

**OFFICIAL CARGO TRANSPORT
COMPANY, INC.,** a Florida corporation,

Plaintiff,

vs.

**UNDERWRITERS AT LLOYDS OF
LONDON,**

Defendants.

CROWLEY LINER SERVICES, INC.,

Intervening Plaintiff,

vs.

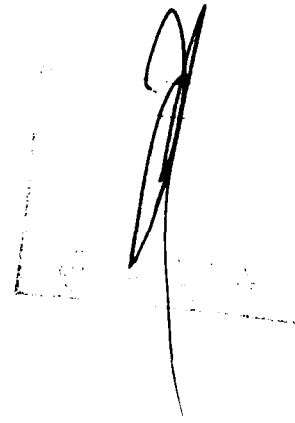
**CERTAIN INTERESTED
UNDERWRITERS AT LLOYDS,
LONDON SUBSCRIBING TO
CERTIFICATE OF INSURANCE
NUMBERS M3014255.000 and
M3014256.000**

Defendants.

**IN THE UNITED STATES DISTRICT
COURT, SOUTHERN DISTRICT OF
FLORIDA**

MIAMI DIVISION

CASE NO. 02-21828-CIV-MORENO



NOTICE OF EXCEPTION TO MAGISTRATE'S ORDER OF DECEMBER 2, 2004

COMES NOW the Intervening Plaintiff **CROWLEY LINER SERVICES, INC.** and the Plaintiff, **OFFICIAL CARGO TRANSPORT COMPANY, INC.,** and files this their **Notice of Exceptions to Magistrate's Order of December 2, 2004 Exhibit A** refusing to allow further discovery on the issue of the good faith, reasonableness, and reasonable foundation of the Offer of Judgment and in support would state the following:

1. The Magistrate allowed discovery through December 2, 2004. on the issue of good faith, reasonableness, and reasonable foundation as it relates to the allowance of attorneys' fees.



Depending on the results of the in camera inspection, the Plaintiffs will need more time to make a further inquiry with regard to this issue as the vast majority of the items sought in the Request to Produce and Subpoena have been objected to by the Defendants and their Counsel.

2. That by way of background, an Order was issued on September 28, 2004 requiring defendant to submit a privilege log of objected to items to the Magistrate by October 8, 2004 which was not done.

3. A letter was faxed by Counsel for to opposing Counsel on October 19, 2004 inquiring about the Privilege Log. Counsel was informed by Scott Frank that he did not have a copy of the September 28, 2004 Omnibus Order.

4. That in his letter to the court of October 20, 2004, Scott Frank submitted a privilege log. **Exhibit B.** Counsel for the Defendant produced some non objected to items on the afternoon of October 27, 2004 which was right before the deposition of Scott Frank who was deposed on behalf of the Defendant's law firm on October 28, 2004.

5. That the items on the privilege log were necessary for the deposition that was conducted on October 28, 2004. During his deposition, Mr. Frank was ordered by his attorney, Mr. Pappas, not to answer any substantive questions relating to documents on the privilege log. The objected to items have yet to be produced, and therefor were not available on October 28, 2004 when Mr. Frank was deposed. The deposition had been set for the 28th in order to take it before an earlier discovery cut off of October 30, 2004 set by the Magistrate Judge on the issue of the reasonableness of the offer of settlement.

6. Plaintiffs sought an in camera inspection of the items on the defendant's privilege log. The Magistrate Judge is currently conducting an in camera inspection of the documents.

Depending upon the results of the in camera inspection, plaintiffs may need to conduct additional discovery but cannot do so without the documents. Although the defendant did not provide the documents to the Magistrate Judge for the purpose of enabling an in camera inspection to be conducted until November 30th, 2004, the Magistrate Judge imposed a deadline of December 2nd, 2004 for plaintiffs to complete all discovery on the issue of the reasonableness of the offer of judgment which is the basis of defendant's claim for attorneys' fees.

7. Plaintiffs contend that the Defendant has waived the attorney client and work product privileges by seeking to recover attorneys fees on the alleged basis that it has made a good faith/Offer of Judgment/Proposal of Settlement. The documents which defendant refused to produce are still under review by the Magistrate Judge. As per the attached privilege log, the documents relate directly to this issue of whether or not there was a good faith/reasonable/reasonable foundation for making a \$1,000.00 offer of judgment early on in the proceedings after only 2 depositions were taken, and before the Defendant had filed an Answer to the Intervening Plaintiff's Complaint and before Amended Answers were filed to the Complaint and Intervening Complaint.

The case of *Stewart & Stevenson Services v. Westchester Fire Insurance Company* 804 So. 2d. 584 (Fla. 5th DCA 2002) stands for the proposition that a party cannot give testimony on the one hand and then claim attorney client privilege and the work product doctrine on the other as to those items that directly relate to the matter. A party cannot invoke attorney client privilege on matters that go to the very heart of the litigation. *First Southern Baptist Church of Mandarin, Florida, Inc. v. The First National Bank of Amarillo* 610 So. 2d. 452 (Fla. 1st DCA 1992) . It is the Defendant who has made the decision to push this issue at this time and seek

an award of attorneys' fees without waiting for the results of the appeal from the underlying judgment. In fact at the deposition of Scott Frank, one of Mr. Pappas' specific objection in he deposition was that the matter is on appeal. See p. 30 of the deposition. **Exhibit C**.

The vast majority of the items on the privilege log relate to letters regarding the status of the litigation and are therefore directly relevant to the issues raised by Defendant's motion for attorney's fees and the defenses asserted thereto by plaintiff and intervening plaintiff.

Items Nos. 3,4,6, 7, 8,9, 10, 11. 12, 13, 14, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, of the defendant's privilege log relate to the status of litigation and opinion letters. The Plaintiffs should not be denied an opportunity to see what information was really being conveyed to the client on issues directly bearing on the reasonableness of the defendant's offer of settlement. The Plaintiffs are being put in a position of just having to take the Defendant's and their Counsel's word for their evaluations without any documentation.

Item No. 1 should also be produced as it outlines the terms of engagement. Item No. 2 is a transmittal which may also be an indicator as to the posture of the Defendants at that time. Item No. 5 may or may not contain information of interest as it purports to just transmit pleadings. In any event the privileges have been waived. Likewise 15 through 17 dealing with the forwarding of interrogatories and document production. might go to the evaluation issue or mere transmittals but in any event not attorney client or work product.

8. That if the items are ordered to be produced, the Plaintiff and Intervening Plaintiff will very likely need to do further discovery. This is why the extension had been sought. The deposition of Scott Frank was of little use as he did not provide the requested documentation and refused to answer questions pertaining to documents on defendant's privilege log. See p. 14 of

deposition transcript of Scott Frank. **Exhibit D**.

9. The Defendant can only seek attorneys' fees if there was a good faith offer. see *Eagleman v. Eagleman* 673 So. 2d. 946 (Fla. 4th DCA 1996). Under the cases cited by the Defendants, it depends on whether or not the party extending the offer did so in good faith and in a reasonable manner. See *Wagner v. Brandeberry* 761 So. 2d. 443 (Fla 2nd DCA 2000). If the determination is to be made under the subjective motivations of the party making the offer then the Plaintiffs should be allowed to have that information, and certainly should be allowed to inquire further should there be more documentation that is produced from the in camera inspection.

10. That the Defendant submitted documents to Magistrate Garber on November 30, 2004 for an in camera inspection and sent the attached letter **Exhibit E** to the Plaintiff and Intervening Plaintiff by fax late on the afternoon of December 2, 2004.

11. That should the items in the in camera inspection be ordered to be produced, then the Plaintiff and the Intervening Plaintiff would need more time to do discovery as the deposition was conducted without the vast majority of items that were being sought to be produced. The Plaintiffs would need to do more inquiry should these items be ordered to be produced through further depositions as Scott Frank would not answer relevant questions.

