
IN THE SUPREME COURT OF THE STATE OF NEVADA

UNITED SERVICES AUTOMOBILE
ASSOCIATION, an Unincorporated
Association,

Petitioner,

vs.

EIGHTH JUDICIAL DISTRICT COURT
FOR THE STATE OF NEVADA IN
AND FOR THE COUNTY OF CLARK;
THE HONORABLE NADIA KRALL,
DISTRICT COURT JUDGE,

Respondents,

and

JOHN ROBERTS

Real Party in Interest.

Supreme Court Case No.: 83355-COA

District Court Case No. A-19-79075-C
Electronically Filed
Nov 10 2021 04:36 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**REAL PARTIES IN INTEREST JOHN ROBERTS'S APPENDIX TO
RESPONSE TO PETITION FOR WRIT OF PROHIBITION OR MANDAMUS**

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**APPENDIX TO RESPONSE TO PETITION FOR WRIT OF
PROHIBITION OR MANDAMUS**

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6
7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 JOHN ROBERTS, an individual,

Case No.: A-19-790757-C

10 Plaintiff,

Dept. No.: 4

11 vs.

12 UNITED SERVICES AUTOMOBILE
ASSOCIATION, an unincorporated entity
13 and/or a reciprocal insurance exchange with
members residing in the State of Nevada;
14 DOES 1 through 10; and ROE
CORPORATIONS 11 through 25, inclusive,
15

16 Defendants.
17

18 **PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST SET OF INTERROGATORIES**

19 COMES NOW, Plaintiff, JOHN ROBERTS, by and through their counsel, The Schnitzer
20 Law Firm, and for their responses to Defendant, UNITED SERVICES AUTOMOBILE
ASSOCIATION, First Set of Interrogatories to Plaintiff, states:
21

22 **GENERAL OBJECTIONS TO INTERROGATORIES**

23 Plaintiff by and through her counsel, objects to Defendant's Interrogatories on the basis
24 that the definitions, explanatory notes and instructions are so complex, numerous and burdensome
25 that they create an unreasonable and undue burden upon it. In addition, the definitions, explanatory
26 notes and instructions cause the Interrogatories and Requests to reach an objectionable breadth,
27 ambiguity, complexity and vagueness, and call for information and/o documents which are
28 irrelevant, not calculated to lead to the discovery of admissible evidence, protected by the



1 attorney/client privilege or attorney work product doctrine and are beyond the permissible scope
2 of discovery.

3 Plaintiff further objects to any answers or responses protected by the attorney/client
4 privilege, or the attorney work product doctrine.

5 Plaintiff further objects to any answers or responses irrelevant to the subject matter of this
6 action and not reasonably calculated to lead to the discovery of admissible evidence.

7 No response, nor subsequent response, constitutes a waiver of any other objection pursuant to these
8 Interrogatories and requests, or to other similar requests that may be propounded at a later time.

9 Subject to the general objections made above, Plaintiff responds to each Interrogatory as
10 follows:

11 **INTERROGATORY NO. 1:**

12 State your full name, and all names by which you have been known, your present address,
13 telephone number, Social Security Number (for the purposes of Medicare reporting requirements
14 under SCHIP Extension Act of 2007 (MMSEA), date of birth and birthplace.

15 **RESPONSE TO INTERROGATORY 1:**

16 John David Roberts; Current address: 3510 Commodore Ct. Herndon, VA 20171; (702)
17 419-2860; XXX-XX-7701; DOB: 12/24/1962; Birthplace: Williamsburg VA.

18 **INTERROGATORY NO. 2:**

19 State the date, time and place of the subject accident which is the basis of this lawsuit, and
20 state exactly in detail your account of how the accident occurred, including, but not limited to, the
21 sequence of your actions, your sensory experiences, the movement of your body parts upon impact,
22 the number of impacts perceived, and the movements, speed, and time involved in the operation
23 of your vehicle for the three minutes immediately preceding the subject occurrence, as well as the
24 content of any and all conversations you had about the subject accident with any parties or
25 witnesses to the subject accident.

26 **RESPONSE TO INTERROGATORY 2:**

27 Objection, this request is compound and calls for a narrative response. Without waiving
28 said objections, Approximately 3 minutes prior to incident- Van operator changed lanes and cut

1 off the motorcyclist in front of me and I stopped 3 lanes of traffic to help the motorcyclist. I helped
2 motorcycle operator pick up his motorcycle and walk him and his motorcycle to the curb. Then I
3 got back in my car. I was driving down the road, making a left-hand turn and was broadsided by
4 someone running red light. I was knocked unconscious and I was in and out of conscience for a
5 couple of days due to impact from the car that ran a red light.

6 **INTERROGATORY NO. 3.:**

7 Identify, sufficiently to permit service of subpoena, each witness to the subject accident
8 known to you, your attorney, agent, or any investigator or detective employed by you or your
9 attorney or anyone acting on your behalf in addition to those disclosed by your attorney at the early
10 case conference.

11 **RESPONSE TO INTERROGATORY 3:**

12 Oscar Espinosa Zazueta, (702) 604-9243, 3500 Marlborough Avenue, Las Vegas, NV
13 89110. Karla Hidalgo, (323) 633-4485, 4701 East Sahara Avenue, Apt. #112, Las Vegas, NV
14 89109.

15 **INTERROGATORY NO. 4.:**

16 If you took photographs at the scene of the accident, or if anyone took photographs at the
17 scene of the accident identify (1) who took the photographs; (2) when the photographs were taken;
18 (3) what device was used to take the photographs; and (4) whether such photographs have been
19 produced with Plaintiff's Initial Disclosures.

20 **RESPONSE TO INTERROGATORY 4:**

21 I was knocked out and couldn't take pictures.

22 **INTERROGATORY NO. 5:**

23 If you claim that any of your injuries, complaints and/or symptoms are permanent please
24 give a detailed description of your injury, complaints and/or symptom (i.e., where each injury is
25 located on or in your body, how often you get each symptom, the nature of the symptom/injury,
26 and the severity of each symptom/injury).

27 **RESPONSE TO INTERROGATORY 5:**

28 Objection, this request calls for expert opinions. Without waiving said objections;

- 1 1) TMJ
- 2 2) Headaches
- 3 3) Elbow
- 4 4) Wrist
- 5 5) Lower back
- 6 6) Right knee loosening
- 7 7) Neck
- 8 8) Left side of my head.
- 9 9) Depression
- 10 10) Anxiety
- 11 11) I am hypersensitive to motorists that use their phones while driving
- 12 12) Left arm severe motor
- 13 13) Brain injury

14 **INTERROGATORY NO. 6:**

15 State the material facts which support your allegation that DEFENDANT has breached the
16 covenant of good faith and fair dealing in handling your claims for benefits.

17 **RESPONSE TO INTERROGATORY 6:**

18 Objection, this request is vague as to “material” and seeks the thoughts and impressions of
19 counsel.

20 **INTERROGATORY NO. 7:**

21 State the name, address and telephone number of each person with knowledge of facts
22 which support your allegation that DEFENDANT has breached the covenant of good faith and fair
23 dealing in handling your claims for benefits.

24 **RESPONSE TO INTERROGATORY 7:**

25 Please see all witnesses disclosed by either party.

26 **INTERROGATORY NO. 8:**

27 State the material facts which support your allegation that DEFENDANT has violated the
28 provisions of NRS 686A.310 in handling your claims for benefits.

1 **RESPONSE TO INTERROGATORY 8:**

2 Objection, this request is vague as to “material” and seeks the thoughts and impressions
3 of counsel.

4 **INTERROGATORY NO. 9:**

5 Identify all medical providers that are currently treating you for injuries and/or symptoms
6 you relate to the subject accident.

7 **RESPONSE TO INTERROGATORY 9:**

8 Dr. Brian George Evans of Medstar Georgetown University for my knee and Dr. Bobby
9 Kalantar of Medstar for my lower back.

10 **INTERROGATORY NO. 10:**

11 State the material facts which support your allegation that you are entitled to attorney’s
12 fees.

13 **RESPONSE TO INTERROGATORY 10:**

14 Objection, this request calls for a legal conclusion.

15 **INTERROGATORY NO. 11:**

16 Describe in detail all injuries, complaints and symptoms, whether physical, mental or
17 emotional, you claim to have experienced due to the subject accident.

18 **RESPONSE TO INTERROGATORY 11:**

19 Objection, this requests seeks expert testimony. All of my injuries are documented in my
20 medical records. Generally, I am seeing a doctor for PTSD at VA Health Treatment in Long
21 Beach, lower back injury, right leg, left elbow, left wrist, swollen left elbow, Headaches, brain,
22 Depression, Anxiety, Sleeplessness, Pain in neck, low back, Neck, Left arm and wrist, Right Knee.

23 **INTERROGATORY NO. 12:**

24 State the name, address and telephone number of each medical provider and/or physician
25 who has provided treatment and/or consultation for you for the injuries claimed as a result of the
26 subject accident.

27 **RESPONSE TO INTERROGATORY 12:**

28 All such providers have been previously disclosed in NRCP 16.1 Early Case Conference

1 Disclosures and all supplements.

2 **INTERROGATORY NO. 13:**

3 State the name, address, and telephone number of each medical provider and/or physician
4 who has provided treatment and/or consultation to you for the same type of injuries claimed as a
5 result of the subject accident from May 9, 2004 to present.

6 **RESPONSE TO INTERROGATORY 13:**

7 All such doctors have been disclosed.

8 **INTERROGATORY NO. 14:**

9 Please state the name, business address and specialty of your regular family, personal
10 and/or primary care physician.

11 **RESPONSE TO INTERROGATORY 14:**

12 No PCP right now. Previous was from Nellis Airforce Base Medstar – Dr. Smith.

13 **INTERROGATORY NO. 15:**

14 If you claim that any of the injuries, complaints and/or symptoms identified in response to
15 Interrogatory No. 11 are ongoing and/or unresolved, describe in detail the injuries, complaints
16 and/or symptoms you claim are ongoing or unresolved.

17 **RESPONSE TO INTERROGATORY 15:**

18 All ongoing.

19 **INTERROGATORY NO. 16:**

20 Describe in detail all injuries, complaints and symptoms, whether physical, mental or
21 emotional, you claim to have experienced due to DEFENDANT’S handling of your insurance
22 claim(s) arising out of the subject accident.

23 **RESPONSE TO INTERROGATORY 16:**

24 Stress, worry and anxiety.

25 **INTERROGATORY NO. 17:**

26 Identify each and every expense, debt and/or obligation you have incurred as a result of the
27 subject accident, including the nature and amount(s) of each expense, debt and/or obligation and
28 the creditor and/or payor for each expense, debt and/or obligation.

1 **RESPONSE TO INTERROGATORY 17:**

2 This information has been previously disclosed. Please see NRCP 16.1 Early Case
3 Conference Disclosures and supplements for section, "Computation of Damages."

4 **INTERROGATORY NO. 18:**

5 Identify each job or position of employment, including self-employment, you have held
6 from May 9, 2009 to present, including the name and address for each employer, the dates of
7 employment and the nature of your employment duties.

8 **RESPONSE TO INTERROGATORY 18:**

9 Objection, this request is unduly burdensome and requires a narrative response. Without
10 waiving said objection;

11 D&D Technology Nov 2012 to July 2016 Client was Cornhusker energy didn't renew contract
12 because of my health issues.

13 Total Quality Solution Sept 2016 to Nov 2017 Self owned with 38 employees closed business due
14 to costs and health issues.

15 R & S Automotive Dec 2017 to Dec 2019 Self owned went out of business because of Health
16 reasons.

17 **INTERROGATORY NO. 19:**

18 If you attribute any loss of income or earning capacity to the subject accident, please state
19 the amount of lost income and how it was calculated.

20 **RESPONSE TO INTERROGATORY 19:**

21 It is estimated that the Plaintiff's lost income exceeds \$50,000.00 in lost wages and over
22 \$100,000.00 in future wages and earning potential, however, Plaintiff is still collecting this
23 information.

24 **INTERROGATORY NO. 20:**

25 If you have been involved, either as a passenger, a driver, or a pedestrian, in any accident
26 involving a motor vehicle other than the subject accident please provide all details of each accident,
27 including but not limited to the following:

28 a. Date of accident;

- 1 b. Location of accident;
2 c. The make, model, owner and driver of each vehicle involved in accident;
3 d. Witnesses to accident, including vehicle passengers;
4 e. Any policy or other accident reports;
5 f. Any citation(s) issues;
6 g. Whether the accident was reported to your insurance carrier;
7 h. The name, address and phone number of the insurance carrier; and
8 i. Any claims and or lawsuits, by any party, made as a result of the accident.

9 **RESPONSE TO INTERROGATORY 20:**

10 Objection, this request is overbroad in time and scope.

11 **INTERROGATORY NO. 21:**

12 Please describe in detail all injuries, complaints and symptoms, whether physical, mental
13 or emotional, you sustained from each motor vehicle accident you identified in response to
14 Interrogatory No. 20.

15 **RESPONSE TO INTERROGATORY 21:**

16 None were identified as the request was objectionable.

17 **INTERROGATORY NO. 22:**

18 If you have been involved in any accident that did not involve a motor vehicle, please
19 provide all details of each accident, including but not limited to the following:

- 20 a. Date of accident;
21 b. Location of accident;
22 c. A narrative description of the accident, including your involvement in the accident;
23 d. Witnesses to accident;
24 e. Any policy or other accident reports;
25 f. Any citation(s) issues;
26 g. Whether the accident was reported to an insurance carrier;
27 h. The name, address and phone number of the insurance carrier; and
28 i. Any claims and or lawsuits, by any party, made as a result of the accident.

1 **RESPONSE TO INTERROGATORY 22:**

2 Objection, this request is overbroad in time and scope and is unduly burdensome on the
3 Plaintiff.

4 **INTERROGATORY NO. 23:**

5 Please describe in detail all injuries, complaints and symptoms, whether physical, mental
6 or emotional, you sustained from each accident you identified in response to Interrogatory No. 22.

7 **RESPONSE TO INTERROGATORY 23:**

8 Objection, this request is overbroad in time and scope and is unduly burdensome on the
9 Plaintiff.

10 **INTERROGATORY NO. 24:**

11 Identify sufficiently to permit service of subpoena, each institution at which you have been
12 hospitalized or received medical treatment since the accident or incident mentioned in the
13 Complaint on file herein; whether each such hospitalization was either wholly or partially the result
14 of injuries or symptoms resulting from said incident; and identify sufficiently to permit service of
15 subpoena, each doctor or physician or health care professional who has advised you that you will
16 in the future require further hospitalization or treatment for any injury or symptom wholly or
17 partially resulting from said incident and the purpose for such future hospitalization or treatment.

18 **RESPONSE TO INTERROGATORY 24:**

19 All such information has been previously disclosed in NRCP 16.1 Early Case Conference
20 Disclosures, section entitled “List of Witnesses Plaintiff Expects to Present at Trial.”

21 **INTERROGATORY NO. 25:**

22 State the name and address of each medical practitioner who examined or treated you for
23 any physical, mental, emotional, psychiatric or psychological condition during the ten (10) year
24 period immediately before the date of the incident complained of, along with a statement of what
25 conditions or symptoms you treated for with each provider and the approximate dates of said
26 treatment.

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RESPONSE TO INTERROGATORY 25:

Objection, this request is overbroad in time and scope and is unduly burdensome on the Plaintiff.

DATED this 16th day of February 2021.

BY: 
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Nevada Bar No. 10744
THE SCHNITZER LAW FIRM
9205 W. Russell Road, Suite 240
Las Vegas, Nevada 89148
Telephone: (702) 960-4050
Attorney for Plaintiff



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CERTIFICATE OF SERVICE

In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the 16th day of February 2021, I served a true and correct copy of the foregoing **PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST SET OF INTERROGATORIES** to the above-entitled Court for service upon the Court's Service List for the above-referenced case to the following counsel:

ROBERT W. FREEMAN
Nevada Bar No. 3062
PRISCILLA L. O'BRIANT
Nevada Bar No. 10171
JENNIFER A. TAYLOR
Nevada Bar No. 6141
6385 S. Rainbow Boulevard, Suite 600
Las Vegas, Nevada 89118
Attorney for Defendant

An employee of
THE SCHNITZER LAW FIRM

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Jordan@TheSchnitzerLawFirm.com
Attorney for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

JOHN ROBERTS, an individual,

Plaintiff,

Case No.: A-19-790757-C

Dept. No.: 4

v.

UNITED SERVICES AUTOMOBILE
ASSOCIATION, an unincorporated entity and/or
a reciprocal insurance exchange with members
residing in the State of Nevada; DOES 1 through
10; and ROE CORPORATIONS 11 through 25,
inclusive,

Defendants.

**PLAINTIFF'S SEVENTH
SUPPLEMENT TO EARLY CASE
CONFERENCE DISCLOSURE
STATEMENT LIST OF
DOCUMENTS AND WITNESSES
AND NRCP 16.1 (a)(3) PRE-TRIAL
DISCLOSURES**



COMES NOW, Plaintiff JOHN ROBERTS, by through their attorney of record, Jordan P. Schnitzer, Esq. of THE SCHNITZER LAW FIRM, and hereby submits the following Early Case Conference Disclosure Statement Pursuant to the NRCP 16.1 and further submits the following information as Plaintiff's NRCP 1631 (a)(3) Pre-Trial Disclosures, as Plaintiff intends to introduce the following documents and witnesses at the trial of this matter.

I.

LIST OF WITNESSES PLAINTIFF

EXCEPTS TO PRESENT AT TRIAL

1. John Roberts
c/o The Schnitzer Law Firm
9205 W. Russell Road, Suite 240
Las Vegas, Nevada 89148



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Mr. Roberts is a Plaintiff in the above-captioned matter and, in that capacity, and has personal knowledge as to the facts and circumstances of the allegations in the complaint.

2. Persons Most Knowledgeable or Custodian of Records
United Services Automobile Association
c/o Lewis, Brisbois, Bisgaard & Smith, LLP.
6385 S. Rainbow Blvd, Suite 600
Las Vegas, NV 89118

United Services Automobile Association is a Defendant in the above-captioned matter and, in that capacity, has personal knowledge as to the facts and circumstances of the allegations in the complaint.

