

**THE LAW OFFICE OF JEFFREY J. DOWNEY, P.C.**

8270 Greensboro Drive  
Suite 810  
Mclean, VA 22102  
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202-712-9120 (phone DC)  
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jdowney@jeffdowney.com

May 15, 2019

Via UPS, overnight delivery  
Clerk of Circuit Court  
4110 Chain Bridge Road  
Fairfax, VA 22030

Re: Motions Hearing, Alexis Vann v. Juan Carlos Santisteban, Law CL 2018-0009461

Dear Clerk:

Enclosed please find a Motion to Compel that I would ask to be set down for the Court's May 31, 2019 docket, at 10:00 am.

Thank you for your cooperation in this regard.

Sincerely Yours,



Jeffrey J. Downey

cc: C. Mark Whittington, defense counsel

VIRGINIA: IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Alexis Vann

Plaintiff

vs.

Civil Action No. CL 2018-9461

Juan Carlos Santisteban and John Doe

Previous Chancery No. CH

Defendant

SERVE: STATE FARM MUTUAL INSURANCE COMPANY

FRIDAY MOTIONS DAY - PRAECIPE/NOTICE

Moving Party: [X] Plaintiff [ ] Defendant [ ] Other

Title of Motion: Plaintiff's Motion to Compel Financial Information [ ] Attached [ ] Previously Filed

DATE TO BE HEARD: May 31st, 2019 Time Estimate (combined no more than 30 minutes): 2 hours 15 mins

Time to be Heard: [ ] 9:00 a.m. with a Judge [ ] 9:00 a.m. without a Judge
[X] 10:00 a.m. (Civil Action Cases) Does this motion require 2 weeks notice? [X] Yes [ ] No
[ ] 11:30 a.m. (DOMESTIC/Family Law Cases) Does this motion require 2 weeks notice? [ ] Yes [ ] No

Case continued from: (Date) continued to: (Date)

Moving party will use Court Call telephonic appearance: [ ] Yes [X] No

Judge must hear this motion because (check one reason below):

- [ ] The matter is on the docket for presentation of an order reflecting a specific ruling previously made by that Judge.
[ ] This Judge has been assigned to this entire case by the Chief Judge; or,
[ ] The Judge has advised counsel that all future motions, or this specific motion, should be placed on this Judge's Docket; or,
[ ] This matter concerns a demurrer filed in a case where that Judge previously granted a demurrer in favor of demurrant.

PRAECIPE by: Jeffrey J. Downey The Law Office of Jeffrey J. Downey
Printed Attorney Name/ Moving Party Name Firm Name

8270 Greensboro Drive, Suite 810, Mclean, VA

Address

(703) 564-7318 (703) 883-0108 31992 jdowney@jeffdowney.com
Tel. No. Fax No. VSB No. E-Mail Address

CERTIFICATIONS

I certify that I have in good faith conferred or attempted to confer with other affected parties in an effort to resolve the subject of the motion without Court action, pursuant to Rule 4:15(b) of the Rules of the Supreme Court of Virginia; and, I have read, and complied with, each of the Instructions for Moving Party on the reverse side of this form.

[Signature] Moving Party/Counsel of Record

CERTIFICATE OF SERVICE

I certify on the 15th day of May, 2019, a true copy of the foregoing Praecipe was

[X] mailed [ ] faxed [ ] delivered to all counsel of record pursuant to the provisions of Rule 4:15(e) of the Rules of the Supreme Court of Virginia.

[Signature] Moving Party/Counsel of Record

<hr/>		)
<b>Alexis Vann</b>		)
		)
Plaintiff		)
		)
v.		)
		)
<b>Juan Carlos Santisteban</b>	Law No. 2018-9461	)
a/k/a Juan Carlos Ravelo Santisteban		)
4906 Ross Manor Dr		)
Oxon Hill, MD 20745		)
		)
and		)
		)
<b>John Doe</b>		)
Serve: State Farm Mutual Insurance Company		)
		)
Defendants		)
<hr/>		)

**Motion to Compel Information**  
**Related to Defendant’s Retained Medical Expert**

COMES NOW Plaintiff, by counsel, and files this, her Motion to Compel Information Related to Defendant’s Retained Medical Expert, and in support thereof, states as follows:

**A. Motion**

1. Plaintiff, Alexis Vann, was involved in an accident on October 6, 2016.
2. After the accident she sought treatment by an orthopedic doctor and received physical therapy. Defendant recently disclosed that it was calling Dr. Kenneth Ward as a retained expert to dispute Plaintiff’s injuries. Without examining the Plaintiff, Dr. Ward will opine that Plaintiff did not sustain any permanent injury<sup>1</sup> and that only the first two months of her treatment can be causally connected to the accident.

