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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: SOMERSET COUNTY
DOCKET NO. L-980-97

GAF CORPORATION, Plaintiff, v. HARTFORD ACCIDENT & INDEMNITY COMPANY *et al.*, Defendants.	Civil Action **CASE MANAGEMENT ORDER NUMBER 3**

THIS MATTER coming on for a Case Management Conference on December 17, 1998 before the Honorable Robert E. Guterl, in the presence of all counsel of record; and good cause appearing;

IT IS on this 3rd day of February, 1999,

ORDERED that the parties shall comply with the following case management provisions:

I. DISCOVERY

A. Privilege Log Disputes

1. Upon consent of all parties, the Court appoints former New Jersey Superior Court Judge C. Judson Hamlin to review, *in camera*, documents which one or more parties assert have been wrongfully withheld from production by a party on privilege grounds.

2. Within twenty (20) days of the date of this Order, the parties shall submit to the Court a Consent Order of Reference or, if the parties cannot agree, proposed forms of an Order of Reference, setting forth in detail Judge Hamlin's responsibilities.

B. Discovery Motions

1. GAF's motions. On or before January 21, 1999, GAF Corporation ("GAF") may move to compel production of "declaratory judgment" files from defendant Commercial Union Insurance Company of New York ("Commercial Union"). Commercial Union's opposition is due on February 8, 1999 and GAF's reply is due on February 11, 1999.

2. Defendants' motions. On or before January 21, 1999, one or more defendants may move: (a) for a Protective Order allowing defendants to withhold from production documents obtained by Defendants from third parties; (b) to compel production of draft consultant reports from GAF; and (c) to compel production of those categories of documents responsive to defendants' First and Second Joint Set of Document Requests that GAF has not agreed to produce. GAF's oppositions to these motions are due on February 2, 1999, and defendants' replies are due on February 11, 1999.

3. Motion to compel more specific interrogatory responses. If, after meeting and conferring, the parties cannot resolve disputes regarding the adequacy of interrogatory responses, then the parties may move to compel more specific responses to interrogatories.

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C. **Document production**

1. On or before January 29, 1999, GAF shall produce to defendants the documents in its possession described on pages three (3) and four (4) of GAF's December 7, 1998 status letter to the Court. GAF produces those documents subject to its objections set forth in its Responses to defendants' discovery requests.

D. **Deposition schedule**

1. Defendant Hartford Accident & Indemnity Company ("Hartford") shall use its best efforts to produce or arrange for the appearance for deposition of the witnesses listed on Schedule A to this Order in accordance with the schedule set forth therein. Hartford may adjourn any deposition set forth on Schedule A for a period not to exceed one (1) week or substitute one witness for another upon a minimum of two (2) weeks notice to GAF. Otherwise, depositions may be rescheduled only with the consent of GAF or by Order of the Court upon good cause shown. In any event, all depositions set forth on Schedule A shall be completed no later than April 22, 1999.

2. GAF and defendants shall cooperate in good faith and use their best efforts to schedule and complete the depositions set forth on Schedule B to this Order before April 16, 1999. Any disputes regarding the scheduling of such depositions shall be brought to the Court's attention through letters outlining the dispute with a request for a telephonic conference.

II. **Dispositive motions**

A. **GAF's partial summary judgment motion against Hartford**

1. GAF's partial summary judgment motion against Hartford on the liability limit issue will be heard on April ~~23~~ 30, 1999 (per Court)

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2. Hartford shall file its opposition papers and any cross-motion on March 26, 1999.

3. GAF shall file its reply and any opposition papers on April 12, 1999.

III. Linden and Novacor site inspections

A. Linden

1. GAF shall grant defendants access to the Linden site on mutually acceptable dates.

2. Before inspecting the Linden site, defendants and defendants' representatives shall execute reasonable and appropriate liability disclaimer and release agreements to be agreed upon by the parties. If the parties cannot reach an agreement regarding the language of the disclaimer and release agreements, then any party may seek the Court's intervention.

3. Defendants shall be entitled to two (2) site inspections of the Linden site, with each inspection lasting no longer than one (1) day. Defendants shall not be entitled to more than two (2) site inspections without leave of the Court.