3. Officer J. Trail, Badge No. 13234
Persons Most Knowledgeable or Custodian of Records
Las Vegas Metropolitan Police Department
400 S. M.L.K. Blvd.
Las Vegas, Nevada 89106

Officer J. Trail is the police investigator in the above-captioned matter and, in that capacity, has personal knowledge as to the facts and circumstances of the allegations in the complaint.

4. Dr. William D. Smith, MD
Persons Most Knowledgeable and/or Custodian of Records
American Institute Minimally Invasive Spine Surgery
Spyrou Kyrrianou Avenue 38
Limassol, Cyprus

5. **Persons Most Knowledgeable and/or Custodian of Records**
CVS
5545 El Camino Al Norte
North Las Vegas, NV 89031

6. Bruce Topper, MD
Steven Topham, MD
Lisa Wong, MD
Michael Schunk, MD
Sudipkumar Bhandari, MD
Chad Poopat, MD
Van Nguyen, MD
Prakash Valiveri, MD
Pejam Motarjem, MD
Kevin Hyer, MD
Persons Most Knowledgeable and/or Custodian of Records
Desert Radiology
11460 N. Meridian St.
Carmel, IN 46032



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(702) 759-8600

7. Persons Most Knowledgeable and/or Custodian of Records

Evergreen Drugs
10001 S. Eastern Ave., Ste 105
Henderson, NV 89052

8. Dr. Alex Lee, M.D.
Dr. Brigid Castro, M.D.
Dr. Johnson
Fairfax Radiological Consultants, PC
PO Box 3650
Merrifeild, VA 22116-3650
(703) 695-1300

9. Joshua P. Smith, PA-C
Albert Or, PA
Ravi Ramanathan, MD
Persons Most Knowledgeable and/or Custodian of Records
Family Doctors of Green Valley – Rainbow Office
2626 S. Rainbow Blvd.
Las Vegas, NV 89146
(702) 616-9471

10. Patrick Flores, DO
Persons Most Knowledgeable and/or Custodian of Records
Fremont Emergency Services
9301 S. Western Ave.
Oklahoma City, OK 73139
(888) 952-6772

11. Dr. Brian George Evans
Dr. Bobby Kalantar
Persons Most Knowledgeable and/or Custodian of Records
Medstar Georgetown University
3800 Reservoir Rd NW Washington
Washington, DC 20007

12. Ho Dzung, MD
Dale Delaney
Persons Most Knowledgeable and/or Custodian of Records
Innovative Pain Care Center
9920 W. Cheyenne Ave. Suite 110
Las Vegas, NV 89129
(702) 684-7246

13. Stuart Kaplan, MD
Persons Most Knowledgeable and/or Custodian of Records
Las Vegas Neurosurgical Institute for Brain and Spine Surgery



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**3012 S. Durango Dr.
Las Vegas, NV 89117-9186**

- 14. Sudhir Khemka, MD
Dollie Guastella
Scott M. Martin, MD
Dante Famy
Persons Most Knowledgeable and/or Custodian of Records
Las Vegas Pain Institute and Medical Center
1900 Nellis Blvd.
Las Vegas, NV 89115
(702) 880-4193

- 15. Matt Leist, MWA
Tracy McCabe, MWA
Persons Most Knowledgeable and/or Custodian of Records
Medic West Ambulance Las Vegas
PO BOX 31001-1572
Pasadena, CA 91110
(800) 913-9106

- 16. **Dr. Bobby Kalantar**
Persons Most Knowledgeable and/or Custodian of Records
Medstar Georgetown Hospital
PO Box 418887
Boston, MA 02241

- 17. **Seyed Babk Kalantar, MD**
Brian Evans, MD
Allison Lax, MD
Persons Most Knowledgeable and/or Custodian of Records
MedStar Georgetown University Hospital - Dept of Radiology
3800 Reservoir Road NW
Washington, DC 20007

- 18. **D. Carlsberg, MD**
Persons Most Knowledgeable and/or Custodian of Records
Medstar Health
PO Box 418887
Boston, MA 02241

- 19. **Dr. Bobby Kalantar**
Persons Most Knowledgeable and/or Custodian of Records
MGUH Orthopaedics at McLean
6858 Old Dominion Dr Suite 200
McLean, VA 20010

- 20. Kevin Balter, MD



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Lacey Chandler, RN BSN
G. Hill, RT
Persons Most Knowledgeable and/or Custodian of Records
Midwest Pain Clinics
825 N. 90th Street
Omaha, NE 68114
(402) 391-7246

21. David W. Spaulding, PA-C
Anne M. Fredrichs, RN
Michelle M. Logsdon
Kira Martinez
Randall S. Hicks
Charles M. Nolder, DO, GS
Scott L. Wilson, MD
Matthew M. Malan, MD
Rajeev K. Kalra
Augen Batou
Laura Nicole Marsh
Prentice L. Bowman
Mitzy D. Flores, RN
Rosaly M. Diaz-Torruellas, MD
Rachael D. Patterson
Amy R. Jack
Lee F. Pietryk
James E. Sissom, RN
Sirikanya Sastri, Staff Surgeon General
Syed M. Ahmad
Keliana K. Licup
Wilma G. Barker
Molly D. Brown
Baxter D. Tharin
Drake J. Rothstein
John K. Dedic
Shannon Gaffney
Scott A. Harber, MAJ, USAF, MC
Robert J. Tait
William D. Smith
William B. Smith
Peter M. Williams
Carolyn Dy
Cassietta Jefferson
Emilio N. Graciliano
Alex A. Dyer
Rajeev K. Kalra
Maria T. Krisher
Brandi N. Risse
Lee F. Pietryk



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Connie Ruelasauila
Amy R. Jack
Hayley B. Teehera
Daryl L. Finley
Anna L. Tuttle
Reina Perez
Tricia Marie Fernandez
Crystal L. Allen
Jessica J. Dubas
Natalie A. Johnson
Tiffani R. Sagado
Laura S. Bates
Erin K. Buxton
Ileen F. Neal
Karina Y. Parris
Kevin J. Manzi
Sara M. Vanermost
Heather L. Ormandy
Kelly R. Fujikawa
Ashley L. Thornborough
Kira Martinez
Paul J. Bedegi
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Maria E. Pulido
Jesusa A. Amper
Judy Bowman
Julia F. Wheat
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Brandi C. Jordan
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Natalie Johnson
Giovanni D. Bonner
Eugen Kavalenka
Alisha N. Post
Kim M. Rivera
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Mike O' Callaghan Federal Hospital
4700 N. Las Vegas Boulevard
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22. Michael C. Longley, MD
Patrick McClaughry, MD
Persons Most Knowledgeable and/or Custodian of Records
Nebraska Spine and Pain Center
13616 California St #100
Omaha, NE 68154



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- 23. Robert J. Tait, MD
Daniel L. Burkhead, MD
Persons Most Knowledgeable and/or Custodian of Records
Orthopaedic Institute of Henderson
10561 Jefferys St. #230
Henderson, NV 89052
(702) 985-1084

- 24. Aaron Peterson
Wayne Jacobs, MD
Persons Most Knowledgeable and/or Custodian of Records
Radiology Specialists LTD
703 20th Street
Columbus, GA 31902

- 25. **William D. Smith, MD**
Persons Most Knowledgeable and/or Custodian of Records
Raxo Drug Inc.
3199 S Eastern Ave
Las Vegas, NV 89169

- 26. Sudhir Khemka, MD
Scott M. Martin, MD
Persons Most Knowledgeable and/or Custodian of Records
Spring Valley Surgery
3835 S. Jones Blvd. # 103
Las Vegas, NV 89103
(702) 227-4440

- 27. Michael Kawaguchi, MD
Mitesh Patel, MD
Persons Most Knowledgeable and/or Custodian of Records
Steinberg Diagnostic
4 Sunset Way Blvd. #D
Henderson, NV 89014
(702) 732-6000

- 28. Aaron T. Peterson, MD
Caitlin M. Beall
Patrick H. Mathuse
Wayne Jacobs, MD
Marilynn D. Finnie
Jana L. Brightman
Erika S. Abraham
Shannon Gaffney
Daniel S. Madsen
Scott H. Frye
George J. Buse, LT COL, USAF, MC, SFS



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Persons Most Knowledgeable and/or Custodian of Records
Sunrise Hospital and Medical Center
3186 S. Maryland Pkwy.
Las Vegas, NV 89109
(800) 307-7595

29. William D. Smith, MD
Joseph A. Delappi, PA-C
Persons Most Knowledgeable and/or Custodian of Records
UMC
1800 W. Charleston Blvd.
Las Vegas, NV 89102
(702) 383-2255

30. Priscilla Roy, MD
Persons Most Knowledgeable and/or Custodian of Records
Urgent Care Plus
555 E. Ocean Blvd. Ste. 110
Long Beach, CA 90802

31. Kodwo B. Dickson, MD
Scott M. Martin, MD
William D. Smith, MD
Joseph A. Delappi, PA-C
Persons Most Knowledgeable and/or Custodian of Records
Western Regional Brain and Spine
2471 Professional Ct.
Las Vegas, NV 89128
(702) 835-0088

These witnesses(es) are expected to testify with regard to the care, treatment, prognosis, records and billing of the Plaintiff, John Roberts surrounding the subject incident.

32. Emily Stroud
Candido Aguilar
John Laws
Peggy Bezy
Veronica Leyva
Danielle Minnified
Aubrau Turney
Mark Milo
Audrey Livingston
Alicia Barela
Heather Tschida
Kathernie Stecker
Margo Graf
Jada Justus
Daniel Johanson



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Freddy Chrisboga
Heidi Hawken
Erik Graf
Karla Nutter
Desiree Ingram
Steven Lucent
Vicotria Cox
Andres Aragundi
Margie Gentry
Alan Bloodsworth
Crystal Lomax
Andrea Solis
Emily Williams
Kelly Engel
Luis Fierros
Ciaran Jones
Jennifer Alongi
Tony Rodriguez
Ashley Brandt
Audrey Goodlow
Celia Salinas
United Services Automobile Association
c/o Lewis, Brisbois, Bisgaard & Smith, LLP.
6385 S. Rainbow Blvd, Suite 600
Las Vegas, NV 89118

Witnesses for the above are adjusters at Liberty Mutual General Insurance Company who is a Defendant in the above-captioned matter and, in that capacity, has personal knowledge as to the facts and circumstances of the allegations in the complaint.

33. Joseph A. Bost
Daniel J Beninato
Alyssa L. Butler
David W. Spalding
Charles M. Nolder
Traci L. Jerkins
Scott L. Wilson
Kevin S. Butler
Stephanie A. Ebke
Dollie J. Guastella
Rachel M. Nordmeier
Scott L. Miller
Douglas Weedman
Dante F. Famy
Scott M. Martin
Christopher Khorsandi



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Sudhir S. Khemka
Rajeer K. Karla
Michael M. Joffe
William D. Smith
CVS Pharmacy
Store No.: 3478
2609 S. 132nd Street
Omaha, NE 68144

25. D. Carlberg, M.D
Medstar Georgetown University
PO Box 418597
Boston, MA 02241-8597

34. Ho Viet Dzung, MD
Dale Delaney, PA
Daniel Burkhead, MD
Evergreen Drugs
10001 S. Eastern Ave, Suite 105
Henderson, NV 89052
(702) 269-1354

These witnesses(es) are expected to testify with regard to the care, treatment, prognosis, records and billing of the Plaintiff, John Roberts surrounding the subject incident.

26. Oscar Espinoza Zazueta
3500 Marlborough Avenue
Las Vegas, NV 89110
(702) 604-9243

27. Karla Hidalgo
4701 East Sahara Avenue, Apt. 112
Las Vegas, NV 89109
(323) 633-4485

The above witnesses are colleagues/friends of the Plaintiff, John Roberts, and are expected to testify to the impact of the above-refenced incident on his work life and capabilities.

28. Tydd Rohrbough
Kathy Allyn
Jim Granger
Dan Peterson
Cornhuskers Energy LLC
418 Pine Street
PO Box 55
Pleasant Dale, NE 68423
(402) 980-0458

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- 32. Georgetown Hospital Medical and Billing Records;**
 - Bates Stamped: GEORGETOWN HOSPITAL 000001 – 000159
- 33. Las Vegas Neurosurgical Institute for Brain and Spine Surgery Medical and Billing Records;**
 - Bates Stamped: LVNI 000001-000012
- 34. Medstar Emergency Services ER Dr. Billing Records;**
 - Bates Stamped: MEDSTAR EMERGENCY SERVICES 000001
- 35. Medstar Georgetown Hospital (Knee Replacement) Billing Records and Photos;**
 - Bates Stamped: MEDSTAR GU HOSPITAL KNEE 00001-000012
- 36. Medstar Georgetown Hospital Radiology Medical and Billing Records;**
 - Bates Stamped: MEDSTAR GU RADIOLOGY 00001-000021
- 37. Mike O’Callaghan Hospital Medical and Imaging Records;**
 - Bates Stamped: MIKE O CALLAGHAN 000328-000362
- 38. Nebraska Spine and Pain Center Medical and Billing Record;**
 - Bates Stamped: NEBRASKA PAIN 000001-000009
- 39. Orthopaedic Institute of Henderson Medical and Billing Records;**
 - Bates Stamped: ORTHO INSTITUTE 000007-000055
- 40. Orthopaedic Institute of Henderson Imaging Records;**
 - Bates Stamped: ORTHO INSTITUTE IMAGING 000001-000094
- 41. Raxo Drug Billing Records;**
 - Bates Stamped: RAXO DRUG 000001
- 42. UMC Billing Records;**
 - Bates Stamped: UMC 000053-000060
- 43. UMC Imaging Records;**
 - Bates Stamped: UMC IMAGING 000001-000005
- 44. Urgent Care Plus;**
 - Bates Stamped: URGENT CARE PLUS 000001-000003

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Plaintiff's reserves the right to designate as witnesses all parties, witnesses designate by the party, as well as any person whose identity becomes known in the course of discovery.

VI.

DEMONSTRATIVE EVIDENCE

1. Plaintiff may offer at trial certain exhibits for demonstrative purposes, including but not limited to the following:

- a. Video, storyboards and/or power point images, blow-ups and/or transparencies of exhibits.
- b. Diagrams and/or models of the human body specifically related to the Plaintiff's injuries.
- c. Samples of the hardware related to any of Plaintiff's treatment.
- d. Photographs and videos of actual and/or sample surgical procedures and/or other diagnostic tests.
- e. Actual diagnostic studies.
- f. Samples of tools used in surgical procedures.
- g. Diagrams, drawings, pictures, photos, films, video, DVD and CD ROM of various parts of the human body, diagnostic tests and surgical procedures.
- h. All x-ray images, MRI images, films or other imaging images, which may be printed or may require proprietary viewing software.
- I. Power point images/drawings/diagrams/animations/story boards/ photographs of parties, providers, and/or other witnesses.

As discovery is continuing, Plaintiff reserves the right to supplement its list of demonstrative evidence.

VII.

COMPUTATION OF DAMAGES CLAIMED BY PLAINTIFF

- 1. American Institute Minimally Invasive
Spine Surgery \$ 45,500.00



1	2. CVS	\$ 870.89
2	3. Desert Radiology	\$ 6,131.23
3	4. Evergreen Drugs	\$ 12,877.89
4	5. Fairfax MRI	\$ 2,053.00
5	6. Family Doctors of Green Valley	\$ 1,114.00
6	7. Fremont Emergency Services	\$ 1,233.00
7	8. Georgetown Hospital	\$ 39,475.00
8	9. Innovative Pain Care Center	\$ 4,195.00
9	10. Las Vegas Pain Institute and Medical Center	\$ 95,626.50
10	11. Las Vegas Neurosurgical Institute for	
11	Brain and Spine Surgery	\$ 1,859.05
12	12. Medic West Ambulance Las Vegas	\$ 1,125.66
13	13. Medstar Health Emergency Services	\$ 278.00
14	14. Medstar Georgetown Hospital	\$ 130,397.23
15	15. Medstar Georgetown University Hospital	
16	Dept. of Radiology	\$ 708.00
17	16. MGUH Orthopaedics at McLean	
18	S. Babak Kalantar, MD	\$ 14,188.00
19	17. Midwest Pain Clinics	\$ 2,308.59
20	18. Mike O'Callaghan Federal Hospital	\$ 38,691.70
21	19. Nebraska Spine and Pain Center	\$ 1,037.00
22	20. Orthopedic Institute of Henderson	\$ 1,773.60
23	21. Radiology Specialists LTD	\$ 452.00
24	22. Raxo Drug Inc.	\$ 710.54
25	23. Spring Valley Surgery	\$ 93,814.00
26	24. Steinberg Diagnostic	\$ 297.00
27	25. Sunrise Hospital and Medical Center	\$ 24,987.00
28	26. UMC	\$ 178,015.16
	27. Urgent Care Plus	\$ 573.00



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28. Western Regional Brain and Spine \$ 8,961.40

TOTAL: \$ 709,253.44

ADDITIONAL DAMAGES

1. Lost Wages \$ 63,475.00
2. For a sum to be determined by the trier of fact for past and future pain and suffering;
3. For a sum to be determined by the trier of fact for past and future physical and mental pain, suffering, anguish and disability;
4. For a sum to be determined by the trier of fact for loss of enjoyment of life pursuant to *Banks v. Sunrise Hosp.*, 120 Nev. 822, 836 (2004);
5. For reasonable attorney's fees, costs and interest for having prosecute this matter;
6. For such other and further relief as this Court deems just and proper.

Plaintiff specifically reserves the right to supplement this computation of damages as information becomes known.

DATED this 3rd day of September 2021.

