay, plus calls for		



	speculation. F.R.E. 401, 403.		
92, 7-16	Objection to relevance, hearsay, plus calls for speculation. F.R.E. 401, 403.	lines 17-23	
100, 9-17; 20-25	Objection because question is based on witness comments related to draft of report to which defendants were not privy, such that it is irrelevant. F.R.E. 401, 403.		
101, 1-5	Objection because question is based on witness comments related to draft of report to which defendants were not privy, such that it is irrelevant. F.R.E. 401, 403.		
106, 11 ("As far as...") -16		Pg. 110, lines 16 - 21; pg. 106, lines 17- 25; pg. 107, lines 1-23	F.R.E. 401 through 403 and 602.
111, 22-25			
112, 1			

**Designation of Deposition of Certain Underwriters at Lloyd's,  
London, 2008 Deposition:**

Plaintiffs' Designations	Defendant's Objections	Defendant's Cross- Designations	Plaintiffs' Objections to Cross- Designations
5, 17-19			Plaintiff objects to all of Defendant's

			cross-designations of this deposition as outlined in the "Plaintiff's General Objections to use of Depositions of Livingston, Schultz, Grover, Britton and Worsham by Defendants." Defendants cross-designations are hearsay without exception. Plaintiff otherwise objects to Defendants' cross-designations as noted by each of Defendants' page and line designations.
6, 1-8 and 25			
7, 1-25			
8, 1 and 12-20			
9, 19-23			
10, 13-22			
11, 4-13 and 20-25			
12, 1-8			
14, 1-12			
15, 1-3			
16, 14-25			
17, 7-21		Pg. 17, 21 - 18, 9	Witness is speculation. Inadmissible under F.R.E. 602.
18, 24-25			

19, 1-16 and 23-25			
20, 1-7 and 18-25			
21, 1-25			
22, 1-25			
23, 1-5		Pg. 23, 1-20	Inadmissible and irrelevant under F.R.E. 401, 403.
26, 24-25			
27, 1-6 and 21-25			
28, 1 and 6- 9 and 19-24			
29, 4-9 and 23-24	Defendants object to the reference to "rebuilding" because this Court has ruled the Plaintiff is not entitled to replacement cost coverage and therefore the excerpt is irrelevant. F.R.E. 401, 403.		
30, 1-2 and 18-25	Objections as above.		
31, 1-4			
38, 21-25	Defendants object as the excerpt is irrelevant, cumulative and an undue waste of time. F.R.E. 401, 403.		
39, 11-24		Pg. 39, 1-3, 7- 24	Irrelevant and inadmissible under F.R.E. 401, 403.
40, 7-25			
41, 1-18			
43, 4-21	Defendants object to this excerpt as an improper reference to counsel and legal representation. Until such time as advice of counsel is offered as a defense in this case, such references are inadmissible, irrelevant, designed to cause confusion, undue delay and undue prejudice. F.R.E. 401, 403.		
44, 19-25	Objections as above.		
46, 23-25	Defendants object to this		

	excerpt to the extent of objections to the document which is referred to in the excerpt. F.R.E. 401, 403.		
47, 1-25	Objection as above.		
48, 1-25	Objections as above to lines 1-12.		
49, 1-11	Defendants object to lines 5-11as there has never been any allegations of or claims for damage caused by waterborne debris and the excerpt is irrelevant. F.R.E. 401, 403.		
50, 6-9 and 17-23	Objection as above.		
51, 13-19	Defendants object to this excerpt as it is an improper reference to legal representation and implies a duty at law which does not exist and/or has never been pled by the Plaintiff. It is irrelevant, misleading and an undue waste of time. F.R.E. 401, 403.		
52, 19-24			
53, 3-4 and 10-25	Underwriters object to this excerpt as it contains argument/testimony by counsel, reference to documents to which Underwriters have objected as trial exhibits, inadmissible legal conclusions and lay opinions. F.R.E. 401, 403.		
54, 1-25	Objections as above.		
55, 1-7 and 10-25	Objections as above. Additionally, the excerpt contains improper reference to counsel. F.R.E. 401, 403.		
56, 1-25	Defendants object to lines 23-25 as they contain reference to counsel and make improper implication regarding raising of privilege. F.R.E. 401,		

	403.		
57, 1-20	Objections as above for lines 1-10.		
58, 1-6 and 12-25	Objections as above for lines 1-6, and lines 12-15 as to relevance. F.R.E. 401, 403.		
59, 1 and 7-25	Objection as to relevance. F.R.E. 401, 403.		
60, 1-25	Objection as to relevance. F.R.E. 401, 403.		
61, 1-2 and 8 "on page 4..." - 25	Objection as to relevance. F.R.E. 401, 403.		
62, 2-12	Defendants object to line 1, as above, and lines 10-12 as irrelevant, misleading and undue waste of time. F.R.E. 401, 403.		
63, 17-21			
64, 1-25	Objection as to relevance. F.R.E. 401, 403.		
65, 1-5 and 12-22	Objections as above to lines 1-11 on grounds of reference to attorney. F.R.E. 401, 403.	Pg. 65, 23-25	Inadmissible and irrelevant under F.R.E. 401, 403.
66, 3-25	Defendants object to this excerpt as it contains reference to documents to which Underwriters have objected as trial exhibits F.R.E. 401, 403.		
67, 1-25	Defendants object to this excerpt as it assumes a legal duty to exist, assumes facts not in evidence, contains improper reference to counsel, calls for speculation and is irrelevant. Defendants also object to reference to Livingston's failure to have the engineering report as irrelevant. F.R.E. 401, 403.		
68, 1-13 and 16-25	Objections as above to lines 1-13. F.R.E. 401, 403.		
69, 4-25	Defendants object to this excerpt as it contains improper reference to counsel, hearsay, calls		

	for speculation, assumes facts not in evidence, and references documents to which Underwriters have objected as trial exhibits. F.R.E. 401, 403.		
70, 1-4 and 6-25	Objections as above as to lines 1-4. F.R.E. 401, 403.		
71, 12-15	Defendants object to the extent the excerpt constitutes improper reference to counsel. F.R.E. 401, 403.		
72, 14-25			
73, 1-12	Defendants object to this excerpt as it is incomplete, misleading and likely to confuse the jury. F.R.E. 401, 403.	Pg. 73, 13-20 (if objection overruled)	Substance of testimony violates motion in limine regarding testimony or evidence related to Plaintiff's counsel and the order granting that motion in limine [d.e. 191]
75, 8-10 and 16-19			
76, 17-24			
78, 2-22			
81, 1-6	Defendants object to this as it improperly comments on counsel, raises an unsubstantiated inference of wrongdoing by counsel, is irrelevant to any issue in controversy in this cause. F.R.E. 401, 403.		
83, 20-25	Defendants object as the excerpt is irrelevant, contains merely statements of Plaintiff's counsel, contains reference to documents to which Underwriters have objected as trial exhibits and is likely to lead to		

	confusion or waste of time. Defendants also object to reference to the privilege log. F.R.E. 401, 403.		
84, 1-16 and 22-25	Objections as above.		
85, 1-7	Objections as above.		
87, 24-25			
88, 1-2 and 7-10 and 18-19			

**Underwriters' General Objection to the Testimony of Deloteus and Lewando:** Underwriters object to the Plaintiff's designation of Ray Deloteus and Al Lewando as experts. This Court has already determined that they cannot testify as expert witnesses. [D.E. 326].

