

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

|   |   |                       |
|---|---|-----------------------|
| COMMONWEALTH INSURANCE CO., a Canadian corporation, | ) | NO. C02-2222P         |
|   | ) |                       |
| Plaintiff,  | ) | MARYLAND CASUALTY'S   |
|   | ) | FIRST INTERROGATORIES |
|   | ) | AND REQUESTS FOR      |
| v.  | ) | PRODUCTION TO         |
|   | ) | COMMONWEALTH          |
| MARYLAND CASUALTY CO.; VALLEY                       | ) |                       |
| INSURANCE COMPANY; WESTERN NATIONAL                 | ) |                       |
| ASSURANCE COMPANY; FIRST NATIONAL                   | ) |                       |
| INSURANCE COMPANY OF AMERICA,                       | ) |                       |
|   | ) |                       |
| Defendants.   | ) |                       |

TO: COMMONWEALTH INSURANCE CO., Plaintiff;

AND TO: Heather Carr, Jed Powell, and Stafford Frey Cooper, P.S., its counsel.

**INSTRUCTIONS**

Pursuant to FRCP 26, 33 and 34, plaintiff Commonwealth Insurance Co., ("plaintiff," "you" and "your") is requested to answer the following interrogatories and requests for production in writing and under penalty of perjury, and after your and your attorneys sign them below, to serve the original upon the undersigned counsel at the offices of Soha & Lang, P.S.,

1 701 Fifth Avenue, Suite 2400, Seattle, Washington 98104. You must serve your answers within  
2 thirty (30) days after the interrogatories and requests for production are served on you. Please  
3 answer each interrogatory or request for production in the space provided. Each part and subpart  
4 is to be answered completely.

5 These interrogatories and requests for production impose a continuing obligation  
6 pursuant to FRCP 26(e).

### 7 DEFINITIONS

8 Unless the terms of a particular interrogatory or request for production specifically  
9 indicate otherwise, the following definitions are applicable throughout these requests and are  
10 incorporated into each specific request.  
11

- 12 1. "All" includes the word "any", and vice versa.
- 13 2. "And/or" means both "and" and "or" and shall always be read to require the more  
14 inclusive answer.
- 15 3. "Complaint" refers to the plaintiff's complaint on file in this action.
- 16 4. "Document" means and includes, but is not limited to, any printed, typewritten,  
17 encoded, photocopied, photographed, recorded or handwritten matter of whatever character,  
18 including but not limited to the following: correspondence, notes, contracts, agreements, lists,  
19 memoranda, minutes, charts, graphs, drawings, photographs, certificates, records, ledgers,  
20 instruments, publications, registers, reports, books, pamphlets, summaries, diaries, drafts,  
21 calendars, communications, telegrams, teletypes, manuals, guidelines, rules, and instructions.  
22 The term "document" also means and includes computer-stored or computer-generated data or  
23 computer-readable media of any type or nature whatsoever, including that stored on disks, hard  
24  
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1 drives, networks, backup tapes, and printers, and including backup or temporary copies of any  
2 such data.

3 5. "Donovan" means Donovan Excavating, Inc. and/or J&D Excavating, and  
4 includes, without limitation, their owners, officers, directors, managers, employees, and agents.

5 6. "Identify" when used with respect to any document requires that you provide with  
6 respect to the document:

- 7 a. The date it bears and the date it was prepared,
- 8 b. The identity of the author and/or originator,
- 9 c. The identity of each addressee,
- 10 d. The nature and substance thereof,
- 11 e. The identity of the present custodian thereof
- 12 f. The present location of the document, and
- 13 g. Whether you will provide a copy thereof without further request.

14 7. "Identify" when used with respect to any oral communication requires that you  
15 provide with respect to the oral communication:

- 16 a. The date and place thereof and whether it was in person or by telephone,
- 17 b. The identity of each person who participated in or heard any part of the
- 18 communication,
- 19 c. The substance of what was said by each person who participated therein,
- 20 and
- 21 d. The identity of any document that recorded, summarized or confirmed the
- 22 oral communication.
- 23
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1           8.     "Identify" when used with respect to any person requires that you provide with  
2 respect to such person:

- 3           a.     The person's name,  
4           b.     Such person's last known business address and telephone number,  
5           c.     Such person's last known residence address and telephone number,  
6           d.     Such person's present occupation and business affiliation, and  
7           e.     Such person's occupation and business affiliation of the time to which  
8                 your answer relates.

