

MDL NO. 13-0130

IN RE REPUBLIC LLOYDS § IN THE DISTRICT COURT
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§
§ HIDALGO COUNTY, TEXAS
§
MARCH 29, 2012 AND APRIL 20, 2012 §
§
HAIL STORM LITIGATION § 206TH JUDICIAL DISTRICT

CAUSE NO. C-0451-13-B

EL PISTOLON II, LTD. D/B/A PLAZA § IN THE DISTRICT COURT
LAS FUENTES §
Plaintiff, §
VS. §
§ 93rd JUDICIAL DISTRICT
§
REPUBLIC COMPANIES, INC., TEXAS §
VALLEY INSURANCES d/b/a McAfee §
INSURANCE AGENCY, TEAM ONE §
ADJUSTING SERVICES, L.L.C. §
Defendants. § HIDALGO COUNTY, TEXAS

**ORDER ADOPTING RECOMMENDATION OF SPECIAL MASTER REGARDING
DEFENDANT REPUBLIC LLOYD'S MOTION TO COMPEL**

On this day, the Court having received the Recommendation of Special Master Roberto L. Ramirez regarding *Defendant Republic Lloyd's Motion to Compel Discovery Responses, Supplemental Discovery Responses and/or Amended Discovery Responses from Plaintiff El Pistolon*, hereby approves such Recommendation and

IT IS THEREFORE ORDERED that the Court adopts the Recommendation of the Special Master attached hereto as Exhibit "A".

IT IS SO ORDERED.

12/15/2014

SIGNED and ENTERED this the _____ day of _____, 2014.



Hon. Judge Rose Guerra Reyna
XXXXXXXXXXXX
Special Master

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IN RE REPUBLIC LLOYDS

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IN THE DISTRICT COURT

HIDALGO COUNTY, TEXAS

MARCH 29, 2012 AND APRIL 20, 2012
HAIL STORM LITIGATION

206TH JUDICIAL DISTRICT

CAUSE NO. C-0451-13-B

EL PISTOLON II, LTD. D/B/A PLAZA
LAS FUENTES
Plaintiff,

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IN THE DISTRICT COURT

VS.

93RD JUDICIAL DISTRICT

REPUBLIC COMPANIES, INC., TEXAS
VALLEY INSURANCES d/b/a McAFEE
INSURANCE AGENCY, TEAM ONE
ADJUSTING SERVICES, L.L.C.
Defendants.

HIDALGO COUNTY, TEXAS

**RECOMMENDATION OF SPECIAL MASTER REGARDING DEFENDANT
REPUBLIC LLOYDS' MOTION TO COMPEL**

Pursuant to my appointment as Special Master in the above-referenced MDL proceeding, I considered *Defendant Republic Lloyds' Motion to Compel Discovery Responses, Supplemental Discovery Responses and/or Amended Discovery responses from Plaintiff El Pistolon*, and Plaintiff's Responses thereto, as well as the arguments of counsel presented at an October 23, 2014 conference/hearing conducted with the parties' counsel. In addition, as Special Master, I took note of agreements reached prior to the hearing or announced on the record by the parties relating to different aspects of the motions at issue.

Accordingly, I hereby make the following recommendations regarding Defendant's present motion:

INTERROGATORIES TO PLAINTIFF	RECOMMENDATION
#4	Plaintiff's objections are overruled.

Exhibit "A"