13. The following is a list of witnesses Defendants anticipate calling at the trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge prior to commencement of trial. The listing of a WILL CALL witness constitutes a professional representation, upon which opposing counsel may rely, that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.

Name	Will Call	May Call	Fact Liability Damages Expert	Residence Address & Tel. No.	Business Address & Tel. No.
Derrell Livingston		X	Fact/ liability damages	6604 Paul Schadt Lane Charlotte, NC 28227 704-364-1161	
William "Bill" Worsham		X	Fact/ liability damages		
Mr. Robert Britton		X	Fact/ liability damages		
Mr. Paul Colman, P.E.		X	Expert liability damages		Rimkus Consulting 198 Charmont Drive Suite 4 Ridgeland, MS 39157 (601) 898-4738

Mr. Jason Grover, P.E.	X	Fact/expert liability damages	Grover Consulting Hattiesburg, MS
Mr. Mark Saunders, PE Thompson Engineering	X	Expert/ liability damages	297 Cottage Hill Rd Suite 190 Mobile, Al 36606 251-666-2443
Mr. Robert Harvey, PE Thompson Engineering	X	Expert/ liability damages	297 Cottage Hil Rd Suite 190 Mobile, Al 36606 251-666-2443
Dr. Lee Branscome Climatological Consulting Corp.	X	Expert/ liability	7338 155th Place N. Palm Beach Gardens, FL (561) 745-4889
Ms. Becky Williams	X	Fact	4401 Beatline Rd., Apt. A Long Beach, MS
Mr. Al Lewando	X	Fact	
Mr. Robert H. Schroeder, Jr.	X	Fact	
Mr. Samuel Scandaliato	X	Fact	
Mr. Jim Schulz	X	Fact/ liability/ damages	Birmingham, AL
Ms. Terressa Garner and/or representative(s) of Gresham & Associates	X	Fact/ liability	
Mr. Frank Pringle	X	Fact/ liability	
Mr. August "Gus" Reinhard	X	Fact/ liability	
Mr. Bill Noelle	X	Fact/ liability	
Mr. Kenneth Wittman and/or representative(s) of City of Pass Christian Code Enforcement Office	X	Fact/ liability	
Mr. Fred Mikill	X	Fact/ liability	
Ms. Norma Kucera	X	Fact/ liability	
Mr. Rod Ladnier	X	Fact/ liability	
Ms. Carolyn Riser	X	Fact/ liability	



Ms. Barbara Johnson	X	Fact/ liability	
Ms. Melanie McMahon	X	Fact/ liability	
Mr. Robert Walker	X	Fact/ liability	
Allen Purvis	X	Expert/ Damages	14349 Brettonwood Cove Gulfport, MS 39503 228-539-0549
Bret O'Steen	X	Expert/ Damages	4949 West Royal Lane Irving, TX 75063
Jonathan Held	X	Expert/ Damages	277 Willis Ave. Roslyn Heights, NY 11577 (516) 621-2900
Representative of Gresham & Assoc. (Jacqueline Marler or Tony Gresham, Sr.)	X	Fact/ Liability/ Damages	One Gresham Landing Stockbridge, GA 30281 (770) 389-1600
Carol Weaver	X	Fact/ Liability/ Damages/	McGriff Seibels & Williams P.O. Box 10265 Birmingham, AL 800-277-6698
Sally Lopessor	X	Fact/ Liability/ Damages	Stewart, Sneed, Hewes 2909 13 <sup>th</sup> St., Gulfport, MS 228-863-5362
Jackie Hoda	X	Fact/ Liability/ Damages	Stewart, Sneed, Hewes 2909 13 <sup>th</sup> St., Gulfport, MS 228-863-5362
Tim Gill	X	Fact/ Liability/ Damages	Stewart, Sneed, Hewes 2909 13 <sup>th</sup> St., Gulfport, MS 228-863-5362
Robert Ward	X	Fact/ Liability/ Damages	2420 Camp St. New Orleans, LA 504-891-6726
Marion Pendergraft	X	Fact/ Liability/ Damages	Plaintiff's Board Member
Norman Hubbard	X	Fact/ Liability/ Damages	Plaintiff's Board Member
Ray Deloteus	X	Fact/ Liability/ Damages	Plaintiff's Board Member
William Anderson Baker III	X	Fact	Gillis, Ellis & Baker 1615 Poydras St. Ste.1615 New Orleans, LA 70112
Martin Winfree	X	Fact/ Damages	21099 22 <sup>nd</sup> Ave. Gulfport, MS 39501

228-864-1188

Underwriters reserves the right to call any witness identified by the Plaintiff.

Will testify live: All, if called.

Will testify by deposition: Listed below, with designations and objections.

**Underwriters' Deposition Designations of Frank Pringle<sup>1</sup> taken on January 13, 2009:**

Defendants' Designations	Plaintiff's Objections	Plaintiffs' Cross-Designations	Defendants' Objections to Cross-Designations
Pg. 5, ln. 1-25			
Pg. 6, ln. 1-9			
Pg. 7, ln. 4-11, 15-19, 23-25		Pg.7, ln. 12-14	
Pg. 8, ln. 1-17, 25	Legal Conclusion (F.R.E. 602). Also would lead to jury confusion and is irrelevant.		
Pg. 9, ln. 1-8, 12-25	Legal Conclusion (F.R.E. 602). Also would lead to jury confusion and is irrelevant.		
Pg. 10, ln. 1, 5-7, 10-18, 23-25	Legal Conclusion (F.R.E. 602). Also relates to insurance contract interpretation inadmissible under d.e. 305 and 306.		
Pg. 11, ln. 1-2, 7-9	Same Objection.		
Pg. 12, ln. 5-8, 12-15, 17-25	Same objection.		
Pg. 13, ln. 1-14, 19-25	Legal Conclusion (F.R.E. 602)		
Pg. 14, ln. 1-25	Legal Conclusion		

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<sup>1</sup> Underwriters reserve the right to call Frank Pringle as a witness at trial.

