

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION

**Case Number: 08-10084-CIV -BROWN**

PETER HALMOS, et al.

vs.

INSURANCE COMPANY OF NORTH AMERICA, et al.

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**INSURANCE COMPANY OF NORTH AMERICA'S MOTION FOR PROTECTIVE ORDER RELATED TO THE RESUMPTION OF CONNIE DENNIS' DEPOSITION**

COMES NOW Defendant, Insurance Company of North America ("INA"), and files its Motion for Protective Order Related to the Resumption of Connie Dennis' Deposition. Plaintiffs terminated the deposition of INA witness, Connie Dennis, as it was drawing to the close due to alleged improper conduct on behalf of INA's counsel. INA requested that either Judge Klein (who was not present for the deposition) or Judge Brown be contacted to resolve the issue. Plaintiffs' counsel refused and, instead, terminated the deposition with the stated intent that it would be resumed at a future date. INA seeks protection from the resumption of a deposition which Plaintiffs' improperly terminated. In support of its request, INA would show the Honorable Court as follows:

**MEMORANDUM OF LAW**

INA has standing to move for a protective order related to the resumption of a deposition which Plaintiffs improperly terminated. Under Federal Rule of Civil Procedure 26(c)(1)(A), for "good cause" shown a court may issue a protective order prohibiting a deposition. *See McCarthy v. Barnett Bank of Polk County*, 876 F.2d 89, 91 (11th Cir. 1989). "When evaluating whether a movant has satisfied his burden of establishing good cause for a protective order preventing a

deposition, a court should balance the non-moving party's interest in obtaining discovery and preparing for trial against the moving party's proffer of harm that would result from the deposition.” *Baratta v. Homeland Housewares, LLC*, 242 F.R.D. 641, 642 (S.D. Fla. 2007) (citing *Farnsworth v. Procter & Gamble Co.*, 758 F.2d 1545, 1547 (11th Cir. 1985)).

This test is met related to any attempt to resume Connie Dennis’ deposition. Here, Plaintiffs took the deposition of Connie Dennis on July 12, 2010, a few days before the conclusion of discovery on July 23, 2010. (Exhibit “A”). JC Antorcha appeared and took the deposition of Plaintiffs IYC and HPC via telephone. Mr. Antorcha had a paralegal, Johnathan Burke, in the room with the witness and INA’s counsel. (Exhibit “A,” p. 2).

The deposition commenced at 9:57 a.m. and proceeded without incident for several hours. Plaintiffs IYC and HPC completed their questioning prior to lunch. (Exhibit “A,” p. 62:5-14).

Mr. Halmos, who was also appearing by telephone, then began his examination. (Exhibit “A,” p. 62:5-14). During Mr. Halmos’ examination of Ms. Dennis, Mr. Antorcha suddenly stopped the examination and claimed that Kenneth Engerrand, counsel for INA, was tapping Ms. Dennis’ foot. (Exhibit “A,” p. 73:15-79:4). Both Mr. Engerrand and Ms. Dennis testified that no inappropriate contact occurred during the deposition and, instead, Mr. Engerrand’s foot brushed against Ms. Dennis due to the close quarters of the conference room.<sup>1</sup> (Exhibit “A,” pp. 74:5-7 and 75:21-25). Both Mr. Engerrand and Ms. Dennis testified that they thought the contact was with a pillar under the conference room table. (Exhibit “A,” pp. 74:5-7 and 75:21-25). In further response, Mr. Engerrand even offered to move away from the witness to ensure that no inadvertent contact occurred (since this was apparently an issue to Mr. Antorcha). (Exhibit “A,”

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<sup>1</sup> It goes without saying that INA (and Mr. Engerrand in particular) adamantly deny that any “witness coaching” occurred.

p. 73:18-74:12). Mr. Antorcha then summarily stated that he was concluding the deposition due to “coaching the witness” and Plaintiffs would seek sanctions. (Exhibit “A,” p. 74:15-75:6).

The witness then made perfectly clear that she was unaware that Mr. Engerrand was tapping her foot and she thought that Mr. Engerrand believed his foot was in contact with a pillar in the conference room table. (Exhibit “A,” p. 75:7-25). INA then asked to get either Judge Klein or Judge Brown on the telephone to help resolve the issue so the deposition could continue. (Exhibit “A,” p. 76:1-19). Mr. Antorcha refused to do so and, instead, he terminated the deposition which had almost reached its conclusion anyway. (Exhibit “A,” p. 78:21-23).

Plaintiffs have, once again, manufactured a controversy. Ms. Dennis already testified that she thought that Mr. Engerrand believed his foot was in contact with a pillar under the table and she not paying attention to Mr. Engerrand, but rather was concentrating on the questions being asked. (Exhibit “A,” p. 75:21-25). Accusations in depositions were one of the primary reasons that this Court appointed Special Master Klein. Judge Klein was available to immediately make any fact inquiries before there could be any claim of taint so that he could resolve the situation; however, Plaintiffs adamantly refused to accept the process set forth by this Court.

Plaintiffs’ actions betray their intent. Plaintiffs were not interested in having Judge Klein obtain the facts. Instead, Plaintiffs simply used the incidental contact as another attempt to delay the resolution of these proceedings. This is, after all, not the first deposition which Plaintiffs unilaterally terminated. Plaintiffs also unilaterally terminated the deposition of Captain Collins (and then refused to re-present him for deposition) and twice unilaterally terminated Peter Halmos’ deposition.<sup>2</sup> (Exhibit “B,” p. 149:9-24 and D.E. Nos. 793 and 822).

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<sup>2</sup> Specifically, Plaintiff Peter Halmos (“Halmos”) stated the following when he ended the deposition:

Also, Plaintiffs refused to present many of their witnesses for deposition. During the course of this litigation, INA has taken at least seven certificates of non-appearance. (Exhibit "C"). Most notably, on Friday, July 23, 2010, Plaintiffs refused to present their claims adjusting expert, Mr. Donald Dinsmore, for deposition forcing another certificate of non appearance to be taken. This demonstrates Plaintiffs' continuing pattern of attempts to delay discovery in this case.

Further, Plaintiffs have a history of manufacturing discovery crises. Plaintiffs manufactured another discovery issue for the purpose of forcing the Court to grant another continuance when they noticed the depositions of 23 individuals related to the Fowler White issues (which they originally raised in November 2009 and have now fully briefed for this Court). (D.E. Nos. 812 and 877).

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MR. HALMOS: We're out of here. Okay. That's it.  
MR. ENGERRAND: No, we're not. Now --  
MR. HALMOS: Ed --  
MR. ENGERRAND: No.  
MR. HALMOS: -- we're out of here.  
MR. ENGERRAND: You don't get to do that --  
MR. HALMOS: Well, I'm telling you we're doing it.

(Exhibit "B," p. 147:22-148:4). After further discussion, Halmos stated:

MR. HALMOS: All right. We'll do it again when the man has his own lawyer.  
MR. BASSMAN: -- you asked a line of questions.  
MR. HALMOS: Okay.  
MR. BASSMAN: You took a lot of time asking questions.  
MR. HALMOS: Because of the questions you guys asked, he needs a lawyer.  
MR. BASSMAN: This is your --  
MR. HALMOS: He'll be back for you to do it again when he has a lawyer. We're not going to have these kind of trick questions at midnight when the man is tired. Let's go. That's it.  
THE WITNESS: Good night.  
MR. HALMOS: Enough of this.

(Exhibit "B," p. 149:9-24).

Finally, Plaintiffs have repeatedly cancelled depositions to attempt to delay these proceedings. Through the first year and half that this case was pending, Plaintiffs refused to take any depositions (despite being repeatedly offered deposition dates by INA). After Plaintiffs claimed to need more time to meet pending deadlines (including an expert witness designation deadline), the Court granted Plaintiffs a 129-day extension of the discovery deadlines at 3:30 p.m. on April 8, 2010. (D.E. 651). At 7:35 a.m. on April 9, 2010—the very next day after the Court gave Plaintiffs even more time for discovery—Plaintiffs cancelled the depositions of Pam Harting-Forkey and Joe Smith which were set for the next week. (Exhibit “D”). These were the principal INA witnesses. Also, at 2:25 p.m. the day *before* the deposition of Tony Knowles, Plaintiffs attempted to cancel his deposition (even though Mr. Knowles had flown to and was already in Miami for the sole purpose of attending the deposition).<sup>3</sup> (Exhibit “E”). Plaintiffs further cancelled the depositions of Janet Thomas, an INA adjuster, and James Bishop after the Court granted Plaintiffs additional time. (Exhibit “F”). Instead of timely taking discovery, Plaintiffs waited until the final three weeks of the discovery period to depose almost every witness in the case.

Plaintiffs’ history of discovery abuse demonstrates that the allegations made regarding Mr. Engerrand’s conduct are another manufactured issue aimed at delaying the proceedings. If they had any interest in expeditiously resolving this matter, they could have agreed to contact either Judge Klein or Judge Brown from the deposition site (as INA requested). The Plaintiffs’ adamant refusal to do so demonstrates that they are merely attempting to create an issue where none exists. Therefore, INA requests that this Court enter a protective order preventing Plaintiffs from re-noticing the deposition of Connie Dennis.

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<sup>3</sup> Since Mr. Knowles was already in Miami, INA and Strickland proceeded with the deposition with Special Master Klein in attendance. Plaintiffs chose not to attend.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant Insurance Company of North America respectfully requests that the Court Grant INA's Motion for Protective Order, award Defendant Insurance Company of North America its attorney fees and costs, and grant Defendant any other relief to which it may show itself justly entitled, whether at law, in equity, or in admiralty.

**CERTIFICATE OF CONFERENCE**

As the deposition transcript indicates, Plaintiffs refused to confer on this issue. Attempts were made to solicit Plaintiffs' agreement to either contact Judge Klein or Judge Brown to resolve this issue. Plaintiffs refused to do so. Therefore, this filing is necessary.

/s/ Frank J. Sioli

Frank J. Sioli

**CERTIFICATE OF SERVICE**

I hereby certify that on **July 26, 2010**, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted,

**BROWN SIMS, P.C.**

By: /s/ Frank J. Sioli

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UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION

**CASE NO. 08-10084-CIV- BROWN**

PETER HALMOS, et al.,

*Plaintiffs,*

vs.

INSURANCE COMPANY OF NORTH  
AMERICA, et al.

*Defendants.*

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**ORDER GRANTING INSURANCE COMPANY OF NORTH AMERICA'S  
MOTION FOR PROTECTIVE ORDER RELATED TO THE  
RESUMPTION OF CONNIE DENNIS' DEPOSITION**

On this day came on to be heard Insurance Company of North America's Motion for Protective Order Related to the Resumption of Connie Dennis' Deposition. The Court, after considering the Motion, the Response, the Reply, and arguments of counsel, is of the opinion that the Motion is not well taken and should in all things be GRANTED. It is therefore

ORDERED, ADJUDGED, and DECREED that Insurance Company of North America's Motion for Protective Order Related to the Resumption of Connie Dennis' Deposition is GRANTED and the deposition shall not be re-noticed.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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UNITED STATES MAGISTRATE JUDGE

Peter Halmos, Int'l Yachting Charters, Inc. &  
High Plains Capital v. Insurance Co. of North America  
Case Number: 08-10084-CIV-BROWN

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**EXHIBIT “A”**

STEVEN FISHER - VOL. 4

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION

PETER HALMOS, pro se, :  
INTERNATIONAL CHARTERS, :  
INC., and HIGH PLAINS :  
CAPITAL :  
 :  
-v.- : CASE NO.08-10084  
 : CIV-MARTINEZ/BROWN  
INSURANCE COMPANY OF :  
NORTH AMERICA, :  
STRICKLAND MARINE :  
INSURANCE, INC. f/k/a :  
STRICKLAND MARINE AGENCY :

\*\*DEPOSITION\*\*

DEPONENT: Connie Dennis

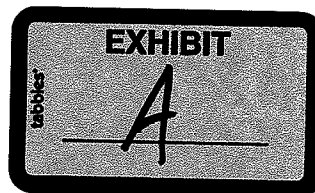
DATE: Monday, July 12, 2010

TIME: 9:57 a.m.

PLACE: Cozen O'Connor  
1201 North Market Street, Suite 1400  
Wilmington, Delaware

REPORTER: Ted Allen

SOLICITOR: Julia



STEVEN FISHER - VOL. 4

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EXHIBITS

MARKED	DESCRIPTION	PAGE
Dennis-8	Email dated 9/2/05 from Legacy to Ms. Dennis	53
Dennis-9	Email dated 8/31/05 from Ms. Dennis to Legacy	54

(Exhibits marked and attached to transcript.)

