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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

LAURIE MILLER, BRIAN DIMAS,  
KIM MILLS, ANTHONY SOZA,  
BRUCE CAMPBELL, KELLIE  
BOWERS, TIM HUNTER, BRIAN  
SAYLOR, MICHAEL SCHAMADAN,  
INDIVIDUALLY AND AS  
REPRESENTATIVE OF THE ESTATE  
OF HIS WIFE, BRANDI SCHAMADAN,  
  
Plaintiffs,  
  
vs.  
  
YORK RISK SERVICES GROUP and  
FRANK GATES SERVICE COMPANY,  
  
Defendants.

2:13-cv-1419 JWS  
  
ORDER AND OPINION  
  
[Re: Motion at Docket 256]

**I. MOTIONS PRESENTED**

At docket 256, plaintiffs move to compel defendants to respond to certain discovery requests. Defendants’ response is at docket 303. Plaintiffs’ reply is at docket 316. Oral argument was requested but would not assist the court.

**II. BACKGROUND**

Plaintiffs are or were employed as City of Phoenix (“City”) firefighters. Defendants are third-party insurance administrators for the City who adjusted City employees workers’ compensation claims. Plaintiffs contend that defendants, with the

1 assistance and knowledge of certain City employees, wrongfully denied and delayed  
2 their workers' compensation benefits.

3 In their Fourth Amended Complaint,<sup>1</sup> plaintiffs plead four claims. First, all  
4 plaintiffs allege that defendants, acting in concert with the City, fraudulently denied their  
5 workers' compensation benefits in violation of the Racketeer Influenced and Corrupt  
6 Organizations Act ("RICO"), 18 U.S.C. §§ 1961, 1964, and 1965. Second, all plaintiffs  
7 allege that defendants violated Arizona law by aiding and abetting the City's breach of  
8 the City's contractual duty of good faith and fair dealing. In the third claim, plaintiff  
9 Michael Schamadan pleads that defendants aided and abetted the City's breach of its  
10 duty of good faith and fair dealing as it relates to Brandi Schamadan, thus causing him  
11 to suffer a loss of consortium. The fourth claim is also one pled only by Michael  
12 Schamadan. In that claim Schamadan alleges that defendants intentionally or  
13 recklessly inflicted severe emotional distress upon him.

### 14 **III. DISCUSSION**

15 In their motion at docket 256, plaintiffs ask the court to order defendant York to  
16 respond to three specific requests for production as follows:

#### 17 **REQUEST FOR PRODUCTION NO. 13:**

18 The documents related to Defendant's staffing models, memos, or  
19 analysis for administering benefits under the Contract, including any  
20 analysis or discussion related to the number of employees necessary to  
staff the City of Phoenix contract, workloads, and productivity.

#### 21 **REQUEST FOR PRODUCTION NO. 14:**

22 The documents related to audit staffing models for the City of Phoenix  
Contract.

#### 23 **REQUEST FOR PRODUCTION NO. 15:**

24 The documents relating to adjuster turnover and personnel analysis for  
25 adjusters working the City of Phoenix Contract.

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28 <sup>1</sup>Doc. 208.

1           Several objections were made to each of the three requests, including an  
2 objection that the discovery sought falls outside the scope of discovery established by  
3 Fed. R. Civ. P. 26(b)(1). Of course, that rule embodies a wide scope. Information  
4 sought need not be admissible in evidence, it need only be information whose  
5 production is “reasonably calculated to lead to the discovery of admissible evidence.”<sup>2</sup>

6           With respect to RFPs 13 and 14, the court concludes that the information sought  
7 is not reasonably calculated to lead to the discovery of admissible evidence. Whatever  
8 “staffing model” York used, how York chose to staff the work for the City would not  
9 inform judgment about York’s alleged participation in a City scheme to defraud its  
10 injured employees or operate a RICO enterprise. The level of staffing could have been  
11 “just right to do the work,” or higher than needed, or lower than needed. Knowing which  
12 it was would not yield evidence of York’s participation in a City scheme. Obviously, “just  
13 right” staffing would demonstrate nothing. Staffing at an excessive level would not  
14 demonstrate an effort by York to assist the City to cheat its employees. Staffing at too  
15 low a level would not be evidence of York’s participation in a RICO or fraud scheme, but  
16 only evidence that York was trying to cut corners to increase its own profits.

17           With respect to RFP 15, the court concludes that the type of information sought  
18 is reasonably calculated to lead to the discovery of admissible evidence. Documents  
19 showing that adjusters who were more generous in approving claims were taken off the  
20 job or subject to some other negative personnel action, or that those who were less  
21 generous were provided with some benefit could clearly lead to the discovery of  
22 admissible evidence.

23           Defendants raised additional objections to RFP 15, one of which is that it is  
24 vague and ambiguous because it relies on the undefined terms “relating to adjuster  
25 turnover” and “personnel analysis.” The court agrees that these phrases are  
26 problematic. However, to the extent defendants have records which show that some

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28           <sup>2</sup>Fed. R. Civ. P. 26(b)(1).

1 adjusters were removed from work on the City contract and others were not, such  
2 records need to be produced. Similarly, if defendants have records which show  
3 favorable or unfavorable personnel decisions for any such adjusters, those need to be  
4 produced (but must be redacted so as not to disclose any adjuster's social security  
5 number, home address, or health related information).

6 The other objections to RFP 15 are not well founded. FRP 15 is not overly broad  
7 or a "fishing expedition." The time is necessarily limited to the time that the defendants  
8 had a contract with the City to adjust its employees' claims.

9 **IV. CONCLUSION**

10 For the reasons above, the motion at docket 256 is **GRANTED in part and**  
11 **DENIED** in part as follows: (1) Defendant shall respond to RFP 15 within 14 days from  
12 the date of this order, to the extent they possess responsive documents; and  
13 (2) defendants need not respond to RFPs 13 and 14.

14 DATED this 19<sup>th</sup> day of August 2014.

15  
16 /s/ JOHN W. SEDWICK  
17 SENIOR UNITED STATES DISTRICT JUDGE  
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