	(F.R.E. 602). Also relates to insurance contract interpretation inadmissible under d.e. 305 and 306.		
Pg. 15, ln. 1-15, 20-25	Calls for legal conclusion of condominium declarations.		
Pg. 16, ln. 1-13, 21-25			
Pg. 17, ln. 1-25	Legal Conclusion (F.R.E. 602)		
Pg. 18, ln. 1-8 Pg. 18, ln. 16-25 Pg. 19, ln. 1-3 (ending "maybe") Pg. 22, ln. 4-24 Pg. 23, ln. 1-2, 24-25		Pg. 18, ln. 16-25 Pg. 19, ln. 1-3 (ending "maybe") Pg. 22, ln. 4-24 Pg. 23, ln. 1-2	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, and is irrelevant. F.R.E. 401-403.

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to this entire testimony as irrelevant and inadmissible, as it would only confuse the issues for the jury. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

**Underwriters' Deposition Designations of August Reinhard<sup>2</sup> taken on December 4, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendant's Objections to Cross-Designations
Pg. 6, ln. 5-25			
Pg. 9, ln. 11-14			

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<sup>2</sup> Underwriters reserve the right to call August Reinhard as a witness at trial.

Pg. 10, ln. 10-23			
Pg. 11, ln. 2-7, 21-22	Calls for legal conclusion; F.R.E. 602		
Pg. 12, ln. 1, 3-5, 11-22			
Pg. 13, ln. 4-8, 21-25	Calls for legal conclusion; F.R.E. 602		
Pg. 14, ln. 4-17, 21-25	Calls for legal interpretation of condominium declarations.		
Pg. 15, ln. 1-15, 24-25	F.R.E. 602		
Pg. 16, ln. 1-16		p. 16, ln. 17-25; p.17, ln. 1-3	
Pg. 17, ln. 9-13, 23-25			
Pg. 18, ln. 3-7		p. 18, ln. 1-2 and 11-25. p. 19, ln. 1-10 and 18-25. p. 20, ln. 1-20. p. 21, ln. 19-25.	
Pg. 22, ln. 3-5, 14, 15-25		p. 22, ln. 1-14.	
Pg. 23, ln. 1-25	Irrelevant and inadmissible.		
Pg. 24, ln. 1-18, 22-25	Calls for Legal Conclusion; F.R.E. 602		
Pg. 25, ln. 1, 5-9, 13-17, 20-25	Calls for Legal Conclusion; F.R.E. 602		
Pg. 26, ln. 1-2, 17-25	Calls for Legal Conclusion; F.R.E. 602. Parole evidence of contract.		
Pg. 27, ln. 1-3, 8-15	Calls for Legal Conclusion; F.R.E. 602. Parole evidence of contract interpretation and enforcement.	p. 28, ln. 13-21	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, is irrelevant, and the witness lacks personal knowledge. F.R.E. 401-403, 602, 603.
Pg. 33, ln. 14-24			
Pg. 34, ln. 21-25	Calls for Legal Conclusion; F.R.E. 602		

Pg. 35, ln. 1-3, 16-22	Calls for Legal Conclusion; F.R.E. 602		
Pg. 36, ln. 1-10	Calls for Legal Conclusion; F.R.E. 602. Inadmissible parole evidence.		
Pg. 37, ln 8-12		p. 37, ln. 13-15	Defendants object to this excerpt as it contains hearsay, calls for speculation, and assumes facts not in evidence. F.R.E. 401-403.
Pg. 38, ln. 5-8			
Pg. 42, ln. 8-14	Irrelevant, inadmissible and out of context.	p. 42, ln. 1-7	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, is irrelevant and is a legal conclusion. F.R.E. 401-403.
Pg. 46, ln. 7-10, 14-15		p. 47, ln. 18-22. p. 48, ln. 2-4.	Defendants object to this excerpt as it calls for speculation, assumes facts not in evidence, and is irrelevant. F.R.E. 401-403.
Pg. 56, ln. 10-13, 19-23	Calls for Legal Conclusion; F.R.E. 602. Irrelevant, inadmissible and unduly prejudicial.		
Pg. 58, ln. 13-22			
Pg. 59, ln. 1-3, 5-23	F.R.E. 602		
Pg. 60, ln. 1-13, 17-25	F.R.E. 602		
Pg. 61, ln. 1-25	Irrelevant.		
Pg. 62, ln. 18-25	Irrelevant and relates to an inadmissible document.		
Pg. 63, ln. 1-16, 20-25	F.R.E. 602 as well as the same objection in the page and line above.		
Pg. 64, ln. 1, 6-9, 13-14, 16-19	F.R.E. 602	p. 64, ln. 20-25. p. 65, ln. 1-25.	Defendants object to this excerpt as it contains

		p. 66, ln. 1-25. p. 67, ln. 1-2.	hearsay, calls for speculation, assumes facts not in evidence, is irrelevant and calls for a legal conclusion and/or expert opinion. F.R.E. 401-403, 701-702.
Pg. 67, ln. 9-21 Pg. 69, ln. 5-24	F.R.E. 602		
		p. 69, ln. 25. p. 70, ln. 1-25. p. 71, ln. 1 and 6-22.	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, and is irrelevant. F.R.E. 401-403. Inadmissible based on ruling excluding evidence and testimony related to Stewart Sneed and Hewes.

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to this entire testimony as irrelevant and inadmissible, as it would only confuse the issues for the jury. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

**Underwriters' Deposition Designations of Fred Mikill<sup>3</sup> taken on December 5, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendants' Objections to Cross-Designations
Pg. 6, ln. 1-8		Pg. 7, ln. 14-25	Defendants object as to relevance. F.R.E. 401, 403

<sup>3</sup> Underwriters reserve the right to call Fred Mikill as a witness at trial.

Pg. 8, ln. 1-17		Pg. 8, ln. 18-21	
Pg. 9, ln. 3-19, 24-25			
Pg. 10, ln. 1-3, 8-17, 21-25	Calls for legal interpretation of condominium declarations.		
Pg. 11, ln. 1-17, 22-25			
Pg. 12, ln. 1-25			
Pg. 13, ln. 1-25			
Pg. 14, ln. 1-17	Calls for a legal conclusion.	Pg. 14, ln. 21-25.	Defendants object as to relevance. F.R.E. 401, 403. Out of context.
Pg. 15, ln. 1-7, 12-15, 17-20, 25	Incomplete and out of context.	Pg. 16, ln. 9-22.	
Pg. 17, ln. 10-25			
Pg. 18, ln. 1-25			
Pg. 19, ln. 1-25			
Pg. 20, ln. 1-7			
Pg. 21, ln. 21-25			
Pg. 22, ln. 1-7, 19-25			
Pg. 23, ln. 1-2, 7-9, 11-25	Calls for speculation.	Pg. 23, 16-18	Defendants object as the testimony designated does not contain any testimony by this witness.
Pg. 24, ln. 1-6, 10-16		Pg. 24, ln. 3-6 and ln. 10. Pg. 26, ln. 20-24, and pg. 27, ln. 4-9.	Defendants object as the testimony designated does not contain any testimony by this witness. Defendants object as to relevance. F.R.E. 401, 403. Out of context.
Pg. 27, ln. 17-20	Calls for legal conclusion and the introduction of parole evidence. Calls for speculation.		
Pg. 28, ln. 1-8, 12-13, 15-17, 20-25	Calls for speculation and legal conclusion.		
Pg. 29, ln. 1	Incomplete and out of context.	Pg. 29, ln. 2-5.	Defendants object as to relevance. F.R.E. 401, 403. Out of context.
Pg. 32, ln. 15-18, 23-25	Lines 15 through 18 are counsel testifying and speculating. F.R.E. 401 through 403 and calls for speculation.		

Pg. 33, ln. 1, 7-16	Calls for speculation and asks for a restatement of a question. It is irrelevant to any matter as it is merely counsel testifying and the deponent does not answer the question.		
Pg. 35, ln. 4-10	It is irrelevant to this matter and is counsel for Defendants testifying. Calls for speculation. Inadmissible under F.R.E. 401-403.		
Pg. 36, ln. 11-19	Calls for speculation. F.R.E. 602, 401, 402 and 403.		
Pg. 37, 2-4, 9-14, 17-18, 20-21	F.R.E. 401 through 403. Out of context. Is not testimony, out counsel objecting.		
Pg. 39, ln. 11-17, 22-25	F.R.E. 401 through 403. Out of context. Calls for speculation. Lack of personal knowledge. F.R.E. 602.		
Pg. 40, ln. 1	F.R.E. 401 through 403. Out of context. Calls for speculation.		
Pg. 41, ln. 8-17	Lines 12 through 17 is counsel testifying. F.R.E. 401 through 403. Out of context. Calls for speculation. Lack of personal knowledge. F.R.E. 602.	Pg. 41, ln. 23-24.	
Pg. 44, ln. 9-10, 22-25	Calls for speculation.		
Pg. 45, ln. 1-6, 10-13, 15-24	F.R.E. 401 through 403. Out of context. Calls for speculation.		
Pg. 46, ln. 4-6	F.R.E. 401		



	through 403. Out of context. Calls for speculation.		
Pg. 50, ln. 15-17, 21	F.R.E. 401 through 403. Out of context. Lack of personal knowledge.		
Pg. 52, ln. 24-25			
Pg. 53, ln. 1-7, 19-25		Pg. 53, ln. 9-18.	
Pg. 54, ln. 1-6, 16-21	Lines 19 through 21 is counsel testifying. F.R.E. 401 through 403. Calls for speculation. Incomplete and out of context. Witness lacks personal knowledge.	Pg. 54, ln. 25 and Pg. 55, ln.1 and 10-22, only if Defendants are allowed to out on lines 19 through 21.	
Pg. 57, ln. 14-16, 21	F.R.E. 401 through 403. Calls for speculation and F.R.E. 602.		

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to this entire testimony as irrelevant and inadmissible, as it would only confuse the issues for the jury. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

**Underwriters' Deposition Designations of Melanie McMahon<sup>4</sup> taken on December 4, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendant's Objections to Cross-

<sup>4</sup> Underwriters reserve the right to call Melanie McMahon as a witness at trial.

			Designations
Pg. 6, ln 4-5, 9-14, 22-25		Pg. 8, ln. 21-25	
Pg. 9, ln. 23-25		Pg. 9, ln. 1-22	
Pg. 10, ln. 1-12		Pg. 10, ln. 13-21	
Pg. 11, ln. 8-12, 18-25			
Pg. 12, ln. 1-12, 17-20			
Pg. 13, ln. 5-7, 12-25	Irrelevant and inadmissible. F.R.E. 401, 403.		
Pg. 14, ln. 1-3, 11-12, 17-22	Irrelevant and witness has no personal knowledge. F.R.E. 401, 403 and 602.	Pg. 14, ln. 23-25	
Pg. 15, ln. 3-6, 11-13, 17-25	Witness is speculating, and has no personal knowledge.	Pg. 15, ln. 1-2	
Pg. 16, ln. 1-2		Pg. 16, ln. 3-12	Defendants object to this excerpt as the witness lacks personal knowledge. F.R.E. 602.
Pg. 17, ln. 24-25			
Pg. 18, ln. 1-11			
Pg. 19, ln. 16-22			
Pg. 20, ln. 2-6, 16-25	Irrelevant and witness has no personal knowledge.		
Pg. 21, ln. 1-25			
Pg. 22, ln. 1-15		Pg. 22, ln. 18-25	Defendants object to this excerpt as the witness lacks personal knowledge. F.R.E. 602.
Pg. 23, ln. 4-15, 21-25		Pg. 23, ln. 1-3, 16-20	Defendants object to this excerpt as the witness lacks personal knowledge. F.R.E. 602.
Pg. 24, ln. 5-11	Calls for speculation and hypothesizes about matters not in evidence.	Pg. 26, ln. 6-10, 15-25	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence. Defendants object to this excerpt as the witness lacks personal knowledge. F.R.E. 602, 801,

Pg. 27, ln. 2-10	F.R.E. 602. Also parole evidence of contract interpretation.	Pg. 27, ln. 11-24	802. Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence. Defendants object to this excerpt as the witness lacks personal knowledge. F.R.E. 602, 801, 802.
Pg. 28, ln. 18-23			
Pg. 30, ln. 16-25	Inadmissible parole evidence of insurance contract.		
Pg. 31, ln. 1-25	Pg. 31, ln. 23-25 Irrelevant. The entirety calls for speculation and parole evidence testimony.		

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to this entire testimony as irrelevant and inadmissible, as it would only confuse the issues for the jury. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

**Underwriters' Deposition Designations of Robert Walker<sup>5</sup> taken on December 8, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendant's Objections to Cross-Designations
Pg. 4, ln. 1-3			

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<sup>5</sup> Underwriters reserve the right to call Robert Walker as a witness at trial.

Pg. 5, ln. 2-3		Pg. 7, ln. 16-22	
Pg. 8, ln. 17-25		Pg. 8, ln. 3-18	
Pg. 9, ln. 1-17		Pg. 9, ln. 22-25	
Pg. 10, ln. 13-24		Pg. 10, ln. 8-12	
Pg. 11, ln. 8-17			
Pg. 12, ln. 1-8, 12-16		Pg. 12, ln. 9-11	
Pg. 13, ln. 2-5, 7-14, 16-23			
Pg. 14, 4-25			
Pg. 15, ln. 1-2, 17-25			
Pg. 16, ln. 1-12, 14-25	Call for Legal Conclusion (F.R.E. 602). Witness is also speculating and not testifying from personal knowledge.		
Pg. 17, ln. 1-2, 4-11, 15-21, 23-25	Call for Legal Conclusion (F.R.E. 602). Also calls for speculation and parole evidence interpretation.		
Pg. 18, ln. 1-2, 4-8, 12-16, 18-25	Call for Legal Conclusion (F.R.E. 602) and speculation of responsibilities.		
Pg. 19, ln. 3, 17-25		Pg. 19, ln. 11-18	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence. Defendants object to this excerpt as the witness lacks personal knowledge. F.R.E. 602, 801, 802.
Pg. 20, ln. 1-19, 21-25			
Pg. 21, ln. 1-25	Call for Legal Conclusion (F.R.E. 602)		
Pg. 22, ln. 1-2, 11-14		Pg. 22, ln. 15-25	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence. Defendants object to this excerpt as the witness lacks personal