<sup>1</sup> Plaintiff did not claim permanent injuries when she designated her experts to testify in this case.

3. State Farm originally answered discovery back on October 24, 2018. At that time, State Farm failed to object to any document requests seeking financial information from defense witnesses. State Farm did object claiming it was not a Defendant, but by order of this Court, John Doe was added to this case as a party Defendant, effective October 5, 2018.

4. Through document requests served back on July 2018 to Defendant State Farm, Plaintiff sought specific information about any retained experts including, *inter alia*, a list of cases he testified in through deposition or trial for last 5 years (Doc. Req. No. 24), a list of cases in which the expert was retained by defense counsel or his firm Doc. (Req. No. 25), copies of 1099s that reflect total compensation coming from Defendant's law firm for undertaking IMEs for the last two years. (Exh. No. 1, Plaintiff's Document Requests). Through Interrogatory No. 8, Plaintiff sought the total amounts that Defense counsel or Defendant's insurer paid to the retained expert in the last two years. (Exh. No. 2). Through Interrogatory No. 7, Plaintiff sought a list of call cases in which this expert was retained by defense counsel. *Id.*

5. State Farm's initial document responses appear to take the position that since State Farm is not named as a Defendant, it does not have to produce information on its experts.<sup>2</sup> (Exh. No. 3, State Farm's responses to Document Request Numbers 24, 25, 26 and 27). State Farm takes this position even though the request seeks information about 1099 compensation received by "Defendant's law firm," along with a list of cases that the expert was retained "by defense counsel or his firm."

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<sup>2</sup> Of course, since insurance companies cannot be named as parties in personal injury actions, this argument, if accepted, would effectively insulate State Farm from discovery. Any confusion State Farm may have had in answering these document requests would have been quickly resolved by a reading of the definitions section of the discovery. The document requests themselves were issued directly to State Farm, and the term "defendant" in section "g" states that "Defendant" unless otherwise indicated "refers to the party to whom these Requests are addressed." (Exh. No. 1, at p. 3).

6. In an effort to resolve this matter, Plaintiff wrote to State Farm's counsel on April 16, 2019, asking it to Supplement Interrogatories 6, 7 & 8 and Document Requests 21 through 26. Plaintiff followed upon with emails on March 24, March 25, May 8 and May 13, 2019. As of the filing of this Motion, Plaintiff has not received the responsive documents. Beyond the report of Dr. Ward, no additional documents have been produced.

**B. Legal Argument**

**1. State Farm Should be Compelled to Provide the Responsive Information.**

Bias of a witness is always a relevant subject of inquiry, with the Courts allowing great latitude to explore such issues. *Norfolk & Western Ry Co. v. Sonney*, 236 Va. 482, 488 (1988). In the seminal case of *Lombard v. Rohrbaugh*, the Supreme Court held that a Plaintiff could disclose the financial relationship between the witness and the defending insurance company. 262 Va. 484 (2001). Obviously, before such a relationship can be disclosed, the underlying information must be obtained so that the parties and the Court can consider the evidence.

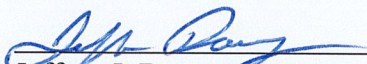
Along those lines this Court has compelled the production of financial information for retained defense experts. *Bowen-Brown v. Veolia Transportation Services, Inc*, Law CL 2011-14991 (Fairfax Cir. Ct. 2012)(Exh. No. 4(Compelling production of an accurate statement of income from consultations, record reviews and testimony, whether paid to him as an individual or entity). This Court has also compelled case lists for experts, consistent with F. R. Civ. P. 26(a)(2)(B)(v). *Rosas v. Cusmano* and State Farm, CL 2008-10613 (Fairfax Cir. Ct. 2010)(Exh. No. 5)(Requiring the physician to produce all his notes, raw data and list of cases under F.R.Civ. 26(a)(2)(B)(v)).

