

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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|-----------------------------|---|--------------------|
| -----X | | |
| NAUTILUS INSURANCE COMPANY, | : | |
| Plaintiff, | : | |
| | : | 21 Civ. 9087 (LGS) |
| -against- | : | |
| | : | <u>ORDER</u> |
| CHEMTOOL INC., et al., | : | |
| Defendants, | : | |
| -----X | | |

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on April 27, 2022, Defendant filed a letter seeking to compel production of the documents requested in Defendant's First Requests for Production served on February 10, 2022. Dkt. No. 43.

WHEREAS, Defendant seeks to compel production of the documents in its Request Nos. 2 and 3 of the First Requests for Production (the "First Set of Documents"). The First Set of Documents pertains to the June 14, 2021 fire (the "Incident") and adjustment, payment or denial of claims related to the Incident.

WHEREAS, Defendant also seeks to compel production of the documents in its Request Nos. 4-6, 9-16, and 18-19 of the First Requests for Production (the "Second Set of Documents"). The Second Set of Requests consists of promotional materials, claim and training manuals, personnel records, bonus or incentive plans, documents from other lawsuits, documents reflecting Nautilus's goals for claim payments, consumer complaints, reports provided to regulators, other claims made against Holian, and all documents relating to a Nautilus endorsement. Dkt. No. 45. Defendant argues, among others, that the Second Set of Documents is relevant to Plaintiff's "motivation and approach to coverage determination" and Plaintiff's "pattern and practice of claims handling." Dkt. No. 43.

WHEREAS, on May 4, 2022, Plaintiff filed a letter opposing the production of the First and the Second Set of Requests. Dkt. No. 45.

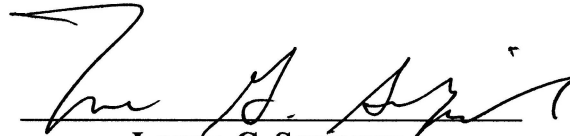
WHEREAS, Defendant's letter at Dkt. No. 43 is construed as a motion to compel. Plaintiff's response is construed as an opposition to the motion. It is hereby

ORDERED that, by May 12, 2022, Plaintiff shall submit the First Set of Documents with the redactions highlighted for an ex parte and in camera review. Plaintiff shall email the First Set of Documents to Chambers email address at Schofield_NYSDChambers@nysd.uscourts.gov. If the files cannot be attached to the email, the parties shall send an email requesting a secure link to upload the documents. It is further

ORDERED that, by May 12, 2022, Plaintiff shall file (1) a letter on ECF not under seal explaining why the First Set of Documents is privileged and (2) an affidavit or declaration by a person with knowledge setting forth the factual basis for the assertions that litigation was anticipated at the time the documents were prepared and that the documents were prepared in anticipation of such litigation. It is further

ORDERED that the motion to compel the Second Set of Documents is **DENIED**. The Second Set of Documents is neither "relevant ... or proportional to the needs of the case." Fed. R. Civ. Pro. 26(b)(1).

Dated: May 9, 2022
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE