



**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

**MICHAEL VITO,** )

**Plaintiff,** )

**v.** )

**WATERSIDE PROPERTY** )

**OWNERS ASSOCIATION, INC.,** )

**a Delaware Corporation, 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 & MARINE INSURANCE** )

**COMPANY and INDIAN HARBOR** )

**INSURANCE COMPANY,** )

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

**Trial by Jury of Twelve  
Demanded**

**Third-Party Defendants.**

)  
)

**DEFENDANT, WATERSIDE PROPERTY OWNERS ASSOCIATION,  
INC.'S RESPONSE TO PHILADELPHIA INDEMNITY INSURANCE  
COMPANY'S REQUEST FOR PRODUCTION OF DOCUMENTS**

Defendant, Crossclaim Plaintiff and Third-Party Plaintiff, Waterside Property Owners Association, Inc. (“Waterside”), pursuant to Superior Court Civil Rules 26 and 34, by and through undersigned counsel, hereby respond to Philadelphia Indemnity Insurance Company’s (“PIIC”) request for production (the “Discovery Requests”). All such responses are made without in any way waiving or intending to waive, but on the contrary, preserving and intending to preserve:

1. All objections as to competency, relevance, materiality, privilege and admissibility as evidence for any purpose in any subsequent proceedings or hearings in this or any other matter;
2. The right to object to the use of any of the information and/or documents provided herein in any subsequent proceedings or hearings in this or any other matter on any ground;
3. The right to object on any ground at any time to a demand for further response to this or any other set of document requests or other discovery procedures involving or relating to the subject matter of these Discovery Requests;
4. The right to further supplement and/or amend these responses based

upon the discovery of additional information and/or documents; and

5. All privileges including attorney/client, attorney work-product and joint defense privileges and accordingly any inadvertent production of any privileged document and/or information shall not constitute a waiver of these privileges.

**GENERAL OBJECTIONS AND OBJECTIONS TO  
DEFINITIONS AND INSTRUCTIONS**

Each and every one of Waterside's Responses to these Discovery Requests of are made subject to the following General Objections and Objections to Definitions and Instructions (collectively, "General Objections"):

1. Waterside objects to each of the Definitions and Instructions in the Discovery Requests to the extent it seeks to impose obligations beyond those required by the Superior Court Civil Rules (the "Rules").

2. Waterside objects to each of the Discovery Requests to the extent that they seek or may be deemed to seek: (a) attorney work product privilege; (b) privileged information including, but not limited to, attorney/client privilege, joint defense or any other privilege; (c) confidential proprietary information or trade secrets; (d) the mental impressions, conclusions, opinions, memoranda, notes or summaries, legal research or legal theories of Plaintiff's attorneys; or (e) the mental impressions, conclusions, or opinions respecting the value or merit of a claim or defense or respecting strategy or tactics of Waterside.

3. Waterside objects to each of the Discovery Requests to the extent that the information sought is neither relevant to the subject matter involved in this matter nor reasonably calculated to lead to the discovery of admissible evidence.

4. Waterside objects to each of the Discovery Requests to the extent that they are overly broad and any attempt to respond would be unduly burdensome, expensive and/or oppressive.

5. Waterside objects to each of the Discovery Requests to the extent that they are unreasonably cumulative, duplicative, or the responsive information is obtainable from sources more conveniently available to the party seeking discovery herein.

6. Waterside objects to each of the Discovery Requests to the extent that they seek information from sources in the public domain and that are otherwise available to the party seeking discovery for review.

7. Waterside objects to each of the Discovery Requests to the extent they each purport to seek information not within the possession, custody or control of Plaintiff.

8. Waterside objects to each of the Discovery Requests to the extent that they are vague and ambiguous.

9. Waterside objects to each of the Discovery Requests to the extent they seek information without any limitation to the time period relevant to this matter.

Waterside will produce documents created, received or obtained only within three (3) years of the filing of the Complaint in this matter.

10. Waterside objects to each of the Discovery Requests to the extent they seek electronically stored information in a form or forms other than the way in which it is ordinarily maintained.

11. Waterside objects to responding or producing documents created following the filing of the Complaint in this matter. No such documents will be produced.

Subject to the General Objections, and without waiver thereof, Waterside states as follows:

### **REQUESTS**

1. Any document or communication referring to or concerning insurance coverage in effect in 2016 for 33691 Canal Drive, Frankford, Delaware 19945, Unit 64 (the "Unit").

### **RESPONSE:**

Waterside specifically objects to Request No. 1 on the grounds that it (a) seeks information protected from disclosure by the attorney-client privilege, work product doctrine and/or joint defense privilege; (b) seeks the disclosure of information that is not relevant and not likely to lead to the discovery of admissible evidence; (c) is overly broad and burdensome; and (d) seeks the disclosure of documents that, if they

exist, are not related to the subject matter of this action. Without waiving these objections, PIIC has or was provided all non-privileged documents or communications referring to or concerning insurance coverage in effect in 2016 for the Unit by way of copies of Waterside's document production to Plaintiff, copies of Certain Underwriters of Lloyd's, London's, National Fire & Marine Insurance Company's, and/or Indian Harbor Insurance Company's document production to Waterside or by way of original ownership of PIIC's document production to Waterside.

2. Any document or communication referring to or concerning assessing how water penetrated through the Unit's roof and into the Unit (the "Loss").

