

1 James R. Forbes (State Bar No. 114863)  
2 Helen Forrester (State Bar No. 168042)  
3 Marcie A. Keenan (State Bar Number: 177939)  
4 NIXON PEABODY LLP  
5 Two Embarcadero Center, Suite 2700  
6 San Francisco, CA 94111-3996  
7 Telephone: (415) 984-8200  
8 Facsimile: (415) 984-8300

9 Attorneys for Defendant  
10 THE HOME INSURANCE COMPANY

11  
12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13  
14 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

15 INTERNATIONAL PAPER COMPANY and  
16 MASONITE CORPORATION,

17 Plaintiffs,

18 vs.

19 AFFILIATED FM INSURANCE COMPANY,  
20 et al.,

21 Defendants.

No. 974350

**THE HOME INSURANCE COMPANY'S  
JOINER IN DEFENDANT EMPLOYERS  
INSURANCE OF WAUSAU'S MOTION IN  
LIMINE RE MISCHARACTERIZATION  
OF THE WAIER FORMULA**

Dates: April 3, 2003  
Time: 10:00 a.m.  
Dept.: 318  
Judge: Hon. Alex Saldamando  
Trial Date: April 7, 2003

22 Defendant THE HOME INSURANCE COMPANY ("THE HOME") hereby joins in  
23 defendant Employers Insurance of Wausau's motion in limine re mischaracterization of the Waier  
24 formula. The Home requests that the Court issue an order in limine precluding plaintiffs or their  
25 counsel from characterizing the *Naef* compensation formula developed by Philip Waier as a  
26 "proxy" or "measure" of damages other than damages for damage to hardboard siding.

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DATED: March 27, 2003

NIXON PEABODY LLP

By: Marcie A. Keenan  
Marcie A. Keenan  
Attorneys for Defendant  
The Home Insurance Company

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10 EMPLOYERS MUTUAL CASUALTY COMPANY

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

INTERNATIONAL PAPER COMPANY and  
MASONITE CORPORATION,

Plaintiffs,

vs.

AFFILIATED FM INSURANCE COMPANY,  
et al.,

Defendants.

No. 974350

**JOINDER IN DEFENDANT EMPLOYERS  
INSURANCE OF WAUSAU'S MOTION IN  
LIMINE TO PRECLUDE COMMENT  
THAT WAUSAU AND OTHER  
DEFENDANTS FAILED TO DEPOSE  
CLASS COUNSEL**

Dates: April 3, 2003  
Time: 10:00 a.m.  
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Defendant EMPLOYERS MUTUAL CASUALTY COMPANY ("EMPLOYERS")

hereby joins in defendant Employers Insurance of Wausau's motion in limine to preclude comment that Wausau and other defendants failed to depose class counsel. Employers requests that the Court issue an order precluding plaintiffs from making any reference to defendants' alleged failure to depose class counsel. Plaintiffs have asserted the mediation privilege to block all discovery into conversations between class counsel and plaintiffs. Therefore, plaintiffs cannot suggest to the jury

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that the defendants should have deposed class counsel when plaintiffs have asserted a mediation privilege which would prevent class counsel from providing any pertinent testimony.

DATED March 27, 2003

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Attorneys for Defendant  
EMPLOYERS MUTUAL INSURANCE  
COMPANY

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17 Plaintiffs,

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20 et al.,

21 Defendants.

No. 974350

**JOINDER IN DEFENDANT EMPLOYERS  
MOTION IN LIMINE TO PRECLUDE  
COMMENT THAT WAUSUA AND OTHER  
DEFENDANTS FAILED TO DEPOSE  
CLASS COUNSEL**

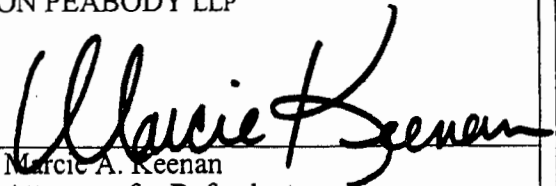
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27 between class counsel and plaintiffs. Therefore, plaintiffs cannot suggest to the jury that the  
28 defendants should have deposed class counsel when plaintiffs have asserted a mediation privilege  
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**EMPLOYERS MUTUAL INSURANCE  
COMPANY'S JOINDER IN DEFENDANT  
EMPLOYERS INSURANCE OF WAUSAU'S  
MOTION IN LIMINE RE  
MISCHARACTERIZATION OF THE  
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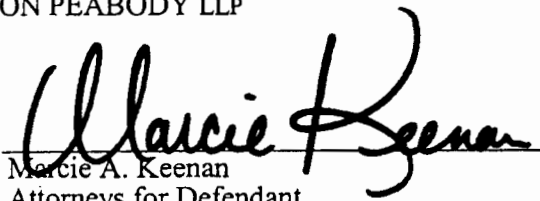
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