9           9.     "Ledcor" means Ledcor Industries (USA), Inc. and includes, without limitation,  
10 its employees, agents, successors, heirs, attorneys (except with respect to privileged matters),  
11 consultants, and other persons acting on its behalf.

12           10.    "Legal basis" means any statutes, regulations or cases which support the  
13 relevance and/or materiality of the facts set forth in the referenced answer to the subject matter  
14 of the referenced interrogatory.

15           11.    "Maryland" means the defendant, Maryland Casualty Company.

16           12.    "Maryland policy" means Maryland Casualty Co. policy no. SCP 34150715.

17           13.    "Person" includes the plural as well as the singular and includes any natural  
18 person, firm, association, partnership, corporation, or other form of legal entity.

19           14.    "Plaintiff", "you" and "your" shall mean, collectively, the plaintiff, its employees,  
20 agents, successors, heirs, attorneys (except with respect to privileged matters), consultants, and  
21 other persons acting on its behalf.

22           15.    "Relate to" or "relating to" means supports, describes, mentions, refers to,  
23 concerns, contradicts, or compromises.

1 16. "Underlying Action" means *Ledcor Indus. (USA), Inc. v. Donovan Excavating,*  
2 *Inc. d/b/a J&D Excavating*, King County Superior Court Case No. 01-2-32437-3SEA.

3 17. "Yeater Claim" means the construction defect claim made by Sandra Yeater and  
4 includes the arbitration and settlement of that claim.

5 18. "Yeater House" means the house constructed for Sandra Yeater by Ledcor and  
6 that was the subject of the Yeater Claim.

7 **INTERROGATORIES**

8 **INTERROGATORY NO. 1:** State all facts supporting your claim that Ledcor  
9 was entitled to coverage for the Yeater Claim under the Maryland policy.  
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11 **ANSWER:**  
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14 **INTERROGATORY NO. 2:** State the legal basis for your claim that Ledcor was  
15 entitled to coverage for the Yeater Claim under the Maryland policy.

16 **ANSWER:**  
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19 **INTERROGATORY NO. 3:** With respect to each incident of water intrusion at  
20 the Yeater House which you contend triggers coverage under the Maryland policy:  
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- 22 a. State the date of each incident;  
23 b. State the location of each incident;  
24 c. State the cause or believed cause of each incident;  
25 d. State the property damage that occurred as a result of each incident; and

1 e. Identify all persons who have knowledge or are believed to have knowledge of  
2 the date, location, cause, and/or property damage that occurred as a result of each  
3 incident described in your answer to this interrogatory.

4 ANSWER:

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7 **INTERROGATORY NO. 4:** State all facts supporting your claim that Maryland  
8 acted in bad faith with respect to the Yeater Claim.

9 ANSWER:

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13 **INTERROGATORY NO. 5:** State the legal basis for your claim that Maryland  
14 acted in bad faith with respect to the Yeater Claim.

15 ANSWER:

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19 **INTERROGATORY NO. 6:** Identify all persons who have or are believed to  
20 have knowledge of facts supporting your bad faith claim against Maryland.

21 ANSWER:

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24 **INTERROGATORY NO. 7:** Itemize all damages you seek under your bad faith  
25 claim against Maryland.

1           **ANSWER:**

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4           **INTERROGATORY NO. 8:**           State the legal basis for each item of damages  
5 identified in your answer to the preceding interrogatory.

6           **ANSWER:**

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9           **INTERROGATORY NO. 9:**           Itemize all sums recovered by you and/or Ledcor in  
10 settlements related to the Yeater Claim including, without limitation, sums received from  
11 Donovan, other subcontractors, and/or insurance carriers.