12. That the claim for attorneys' fees and costs is quite substantial as it is for over \$200,000.00. The plaintiff and the intervening plaintiff will suffer irreparable prejudice if they are not permitted to conduct further discovery in the event the documents are ordered to be produced. Plaintiff and intervening plaintiff should not be forced to litigate a \$200,000.00 claim for attorneys' fees without being allowed to conduct adequate discovery related to the

reasonableness of the claim and defendant's good faith in offering to settle this claim at its inception for \$1000.00 before defendant had even filed an answer to the underlying claim. Plaintiff and Intervening Plaintiff believe that important evidence of whether the proposal to settle this claim for \$1000.00 was either reasonable under the circumstances or made in good faith will lie in the evaluations of the claim made by defendant's attorney and the defendant during the course of the underlying litigation. Defense counsel has vigorously objected to production of such documentation; however, without it neither counsel for plaintiffs nor the Court will ever know if it is fair to ask the plaintiffs to pay more than \$200,000.00 in attorneys' fees for proceeding with the claim for which defendants made a proposal for settlement in the amount of \$1000.00 before it had even filed its final answer

13. Should these items be produced, then the plaintiffs are asking for an opportunity to conduct further discovery. No deposition was set of the Defendant itself as the Plaintiffs have not been given adequate discovery to proceed further in this regard. It would have been pointless to notice the Defendant when the Defendant is not willing to discuss its evaluation of the case nor is its law firm.

WHEREFORE, the Plaintiff and Intervening Plaintiff take exception to the magistrate judge's order of December 2, 2004 and would ask for an extension of time to do further discovery for the reasons set forth herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by mail/fax to: Butler Pappas Weihmuller Katz Craig LLP, **Attn: Scott J Frank, Esq.**, 80 S.W. 8th Street, Suite 3300, Miami, Florida 33130; and by hand delivery to: **Barry L. Garber**,

United States Magistrate Judge, 300 N. E. 1st Avenue, Room 236, Miami, Florida 33132 on this

13th day of **December** , 2004.

DANIEL W. RAAB, P.A.
Gables One Tower, Suite 850
1320 South Dixie Highway
Miami, Florida 33146
Telephone No. 305-284-0008
Facsimile No. 305-284-9501

BY: *Daniel W. Raab*
DANIEL W. RAAB
FLA. BAR NO. 264199

GABRIEL M. SANCHEZ, P.A.
9555 N. Kendall Drive, Suite 200
Miami, Florida 33176
Office: (305) 595-4661
Fax: (305) 595-7669

BY: *Daniel W. Raab for*
GABRIEL M. SANCHEZ
FLA. BAR NO. 369810

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 02-21828-CIV-Moreno/Garber

OFFICIAL CARGO TRANSPORT
COMPANY, INC., a Florida corporation,

RECEIVED

Plaintiff,

v.

UNDERWRITERS AT LLOYDS OF LONDON,

Defendant.

_____ /

CROWLEY LINER SERVICES, INC.,

Intervening Plaintiff,

v.

UNDERWRITERS AT LLOYDS OF LONDON,

Defendant.

_____ /

ORDER

UPON DUE CONSIDERATION, it is hereby

ORDERED that plaintiff and intervening plaintiff's Motion for Extension of Time to do Discovery on the Issue of Reasonableness/Good Faith, etc. is DENIED. The Court has granted previous applications for extensions of discovery on said issue and in the last Order granting extension the Court advised that no further extensions shall be granted.

Exhibit A

DONE AND ORDERED at Miami, Florida this 2nd day of December, 2004.


BARRY L. GARBER
UNITED STATES MAGISTRATE JUDGE

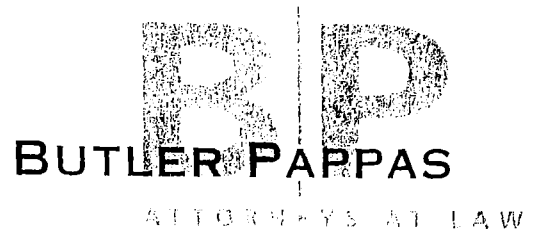
Copies furnished to:
U.S. District Judge Moreno
Butler Pappas Weihmuller Katz Craig LLP
Scott J. Frank, Esq.
Lara E. Grossman, Esq.
80 S.W. 8th Street, Suite 3300
Miami, FL 33130

Gabriel M. Sanchez, P.A.
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Miami, FL 33176

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1320 South Dixie Highway
Miami, FL 33146