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EXHIBITS

MARKED	DESCRIPTION	PAGE
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Dennis-2	Email dated 1/9/06 from Legacy to Ms. Dennis	38
Dennis-3	Email dated 9/28/05 from Ms. Dennis to Legacy	41
Dennis-4	Email dated 9/9/05 from Ms. Dennis to Vance Barker	45
Dennis-5	Email dated 9/2/05 from Ms. Dennis to Vance Barker, Legacy	47
Dennis-6	Email dated 9/7/05 from Ms. Dennis to Vance Barker	48
Dennis-7	Email dated 9/7/05 from Ms. Dennis to Legacy	50

1 (It is stipulated and agreed by and between  
 2 counsel for the respective parties that the reading,  
 3 signing, sealing, and filing of the transcript is waived,  
 4 and that all objections, except as to the form of the  
 5 questions, are reserved until the time of the trial.)  
 6 ---  
 7 CONNIE DENNIS was called as a witness, and after  
 8 having been first duly sworn, according to law, was examined  
 9 and testified as follows:  
 10 --- EXAMINATION ---  
 11 BY MR. ANTORCHA:  
 12 Q. Good morning, Ms. Dennis.  
 13 A. Good morning.  
 14 Q. My name is Juan Antorcha. I represent IYC  
 15 and HPC.  
 16 A. Okay.  
 17 Q. If I use the term IYC, do you understand what  
 18 I'm speaking about?  
 19 A. International Yachting Charters?  
 20 Q. That's fine. Ms. Dennis, have you ever been  
 21 deposed before?  
 22 A. No.  
 23 MR. HALMOS: Can I introduce myself on the  
 24 record?  
 25 MR. ANTORCHA: Yes, Peter, go ahead.

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1 lunch break?  
 2 MR. ENGERRAND: Well, it's been an hour or  
 3 so because we came back. Let's go for about  
 4 half an hour and then we'll take our lunch  
 5 break.  
 6 MR. ANTORCHA: Are you fine with that,  
 7 Peter?  
 8 MR. HALMOS: Of course.  
 9 MR. ANTORCHA: Let's go ahead then. Oh,  
 10 wait a minute. I'm sorry, Peter.  
 11 I just want to thank you for your time.  
 12 THE WITNESS: You're welcome. Thank you.  
 13 --- EXAMINATION ---  
 14 BY MR. HALMOS:  
 15 Q. Ms. Dennis, can you hear me okay?  
 16 A. Yes I can, Mr. Halmos.  
 17 Q. Thank you. If you don't understand my  
 18 question -- and I'm not all that articulate, so I  
 19 apologize for that -- you'll let me know, and I'll see  
 20 if I can clarify.  
 21 A. Yes, I will.  
 22 Q. Just recently while it's kind of fresh in  
 23 your mind, I'm going to ask you about part of an email  
 24 regarding the hit-and-run claim in which there was some  
 25 talk about closing the files because the Wilma damages

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1 occurred.  
 2 A. Correct.  
 3 Q. There was an email sent to you on January the  
 4 8th, 2006, at 11:22 a.m.?  
 5 MR. ANTORCHA: Mr. Halmos, it's Exhibit 2,  
 6 just so the witness can refer to it.  
 7 BY MR. HALMOS:  
 8 Q. If that's the same thing I'm looking at,  
 9 there is a paragraph 3?  
 10 A. Okay.  
 11 Q. And it says you are handling the hit and run,  
 12 Re: Legacy, from 2004. Do you see that paragraph?  
 13 A. Is that on the first page?  
 14 MR. ANTORCHA: Ms. Dennis, it's on the  
 15 third page. Look at the bottom of the email.  
 16 It's numbered 3.  
 17 THE WITNESS: Yes, I see that.  
 18 BY MR. HALMOS:  
 19 Q. And there we talk about that Legacy was going  
 20 to go to Bradford Yard. But then the Wilma damage  
 21 doesn't make a whole lot of sense to go to the Bradford  
 22 Yard when Legacy is aground.  
 23 But could you read the last line of that  
 24 paragraph?  
 25 A. "This fact, however, does not resolve the

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1 claim."  
 2 Q. Thank you. Now, during the time that you  
 3 were involved in adjusting the claims for these various  
 4 matters, did you ever speak to an employee of INA?  
 5 A. I don't recall.  
 6 Q. Do you know anyone employed by INA?  
 7 A. No.  
 8 Q. Have you ever talked to anyone employed by  
 9 INA?  
 10 A. No.  
 11 Q. Do you know Ms. Pamela Harding Forke?  
 12 A. Yes.  
 13 Q. Do you know who employed her?  
 14 A. No.  
 15 Q. Now, while you were adjusting the claims at  
 16 issue here, were you aware of any payments made by INA  
 17 to ACE American?  
 18 A. No.  
 19 Q. Regarding these claims?  
 20 A. No.  
 21 Q. Have you ever heard of the process where INA  
 22 is paying ACE American specifically referring to a  
 23 policy that's being adjusted?  
 24 A. No.  
 25 Q. So for example, if ACE American received a

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1 wire transfer from INA for \$181,000 regarding Legacy's  
 2 tow coverage, you wouldn't know about that?  
 3 A. No.  
 4 Q. Now, when you assigned Mr. Hutcheson as a  
 5 surveyor, were you aware of how he is compensated or  
 6 his company is compensated?  
 7 A. I believe I make his expense payment off my  
 8 file.  
 9 Q. Well, is he paid hourly; is he paid an  
 10 incentive of any kind?  
 11 A. I don't know.  
 12 Q. Who determines that?  
 13 A. I don't know.  
 14 Q. So do you know if Mr. Hutcheson has any  
 15 incentive to reduce scopes of work or repair cost?  
 16 A. I don't know.  
 17 Q. Now, when you were adjusting marine claims,  
 18 did you say that you spent six or seven years in that  
 19 function?  
 20 A. No.  
 21 Q. About how many years did you spend adjusting  
 22 marine claims?  
 23 A. Three or four years.  
 24 Q. Three or four years?  
 25 A. Correct.

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1 Q. And can you estimate just approximately how  
 2 many marine claims you adjusted?  
 3 A. I don't know.  
 4 Q. Was it hundreds?  
 5 A. Sure.  
 6 Q. Is it thousands?  
 7 A. I don't know.  
 8 Q. And the policies that were involved -- for  
 9 example, the IYC policy -- that appears to be a form of  
 10 policy with the name Inamar on it.  
 11 Do you remember anything about the policy?  
 12 A. I'd have to see it.  
 13 Q. Well, when you were adjusting marine claims,  
 14 were there many kinds of policies? Or were these kind  
 15 of a form policy which had pieces of paper inserted  
 16 called endorsements?  
 17 MR. ENGERRAND: Object to the form of the  
 18 question.  
 19 THE WITNESS: I don't remember.  
 20 BY MR. HALMOS:  
 21 Q. You don't remember? Okay. Now, to refresh  
 22 your recollection a little bit, in the IYC policy under  
 23 Law Settlement, there's a sentence that says as  
 24 follows: "The amount we will pay for a total loss  
 25 shall be reduced by the amount paid for repairs of

Page 67

1 prior covered damage not completed at the time of the  
 2 total loss."  
 3 Remember anything about that?  
 4 A. I'd have to see the policy.  
 5 Q. Does anyone have a policy up there?  
 6 MR. ANTORCHA: Peter, I can PS it to John  
 7 Burke during break.  
 8 MR. BURKE: Excuse me. I'll have to step  
 9 out to the computer so I can receive it.  
 10 MR. ANTORCHA: John, I'll forward it to  
 11 you in about five minutes.  
 12 MR. BURKE: Okay. Just let me know when  
 13 so I can step out and print it.  
 14 MR. ANTORCHA: All right.  
 15 BY MR. HALMOS:  
 16 Q. We'll come back to these questions then when  
 17 we have the policy. Have you ever heard of a Michael  
 18 Pennekamp?  
 19 A. Yes.  
 20 Q. I'm sorry. I couldn't hear that.  
 21 A. Yes.  
 22 Q. Yes?  
 23 A. Yes.  
 24 Q. Do you know what involvement he had in the  
 25 claims adjustment process while you were involved?

Page 68

1 A. I don't know.  
 2 Q. Do you know who engaged him?  
 3 A. No.  
 4 Q. And when he was involved, was I supposed to  
 5 take instructions from him or from you?  
 6 MR. ENGERRAND: Object to the form of the  
 7 question.  
 8 BY MR. HALMOS:  
 9 Q. If you remember.  
 10 A. I don't know. I don't recall him being on a  
 11 file of mine.  
 12 Q. When you were adjusting these claims, do you  
 13 recall whether Mr. Hutcheson was obtaining repair  
 14 estimates or I was obtaining repair estimates?  
 15 MR. ENGERRAND: Object to the form of the  
 16 question.  
 17 THE WITNESS: I don't remember.  
 18 BY MR. HALMOS:  
 19 Q. When you assigned Mr. Hutcheson in order for  
 20 me to cooperate pursuant to the policy, was it the  
 21 intent that I cooperate with him?  
 22 MR. ENGERRAND: Object to the form of the  
 23 question.  
 24 THE WITNESS: Yes.  
 25 BY MR. HALMOS:

Page 69

1 Q. And was I to do what he said?  
 2 A. Can you repeat the question?  
 3 Q. Was I to follow Mr. Hutcheson's instructions?  
 4 A. I don't know.  
 5 Q. You mentioned the word "survey." Is there  
 6 only one kind of survey, or are there numerous kinds of  
 7 surveys?  
 8 A. Numerous kinds of surveys.  
 9 Q. Do you remember what they are?  
 10 A. No.  
 11 Q. So when I'm told that there will be a survey,  
 12 that could mean numerous things then, right?  
 13 A. I would have to see where you were told that  
 14 there was a survey. I'd have to see what context it  
 15 was in.  
 16 Q. I'm sorry. Could you talk a little bit  
 17 louder? I apologize.  
 18 A. I'd have to see in what context that was in.  
 19 I'd have to see where you were told that there was a  
 20 survey.  
 21 Q. All right. So if I read you the following in  
 22 context -- "Ted Crosby with ACE Inamar Insurance  
 23 confirmed that he will be doing the survey Monday,  
 24 September 27th, 2004" -- now in that context, would I  
 25 know what's going on?



Page 70

1 A. I would have to see the correspondence.  
 2 Q. Well, that's it.  
 3 A. I don't know what Ted Crosby's involvement  
 4 was. I don't know if he was a underwriting surveyor,  
 5 if he was a claims surveyor, if -- I don't know what  
 6 his involvement was.  
 7 Q. I don't know either. So I'm simply asking  
 8 you, and I'll read it again because that's all I know.  
 9 "Ted Crosby, with ACE Inamar Insurance, confirmed that  
 10 he will be doing the survey Monday, September 27th,  
 11 2004. I don't know who Ted Crosby is. I don't know  
 12 who ACE Inamar is.  
 13 So from that sentence, can you tell me if I'm  
 14 supposed to know what's going on?  
 15 A. No. I'd have to see the paperwork. There  
 16 must be something beforehand or afterwards.  
 17 Q. Yet, what I read you, though, is all that I  
 18 received. Then if you were in my shoes, would you know  
 19 what's going on?  
 20 MR. ENGERRAND: Object to the form of the  
 21 question.  
 22 THE WITNESS: I can't speculate. I'd have  
 23 to know the whole situation.  
 24 BY MR. HALMOS:  
 25 Q. Okay. Have you ever heard of ACE Inamar

Page 71

1 Insurance?  
 2 A. No.  
 3 Q. Okay. (Distortion on the line.)  
 4 MR. ENGERRAND: Mr. Halmos, are you there?  
 5 We lost your --  
 6 MR. ANTORCHA: You're breaking up.  
 7 MR. HALMOS: I'm sorry?  
 8 MR. ANTORCHA: You broke up.  
 9 MR. HALMOS: I'm sorry. I'm just in one  
 10 spot. I'll repeat.  
 11 BY MR. HALMOS:  
 12 Q. Have you ever heard of a valuation review?  
 13 A. No.  
 14 Q. Now, do you remember the incident with  
 15 Mongoose, the Mongoose claim?  
 16 A. Vaguely.  
 17 Q. And do you recall that Mongoose was shoved up  
 18 on the slats, and that's what that Sea Tow contract was  
 19 all about that you referred to?  
 20 A. I don't remember the specifics of where the  
 21 Mongoose was or how her condition was in.  
 22 Q. But you've already answered questions about  
 23 the Sea Tow contract and the Sea Grass replacement and  
 24 all of that, right?  
 25 A. Correct.