			knowledge. F.R.E. 602, 801, 802.
Pg. 23, ln. 22-25 Pg. 24, ln. 1-8, 13-18, 21-25		Pg. 24, ln. 19- 20	Defendants object to this excerpt as it contains statements of Plaintiff's counsel and is not testimony from this witness. F.R.E. 401-403.
Pg. 25, ln. 9-24 Pg. 32, ln. 5-25	Irrelevant F.R.E. 602, hearsay and witness does not recognize document.		
Pg. 33, ln. 1-25	F.R.E. 602, hearsay and witness is speculating.		
Pg. 34, ln. 1-25	F.R.E. 602, hearsay and witness has no personal knowledge.		
Pg. 35, ln. 1-22, 25	F.R.E. 602, hearsay and witness has no personal knowledge. 2		
Pg. 36, ln. 1-25	F.R.E. 602, hearsay and witness has no personal knowledge, and calls for speculation.		
Pg. 37, ln. 1-4, 6-8, 9- 23	F.R.E. 602, hearsay and witness has no personal knowledge, and calls for speculation.		
Pg. 38, ln. 1-5, 7, 9-10	F.R.E. 602, hearsay and witness has no personal knowledge, and calls for speculation.		

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance

policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to this entire testimony as irrelevant and inadmissible, as it would only confuse the issues for the jury. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

**Underwriters' Deposition Designations of Carol Weaver taken on November 19, 2008:**

Underwriters intend to introduce the entire deposition of Carol Weaver taken on November 19, 2008 via videotape. Underwriters reserve the right to call Carol Weaver as a witness at trial.

Penthouse objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the Order granting that motion [d.e. 305].

Further, Penthouse hereby incorporates all objections to the testimony or evidence from McGriff, Seibels and Williams as outlined in Penthouse's Motion in Limine [D.E. 272] and the Order granting that motion [d.e. 330].

Penthouse further objects to the admission of any testimony from McGriff, Seibels and Williams as it is irrelevant to any contested issue of law or fact, and is otherwise inadmissible pursuant to F.R.E.'s 401 through 403. Penthouse further objects to the introduction of any testimony from McGriff, Seibels and Williams related to value, policy interpretation, or claims handling as McGriff has no personal knowledge of such matters and cannot testify to that under F.R.E. 602. That evidence and testimony related thereto is excluded by d.e. 330.

**Underwriters' Deposition Designations of Jaqueline Hoda<sup>6</sup>,  
Designated as the 30(b)(6) Corporate Representative of Stewart  
Sneed Hewes taken on December 4, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendants' Objections to Cross-Designations
Pg. 4, ln. 1-4	F.R.E. 402; 403. Further, Plaintiff objects to the entirety of the testimony of Jaqueline Hoda. Testimony and evidence from Stewart Sneed and Hewes has been excluded from evidence pursuant to the order of this Court [d.e. 306] granting Plaintiff's motion in limine to exclude all evidence from Stewart Sneed and Hewes [d.e. 283].		
Pg. 6, ln. 21-23	F.R.E. 402; 403		
Pg. 7, ln. 1-25	F.R.E. 402; 403		
Pg. 8, ln. 1-25	F.R.E. 402; 403		
Pg. 9, ln. 2-7, 14-25	F.R.E. 402; 403		
Pg. 10, ln. 1-20	F.R.E. 402; 403		
Pg. 11, ln. 17-25	F.R.E. 402; 403		
Pg. 12, ln. 1-15	F.R.E. 402; 403	Pg. 12, ln. 20-25; Pg. 13, ln. 1-4; Pg. 14, ln. 22-25	
Pg. 15, ln. 16-18	F.R.E. 402; 403		
Pg. 16, ln. 9-25	F.R.E. 402; 403		
Pg. 17, ln. 1-11	F.R.E. 402; 403		
Pg. 18, ln. 2-7	F.R.E. 402; 403		
Pg. 19, ln. 8-25	Calls for speculation (F.R.E. 602); Lack of foundation		
Pg. 20, ln. 1-6	F.R.E. 402; 403	Pg. 22, ln. 12-19	Defendants object to this excerpt as it contains hearsay, calls for

<sup>6</sup> Underwriters reserve the right to call Jacqueline Hoda as a witness at trial.

			speculation, assumes facts not in evidence, and is irrelevant. F.R.E. 401-403.
Pg. 24, ln. 8-16	F.R.E. 402; 403	Pg. 28, ln. 23-25; Pg. 29, ln. 1-12	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, and is irrelevant. F.R.E. 401-403.

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the Order granting that motion [d.e. 305].

Further, Penthouse hereby incorporates all objections to the testimony or evidence from Steward, Sneed and Hewes as outlined in Penthouse's Motion in Limine [D.E. 283] and the Order of the Court granting that motion [d.e. 306].

**Designation of Deposition of Timothy Gill, Designated<sup>7</sup> as the 30(b)(6) Corporate Representative of Stewart Sneed Hewes taken on December 4, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendant's Objections to Cross-Designations
Pg. 4, ln. 1-4, 15-16, 19-25	Further, Plaintiff objects to the entirety of the testimony of Jaqueline Hoda. Testimony and evidence from Stewart Sneed and Hewes has been excluded from evidence pursuant to the order of this		

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<sup>7</sup> Underwriters reserve the right to call Timothy Gill as a witness at trial.



	Court [d.e. 306] granting Plaintiff's motion in limine to exclude all evidence from Stewart Sneed and Hewes [d.e. 283].		
Pg. 5, ln. 1, 19-24	F.R.E. 402; 403		
Pg. 6, ln. 16-19	F.R.E. 402; 403	Pg. 6, ln. 3-8 & 20-25	
		Pg. 7, ln 1-14	
Pg. 11, ln. 13-25	F.R.E. 402; 403		
Pg. 12, ln. 1-4	F.R.E. 402; 403		
Pg. 14, ln. 18-23	F.R.E. 402; 403		
Pg. 16, ln. 23-25	F.R.E. 402; 403	Pg. 16, ln. 2-25	
Pg. 17, ln. 1-3	F.R.E. 402; 403	Pg. 17, ln. 1-3	
Pg. 18, ln. 6-10, 11-12, 14-25	F.R.E. 402; 403		
Pg. 19, ln. 1	F.R.E. 402; 403		

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the Order granting that motion [d.e. 305].