SCOTT J. FRANK
Partner
Tampa
sfrank@butlerpappas.com



October 20, 2004

RECEIVED

The Honorable Barry L. Garber
United States District Court
Southern District of Florida
300 N.E. 1st Avenue, Room 112
Miami, FL. 33131

Re: *Official Cargo v. Underwriters at Lloyds of London*
Insured: Official Cargo Transport Company, Inc.,
Case No.: 02-21828-CIV-MORENO
Our File Number: 1015-0206017

Your Honor:

Enclosed please find a privilege log produced in accordance with this Court's Omnibus Order dated September 28, 2004. As you are aware, the Order required that Underwriters was to provide this privilege log on or before October 8, 2004. However, due to an error in filing, the attorneys on this matter were not aware of the entry of this Order until earlier today. It was only by virtue of a facsimile transmittal received from opposing counsel, Daniel Raab, Esquire, dated October 19, 2004, that we became aware of the entry of this Order. Please accept our apologies for the delay in this matter. The original privilege log is being filed with the Court, and copies of same are being forwarded to opposing counsel with a copy of this letter by facsimile transmittal. All other documents, to the extent requested and to the extent that they exist, and have not yet been provided to opposing counsel, will be provided for the deposition of Scott Frank, Esquire which is scheduled to take place on October 28, 2004.

BUTLER PAPPAS WEIHMULLER KATZ CRAIG LLP

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Tampa	Bayport Plaza, 6200 Courtney Campbell Causeway, Suite 1100, Tampa, Florida 33607	Telephone: (813) 281-1900	Facsimile: (813) 281-0900

www.butlerpappas.com

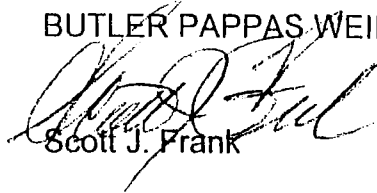
Exhibit B

Honorable Barry L. Garber
October 20, 2004
Page 2

Should the Court require anything further regarding this matter please do not hesitate to contact me.

Respectfully submitted,

BUTLER PAPPAS WEIHMULLER KATZ CRAIG LLP



Scott J. Frank

SJF/jls

Enclosure

cc: Gabriel Sanchez, Esq. (Via Facsimile (305) 595-7669 and U.S. Mail)
Daniel Raab, Esq. (Via Facsimile (305) 284-9501 and U.S. Mail)

IN THE UNITED STATES DISTRICT COURT OF FLORIDA
IN AND FOR THE SOUTHERN DISTRICT
MIAMI DIVISION

CASE NO.: 02-21828-CIV-MORENO

OFFICIAL CARGO TRANSPORT
COMPANY, INC., a Florida corporation,

Plaintiff,

v.

CERTAIN INTERESTED UNDERWRITERS AT
LLOYDS, LONDON SUBSCRIBING TO
CERTIFICATE OF INSURANCE NUMBERS
M3014255.000 and M3014256.000,

Defendants.

_____/

CROWLEY LINER SERVICES, INC.,

Intervening Plaintiff,

v.

CERTAIN INTERESTED UNDERWRITERS AT
LLOYDS, LONDON SUBSCRIBING TO
CERTIFICATE OF INSURANCE NUMBERS
M3014255.000 and M3014256.000,

Defendants.

_____/

PRIVILEGE LOG REGARDING NOTICE OF TAKING DEPOSITION DUCES TECUM

Defendants, CERTAIN INTERESTED UNDERWRITERS AT LLOYDS, LONDON
SUBSCRIBING TO CERTIFICATE OF INSURANCE NUMBERS M3014255.000 AND
M3014256.000, and in accordance with this Court's Omnibus Order dated September 28,
2004, files its Privilege Log as to those records requested by the Plaintiff and Intervening
Plaintiff. The designation of privilege in the below chart will indicate "AC" for attorney/client

privilege, "WP" for work product privilege.