#7	Plaintiff's objections are overruled.
#9	Plaintiff's objections are overruled, and Plaintiff is urged to supplement its response to Subsection d.
#10	Plaintiff will supplement in accordance with its proposed supplemental answer as follows, the content of which Defendant has agreed is sufficient: <i>Plaintiff is not making a claim for loss of business income.</i>
#11	Plaintiff's objections are overruled, and Plaintiff will supplement in accordance with its proposed supplemental answer as follows, the content of which Defendant has agreed is sufficient: <i>Plaintiff is making a claim in this lawsuit for damages to the roof, HVAC, stucco, interior repairs, interior painting, dumpster gate paint and repair, awnings, landscaping, monument sign repair, exterior light fixtures, exterior cantera and cast stone, and parking lot striping.</i> <i>Following the storm, Eduardo Rodriguez, the Project Manager for El Pistolon II, Ltd., Oziel Rios with Air Plus and Heating & Cooling, Inc., Adolfo Ibarra with A & M Roofing, Carlos Hernandez with CH Construction, O.G. Construction, Alex Palacios, Hugo H. Avila, Gerardo "Jerry" Garcia, and Richard L. Garcia inspected the damage. A document was received from Prodigy Construction Management, LLC and TREMCO Incorporated and produced to Defendant in accordance with MDL Case Management Order No. 1. Further, please refer to Plaintiff's Answer to Interrogatory No. 1.</i>
#12	Plaintiff will voluntarily agree to supplement its response.
#13	Plaintiff is ordered to supplement its response.
#14	Plaintiff will voluntarily agree to supplement its response.
#16	Plaintiff's objections are overruled, and Plaintiff is urged to supplement its response to the extent reference to Interrogatory No. 1 does not provide the requested information.
#17	Plaintiff's objections are overruled.
#22	Plaintiff will supplement in accordance with its proposed supplemental answer as follows, the content of which Defendant has agreed is sufficient:

	Tenant	Physical Address*	Begin	Expire	Contact Person
	Dirty Al's	5712 N. 10th Ste 400	02/15/14	2/14/19	Al Salazar 956-970-9272
	Tipsy Liquor	5612 N. 10 th , Ste. 200	01/01/14	06/30/15	Tipsy's, L.L.C. 956-252-4781
	Wing Barn	5712 N. 10 th , Ste. 100	11/01/14	10/30/19	Bobby Saenz 956-545-0833
	Tusk N Barrel	5712 N. 10 th , Ste.100	07/04/12	8/13	Ruben Luna 956-342-9122
	Fantastic Sams	5612 N. 10 th , Ste. 300	12/08	05/09	Sandra Denise Garcia 956-332-9510
	Bajio Grill	5712 N. 10 th , Ste.100	08/08	08/09	Yogish Bhatt 361-881-8561
	Jacksons Sports Bar	5712 N. 10th Ste 400	05/08	07/10	Steven Del Angel 956-414-3345
	Dickey's	5800 N. 10 th , Ste.100	05/08	4/11	Olga Gonzalez 956-584-0794
	Picositos	5612 N. 10 th , Ste. 400	12/09	10/10	Raul Martinez 956-584-0185
	V.O.'s Steakhouse	5612 N. 10 th , Ste. 400	01/08	10/09	Antonio Olivarez No. Tel. Number
	Water 2 Wine	5712 N. 10 th , Ste. 300	01/09	09/10	John Nix 956-358-6337
#27	<p>Plaintiff will supplement in accordance with its proposed supplemental answer as follows, the content of which Defendant has agreed is sufficient:</p> <p><i>Plaintiff has not made any insurance claim for property damage to the Insured Premises other than the current hail storm claim that is the subject of this suit.</i></p>				
#28	<p>Plaintiff will supplement in accordance with its proposed supplemental answer as follows, the content of which Defendant has agreed is sufficient:</p> <p><i>Defendant did not send and request Plaintiff to submit a proof of loss form. Nevertheless, Plaintiff's insurance agent, McAfee Insurance Agency, submitted Property Loss Notices to Defendant.</i></p> <p><i>Defendant's actions and/or omissions constitutes a violation of the Prompt Payment of Claims by not timely (a) acknowledging, investigating, or requesting information about the claim, (b) accepting, rejecting, or extending the deadline for deciding the claim, or (3) paying the claim.</i></p>				

#30	Plaintiff's objections are overruled, and Plaintiff is ordered to supplement its response accordingly.
#31	Plaintiff will voluntarily agree to supplement its response.
#34	Plaintiff will voluntarily agree to supplement its response.
#35	Plaintiff will voluntarily agree to supplement its response.