RESPONSE:

Waterside specifically objects to Request No. 2 on the grounds that it (a) seeks information protected from disclosure by the attorney-client privilege, work product doctrine and/or joint defense privilege; (b) seeks the disclosure of information that is not relevant and not likely to lead to the discovery of admissible evidence; (c) is overly broad and burdensome; and (d) seeks the disclosure of documents that, if they exist, are not related to the subject matter of this action. Without waiving these objections, Waterside provided all non-privileged documents or communications referring to or concerning assessing how water penetrated through the Unit's roof and into the Unit by way of Waterside's document production to Plaintiff which was

also provided to PIIC.

3. Any document or communication referring to or concerning repairs relating to the Loss.

RESPONSE:

Waterside specifically objects to Request No. 3 on the grounds that it (a) seeks information protected from disclosure by the attorney-client privilege, work product doctrine and/or joint defense privilege; (b) seeks the disclosure of information that is not relevant and not likely to lead to the discovery of admissible evidence; (c) is overly broad and burdensome; and (d) seeks the disclosure of documents that, if they exist, are not related to the subject matter of this action. Without waiving these objections, Waterside provided all non-privileged documents or communications referring to or concerning repairs relating to the Loss by way of Waterside's document production to Plaintiff which was also provided to PIIC.

4. Any document or communication referring to or concerning the cause of the Loss.

RESPONSE:

Waterside specifically objects to Request No. 4 on the grounds that it (a) seeks information protected from disclosure by the attorney-client privilege, work product doctrine and/or joint defense privilege; (b) seeks the disclosure of information that is not relevant and not likely to lead to the discovery of admissible evidence; (c) is

overly broad and burdensome; and (d) seeks the disclosure of documents that, if they exist, are not related to the subject matter of this action. Without waiving these objections, Waterside provided all non-privileged documents or communications referring to or concerning the cause of the Loss by way of Waterside's document production to Plaintiff which was also provided to PIIC.

5. Any document or communication referring to or concerning C&B Complete Cleaning & Construction's work or involvement relating to the Unit.

**RESPONSE:**

Waterside specifically objects to Request No. 5 on the grounds that it (a) seeks information protected from disclosure by the attorney-client privilege, work product doctrine and/or joint defense privilege; (b) seeks the disclosure of information that is not relevant and not likely to lead to the discovery of admissible evidence; (c) is overly broad and burdensome; and (d) seeks the disclosure of documents that, if they exist, are not related to the subject matter of this action. Without waiving these objections, Waterside provided, to the extent such documents exist, all non-privileged documents or communications referring to or concerning C&B Complete Cleaning & Construction's work or involvement relating to the Unit by way of Waterside's document production to Plaintiff which was also provided to PIIC.

6. Any document or communication referring to or concerning C&B Complete Cleaning & Construction's work or involvement relating to the Loss.



RESPONSE:

Waterside specifically objects to Request No.6 on the grounds that it (a) seeks information protected from disclosure by the attorney-client privilege, work product doctrine and/or joint defense privilege; (b) seeks the disclosure of information that is not relevant and not likely to lead to the discovery of admissible evidence; (c) is overly broad and burdensome; and (d) seeks the disclosure of documents that, if they exist, are not related to the subject matter of this action. Without waiving these objections, Waterside provided, to the extent such documents exist, all non-privileged documents or communications referring to or concerning C&B Complete Cleaning & Construction's work or involvement relating to the Unit by way of Waterside's document production to Plaintiff which was also provided to PIIC.

7. Any document or communication referring to or concerning Philadelphia Indemnity Insurance Company's involvement relating to the Loss.

RESPONSE:

Waterside specifically objects to Request No.7 on the grounds that it (a) seeks information protected from disclosure by the attorney-client privilege, work product doctrine and/or joint defense privilege; (b) seeks the disclosure of information that is not relevant and not likely to lead to the discovery of admissible evidence; (c) is overly broad and burdensome; and (d) seeks the disclosure of documents that, if they exist, are not related to the subject matter of this action. Without waiving these

objections, Waterside provided all non-privileged documents or communications referring to or concerning Philadelphia Indemnity Insurance Company's involvement relating to the Loss by way of Waterside's document production to Plaintiff which was also provided to PIIC.

8. Any document or communication referring to or concerning Certain Underwriters of Lloyd's, London's, National Fire & Marine Insurance Company's, and/or Indian Harbor Insurance Company's involvement relating to the Loss.

**RESPONSE:**

Waterside specifically objects to Request No.8 on the grounds that it (a) seeks information protected from disclosure by the attorney-client privilege, work product doctrine and/or joint defense privilege; (b) seeks the disclosure of information that is not relevant and not likely to lead to the discovery of admissible evidence; (c) is overly broad and burdensome; and (d) seeks the disclosure of documents that, if they exist, are not related to the subject matter of this action. Without waiving these objections, Waterside provided all non-privileged documents or communications referring to or concerning Certain Underwriters of Lloyd's, London's, National Fire & Marine Insurance Company's and/or Indian Harbor Insurance Company's involvement relating to the Loss by way of Waterside's document production to Plaintiff which was also provided to PIIC.

MORTON, VALIHURA & ZERBATO, LLC

*/s/ Robert J. Valihura, Jr.*

---

Robert J. Valihura, Jr., Esquire  
State Bar ID Number 2638  
3704 Kennett Pike, Suite 200  
Greenville, DE 19807  
302-426-1313

Attorneys for Defendant, Crossclaim Plaintiff and  
Third-Party Plaintiff Waterside Property Owners  
Association, Inc.

Dated: November 21, 2022