number	type of document	date of document	person preparing document	person receiving document	privilege asserted
1.	Engagement of legal services letter	May 23, 2002	George C. Lock, Esquire of Mendes & Mount LLP	John J. Pappas, Esquire of Butler Pappas	AC
2.	Transmittal of claim file letter	May 31, 2002	Richard Bongiovanni	Lara Grossman, Esquire	AC/WP
3.	Status letter and partial opinion letter	June 5, 2002	John J. Pappas, Esquire	Oliver Russell of Houlder Insurance Services	AC/WP
4.	Fax memo re: legal status and opinion letter	June 12, 2002	Oliver Russell	John J. Pappas, Esquire	AC/WP
5.	Transmittal letter of pleadings	June 17, 2002	George C. Lock, Esquire	John J. Pappas, Esquire	AC
6.	Litigation status letter	June 25, 2002	John J. Pappas, Esquire and Lara E. Grossman, Esquire	George C. Lock, Esquire	AC
7.	Litigation status letter	July 23, 2002	John J. Pappas, Esquire	Oliver Russell	AC/WP
8.	Fax transmission memo re: litigation status	July 27, 2002	Richard Bongiovanni	John J. Pappas, Esquire	AC/WP

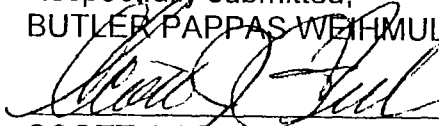
9.	Fax transmission memo re: litigation status	July 29, 2002	Oliver Russell	John J. Pappas, Esquire	AC
10.	Fax transmission memo re: litigation strategy and litigation status	August 1, 2002	Oliver Russell	John J. Pappas, Esquire	AC/WP
11.	Legal opinion letter	September 18, 2002	John J. Pappas, Esquire and Lara E. Grossman, Esquire	Oliver Russell	AC/WP
12.	Fax transmission memo re: litigation status and litigation strategy	September 25, 2002	Richard Bongiovanni	Lara E. Grossman, Esquire	AC/WP
13.	E-mail transmission re: litigation report status	October 10, 2002	Oliver Russell	Lara E. Grossman, Esquire	AC
14.	Litigation status and strategy report letter	October 17, 2002	John J. Pappas, Esquire and Lara E. Grossman, Esquire	Sean Leatherland, Louis Thorne and Shahid Kaiser	AC/WP
15.	Transmittal letter of document production	September 26, 2002	Lara E. Grossman, Esquire	Richard Bongiovanni	AC
16.	Fax transmittal memo re: interrogatories	November 7, 2002	Richard Bongiovanni	Lara E. Grossman, Esquire	AC

17.	Letter re: interrogatories	November 7, 2002	Richard Bongiovanni	Lara E. Grossman, Esquire	AC
18.	Letter re: claim investigation	November 8, 2002	Lara E. Grossman, Esquire	Richard Bongiovanni	AC/WP
19.	Litigation status and strategy report letter	November 11, 2002	John J. Pappas, Esquire and Lara E. Grossman, Esquire	Sean Leatherland, Louis Thorne and Shahid Qaiser	AC/WP
20.	Fax transmittal memo re: litigation status and strategy	November 29, 2002	Oliver Russell	Lara E. Grossman, Esquire	AC/WP
21.	Litigation status and strategy report letter	December 23, 2002	John J. Pappas, Esquire and Lara E. Grossman, Esquire	Sean Leatherland and Louis Thorne	AC/WP
22.	Litigation status and strategy letter	January 13, 2003	John J. Pappas, Esquire and Lara E. Grossman, Esquire	Sean Leatherland and Louis Thorne	AC/WP
23.	Fax transmission memo re: interrogatories	January 24, 2003	Bongiovanni & Associates	Lara E. Grossman, Esquire	AC
24.	Fax transmission memo re: interrogatories	January 21, 2002	Richard Bongiovanni	Jennifer Stepner	AC

25.	Fax transmission memo re: litigation strategy	February 3, 2003	John J. Pappas, Esquire and Lara E. Grossman, Esquire	Louis Thorne	AC/WP
26.	Litigation strategy and status report letter	March 11, 2003	John J. Pappas, Esquire and Lara E. Grossman, Esquire	Sean Leatherland and Louis Thorne	AC/WP
27.	Litigation status and strategy report letter	June 27, 2003	John J. Pappas, Esquire and Lara E. Grossman, Esquire	Sean Leatherland and Louis Thorne	AC/WP
28.	Litigation status and strategy report letter	September 18, 2003	Scott J. Frank, Esquire and Lara E. Grossman, Esquire	Sean Leatherland and Louis Thorne	AC/WP
29.	Litigation status and report letter	September 22, 2003	Scott J. Frank, Esquire and Lara E. Grossman, Esquire	Sean Leatherland and Louis Thorne	AC/WP
30.	Fax transmission memo re: litigation strategy	October 13, 2003	Scott J. Frank, Esquire and Lara E. Grossman, Esquire	Sean Leatherland	AC/WP