In line with the above precedent, Plaintiff seeks an order of this Court compelling State Farm to fully respond to Interrogatories 7 & 8 and Document Request Nos. 21 through 26.

**C. Conclusion**

Cases often rise and fall on the merits of an expert's testimony. Information regarding this witness's potential bias and connection to State Farm is critical to the presentation of Plaintiff's case. Given the clear precedent from this Court and the Virginia Supreme Court under *Lombard v. Rohrbaugh*, it would be an abuse of discretion not to compel the requested information.

Plaintiff, Alexis Vann by  
Counsel,

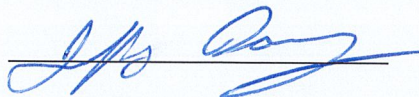
  
Jeffrey J. Downey, Esq., Bar No. 31992  
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Fax: 703-883-0108  
Email: [Jdowney@jeffdowney.com](mailto:Jdowney@jeffdowney.com)

**Certificate of Service**

I hereby certify that a true copy of the foregoing Plaintiff's Motion to Compel with notice, was served upon State Farm and Defendants this 15 day of May 2019 ,by sending a copy of same, with notice of Motion, through the U.S. mail, postage prepaid, to the following:

Mark Whittington (by mail and electronically)  
Shireen Jayatilaka & Associates  
State Farm Mutual Automobile Insurance Company  
5285 Shawnee Road, Suite #110  
Alexandria, VA 22312  
*Counsel for State Farm*

Juan Carlos Santisteban  
4906 Glassmanor Dr.  
Oxon Hill, MD 20745  
*Pro Se*





# Exh. No. 1





(d) These Requests are continuing in character so as to require you to promptly amend or supplement your response if you obtain further material information.

(e) If in responding to these Requests you encounter any ambiguity in construing any request, instruction or definition, set forth the matter deemed ambiguous in the construction used in responding.

(f) If any of these Requests cannot be responded in full, then please respond to the extent possible and state the reasons for your inability to respond in full.

(g) If any of the requested items are not transcribed, then you are hereby requested to produce such items in written form.

(h) If any document(s) otherwise responsive to these Requests has been lost or destroyed, please describe the document's nature, author and date and describe the date and circumstances under which it was lost or destroyed.

## **B. DEFINITIONS**

(a) Unless otherwise indicated, these Requests for Production of Documents refer to the time, place and circumstances mentioned or complained of in the Complaint.

(b) The pronoun "you" refers to the party to whom these Requests for Production of Documents are addressed.

(c) "Auto Accident," "Accident" or "Motor Vehicle Accident" is defined as the accident involving a motor vehicle accident that occurred in Fairfax, Virginia on October 6, 2016 as alleged in Plaintiff's Complaint.

(d) The terms "and" and "or" should be construed disjunctively or conjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside of its scope.

(e) A document or communication "relating to" or "incident to" "or referring to" a given subject matter means any document or communication that constitutes, contains, embodies, comprises, reflects, identifies, states, refers to, deals with, comments on, responds to, describes, analyzes, or is any way pertinent to that subject.

(f) As used herein, the term "document" or "documents" means any written, recorded, or graphic matter, however produced or reproduced and whether or not now in existence, and includes the original, all file copies, all other copies no matter how prepared, and all drafts prepared in connection with such documents, whether used or not. It further includes and is not limited to papers, books, records, catalogs, price lists, pamphlets, periodicals, letters, correspondence, scrapbooks, notebooks, bulletins, circulars, forms, notices, postcards, emails, telegrams, deposition transcripts, contracts, agreements, leases, reports, studies, working papers,