12           **ANSWER:**

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16           **INTERROGATORY NO. 10:**           If you contend that plaintiff is entitled to full  
17 reimbursement of all amounts not recovered in prior settlements related to the Yeater Claim (*i.e.*,  
18 that plaintiff should not be allocated a portion of any such amounts), state the legal basis for this  
19 contention.

20           **ANSWER:**

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24           **INTERROGATORY NO. 11:**           If any of your responses to Maryland's requests for  
25 admissions, served contemporaneously herewith, are anything other than unqualified admissions,

1 for each such response state the reason or reasons why you cannot admit the request, including  
2 all facts which support your response.

3 **ANSWER:**

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6 **INTERROGATORY NO. 12:** Pursuant to FRCP 26(b)(4), identify each expert  
7 witness whom you expect to testify at trial of this case.

8 **ANSWER:**

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12 **INTERROGATORY NO. 13:** With respect to each expert identified in your  
13 answer to Interrogatory No. 13, state the subject matter on which each such expert is expected to  
14 testify.

15 **ANSWER:**

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18 **INTERROGATORY NO. 14:** With respect to each expert identified in your  
19 answer to Interrogatory No. 13, state the substance of the expert's opinions and a summary of the  
20 grounds for each such opinion.

21 **ANSWER:**



**REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:** Produce all documents that support your claim that Ledcor was entitled to coverage for the Yeater Claim under the Maryland policy.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 2:** Produce all documents relating to the water intrusion at issue in the Yeater Claim and the Underlying Action.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 3:** Produce all documents relating to the cause or believed cause(s) of each incident of water intrusion at the Yeater House.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 4:** Produce all documents relating to the duration of each incident of water intrusion at the Yeater House.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 5:** Produce all documents relating to property damage resulting from each incident of water intrusion at the Yeater House.

1           **RESPONSE:**

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4           **REQUEST FOR PRODUCTION NO. 6:** Produce a complete copy of the contract  
5 between Ledcor and Donovan relating to the Yeater House.

6           **RESPONSE:**

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9           **REQUEST FOR PRODUCTION NO. 7:** Produce all documents that support your  
10 claim that Maryland acted in bad faith with respect to the Yeater Claim.  
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12           **RESPONSE:**

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15           **REQUEST FOR PRODUCTION NO. 8:** Produce all documents evidencing the  
16 damages you claim from Maryland in this action.  
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18           **RESPONSE:**

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21           **REQUEST FOR PRODUCTION NO. 9:** Produce all documents that support your  
22 claim that Maryland owes contribution or indemnification for sums allegedly paid to defend and  
23 settle the Yeater Claim.

24           **RESPONSE:**

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2       **REQUEST FOR PRODUCTION NO. 10:** Produce all documents evidencing Ledcor's  
3 alleged assignment of its rights under the Maryland Policy to you.

4       **RESPONSE:**

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7       **REQUEST FOR PRODUCTION NO. 11:** Produce all documents evidencing sums  
8 plaintiff paid to defend the Yeater Claim.

9       **RESPONSE:**

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13       **REQUEST FOR PRODUCTION NO. 12:** Produce all documents evidencing sums  
14 plaintiff paid to settle the Yeater Claim.

15       **RESPONSE:**

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18       **REQUEST FOR PRODUCTION NO. 13:** Produce all documents that relate to  
19 settlement of Ledcor's and/or plaintiff's claims against Donovan and other subcontractors on the  
20 Yeater project, including, without limitation, the settlement agreements.

21       **RESPONSE:**

1           **REQUEST FOR PRODUCTION NO. 14:** Produce all documents that relate to  
2 settlement of plaintiffs' claims against the other defendants in this action, including, without  
3 limitation, the settlement agreements.

4           **RESPONSE:**

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7           **REQUEST FOR PRODUCTION NO. 15:** Produce all certificates of occupancy for the  
8 Yeater House.

9           **RESPONSE:**

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13           **REQUEST FOR PRODUCTION NO. 16:** Produce all documents that relate to  
14 Donovan's performance of work at the Yeater House.