31.	Litigation status report letter	October 29, 2003	Scott J. Frank, Esquire and Lara E. Grossman, Esquire	Sean Leatherland and Louis Thorne	AC/WP
32.	Litigation status and strategy report letter	December 3, 2003	Scott J. Frank, Esquire	Sean Leatherland and Louis Thorne	AC/WP
33.	Litigation status and report letter	December 22, 2003	Scott J. Frank, Esquire and Lara E. Grossman, Esquire	Sean Leatherland and Louis Thorne	AC/WP
34.	Litigation status letter	December 22, 2003	Scott J. Frank, Esquire and Lara E. Grossman, Esquire	Richard Bongiovanni	AC
35.	E-mail transmittal re: litigation status report	April 8, 2004	Lara E. Grossman, Esquire	Louis Thorne and Sean Leatherland	AC
36.	Various invoices	Various dates	Butler Pappas	Underwriters at Lloyds, London	AC/WP as to certain redacted portions of billing statements

Respectfully submitted,
BUTLER PAPPAS WEHMULLER KATZ CRAIG LLP



SCOTT J. FRANK, ESQUIRE
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Miami, Florida 33130
Telephone: (305) 416-9998
Facsimile: (305) 416-6848
Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished via facsimile to: GABRIEL M. SANCHEZ, P.A., 9555 North Kendall Drive, Suite 200, Miami, Florida 33176, **Facsimile No.: (305) 595-7669** and MARIA I. ESCOTO-CASTIELLO, ESQUIRE, McArdle, Perez & Escoto, P.A., 600 Brickell Avenue, Suite 203-A, Miami, Florida 33131 and DANIEL W. RAAB, ESQUIRE, Daniel W. Raab, P.A., Gables One Tower, Suite 850, 1320 South Dixie Highway, Miami, Florida 33146, **Facsimile No.: (305) 284-9501**, and by U.S. Mail on this 20th day of October, 2004.



SCOTT J. FRANK

1 records. What about with respect to the other deposition
2 that had been taken prior to April 24th, 2003? Were there
3 any correspondence to your client advising your client as to
4 what went on at that deposition of Mr. Delatorre?

5 A. I'd have to answer that the same way. I don't
6 know. If there are any and they were within that which was
7 requested and then responded to in privilege log, then I'm
8 not able to go into that.

9 MR. PAPPAS: Do you recall?

10 THE WITNESS: I do not recall.

11 BY MR. RAAB:

12 Q. At any time did you feel that the issue of
13 constant surveillance was a disputed factual issue?

14 MR. PAPPAS: Object, instruct not to answer.
15 You're asking for the mental impressions of the work product
16 of counsel in this case as oppose to the factual basis for
17 the, quote/unquote, reasonable foundation of the defendants
18 making their Offers of Judgment/Proposal of Settlement filed
19 in this case. Plus it's my understanding you've taken --
20 filed a Notice of Appeal in this case. So for all those
21 reasons we object and instruct not to answer.

22 MR. RAAB: We disagree. We feel it's been waived
23 and --

24 MR. PAPPAS: How has it been waived?

25 MR. RAAB: By seeking attorney's fees because

1 Q. This is a letter that you sent to me on October
2 20, 2004, correct?

3 A. Actually it's a letter I sent to Judge Garber.

4 Q. Oh, to Judge Garber and a copy to me.

5 A. It was copied to you and Mr. Sanchez.

6 Q. And this contains a privilege log and these are a
7 number of items that you're claiming are privileged and that
8 you don't want to produce or you're claiming
9 attorney/client, attorney/client work privilege, etcetera,
10 correct?