Page 72

1 Q. Now, if Sea Tow, in salvaging Mongoose, had  
 2 caused damage to Mongoose, would that damage be covered  
 3 under the Mongoose policy?  
 4 MR. ENGERRAND: Object to the form of the  
 5 question.  
 6 THE WITNESS: It's a hypothetical  
 7 question. I'd have to see the actual damages.  
 8 BY MR. HALMOS:  
 9 Q. I'm sorry. You'd have to see what?  
 10 A. I'd have to see the damages. I'd have to get  
 11 the claim.  
 12 Q. Well, any damage, even a scratch?  
 13 A. I can't speculate on coverage unless there's  
 14 a claim presented.  
 15 Q. But doesn't the policy determine what the  
 16 coverage is?  
 17 A. Correct.  
 18 Q. So you don't need a claim because the policy  
 19 tells you what is coverage?  
 20 A. But we don't do hypothetical questions.  
 21 There has to be a claim submitted and then we review  
 22 coverage.  
 23 Q. And all of the hundreds of thousands of  
 24 marine claims that you adjusted, do you recall any  
 25 instance where damage caused in the salvage operation

Page 73

1 was not a covered claim?  
 2 A. I haven't handled hundreds of thousands of  
 3 rec marine claims.  
 4 Q. Hundreds or thousands? Hundreds, let's leave  
 5 it hundreds.  
 6 A. No, I don't remember.  
 7 Q. (Phone rings.) I'm sorry. This other phone  
 8 is ringing. It will stop in a moment. Referring  
 9 specifically to the Sea Tow contract, do you recall how  
 10 much Sea Tow charged?  
 11 A. No.  
 12 Q. Does \$28,000 ring a bell?  
 13 A. I'd have to see the contract. I don't  
 14 remember.  
 15 MR. ANTORCHA: Hey, Peter, let me  
 16 interrupt you for a second. Ms. Dennis, who is  
 17 sitting to your left?  
 18 THE WITNESS: Mr. Engerrand.  
 19 MR. ANTORCHA: Mr. Engerrand, are you  
 20 tapping Ms. Dennis' foot during any of these  
 21 questions?  
 22 MR. ENGERRAND: Tapping her foot?  
 23 MR. ANTORCHA: Are you touching her foot,  
 24 tapping her foot, or in any way rubbing up  
 25 against her foot?

Page 74

1 MR. ENGERRAND: I will make sure that I'm  
 2 away from her. I haven't been in the middle.  
 3 MR. ANTORCHA: Well, if you were to send  
 4 me a picture of your foot tapping hers, would  
 5 that be incorrect?  
 6 MR. ENGERRAND: I don't know that I've  
 7 been tapping her foot. I assumed there was a  
 8 pillar next to me, so I'll move down.  
 9 MR. ANTORCHA: You tapped her feet; is  
 10 that what you're saying?  
 11 MR. ENGERRAND: I'm moving down. I didn't  
 12 realize I was tapping her foot.  
 13 MR. ANTORCHA: Ms. Dennis?  
 14 THE WITNESS: Yes.  
 15 MR. ANTORCHA: Has he been tapping your  
 16 foot? And you're under oath here.  
 17 THE WITNESS: Yes.  
 18 MR. ANTORCHA: Yes, he has?  
 19 THE WITNESS: Yes. I didn't know it was  
 20 his foot.  
 21 MR. ANTORCHA: That's fine. I didn't ask  
 22 you that. Has he been tapping your foot?  
 23 THE WITNESS: Yes.  
 24 MR. ANTORCHA: Thank you. We're  
 25 concluding this deposition.

Page 75

1 MR. ENGERRAND: Let me ask her --  
 2 MR. ANTORCHA: No, no, Mr. Engerrand.  
 3 Coaching the witness.  
 4 MR. ENGERRAND: I did not --  
 5 MR. ANTORCHA: We're going to seek  
 6 sanctions before Judge Brown.  
 7 MR. ENGERRAND: Did you know I was tapping  
 8 your foot?  
 9 THE WITNESS: I didn't know you were  
 10 tapping my foot.  
 11 MR. ENGERRAND: That's what I wanted to  
 12 make sure she said. We're sitting next to each  
 13 other.  
 14 MR. ANTORCHA: You're under oath right  
 15 now.  
 16 MR. ENGERRAND: Yes, under oath.  
 17 THE WITNESS: I didn't know he knew he was  
 18 tapping my foot.  
 19 MR. ANTORCHA: Your foot's been tapped the  
 20 entire time and you didn't know?  
 21 THE WITNESS: It hasn't been tapped the  
 22 entire time. It was tapped a couple times, and  
 23 I'm assuming he thought it was a pillar or  
 24 something underneath the table. We can't see  
 25 through the table.

Page 76

1 MR. ANTORCHA: Peter, how do you want to  
 2 handle this?  
 3 MR. HALMOS: You decide.  
 4 MR. ENGERRAND: Get the Judge on the  
 5 phone. He can ask anything he wants.  
 6 MR. ANTORCHA: Oh, we're going straight to  
 7 Judge Brown on this one, thank you very much.  
 8 Peter, how do you want to continue? Do you  
 9 want to continue or to seek sanctions before  
 10 Judge Brown?  
 11 MR. HALMOS: I'd like to -- we're off for  
 12 lunch?  
 13 MR. ANTORCHA: Peter, let's talk. We're  
 14 going to take a break for lunch now.  
 15 MR. HALMOS: Yes.  
 16 MR. ANTORCHA: Thank you. We'll need an  
 17 hour for lunch.  
 18 MR. ENGERRAND: Okay.  
 19 MR. ANTORCHA: Thank you.  
 20 (Break held off the record.)  
 21 --- EXAMINATION ---  
 22 BY MR. ANTORCHA:  
 23 Q. Ms. Dennis?  
 24 A. Yes.  
 25 Q. I have a few more questions to ask you

Page 77

1 regarding what just happened. How many times during  
 2 your deposition did Mr. Engerrand tap your foot?  
 3 A. I don't know.  
 4 Q. That's a good answer. Guesstimate.  
 5 A. A few. I don't know.  
 6 Q. Oh. A few like five? A few like three?  
 7 A. I don't know. I wasn't paying attention.  
 8 Q. Well, how many do you think it was?  
 9 A. I don't know.  
 10 Q. Was it five?  
 11 A. I don't know.  
 12 Q. You don't know? Good.  
 13 A. I wasn't paying attention. I was trying to  
 14 pay attention to the questions being asked.  
 15 Q. I totally understand. During your lunch  
 16 break, did you have any conversations with Mr. Roth,  
 17 Mr. Engerrand or any other attorney there?  
 18 A. No.  
 19 Q. You went to lunch on your own?  
 20 A. Yeah. Well, I went with Mr. Engerrand, but  
 21 we were just walking down to get a water. I wasn't  
 22 sure where the cafe was.  
 23 Q. You did not speak regarding what just  
 24 occurred?  
 25 A. Can you repeat the question?

CERTIFICATE

I, Ted Allen, Certified Reporter, Notary Public for the State of Delaware, do hereby certify that CONNIE DENNIS was first duly sworn to testify to the whole truth, and that the above deposition was recorded stenographically by me and was transcribed by means of computer-aided transcription under my personal direction, and that the said deposition constitutes a true record of the testimony given by said witness.

I further certify that I am not a relative or employee or attorney of any of the parties, or a relative or employee of such attorney, or financially interested directly or indirectly in this action.

TED ALLEN, CERTIFIED REPORTER, NOTARY PUBLIC MY COMMISSION EXPIRES 2/22/2012

1 Q. Did you speak about what just happened?  
2 A. No.  
3 MR. ANTORCHA: Burke, are you there?  
4 MR. BURKE: Yes, I am.  
5 MR. ANTORCHA: Can you please put on the  
6 record what you saw.  
7 MR. BURKE: I heard a tap and I saw a  
8 little -- it was pretty quiet in here. And I  
9 looked down, and I saw her lawyer's foot almost  
10 on top of hers. And what made it odd was she  
11 didn't move away. And as I continued to watch,  
12 it happened twice, so I let you know.  
13 MR. ANTORCHA: Was that during my direct  
14 or Mr. Halmos' direct?  
15 MR. BURKE: No. I had just moved chairs  
16 right before Peter started asking questions,  
17 which sat me right in front of them.  
18 MR. ANTORCHA: So it was just during  
19 Mr. Halmos' direct?  
20 MR. BURKE: Yes, as far as I know.  
21 MR. ANTORCHA: Thank you. We are  
22 terminating this deposition. We'll be seeking  
23 sanctions before Judge Brown.  
24 Mr. Reporter, can I please have an  
25 expedited copy of this transcript?

1 THE COURT REPORTER: Due Thursday?  
2 MR. ANTORCHA: As soon as possible.  
3 THE COURT REPORTER: Okay.  
4 MR. ANTORCHA: Thank you for your time.  
5 --- EXAMINATION ---  
6 BY MR. ENGERRAND:  
7 Q. My question would be to you; my foot was on  
8 top of yours?  
9 A. I don't remember.  
10 Q. I think you said it was on top. I mean, is  
11 this like a tap, or is this like my foot was sitting on  
12 top of your foot?  
13 A. Honestly, I don't remember. I figured he  
14 was -- I don't know.  
15 MR. ANTORCHA: We are terminating this  
16 deposition. Thank you very much, guys.  
17 ---  
18 (Witness excused.)  
19 (Deposition concluded at 12:48 p.m.)  
20 (Transcripts ordered by Juan Antorcha, Kenneth G.  
21 Engerrand and John F. Roth.)  
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**EXHIBIT "B"**

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION

PETER HALMOS, INTERNATIONAL )  
YACHTING CHARTERS, INC. and )  
HIGH PLAINS CAPITAL )

Plaintiffs, )

vs. )

INSURANCE COMPANY OF NORTH )  
AMERICA and STRICKLAND MAIN )  
INSURANCE, INC., )

Defendants. )

CA No. 08-10084-CIV  
MARTINEZ-BROWN

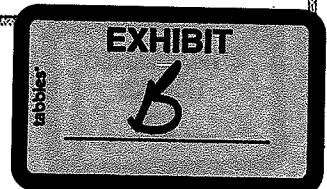
\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF  
CAPTAIN ED COLLINS

June 1, 2009

\*\*\*\*\*

THE ORAL AND VIDEOTAPED DEPOSITION OF  
CAPTAIN ED COLLINS, produced as a witness in the  
instance of the Defendant, and duly sworn, was taken  
in the above-styled and numbered cause on the 1st  
day of June, 2009, from 9:30 p.m. to the 2nd day of  
June, 2009, at 12:39 a.m. before Alan J. Levine, a  
court reporter and notary public in the State of  
Florida, reported by machine shorthand, at One  
Duval Street, Barbados Room, Key West, Florida,  
pursuant to the Federal Rules of Civil Procedures  
and the provisions stated on the record or attached.



A P P E A R A N C E S

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FOR THE PLAINTIFFS:

Mr. Peter Halmos, pro se  
1824 Flagler Avenue  
Key West, Florida 33040

Mr. John F. Easton - (Via Phone)  
Pillsbury, Winthrop, Shaw, Pittman  
909 Fannin, Suite 2000  
Houston, Texas 77010

FOR THE DEFENDANT INSURANCE COMPANY OF NORTH AMERICA:

Mr. Kenneth Engerrand  
Ms. Zascha Blanco Abbott  
BROWN SIMS, P.C.  
1177 West Loop South  
Tenth Floor  
Houston, Texas 77027

FOR THE DEFENDANT STRICKLAND MAIN INSURANCE, INC.:

Mr. Scott A. Bassman - (Via Phone)  
Ms. Dara Jebrock  
Cole Scott & Kissane, P.A.  
9150 South Dadeland Boulevard  
Suite 1400  
Miami, Florida 33156

THE VIDEOGRAPHER:

Mr. Alex Ayala

1 MR. HALMOS: No, no. You can't say  
2 that. You can't say that because that wasn't the  
3 question. That's a misleading, leading question.

4 MR. ENGERRAND: Now, who is --

5 MR. HALMOS: I object. I object to  
6 that.

7 MR. ENGERRAND: You can object but --  
8 all you say is, "I object."

9 MR. HALMOS: No, no. That was --

10 MR. ENGERRAND: You're not allowed to  
11 give speaking objections.

12 MR. HALMOS: Well, I'm going to  
13 speak. I am going to speak --

14 MR. ENGERRAND: You're not allowed to.

15 MR. HALMOS: -- because you loaded the  
16 question with a -- information that he did not  
17 answer. You said he said something that he didn't  
18 say. You got to listen. He's tired. He's tired.  
19 He loaded the question. That wasn't the  
20 question.