4. Each inspection shall be attended by no more than fifteen (15) individuals representing defendants.

B. Novacor

With fifteen (15) days of the date of this Order, GAF shall provide to defendants a letter advising of GAF's attempt to secure from Novacor's current owners permission for defendants to inspect the Novacor site. The letter shall be from the GAF employee who contacted Novacor to seek such permission and shall identify the Novacor employee(s) who GAF contacted.

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IV. Case Management Conference

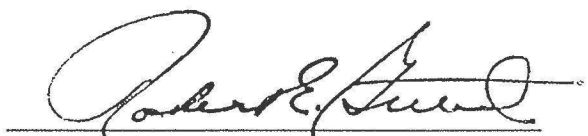
The Court shall hold a Case Management Conference on April 16, 1999 at 3:00 p.m. to determine the status of proceedings under this Order. Plaintiff, on the one hand, and defendants jointly, on the other hand, shall submit to the Court separate "status letters" at least three (3) days prior to the Conference.

V. Prior Case Management Orders

Except as amended by this Order, all provisions of Case Management Orders Numbers 1 and 2 remain in effect.

IT IS FURTHER ORDERED that this Order may be amended or supplemented by: (a) the Court, upon motion of any party; and (b) agreement of all parties, subject to Court approval.

IT IS FURTHER ORDERED that a copy of this Order be served on all counsel within seven (7) days of the date hereof.



ROBERT E. GUTERL, J.S.C.

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SCHEDULE A

WITNESS NAME	AFFILIATION	PROPOSED DEPOSITION DATE
Alan Platteis	Hartford	February 2, 1999
Don Kern	Hartford	February 8-9, 1999
James Taylor	Hartford	February 19, 1999
Bob Weir	Hartford	February 26, 1999
Rule 4:14-2(c) claims-handler/ Jeffrey Wegner	Hartford	March 2-3, 1999
Richard Hudec	Hartford	March 12, 1999
Bruce Angelbeck	Hartford	March 16-17, 1999
Ken Zwart	Hartford	March 23, 1999
Robert Eagen	Hartford	March 30, 1999
Ross Robert (Fla.)	Hartford	April 6, 1999
George Berkey (Fla.)	Hartford	April 7, 1999
Don Thompson	Hartford	April 13, 1999
James Dillon	Hartford	April 15, 1999
Sidney Bush	Hartford	April 20, 1999

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SCHEDULE B[1]

WITNESS NAME	AFFILIATION
Rule 4:14-2(c) underwriter	Lloyd's
Rule 4:14-2(c) RES Department	Century
Rule 4:14-2(c) claims-handler	Aetna
Rule 4:14-2(c) underwriter	Aetna
Rule 4:14-2(c) claims-handler	North River
Rule 4:14-2(c) underwriter	North River
Rule 4:14-2(c) claims-handler	Sun
Rule 4:14-2(c) claims-handler	Continental Casualty
Rule 4:14-2(c) general claims-handling practices and procedures	Northbrook
Imogene Knight	Northbrook
Robert McDaniel	Northbrook
Owen O'Neil	Commercial Union
Dave Freeman	Northbrook
Doug Sanders	Northbrook
James Weber	Northbrook
Rule 4:14-2(c) underwriter	Continental Casualty
Eldrid Welsh	GAF
Ray Gerow	GAF
Harold Leary	GAF
Curt Elsner	GAF
Jay Williams	GAF
Dr. Perry	GAF
Gene Stone	GAF
Eddie Jacks	GAF
Robert Hartman	GAF
J. W. Parks	GAF
John H. Shown	GAF
Charles Stein	GAF
Michael Slivinski	GAF
John Owsianick (Osianick?)	GAF
Frank Inzerillo	GAF
Jim Hulm	GAF
Charles Bien	GAF

[1] The parties reserve their rights to object to any depositions set forth on schedule B, in which case the parties may seek the Court's intervention.

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John Coffey	GAF
Celeste Wills	GAF
Completion of Rule 4:14-2(c) re Novacor	GAF
Rule 4:14-2(c) of Eckenfelder re Document Production	GAF
Rule 4:14-2(c) of GAF re Document Production	GAF
Rule 4:14-2(c) Sayreville, Colesville and Novak	GAF
Rule 4:14-2(c) remediation/costs at Novacor (Phil Coop)	GAF
Rule 4:14-2(c) remediation/costs at Sayreville, SCP-Carlstadt, Lone Pine, Novak and Colesville	GAF