

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil action no: 1:14-cv-01857-KMT

COLORADO HOSPITALITY SERVICE, INC., d/b/a DAYS INN ENGLEWOOD

Plaintiff,

vs.

OWNERS INSURANCE COMPANY, an Ohio company,

Defendant.

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**PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

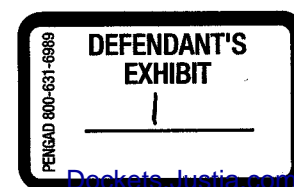
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Plaintiff Pursuant to Federal Rule of Civil Procedure 34, the Plaintiff, Colorado Hospitality Service, Inc., d/b/a Days Inn Englewood ("Plaintiff" or "Days Inn"), by and through its attorneys, The Drake Law Firm, P.C. and Childress Duffy, Ltd., hereby serve upon Defendant, Owners Insurance Company, an Ohio insurance company ("Defendant" or "Owners") its First Set of Requests for Production of Documents. Plaintiff requests that Defendant produce the following documents for inspection and copying at the Golden, CO office of The Drake Law Firm, P.C. at 1600 Jackson Street, Suite 340, Golden, CO 80401 within 30 days after service of this First Set of Requests for Production. This is a continuing request for production of information as it becomes available to Defendant.

**INSTRUCTIONS AND DEFINITIONS**

Each of the instructions and definitions set forth below is incorporated, as applicable, into each of the following discovery requests as if set forth therein verbatim.

**A. INSTRUCTIONS**



1. If you object to any of the following discovery requests on grounds that you do not understand the meaning of a word or phrase, then for each such discovery request, set forth your own good faith definition of the word or phrase in doubt, together with the source of your definition, and respond to such discovery requests using your definition.
2. In responding to the following discovery requests, please type each request immediately before your response.
3. The documents called for by the following requests for production of documents are those documents in the possession, custody, or control of the respondent and/or its officers, directors, managers, agents, employees, adjusters, claims personnel, partners, principals, affiliates, predecessors, successors, attorneys, accountants, investigators, subsidiaries, and parents.
4. If any document called for by a request is withheld from production because of privilege, or for any other reason, each such document is to be identified in writing so as to indicate the nature and subject matter of the document, its date, its author, the person or persons, if any, who received the original or any copy thereof, and the reason or reasons for withholding the document. In addition, disclose in your written response any other information necessary for the Court and undersigned counsel to ascertain the legal sufficiency of any reason or reasons asserted for withholding the documents.
5. If any document requested is missing or has been destroyed or otherwise lost, it should be identified in writing in as much detail as possible, and the circumstances under which it became missing or destroyed or otherwise lost should be stated in your written response. In addition, identify in your written response all persons having at any time possession, custody, or control of such document and all persons having any knowledge of the circumstances by which the document became missing, destroyed or was otherwise lost.
6. If you do not have possession, custody, or control of a document that is called for by one or more of the following requests for documents, but you know the identity of other person(s), entity(ies), or source(s) whom or which may have such document or a copy thereof, identify such other person(s), entity(ies), or source(s) and the document(s) he, she, or it does or may possess that are called for by the particular request for production. These requests are continuing to the full extent contemplated by the Colorado Rules of Civil Procedure.

## **B. DEFINITIONS**

As used in these interrogatories, the following terms are ascribed the following meanings, consistent with reason and good faith:

1. The term "and" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these interrogatories any information which might otherwise be construed to be outside their scope.
2. The terms "You", "Your", "Defendant", and "Owners" refer to the Owners Insurance Company, an Ohio insurance company, its predecessors, successors, subsidiaries, affiliated entities, officers, directors, employees, agents, anyone acting on its behalf or at its direction, and any and all of the persons and entities set forth in the Instructions, above, in paragraph A.(3).
3. The terms "person" and "persons" mean and include individuals, corporations, partnerships, associations, trusts, joint ventures, and all other legal entities (including governmental bodies and agencies).
4. The term "communication" means and refers to all inquiries, discussions, conversations, negotiations, agreements, understandings, meetings, telephone conversations, letters, notes, memoranda, telegraphs, e-mail, or other form or intercourse, whether oral or written, or any summaries, paraphrases or records of any of the foregoing.
5. The term "document" shall mean and include, without limiting the generality of its meaning, originals in each instance (or copies if originals are unavailable) of all writings (whether handwritten, typed, printed, photocopied or otherwise reproduced in any manner), papers, or graphic matters in the possession, custody, or control of Defendant, including, but not limited to, letters, correspondence, memoranda, minutes, notes, films, transcripts, contracts, agreements, memoranda of telephone conversations or face to face conversations, microfilm of telephone conversations, releases, newspapers, magazines, advertisements, periodicals, bulletins, circulars, pamphlets, sketches, drawings, statements, notices, reports, partnership agreements and amendments, articles of association, by-laws, rules, regulations, directives, teletype messages, interoffice communications, balance sheets, invoices, income and loss statements, stock transfer books, ledgers, journals, books of accounts, bills, vouchers, checks, proposals, prospectuses, offers, orders, receipts, working papers, desk calendars, postcards, evaluations, recommendations, annual reports, confirmations, disbursement requests or orders, charts, graphs, indices, projections, forms, data sheets, data processing discs or readable computer-produced interpretations of such discs, booklets, articles, manuals, speeches, stenographic notes, maps, studies, tests, surveys, cables, tape and disc recordings, Photostats, photographs, blueprints, slides, audit reports, personal interview summaries, or paraphrases of any of the foregoing, wherever located, or material similar to the foregoing, however denominated by the parties.

If a document has been prepared in several copies, or additional copies have been made and the copies are not identical (or by reason of

subsequent modifications of the copy by additions or notations, or other modifications, are no longer identical), each non-identical copy is a separate "document".

6. "Identify" or "identification", when used in reference to an individual person or legal entity means to state, as to each individual or legal entity, his/her/its full name, and present or last known:
  - a. place of employment or business affiliation;
  - b. business address; and
  - c. job title or business capacity.
7. "Describe", "identify" or "specify", when used in reference to a "document" or "written record", means to state the following as to each "document" or "written record":
  - a. title;
  - b. nature and type;
  - c. date prepared;
  - d. present location; and
  - e. the name, business address and position of the person or persons having present custody or control.
8. The term "relate to" or any other similar phrase, means mention or refer to, report or reflect on, concern or pertain support or be in any way logically or factually, directly or indirectly, connected with the matter discussed.
9. All words and phrases shall be construed as in the single or plural number, and as masculine, feminine, or gender neutral, as necessary to bring within the scope of these interrogatories any information which might otherwise be construed to be outside their scope.
10. The term "Action" refers to Case Number 1:14-cv-01857-KMT in the United States District Court for the District of Colorado.
11. The term "Property" refers to the insured premises, located at 9719 E. Geddes Ave. Englewood, CO 80122.
12. The term "Policy" refers to the insurance policy issued by Owners to the Plaintiff, with Policy Number 124632-74040334-12.
13. The term "Loss", unless specifically identified, refers to the loss and damage sustained by the Plaintiff as a result of a hail storm on or about June 6, 2012.
14. The term "Claim", unless specifically identified, refers to the insurance claim, Claim Number 74-4901-2013, submitted to Owners by the Plaintiff as a result of the Loss.

## REQUESTS FOR PRODUCTION

1. All documents related to any and all of Defendant's answers to Plaintiff's first set of interrogatories.

**RESPONSE:**

2. The complete paper and electronic claim file regarding the Loss or the Claim.

**RESPONSE:**

3. All communication related to the Claim, including, but not limited to any communication between or among any third party, the Plaintiff, and the Defendant, its employee, its agent, or its representatives related to the Property, the Policy, the Claim, or the Loss. This includes, but is not limited to, all communication between any adjuster at Owners and his/her supervisor, as well as any communication between Owners and any representative of PT&C Forensic Consulting Services, P.A.

**RESPONSE:**

4. All records of any underwriting inspection, audit, or investigation conducted in connection with the Policy, the Property, the Loss, or the Claim.

**RESPONSE:**

5. All reports, correspondence, damage estimates, and advisory documents to or from any person or organization related to the Loss or the Claim, and/or the scope of damages suffered as a result of said Loss, and/or the cost to repair or replace the damage suffered as a result of said Loss including, but not limited to, all activity logs, emails, documents reflecting billing and payments, and contracts or retention agreements.

**RESPONSE:**

6. All reports generated by Timothy Phelan and/or PT&C Forensic Consulting Services, P.A. for Owners for any property insurance claim related to hail damage in the State of Colorado from 2011 to present.

**RESPONSE:**

7. All documents that governed the conduct of and/or are were referred to or relied upon by any employee, agent or independent contractor of Defendant during the handling and adjustment of a windstorm, hail, and/or catastrophe claim for the State of Colorado from January 1, 2012 to the present including but not limited to guidelines on adjusting and handling claims, avoiding bad faith conduct, providing service to policyholders, and complying with Colorado Unfair Claims Practices statutes.

**RESPONSE:**

8. All documents stating Owners' philosophies, guidelines, principles, practices and procedures on the handling and investigation of windstorm, hail, and/or catastrophe claims in the State of Colorado from the years 2012 through the present

**RESPONSE:**

9. All performance goals, plans, objectives, or directives related to claims handling, coverage determinations, leakage, combined ratio, and/or payment of insurance benefits for any adjuster(s), supervisor(s) and third-party representative(s), including but not limited to regional or company goals, involved in the Loss or the Claim from the years 2012 through the present

**RESPONSE:**

10. All documents related to any claims handling or adjustment-based criteria for compensating, evaluating, promoting, retaining, terminating, or providing bonuses or financial incentives to all persons at Owners involved with the handling of the Claim and all such personnel with decision-making authority with respect to the Loss and the Claims.

**RESPONSE:**

11. All videotaped, recorded, or written training materials, employee manuals, and employee handbooks for windstorm, hail, and/or catastrophe claim handling for Owners' personnel, adjusters, representatives, supervisors, and managers involved with the Claim or the Loss, including, but not limited to Real Property loss adjusting, claims handling guidelines, estimating guidelines, and coverage interpretation guidelines.

**RESPONSE:**

12. All materials including, but not limited to, documents, guidelines, manuals, contracts, bulletins, memoranda, etc., regarding the basis for compensation of any of Owners' independent contractors responsible for adjusting first-party property claims as well as all contracts, agreements, master agreements, compensation schedules, approved vendor lists, or pre-approval agreements for all independent adjusters and experts hired by Owners to adjust or investigate the Loss and/or the Claim.

**RESPONSE:**

13. All documents or programs created, developed, adopted, or modified by Owners, its affiliated company or companies, third-party contractors, or consultants, related to its evaluations or analyses of the impact of first party property insurance claims on Owners' financial position, profit margins, leakage, leakage tracking,

combined ratio, litigation exposure, liability exposure, extra-contractual or bad faith liability exposure, and regulatory compliance from the years 2012 through the present.

**RESPONSE:**

14. All documents related to the strategies, programs, plans, directives, goals, incentives, etc., related to reducing Owners' combined ratio (the ratio of losses and expenses to premium income) and/or tracking and reducing "leakage", *i.e.*, the measurement of the amount of overpayment or underpayment on a claim, which were in place at Owners from 2012 to the present.

**RESPONSE:**

15. All reports, strategic plans, advisory memoranda, or recommendations provided by any person or entity engaged by Owners and/or any affiliated company for the purpose, in whole or in part, of providing to Owners or affiliated companies consulting services, advice, counsel, evaluations, and/or recommendations concerning or relating to first party property insurance claims for the years 2010 through the present.

**RESPONSE:**

16. All documents related to the assignment of the Claim to any third party, including any instructions, explanations, claims handling guidelines, or communications regarding the scope and purpose of the assignment, the nature and history of the Loss, the terms and conditions of the Policy, and the nature and history of the Claim.

**RESPONSE:**

17. All documents demonstrating the amount of reserves set for the Claim.



Dated this 10<sup>th</sup> day of October, 2014.

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