REQUESTS FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF	RECOMMENDATION
#1	<p>Plaintiff will supplement in accordance with its proposed supplemental answer as follows, the content of which Defendant has agreed is sufficient:</p> <p><i>Please refer to Exhibits "A", "B", "C", and "F" and all documents produced by Defendant in RL-El Pistolon 000126-001688 that contain photographs, reports, estimates, correspondence, and e-mails describing the damages sustained to the Insured Premises.</i></p>
#3	<p>Plaintiff will supplement in accordance with its proposed supplemental answer as follows, the content of which Defendant has agreed is sufficient:</p> <p><i>Please refer to Exhibits "A", "B", "C", and "F" and all documents produced by Defendant in RL-El Pistolon 000126-001688 that contain photographs, reports, estimates, correspondence, and e-mails describing the damages sustained to the Insured Premises.</i></p>
#4	Plaintiff will voluntarily withdraw its objections and will supplement its response accordingly.
#5	Plaintiff will voluntarily withdraw its objections and will supplement its response accordingly.

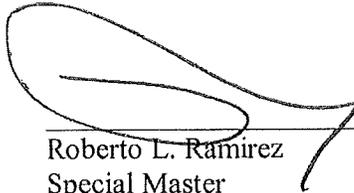
#6	Defendant stipulates that it is not seeking documents protected by privilege. Plaintiff's objections are overruled, and Plaintiff is order to supplement its response accordingly.
#7	Defendant stipulates that it is not seeking documents protected by privilege and will not object to Plaintiff raising for the first time an expert witness objection in its supplemental response. Plaintiff's objections are overruled, and Plaintiff is order to supplement its response accordingly.
#8	Plaintiff will voluntarily withdraw its objections and will supplement its response accordingly.
#9	Plaintiff will voluntarily withdraw its objections and will supplement its response accordingly.
#10	Plaintiff will voluntarily withdraw its objections and will supplement its response accordingly.
#11	Plaintiff's objections are overruled, and Plaintiff is ordered to supplement its response accordingly.
#12	Plaintiff will voluntarily agree to supplement its response.
#13	Plaintiff will voluntarily agree to supplement its response.
#14	Plaintiff will voluntarily agree to supplement its response.
#15	Plaintiff will voluntarily withdraw its objections and will supplement its response accordingly.

#16	Plaintiff will voluntarily agree to supplement its response.
#17	Plaintiff is ordered to supplement its response to conform to TEX.R.CIV.P. 196.3.
#18	Plaintiff is ordered to supplement its response to conform to TEX.R.CIV.P. 196.3.
#19	Plaintiff is ordered to supplement its response to conform to TEX.R.CIV.P. 196.3.
#20	Plaintiff will voluntarily agree to supplement its response.
#22	Plaintiff will voluntarily agree to supplement its response.
#23	Defendant will stipulate that the request does not seek documents prepared for or in relation to the initial construction of the project. Plaintiff's objection that the discovery request is overly broad and vague in that it fails to describe the information requested with reasonable particularity is overruled, and Plaintiff is ordered to supplement its response accordingly.
#24	Plaintiff's objections are overruled, and Plaintiff is ordered to supplement its response accordingly.
#27	Plaintiff will voluntarily agree to supplement its response.
#28	Plaintiff will voluntarily agree to supplement its response.
#32	Plaintiff will voluntarily agree to supplement its response.

#37	Plaintiff's objections are overruled, and Plaintiff is ordered to supplement its response accordingly.
#38	Plaintiff's objections are overruled, and Plaintiff is ordered to produce responsive documents from its current tenants.
#39	Plaintiff will voluntarily agree to supplement its response.
#41	Plaintiff will voluntarily agree to supplement its response.
#43	Plaintiff will voluntarily agree to supplement its response.

It is further recommended that Plaintiff serve supplemental answers to Master Discovery no later than two weeks following the Court's Order concerning this Recommendation.

Signed this 5th DECEMBER day of November, 2014.



Roberto L. Ramirez
Special Master

APPROVED AS TO FORM ONLY:

/s/ Sonia Lopez
Sonia Lopez
Counsel for Plaintiff

/s/ Jennifer M. Kearns
Counsel for Defendant Republic Lloyds