THE SCHNITZER LAW FIRM

BY: 

JORDAN P. SCHNITZER, ESQ.
Nevada Bar No. 10744
9205 W. Russell Road, Suite 240
Las Vegas, Nevada 89148
Attorney for Plaintiff



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CERTIFICATE OF SERVICE

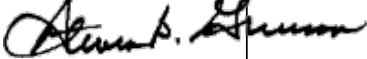
In accordance with Rule 9 of the N.E.F.C.R., I, the undersigned hereby certify that on the 3rd day of September 2021, I served a true and correct copy of the foregoing **PLAINTIFF'S SEVENTH SUPPLEMENT TO EARLY CASE CONFERENCE DISCLOSURE STATEMENT LIST OF DOCUMENTS AND WITNESSES AND NRCP 16.1 (A)(3) PRE-TRIAL DISCLOSURES** to the above-entitled Court for electronic filing and service upon the Court's Service List to the following counsel:

ROBERT W. FREEMAN, ESQ.
Nevada Bar No. 3062
PRISCILLA L. O'BRIANT, ESQ.
Nevada Bar No. 010171
LEWIS BRISBOIS BISGAARD & SMITH, LLP.
6385 S. Rainbow Blvd., Suite 600
Las Vegas, NV 89119
Attorney for Defendant

An employee of
THE SCHNITZER LAW FIRM

Please see the attached documents at the link below.

<https://www.dropbox.com/sh/wu7i7jrdmpgid3/AACxBaRcdxwwA6WTYAuYL9Dya?dl=0>



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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

JOHN ROBERTS,)	
)	
Plaintiff(s),)	Case No. A-19-790757-C
vs.)	DEPT. IV
UNITED SERVICES)	
AUTOMOBILE ASSOCIATION,)	
)	
Defendant(s).)	

BEFORE THE HONORABLE ERIN TRUMAN,
DISCOVERY COMMISSIONER

THURSDAY, MARCH 4, 2021

**TRANSCRIPT OF PROCEEDINGS RE:
ALL PENDING MOTIONS
[Via Audio Via BlueJeans]**

APPEARANCES:

For the Plaintiff(s):	JORDAN SCHNITZER, ESQ.
For the Defendant(s):	JENNIFER TAYLOR, ESQ.

RECORDED BY: FRANCESCA HAAK, COURT RECORDER

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LAS VEGAS, NEVADA, THURSDAY, MARCH 4, 2021

[Proceeding commenced at 9:58 a.m.]

DISCOVERY COMMISSIONER: John Roberts versus United Services. If I could have counsel for the plaintiffs identify themselves and counsel for -- or for the plaintiff, identify him or herself, followed by counsel for the defendants.

Hello? Do we have counsel for the parties in the John Roberts versus United Services matter?

THE COURT CLERK: It looks like Mr. Schnitzer is on this one.

DISCOVERY COMMISSIONER: Oh, I'm sorry, it's USAA. I apologize. It's USAA. Schnitzer -- Mr. Schnitzer, are you on the line?

Is anyone present for the Roberts versus USAA matter?

MS. TAYLOR: Good morning, Your Honor. Can you hear me?

DISCOVERY COMMISSIONER: Now I can.

MS. TAYLOR: Okay. I'm sorry, I don't -- I must have been on mute. This is Jennifer Taylor on behalf of the defendant.

DISCOVERY COMMISSIONER: Mr. Schnitzer, are you on the line?

MS. TAYLOR: I think maybe he might have hung up. Would you like me to reach out to him?

DISCOVERY COMMISSIONER: Yeah, would you please

1 reach out to him. I'm going to trail this matter.

2 MS. TAYLOR: Okay. I'll text him.

3 DISCOVERY COMMISSIONER: Thank you.

4 MS. TAYLOR: Thank you.

5 [Matter trailed at 9:59 a.m., until 10:14 a.m.]

6 DISCOVERY COMMISSIONER: Do we have everyone on
7 the line in the John Roberts versus USAA matter?

8 MR. SCHNITZER: Yes, Your Honor. Jordan Schnitzer for
9 the plaintiff. I apologize. I don't know why -- I knew I had two cases
10 today, but for some reason I signed off after the first one.

11 DISCOVERY COMMISSIONER: That's all right.

12 All right. We have two motions on for hearing today, one
13 is Plaintiff's Motion to Compel Defendant's Request for Production
14 Responses, and Plaintiff's Motion to Compel Defendant's
15 Responses to Interrogatories and Request for Admissions. Do you
16 have a preference on where we begin, Mr. Schnitzer?

17 MR. SCHNITZER: I don't, Your Honor.

18 DISCOVERY COMMISSIONER: Okay. Let's start with
19 Request for Production of Documents. Then the Plaintiff's Motion
20 to Compel Defendant's Responses to Request for Production of
21 Documents.

22 You may begin, Mr. Schnitzer.

23 MR. SCHNITZER: Your Honor, you know, I know there's a
24 lot of requests here, and I think it's very well briefed, and I don't
25 think there's any issues that are novel that you haven't handled

1 before. So I will -- for all of it, I will rest on the briefing, unless you
2 have specific questions about a specific request. I think it's pretty
3 well briefed.

4 DISCOVERY COMMISSIONER: Okay. I am going to go
5 through each and every one of the requests to address them so we
6 can go through, if there's any clarifications or questions, then you
7 can raise those then, Mr. Schnitzer.

8 Ms. Taylor, anything you'd like to add?

9 MS. TAYLOR: This is Jennifer Taylor. Can you hear me,
10 Your Honor?

11 DISCOVERY COMMISSIONER: I can.

12 MS. TAYLOR: Okay. Great. No, I don't have anything to
13 add to the briefing at this point. I think it's more efficient if we just
14 kind of go through them and --

15 DISCOVERY COMMISSIONER: Okay.

16 MS. TAYLOR: -- you know, handle it that way. Thank you.

17 DISCOVERY COMMISSIONER: I'm going to -- thank you.

18 I'm going to go through them based on the order that they're
19 grouped in the motion. I think that's the easiest way for me to go
20 through them. So it's not a numerical order and I hope that's not
21 confusing. But I think it's -- the way I prepared it is based on how
22 it's set forth in the motion, so I'm going to go through it that way.

23 So beginning with the Request for Production, Number 15
24 is objected to, but it also states that it has been requested and will
25 be provided upon receipt. So I guess I'm confused as to why

1 there's an ongoing issue with regard to Number 15.

2 MR. SCHNITZER: Jordan Schnitzer for the plaintiff. I
3 don't know the answer to that, Your Honor, other than there's --
4 they have not produced and have not given any indication that
5 they're producing it.

6 DISCOVERY COMMISSIONER: Okay. What is the
7 timeframe --

8 MR. SCHNITZER: Other than [indiscernible; multiple
9 speakers].

10 DISCOVERY COMMISSIONER: What is the timeframe
11 during which you believe you'll be able to produce it, Mr. Taylor?
12 It's indicated that it has been --

13 MS. TAYLOR: Number 15 -- I'm sorry, Your Honor, I'm
14 looking for Number 15, I can't find it in all the paperwork here.

15 DISCOVERY COMMISSIONER: It's on page 6 of Plaintiff's
16 motion.

17 MS. TAYLOR: Page 6. Okay. Bear with me.

18 DISCOVERY COMMISSIONER: Please produce any and all
19 files containing information regarding the processing of any
20 insurance application made to you by Plaintiff or any policies issued
21 to the plaintiff.

22 MS. TAYLOR: Oh, I see it.

23 DISCOVERY COMMISSIONER: This application file under
24 policy, so the policies.

25 MS. TAYLOR: Okay.

1 DISCOVERY COMMISSIONER: So what's the answer --

2 MS. TAYLOR: The underlying – the underwriting
3 documents, we have requested those documents. And we will
4 produce them when we get them. I'm trying to see now if we
5 actually have received them from our client, but we can produce
6 them within two weeks, if I don't have them already in my file. I
7 apologize, I'm --

8 DISCOVERY COMMISSIONER: Okay. Those need to be
9 produced within two weeks. And that would include copies--
10 certified copies of the policies that were issued.

11 MS. TAYLOR: I believe, Your Honor, we've already
12 produced certified copies of the policy.

13 DISCOVERY COMMISSIONER: [Indiscernible; multiple
14 speakers.]

15 MS. TAYLOR: [Indiscernible] policy, that's at issue.

16 DISCOVERY COMMISSIONER: Okay. All right. So the
17 supplementation needs to occur within 14 days.

18 MS. TAYLOR: That's for Number 15, correct?

19 DISCOVERY COMMISSIONER: For Number 15, yes.

20 MS. TAYLOR: Okay.

21 DISCOVERY COMMISSIONER: Well, let's make
22 supplementation of all of these, any and all documents that need to
23 be supplemented. Do you need 14 days or 30 days? What's
24 [indiscernible; audio distortion] a number.

25 MS. TAYLOR: Yes. [Audio froze.]

1 DISCOVERY COMMISSIONER: I want to make it uniform.

2 MS. TAYLOR: This is Jennifer Taylor. Can we have 30
3 days, Your Honor?

4 DISCOVERY COMMISSIONER: I think that's appropriate,
5 given that your expert disclosures aren't due until mid May and the
6 close of discovery is not until September. So I'm going to say 30
7 days to supplement all discovery that's been -- is recommended to
8 be supplemented as a result of today's hearing.

9 All right. Number 16, Defendant needs to supplement
10 with policies as they stated they would do. I believe that you're
11 seeking -- it's the polices and processing manuals and other
12 materials. And those need to be produced, those will be subject to
13 a protective order under NRCP 26(c). You had indicated --
14 Defendant had indicated they would provide them subject to
15 protection. And I do believe those should be protected pursuant to
16 NRCP 26(c) for use in this litigation only, to be utilized only by
17 attorneys. When I say for use in this litigation only, I mean use by
18 attorneys, witnesses who need to be questioned regarding them,
19 and experts not to be disseminated to any other third parties and/or
20 other entities or persons outside of this litigation, and then either
21 destroyed or returned to the defendant at the conclusion of the
22 litigation.

23 So 16 should be supplemented with those manuals and
24 other documents as they -- as Defendant stated they would and
25 they will be subject to an order of protection under 26 -- NRCP 26(c).

1 MS. TAYLOR: Point of clarification, Your Honor?

2 DISCOVERY COMMISSIONER: Yes.

3 MS. TAYLOR: Point of clarification on that one. As far as
4 the scope of the materials, we were asking for the limitation of
5 policies and procedures that were in effect as of the time of the date
6 of this loss.

7 DISCOVERY COMMISSIONER: Absolutely. We need --

8 MS. TAYLOR: Because I believe it's 2014.

9 DISCOVERY COMMISSIONER: Okay. That would be
10 correct. It looks like the incident was in 2014. But it would be with
11 regard to the claim handling, I think it would be 2014. Since the
12 UIM case continues, I would think it would be 2014 through the
13 present time.

14 MR. SCHNITZER: And, Your Honor, one point of
15 clarification, because this request talks about training. I've had
16 some depositions with adjusters where they say they are trained
17 when they're hired and they're not trained again. So can we add --
18 and any training that -- or the most recent training that this adjuster
19 had in the event that it's not covered by what they're -- by what you
20 had initially said to produce.

21 DISCOVERY COMMISSIONER: Well, I think if you're going
22 to get to specific individuals, then you need to ask the question with
23 regard to specific individuals. For example, if you find out during
24 discovery that, you know, John Jones was the claim adjusters, then
25 I think it might be appropriate to ask for the training that John

1 Jones underwent. But this is more of a broad request. And so I'm
2 not going to go back to a certain time when a certain person is
3 hired. If you need to do that in further discovery, you certainly have
4 plenty of time to do that.

5 MR. SCHNITZER: Okay.

6 DISCOVERY COMMISSIONER: Okay? All right.
7 Number 17 talks about Agent Steve Lucent [phonetic]. There is an
8 objection, but it says subject to without waiving it was -- well, it
9 looks like it was answered, so I don't know why anything further is
10 needed.

11 MS. TAYLOR: Your Honor, it's my understanding that the
12 plaintiff has withdrawn their request for that one.

13 Is that correct, Mr. Schnitzer?

14 MR. SCHNITZER: Yes. I believe in my reply this was one
15 of them. [Indiscernible; audio distortion] --

16 DISCOVERY COMMISSIONER: Okay.

17 MR. SCHNITZER: -- that request.

18 DISCOVERY COMMISSIONER: Are there any others that
19 you've removed that I can just make sure I note my list?

20 MR. SCHNITZER: That's the one -- the only one I recall --

21 DISCOVERY COMMISSIONER: Okay.

22 MR. SCHNITZER: -- off the top of my head. I can pull up
23 my replies and --

24 MS. TAYLOR: I believe that was the only one --

25 MR. SCHNITZER: -- make sure.

1 MS. TAYLOR: -- just to make this -- move this along a
2 little quicker, Your Honor.

3 MR. SCHNITZER: Yeah.

4 MS. TAYLOR: I believe this was the only one --

5 DISCOVERY COMMISSIONER: Okay.

6 MS. TAYLOR: -- that was in his reply.

7 DISCOVERY COMMISSIONER: All right. Number 18 was
8 objected to and then answered. Nothing further is required except
9 those policies, guidelines, standards, et cetera, that have been
10 ordered produced subject to the protective order. Okay?

11 MS. TAYLOR: Okay.

12 DISCOVERY COMMISSIONER: Number 2, Request for
13 Production Number 2, those need to be provided as to -- let's see,
14 the documents raised, communications that are used by field
15 region office for reference training and guidelines, those need to be
16 produced subject to a protective order, the same protective order
17 under 26(c) and those that were in place at the time of the incident
18 at issue.

19 Number 7, Defendant has already stated that these would
20 be provided after protective order is entered. And so I'm going to
21 compel and protect these documents under the same protective
22 order as 26(c) that I've already stated.

23 Same thing with Number 21 and 22. These need to be
24 provided under the same order of protection.

25 Number 27 -- 27 need to be supplemented under that

1 same order of protection.

2 28 also -- so -- I'm sorry, go ahead.

3 MS. TAYLOR: Point of clarification, Your Honor, for 27.

4 DISCOVERY COMMISSIONER: Uh-huh.

5 MS. TAYLOR: We don't believe we have any responsive
6 documents to 27, as we understand what they're looking for.
7 Solicitation of policies, USAA does not have agents that sell the
8 insurance. So to the extent that we have anything that's
9 responsive, we will provide it.

10 DISCOVERY COMMISSIONER: Okay. To the extent you
11 have it. If you do not have it, just say, you know, Defendant is not
12 in possession of any documents responsive to this request.

13 MS. TAYLOR: Okay.

14 DISCOVERY COMMISSIONER: 28, the same
15 recommendation as above in Number 7, 21, and 22. These need to
16 be provided subject to the same order of protection.

17 Same thing with 34. These documents need to be
18 provided under the same order of protection.

19 Number 36, this was objected to, but then it was
20 responded to. So is there -- if there's anything further that needs to
21 be provided --

22 MR. SCHNITZER: Well, my issue is -- my issue, Your
23 Honor, is it's a Request for Production. So they could -- they gave
24 me an explanation of what they've got, but they don't actually give
25 me documents.

1 DISCOVERY COMMISSIONER: Okay. Then the
2 documents need to be provided under order of protection with the
3 Bates numbers referenced in the response.

4 MS. TAYLOR: Point of clarification on that one, Your
5 Honor. They are requesting five years' worth of documents
6 pertaining to bonus or incentive programs.

7 DISCOVERY COMMISSIONER: It would be bonus
8 programs that were in place at the time of the incident at issue
9 through the present time, and those are to be provided under an
10 order of -- the same order of protection.

11 MS. TAYLOR: And as far as the scope, can that be limited
12 to the --

13 DISCOVERY COMMISSIONER: Limited --

14 MS. TAYLOR: -- adjusters that handled --

15 DISCOVERY COMMISSIONER: Yes. They were eligible
16 for.

17 MS. TAYLOR: Yes.

18 DISCOVERY COMMISSIONER: And only if it applies to
19 UIM claims, claim handling at UIM claim handling.

20 MS. TAYLOR: Right. Okay.

21 MR. SCHNITZER: And, Jessica, it's not just the adjuster.
22 It's the adjuster's supervisor or anyone who was --

23 DISCOVERY COMMISSIONER: Yeah.

24 MR. SCHNITZER: -- overseen or has authority over the
25 claim.

1 DISCOVERY COMMISSIONER: Anyone who has authority
2 over the claim and it would be limited to claim handling of UIM
3 claims.

4 MR. SCHNITZER: Okay.

5 DISCOVERY COMMISSIONER: Okay. Moving onto
6 Number -- what number was that? I just got lost. 41.

7 MS. TAYLOR: 36?

8 MR. SCHNITZER: That was 36.

9 DISCOVERY COMMISSIONER: We finished 36, so now
10 moving onto Number 41, these need to be any UIM policy updates
11 or claim newsletters. And this is, again, under order of protection
12 from the date of the incident forward relating to UIM handling.

13 42 --

14 MR. SCHNITZER: Your Honor, my issue with the time
15 limitation on that one is that this goes to the training. So if
16 someone received training the day before the incident, they're,
17 obviously, going to use that training when they evaluate and adjust
18 this claim.

19 DISCOVERY COMMISSIONER: Okay. Then, again --

20 MR. SCHNITZER: So [indiscernible; multiple speakers].

21 DISCOVERY COMMISSIONER: Again, then, when you find
22 out specific individuals who were involved and if there's specific
23 hire dates, then maybe we can -- you can tailor discovery to that.
24 But just -- since it's asked in a very broad as to all company
25 newsletters, I'm going to limit it to the time period that I've

1 referenced.

2 MR. SCHNITZER: I had -- I mean, I had limited to UIM
3 claims in Nevada. And so that -- I was very specific about the
4 updates.

5 DISCOVERY COMMISSIONER: Okay. But when were
6 these individuals who are at issue hired? Because I don't think it's
7 proportional to go to 14 years earlier than the incident if these
8 people weren't even in the company at that point.

9 MR. SCHNITZER: I mean, that's why I would assume the
10 supervisors typically there longer. I mean, can we go five years
11 before the incident on these newsletters?

12 DISCOVERY COMMISSIONER: Let's go three years prior
13 to the incident.

14 MR. SCHNITZER: Okay. Thank you, Your Honor.

15 MS. TAYLOR: That's 41?

16 DISCOVERY COMMISSIONER: 41, limited to Nevada,
17 limited to UIM.

18 MS. TAYLOR: Okay.

19 DISCOVERY COMMISSIONER: Speeches or presentations
20 from 2010 forward is overly broad and I am going to protect that.
21 You've already gotten training information and the newsletter. So
22 I'm going to protect Number 42, I don't think it's proportional to the
23 needs of the case.