21 THE WITNESS: Right.

22 MR. HALMOS: We're out of here.

23 Okay. That's it.

24 MR. ENGERRAND: No, we're not. Now --

25 MR. HALMOS: Ed --

1 MR. ENGERRAND: No.

2 MR. HALMOS: -- we're out of here.

3 MR. ENGERRAND: You don't get to  
4 do that --

5 MR. HALMOS: Well, I'm telling you  
6 we're doing it.

7 MR. ENGERRAND: -- use speaking  
8 objections. Your checks --

9 MR. HALMOS: I'm telling you --

10 MR. ENGERRAND: -- the checks he  
11 sent to you were --

12 MR. HALMOS: He's tired and you're not  
13 asking straight questions. You go to the Judge.

14 I'd like a copy of the transcript  
15 expedited. I'd like a copy of the tape  
16 expedited.

17 Mr. Easton, are you in agreement that  
18 that was a loaded trick question at midnight, when  
19 this man has been saying he's tired and he wants a  
20 lawyer?

21 MR. ENGERRAND: This is a great way to  
22 end the deposition --

23 MR. HALMOS: That's right.

24 MR. ENGERRAND: -- after you cut in  
25 front, ask your questions and take him and leave.



1 MR. HALMOS: Let's go. Let's go.

2 MR. BASSMAN: Well, I object --

3 MR. HALMOS: You should ask a proper  
4 question.

5 MR. ENGERRAND: I did.

6 MR. HALMOS: You didn't --

7 MR. BASSMAN: Mr. Halmos, you had an  
8 opportunity to --

9 MR. HALMOS: All right. We'll do it  
10 again when the man has his own lawyer.

11 MR. BASSMAN: -- you asked a line of  
12 questions.

13 MR. HALMOS: Okay.

14 MR. BASSMAN: You took a lot of  
15 time asking questions.

16 MR. HALMOS: Because of the  
17 questions you guys asked, he needs a lawyer.

18 MR. BASSMAN: This is your --

19 MR. HALMOS: He'll be back for you to  
20 do it again when he has a lawyer. We're not going  
21 to have these kind of trick questions at midnight  
22 when the man is tired. Let's go. That's it.

23 THE WITNESS: Good night.

24 MR. HALMOS: Enough of this.

25 THE VIDEOGRAPHER: Time off the

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IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION

PETER HALMOS, INTERNATIONAL )  
YACHTING CHARTERS, INC. and )  
HIGH PLAINS CAPITAL )  
 )  
Plaintiffs, )

) CA No. 08-10084-CIV

vs. )

) MARTINEZ-BROWN

INSURANCE COMPANY OF NORTH )  
AMERICA and STRICKLAND MAIN )  
INSURANCE, INC., )  
 )  
Defendants. )

REPORTER'S CERTIFICATION  
DEPOSITION OF CAPTAIN ED COLLINS  
TAKEN ON JUNE 1, 2009

I, Alan J. Levine, a shorthand reporter, hereby  
certify to the following:

1 That the witness, Captain Ed Collins, was duly  
2 sworn by the officer and that the transcript of the  
3 oral deposition is a true record of the testimony  
4 given by the witness;

5 That the deposition transcript was submitted on  
6 \_\_\_\_\_, 2009, to the witness or to the  
7 attorney for the witness for examination, signature  
8 and return to me by \_\_\_\_\_, 2009;

9  
10 That the amount of time used by each party at  
11 the deposition is as follows:

12 Mr. Kenneth Engerrand - 1:55

13 Mr. John F. Easton - :02

14 Mr. Peter Halmos - :28

15 Mr. Scott A. Bassman - :22

16 Mr. John F. Easton and Mr. Peter Halmos, pro se

17 Attorneys for the Plaintiff.

18 Mr. Kenneth G. Engerrand, Ms. Zascha Blanco

19 Abbott, Mr. Scott A. Bassman, Ms. Dara

20 Jebrock.

21 I further certify that I am neither counsel  
22 for, related to, nor employed by any of the parties  
23 or attorneys in the action in which this proceeding  
24 was taken, and further that I am not financially  
25 interested in the outcome of the action.

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Further certification requirements pursuant  
to Rule 30(f) will be certified to after they  
have occurred.

Certified to by me this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

---

Alan J. Levine, Court Reporter  
Notary Public - State of Florida  
Commission No. DD 576685  
Expires: October 11, 2010  
Continental Court Reporters, Inc.  
2777 Allen Parkway, Suite 600  
Houston, Texas, 77019-2166  
(713) 522-5080

**EXHIBIT "C"**

**EXHIBIT “C-1”**

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION

**ORIGINAL**

CASE NO.: 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL :  
YACHTING CHARTERS, INC. and :  
HIGH PLAINS CAPITAL, :

Plaintiffs, :

vs. :

INSURANCE COMPANY OF NORTH AMERICA :  
and STRICKLAND MARINE INSURANCE, INC. :  
(f/k/a STRICKLAND MARINE AGENCY, INC.), :

Defendants. :

Videotaped Sworn Statement of DAVID PAUL HORAN,  
at 608 Whitehead Street, Key West, Florida, on the  
18th day of March 2010, at approximately 9:19 a.m., as  
reported by Gloria Seelig, Court Reporter and Notary  
Public, State of Florida at Large.

COURT REPORTERS OF KEY WEST  
302 SOUTHARD STREET, SUITE 107  
KEY WEST, FLORIDA 33040  
PHONE 305-292-3920 FAX 305-743-0801

A P P E A R A N C E S:

DAVID PAUL HORN, ESQUIRE  
Horan, Wallace & Higgins, LLP  
608 Whitehead Street  
Key West, FL 33040  
On Behalf of Defendant Insurance Company of  
North America

Also present: Kenneth H. Stern, CCVS

- - -

E X H I B I T S

Defendant's Exhibits For I.D.,

A:	E-mail dated February 22, 2010 -	Page 3
B:	Notice of deposition of John Coffin -	Page 4
C:	Re-Notice of deposition of John Coffin -	Page 4
D:	Subpoena for deposition of John Coffin -	Page 4
E:	E-mail dated March 17, 2010 -	Page 4

- - -



1 THE VIDEOGRAPHER: We're back on the video  
2 record.

3 DAVID PAUL HORN,  
4 acknowledged having been duly sworn to tell the truth  
5 and testified upon his oath as follows:

6 MR. HORAN: I do.

7 My name is David Paul Horan. I'm one of the  
8 attorneys for Insurance Company Of North America.

9 We were all ready to take the deposition of Mr.  
10 John Coffin in this matter today. Mr. Coffin and  
11 Coffin Marine Salvage is a, is a, someone who has  
12 received over \$212,000 and we haven't done a final  
13 calculation with regard to the work on the motor  
14 vessel "Legacy" owned by International Yacht Charters.

15 We have a confirmation from the plaintiffs'  
16 attorneys. The plaintiffs being Peter Halmos,  
17 International Yacht Charters, and High Plains Capital.

18 Mr. Juan Carlos Antorcha is an attorney with the  
19 Rasco, Klock, Reininger law firm in Miami, and I have  
20 a document which I'm going to mark as Exhibit A which  
21 is a February 22nd, 2010 e-mail providing the  
22 defendants with deposition dates and it says, Robert:  
23 Open dates for the depositions are as follows. And it  
24 goes through, Captain Ed Collins, Nick Halmos, and  
25 John Coffin. And for John Coffin it says, Any day is

1 good except for March 16th. Will produce witness.

2 Then I'm, for Exhibit B I have a notice that was  
3 sent to all the attorneys in the case, and there are  
4 quite a few, and that notice is dated March 8th, 2010  
5 and it confirms that John Coffin's deposition would be  
6 taken at 9 a.m. on March 18th and it was going to be  
7 in Miami at the Rasco, Klock, Reininger firm. That  
8 was an agreed date with the plaintiffs' attorneys.

9 My next which will be Exhibit C is INA or  
10 Insurance Company Of North America's re-notice of the  
11 oral and videotaped deposition. It's dated March  
12 15th, 2010 and it confirms that the deposition will go  
13 forward but that the deposition will be taken here  
14 today at this time here in Key West at my law firm at  
15 608 Whitehead Street.

16 My next document which would be Exhibit D is the  
17 subpoena for deposition duces tecum that was served on  
18 Mr. Coffin and it is dated March 18th, and it shows a  
19 returnable here at this firm for today.

20 And finally, I received a call from Ms. Donna  
21 Coffin, the wife of John Coffin, and I received it on  
22 Wednesday, March 17th, which is yesterday, at  
23 approximately two o'clock in the afternoon, and what  
24 it says is, Dear David, I am sorry to inform you that  
25 John Coffin will not be able to attend the deposition

1 scheduled for Thursday the 18th of March 2010. We  
2 were served with notice at 5:40 on the 15th. Our work  
3 progress today makes it apparent we will not be able  
4 to attend tomorrow at 9 a.m. This was not enough  
5 notice. Please allow 10 days to two weeks notice in  
6 the future to reschedule the appointment.

7 And then she gave me his e-mail address. She  
8 also informed me on the, in the telephone conference  
9 that he was not contacted by plaintiffs' attorneys and  
10 told about the notices that I've already put in as  
11 exhibits to this deposition. She said that he was  
12 totally surprised and had not been told that he was to  
13 appear and had not even been in contact with him.

14 We prepared for this. These are documents that  
15 we were going to be using for the examination of Mr.  
16 Coffin and there was a considerable amount of time and  
17 effort put into it, including having the court  
18 reporter and the videographer.

19 That's all it is and it is now --

20 THE COURT REPORTER: Do you want to make  
21 that an exhibit?

22 MR. HORAN: I would like to go ahead and  
23 make all of these sequential exhibits for this  
24 deposition. And it's now approximately 9:27 and  
25 something. That's it. Thank you.

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(Defendant's Exhibits A, B, C, D, and E were  
marked for identification.)

(The sworn statement was concluded at  
approximately 9:24 a.m.)

- - -

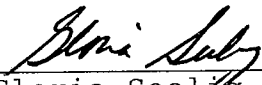
CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF MONROE )

I, Gloria Seelig, Court Reporter, Notary Public, State of Florida, do hereby certify that I was authorized to and did report by stenomask the sworn statement of DAVID PAUL HORAN; that a review of the transcript was not requested; and that the foregoing transcript, pages 1 through 6, is a true record of my stenomask notes.

I further certify that I am not a relative, employee, or attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

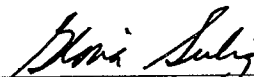
DATED this 18th day of March 2010, at Marathon, Monroe County, Florida.

  
\_\_\_\_\_  
Gloria Seelig, Court Reporter

CERTIFICATE OF OATH

STATE OF FLORIDA )  
COUNTY OF MONROE )

I, Gloria Seelig, Court Reporter, Notary Public, State of Florida, certify that DAVID PAUL HORN personally appeared before me on this 18th day of March 2010 and was duly sworn.

  
\_\_\_\_\_  
Gloria Seelig, Court Reporter  
Notary Public, State of Florida



GLORIA SEELIG  
MY COMMISSION # DD 548773  
EXPIRES: June 12, 2010  
Bonded Thru Budget Notary Services

**EXHIBITS**

1

---

**From:** Juan Carlos Antorcha [mailto:jantorcha@rascoklock.com]  
**Sent:** Monday, February 22, 2010 9:23 AM  
**To:** Robert M. Browning; Scott Bassman  
**Cc:** peter halmos et al.; Joseph Klock; Hugh  
**Subject:** Deposition Dates -- Halmos v. INA

Robert: Open dates for the depositions are as follows:

Captain Ed Collins: Any day is good except for March 16. (Will produce witness)

Nick Halmos: March 22, 29 or 30<sup>th</sup>. (Will produce witness)

John Coffin: Any day is good except for March 16th. (Will produce witness)

Tom Corness: Any day is good except for March 16<sup>th</sup>.

Bill Meyers: Any day is good except for March 16th. (Will produce witness)

Gail Meyers: March 29<sup>th</sup> or 30. The rest of the days have conflicts or will create issues. (Will produce witness)

Lisa Feagans: March 29 or 30. The rest of the days have conflicts or will create issues. (Will produce witness)

Cindy Franzino, Clint Rogers, Brown and Brown, GIS and Deena Griffin: Can't due April 14, 15 or 16.

Please let me know as soon as possible which days you will notice the witnesses for so that we can block off those days. thanks. jc

JC Antorcha, P.A.  
Rasco Klock Reininger  
Perez Esquenazi Vigil & Nieto  
283 Catalonia Avenue  
Coral Gables, Florida 33134  
305.476.7105  
305.476.7102 (fax)  
[jantorcha@rascoklock.com](mailto:jantorcha@rascoklock.com)

**DEFENDANT'S  
EXHIBIT**

A 3/18/10

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION  
Case Number: 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL  
YACHTING CHARTERS, INC. and  
HIGH PLAINS CAPITAL,

*Plaintiffs,*

vs.

INSURANCE COMPANY OF NORTH AMERICA  
and STRICKLAND MARINE INSURANCE, INC.  
(f/k/a STRICKLAND MARINE AGENCY, INC.),

*Defendants.*

RECD MAR 10 RECD  
MARCH 8, 2010

INSURANCE COMPANY OF NORTH AMERICA'S NOTICE OF ORAL AND  
VIDEOTAPED DEPOSITION DUCES TECUM OF JOHN COFFIN

TO:

Hugh J. Morgan  
Law Office of Hugh J. Morgan  
Post Office Box 1117  
Key West, Florida 33041

Spottswood, Spottswood &  
Spottswood  
500 Fleming Street  
Key West, Florida 33040

Thomas A. Campbell  
John F. Easton  
Pillsbury Winthrop Shaw Pittman  
909 Fannin, Suite 2000  
Houston, Texas 77010

Peter Halmos, *pro se*  
c/o Meyers & Associates, C.P.A.  
West Palm Beach, FL 33407

Joseph P. Klock, Esq.  
Juan Carlos Antorcha, Esq.  
Rasco Klock Reininger Perez Esquenazi  
Vigil & Nieto  
283 Catalonia Avenue, Second Floor  
Coral Gables, FL 33134  
Clinton S. Payne  
Pete L. DeMahy  
DeMahy Labrador Drake Payne & Cabeza  
Alhambra Center - Penthouse  
150 Alhambra Circle  
Coral Gables, Florida 33134

Scott A. Bassman  
Cole, Scott & Kissane, P.A.  
Dadeland Centre II, Ste 1400  
9150 South Dadeland Blvd  
Miami, Florida 33156

David Paul Horan  
Horan, Wallace & Higgins, LLP  
608 Whitehead Street  
Key West, Florida 3304

**DEFENDANT'S  
EXHIBIT**  
B 3/18/10



PLEASE TAKE NOTICE that Defendant Insurance Company of North America hereby notices the oral and videotaped deposition duces tecum of the person or persons named below, at the time, date, hour, and place indicated.

NAME: John Coffin  
DATE: March 18, 2010  
TIME: 9:00 a.m. (until the date and time the deposition is completed)  
Location: Rasco Klock Reininger Perez Esquenazi Vigil & Nieto  
283 Catalonia Avenue  
Second Floor  
Coral Gables, FL 33134

Upon oral examination before **Jeannie Reporting, Inc.**, or any other Notary Public or officer authorized by law to take depositions in the State of Florida. The oral examination will continue from day to day until completed. The deposition is being taken for the purpose of discovery, for use at trial or for such other purposes as are permitted under the Rules of Court, including the applicable Rules of Civil Procedure. You are hereby notified to be present at the time and place stated, and deponent is requested to bring to the deposition the items/documents that would relate to any of the areas listed on attached Exhibit "A"

**In accordance with the Americans with Disabilities Act of 1990, persons in need of a special accommodation to participate in this proceeding shall, no later than seven days prior to the proceeding, contact the undersigned.**

**EXHIBIT "A"**  
**INSTRUCTIONS**

1. In producing the requested documents, you are required to furnish all documents within your possession, custody or control or any of your agents', employees', representatives' or investigators' possession, custody or control,
2. With respect to any document responsive to these requests that you contend you are not required to produce because of claim of privilege consistent with Federal Rules of Civil Procedure 26(a)(5) you must provide a "privilege log", as follows:
  - (a) Describe the nature of the documents, communications or tangible things not produced or disclosed and do so in a manner that without revealing information itself privileged or protected will enable other parties to assess the claim;
  - (b) The identify of each person known, to you to have seen the item;
  - (c) The nature of the privilege or exemption you claim applies and the reason you invoke it;
  - (d) Give the date of each such document; and
  - (e) Identify each person who wrote, signed, initialed, dictated, or otherwise participated in the creation of the document, describing their affiliation, if any, to any of the parties in this lawsuit and also identify each person who received a copy of the document and their affiliation, if any, to any of the parties in this lawsuit.
3. Except where otherwise noted, the relevant time frame for these requests is 1995 to the present.
4. If you believe that a document request is ambiguous or admits to two interpretations, the document request shall be construed reasonably to call for the more inclusive set of documents.
5. The singular form of a word shall also be interpreted as plural and plural form of a word shall also be interpreted as singular whenever appropriate in order to bring within the scope of these requests any document that might otherwise be considered to be beyond their scope.
6. Whenever a document or group of documents is taken out of a file folder, file drawer, file box, or notebook, before the same is produced, please attach thereto a copy of the label on the file folder, file drawer, file box or notebook from which the document or group of documents was removed and a copy of both hides of the jacket, front and back.

**DOCUMENTS TO BE PRODUCED**

1. Any and all papers, notes, books, accounts, invoices, writings, drawings, graphs, charts, photographs, contracts, agreements, expert reports, articles, emails, electronic or digital records, phone records, recordings (audio, video and digital), and all other information, data and data compilations prepared on behalf of, directed to or received from Peter Halmos, International Yachting Charters, Inc. and/or High Plains Capital, their agents, employees and entities acting in a representative capacity with respect to the S/Y LEGACY and/or the M/V MONGOOSE.
2. The entire file and any and all documents related to the services performed by you and/or Coffin Marine Services, Inc. with respect to the S/Y LEGACY.
3. The entire file and any and all documents related to the services performed by you and/or Coffin Marine Services, Inc. with respect to the M/V MONGOOSE.
4. Any and all documents related to any remediation work performed by you and/or Coffin Marine Services, Inc. for Peter Halmos and/or International Yachting Charters, Inc. their agents, employees and entities acting in a representative capacity with respect to the S/Y LEGACY.
5. Any and all documents reflecting work performed for purposes of any hurricane preparation in relation to the S/Y LEGACY and/or the MV/MONGOOSE.
6. Any and all papers, notes, books, accounts, invoices, writings, drawings, graphs, charts, photographs, contracts, agreements, expert reports, articles, emails, electronic or digital records, phone records, recordings (audio, video and digital), and all other information, data and data compilations regarding communications with Ron Milardo with respect to the services performed for International Yachting Charters, Inc. or Peter Halmos.
7. Any and all papers, notes, books, accounts, invoices, writings, drawings, graphs, charts, photographs, contracts, agreements, expert reports, articles, emails, electronic or digital records, phone records, recordings (audio, video and digital), and all other information, data and data compilations regarding requirements imposed by NOAA with respect to services performed by Coffin Marine Services, Inc.
8. Any and all correspondence you forwarded to Peter Halmos, International Yachting Charters, Inc., and/or High Plains Capital their agents, employees and entities acting in a representative capacity or that you received from Peter Halmos, International Yachting Charters, Inc., and/or High Plains Capital their agents, employees and entities acting in a representative capacity.

9. Any and all written information, communications or documents received from Peter Halmos, International Yachting Charters, Ltd., and/or High Plains Capital or anyone acting on their behalf regarding the S/Y LEGACY or the M/V MONGOOSE.

**CERTIFICATE OF SERVICE**

I hereby certify that this 8<sup>th</sup> day of March, 2010, a copy of the foregoing document has been furnished on all counsel and pro se parties identified on the attached Service List in the manner of Service described in the attached Service List.

Respectfully submitted,

**BROWN SIMS, P.C.**

By: 

Frank J. Sioli  
Florida Bar No. 009652  
Zascha Abbott  
Florida Bar No. 0614671  
Datran Two – Suite 1609  
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Telephone: 305.274-5507  
Facsimile: 305.274-5517

*Attorneys for Defendant  
Insurance Company of North  
America*

OF COUNSEL:

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P. Michael Bowdoin  
Michael A. Varner  
BROWN SIMS, P.C.  
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Houston, Texas 77027  
Telephone: 713.629-1580  
Facsimile: 713.629-5027

cc: Jeannie Reporting, Inc.

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[john.easton@pillsburylaw.com](mailto:john.easton@pillsburylaw.com)  
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(Via U.S. Mail and Certified Mail Return Receipt)

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Facsimile: 305.443-5960  
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(Via Facsimile and U.S. Mail)

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(Via Facsimile and U.S. Mail)

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Second Floor  
Coral Gables, FL 33134  
(305) 476-7100  
(305) 476-7102  
[jklock@rascoklock.com](mailto:jklock@rascoklock.com)  
[jantorcha@rascoklock.com](mailto:jantorcha@rascoklock.com)  
(Via Facsimile and Certified Mail Return Receipt)

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION  
Case Number: 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL  
YACHTING CHARTERS, INC. and  
HIGH PLAINS CAPITAL,

*Plaintiffs,*

vs.

INSURANCE COMPANY OF NORTH AMERICA  
and STRICKLAND MARINE INSURANCE, INC.  
(f/k/a STRICKLAND MARINE AGENCY, INC.),

*Defendants.*

MAR 15 2 2010

**INSURANCE COMPANY OF NORTH AMERICA'S RE-NOTICE OF ORAL  
AND VIDEOTAPED DEPOSITION DUCES TECUM OF JOHN COFFIN**

TO:

Hugh J. Morgan  
Law Office of Hugh J. Morgan  
Post Office Box 1117  
Key West, Florida 33041

Spottswood, Spottswood &  
Spottswood  
500 Fleming Street  
Key West, Florida 33040

Thomas A. Campbell  
John F. Easton  
Pillsbury Winthrop Shaw Pittman  
909 Fannin, Suite 2000  
Houston, Texas 77010

Peter Halmos, *pro se*  
c/o Meyers & Associates, C.P.A.  
West Palm Beach, FL 33407

Joseph P. Klock, Esq.  
Juan Carlos Antorcha, Esq.  
Rasco Klock Reininger Perez Esquenazi  
Vigil & Nieto  
283 Catalonia Avenue, Second Floor  
Coral Gables, FL 33134  
Clinton S. Payne  
Pete L. DeMahy  
DeMahy Labrador Drake Payne & Cabeza  
Alhambra Center – Penthouse  
150 Alhambra Circle  
Coral Gables, Florida 33134

Scott A. Bassman  
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Dadeland Centre II, Ste 1400  
9150 South Dadeland Blvd  
Miami, Florida 33156

David Paul Horan  
Horan, Wallace & Higgins, LLP  
608 Whitehead Street  
Key West, Florida 3304

**DEFENDANT'S  
EXHIBIT**  
C 3/18/10

PLEASE TAKE NOTICE that Defendant Insurance Company of North America hereby re-notices the oral and videotaped deposition duces tecum of the person or persons named below, at the time, date, hour, and place indicated.

NAME: John Coffin

DATE: March 18, 2010

TIME: 9:00 a.m. (until the date and time the deposition is completed)

Location: Horan, Wallace & Higgins, LLP  
608 Whitehead Street  
Key West, FL 33040

Upon oral examination before **Jeannie Reporting, Inc.**, or any other Notary Public or officer authorized by law to take depositions in the State of Florida. The oral examination will continue from day to day until completed. The deposition is being taken for the purpose of discovery, for use at trial or for such other purposes as are permitted under the Rules of Court, including the applicable Rules of Civil Procedure. You are hereby notified to be present at the time and place stated, and deponent is requested to bring to the deposition the items/documents that would relate to any of the areas listed on attached Exhibit "A" of the attached subpoena for Deposition Duces Tecum.

**In accordance with the Americans with Disabilities Act of 1990, persons in need of a special accommodation to participate in this proceeding shall, no later than seven days prior to the proceeding, contact the undersigned.**

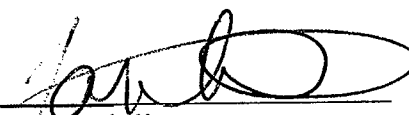


**CERTIFICATE OF SERVICE**

I hereby certify that this 15<sup>th</sup> day of March, 2010, a copy of the foregoing document has been furnished on all counsel and pro se parties identified on the attached Service List in the manner of Service described in the attached Service List.

Respectfully submitted,

**BROWN SIMS, P.C.**

By: 

Frank J. Sioli  
Florida Bar No. 009652  
Zascha Abbott  
Florida Bar No. 0614671  
Datran Two – Suite 1609  
9130 South Dadeland  
Boulevard  
Miami, Florida 33156-7851  
Telephone: 305.274-5507  
Facsimile: 305.274-5517

*Attorneys for Defendant  
Insurance Company of North  
America*

**OF COUNSEL:**

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P. Michael Bowdoin  
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Houston, Texas 77027  
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Facsimile: 713.629-5027

cc: Jeannie Reporting, Inc.