charts, proposals, graphs, sketches, diagrams, indices, maps, analyses, statistics records, results of investigations, reviews, ledgers, journals, balance sheets, accounts, books of accounts, invoices, vouchers, purchase orders, receipts, expense accounts, canceled checks, bank checks, statements, sound and tape recordings, videotapes, audiotapes, memoranda (including any tape recordings, videotapes, audiotapes, memoranda (including any type or form of notes, memoranda or sound records of personal thoughts, recollections or reminders, or of telephone or other conversations, or of acts activities, agreements, meeting, or conferences, Photostats, microfilm, instruct lists of forms, computer printouts or other computer instructions lists or forms, computer printouts of other computer data, minutes of director or committee meetings, interoffice or intraoffice communications, diaries, calendar or desk pads, stenographers' notebooks, appointment books, and other papers or matters similar to any of the foregoing, however denominated, whether received by you or prepared by you for your own use or transmittal. If a document has been prepared in several copies, or additional copies have been made, and the copies are not identical (or which, by reason of subsequent modification or notation, are no longer identical, each non-identical copy is a separate "document."

(g) Unless otherwise indicated, "Defendant" or "defendant," when used in the singular herein, refers to the party to whom these Requests are addressed.

### **C. DOCUMENTS TO BE PRODUCED**

#### **Request No. 1:**

Produce any documents identified or referenced in your Answers to Interrogatories.

**Response:**

#### **Request No. 2:**

Produce any damage appraisals or estimates of any vehicle involved in the accident.

**Response:**

#### **Request No. 3:**

Produce all photographs, videotapes or audio tapes, x-rays, diagrams, medical records, surveys or other graphic representations of information concerning the subject matter of this action, the Plaintiff, the parties' injuries or property damage, including that of the auto accident scene.

**Response:**

#### **Request No. 5:**

Produce all notes, reports, correspondence, bills, invoices, diagrams, photographs, x-rays or other documents prepared or reviewed by each person whom you expect to call as an expert witness at trial.

**Response:**

**Request No. 6:**

Produce any police report that involves the accident at issue.

**Response:**

**Request No. 9:**

Produce any statements by any parties or participants to the accident that were either provided to this defendant or that this defendant is in possession of.

**Response:**

**Request No. 10:**

If you contend that any of the documents requested in this Request for Production of Documents are privileged, produce a privilege log setting forth the author of the document, the recipient, the date that said document was created, the nature of the document, and basis for privilege.

**Response:**

**Request No. 11:**

Produce any statements obtained from any eyewitnesses to the accident or Plaintiff's injuries.

**Response:**

**Request No. 13:**

Produce any and all exhibits that you intend to use as evidence at trial. (Note that Plaintiff will object to the use of any exhibit that is not so identified.)

**Response:**

**Request No. 14:**

Produce a complete copy of any insurance policies in your possession (including the DEC sheet) in which Plaintiff is a named party or named insured under the policy, including any

policies that provided uninsured or underinsured motorist coverage to Plaintiff at the time of the accident.

**Response:**

**Request No. 15:**

Produce any documents that you or your attorney have subpoenaed in this case as well as any documents this defendant has obtained through any authorizations signed by any party to this litigation.

**Response:**

**Request No. 17:**

Produce copies of any traffic regulations, standards in the industry, legal authority, rule, case, statute, or code that will be relied upon by this defendant in defending this case.

**Response:**

**Request No. 18:**

Produce any documents, letters or notes sent to or received by any expert or medical provider you intend to call at trial, along with any reports or recordings generated by the same.

**Response:**

**Request No. 20:**

Produce any and all documents that you have received in connection with this matter that mention or identify Plaintiff's name and were not received by you from Plaintiff or Plaintiff's attorney.

**Response:**

**Request No. 21:**

Produce all notes, reports, correspondence, bills, invoices, diagrams, photographs, x-rays or other documents prepared or reviewed by each person whom you expect to call as an expert witness at trial.

**Response:**

**Request No. 22:**

Produce a copy of any and all expert reports, statements, documents, letters, notes sent to or received by any expert or medical provider you intend to call at trial, and if these items have been prepared by the expert in connection with this case, then the preparation of such items are hereby requested, along with any and all reports, correspondence, papers, notes records, statistics, articles, literature or other documents which your expert has received, reviewed or created in reference to this case.

**Request No. 23:**

Produce a copy of this defendant's experts' resumes a/k/a Curriculum Vitaes.

