



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

MICHAEL VITO, )

Plaintiff, )

C.A. No. S21C-08-006 CAK

v. )

WATERSIDE PROPERTY OWNERS )  
ASSOCIATION, INC., and )  
PHILADELPHIA INDEMNITY )  
INSURANCE COMPANY, )

Defendants. )

WATERSIDE PROPERTY OWNERS )  
ASSOCIATION, INC., )

Crossclaim Plaintiff, )

v. )

PHILADELPHIA INDEMNITY )  
INSURANCE COMPANY, )

Crossclaim Defendant. )

WATERSIDE PROPERTY OWNERS )  
ASSOCIATION, INC., )

Third-Party Plaintiff, )

v. )

CERTAIN UNDERWRITERS AT )  
LLOYD’S, LONDON, NATIONAL )  
FIRE & INSURANCE COMPANY )  
and INDIAN HARBOR INSURANCE )  
COMPANY, )

Third-Party Defendants. )

**RESPONSE OF CROSS-CLAIM DEFENDANT PHILADELPHIA INDEMNITY INSURANCE COMPANY TO THIRD-PARTY PLAINTIFF, WATERSIDE PROPERTY OWNERS ASSOCIATION, INC.’S, REQUEST FOR PRODUCTION**

Cross-Claim Defendant Philadelphia Indemnity Insurance Company (“Philadelphia”) hereby responds to Third-Party Plaintiff, Waterside Property Owners Association, Inc.’s, Request for Production (“Request for Production”) as follows:

**PRELIMINARY STATEMENT**

These answers and objections are based upon Philadelphia’s diligent and best efforts to respond to this Request for Production based upon the investigation carried out to date with respect to facts relevant to this litigation (as defined *infra*, “this Action”). Philadelphia has not yet completed its investigation of the facts relating to this case. All the answers contained herein are based upon such information and documents which are presently available to and specifically known to Philadelphia. It is anticipated that further discovery, independent investigation, legal research, and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes and variations from the contentions of Philadelphia and the answers supporting said contentions. The foregoing answers are given without prejudice to Philadelphia’s right to produce evidence of any subsequently discovered facts or documents which Philadelphia may later recall. Philadelphia reserves the right to change any and all answers as additional facts are ascertained, analyses are made, and documents are identified. The answers contained herein are made in a good faith effort to supply the documents as are presently known but should in no way be to the prejudice of the answering party in relation to further discovery, research, or analysis. There may exist further documents responsive to the Request for Production which is not within Philadelphia’s present knowledge or reasonably available to Philadelphia. There may be information or documents relating to the subject matter of this discovery which Philadelphia has not located, identified, or reviewed, despite its best efforts to

do so. There may exist persons with knowledge relating to the subject matter of the Request for Production of whom Philadelphia is not presently aware, or whom it has not interviewed. Discovery is ongoing and, thus, the answers herein are limited to the information readily available to Philadelphia at this time.

### **GENERAL OBJECTIONS**

1. Philadelphia objects to each Request for Production to the extent inconsistent with or in contravention of Del. Super. Ct. Civ. R. 26, Del. Super. Ct. Civ. R. 34, or other applicable Rule or law governing discovery in this Action.
2. Philadelphia objects to each Request for Production to the extent that it seeks information protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other legally cognizable privilege or otherwise seeks information contained in trial preparation materials, and/or documents and things which contain mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of Philadelphia concerning the litigation. Philadelphia does not waive and otherwise asserts each such privilege in response to each Request for Production. If any privileged information is inadvertently disclosed in response to any Request for Production, Philadelphia does not waive any attendant privilege.
3. Philadelphia objects to each Request for Production to the extent that it seeks information that is not relevant or proportional to the needs of the case.
4. Philadelphia objects to each Request for Production to the extent that it is overly broad, unduly burdensome, vague, ambiguous, harassing, or vexatious.

5. Philadelphia objects to each Request for Production to the extent that it seeks information which would be less burdensome, more convenient, and less expensive to obtain from public sources or third parties.
6. Philadelphia objects to each Request for Production to the extent that it seeks information which is readily available to or already in the possession of Waterside Property Owners Association, Inc. (“Waterside”), making the Interrogatory harassing and vexatious.
7. Philadelphia objects to each Request for Production to the extent that it seeks proprietary information relating to trade secrets, confidential business records, or other protected material of Philadelphia.
8. Philadelphia objects to each Request for Production to the extent that it does not describe with reasonable particularity the information sought or otherwise lacks sufficient precision or particularity to permit formulation of a proper response.
9. Philadelphia objects to the “Definitions” set forth in the Request for Production to the extent the same are overbroad and defy the common meaning of the terms and phrases so defined.
10. Philadelphia objects to the Request for Production on the grounds that the terms “You”, “Your” and “Philadelphia” are vague, ambiguous, and overbroad and may include third parties such as outside defense or coverage counsel. Philadelphia will not provide information contained in files maintained by its outside counsel and Philadelphia will not identify any such information withheld as objectionable.

## **RESERVATIONS**

1. By providing information to Waterside, Philadelphia does not waive any objections that it may have regarding Waterside's use of information or documents, or of the truth or accuracy of any term, phrase or characterization contained in these responses.
2. Philadelphia reserves all objections regarding the competency, privilege, relevance, materiality, probative value, and admissibility of all information provided.
3. Philadelphia reserves its rights to challenge the competency, relevance, materiality, and admissibility of, or to object on any grounds to the use of the information set forth herein in any subsequent proceeding or trial of this or any other action.
4. Nothing herein shall be construed as an admission by Philadelphia regarding the admissibility or relevance of any fact or document.
5. Philadelphia reserves the right to supplement these responses as information becomes available through investigation and discovery in this action.

## **SPECIFIC OBJECTIONS AND ANSWERS**

1. Copies of all documents compiled from the investigation of the Submitted Claim.  
RESPONSE: Investigation documents will be produced.
2. Copies of all communications between PIIC and Lloyds, ICAT, Capstone, Seascope or Waterside.  
RESPONSE: Communication documents will be produced.
3. All documents referenced in your Answer to Waterside's Crossclaim Complaint.  
RESPONSE: Philadelphia Policy PHPK1446847 (including Windstorm and Hail Exclusion) and written communications with Waterside will be produced.

4. Copies of all PIIC insurance policies and endorsement relied upon in the denial of the Submitted Claim.

RESPONSE: Philadelphia Policy PHPK1446847 (including Windstorm and Hail Exclusion) will be produced.

5. Copies of expert reports regarding the cause of the Submitted Claim.

RESPONSE: Reports from Capstone ISG will be produced.

6. To the extent not already provided, all documents related to Waterside.

RESPONSE: All documents related to the Submitted Claim will be produced. Beyond that, Philadelphia objects to the request because it calls for documents not relevant to any party's claim and is not proportional to the needs of the case.

7. To the extent not already provided, all documents related to the Submitted Claim.

RESPONSE: No additional documents.

Dated: September 30, 2022

**BODELL BOVÉ, LLC**

/s/ Bruce W. McCullough  
Bruce W. McCullough (Del. ID 3112)  
1225 N. King Street, Suite 1000  
Wilmington, DE 19801-3250  
Phone: 302-655-6749  
Fax: 302-655-6827  
Email: bmccullough@bodellbove.com

*Attorneys for Cross-claim Defendant  
Philadelphia Indemnity Insurance Company*