**SERVICE LIST**

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Law Office of Hugh J. Morgan  
Post Office Box 1117  
Key West, Florida 33041  
Telephone: 305.296-5676  
Facsimile: 305.296-4331  
[hugh@hjmorganlaw.com](mailto:hugh@hjmorganlaw.com)  
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Mr. Jack Spottswood  
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500 Fleming Street  
Key West, Florida 33040  
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Mr. Thomas A. Campbell  
Mr. John F. Easton  
Pillsbury Winthrop Shaw Pittman  
909 Fannin, Suite 2000  
Houston, Texas 77010  
Telephone: 713.276-7676  
Facsimile: 281.582-6033  
[tom.campbell@pillsburylaw.com](mailto:tom.campbell@pillsburylaw.com)  
[john.easton@pillsburylaw.com](mailto:john.easton@pillsburylaw.com)  
(Via Facsimile and Certified Mail Return Receipt)

Peter Halmos, *Pro Se*  
c/o Meyers & Associates, C.P.A.  
5725 Corporate Way, #101  
West Palm Beach, FL 33407  
(Via U.S. Mail and Certified Mail Return Receipt)

Mr. Scott A. Bassman  
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Dadeland Centre II, Ste 1400  
9150 South Dadeland Blvd  
Miami, Florida 33156  
Telephone: 305.350-5303

Facsimile: 305.373-2294  
[scott.bassman@csklegal.com](mailto:scott.bassman@csklegal.com)  
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Mr. Clinton S. Payne  
Mr. Pete L. DeMahy  
DeMahy Labrador Drake Payne & Cabeza  
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150 Alhambra Circle  
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Telephone: 305.443-4850  
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[cpayne@dldlawyers.com](mailto:cpayne@dldlawyers.com)  
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(Via Facsimile and U.S. Mail)

Mr. David Paul Horan  
Horan, Wallace & Higgins, LLP  
608 Whitehead Street  
Key West, Florida 33040  
Telephone: 305.294-4585  
Facsimile: 305.294-7822  
[dph@horan-wallace.com](mailto:dph@horan-wallace.com)  
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Mr. Joseph P. Klock, Esq.  
Juan Carlos Antorcha, Esq.  
Rasco Klock Reininger Perez Esquenazi Vigil & Nieto  
283 Catalonia Avenue  
Second Floor  
Coral Gables, FL 33134  
(305) 476-7100  
(305) 476-7102  
[jklock@rascoklock.com](mailto:jklock@rascoklock.com)  
[jantorcha@rascoklock.com](mailto:jantorcha@rascoklock.com)  
(Via Facsimile, E-Mail and Certified Mail Return Receipt)

# United States District Court

FOR THE SOUTHERN DISTRICT OF FLORIDA

Peter Halmos c/o Meyers & Associates, C.P.A.,  
Individually and on behalf of Other Insureds Under  
and Pursuant to ACE-INA Insurance Contract,  
International Yatching Charters, Inc., High Plains  
Capital,

## SUBPOENA FOR DEPOSITION DUCES TECUM IN A CIVIL CASE

vs.

Insurance Company of North America,

CASE NUMBER: 08-10084-CIV-BROWN  
(Pending in the Southern District of Florida, Key  
West Division)

TO: John Coffin  
Coffin Marine Services, Inc.  
29404 Louise Street  
Big Pine Key, FL 33043

YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION <b>Horan, Wallace &amp; Higgins, LLP 608 Whitehead Street Key West, FL 33040</b>	DATE AND TIME March 18, 2010 at 9:00 AM
---	--

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

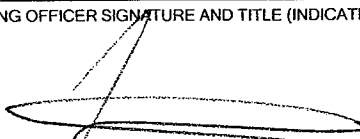
Any and all records as described on the attached Exhibit 'A'.

PLACE <b>Horan, Wallace &amp; Higgins, LLP 608 Whitehead Street Key West, FL 33040</b>	DATE AND TIME March 18, 2010 at 9:00 AM
---	--

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b) (6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for Defendant	DATE March 15, 2010
--	------------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  
**Frank J. Sioli  
Zascha Abbott  
Brown Sims, P.C.  
9130 S. Dadeland Blvd., Suite 1609, Miami, FL 33156 (305) 274-5507**

**DEFENDANT'S  
EXHIBIT**  
D 3/18/10

**54**  
**PROOF OF SERVICE**

DATE PLACE

<b>SERVED</b>	
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_ DATE SIGNATURE OF SERVER \_\_\_\_\_

ADDRESS OF SERVER  
\_\_\_\_\_  
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\_\_\_\_\_

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel the production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clauses (c) (3) (B) (iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (iii) requires disclosure of privileged or other protected matter and not exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of an party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**EXHIBIT "A"**  
**INSTRUCTIONS**

1. In producing the requested documents, you are required to furnish all documents within your possession, custody or control or any of your agents', employees', representatives' or investigators' possession, custody or control,
2. With respect to any document responsive to these requests that you contend you are not required to produce because of claim of privilege consistent with Federal Rules of Civil Procedure 26(a)(5) you must provide a "privilege log", as follows:
  - (a) Describe the nature of the documents, communications or tangible things not produced or disclosed and do so in a manner that without revealing information itself privileged or protected will enable other parties to assess the claim;
  - (b) The identify of each person known, to you to have seen the item;
  - (c) The nature of the privilege or exemption you claim applies and the reason you invoke it;
  - (d) Give the date of each such document; and
  - (e) Identify each person who wrote, signed, initialed, dictated, or otherwise participated in the creation of the document, describing their affiliation, if any, to any of the parties in this lawsuit and also identify each person who received a copy of the document and their affiliation, if any, to any of the parties in this lawsuit.
3. Except where otherwise noted, the relevant time frame for these requests is 1995 to the present.
4. If you believe that a document request is ambiguous or admits to two interpretations, the document request shall be construed reasonably to call for the more inclusive set of documents.
5. The singular form of a word shall also be interpreted as plural and plural form of a word shall also be interpreted as singular whenever appropriate in order to bring within the scope of these requests any document that might otherwise be considered to be beyond their scope.
6. Whenever a document or group of documents is taken out of a file folder, file drawer, file box, or notebook, before the same is produced, please attach thereto a copy of the label on the file folder, file drawer, file box or notebook from which the document or group of documents was removed and a copy of both hides of the jacket, front and back.

**DOCUMENTS TO BE PRODUCED**

1. Any and all papers, notes, books, accounts, invoices, writings, drawings, graphs, charts, photographs, contracts, agreements, expert reports, articles, emails, electronic or digital records, phone records, recordings (audio, video and digital), and all other information, data and data compilations prepared on behalf of, directed to or received from Peter Halmos, International Yachting Charters, Inc. and/or High Plains Capital, their agents, employees and entities acting in a representative capacity with respect to the S/Y LEGACY and/or the M/V MONGOOSE.
2. The entire file and any and all documents related to the services performed by you and/or Coffin Marine Services, Inc. with respect to the S/Y LEGACY.
3. The entire file and any and all documents related to the services performed by you and/or Coffin Marine Services, Inc. with respect to the M/V MONGOOSE.
4. Any and all documents related to any remediation work performed by you and/or Coffin Marine Services, Inc. for Peter Halmos and/or International Yachting Charters, Inc. their agents, employees and entities acting in a representative capacity with respect to the S/Y LEGACY.
5. Any and all documents reflecting work performed for purposes of any hurricane preparation in relation to the S/Y LEGACY and/or the MV/MONGOOSE.
6. Any and all papers, notes, books, accounts, invoices, writings, drawings, graphs, charts, photographs, contracts, agreements, expert reports, articles, emails, electronic or digital records, phone records, recordings (audio, video and digital), and all other information, data and data compilations regarding communications with Ron Milardo with respect to the services performed for International Yachting Charters, Inc. or Peter Halmos.
7. Any and all papers, notes, books, accounts, invoices, writings, drawings, graphs, charts, photographs, contracts, agreements, expert reports, articles, emails, electronic or digital records, phone records, recordings (audio, video and digital), and all other information, data and data compilations regarding requirements imposed by NOAA with respect to services performed by Coffin Marine Services, Inc.
8. Any and all correspondence you forwarded to Peter Halmos, International Yachting Charters, Inc., and/or High Plains Capital their agents, employees and entities acting in a representative capacity or that you received from Peter Halmos, International Yachting Charters, Inc., and/or High Plains Capital their agents, employees and entities acting in a representative capacity.

9. Any and all written information, communications or documents received from Peter Halmos, International Yachting Charters, Ltd., and/or High Plains Capital or anyone acting on their behalf regarding the S/Y LEGACY or the M/V MONGOOSE.



**Karen Horan**

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**From:** RedHeron@aol.com  
**Sent:** Wednesday, March 17, 2010 2:23 PM  
**To:** dph@horan-wallace.com; coffinjohn@aol.com  
**Subject:** for John Coffin

Dear David Horan,

March 17th, 2010 - 2:17pm

I am sorry to inform you that John Coffin will not be able to attend the deposition scheduled for Thurs the 18th of March, 2010. We were served with notice at 5:40 pm on the 15th. Our work progress today makes it apparent we will not be able to attend tomorrow at 9am. This was not enough notice. Please allow 10 days to 2 weeks notice in the future to reschedule this appointment. John's e-mail is [coffinjohn@aol.com](mailto:coffinjohn@aol.com) for further comments. Thank you, Donna Coffin for John Coffin / Coffin Marine Services Inc.

**DEFENDANT'S  
EXHIBIT**

E 3/18/10

3/17/2010

**EXHIBIT "C-2"**

1 UNITED STATES DISTRICT COURT.  
SOUTHERN DISTRICT OF FLORIDA  
2  
3 KEY WEST DIVISION  
CASE NO: 08-10084-CIV-BROWN

4 PETER HALMOS, INTERNATIONAL YACHTING  
5 CHARTERS, INC., and HIGH PLAINS CAPITAL,

6 Plaintiff,

7 vs.

8 INSURANCE COMPANY OF NORTH AMERICA and  
9 STRICKLAND MARINE INSURANCE, INC., (f/k/a  
STRICKLAND MARINE AGENCY, INC.),

10 Defendant.  
11 -----/

12 Horan, Wallace & Higgins, LLP  
13 608 Whitehead Street  
14 Key West, Florida 33040  
15 Wednesday, 2:00 p.m.  
16 April 21, 2010

17  
18 VIDEOTAPED CNA OF CAPT. ED COLLINS  
19

20  
21 Taken before Jeanette Sanchez, Shorthand  
22 Reporter, Notary Public in and for the State of  
23 Florida at Large, pursuant to Notice of Taking  
24 Deposition filed in the above case.  
25

JEANNIE REPORTING, INC. (305) 577-1705

1 (Thereupon, the following proceedings  
2 were held.)

3 THE VIDEOGRAPHER: Today is  
4 April 21st, 2010. The time is 2:04 and we  
5 are on the record with Mr. David Horan.

6 MR. HORAN: I am the attorney, David  
7 Paul Horan, representing Insurance Company  
8 of North America. This will be a  
9 certificate of nonappearance of a witness.

10 MR. MORGAN: Shouldn't we all put our  
11 appearances.

12 MR. HORAN: Okay.

13 MR. MORGAN: Hugh Morgan representing  
14 High Plains Capital and International  
15 Yachting Charters, plaintiffs.

16 MR. EDEN: Nathan Eden representing  
17 the witness, Christopher E. Collins.

18 MR. HORAN: David Paul Horan  
19 representing Insurance Company of North  
20 America.

21 This will be a Certificate of  
22 Non-Appearance of a witness. I want to put  
23 a couple of exhibits on the record, for the  
24 purpose of this certificate. The first one  
25 is Exhibit 1 for the Collins deposition.

JEANNIE REPORTING, INC. (305) 577-1705

- 1 APPEARANCES:  
2 ON BEHALF OF THE PLAINTIFFS:  
MORGAN & HENDRICK  
3 317 Whitehead Street  
Key West, Florida 33041  
4 BY: Hugh J. Morgan, Esq.  
5 ON BEHALF OF THE DEFENDANT ICNA:  
HORAN, WALLACE & HIGGINS, LLP  
6 608 Whitehead Street  
Key West, Florida 33040  
7 BY: David P. Horan, Esq.  
8 ON BEHALF OF THE WITNESS:  
NATHAN E. EDEN, P.A.  
9 302 Southard Street  
Suite 205  
10 Key West, Florida 33040

11  
12 -----  
13 I N D E X  
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15 EXHIBITS PAGE  
16 Exhibit Nos. 1 - 7 6  
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JEANNIE REPORTING, INC. (305) 577-1705

1 Defendants Exhibit 1 is an e-mail from Juan  
2 Carlos Antorcha to Robert Browning dated  
3 Monday, February 22nd, at 9:23, which the  
4 only part that is really relevant is that  
5 he was giving us open dates for the  
6 deposition and it says, "Captain Ed  
7 Collins: Any day is good except for  
8 March 16th. (Will produce witness.)"