24 47, Request the Personnel Files of the Adjusters and
25 Supervisors Directly Involved in Handling and Evaluating Plaintiff's

1 Claim Regarding Performance Evaluation, Audits, Disciplinary
2 Actions, and Performance Under a Bonus or Incentive Plans. This
3 will only be limited to the individual involved in this litigation. It
4 will be subject to the order of protection, and it will only be
5 involving performance evaluations, audits, disciplinary actions,
6 performance bonus or incentive plans as they pertain to claims
7 handling processes. For example, if there's disciplinary actions in
8 their files related to excessive tardiness or disrespect or sexual
9 harassment or anything else that's not directly at issue with claims
10 handling, doesn't specifically go to claims handling, duties of the
11 job, then it will be protected and not -- will not be compelled.

12 MR. SCHNITZER: I think that's fair, Your Honor. Thank
13 you.

14 DISCOVERY COMMISSIONER: So that's 47.

15 Then going on -- I'm just going again in order of the
16 motions, 32. 32 appears to be overly broad. All reports for
17 Defendant's experts isn't appropriately tailored. Let's look at 32
18 further, just a second. Well, what page -- why am I not finding --
19 here we go.

20 With respect to any vendor or medical provider providing
21 an opinion concerning Plaintiff's injuries, treatment, and medical
22 costs, please provide a copy of reports and invoices generated by
23 that vendor or medical provider for you in the five years preceding
24 your use of such vendor or medical provider on Plaintiff's claim.
25 That appears to be very overly broad and burdensome, and I'm

1 going to protect that as written.

2 If there is a specific medical expert, you can conduct
3 medical expert discovery with regard to their prior testimony as
4 allowed by the rules, but I think that Number 32 is overly broad, and
5 so I am going to protect it and no further response is necessary. It's
6 not appropriately tailored. I'm not saying that you can't ask for
7 something similar if it's more appropriately tailored, but as it's
8 written, it's too overly broad and so I'm not going to compel
9 response.

10 MR. SCHNITZER: Just so I'm clear, is it the fact that I
11 asked for the vendor, not just the medical provider? Or what is it
12 that you think is too overly broad?

13 DISCOVERY COMMISSIONER: I think just as a whole,
14 you've got stuff regarding medical vendors and providers
15 regarding -- any vendor or medical provider providing an opinion --
16 you're asking for copies of all reports and invoices generated by
17 that vendor and five years prior not related to the plaintiff. So I
18 think that's just overly broad and not proportional to the needs of
19 the case.

20 MR. SCHNITZER: But, I mean, and I guess I know in
21 different cases, Your Honor has allowed the amounts paid to a
22 particular medical -- paid to a medical provider or vendor. Can
23 we -- like, if the reports are the issue, can we limit it to the invoices
24 or 1099s or something showing the amount paid?

25 DISCOVERY COMMISSIONER: Well, that's -- okay. So if

1 that -- is that what you're trying to get at, the amount paid to a
2 certain provider in this case?

3 MR. SCHNITZER: Well, that's one part of the request. The
4 other part was I wanted to see if they're giving similar reports to
5 USAA consistently.

6 DISCOVERY COMMISSIONER: Okay.

7 MR. SCHNITZER: But if the Court's not willing to allow the
8 reports, then certainly the invoices.

9 DISCOVERY COMMISSIONER: Is there a specific medical
10 provider or expert you're referencing?

11 MR. SCHNITZER: I believe they did have a records review
12 done. I don't know, off the top of my head, the person's name. I
13 think it was a doctor out of Georgia or Alabama or something like
14 that.

15 DISCOVERY COMMISSIONER: Okay. So if -- this needs to
16 be tailored, then, you can re-serve it if it's been tailored. If you want
17 to request the total amount of compensation paid by USAA to a
18 specific person or entity, you can ask that. But as it's written, this I
19 just overly broad. Or if you want to ask for a copy -- and I would
20 never give five years, but I think the rules only provide for four. I
21 think if you want to limit it to, you know, how many times have you
22 retained a certain person, how much have you paid to that person,
23 those kinds of questions may be more appropriate. But just as this
24 is written, it's just really overly broad.

25 MR. SCHNITZER: Okay. Very good. Thank you, Your

1 Honor.

2 DISCOVERY COMMISSIONER: Okay. Number 40, let me
3 look at Number 40. I am going to -- I think that Number 40 is overly
4 broad. I am going to protect it, except to the extent there were any
5 actions taking -- taken as a result of the claim at issue.

6 43, I am going to protect this. I think this is overly broad
7 and not proportional to the needs of the case. I don't think it goes
8 to the claims and defenses at issue in this litigation.

9 39, produce any and all transcript -- deposition transcripts
10 or trial testimony transcripts of any of Defendant's officers or
11 personnel since January 1st, 2010, in any suit related to bad-faith
12 claims of uninsured or underinsured claims. I am going to limit that
13 to only those employees or personnel who had direct claim
14 handling responsibilities in this case or direct super -- who were
15 involved in the decision -- who were directly involved in the
16 decisions made in this litigation. So if it's a particular claims
17 handler and/or their supervisor, then I will allow it. But beyond
18 that, it's overly broad and needs to be protected. It's not
19 proportional to the needs of the case.

20 Number 24, that needs to be supplemented, a log of any
21 payments made by Plaintiff to Defendant for insurance premiums.
22 It should be for underinsured motorist premiums.

23 Number 10, request the net income for the past five years,
24 I will allow, if a punitive damage claim remains 30 days before trial,
25 so after the dispositive motions have been filed and heard, if a -- let

1 me start back over.

2 If a punitive damage claim remains, I will require the
3 defendant produce three years' worth of financial statements and
4 financial information for the three years prior to the trial.

5 Number 9 --

6 MS. TAYLOR: Financial statements dated three years
7 prior to the date that the case goes to trial?

8 DISCOVERY COMMISSIONER: For example, okay --

9 MS. TAYLOR: Okay.

10 DISCOVERY COMMISSIONER: -- so this trial ends up
11 going in '22, if, 30 days before trial, a punitive date claim is still in
12 existence, if it has not been dismissed, then Defendant needs to
13 provide three years' worth of financial statements evidencing the
14 three -- the financial worth of the company for the three prior years.

15 MS. TAYLOR: Okay.

16 DISCOVERY COMMISSIONER: Number 9, production
17 Number 9 -- and these are Requests for Production of Documents
18 so far -- I would just -- I think that this is overly broad. I think what
19 can stay is if any portion of the claim handling processes in this
20 case were outsourced to a third party, then please provide the
21 documents demonstrating what portions of the claims handling
22 process were outsourced to a third party or, you know, a third-party
23 entity. It looks like it's already been answered, because it states
24 that subject to and without waiving the objection, USAA does not
25 outsource its claim handling services. But if any portion of the

1 claims handling process was outsourced for this claim only, that
2 needs to be supplemented.

3 MR. SCHNITZER: And the issue with that one --

4 MS. TAYLOR: So that --

5 MR. SCHNITZER: -- Your Honor, is having dealt with
6 USAA a bunch, they outsource review of the medical records and
7 bills. They're a company that, particularly when you see it on med
8 payments [indiscernible], they send it to the same company to
9 review the records and bills for the -- for reasonableness. And so
10 that's my concern, is I know that that answer's not accurate.

11 DISCOVERY COMMISSIONER: Well, I think that you may
12 be --

13 MS. TAYLOR: And, Your Honor --

14 DISCOVERY COMMISSIONER: You may be confusing the
15 process, because what may be occurring here is that they utilize
16 software through someone, but they haven't actually outsourced it,
17 they've run it through software in-house. If you want --

18 MR. SCHNITZER: No, that's -- this is different, Your
19 Honor. Because I've talked to adjusters on med pay claims that fail,
20 you have to call this person and this company, I think it's called
21 Clean Solutions. I forget the name of it. But it is a third party that
22 adjusters have told me you have to call this company, it's a totally
23 different phone number and they're the ones that handle it.

24 DISCOVERY COMMISSIONER: All right. Ms. Taylor --

25 MS. TAYLOR: And, Your Honor, if I may?

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DISCOVERY COMMISSIONER: Sure.

MS. TAYLOR: This is Jennifer Taylor.

One of the reasons why we object is that in this case, is this is not a med pay claim and USAA does have the bills audited with a med pay component of the claims handling. But the claims handling itself is not outsourced. And the complaint in this case is not for a medical payments coverage, but it's for UIM coverage. And so documents relating to, you know, whether or not the med pay bills are audited, it's just under Rule 26(b)(1), not relevant nor proportional to the claims that are made in the complaint.

DISCOVERY COMMISSIONER: Well, if the evaluation includes, like, for example, if you're only using the med pay, was there med pay paid in this case?

MS. TAYLOR: Yes.

DISCOVERY COMMISSIONER: Okay. If you're only using the med pay amounts in the evaluation process for UIM coverage, then Plaintiff may be entitled to that.

MS. TAYLOR: Yeah. The med pay amount or the med pay analysis is done completely separate from the UIM.

DISCOVERY COMMISSIONER: I understand --

MS. TAYLOR: And it's not used --

DISCOVERY COMMISSIONER: Okay. So are you telling me that you do not use the analysis for med pay at all during the UIM process? You don't say, well, med pay allowed the medical bills provided, med pay allowed 20 -- of the 50,000 that was

1 invoiced, med pay allowed 20,000, thought that 20,000 was
2 reasonable. And so we're going to use that in our evaluation. If
3 that happened, if that's the case, then that needs to be provided.

4 If the evaluation starts new and doesn't use the med pay
5 evaluation and the UIM handling process, then you don't need to
6 disclose it if med pay is not at issue in this case.

7 MS. TAYLOR: Oh, I understand what you're saying. You
8 know, that the med pay is used in the evaluation of the UIM
9 component for purposes of offset, and they do use that to
10 determine reasonableness of some of the treatment. So I
11 understand your point in that regard.

12 DISCOVERY COMMISSIONER: So if you did utilize a
13 third-party vendor to analyze the amount of reasonable and
14 appropriate medical treatment, then I think it is appropriate for you
15 to provide a copy of that.

16 MS. TAYLOR: Okay.

17 DISCOVERY COMMISSIONER: All right? All right. So
18 that is the -- that finishes the Motion to Compel Defense Request for
19 Production of Documents. It is granted in part, denied in part.

20 We'll move on next to Plaintiff's Motion to Compel
21 Defendant's Responses to Interrogatories and Requests for
22 Admissions.

23 Sorry, it's my understanding in the Interrogatories 2, 12,
24 13, 14, 28, 31, 32, and 33 at issue -- are at issue, then Request for
25 Admissions 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 are at issue. All

1 right.

2 Going through the interrogatories beginning with
3 Number 2, let me just get there. Just a second. I don't think it is
4 appropriate -- I don't think it's proportional to the needs of the case
5 for Plaintiff to obtain anything other than the name, position,
6 employer, and business address of the claims handlers in this case.
7 It is not proportional to the needs of the case if their Social Security
8 number, birth date, or personal address.

9 MR. SCHNITZER: That's fine, Your Honor. We were just
10 looking for an address --

11 DISCOVERY COMMISSIONER: [Indiscernible; multiple
12 speakers.]

13 MR. SCHNITZER: -- to serve them with a subpoena.

14 DISCOVERY COMMISSIONER: If they are no longer
15 employed, they need to provide the last known contact address
16 information [indiscernible; multiple speakers].

17 MS. TAYLOR: Thank you. We understand.

18 DISCOVERY COMMISSIONER: Only if they are no longer
19 employed.

20 Number 12 and 13, I think -- Interrogatories Number 12
21 and 13, I think, are overly broad as written. I think that what is
22 appropriate would be five years for UIM claims in Nevada only, for
23 Number 12 -- those need to be limited to -- 12 and 13 need to be
24 limited to five years -- limited to five years and -- for UIM claims in
25 Nevada only. Okay. And the same thing for 14. Five years --

1 MS. TAYLOR: Point of clarification.

2 DISCOVERY COMMISSIONER: Sure.

3 MS. TAYLOR: Point of clarification for 12 I think you said,
4 and 13 -- oh, and 14, does that relate to claims and lawsuits that
5 were actually filed?

6 DISCOVERY COMMISSIONER: I'm going to say litigation
7 or any -- I think it should just be litigation. It should be limited to
8 litigation. Five years and it's only for UIM and only in Nevada. And
9 I'm going to limit that to three years. All right. I'm going to limit
10 that to three years. I think five years is overly broad.

11 MR. SCHNITZER: Is that three years from the date of the --
12 the first date of the claim or three years from today?

13 DISCOVERY COMMISSIONER: I'm going to say three
14 years from the first date of the claim. Three years from the first
15 date of the claim.

16 MS. TAYLOR: That takes us through 13 -- or it takes us
17 through 14.

18 DISCOVERY COMMISSIONER: The date of the injury,
19 wasn't it 5/14? May --

20 MR. SCHNITZER: Yes, it does.

21 MS. TAYLOR: May 2014, I believe.

22 DISCOVERY COMMISSIONER: Yes.

23 MR. SCHNITZER: Yes, Your Honor.

24 DISCOVERY COMMISSIONER: So it would be -- it would
25 take you through '14 through '17.

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MS. TAYLOR: Okay.

DISCOVERY COMMISSIONER: And only litigation. Okay moving on here.

MR. SCHNITZER: I'm confused, Your Honor. So it's three years from the date of the claim after, or three years -- I thought it was three years before. So it's three years after, though?

DISCOVERY COMMISSIONER: Do you want before or do you want after?

MR. SCHNITZER: Yeah. I mean, I -- I think probably before is probably more relevant than what happened after this claim.

DISCOVERY COMMISSIONER: Okay. All right. So let's do three years prior to the date of injury, UIM claims in the state of Nevada.

MS. TAYLOR: Okay.

DISCOVERY COMMISSIONER: Okay. Number 28. 28 is protected until -- this is going to be the same thing as the Request for Production. It's protected for now, but the current net worth and three years of supporting documentation is to be provided 30 days before trial if a punitive damage claim still remains in the case.

MS. TAYLOR: Okay.

DISCOVERY COMMISSIONER: Number 31, just a second.

MR. SCHNITZER: And my issue with 31 is they appear to give me the answer, but they just refer me to somewhere between page 1 and page 4700 of their disclosures.

1 DISCOVERY COMMISSIONER: They need to disclose --
2 you need to disclose the reserve amount for the first party claim in
3 this case. That needs to be supplemented.

4 MS. TAYLOR: Okay.

5 DISCOVERY COMMISSIONER: 32, however, the formula
6 for arriving at that is protected. That does not need to be provided.
7 The amount does, but not the formula used.

8 33 appears to be answered, and so I don't think anything
9 further is needed. So no further response is needed to Number 33.

10 All right. And I'm looking at the Request for Admissions.
11 I have looked at the Request for Admissions 6 through -- well, it's
12 numbers 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15. So 6 through 15.
13 These do not appear to be appropriate Requests for Admissions of
14 Facts. These are really combining facts and legal duties and asking
15 for, you know, admissions of legal application to facts.

16 And so I think that these, each and every one of them, in
17 looking at Number 6 -- first of all, they're overly broad. They're not
18 tailored to the facts of the case with regard to certain policies and et
19 cetera. And so I think 6, 7, 8, 9, 10, 11, 13, and then going back to
20 Number 12, 14, and 15, these all violate *Morgan versus Demille*.
21 And I think for a specifically, Number 15 asks for an interpretation
22 of a statute. I think these all violate the principle set forth in
23 *Morgan versus Demille*, making them not appropriate Requests for
24 Admissions. They've been objected to and so the objections stand
25 and no further responses are necessary.

1 Any factual request, any request for a factual admission
2 must be admitted to cleanly or deny cleanly to the extent you
3 cannot -- it's needs to be stated for the reason, but in each of these
4 instances, I believe it's for the reason set forth in *Morgan* -- they
5 violate the *Morgan versus Demille* case. And so I am not going to
6 require any further response to these Requests for Admissions. I
7 think they're been appropriately objected to.

8 If you have specific questions you want to ask,
9 Mr. Schnitzer, with regard to -- let me go back here, hang on a
10 second. You know, please admit that you issued policy number
11 so-and-so to the insurer. Please admit that the policy afforded the
12 amount of UIM coverage in amount of whatever. Please admit that
13 you assess the medical payment benefits as such and such. Those
14 are appropriate Requests for Admissions.

15 But where you're asking for application and duties and
16 what the duties are under the law, I don't think those are
17 appropriate factual Requests for Admissions.

18 MR. SCHNITZER: Okay. Understood, Your Honor.

19 DISCOVERY COMMISSIONER: All right. So that's going
20 to be the recommendation. The Motion to Compel is granted in
21 part, denied in part. Again, I'm going to ask Mr. Schnitzer to
22 prepare both report and recommendations from today's hearing.
23 Please circulate that to opposing counsel for her review as to form
24 and content. Please have that submitted within 14 days to avoid a
25 contribution. You have the e-mail address, correct, Mr. Schnitzer?

1 MR. SCHNITZER: Yes. Yes, Your Honor.

2 DISCOVERY COMMISSIONER: So if you could have that
3 submitted within 14 days to avoid a contribution.

4 Is there anything else either of you would like me to go
5 over?

6 MR. SCHNITZER: Yes, Your Honor. I put in there a
7 Request for Sanctions. My biggest issue is that the duty -- if you
8 think you're entitled to a protective order, they're supposed to file a
9 Motion for Protective Order. And instead of filing the Motion for
10 Protective Order, they just say we're not giving you this until you
11 file a protective order.

12 So that's the biggest issue to me is they're not following
13 the proper protocol --

14 MS. TAYLOR: That is not true.

15 MR. SCHNITZER: -- they think they're entitled to it. And
16 so I think I'm entitled to sanctions on that basis. That's number.

17 Number two is --

18 MS. TAYLOR: That's not true, Your Honor.

19 MR. SCHNITZER: The question is --

20 DISCOVERY COMMISSIONER: Please don't speak over
21 each other. Please don't speak over each other.

22 MR. SCHNITZER: -- can I do one, the report and
23 recommendations, or do you want it as two separate ones? So
24 those are my question.

25 DISCOVERY COMMISSIONER: You can do one report and

1 recommendation as long as you clearly indicate that there are two
2 motions involved in -- there are two motions at issue and it
3 addresses two separate motions.

4 MR. SCHNITZER: Okay.

5 DISCOVERY COMMISSIONER: And I'm going to let
6 counsel respond to Mr. Schnitzer's argument regarding sanctions.

7 MS. TAYLOR: Thank you, Your Honor. This is Jennifer
8 Taylor.

9 I would just like to represent to the Court that we have
10 always tried to meet and confer with plaintiff and we even provided
11 him with a draft protective order previously in this case, and they
12 have always just flat-out rejected it out of hand and refused to even
13 discuss a protective order for the very documents that Your Honor
14 has provided protection for in this case.

15 We believe that sanctions are not appropriate in this
16 instance, because we have made our objections in good faith. And
17 we've always tried to work with the plaintiff and getting them
18 information that they need and, you know, that's it. We just --
19 sanctions are not appropriate in this case. So those are
20 [indiscernible] audio distortion.

21 DISCOVERY COMMISSIONER: Okay. Anything further,
22 Mr. Schnitzer?

23 MR. SCHNITZER: Yes. My issue is not taking the position
24 that they're entitled to protection over it. It's -- my issue is that if
25 they take that position and we meet and confer, which we did, and

1 we disagree, which we did. They -- it's -- the burden is on them to
2 file the Motion for Protective Order, which is me having to file a
3 Motion no Compel when they don't anything or don't give any
4 response. And that's why I think sanctions in this case are
5 appropriate.

6 DISCOVERY COMMISSIONER: All right. Well, I am going
7 to decline to aware sanctions in this case. I think they're worth
8 [indiscernible; audio cut out] dispute, the -- many of the things were
9 protected that plaintiff had requested. They were protected and it --
10 some of the discovery requests were inappropriate or overly broad.
11 And so there will be no imposition of sanctions in this case. So that
12 portion of the motion is denied.

13 Anything further?

14 MR. SCHNITZER: Okay. Thank you, Your Honor.

15 MS. TAYLOR: No, Your Honor. Thank you.

16 MR. SCHNITZER: Thank you, Your Honor.

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DISCOVERY COMMISSIONER: Thank you both counsel.
Have a great day and stay well.

MS. TAYLOR: Thank you.

MR. SCHNITZER: Thank you.

[Proceeding concluded at 10:54 a.m.]

///

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability. Please note: Technical glitches in the BlueJeans audio/video which resulted in audio distortion and/or audio cutting out completely were experienced and are reflected in the transcript.


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8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

11 JOHN ROBERTS, an individual,
12 Plaintiff,

13 vs.

14 UNITED SERVICES AUTOMOBILE
ASSOCIATION, an unincorporated entity
15 and/or a reciprocal insurance exchange with
members residing in the State of Nevada;
16 DOES 1 through 10; and ROE
CORPORATIONS 11 through 25, inclusive,
17 Defendants.
18

CASE NO. A-19-790757-C
Dept. No.: IV

**DEFENDANT UNITED SERVICES
AUTOMOBILE ASSOCIATION'S
SECOND SUPPLEMENTAL RESPONSES
TO PLAINTIFF'S FIRST SET OF
REQUESTS FOR PRODUCTION**

19 COMES NOW Defendant, UNITED SERVICES AUTOMOBILE ASSOCIATION
20 (hereinafter "Defendant"), by and through its counsel of record, the law firm LEWIS BRISBOIS
21 BISGAARD & SMITH, LLP, and hereby supplements its responses to Plaintiff's First Set of
22 Requests for Production to Defendant United Services Automobile Association as follows:

23 **DEFINITIONS**

24 A. "Non-discoverable/Irrelevant." The request in question concerns a matter that is
25 not relevant to the subject matter and the matters that remain at issue in this litigation and is not
26 reasonably calculated to lead to the discovery of admissible evidence.

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1 B. "Unduly burdensome." The request in question seeks discovery which is unduly
2 burdensome or expensive, taking into account the needs of the case, the amount in controversy,
3 limitations on the parties' resources, and the importance of the issues at stake in the litigation.

4 C. "Vague." The request in question contains a word or phrase which is not
5 adequately defined, or the overall request is confusing, and Defendant is unable to reasonably
6 ascertain what information or documents are sought in the request.

7 D. "Overly broad." The request seeks information beyond the scope of, or beyond the
8 time period relevant to, the subject matter of this litigation and, accordingly, seeks information
9 which is non-discoverable/irrelevant and is unduly burdensome.

10 **GENERAL OBJECTIONS**

11 1. Defendant objects to the requests to the extent that they seek documents that are
12 protected by any absolute or qualified privilege or exemption, including, but not limited to, the
13 attorney-client privilege, the attorney work-product exemption, and the consulting-expert
14 exemption. Specifically, Defendant objects to these requests on the following grounds:

15 a. Defendant objects to these requests to the extent they seek documents that
16 are protected from disclosure by the attorney-client privilege in accordance with Rule 26 of the
17 Nevada Rules of Civil Procedure and NRS 89.095;

18 b. Defendant objects to these requests to the extent they seek documents that
19 are protected from disclosure by the work-product exemption in accordance with Rule 26(b)(1)(3)
20 and (4) of the Nevada Rules of Civil Procedure and applicable case law.

21 c. Defendant objects to these requests to the extent they seek documents that
22 are protected from disclosure pursuant to the consultant/expert exemption in accordance with Rule
23 26(b)(3) and (4) of the Nevada Rules of Civil Procedure and applicable case law.

24 d. Defendant objects to these requests to the extent they seek trade secrets,
25 commercially sensitive information, or confidential proprietary data entitled to protection under
26 Rule 26(c)(7) of the Nevada Rules of Civil Procedure.

27 2. This response is made on the basis of information and writings available to and
28 located by Defendant upon reasonable investigation of Defendant's records. There may be other

1 and further information respecting the requests propounded by Plaintiff of which Defendant,
2 despite its reasonable investigation and inquiry, is presently unaware. Defendant reserves the right
3 to modify or enlarge any responses with such pertinent additional information as Defendant may
4 subsequently discover.

5 3. No incidental or implied admissions will be made by the responses to these
6 requests. The fact that Defendant may respond or object to any request or any part thereof shall
7 not be deemed an admission that Defendant accepts or admits the existence of any fact set forth or
8 assumed by such request, or that such response constitutes admissible evidence. The fact that
9 Defendant responds to a part of any request is not to be deemed a waiver by Defendant of its
10 objections, including privilege, to other parts to such request.

11 4. Defendant objects to any instruction to the extent that it would impose upon
12 Defendant greater duties than are set forth under the Nevada Rules of Civil Procedure. Defendant
13 will supplement responses to the requests as required by the Nevada Rules of Civil Procedure.

14 5. All responses will be made solely for the purpose of this action. Each response will
15 be subject to all objections as to competence, relevance, materiality, propriety and admissibility,
16 and to any and all other objections on any ground which would require the exclusion from
17 evidence of any statement herein if any such statements were made by a witness present and
18 testifying at trial, all of which objections and grounds are expressly reserved and may be
19 interposed at such hearings.

20 **RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS**

21 **REQUEST FOR PRODUCTION NO. 1:**

22 Please produce any and all documents, writings, and communications that were produced
23 as a result of or related to any of Plaintiff's applications for insurance with you. These documents
24 should include, but not be limited to, the entire underwriting file, printouts from all computer
25 communications and electronic databases and logs, all electronically imaged documents, and all
26 reports and investigations.

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1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

2 Objection. Defendant objects that the request is compound, overbroad and burdensome to
3 the extent it seeks “the entire underwriting file”. Defendant objects to this Request as overbroad
4 as it is not limited in time or scope (the underwriting file for the policy at issue in this litigation),
5 and seeks information that it is neither relevant to the claims or defenses of any party, nor
6 proportional to the needs of the case, as the request is not reasonably tailored to include only those
7 underwriting matters relevant to the insurance claim made the basis of this suit and there is no
8 dispute that the applicable policy was in effect on the date of loss. Underwriting information is
9 stored electronically in multiple locations. Responding party further objects to the term
10 “underwriting file” because it assumes a physical file folder exists and because the request is
11 vague, ambiguous and overbroad as to what is meant by an underwriting file. Responding party
12 does not maintain a physical file folder with respect to most insurance policies issued. In addition,
13 this request has the potential to be unduly burdensome. Subject to and without waiving the stated
14 objections: Defendant has requested the underwriting documents and will produce upon receipt.
15 Discovery continues and Defendant reserves the right to supplement this response as appropriate.

16 **REQUEST FOR PRODUCTION NO. 2:**

17 Please produce all documents, writings, and communications that are used by field,
18 regional, and home office underwriters for reference, training, and guidelines for the underwriting
19 of your policies.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

21 Objection. Defendant objects that the request is compound, overbroad and burdensome to
22 the extent it seeks information related to its “reference, training, and guidelines” related to
23 underwriting, as Defendant’s underwriting is not at issue in this case. As such, this request seeks
24 information that it is neither relevant to the claims or defenses of any party, nor proportional to the
25 needs of the case, as the request is not reasonably tailored to include only those matters relevant to
26 the insurance claim made the basis of this suit and there is no dispute that the applicable policy
27 was in effect on the date of loss. Finally, this request seeks documents “reference, training, and

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1 guidelines” that are confidential, proprietary, and trade secret. In addition, this request has the
2 potential to be unduly burdensome.

3 **REQUEST FOR PRODUCTION NO. 3:**

4 Please produce all documents, writings, and communications that were produced as a
5 result of or are related to Plaintiff’s claim and the Plaintiff’s claim for coverage. These documents
6 should include, but not be limited to, the entire claim file, printouts from all computer
7 communications and electronic databases and logs, all electronically imaged documents and all
8 reports and investigations.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

10 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
11 and ambiguous as to the terms “all documents, writings, and communications” and “related to
12 Plaintiff’s claim” and “the Plaintiff’s claim for coverage”. Defendant objects to this Request to
13 the extent that it seeks an un-redacted copy of the claim file which contains documents protected
14 by the attorney/client privilege and/or work product doctrine. Defendant further objects to
15 production of a “electronic databases and logs” as based on the nature of Defendant’s claim file
16 structure and the system which houses the same, Defendant cannot produce a standalone live or
17 interactive claims file on a separate portable medium. Defendant further objects in that its Claim
18 Loss Report Systems which is the system in which Defendant maintains its electronic claims file is
19 proprietary and created solely for Defendant’s own use and has great economic value to
20 Defendant. Subject to and without waiving the stated objections: Responsive and non-privileged
21 documents responsive to this request were produced in *Defendant United Services Automobile*
22 *Association’s Initial Disclosure of Witnesses and Production of Documents Pursuant to NRCP*
23 *16.1* as documents Bates stamped USAA000001 to USAA004785 and all supplements thereto.
24 Discovery continues and Defendant reserves the right to supplement this response as appropriate.

25 **REQUEST FOR PRODUCTION NO. 4:**

26 Please produce any and all documents, writings, and communications between Plaintiff
27 and you, including all proof of loss forms.

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1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

2 Objection. USAA objects to this request as overbroad as it is unlimited in time and scope.
3 Subject to and without waiving the stated objections, USAA responds as follows: All non-
4 privileged communications related to Plaintiff's claim are contained within the claims file. USAA
5 has produced the non-privileged portions of its claim file. Responsive and non-privileged claims
6 documents relating to Plaintiffs' claim were produced in *Defendant United Services Automobile*
7 *Association's Initial Disclosure of Witnesses and Production of Documents Pursuant to NRCP*
8 *16.1* as documents Bates stamped USAA000001 to USAA004785 and all supplements thereto.
9 USAA withheld portions of its claim file that contain information protected by the attorney client
10 privilege, the work product doctrine, the litigation privilege, and portions that contain confidential
11 and/or proprietary information. Discovery continues and Defendant reserves the right to
12 supplement this response as appropriate.

13 **REQUEST FOR PRODUCTION NO. 5:**

14 Please produce any and all documents, writings, and communications between you and any
15 third party or third party's attorney concerning the subject claim.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

17 Objection. Defendant objects that the request assumes and misstates facts, is compound,
18 overbroad, burdensome, vague and ambiguous as to the terms "all documents, writings, and
19 communications". Defendant objects as this Request seeks documents protected by the
20 attorney/client privilege and/or the work product doctrine. Defendant further objects this request
21 seeks information that it is neither relevant to the claims or defenses of any party, nor proportional
22 to the needs of the case, as the request is not reasonably tailored to include only those matters
23 relevant to this suit.

24 Subject to and without waiving the stated objections: Responsive and non-privileged
25 documents responsive to this request were produced in *Defendant United Services Automobile*
26 *Association's Initial Disclosure of Witnesses and Production of Documents Pursuant to NRCP*
27 *16.1* as documents Bates stamped USAA000001 to USAA004785 and all supplements thereto.
28 Discovery continues and Defendant reserves the right to supplement this response as appropriate.

1 **REQUEST FOR PRODUCTION NO. 6:**

2 Please produce any and all documents, writings, and communications between you and any
3 third party concerning the processing, acceptance, or denial of the subject claim.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

5 Objection. Defendant objects that the request Defendant objects that the request assumes
6 and misstates facts, is compound, overbroad, burdensome, vague and ambiguous as to the terms
7 “all documents, writings, and communications”. Defendant objects as this Request seeks
8 documents protected by the attorney/client privilege and/or the work product doctrine. Defendant
9 further objects this request seeks information that it is neither relevant to the claims or defenses of
10 any party, nor proportional to the needs of the case, as the request is not reasonably tailored to
11 include only those matters relevant to this suit.

12 Subject to and without waiving the stated objections: Responsive and non-privileged
13 documents responsive to this request were produced in *Defendant United Services Automobile*
14 *Association’s Initial Disclosure of Witnesses and Production of Documents Pursuant to NRCP*
15 *16.1* as documents Bates stamped USAA000001 to USAA004785 and all supplements thereto.
16 Discovery continues and Defendant reserves the right to supplement this response as appropriate.

17 **REQUEST FOR PRODUCTION NO. 7:**

18 Please produce any and all documents, writings, and communications that are used by your
19 claims personnel for reference, training, and guidelines for the adjusting of claims. These items
20 should include, but not be limited to, all claims manuals, all information and guidelines for the
21 adjudication of claims and all other resources used by your personnel for the adjudication of
22 claims.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

24 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
25 and ambiguous as to the terms “all documents, writings, and communications,” “reference,
26 training, and guidelines” and “adjudication of claims”. As presently worded, the information
27 sought by this Request is not relevant to the claims or defenses of any party, nor proportional to
28 the needs of the case, as Defendant’s “reference, training and guidelines” are intended to provide

1 guidance but each claim is handled on its own merits. Defendant further objects on the grounds
2 that the request seeks information that is confidential, sensitive, proprietary business information
3 and/or trade secrets. Subject to and without waiving the stated objections, Defendant responds as
4 follows: Defendant does not have claims “manuals” but rather provides online guidance to claims
5 handlers through its “Knowledge Delivery” online search tool. Please see documents produced in
6 Defendant’s *Third Supplement to Defendant United Services Automobile Association’s Initial*
7 *Disclosure of Witnesses and Production of Documents Pursuant to NRCP 16.1* as Bates Numbers
8 USAA04891 to USAA005004.

9 **REQUEST FOR PRODUCTION NO. 8:**

10 Please produce all documents, writings, and communications, and any drafts or revisions
11 thereof, which contain explanations of the basis in the insurance policy, with respect to the facts of
12 the Plaintiff’s claim and the applicable law, for the determination of the subject claim.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

14 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
15 and ambiguous as to the terms “all documents, writings, and communications”. Defendant objects
16 as this Request seeks documents protected by the attorney/client privilege and/or the work product
17 doctrine. Defendant further objects this request seeks information that it is neither relevant to the
18 claims or defenses of any party, nor proportional to the needs of the case, as the request is not
19 reasonably tailored to include only those matters relevant to this suit.

20 Subject to and without waiving the stated objections: Responsive and non-privileged
21 documents responsive to this request were produced in *Defendant United Services Automobile*
22 *Association’s Initial Disclosure of Witnesses and Production of Documents Pursuant to NRCP*
23 *16.1* as documents Bates stamped USAA000001 to USAA004785 and all supplements thereto.
24 Discovery continues and Defendant reserves the right to supplement this response as appropriate.

25 **REQUEST FOR PRODUCTION NO. 9:**

26 Please produce any and all documents, writings, and communications, and amendments
27 thereto, for the contracting of third-party administration and outsourcing of any operations related

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1 to new business processing, policy issue, policyholder services, claims processing, billing,
2 collection, and payment receipt.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

4 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
5 and ambiguous as to the terms “all documents, writings, and communications”. Defendant objects
6 as this Request seeks documents protected by the attorney/client privilege and/or the work product
7 doctrine. Defendant further objects this request seeks information that it is neither relevant to the
8 claims or defenses of any party, nor proportional to the needs of the case, as the request is not
9 reasonably tailored to include only those matters relevant to this suit, specifically new business
10 processing, policy issue, policyholder services, billing, collection and payment receipt have no
11 bearing on the issues in this case – the value of Plaintiff’s claim and whether Defendant’s handling
12 of that claim was proper. Defendant further objects on the grounds that the request seeks
13 information that is sensitive, confidential, proprietary business information and/or trade secrets.
14 Subject to and without waiving the stated objection, USAA does not outsource its claim handling
15 services.

16 **REQUEST FOR PRODUCTION NO. 10:**

17 Please produce any and all documents, writings, communications, financial statements,
18 both audited and unaudited, and amendments thereto, which state your net income or loss for the
19 last five (5) years according to GENERAL ACCEPTED ACCOUNTING PRINCIPLES (GAAP).

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

21 Objection. Defendant objects that the request is compound, overbroad as it purports to
22 require “all documents, writings, and communications”, unduly burdensome, and seeks
23 information that is not relevant to the claims or defenses of either party. USAA further objects on
24 the basis that this request is not proportional to the needs of this case. This request is not limited to
25 the present claim, is not limited in scope or time, and is otherwise irrelevant to the issues presented
26 in the present matter. Additionally, this request is premature. The Nevada Supreme Court has held
27 that “before tax returns or financial records are discoverable on the issue of punitive damages, the
28 plaintiff must demonstrate some factual basis for its punitive damage claim.” *Hetter v. District*

1 Court, 110 Nev. 513, 520, 874 P.2d 762, 766, 1994 Nev. LEXIS 65, *13-14 (emphasis added). If
2 the Court allows the question of punitive damages to proceed to the jury, USAA will supplement
3 this response. Discovery continues and Defendant reserves the right to supplement this response
4 as appropriate.

5 **REQUEST FOR PRODUCTION NO. 11:**

6 Please produce any and all insurance policies and declaration pages that were in effect at
7 the time of the subject claim.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

9 Objection. Defendant objects that the request is compound, overbroad and burdensome as
10 it seeks all policies in effect at the time of the claim, without limit, and is vague and ambiguous as
11 to the terms “all insurance policies” and “in effect at the time of the subject claim” and seems to
12 require USAA to obtain “any and all” insurance policies issued to Plaintiff, regardless of insurer
13 or type of policy. Subject to and without waiving the stated objections: The auto policy issued by
14 Defendant to Plaintiff and responsive to this request was produced in *Defendant United Services*
15 *Automobile Association’s Initial Disclosure of Witnesses and Production of Documents Pursuant*
16 *to NRCP 16.1* as documents Bates stamped USAA000001POL to USAA000042POL.

17 **REQUEST FOR PRODUCTION NO. 12:**

18 Please produce any and all documents, writings, and communications including, but not
19 limited to, correspondence, e-mails, reports, memos, audio recordings, visual recordings and
20 statements, provided to any private investigators regarding Plaintiff.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

22 Objection. Defendant objects that the request assumes and misstated facts, is compound,
23 overbroad, burdensome, vague and ambiguous as to the terms “all documents, writings, and
24 communications” and the term “private investigators.” Defendant further objects this request
25 seeks information that it is neither relevant to the claims or defenses of any party, nor proportional
26 to the needs of the case, as the request is not reasonably tailored to include only those matters
27 relevant to this suit. Subject to and without waiving the stated objections: Defendant has no

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1 documents responsive to this request. Discovery is continuing and Defendant reserves the right to
2 supplement this response.

3 **REQUEST FOR PRODUCTION NO. 13:**

4 Please produce any and all documents, writings, and communications including, but not
5 limited to, correspondence, e-mails, reports, memos, audio recordings, visual recordings and
6 statements, received from any private investigators regarding Plaintiff.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

8 Objection. Defendant objects that the request assumes and misstated facts, is compound,
9 overbroad, burdensome, vague and ambiguous as to the terms “all documents, writings, and
10 communications” and the term “private investigators.” Defendant further objects this request
11 seeks information that it is neither relevant to the claims or defenses of any party, nor proportional
12 to the needs of the case, as the request is not reasonably tailored to include only those matters
13 relevant to this suit. Subject to and without waiving the stated objections: Defendant has no
14 documents responsive to this request. Discovery is continuing and Defendant reserves the right to
15 supplement this response.

16 **REQUEST FOR PRODUCTION NO. 14:**

17 Please produce any and all photographs, motion pictures, videotapes, tape recordings (or
18 transcripts of tape recordings), documents, writings, communications or investigative reports
19 concerning taken by or on behalf of you, relating to the processing or denial of any portion of the
20 subject claim.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

22 Defendant objects that the request assumes and misstated facts, is compound, overbroad,
23 burdensome, and vague and ambiguous as to the term “concerning taken by or on behalf of you.”
24 Subject to and without waiving the stated objections: Responsive and non-privileged documents
25 responsive to this request were produced in *Defendant United Services Automobile Association’s*
26 *Initial Disclosure of Witnesses and Production of Documents Pursuant to NRCP 16.1* as
27 documents Bates stamped USAA000001 to USAA004785 and all supplements thereto. Discovery
28 is continuing and Defendant reserves the right to supplement this response.

1 **REQUEST FOR PRODUCTION NO. 15:**

2 Please produce any and all files containing information regarding the processing of any
3 insurance applications made to you by Plaintiff or any policies issued to Plaintiff.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

5 Objection. Defendant objects that the request assumes and misstates facts, is compound,
6 overbroad and burdensome. Defendant further objects this request seeks information that it is
7 neither relevant to the claims or defenses of any party, nor proportional to the needs of the case, as
8 the request is not reasonably tailored to include only those matters relevant to this suit; specifically
9 the processing of any insurance applications made to you by Plaintiff is not at issue in this
10 litigation, as USAA does not dispute that it issued a policy to Plaintiff and that the policy was in
11 effect on the date of the subject accident. The requested documents have no bearing on the issues
12 in this case – the value of Plaintiff’s claim and whether Defendant’s handling of that claim was
13 proper. Subject to and without waiving the stated objections: Defendant has requested the
14 underwriting documents and will produce upon receipt. Discovery continues and Defendant
15 reserves the right to supplement this response as appropriate.

16 **REQUEST FOR PRODUCTION NO. 16:**

17 Please produce any and all processing manuals and other materials available to your
18 personnel for reference or training in their duties of processing applications or issuing policies.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

20 Objection. Defendant objects that the request assumes and misstates facts, is compound,
21 overbroad and burdensome. Defendant further objects this request seeks information that it is
22 neither relevant to the claims or defenses of any party, nor proportional to the needs of the case, as
23 the request is not reasonably tailored to include only those matters relevant to this suit; specifically
24 the processing of insurance applications and issuance of policies are not at issue in this litigation,
25 as USAA does not dispute that it issued a policy to Plaintiff and that the policy was in effect on
26 the date of the subject accident. The requested documents have no bearing on the issues in this
27 case – the value of Plaintiff’s claim and whether Defendant’s handling of that claim was proper.
28 Discovery continues and Defendant reserves the right to supplement this response as appropriate.

1 **REQUEST FOR PRODUCTION NO. 17:**

2 Please produce any and all documents and writings you have pertaining to agent Steve
3 Lucent. These documents should include, but not be limited to, the agent application, the
4 appointment of agency, all other contracts between you and Steve Lucent, all approved sales
5 materials used by Steve Lucent, the commission schedule for Steve Lucent, all correspondence
6 between you and Steve Lucent, all investigative and other reports on Steve Lucent, records of all
7 disciplinary information for Steve Lucent, and any other documents and writings kept on Steve
8 Lucent.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

10 Objection. Defendant objects that the request is compound, overbroad as it requires
11 production of any and all documents pertaining to Steven Lucent, is burdensome, vague and
12 ambiguous as to the terms “any and all documents and writings” and “pertaining to agent Steve
13 Lucent”, and harassing. The request is also argumentative and assumes facts not on the record.
14 Defendant objects to this request in that it seeks information that it is neither relevant to Plaintiffs’
15 claims for breach of contract or tortious bad faith claims handling, nor proportional to the needs of
16 the case, as the requested information does not, generally, speak to whether Plaintiffs’ claim was
17 properly handled. Moreover, this request explicitly seeks confidential and sensitive information of
18 USAA’s employees. Subject to and without waiving these objections, Steve Lucent is not an
19 insurance agent as USAA understands this request to assert, and as such, there is no appointment,
20 agent contract, sales materials used by Lucent, or commission schedule for Lucent. All non-
21 privileged documents relating to Steve Lucent’s communications, correspondence and reports
22 related to the claim which is the subject of this litigation were produced in *Defendant United*
23 *Services Automobile Association’s Initial Disclosure of Witnesses and Production of Documents*
24 *Pursuant to NRCP 16.1* as documents Bates stamped USAA000001 to USAA004785 and all
25 supplements thereto.

26 **REQUEST FOR PRODUCTION NO. 18:**

27 Please produce any and all documents and writings given to your agents by you, for
28 training, reference, use in the sale of insurance, or otherwise. These documents should include, but

1 not be limited to, rate books, product guides, field underwriting manuals, a blank application and
2 other forms used by your agents, advertising materials, instructions for the completion of
3 applications for insurance, instructions for completion of conditional receipts, policies and
4 guidelines, ethical standards, and the like.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

6 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
7 and ambiguous as to the terms “any and all documents and writings” and “use in the sale of
8 insurance, or otherwise”. As presently worded, the information sought by this Request is not
9 relevant to the claims or defenses of any party, nor proportional to the needs of the case, as there
10 are no allegations with regard to USAA’s issuance of the subject policy to Plaintiff and USAA
11 does not dispute that the policy was issued to Plaintiff and in effect on the date of the subject
12 accident. Subject to and without waiving these objections, USAA does not use agents for the sale
13 of insurance, and thus, there are no documents responsive to this request.

14 **REQUEST FOR PRODUCTION NO. 19:**

15 Produce any and all documents, writings, and communications which were obtained from
16 Steve Lucent, which contain notes of conversations with Steve Lucent, which contain statements
17 of Steve Lucent, and which contain information on the responsibilities and duties of Steve Lucent
18 when filling out an application.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

20 Objection. Defendant objects that the request assumes and mistakes facts, is compound,
21 overbroad, burdensome, vague and ambiguous as to the terms “any and all documents, writings,
22 and communications” and “which contain information on the responsibilities and duties of Steve
23 Lucent when filling out an application”. Defendant objects to this request in that it seeks
24 information that it is neither relevant to Plaintiffs’ claims for breach of contract or tortious bad
25 faith claims handling, nor proportional to the needs of the case, as the requested information does
26 not, generally, speak to whether Plaintiffs’ claim was properly handled. Moreover, this request
27 explicitly seeks confidential and sensitive information of USAA’s employees. Finally, the request
28 is patently overbroad as it is not narrowed in scope in any way to be relevant to the claim made

1 basis of this suit. Subject to and without waiving these objections, Steve Lucent is not an
2 insurance agent as USAA understands this request to assert, and does not participate in the
3 completion of applications for insurance. All communications of Steven Lucent relating to
4 Plaintiff's claim were produced in *Defendant United Services Automobile Association's Initial*
5 *Disclosure of Witnesses and Production of Documents Pursuant to NRCP 16.1* as documents
6 Bates stamped USAA000001 to USAA004785 and all supplements thereto. Discovery continues
7 and Defendant reserves the right to supplement this response as appropriate.

8 **REQUEST FOR PRODUCTION NO. 20:**

9 Please produce any and all documents and writings constituting a liability guarantee given
10 to you by Steve Lucent.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

12 Objection. Defendant objects that the request assumes and misstates facts, is vague and
13 ambiguous as to the terms "liability guarantee" and "given to you by Steve Lucent". Defendant
14 further objects this request seeks information that it is neither relevant to the claims or defenses of
15 any party, nor proportional to the needs of the case, as the request is not reasonably tailored to
16 include only those matters relevant to this suit.

17 Subject to and without waiving the stated objections: Defendant has no "liability
18 guarantee" documents responsive to this request. Discovery continues and Defendant reserves the
19 right to supplement this response as appropriate.

20 **REQUEST FOR PRODUCTION NO. 21:**

21 Please produce a copy of any and all standards implemented by you for the prompt
22 investigation of claims.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

24 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
25 and ambiguous as to the terms "any and all standards". As presently worded, the information
26 sought by this Request is not relevant to the claims or defenses of any party, nor proportional to
27 the needs of the case, as Defendant's "standards" are intended to provide guidance but each claim

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1 is handled on its own merits. Defendant further objects on the grounds that the documents sought
2 are confidential, sensitive, proprietary business information and/or trade secrets.

3 Subject to and without waiving the stated objections, Defendant responds as follows:
4 Defendant provides online guidance to claims handlers through its “Knowledge Delivery” online
5 search tool. Please see documents produced in Defendant’s *Third Supplement to Defendant*
6 *United Services Automobile Association’s Initial Disclosure of Witnesses and Production of*
7 *Documents Pursuant to NRC 16.1* as Bates Numbers USAA04891 to USAA005004.

8 **REQUEST FOR PRODUCTION NO. 22:**

9 Please produce a copy of any and all standards implemented by you referring or relating to
10 the provisions of the Nevada Unfair Claims Practices Act, NRS 686A.310, including, but not
11 limited to, standards relating to:

- 12 (a) Representing to insureds or claimants pertinent facts of insurance policy provisions
13 relating to any coverage at issue.
- 14 (b) Acknowledging and acting reasonably promptly upon communications with respect to
15 claims arising under insurance policies.
- 16 (c) Adopting and implementing reasonable standards for the prompt investigation and
17 processing of claims arising under insurance policies.
- 18 (d) Affirming or denying coverage of claims within a reasonable time after proof of loss
19 requirements have been completed and submitted by the insured.
- 20 (e) Effectuating prompt, fair and equitable settlements of claims in which liability of the
21 insurer has become reasonably clear.
- 22 (f) Not compelling insureds to institute litigation to recover amounts due under an
23 insurance policy by offering substantially less than the amounts ultimately recovered in
24 actions brought by such insureds, when the insureds have made claims for amounts
25 reasonably similar to the amounts ultimately recovered.
- 26 (g) Attempting to settle a claim by an insured for an amount to which a reasonable person
27 would have believed he was entitled by reference to written or printed advertising
28 material accompanying or made part of an application.

- 1 (h) Not attempting to settle claims on the basis of an application which was altered without
2 notice to, or knowledge or consent of, the insured, their representative, agent or broker.
- 3 (i) Informing insured or beneficiaries, upon payment of a claim, of the coverage under
4 which payment is made.
- 5 (j) Not informing insureds or claimants a practice of the insurer of appealing from
6 arbitration awards in favor of insureds or claimants for the purpose of compelling them
7 to accept settlements or compromises less than the amount awarded in arbitration.
- 8 (k) Not delaying the investigation or payment of claims by requiring an insured or a
9 claimant, or the physician of either, to submit a preliminary claim report, and then
10 requiring the subsequent submission of formal proof of loss forms, both of which
11 submissions contain substantially the same information.
- 12 (l) Not settling claims promptly, where liability has become reasonably clear, under one
13 portion of the insurance policy coverage in order to influence settlements under other
14 portions of the insurance policy coverage.
- 15 (m) Compliance with the provisions of NRS 687B.310 to 687B.390, inclusive, or
16 687B.410.
- 17 (n) Providing promptly to an insured a reasonable explanation of the basis in the insurance
18 policy, with respect to the facts of the insured's claim and the applicable law, for the
19 denial of their claim or for an offer to settle or compromise their claim.
- 20 (o) Not advising an insured or claimant not to seek legal counsel.
- 21 (p) Not misleading an insured or claimant concerning any applicable statute of limitations.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

23 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
24 and ambiguous as to the terms "any and all standards". Defendant further objects on the grounds
25 that the request seeks information that is confidential, sensitive, proprietary business information
26 and/or trade secrets.

27 Subject to and without waiving the stated objections, Defendant responds as follows:
28 Defendant provides online guidance to claims handlers through its "Knowledge Delivery" online

1 search tool. Please see documents produced in Defendant's *Third Supplement to Defendant*
2 *United Services Automobile Association's Initial Disclosure of Witnesses and Production of*
3 *Documents Pursuant to NRC P 16.1* as Bates Numbers USAA04891 to USAA005004. Discovery
4 continues and Defendant reserves the right to supplement this response as appropriate.

5 **REQUEST FOR PRODUCTION NO. 23:**

6 To the extent you are asserting "advice of counsel" as a defense to the allegations
7 contained in Plaintiff's complaint, please produce any and all documents referring to, evidencing,
8 or constituting coverage opinions, legal research, and/or legal advice that you received from an
9 attorney concerning any aspect of the subject claim.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 23:**

11 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
12 and ambiguous as to the terms "advice of counsel as a defense". Defendant objects as this Request
13 seeks documents protected by the attorney/client privilege and/or the work product doctrine.

14 Subject to and without waiving the stated objections, Defendant responds as follows:
15 Defendant is not currently asserting "advice of counsel" as a defense to any claim. Discovery
16 continues and Defendant reserves the right to supplement this response as appropriate.

17 **REQUEST FOR PRODUCTION NO. 24:**

18 Please produce any and all documents, writings, and communications concerning,
19 reflecting, evidencing, or constituting payments received by you from Plaintiff for insurance
20 policy premiums.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

22 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
23 and ambiguous as to the terms "documents, writings, and communications". Defendant further
24 objects this request seeks information that it is neither relevant to the claims or defenses of any
25 party, nor proportional to the needs of the case, as the request is not reasonably tailored to include
26 only those matters relevant to this suit, and is intended only to harass as Defendant is not disputing
27 that Plaintiff paid premiums or that the policy was in effect on the date of the subject accident.

28 Subject to and without waiving said objections, Defendant has requested documentation of

1 payments and will produce upon receipt. Discovery continues and Defendant reserves the right to
2 supplement this response as appropriate.

3 **REQUEST FOR PRODUCTION NO. 25:**

4 Please produce any and all documents, writings, and communications concerning,
5 reflecting, evidencing, or constituting settlement negotiations regarding Plaintiff's claims.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

7 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
8 and ambiguous as to the terms "documents, writings, and communications". Subject to and
9 without waiving the stated objections: Responsive and non-privileged documents responsive to
10 this request were produced in *Defendant United Services Automobile Association's Initial*
11 *Disclosure of Witnesses and Production of Documents Pursuant to NRCP 16.1* as documents
12 Bates stamped USAA000001 to USAA004785 and all supplements thereto. Discovery continues
13 and Defendant reserves the right to supplement this response as appropriate.