11 A. Actually it would be a claim by the client
12 because the attorney/client privilege belongs to them.

13 Q. Now, I see -- and there are certain documents on
14 here, engagement of legal services, status letter and
15 partial opinion letter. Have you reviewed any one of those
16 letters?

17 A. I've reviewed every one of the letters mentioned
18 in here at one point or another.

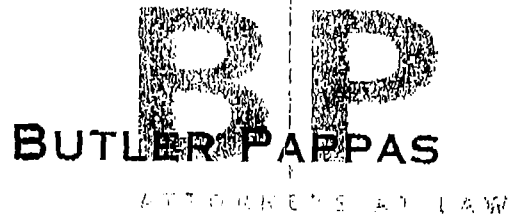
19 Q. And as far as the substance of those letters
20 you're claiming a privilege, are you unwilling to give any
21 testimony regarding those documents?

22 A. As to the substance of the letter -- of writing
23 this?

24 Q. Yes.

25 A. Yes, they're privileged.

SCOTT J. FRANK
 Partner
 Tampa
sfrank@butlerpappas.com



November 30, 2004

Via Hand-Delivery

The Honorable Barry L. Garber
 United States District Court
 Southern District of Florida
 300 N.E. 1st Avenue, Room 112
 Miami, FL 33131

Re: *Official Cargo v. Underwriters at Lloyds of London*
 Insured: Official Cargo Transport Company, Inc.,
 Case No.: 02-21828-CIV-MORENO
 Our File Number: 1015-0206017

Your Honor:

Submitted with this correspondence is a sealed envelope which contains items 1 through 35 as reflected on the Defendant's Privilege Log dated October 20, 2004. We have enclosed an extra copy of the Privilege Log for your use. Each of the documents contained in the sealed envelope have a corresponding exhibit sticker on them so as to identify it on the Privilege Log. As you will recall, the Court instructed the Defendants to provide these documents to the Court to determine whether they do in fact fall within the attorney/client or work product privilege as claimed in the Privilege Log. It is our understanding that the Court will not be permitting any of these documents to be filed or provided to the Plaintiff or Intervening Plaintiff for any reason without first advising the Defendants of an order reflecting that decision. We would further request that if the Court is inclined for any reason to provide these documents to the Plaintiff or Intervening Plaintiff, that an order be issued as to the basis for the Court's decision and allowing further argument at a hearing to be conducted by the Court before issuing a final order determining whether the documents will be provided. This would then allow the Defendants with an appropriate opportunity in which to appeal the Court's order as to the discovery of these documents

BUTLER PAPPAS WEIHMULLER KATZ CRAIG LLP

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Tallahassee	3600 Maclay Boulevard, Suite 101, Tallahassee, Florida 32312	Telephone: (850) 894-4111	Facsimile: (850) 894-4999
Tampa	Bayport Plaza, 6200 Courtney Campbell Causeway, Suite 1100, Tampa, Florida 33607	Telephone: (813) 281-1900	Facsimile: (813) 281-0900

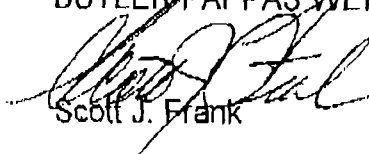
Honorable Barry L. Garber
November 30, 2004
Page 2

For the Court's information, Mendes & Mount is the initial legal firm that was contacted by Underwriters for the defense of this action, which subsequently forwarded the action for defense to Butler Pappas Weihmuller Katz Craig, LLP. Bongiovanni & Associates acts as the United States claims adjuster for Underwriters in this matter. Oliver Russell of Houlder Insurance Services acted as the London adjuster and management for the claims file in London. Finally, the individual syndicate representatives were Sean Leatherland, Louis Thorne and Shahid Qaiser.

Should the Court have any questions regarding the contents of this letter, the contents of the Privilege Log or the documents contained within the sealed envelope, please do not hesitate to contact us.

Respectfully submitted,

BUTLER PAPPAS WEIHMULLER KATZ CRAIG LLP



Scott J. Frank

SJF/jls

Enclosure

cc: Gabriel Sanchez, Esq. (Via Facsimile (305) 595-7669 and U.S. Mail without enclosures)
Daniel Raab, Esq. (Via Facsimile (305) 284-9501 and U.S. Mail without enclosures)