9 The second is a Notice of Videotaped  
10 Deposition for Edward Collins. It is  
11 showing a deposition which was to occur  
12 March 17th, 2010. The notice was given and  
13 it is dated from Frank Sioli on 5, March,  
14 2010.

15 That is Exhibit No. 2.

16 Exhibit No. 3 is a Certificate of  
17 Non-Appearance of Captain Christopher  
18 Collins. That certificate of  
19 non-appearance had to do with a deposition  
20 that was to occur on the, let's see, March,  
21 Wednesday, March 17th, 2010. Mr. Collins  
22 did not appear and the Certificate of  
23 Non-Appearance was originated.

24 That is Exhibit No. 3.

25 Exhibit No. 4 is another notice from

JEANNIE REPORTING, INC. (305) 577-1705

5

1 Insurance Company of North America to  
 2 Nathan Eden dated April 16th, 2010 with  
 3 regard to today's deposition, which was to  
 4 occur starting at 2 o'clock.  
 5 The next one is Exhibit No. 5, which  
 6 is a document which is headed as John R.  
 7 VanTuyl, M.D. It is a document signed by a  
 8 Christina L. Sigler, who is not Dr.  
 9 VanTuyl, but a physician assistant  
 10 apparently with that firm. At least that  
 11 is the letterhead is VanTuyl and then also  
 12 it says Christina Sigler, PA-C. That is  
 13 Exhibit No. 5.  
 14 We have tried to locate Ms. Sigler and  
 15 the only thing we have been able to come up  
 16 with is a Monroe County document showing a  
 17 date of arrest of 2/19/2010 for DUI,  
 18 alcohol or drugs, and that is Exhibit  
 19 No. 6.  
 20 And Exhibit No. 7 is a Motion For  
 21 Protective Order by Mr. Nathan Eden, who is  
 22 here today and that Motion For Protective  
 23 Order is dated the 20th of April 2010.  
 24 Those are the only documents that I  
 25 was going to put of record for this  
**JEANNIE REPORTING, INC. (305) 577-1705**

6

1 Certificate of Nonappearance.  
 2 (Thereupon, Exhibit Nos. 1 - 7 were  
 3 marked for identification.)  
 4 MR. EDEN: If I may ask, do you have a  
 5 copy of the return of service of subpoena  
 6 on my client, Mr. Collins?  
 7 MR. HORAN: No. There was an  
 8 agreement to produce him as long as there  
 9 was -- it was not as of a certain date, and  
 10 we had confirmed that date.  
 11 MR. EDEN: Agreement by whom?  
 12 MR. HORAN: With the Defendant, INA's  
 13 attorney. I don't know which attorney.  
 14 MR. EDEN: Was there --  
 15 MR. HORAN: It is not my deposition.  
 16 I am just putting this on the record.  
 17 MR. EDEN: I understand.  
 18 So, was this agreement to produce Mr.  
 19 Collins done with somebody that was  
 20 representing Mr. Collins?  
 21 MR. HORAN: I am not aware of exactly  
 22 how that was done, but certainly Mr.  
 23 Antorcha in Exhibit No. 1 said --  
 24 MR. EDEN: Who is that?  
 25 MR. HORAN: Juan Carlos Antorcha. He  
**JEANNIE REPORTING, INC. (305) 577-1705**

7

1 is representing the plaintiffs.  
 2 MR. EDEN: Juan --  
 3 MR. HORAN: Juan Carlos.  
 4 MR. EDEN: Juan Carlos.  
 5 MR. HORAN: Here are the documents.  
 6 MR. EDEN: On top?  
 7 MR. MORGAN: I can put on the record  
 8 for clarification that Juan Carlos Antorcha  
 9 is an attorney, who is co-counsel with me  
 10 in this case. J.C. Antorcha represents HPC  
 11 and IYC.  
 12 MR. EDEN: Okay.  
 13 All I can say is, I represent Mr.  
 14 Collins. We were unaware of any agreement  
 15 to produce anyone. Mr. Collins is  
 16 suffering from a medical condition. It is  
 17 outlined in my motion for protective order.  
 18 Hence, he is not here today. I made  
 19 everyone aware of that as soon as I found  
 20 out the extent of his medical condition and  
 21 his unavailability to participate pursuant  
 22 to medical advice.  
 23 MR. HORAN: I don't believe that there  
 24 is anything else we really need to go into.  
 25 The only thing I would observe is that  
**JEANNIE REPORTING, INC. (305) 577-1705**

8

1 the current medications that are shown is  
 2 one, 81-milligram aspirin per day.  
 3 MR. EDEN: What are you talking about?  
 4 MR. HORAN: On the bottom of your  
 5 doctor's excuse, the only medication that  
 6 he is on is .81 milligrams of aspirin per  
 7 day. Nothing else.  
 8 MR. EDEN: You mean that is off a  
 9 document that we furnished you from the  
 10 doctor?  
 11 MR. HORAN: Uh-huh.  
 12 MR. EDEN: Okay.  
 13 MR. HORAN: That is it.  
 14 (Thereupon, the proceedings were  
 15 concluded at 2:11 p.m.)  
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**JEANNIE REPORTING, INC. (305) 577-1705**

1 CERTIFICATE OF SHORTHAND REPORTER

2

3 STATE OF FLORIDA )

4 ) SS.

5 COUNTY OF DADE )

6

7 I, JEANETTE SANCHEZ, Shorthand  
8 Reporter, Notary Public, do hereby certify that I  
9 was authorized to and did stenographically report  
10 the foregoing proceedings and that the transcript  
11 is a true and correct transcription of my stenotype  
12 notes of the proceedings

13

14 Dated this \_\_\_\_\_ day of \_\_\_\_\_,  
15 2010.

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\_\_\_\_\_  
JEANETTE SANCHEZ  
Shorthand Reporter

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**JEANNIE REPORTING, INC. (305) 577-1705**

**EXHIBIT "C-3"**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

KEY WEST DIVISION  
CASE No. 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL YACHTING  
CHARTERS, INC., and HIGH PLAINS CAPITAL,

Plaintiff,

vs.

INSURANCE COMPANY OF NORTH AMERICA

Defendant.

-----/

DEMAHY, LABRADOR, DRAKE,  
PAYNE & CABEZA, P.A.  
Alhambra Center - Penthouse  
150 Alhambra Circle  
Coral Gables, Florida 33134  
Tuesday, 9:00 a.m.  
May 11th, 2010

DEPOSITION OF ALLEN BYRD

Taken before Jeanette Sanchez, Shorthand  
Reporter, Notary Public in and for the State of  
Florida at Large, pursuant to Notice of Taking  
Deposition filed in the above case.



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APPEARANCES:

ON BEHALF OF THE PLAINTIFFS:

Law Office Hugh J. Morgan  
Post Office Box 1117  
Key West, Florida 33041  
BY: Hugh Morgan, Esq.

ON BEHALF OF THE DEFENDANT ICNA:

BROWN SIMS, P.C.  
9130 S. Dadeland Blvd.  
Suite 1609  
Miami, Florida 33156  
BY: Zascha Abbott, Esq.

DEMAHY, LABRADOR, DRAKE, PAYNE & CABEZA, P.A.

Alhambra Center - Penthouse  
150 Alhambra Circle  
Coral Gables, Florida 33134  
BY: Peter DeMahy, Esq.

ALSO PRESENT: Special Master Herbert Klein





1 (Thereupon, the following proceedings  
2 were held.)

3 MR. DEMAHY: Pete DeMahy and Zascha  
4 Abbott here on behalf of INA. Mr. Morgan  
5 is here on behalf of the plaintiffs and  
6 Judge Klein is here. We are here for the  
7 duly noted deposition of one of the Byrd  
8 diving representative's testimony, Allen  
9 Byrd. It is supposed to be at nine. He is  
10 not here.

11 We understand that he called someone  
12 and told them that he couldn't be here  
13 today for a personal reason, but we are all  
14 here, ready to go. He is not here so we  
15 would like you to print up a Certificate of  
16 Nonappearance.

17 THE COURT: We will note everybody's  
18 appearance. Mr. Morgan for the, I guess,  
19 plaintiffs and Mr. DeMahy and Ms. Abbott  
20 for the defendants and myself.

21 MR. MORGAN: Mr. Halmos wanted to  
22 participate telephonically.

23 THE COURT: Who?

24 MR. MORGAN: Mr. Halmos.

25 MR. DEMAHY: I guess you can call him



1 and tell him what happened. We are not  
2 going forward and you can call when you get  
3 back.

4 MR. MORGAN: How about his appearance?

5 MR. DEMAHY: Well, whatever you want  
6 to do, I don't know.

7 THE COURT: Do you want to call him?

8 MR. DEMAHY: I don't know that you  
9 need an appearance just for a CNA.

10 THE COURT: Since there is a CNA, the  
11 deponent having telephoned the plaintiffs'  
12 lawyers, defendants' lawyers saying he  
13 would not be here this morning, and his  
14 brother, would appear at 2 p.m., there is  
15 no need for any of us to do anything other  
16 than say, nonappearance, and move on.

17 (Thereupon, the proceedings were  
18 concluded at 9:43 a.m.)

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CERTIFICATE OF SHORTHAND REPORTER

STATE OF FLORIDA )  
 ) SS.  
COUNTY OF DADE )

I, JEANETTE SANCHEZ, Shorthand Reporter, Notary Public, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and correct transcription of my stenotype notes of the proceedings

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
JEANETTE SANCHEZ  
Shorthand Reporter



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

KEY WEST DIVISION  
CASE No. 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL YACHTING  
CHARTERS, INC., and HIGH PLAINS CAPITAL,

Plaintiff,

vs.

INSURANCE COMPANY OF NORTH AMERICA

Defendant.

-----/

CERTIFICATE OF NON-APPEARANCE FOR  
ALLEN BYRD

STATE OF FLORIDA)  
COUNTY OF DADE )

I, Jeanette Sanchez, a Notary Public in and  
for the State of Florida at Large, do hereby certify  
that, pursuant to a Notice of Taking Deposition in  
the above-entitled cause, I appeared at 150 Alhambra  
Circle, Coral Gables, Florida 33134, on Tuesday, May  
11, 2010, at 9:00 a.m.; that I was attended by  
Attorneys Pete DeMahy, Zascha Abbott, Hugh Morgan  
and Special Master Herbert Klein and waited for the  
witness to arrive until 10:00 a.m.

In witness whereof, I have  
hereunto set my hand and affixed my official  
seal of office in the City of Miami, County of  
Dade, State of Florida, this 21st day of June,  
2010.

-----

JEANETTE SANCHEZ, SHORTHAND REPORTER  
Commission Expires: April 4, 2014



**EXHIBIT "C-4"**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

KEY WEST DIVISION  
CASE No. 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL YACHTING  
CHARTERS, INC., and HIGH PLAINS CAPITAL,

Plaintiff,

vs.

INSURANCE COMPANY OF NORTH AMERICA

Defendant.

-----/

DEMAHY, LABRADOR, DRAKE,  
PAYNE & CABEZA, P.A.  
Alhambra Center - Penthouse  
150 Alhambra Circle  
Coral Gables, Florida 33134  
Wednesday, 9:00 a.m.  
May 26th, 2010

DEPOSITION OF PETER HALMOS, PRO SE

Taken before Jeanette Sanchez, Shorthand  
Reporter, Notary Public in and for the State of  
Florida at Large, pursuant to Notice of Taking  
Deposition filed in the above case.

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APPEARANCES:

ON BEHALF OF THE DEFENDANT ICNA:  
BROWN SIMS, P.C.  
9130 S. Dadeland Blvd.  
Suite 1609  
Miami, Florida 33156  
BY: Zascha Abbott, Esq.

ALSO PRESENT: Special Master Herbert Klein



1 (Thereupon, the following proceedings  
2 were held.)

3 THE COURT: Let the record reflect  
4 that I am here and Ms. Abbott is here on  
5 behalf of INA and it is now about 11  
6 minutes after 9:00 and you say there was an  
7 e-mail also saying that they did not intend  
8 to appear.

9 MS. ABBOTT: There was some indication  
10 they may not appear, but we told them we  
11 were going to go forward, and here is a  
12 copy of the notice of deposition for  
13 today's deposition. I would like to mark  
14 it as an exhibit.

15 THE COURT: And the notice went out  
16 when?

17 MS. ABBOTT: The notice went out on  
18 April 27th, 2010 --

19 THE COURT: Okay.

20 MS. ABBOTT: -- for today's  
21 deposition.

22 THE COURT: All right. The record  
23 shall reflect that Ms. Abbott and I are the  
24 only ones here together with the court  
25 reporter.