14 **REQUEST FOR PRODUCTION NO. 26:**

15 In regard to Defendant's handling of the subject incident/claim, produce the adjusting
16 claims file(s) with any and all contents herein to include, but not limited to, recorded and/or
17 written statements, notes by adjusters/processors and/or investigators, photographs and videotapes
18 (in color if available), index bureau information regarding claims made or believed to have been
19 made by Plaintiff, medical records, documentation between agents and claims department, and
20 computer print-outs of incident information stored on computer data base(s), including any and all
21 computer claims log(s) and notes.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

23 Objection. Defendant objects that the request is compound, vague and ambiguous to the
24 extent it seeks "the adjusting claims file(s)", and overbroad to the extent it seeks any information
25 unrelated to Defendant's handling of Plaintiff's claim. To the extent it seeks information
26 unrelated to Defendant's handling of Plaintiff's claim, Defendant objects to this Request as the
27 requested documents have no bearing on the issues in this case – the value of Plaintiff's claim and
28 whether Defendant's handling of that claim was proper. As such, this request seeks information

1 that it is neither relevant to the claims or defenses of any party, nor proportional to the needs of the
2 case. Subject to and without waiving the stated objections: Responsive and non-privileged
3 documents responsive to this request were produced in *Defendant United Services Automobile*
4 *Association's Initial Disclosure of Witnesses and Production of Documents Pursuant to NRCP*
5 *16.1* as documents Bates stamped USAA000001 to USAA004785 and all supplements thereto.
6 Discovery continues and Defendant reserves the right to supplement this response as appropriate.

7 **REQUEST FOR PRODUCTION NO. 27:**

8 Please produce any and all documents, writings, and communications that are used by your
9 personnel for reference, training, and guidelines for solicitation of underinsured motorist policies
10 from customers.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

12 Objection. Defendant objects that the request is compound, overbroad, burdensome, vague
13 and ambiguous as to the terms “all documents, writings, and communications” and “solicitation of
14 underinsured motorist policies”. As presently worded, the information sought by this Request is
15 not relevant to the claims or defenses of any party, nor proportional to the needs of the case, as
16 these documents do not relate in any way to the issues in this litigation – the value of Plaintiff’s
17 claim and whether Defendant’s handling of that claim was proper. As such, this request seeks
18 information that it is neither relevant to the claims or defenses of any party, nor proportional to the
19 needs of the case. Subject to and without waiving these objections, USAA does not use agents for
20 the sale of insurance, and thus, there are no documents responsive to this request.

21 **REQUEST FOR PRODUCTION NO. 28:**

22 Please produce Defendant’s policies, procedures, manuals or other training for evaluating
23 claims including but not limited to any and all training courses given or required for Defendant’s
24 Claims Adjusters that were taken within 5 years prior to the claim in question through the present
25 time.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

27 Objection. Defendant objects that the request assumes and misstates facts, is compound,
28 overbroad in scope, burdensome, vague and ambiguous as to the terms “policies, procedures,

1 manuals or other training”. As presently worded, the information sought by this Request is not
2 relevant to the claims or defenses of any party, nor proportional to the needs of the case, as
3 materials related to Defendant’s “policies, procedures, manuals or other training” are intended to
4 provide guidance but each claim is handled on its own merits. Defendant further objects on the
5 grounds that the request seeks information that is confidential, sensitive, proprietary business
6 information and/or trade secrets.

7 Subject to and without waiving the stated objections, Defendant responds as follows:
8 Defendant does not have claims “manuals” but rather provides online guidance to claims handlers
9 through its “Knowledge Delivery” online search tool. Please see documents produced in
10 Defendant’s *Third Supplement to Defendant United Services Automobile Association’s Initial*
11 *Disclosure of Witnesses and Production of Documents Pursuant to NRCP 16.1* as Bates Numbers
12 USAA04891 to USAA005013.

13 **REQUEST FOR PRODUCTION NO. 29:**

14 Please produce any and all documents and items relied upon by Defendant in evaluating
15 the claim.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

17 Objection. Defendant objects that the request is vague and overbroad to the extent it seeks
18 “all documents” relied upon by Defendant in “evaluating the claim”. Subject to and without
19 waiving the stated objections: Responsive and non-privileged documents responsive to this request
20 were produced in *Defendant United Services Automobile Association’s Initial Disclosure of*
21 *Witnesses and Production of Documents Pursuant to NRCP 16.1* as documents Bates stamped
22 USAA000001 to USAA004785 and all supplements thereto. Discovery continues and Defendant
23 reserves the right to supplement this response as appropriate.

24 **REQUEST FOR PRODUCTION NO. 30:**

25 Please produce any and all documents, writings, and communications including, but not
26 limited to, correspondence, e-mails, reports, memos, audio recordings, visual recordings and
27 statements, provided to any person or entity related to medical opinions concerning Plaintiff
28 including, but not limited to, regarding record reviews.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

2 Objection. Defendant objects that the request is vague and overbroad to the extent it seeks
3 “any and all documents provided to any person or entity”, and is not limited in scope in any way.
4 Defendant also objects to this request to the extent it seeks documents protected by the attorney-
5 client privilege and work product doctrine. Subject to and without waiving the stated objections:
6 With regard to the claim made basis of this suit, responsive and non-privileged documents
7 responsive to this request were produced in *Defendant United Services Automobile Association’s*
8 *Initial Disclosure of Witnesses and Production of Documents Pursuant to NRCP 16.1* as
9 documents Bates stamped USAA000001 to USAA004785. See also documents produced in
10 *Defendant United Services Automobile Association’s First Supplemental Disclosure of Witnesses*
11 *and Production of Documents Pursuant to NRCP 16.1* as documents Bates stamped USAA004786
12 to USAA004890. Discovery continues and Defendant reserves the right to supplement this
13 response as appropriate.

14 **REQUEST FOR PRODUCTION NO. 31:**

15 Please produce any and all documents, writings, and communications including, but not
16 limited to, correspondence, e-mails, reports, memos, audio recordings, visual recordings and
17 statements, received from to any person or entity related to medical opinions concerning Plaintiff
18 including, but not limited to, regarding record reviews.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

20 Objection. Defendant objects that the request is vague and overbroad to the extent it seeks
21 “any and all documents provided to any person or entity”, and is not limited in scope in any way.
22 Defendant also objects to this request to the extent it seeks documents protected by the attorney-
23 client privilege and work product doctrine. Subject to and without waiving the stated objections:
24 With regard to the claim made basis of this suit, non-privileged documents responsive to this
25 request were produced in *Defendant United Services Automobile Association’s Initial Disclosure*
26 *of Witnesses and Production of Documents Pursuant to NRCP 16.1* as documents Bates stamped
27 USAA000001 to USAA004785 and all supplements thereto. Discovery continues and Defendant
28 reserves the right to supplement this response as appropriate.

1 **REQUEST FOR PRODUCTION NO. 32:**

2 With respect to any vendor or medical provider providing an opinion concerning Plaintiff's
3 injuries, treatment or medical costs, please provide a copy of reports and invoices generated by
4 that vendor or medical provider for you in the five (5) years preceding your use of such vendor or
5 medical provider on Plaintiff's claim.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 32:**

7 Objection. Defendant objects that the request is overbroad and burdensome to the extent it
8 seeks "reports" and "invoices" for matters completely unrelated to the instant suit, and which
9 relate solely to the claims of other non-party insureds. Defendant will not produce such
10 documents. Defendant also objects to this Request as overbroad as it seeks information that it is
11 neither relevant to the claims or defenses of any party, nor proportional to the needs of the case, as
12 the request is not reasonably tailored to include only those matters bearing on the issues in this
13 case – the value of Plaintiff's claim and whether Defendant's handling of that claim was proper.
14 Subject to and without waiving the stated objections: with regards to Plaintiff's claim made basis
15 of this suit, documents responsive to this request were produced in *Defendant United Services*
16 *Automobile Association's Initial Disclosure of Witnesses and Production of Documents Pursuant*
17 *to NRCP 16.1* as documents Bates stamped USAA000001 to USAA004785 and all supplements
18 thereto. Discovery continues, as such, Defendant reserves the right to supplement this response as
19 appropriate.

20 **REQUEST FOR PRODUCTION NO. 33:**

21 Please produce any and all documents informing the Plaintiff that he has not complied or
22 cooperated with any provision of the policy.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

24 Objection. Defendant objects that the request is overbroad and burdensome to the extent it
25 seeks "all documents". Subject to and without waiving the stated objections: Responsive and non-
26 privileged documents responsive to this request were produced in *Defendant United Services*
27 *Automobile Association's Initial Disclosure of Witnesses and Production of Documents Pursuant*
28 *to NRCP 16.1* as documents Bates stamped USAA000001 to USAA004785 and all supplements

1 thereto. Discovery continues, as such, Defendant reserves the right to supplement this response as
2 appropriate.

3 **REQUEST FOR PRODUCTION NO. 34:**

4 Please produce the personnel files of each employee, manager, supervisor or other agent
5 who was involved, had supervisory capacity over the Plaintiff's claim or audited the Plaintiff's
6 claim.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

8 Objection. Defendant objects that the request is overbroad in scope and time, burdensome
9 to the extent it seeks "personnel files" of employees "involved" with "Plaintiff's claim" without
10 any limitation as to time or scope, and vague and/or ambiguous as to the terms "personnel file".
11 Defendant objects to this request in that it seeks information that it is neither relevant to Plaintiffs'
12 claims for breach of contract or tortious bad faith claims handling, nor proportional to the needs of
13 the case, as the requested information does not, generally, speak to whether Plaintiffs' claim was
14 properly handled. Moreover, this request explicitly seeks confidential and sensitive information of
15 USAA's employees. USAA further objects to the extent this request seeks business information
16 that is confidential and/or proprietary. Subject to and without waiving the stated objections,
17 Please see documents produced in Defendant's *Third Supplement to Defendant United Services*
18 *Automobile Association's Initial Disclosure of Witnesses and Production of Documents Pursuant*
19 *to NRCP 16.1* as Bates Numbers USAA5014 to USAA005079. Discovery continues and
20 Defendant reserves the right to supplement this response as appropriate.

21 **REQUEST FOR PRODUCTION NO. 35:**

22 Please produce any and all quality assurance audits in the five (5) years prior to the claim
23 through the present, relating to any of the personnel involved in handling, taking action, or
24 reviewing of the Plaintiff's claim. For the purpose of this request, quality assurance audit means
25 any review of claims files to assess the quality of work done by claims handlers or adjusters.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

27 USAA objects to this request on the grounds that it assumes and misstates facts, is vague
28 and ambiguous as to the term "quality insurance audits ...relating to . . .personnel", is overly

1 broad, burdensome, oppressive and intended only to harass. Defendant objects to this request in
2 that it seeks information that it is neither relevant to Plaintiffs' claims for breach of contract or bad
3 faith claims handling, nor proportional to the needs of the case as any action by USAA on any
4 other claims does not generally speak to whether Plaintiffs' claim was properly handled or
5 whether the insurance policy was breached by Defendant. Any such matter, with no nexus to the
6 harm alleged by Plaintiffs with regard to their claims under the subject policy, is irrelevant and the
7 request is not reasonably calculated to lead to the discovery of admissible evidence. See *State*
8 *Farm Mutual Auto Ins. Co. v. Campbell*, 538 US 4087 (2003). USAA objects to the extent that
9 this request seeks information protected by the attorney-client privilege and the work product
10 doctrine. Subject to and without waiving the stated objections, USAA responds as follows: As
11 USAA understands this request, there are no documents responsive to this request. Defendant has
12 produced in Defendant's *Third Supplement to Defendant United Services Automobile*
13 *Association's Initial Disclosure of Witnesses and Production of Documents Pursuant to NRCP*
14 *16.1* as Bates Numbers USAA5014 to USAA005079, relevant information within Steve Lucent's
15 personnel file, including performance reviews, for the subject time period. Discovery continues
16 and Defendant reserves the right to supplement this response as appropriate.

17 **REQUEST FOR PRODUCTION NO. 36:**

18 Please produce any and all copies of documents that reference bonus programs or
19 employee award programs applicable to any and all departments or sections involved in the
20 handling of the Plaintiff's claim for five (5) years prior to the claim through the present.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

22 USAA objects to this request as it assumes and misstates facts, is overbroad in scope and
23 time, and is vague and/or ambiguous as to the terms "bonus and/or incentive programs".
24 Defendant objects to this request in that it seeks information that it is neither relevant to Plaintiffs'
25 claims for breach of contract or tortious bad faith claims handling, nor proportional to the needs of
26 the case, as the requested information does not, generally, speak to whether Plaintiffs' claim was
27 properly handled.

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1 Subject to the forgoing objections, USAA has a company wide incentive program not
2 specifically tied to payment or non-payment of claims. Since at least 2014, Defendant's Board of
3 Directors has approved a holiday bonus that is paid to all employees in December of each year.
4 Employees who are actively employed at the end of November receive an amount equal to their
5 then-current bi-weekly base pay, prorated for any partial period of employment. Employees who are
6 actively employed for less than the entire preceding year receive a pro rata amount, based upon the
7 number of months they have been employed. Additionally, since at least 2014, Defendant's Board of
8 Directors has awarded an enterprise-wide performance bonus paid in February of the following year.
9 In order to be eligible for the bonus, employees must have been hired prior to October and still
10 employed as of February (or retired from USAA on or after January) of the payment year. With
11 limited exceptions noted below, every employee working with USAA, regardless of job title, job
12 duties, or job location, received a bonus equal to a percentage of their eligible earnings. Employees
13 whose individual performance required a form of corrective action during the year may have
14 received a reduced bonus or no bonus at all.

15 **REQUEST FOR PRODUCTION NO. 37:**

16 Please produce any and all copies of documents referring to goals, targets or objectives
17 established for claim payments, loss ratios, combined loss ratios, settlement goals, timing of
18 settlements, percentage of cases to resolve prelitigation or percentage of cases to take to trial.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

20 Objection. Defendant objects that the request assumes and misstates facts, is overbroad
21 and burdensome to the extent it seeks documents related to "goals", "targets" or "objectives"
22 related to "claim payments", "loss ratios", "combined loss ratios", "settlement goals", "timing of
23 settlements", "percentages of cases to resolve prelitigation" and "percentage of cases to take to
24 trial" without any limitation as to time or scope, and is vague and ambiguous as to these terms.
25 Defendant objects to this Request as overbroad as it seeks information that it is neither relevant to
26 the claims or defenses of any party, nor proportional to the needs of the case, as the request is not
27 reasonably tailored to include only those matters relevant to the insurance claim made the basis of
28 this suit. Subject to and without waiving the stated objections, after a diligent search, USAA has

1 no documents responsive to this request. Discovery is continuing and USAA reserves the right to
2 supplement this response.

3 **REQUEST FOR PRODUCTION NO. 38:**

4 Please produce any and all documents referencing, discussing or analyzing settlement
5 offers and/or reserves compared to verdicts and/or judgements for five (5) years prior to the
6 Plaintiff's claim.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 38:**

8 Objection. Defendant objects that the request is overbroad and burdensome to the extent it
9 seeks documents related to "settlement offers" and/or "reserves" for matters unrelated to the
10 instant suit without any limitation as to time or scope. Defendant further objects that the request
11 assumes and misstates facts, is vague and ambiguous as to the terms "goals", "targets" or
12 "objectives" related to "claim payments", "loss ratios", "combined loss ratios", "settlement goals",
13 "timing of settlements", "percentages of cases to resolve prelitigation" and "percentage of cases to
14 take to trial". Defendant objects to this Request as overbroad as it seeks information that it is
15 neither relevant to the claims or defenses of any party, nor proportional to the needs of the case, as
16 the request is not reasonably tailored to include only those matters relevant to the insurance claim
17 made the basis of this suit. Finally, Defendant objects to this request to the extent it seeks
18 document protected by the attorney/client privilege and/or work product doctrines. Subject to and
19 without waiving the stated objections, after a diligent search, USAA has no documents responsive
20 to this request. Discovery is continuing and USAA reserves the right to supplement this response.

21 **REQUEST FOR PRODUCTION NO. 39:**

22 Please produce any and all deposition transcripts or trial testimony transcripts of any of the
23 Defendant's officers or personnel, since January 1, 2010, in any suit relating to bad faith claims
24 handling of uninsured or underinsured claim(s).

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

26 Objection. This request is unduly burdensome and overly broad in time and scope. This
27 request seeks information that is not narrowly tailored to the claims and defenses in this matter
28 and is disproportional to the needs of the case. The request is also overbroad as to geography, and

1 to the extent it seeks information regarding claims and non-parties other than the claim at issue in
2 this litigation. As presently worded, the information sought by the Request is not relevant to the
3 claims or defenses of any party, nor proportional to the needs of the case. The existence of
4 unrelated “bad faith suits” against Defendant and Defendant’s testimony regarding the same, will
5 neither prove nor disprove any alleged improper actions of Defendant in the handling of Plaintiff’s
6 claim.

7 **REQUEST FOR PRODUCTION NO. 40:**

8 Please produce any and all copies of any regulatory actions, including but not limited to
9 suspension or revocation proceedings, Market Conduct Examinations, Cease and Desist Orders,
10 Consent Orders, Reports of Examinations, Corrective Orders or Corrective Action Plans relating
11 to Defendant’s uninsured or underinsured insurance coverage, from January 1, 2010 to present.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

13 Defendant objects to this request on the grounds that it assumes facts, is overbroad and
14 unduly burdensome in that it seeks information that is not narrowly tailored to the claims and
15 defenses in this matter and is disproportional to the needs of the case. Defendant further objects to
16 this request on the grounds that it is overly broad in time, scope and geography, and because it is
17 not reasonably tailored to include only matters relevant to the handling of the claims which form
18 the basis of this suit. Any such matter, with no nexus to the harm claimed to have been sustained
19 by Plaintiff herein with regard to its claims under the subject policies, is irrelevant and the request
20 is not reasonably calculated to lead to the discovery of admissible evidence. See *State Farm*
21 *Mutual Auto Ins. Co. v. Campbell*, 538 US 4087 (2003). In addition, regulatory matters are not
22 probative of any issue in this case. Additionally, Defendant objects to this request to the extent it
23 seeks the private and personal information of other insureds of Defendant or the confidential
24 information of Defendant. Further, Defendant objects to the extent that this inquiry seeks
25 information protected by the attorney-client privilege and the work product doctrine. Finally, this
26 request seeks information which is a matter of public record and can be independently obtained by
27 Plaintiff without requiring Defendant to compile the information. Subject to and without waiving

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1 these objections, Defendant has no documents responsive to this Request as amended by the
2 Discovery Commissioner.