15           **RESPONSE:**

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18           **REQUEST FOR PRODUCTION NO. 17:** Produce, for inspection and copying,  
19 transcripts of all depositions taken in the Underlying Action and the Yeater arbitration, including  
20 all exhibits thereto.

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22           **RESPONSE:**

1           **REQUEST FOR PRODUCTION NO. 18:** Produce, for inspection and copying, all  
2 written discovery answers and responses served in the Underlying Action and the Yeater  
3 arbitration including, without limitation, all interrogatories, requests for production and requests  
4 for admission.

5           **RESPONSE:**  
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8           **REQUEST FOR PRODUCTION NO. 19:** Produce, for inspection and copying, all  
9 documents produced by Ledcor in the Yeater arbitration.  
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11          **RESPONSE:**  
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14          **REQUEST FOR PRODUCTION NO. 20:** Produce, for inspection and copying, all  
15 documents produced by Ledcor in the Underlying Action.

16          **RESPONSE:**  
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19          **REQUEST FOR PRODUCTION NO. 21:** Produce, for inspection and copying, all  
20 documents produced by Donovan in the Underlying Action.  
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22          **RESPONSE:**  
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**REQUEST FOR PRODUCTION NO. 22:** Produce a complete copy of all liability insurance policies issued by plaintiff or any other insurer to Ledcor between January 1, 1997 and December 30, 2000.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 23:** Produce a complete copy of plaintiff's claim file related to the Yeater Claim.

**RESPONSE:**

DATED this \_\_\_\_ day of January, 2005.

SOHA &amp; LANG, P.S.

By: \_\_\_\_\_  
Steven P. Soha, WSBA #09415  
Email: [soha@sohalang.com](mailto:soha@sohalang.com)  
Gary A. Sparling, WSBA #23208  
Email: [sparling@sohalang.com](mailto:sparling@sohalang.com)  
Attorneys for Maryland Casualty Company  
Soha & Lang, P.S.  
701 Fifth Avenue, Suite 2400  
Seattle, WA 98104  
Telephone: (206) 624-1800  
Fax: (206) 624-3585

CERTIFICATION

The undersigned attorney for plaintiff has read the foregoing answers and responses to Maryland Casualty's First Interrogatories And Requests For Production To Commonwealth, and certifies that they are in compliance with FRCP 26(g).

DATED this \_\_\_\_\_ of \_\_\_\_\_, 2005.

STAFFORD FREY COOPER, P.S.

By \_\_\_\_\_  
John E.D. Powell, WSBA No. \_\_\_\_\_  
Attorneys for Plaintiffs

VERIFICATION

STATE OF WASHINGTON )  
 ) ss.  
County of \_\_\_\_\_ )

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the plaintiff in the above-entitled matter; I have read the foregoing answers and responses to Maryland Casualty's First Interrogatories And Requests For Production To Commonwealth, I know the contents thereof and I declare under penalty of perjury under the laws of the State of Washington that the answers/responses are true and correct to the best of my knowledge and belief.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Title: \_\_\_\_\_

SUBSCRIBED AND SWORN to me this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Notary Public in and for the State of  
Washington, residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_  
Print name: \_\_\_\_\_



DECLARATION OF SERVICE

STATE OF WASHINGTON )  
COUNTY OF KING )

I am employed in the County of King, State of Washington. I am over the age of 18 and not a party to the within action; my business address is SOHA & LANG, PS, 701 Fifth Avenue, Suite 2400, Seattle, Washington 98104.

On February 22, 2006, I served the foregoing document, **Maryland Casualty's First Interrogatories And Requests For Production To Commonwealth (with Declaration of Service)**, on interested parties in this action as follows:

John E.D. Powell (by hand delivery)  
**Stafford Frey Cooper**  
2500 Rainier Tower  
1301 Fifth Avenue  
Seattle, WA 98101  
Phone: 206-623-9900

**I declare under penalty of perjury under the laws of the State of Washington that the above is true and correct.**

Executed on February 22, 2006, at Seattle, Washington.

\_\_\_\_\_  
Linda J. Vandiver  
Assistant to Gary A. Sparling