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MS. ABBOTT: And plaintiffs are not here for Peter Halmos.

THE COURT: The deponent is not here and the other plaintiffs cancelled and are not here.

Anything further?

If not we are adjourned.

(Thereupon, the proceedings were concluded at 9:13 a.m.)



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CERTIFICATE OF SHORTHAND REPORTER

STATE OF FLORIDA )  
 ) SS.  
COUNTY OF DADE )

I, JEANETTE SANCHEZ, Shorthand Reporter, Notary Public, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and correct transcription of my stenotype notes of the proceedings

Dated this \_\_\_\_\_ day of \_\_\_\_\_,  
2010.

\_\_\_\_\_  
JEANETTE SANCHEZ  
Shorthand Reporter



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

KEY WEST DIVISION  
CASE No. 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL YACHTING  
CHARTERS, INC., and HIGH PLAINS CAPITAL,

Plaintiff,

vs.

INSURANCE COMPANY OF NORTH AMERICA

Defendant.

-----/

CERTIFICATE OF NON-APPEARANCE FOR  
PETER HALMOS, PRO SE

STATE OF FLORIDA)  
COUNTY OF DADE )

I, Jeanette Sanchez, a Notary Public in  
and for the State of Florida at Large, do  
hereby certify that, pursuant to a Notice of  
Taking Deposition in the above-entitled cause,  
I appeared at 150 Alhambra Circle, Coral  
Gables, Florida 33134, on Wednesday, May 26,  
2010, at 9:00 a.m.; that I was attended by  
Attorney Zascha Abbott and Special Master  
Herbert Klein and waited for the witness to  
arrive until 10:00 a.m.

In witness whereof, I have  
hereunto set my hand and affixed my official  
seal of office in the City of Miami, County of  
Dade, State of Florida, this 21st day of June,  
2010.

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JEANETTE SANCHEZ, SHORTHAND REPORTER  
Commission Expires: April 4, 2014



**EXHIBIT "C-5"**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
KEY WEST DIVISION  
CASE NO: 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL  
YACHTING CHARTERS, INC., and  
HIGH PLAINS CAPITAL,

Plaintiff,

vs.

INSURANCE COMPANY OF NORTH  
AMERICA and STRICKLAND MARINE  
INSURANCE, INC., (f/k/a  
STRICKLAND MARINE AGENCY, INC.),

Defendants.

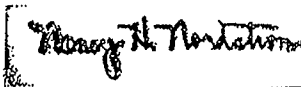
CERTIFICATE OF NON-APPEARANCE FOR  
PETER HALMOS

STATE OF FLORIDA)

COUNTY OF DADE )

I, Nancy H. Nordstrom, a Notary Public in  
and for the State of Florida at Large, do hereby  
certify that, pursuant to a Notice of Taking  
Deposition in the above-entitled cause, I appeared  
at 150 Alhambra Circle, Penthouse, Coral Gables,  
Florida 33134, on Thursday, June 24, 2010, at 10:00  
a.m.; that I was attended by Zascha Blanco Abbott,  
Esquire, and waited for the witness to arrive until  
10:30 a.m.

In witness whereof, I have hereunto  
set my hand and affixed my official seal of office  
in the City of Miami, County of Miami-Dade, State  
of Florida, this 24th day of June 2010.



NANCY H. NORDSTROM, RMR  
Commission Expires: April 3, 2014



NANCY H. NORDSTROM  
NY COMMISSION # DD 957898  
EXPIRES: April 3, 2014  
Bonded thru Budget Notary Services



**EXHIBIT "C-6"**

1 UNITED STATES DISTRICT COURT  
 2 SOUTHERN DISTRICT OF FLORIDA  
 3 KEY WEST DIVISION  
 4 CASE NO: 08-10084-CIV-BROWN  
 5  
 6 PETER HALMOS, INTERNATIONAL YACHTING  
 7 CHARTERS, INC., and HIGH PLAINS CAPITAL,  
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 9 Plaintiffs,  
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 11 vs.  
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 13 INSURANCE COMPANY OF NORTH AMERICA,  
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 15 Defendant.

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 Horan, Wallace & Higgins, LLP  
 608 Whitehead Street  
 Key West, Florida 33040  
 Friday, 10:00 a.m.  
 June 25, 2010

20 DEPOSITION OF CAPT. EDWARD COLLINS

21 Taken before Terry McCall, Shorthand  
 22 Reporter, Notary Public in and for the State of  
 23 Florida at Large, pursuant to Notice of Taking  
 24 Deposition filed in the above case.  
 25

JEANNIE REPORTING, INC. (305) 577-1705

1 (Thereupon, the following proceeding  
2 was held:)

3 MR. HORAN: We are here as scheduled  
 4 for the deposition of Captain Christopher  
 5 Collins. This is David Horan. I am an  
 6 attorney for the insurance company, North  
 7 America. This is, by my calculation, at  
 8 least the fourth-set deposition of Captain  
 9 Collins.

10 His factual knowledge as to the  
 11 condition of the sailing yacht, Legacy,  
 12 prior to the September 2001 allision with  
 13 motor vessel SOL and what repair was  
 14 required, is important in this case.

15 What the condition of the Legacy was  
 16 prior to and after the hit-and-run allision  
 17 with the small sailboat in July of 2004 is  
 18 also an issue in this case.

19 What was the condition of the Legacy  
 20 prior to Wilma in October of 2005, what  
 21 occurred immediately prior to Wilma, what  
 22 occurred during Wilma and occurred after  
 23 Wilma, he has factual knowledge on it that  
 24 is unique to him.

25 We have worked with plaintiffs and  
 JEANNIE REPORTING, INC. (305) 577-1705

1 APPEARANCES:  
 2 ON BEHALF OF THE DEFENDANT ICNA:  
 3 HORAN, WALLACE & HIGGINS, LLP  
 4 608 Whitehead Street  
 5 Key West, Florida 33040  
 6 BY: David P. Horan, Esq.

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JEANNIE REPORTING, INC. (305) 577-1705

1 plaintiffs' attorneys, coordinated  
 2 schedules, and Captain Collins is a  
 3 long-term employee of the plaintiff  
 4 International Yachting Charters.

5 The pro se plaintiff, Peter Halmos,  
 6 has frequently cancelled and reset -- or  
 7 required resetting of his deposition based  
 8 on medical reasons, and now Captain Collins  
 9 apparently has the same clinicians or  
 10 physician's assistant or whatever, that he  
 11 is relying on to say that he should not  
 12 have his deposition taken yet.

13 I have been informed that he is in the  
 14 Bahamas and probably with the Legacy, which  
 15 is now in Freeport, upon last report.

16 So for that reason, we believe that  
 17 this certificate of non-appearance was  
 18 important. There is nothing else.

19 (Thereupon, the proceeding was  
 20 concluded at 10:15 a.m.)

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JEANNIE REPORTING, INC. (305) 577-1705

1 CERTIFICATE OF SHORTHAND REPORTER

2

3 STATE OF FLORIDA )

4 ) SS.

5 COUNTY OF MONROE )

6

7 I, TERRY MCCALL, Shorthand Reporter,

8 Notary Public, do hereby certify that I was

9 authorized to and did stenographically report the

10 foregoing proceedings and that the transcript is a

11 true and correct transcription of my stenotype

12 notes of the proceedings

13

14 Dated this \_\_\_\_\_ day of \_\_\_\_\_,

15 2010.

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22 TERRY MCCALL

23

23 Shorthand Reporter

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**JEANNIE REPORTING, INC. (305) 577-1705**



**EXHIBIT "C-7"**

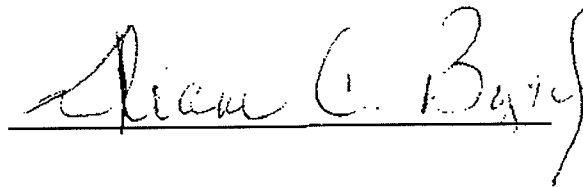
CERTIFICATE OF NONAPPEARANCE

I, Diane C. Byrd, a Verbatim Reporter in and for the State of North Carolina, do hereby certify that pursuant to Notice issued on July 15, 2010, I was present at the CAROLINA INN, 211 Pittsboro Street, Chapel Hill, North Carolina, from 8:30 a.m. to 9:45 a.m., on Friday, July 23, 2010, accompanied by MR. ROB BROWNING, Attorney for Defendant, Insurance Company of North America and that the witness, DONALD DINSMORE, did not appear to be deposed.

(MARKED EXHIBIT A)

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this the 23rd day of July, 2010.

Diane C. Byrd, Verbatim Reporter  
OVERBY COURT REPORTING

A handwritten signature in cursive script that reads "Diane C. Byrd". The signature is written in black ink and is positioned above a horizontal line.

8610 Windjammer Drive Raleigh,  
North Carolina 27615

**EXHIBIT "D"**

**Robert M. Browning**

---

**From:** Juan Carlos Antorcha [jantorcha@rascoklock.com]  
**Sent:** Friday, April 09, 2010 7:35 AM  
**To:** Robert M. Browning; Scott Bassman; pdemahy@dldlawyers.com  
**Cc:** hugh@hjmorganlaw.com; Odalys Gonzalez  
**Subject:** Depositions

Rob:

We will be postponing the depositions of Joe Smith and Pam currently scheduled for the 13<sup>th</sup> and 16<sup>th</sup> respectively as apparently we yet have complete responses to our interrogatories. Also, I noticed that Tom Corness was unilaterally set at our offices for the 14<sup>th</sup>. It might be best if for all involved if he is postponed until after our May 1<sup>st</sup> Disclosures.

Any issues with the above, please contact Judge Morgan.

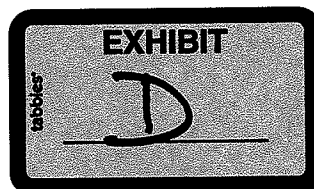
Thanks.

JC

Juan Carlos ("JC") Antorcha, P.A.

**RASCO KLOCK**  
REFUNDOR PEREZ ESQUENAZI VIGIL NIETO

283 Catalonia Avenue, Suite 200 | Coral Gables, FL 33134  
305-476-7100 Ofc. | 305-476-7105 Direct | 305-322-2017 Cel.  
[jantorcha@rascoklock.com](mailto:jantorcha@rascoklock.com) | [www.rascoklock.com](http://www.rascoklock.com)



6/26/2010

**EXHIBIT “E”**



**EXHIBIT “F”**

**Robert M. Browning**

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**From:** Robert M. Browning  
**Sent:** Sunday, July 25, 2010 1:20 PM  
**To:** Robert M. Browning  
**Subject:** FW: Depositions

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**From:** Juan Carlos Antorcha [mailto:jantorcha@rascoklock.com]  
**Sent:** Monday, April 12, 2010 3:44 PM  
**To:** Robert M. Browning; Scott Bassman  
**Cc:** hugh@hjmorganlaw.com; snafuworld@gmail.com  
**Subject:** Depositions

Rob:

Last Friday we went over the deposition schedule, there were a few that I told you that I would get back to you, including whether we would produce Tom Corness. The list is as follows:

1. Tom Corness – Currently set for April 14, 2010 – He will be our expert and we will agree to produce him at a later date. Judge Morgan will contact Mr. Corness and provide a few alternate dates to choose from.
2. Janet Thomas—Currently set for April 20, 2010 – We are cancelling this deposition.
3. Stuart Hutcheson—Currently set for April 22<sup>nd</sup>, 2010—Can we move this deposition to April 27<sup>th</sup>?
4. Ron Milardo – Currently set for April 24<sup>th</sup> a Saturday --can you provide alternate dates for this deposition, I believe your people were working on this?
5. James Bishop—Currently set for April 27<sup>th</sup> – we are cancelling this deposition.
6. Pennekamp—Currently set for May 1, 2010 – Saturday— can you provide alternate dates, I believe your people were working on this?

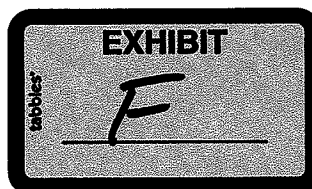
Thanks.

Juan Carlos ("JC") Antorcha, P.A.

**RASCO KLOCK**

ABANDONED PEREZ ESTUARTE SOCIAL NIETO

283 Catalonia Avenue, Suite 200 | Coral Gables, FL 33134  
305-476-7100 Ofc. | 305-476-7105 Direct | 305-322-2017 Cel.  
[jantorcha@rascoklock.com](mailto:jantorcha@rascoklock.com) | [www.rascoklock.com](http://www.rascoklock.com)



7/25/2010