Further, Penthouse hereby incorporates all objections to the testimony or evidence from Stewart, Sneed and Hewes as outlined in Penthouse's Motion in Limine [D.E. 283] and the Order of the Court granting that motion [d.e. 306].

**Underwriters' Deposition Designations of Robert Ward<sup>8</sup> taken on December 12, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendant's Objections to Cross-Designations
Pg. 6, ln. 15-23			
Pg. 10, ln. 6-10		Pg. 10, ln 11-24	
Pg. 11, ln. 1-25			
Pg. 12, ln. 12-25			
Pg. 13, ln. 1-8		Pg. 13, ln 13-22	
Pg. 15, ln. 20-25		Pg. 15, ln. 2-19	
Pg. 16, ln. 1-25			
Pg. 17, ln. 1-20			
Pg. 18, ln. 9-25	Hearsay		

<sup>8</sup> Underwriters reserve the right to call Robert Ward as a witness at trial.

Pg. 19, ln. 1-25	Hearsay		
Pg. 20, ln. 1-25	Pg. 20, ln. 1-4 Hearsay		
Pg. 21, ln. 1-25			
Pg. 22, ln. 1-25	Legal conclusion and speculation. F.R.E. 602. Hearsay		
Pg. 23, ln. 1-9			
Pg. 24, ln. 13-25			
Pg. 25, ln. 1-25			
Pg. 26, ln. 1-25	Hearsay; Speculation (F.R.E. 602)		
Pg. 27, ln. 1-25	Hearsay; Speculation (F.R.E. 602)		
Pg. 28, ln. 1-25	Irrelevant and Speculation (F.R.E. 602, 401 and 403)		
Pg. 29, ln. 1-25	Speculation (F.R.E. 602)		
Pg. 30, ln. 1-25			
Pg. 31, ln. 1-25			
Pg. 32, ln. 1-25	Irrelevant		
Pg. 33, ln. 13-14, 18-20, 24-25		Pg. 33 (15-17)	
Pg. 34, ln. 1-6, 18-25			
Pg. 35, ln. 1-8	Irrelevant and misleading. F.R.E. 401, 403.		
Pg. 36, ln. 4-10, 16-25	Irrelevant and Hearsay		
Pg. 37, ln. 1-25	Hearsay, speculative and irrelevant.		
Pg. 38, ln. 1-25	Hearsay; Speculation (F.R.E. 602). Also irrelevant.		
Pg. 39, ln. 1-25	Hearsay; Speculation (F.R.E. 602)		
Pg. 40, ln. 1-25	Hearsay; Speculation (F.R.E. 602)		
Pg. 41, ln. 1-25	Speculation. (F.R.E. 602)		
Pg. 42, ln. 1-25	Speculation and irrelevant. (F.R.E. 602, 401, 403)		
Pg. 43, ln. 1-25	Calls for Legal Conclusion and parole evidence; Speculation (F.R.E. 602)		

Pg. 44, ln. 1-7, 14-25	calls for Legal Conclusion and parole evidence; Speculation (F.R.E. 602)		
Pg. 45, ln. 1-15	Parole evidence.		
Pg. 46, ln. 1-25	calls for Legal Conclusion and parole evidence; Speculation (F.R.E. 602)		
Pg. 47, ln. 1-7	Speculation (F.R.E. 602)	Pg. 47, ln. 8-15, 23-25	
Pg. 48, ln. 18-25	Hearsay	Pg. 48, ln. 1-3	
Pg. 49, ln. 1-25			
Pg. 50, ln. 1-25			
Pg. 51, ln. 1-25	Legal Conclusion (F.R.E. 602)		
Pg. 52, ln. 1-25	Legal Conclusion (F.R.E. 602)		
Pg. 53, ln. 1-25	Legal Conclusion (F.R.E. 602)		
Pg. 54, ln. 1-25	Legal Conclusion (F.R.E. 602)		
Pg. 55, ln. 1-25			
Pg. 56, ln. 1-15	Legal Conclusion (F.R.E. 602)		
Pg. 58, ln. 10-25			
Pg. 59, ln. 5-25			
Pg. 60, ln. 1-9, 13-25			
Pg. 61, ln. 1-25			
Pg. 62, ln. 1-25			
Pg. 63, ln. 1-25			
Pg. 64, ln. 1-25	Legal Conclusion (F.R.E. 602)		
Pg. 65, ln. 1-2		Pg. 65, ln. 21-25 Pg. 66, ln. 1-8, 13-17 Pg. 67, ln. 22-25	Defendants object to this excerpt as it calls for speculation, assumes facts not in evidence, and calls for a legal conclusion. F.R.E. 401-403.
Pg. 68, ln. 3-14		Pg. 68, ln. 1-2, 15-24	

Pg. 71, ln. 1-20		Pg. 70, ln. 6-24 Pg. 71, ln. 21-25 Pg. 72, ln 1-19 Pg. 73, ln. 5-25	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, and is irrelevant. Defendants object to this excerpt as the witness lacks personal knowledge. F.R.E. 401-403, 602, 801, 802.
Pg. 74, ln. 25 Pg. 75, ln. 1-25	Speculation (F.R.E. 602)	Pg. 74, ln. 1-2 Pg. 77, ln. 1-4, 9-11 Pg. 79, ln. 18-25 Pg. 80, ln. 1-2	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, and is irrelevant. F.R.E. 401-403.
Pg. 83, ln. 13-25 Pg. 84, ln. 1-22		Pg. 86, ln. 13-22 Pg. 87, ln.3-8 (ending "is there") Pg. 88, ln. 20-25 Pg. 89, ln. 1-2	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, and is irrelevant. F.R.E. 401-403.
Pg. 94, ln. 7-13	Calls for Legal Conclusion; Speculation (F.R.E. 602)		
Pg. 97, ln. 9-25			
Pg. 98, ln. 1-2			
Pg. 99, ln. 4-13, 17-25	Calls for Legal Conclusion; Speculation (F.R.E. 602)		
Pg. 100, ln. 1-12, 16-25			
Pg 101, ln. 1-3, 7-22	Calls for Legal Conclusion; Speculation (F.R.E. 602)		
Pg. 102, ln. 1-2, 5-25	Calls for Legal Conclusion; Speculation (F.R.E. 602)	Pg. 102, ln. 3-4	

Pg. 103, ln. 1	Calls for Legal Conclusion (F.R.E. 602)	Pg. 103, ln. 2-8	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, is irrelevant, and calls for a legal conclusion. F.R.E. 401-403.
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Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the Order granting that motion [d.e. 305]. The entirety of the testimony relates to parole evidence regarding insurance contract interpretation, or otherwise is admittedly inadmissible and/or speculative. It should be excluded.

Further, Penthouse hereby incorporates all objections to the testimony or evidence from Robert Ward as outlined in Penthouse's Motion in Limine [D.E. 276]. His entire testimony and any mention of it is inadmissible as fully stated in that *Motion*.

**Underwriters' Deposition Designations of Marion Pendergraft<sup>9</sup> taken on December 5, 2008:**

Defendants' Designations <sup>1</sup>	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendant's Objections to Cross-Designations
Pg. 5, ln. 1-7, 17-23			
Pg. 6, ln. 23-25			
Pg. 7, ln. 1-10, 15-22, 25		Pg. 7, ln. 11-14	
Pg. 8, ln. 1-4, 8-18, 24-25	Calls for legal conclusion and witness is speculating.		
Pg. 9, ln. 1-3, 13-21			
Pg. 10, ln. 2-3, 8-25			
Pg. 11, ln. 5-9, 12-13,	Calls for legal		

<sup>9</sup> Underwriters reserve the right to call Marion Pendergraft as a witness at trial.

<sup>1</sup> Underwriters note that the deposition transcript does not identify line numbers, so Underwriters have made their best effort to indicate the line numbers of the testimony as it appears on each page.

17-21, 25	conclusion (F.R.E. 602) and witness is speculating.		
Pg. 12, ln. 1-10, 14-15, 20-25			
Pg. 13, ln. 1-10		Pg. 13, ln. 19-24 Pg. 14, ln.14-24	Defendants object to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence, is irrelevant and call for a legal conclusion and/or expert opinion. F.R.E. 401-403, 701-702.
Pg. 16, ln. 1-25			
Pg. 17, ln. 1, 4-5	Calls for speculation (F.R.E. 602)		

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to this entire testimony as irrelevant and inadmissible, as it would only confuse the issues for the jury. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

**Underwriters' Deposition Designations of Norman Hubbard<sup>10</sup> taken on December 9, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendants' Objections to Cross-Designations
Pg. 4, ln. 1-3, 25			
Pg. 5, ln. 1, 13-19			
Pg. 8, ln. 22-25			
Pg. 9, ln. 2-5, 9-10		p. 9, ln. 6-8 and 19-25	
Pg. 10, ln. 6-7, 9-11	Calls for Legal	p. 10, ln. 12-	Defendants object

<sup>10</sup> Underwriters reserve the right to call Norman Hubbard as a witness at trial.

	Conclusion; F.R.E. 602.	17	to this excerpt as it contains hearsay, calls for speculation, assumes facts not in evidence. Defendants object to this excerpt as the witness lacks personal knowledge. F.R.E. 602, 801, 802.
Pg. 11, ln. 4-6, 14-18, 20-22, 25	Calls for legal Conclusion; F.R.E. 602.	p. 11, ln. 19.	Defendants object to this excerpt as it contains a statement from counsel and not testimony from this witness. F.R.E. 401-403.
Pg. 12, ln. 1-9, 11-14	Calls for Legal Conclusion; F.R.E. 602.		
Pg. 13, ln. 1-6, 15-19	Calls for Legal Conclusion; F.R.E. 602. Counsel Testifying.	p. 13, ln. 9.	

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to this entire testimony as irrelevant and inadmissible, as it would only confuse the issues for the jury. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

**Underwriters' Deposition Designations of Ray Deloteus<sup>11</sup> taken on March 27, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendants' Objections to Cross-Designations
Pg. 5, ln. 4-10			
Pg. 6, ln. 4-8	Counsel testifying and F.R.E. 401, 402 and 403.		
Pg. 7, ln. 21-25	Counsel testifying and F.R.E. 401, 402 and 403.		
Pg. 9, ln. 4-25			
Pg. 10, ln. 1-5			
Pg. 12, ln. 11-19	F.R.E. 401, 402 and 403.	Pg. 11, ln. 23-35 and p. 12, ln. 1-10.	Defendants object as to relevance. F.R.E. 401, 403.
Pg. 13, ln. 12-17			
Pg. 16, ln. 22-25			
Pg. 17, ln. 1-2, 10-25			
Pg. 18, ln. 1-12			
Pg. 32, ln. 12-25		Pg. 31, ln. 22-25 and pg. 32, ln. 1-11.	Defendants object to this excerpt as it contains hearsay, assumes facts not in evidence, and references documents to which Underwriters have objected as trial exhibits. F.R.E. 401, 403.
Pg. 33, ln. 1-23			
Pg. 34, ln. 3-25			
Pg. 35, ln. 1-25			
Pg. 46, ln. 20-25	Out of context.		
Pg. 47, ln. 1-2		Pg. 47, ln. 10-17.	Defendants object to this excerpt as it contains hearsay, assumes facts not in evidence, and references documents to which Underwriters have objected as trial exhibits. F.R.E. 401, 403.
Pg. 59, ln. 11-25			
Pg. 60, ln. 1, 4-22	Irrelevant and		

<sup>11</sup> Underwriters reserve the right to call Ray Deloteus as a witness at trial.



	misleading use by counsel that four million dollars was a number to rebuild.		
Pg. 73, ln. 18-25			
Pg. 74, ln. 1-8			
Pg. 90, ln. 4-5, 7-25	Inadmissible based on the interpretation of the insurance policy, parole evidence and otherwise tends to mislead the jury. This is inadmissible under F.R.E. 401, 402 and 403, and would confuse the jury of the coverage afforded by the policy. Further objecting, it calls for speculation.		
Pg. 91, ln. 1-3	Inadmissible based on the interpretation of the insurance policy, parole evidence and otherwise tends to mislead the jury. This is inadmissible under F.R.E. 401, 402 and 403, and would confuse the jury of the coverage afforded by the policy. Further objecting, it calls for speculation.		
Pg. 127, ln. 9-25	Irrelevant and inadmissible under F.R.E. 401, 402 and 403.		
Pg. 128, ln. 1-16	Irrelevant and inadmissible under F.R.E. 401, 402 and 403.		

Pg. 142, ln. 13-18	Out of context.	Pg. 140, ln. 24-25 and Pg. 141, ln. 1-25, and pg. 142, ln. 1-12.	Defendants object to this excerpt as it contains hearsay, assumes facts not in evidence, and references documents to which Underwriters have objected as trial exhibits. F.R.E. 401, 403.
Pg. 143, ln. 1-23			

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

**Underwriters' Deposition Designations of Leonard Deloteus<sup>12</sup> taken on November 20, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendant's Objections to Cross-Designations
Pg. 7, ln. 5-18			
Pg. 8, ln. 23-25			
Pg. 9, ln. 1-21			
Pg. 10, ln. 5-25	Calls for a legal conclusion.		
Pg. 11, ln. 1-4, 17-21			
Pg. 12, ln. 5-10			
Pg. 13, ln. 7-23	Calls for Legal Conclusion		
Pg. 14, ln. 9-25	Calls for Legal Conclusion.		
Pg. 16, ln. 21-23			
Pg. 17, ln. 2-16, 21-25			
Pg. 18, ln. 1-25			
Pg. 19, ln. 1-3, 11-25			
Pg. 20, ln. 1-11, 13-25			
Pg. 21, ln. 1-25			
Pg. 22, ln. 1-25			
Pg. 23, ln. 1-25			

<sup>12</sup> Underwriters reserve the right to call Ray Deloteus as a witness at trial.