3 **REQUEST FOR PRODUCTION NO. 41:**

4 Please produce any and all company newsletters designed to inform employees of industry
5 or company news or developments related to uninsured or underinsured motorist coverage or
6 policies in Nevada since January 1, 2001.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

8 Objection. This request assumes facts, is vague and ambiguous as to the term
9 “newsletters”, and is unduly burdensome and overly broad in that it seeks information that is not
10 narrowly tailored to the claims and defenses in this matter and is disproportional to the needs of
11 the case. The request is also overbroad to the extent it seeks the production of internal newsletters,
12 unrelated to this litigation, for a period of over 10 years; i.e., January 1, 2001 to present. As
13 presently worded, the information sought by the Request is not relevant to the claims or defenses
14 of any party, nor proportional to the needs of the case. Subject to and without waiving the stated
15 objections, Defendant does not have any “newsletters” relating to UM handling.

16 **REQUEST FOR PRODUCTION NO. 42:**

17 Please produce any and all transcripts and recordings of speeches or presentations in any
18 form whatsoever, including Power Point presentation materials, overheads, slides, on the subject
19 of uninsured or underinsured motorist coverage in since January 1, 2010.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

21 Objection. This request is unduly burdensome and overly broad in that it seeks
22 information that is not narrowly tailored to the claims and defenses in this matter and is
23 disproportional to the needs of the case. The request is also overbroad and unduly burdensome to
24 the extent it seeks the production of “transcripts” and “recordings” of “speeches or presentations”
25 for a period of almost 10 years; i.e., January 1, 2010 to present and is patently overbroad and
26 harassing.

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1 **REQUEST FOR PRODUCTION NO. 43:**

2 Please produce any and all advertisements or other marketing materials (including but not
3 limited to brochures and/or video) issued by Defendant in Nevada or available on any website and
4 pertaining to uninsured or underinsured motorist coverage, since January 1, 2010.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

6 Objection. Defendant objects to this request as it is neither relevant to the claims or
7 defenses of any party, nor proportional to the needs of the case. There are no allegations within
8 the Plaintiff's complaint regarding advertisements, nor did the Plaintiff allege any reliance upon
9 such advertisements. Additionally, this request is overly broad in scope and time, and responding
10 would be unduly burdensome.

11 **REQUEST FOR PRODUCTION NO. 44:**

12 Please produce any and all copies of any reinsurance or co-insurance agreements, and all
13 the terms and conditions thereof, between Defendant and any other entity, relating to the
14 policy(ies) at issue.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

16 Defendant objects to this Request in that it is overbroad and neither relevant to the claims or
17 defenses of any party, nor proportional to the needs of the case. Subject to and without waiving
18 the stated objections, after a diligent search, USAA has no documents responsive to this request.
19 Discovery is continuing and USAA reserves the right to supplement this response.

20 DATED this 29th day of July, 2021

21 LEWIS BRISBOIS BISGAARD & SMITH LLP

22

23 By /s/ Priscilla L. O'Briant
24 ROBERT W. FREEMAN
25 Nevada Bar No. 3062
26 PRISCILLA L. O'BRIANT
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*Attorneys for Defendant United Services
Automobile Association*

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), A.O. 14-2 and N.E.F.C.R. 9, I certify that I am an employee of LEWIS BRISBOIS BISGAARD & SMITH LLP, and that on this 29th day of July, 2021, I did cause a true and correct copy of **DEFENDANT UNITED SERVICES AUTOMOBILE ASSOCIATION’S SECOND SUPPLEMENTAL RESPONSES TO PLAINTIFF’S FIRST SET OF REQUESTS FOR PRODUCTION** in Clark County District Court Case No. A-19-790757-C, to be served by electronic service with the Eighth Judicial District Court filing system to the parties on the Electronic Service List addressed as follows:

Jordan P. Schnitzer, Esq.
THE SCHNITZER LAW FIRM
9205 W. Russell Road, Ste. 240
Las Vegas, NV 89148
Tel: (702) 960-4050
Fax: (702) 960-4092
Attorney for Plaintiff

Jordan@theschnitzerlawfirm.com

By /s/ Priscilla L. O’Briant
an Employee of
LEWIS BRISBOIS BISGAARD & SMITH LLP



Date: 01/08/2018
Adjuster Name: 6836-71 Austin Morales

USAA
9800 Fredericksburg Road
San Antonio, TX 78288

Claim #: 005625557
Date Of Injury: 05/09/2014
Patient Name: ROBERTS, JOHN
DOB/Age: 12/24/1962 ; 55
Diagnoses: E819 --- Motor veh acc unspec nature

Doc ID: UV2020218
Date(s) of Service: 06/09/14, 12/16/14, 08/29/15, 09/02/15, 09/03/15, 09/14/15,
09/15/15, 09/17/15, 10/13/15, 10/26/15, 11/13/15, 11/19/15,
12/01/15, 12/18/15, 01/14/16, 01/27/16, 03/03/16, 04/13/16,
06/17/16, 07/16/16, 08/16/16, 08/17/16, 08/19/16, 08/25/16,
09/06/16, 09/15/16, 10/12/16, 10/17/16, 10/27/16, 11/16/16,
11/21/16

Procedure Code(s):



Procedure Code	Description
00023915630	Tazorac External Cream 0.1 MG - 30 GM
00054327099	Fluticasone Propionate Nasal Suspension 50 MCG/ACT - 16 GM
00093005805	TraMADol HCl Oral Tablet 50 MG - 500 EA
00093894001	Acyclovir Oral Capsule 200 MG - 100 EA
00143973805	PREDNISONE [TAB] 20 MG - 500 EA
00603107558	Cheratussin AC Oral Syrup 100-10 MG/5ML - 473 ML
00603389128	Hydrocodone-Acetaminophen Oral Tablet 7.5-325 MG - 500 EA
00603446521	Metaproterenol Sulfate Oral Tablet 20 MG - 100 EA
00603448521	Methocarbamol [tab] 500 mg - 100 ea
00603459315	MethylPREDNISolone Oral Tablet Therapy Pack 4 MG - 21 EA
00603498221	Oxycodone-Acetaminophen Oral Tablet 10-325 MG - 100 EA
00603543821	Promethazine HCl Oral Tablet 25 MG - 100 EA
00781185220	Amoxicillin-Pot Clavulanate Oral Tablet 875-125 MG - 20 EA
00781261305	Amoxicillin [cap] 500 mg - 500 ea
10702005701	OXYCODONE HCL (USP) [TAB] 20 MG - 100 EA
24338010013	E.E.S. 400 (FILM-COATED) [TAB] 400 MG - 100 EA
50111078766	Azithromycin Oral Tablet 250 MG - 6 EA
50458082004	Nucynta Oral Tablet 50 MG - 100 EA
50458084004	Nucynta Oral Tablet 100 MG - 100 EA
59011041010	OxyCONTIN Oral Tablet ER 12 Hour Abuse-Deterrent 10 MG - 100 EA
59011042010	OxyCONTIN Oral Tablet ER 12 Hour Abuse-Deterrent 20 MG - 100 EA
59011043010	OxyCONTIN Oral Tablet ER 12 Hour Abuse-Deterrent 30 MG - 100 EA
65162062711	TRAMADOL HCL (FILM-COATED) [TAB] 50 MG - 1000 EA
65862001705	Amoxicillin Oral Capsule 500 MG - 500 EA
67253015050	Amoxicillin Oral Capsule 500 MG - 500 EA
67253039150	Doxycycline Hyclate Oral Tablet 100 MG - 500 EA
67877010605	Benzonatate Oral Capsule 200 MG - 500 EA



A Review has been completed. This review is for medical necessity

The following documentation has been provided and reviewed:

AM4580297, STEINBERG DIAGNOSTIC MEDICAL, 05/16/2014 - 05/16/2014
AM4812551, FREMONT EMERGENCY SERVICES, 05/09/2014 - 05/09/2014
EM0171220, FREMONT EMERGENCY SERVICES, 05/09/2014 - 05/09/2014
TM2163494, SUNRISE HOSPITAL, 05/09/2014 - 05/09/2014
UX7186378, STEINBERG DIAGNOSTIC MEDICAL, 05/29/2014 - 05/29/2014
UX7254442, FREMONT EMERGENCY SERVICES, 05/09/2014 - 05/09/2014
UX7367942, FREMONT EMERGENCY SERVICES, 05/09/2014 - 05/09/2014

Upon review of the submitted documentation for the patient, the opinion(s) expressed in this report (or "herein") are based in part on my training, skill, experience and associated peer literature. Based on the records submitted for review, it is my recommendation that the service(s) 65862001705 Amoxicillin Oral Capsule 500 MG - 500 EA

00603543821 Promethazine HCl Oral Tablet 25 MG - 100 EA

67877010605 Benzonatate Oral Capsule 200 MG - 500 EA

00143973805 PREDNISONE [TAB] 20 MG - 500 EA

00603389128 Hydrocodone-Acetaminophen rendered on 06/09/14 and 12/16/14 was not medically necessary. My decision is based on the following:

No physician rationale relates this to the MVA.

John Roberts was born on 12/24/62 and was in a MVA on 5/9/14. This visit was thereafter and does not discuss the need for this medication related to the MVA. . There is no therapy or physician documentation of the specifics of a MVA, mechanism of injury, past history or co-morbidities, diagnoses and physical findings at the time, or treatment to date. The lack of a physician note detail does not support the ongoing medical necessity of the visits and therapies. The treatment is not medically necessary since it exceeds the guidelines listed below, and is not supported by physician documentation.

In conclusion, I do not recommend reimbursement for treatment

65862001705 Amoxicillin Oral Capsule 500 MG - 500 EA

00603543821 Promethazine HCl Oral Tablet 25 MG - 100 EA

67877010605 Benzonatate Oral Capsule 200 MG - 500 EA

00143973805 PREDNISONE [TAB] 20 MG - 500 EA

00603389128 Hydrocodone-Acetaminophen rendered on 06/09/14 and 12/16/14, as I do not find treatment medically reasonable or necessary, or related to the distant MVA.

Should additional documentation or referring physician records become available, please submit to the below address for reconsideration.

Reference:

Medical Protocols Rule definition of "clinically supported" means that a health care provider prior to selecting, performing or ordering the administration of a treatment or diagnostic test has personally examined the patient to ensure that the proper medical indications exist to justify ordering the treatment or test at issue- The medical necessity of the service is not documented.

1)Documentation Guidelines for Evaluation and Management Services II. General Principles of Medical Record Documentation, US Dept. of Health & Human Services, Page 1-5, 1997: The patient's progress, response to and changes in treatment, and revision of diagnosis should be documented. Medical record



documentation is required to record pertinent facts, findings, and observations about an individual's health history including past and recent illnesses, examinations, tests, treatments, and outcomes. The medical record chronologically documents the care of the patient, and is an important element contributing to high quality care.

Noninvasive Treatments for Acute, Subacute, and Chronic Low Back Pain: A Clinical Practice Guideline From the American College of Physicians.

Qaseem A, Wilt TJ, McLean RM, Forciea MA; Clinical Guidelines Committee of the American College of Physicians. Ann Intern Med. 2017 Feb 14. doi: 10.7326/M16-2367.

American Physical Therapy Association- Public availability- www.apta.org- documentation.--- and Evidence-based practice and research.

Reference- Necessity of extended therapies

Periodic physician re-assessments are recommended to assure the ongoing medical necessity of the therapies underway. There are no current physician notes that support the need for the continued therapy.

The standard of care suggests a physician reassessment after a "six-visit clinical trial".

Cervicalgia (neck pain); Cervical spondylosis (ICD9 723.1; 721.0):9 visits over 8 weeks

Sprains and strains of neck (ICD9 847.0):10 visits over 8 weeks

Displacement of cervical intervertebral disc (ICD9 722.0): Medical treatment: 10 visits over 8 weeks

Degeneration of cervical intervertebral disc (ICD9 722.4):10-12 visits over 8 weeks

Lumbar sprains and strains (ICD9 847.2): 10 visits over 8 weeks

Sprains and strains of unspecified parts of back (ICD9 847):

10 visits over 5 weeks

PT ensued for a prolonged period of time. The patient had pain from the injury. Therapy evaluations must identify patient problems and objective measurements of physical deficits. These objective measures should be as specific as is possible for the diagnosis or patient problem. If pain persists significantly, objectively, after the two months of passive treatments, massage therapy included, further objective testing should be performed to rule out additional etiology of the pain, rather than the continuation of passive therapy alone.

Cervical and thoracic spine disorders. In: Hegmann KT, editor(s). Occupational medicine practice guidelines.

Evaluation and management of common health problems and functional recovery in workers. 3rd ed. Elk

Grove Village (IL): Chronic pain. In: Occupational medicine practice guidelines: evaluation and management of common health problems and functional recovery in workers. Accessed 01/02/14 from:

<http://www.guideline.gov/content.aspx?id=36626> and Cervical and thoracic spine disorders. In: Hegmann KT,

editor(s). Occupational medicine practice guidelines. Evaluation and management of common health

problems and functional recovery in workers. 3rd ed. Elk Grove Village (IL):

<http://www.guideline.gov/content.aspx?id=35207&search=masspreseage>

There is no therapy or physician documentation of the specifics of a MVA.

If you wish to appeal this determination, please submit your written appeal to the following address:

Auto Injury Solutions

P.O. Box 5000

Daphne, AL 36526



Sincerely,

A handwritten signature in cursive script that reads "Joseph T. Palermo, DO, MSA, FRCO". The signature is written in black ink on a light-colored background.

Joseph Palermo , DO
Internal Medicine - Geriatric Medicine

ASSETS

	Current Year			Prior Year
	1 Assets	2 Nonadmitted Assets	3 Net Admitted Assets (Cols. 1 - 2)	4 Net Admitted Assets
1. Bonds (Schedule D).....	5,899,599,246		5,899,599,246	5,389,683,778
2. Stocks (Schedule D):				
2.1 Preferred stocks.....			0	
2.2 Common stocks.....	1,902,771,360		1,902,771,360	1,711,075,078
3. Mortgage loans on real estate (Schedule B):				
3.1 First liens.....			0	
3.2 Other than first liens.....			0	
4. Real estate (Schedule A):				
4.1 Properties occupied by the company (less \$.....0 encumbrances).....			0	
4.2 Properties held for the production of income (less \$.....0 encumbrances).....			0	
4.3 Properties held for sale (less \$.....0 encumbrances).....			0	
5. Cash (\$.....56,336,572, Schedule E-Part 1), cash equivalents (\$.....274,584,557, Schedule E-Part 2) and short-term investments (\$.....352,496,656, Schedule DA).....	683,417,785		683,417,785	893,109,613
6. Contract loans (including \$.....0 premium notes).....			0	
7. Derivatives (Schedule DB).....			0	
8. Other invested assets (Schedule BA).....	305,968,613		305,968,613	314,203,938
9. Receivables for securities.....	346,603		346,603	3,418,068
10. Securities lending reinvested collateral assets (Schedule DL).....	41,643,388		41,643,388	81,055,195
11. Aggregate write-ins for invested assets.....	0	0	0	0
12. Subtotals, cash and invested assets (Lines 1 to 11).....	8,833,746,995	0	8,833,746,995	8,392,545,670
13. Title plants less \$.....0 charged off (for Title insurers only).....			0	
14. Investment income due and accrued.....	50,279,415		50,279,415	50,479,054
15. Premiums and considerations:				
15.1 Uncollected premiums and agents' balances in the course of collection.....	280,740,486	12,044,673	268,695,813	216,387,344
15.2 Deferred premiums, agents' balances and installments booked but deferred and not yet due (including \$.....0 earned but unbilled premiums).....	912,178,063		912,178,063	846,289,574
15.3 Accrued retrospective premiums (\$.....0) and contracts subject to redetermination (\$.....0).....			0	
16. Reinsurance:				
16.1 Amounts recoverable from reinsurers.....	2,154,806		2,154,806	16,385,126
16.2 Funds held by or deposited with reinsured companies.....	54,715,729		54,715,729	132,340,659
16.3 Other amounts receivable under reinsurance contracts.....			0	
17. Amounts receivable relating to uninsured plans.....			0	
18.1 Current federal and foreign income tax recoverable and interest thereon.....			0	13,892,823
18.2 Net deferred tax asset.....	199,204,433	9,544,232	189,660,201	174,363,087
19. Guaranty funds receivable or on deposit.....	670,001		670,001	304,741
20. Electronic data processing equipment and software.....			0	
21. Furniture and equipment, including health care delivery assets (\$.....0).....			0	
22. Net adjustment in assets and liabilities due to foreign exchange rates.....			0	
23. Receivables from parent, subsidiaries and affiliates.....	404,627		404,627	581,089
24. Health care (\$.....0) and other amounts receivable.....			0	
25. Aggregate write-ins for other-than-invested assets.....	10,259,532	7,328,050	2,931,482	4,422,548
26. Total assets excluding Separate Accounts, Segregated Accounts and Protected Cell Accounts (Lines 12 to 25).....	10,344,354,087	28,916,955	10,315,437,132	9,847,991,715
27. From Separate Accounts, Segregated Accounts and Protected Cell Accounts.....			0	
28. TOTAL (Lines 26 and 27).....	10,344,354,087	28,916,955	10,315,437,132	9,847,991,715

DETAILS OF WRITE-INS

1101.			0	
1102.			0	
1103.			0	
1198. Summary of remaining write-ins for Line 11 from overflow page.....	0	0	0	0
1199. Totals (Lines 1101 through 1103 plus 1198) (Line 11 above).....	0	0	0	0
2501. Miscellaneous accounts receivable.....	9,652,325	7,328,050	2,324,275	3,815,341
2502. Unapplied claim payments.....	607,207		607,207	607,207
2503.			0	
2598. Summary of remaining write-ins for Line 25 from overflow page.....	0	0	0	0
2599. Totals (Lines 2501 through 2503 plus 2598) (Line 25 above).....	10,259,532	7,328,050	2,931,482	4,422,548