Pg. 24, ln. 1-11		Pg. 24, ln. 21-25 and Pg. 25, ln. 1-13	
Pg. 26, ln. 5-12, 15-25			
Pg. 27, ln. 1-22		Pg. 28, ln. 1-8	
Pg. 30, ln. 13-25			
Pg. 31, ln. 1-13, 21-25			
Pg. 32, ln. 1-4, 7-25			
Pg. 33, ln. 1-16			
Pg. 34, ln. 6-25			
Pg. 35, ln. 1-12, 21-25			
Pg. 36, ln. 1-25	Calls for legal conclusion. F.R.E. 602		
Pg. 37, ln. 1-22		Pg. 37, ln. 23-25	Defendants object to this excerpt as it does not contain any testimony from this witness. F.R.E. 401, 403.
Pg. 38, ln. 21-25		Pg. 38, ln. 1-20	
Pg. 39, ln. 1-16			
Pg. 42, ln. 13-25	Parole evidence related to the interpretation of the contract, excluded under Orders of this Court. Calls for legal conclusion. F.R.E. 602.		
Pg. 43, ln. 1-21	Parole evidence related to the interpretation of the contract, excluded under Orders of this Court. Calls for legal conclusion. F.R.E. 602. F.R.E. 401, 402 and 403.		
Pg. 45, ln. 3-13, 18-25	Parole evidence related to the interpretation of the contract, excluded under Orders of this Court. Calls for legal conclusion. F.R.E. 602. F.R.E. 401, 402 and 403.		
Pg. 46, ln. 1-7			
Pg. 49, ln. 5-8, 11-25	Parole evidence related to the interpretation of		

	the contract, excluded under Orders of this Court. Calls for legal conclusion. F.R.E. 602. F.R.E. 401, 402 and 403.		
Pg. 50, ln. 1, 4-23			
Pg. 51, ln. 12-23	Parole evidence related to the interpretation of the contract, excluded under Orders of this Court. Calls for legal conclusion. F.R.E. 602. F.R.E. 401, 402 and 403.		
Pg. 53, ln. 12-25			
Pg. 54, ln. 1-9, 14-23			
Pg. 55, ln. 1-25			
Pg. 56, ln. 1-25			
Pg. 57, ln. 1-4			
Pg. 58, ln. 16-25			
Pg. 59, ln. 1-25			
Pg. 60, ln. 1-25			
Pg. 61, ln. 1-25			
Pg. 62, ln. 1-25			
Pg. 63, ln. 1-25			
Pg. 64, ln. 1-25			
Pg. 65, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 66, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 67, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 68, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 69, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 70, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 71, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 72, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 73, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		

Pg. 74, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 75, ln. 1-25	Calls for legal conclusion. F.R.E. 602.		
Pg. 76, ln. 1-22	Calls for legal conclusion. F.R.E. 602.		
Pg. 77, ln. 7-25			
Pg. 78, ln. 1-5, 11-25			
Pg. 79, ln. 1-25			
Pg. 80, ln. 1-25	Calls for speculation, F.R.E. 602.		
Pg. 81, ln. 1-25	Calls for speculation, F.R.E. 602.		
Pg. 82, ln. 1-13	Calls for speculation, F.R.E. 602.		
Pg. 86, ln. 12-25			
Pg. 87, ln. 1-25			
Pg. 88, ln. 2-4, 18-25			
Pg. 89, ln. 15-25		Pg. 89, ln. 2-14.	
Pg. 90, ln. 1-25			
Pg. 91, ln. 1-18			
Pg. 93, ln. 6-25			
Pg. 94, ln. 1-25			
Pg. 95, ln. 1-25			
Pg. 96, ln. 1-11			
Pg. 97, ln. 20-25			
Pg. 98, ln. 1-10			

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

**Underwriters' Deposition Designations of William Anderson Baker, III<sup>13</sup> taken on December 12, 2008:**

Defendants' Designations	Plaintiff's Objections	Plaintiff's Cross-Designations	Defendants' Objections to Cross-Designations
Pg. 5, ln. 1-14	F.R.E. 401-403.		
Pg. 6, ln. 18-25	F.R.E. 401-403.		
Pg. 7, ln. 1-25	F.R.E. 401-403.		
Pg. 8, ln. 1-25	F.R.E. 401-403.		
Pg. 9, ln. 1-25	F.R.E. 401-403.		
Pg. 10, ln. 1-25	F.R.E. 401-403.		
Pg. 11, 1-13	F.R.E. 401-403.		

Penthouse further objects to the introduction of any testimony regarding parole evidence, interpretation of insurance policies, other legal conclusions or speculation, as per Penthouse's Motion in Limine [D.E. 273] and the order on that motion in limine [d.e. 305] which excludes that evidence. Plaintiff also objects to this entire testimony as irrelevant and inadmissible, as it would only confuse the issues for the jury. Plaintiff also objects to any evidence or testimony related to Defendants' arguments that the policy should be voided ab initio. That issue is already resolved by the orders of this Court, including the most recent Memorandum Order and Opinion denying Defendants' Motion for Summary Judgment [d.e. 381].

Further, Penthouse hereby incorporates all objections to the testimony or evidence from Gillis, Ellis & Baker as outlined in Penthouse's Motion in Limine [D.E. 276]. The same reasoning described therein applies to strike all documents referred to in this deposition as irrelevant and/or inadmissible under F.R.E.'s 401, 402, and 403.

14. This is a jury trial.

15. Counsel suggest the following additional matters to aid in the disposition of this civil action: Resolution of pending Motions as identified in Section 7 above. Also, the Court's prior ruling denying defendants' motion to strike Dr. Sinno as moot, to be re-filed as a motion *in limine*, should be reconsidered in light of Plaintiff's apparent plan to call him as a witness.

<sup>13</sup> Underwriters reserve the right to call William Anderson Baker, III as a witness at trial.

16. Counsel estimates the length of the trial will be five days.
17. As stated in Paragraph 1, this Pretrial Order has been formulated at a Pretrial Conference before the District Court Judge, notice of which was duly served upon all parties, and at which the parties attended as hereinabove shown. This Order will control the course of the trial, as provided by Rule 16, Federal Rules of Civil Procedure, and it may not be amended except by consent of the parties and the Court, or by order of the Court to prevent manifest injustice.

Ordered, this the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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HALIL OZERDEN  
DISTRICT COURT JUDGE

*/s/David M. McMullan, Jr.*

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Don Barrett (MSB #2063)  
David Malcolm McMullan, Jr. (MSB #8494)  
Gary Yarborough Jr. (MSB #102310)

*/s/Whitman B. Johnson III*

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Whitman B. Johnson III (MSB #3158)  
Attorneys for the Defendants