**Response:**

**Request No. 24:**

With respect to any expert retained by this defendant, please produce a list of all cases (including plaintiff's name(s), the defendant's names(s), the plaintiff's attorney's name(s) and address, the defendant's attorney's name(s) and address, the court location, case number and date of said testimony) in which the expert provided testimony either by way of trial, video or deposition during the last five (5) years.

**Response:**

**Request No. 25:**

With respect to any expert retained by this defendant, provide a separate list of all cases that the expert was retained for by this defendant or defense counsel and his or her firm.

**Response:**

**Request No. 26:**

With respect to any expert retained by this defendant, please produce copies of all 1099s or other documentation reflecting total compensation received from Defendant or Defendant's law firm(s) for undertaking IMEs or providing expert witness testimony on personal injury cases for the last two (2) years.

**Response:**

**Request No. 27:**

Produce all surveillance video or photos of Plaintiff that are in Defendant's possession and all communications between defense counsel and the person(s) who took the videos or photographs.

**Response:**

**Request No. 28.**

Produce any medical reports or reviews related to Plaintiff's claimed injuries which were generated before this case was placed in litigation.

**Response:**

**Request No. 29.**

Produce any documents which support Defendant's decision that Plaintiff was not entitled to relieve the full extent of her policy benefits with respect to the accident at issue.

**Response:**

**Request No. 30.**

Produce any documents purporting to explain the reason(s) Defendant driver Santisteban was unable to stop before colliding with Plaintiff's vehicle at the time of the subject accident

**Response:**

**Request No. 31.**

Produce any documents upon which the insurance adjustor relied upon in offering Plaintiff no monetary amount for settlement of her UIM claim, prior to suit being filed.

**Response:**

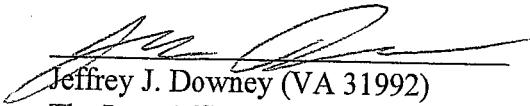
**Request No. 32**

Produce any medical or chart review which was undertaken at the request of State Farm or their agents, which in any way evaluated the reasonableness, medical necessity or causation of Plaintiff's claimed medical bills and expenses in this case.

**Response:**

Dated: July 26, 2018

Respectfully submitted,

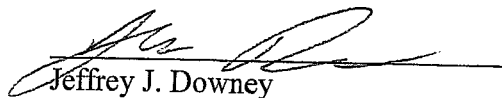


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Fax: 703-883-0108  
e-mail: [jdowney@jeffdowney.com](mailto:jdowney@jeffdowney.com)  
*Attorney for Plaintiff*

### Certificate of Service

I certify that these document requests were served upon Defendant on July 26, 2018, through regular mail (postage prepaid) and electronic mail by service upon following:

c/o C. Mark Whittington  
5285 Shawnee Road, Suite 110  
Alexandria, VA 22312  
[mark.whittington.jewp@statefarm.com](mailto:mark.whittington.jewp@statefarm.com)  
Counsel for Defendant State Farm



Jeffrey J. Downey



# Exh. No 2

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

ALEXIS VANN,

Plaintiff,

v.

JUAN CARLOS SANTISTEBAN, ET AL.,

Defendants.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

At Law No. CL-2018-0009461

**STATE FARM'S ANSWERS  
TO PLAINTIFF'S INTERROGATORIES**

COMES NOW State Farm Mutual Automobile Insurance Company (hereinafter State Farm), by counsel, and for its answers to Plaintiff's Interrogatories states as follows.

**General Objections to Interrogatories**

State Farm objects to Plaintiff's preamble and states that the Interrogatories will be responded to pursuant to the Rules of the Supreme Court of Virginia only. State Farm preserves objections to any request for information protected as work product or the attorney-client privilege.

The information supplied in these answers is not based solely on the knowledge of the answering party, but includes the knowledge of the party, agents, representatives and attorneys, unless privileged. The word usage and sentence structure includes that of the attorney assisting in the preparation of these answers, and thus does not necessarily purport to be the precise language of the answering party. These answers are made subject to the absolute privilege and right of the answering party to amend.

**Answers to Interrogatories**

**Interrogatory No. 1** Set forth in detail the manner in which you contend the accident described in the Complaint occurred and explain where you obtained the responsive information.

**ANSWER** State Farm has no knowledge how the accident occurred. Based upon a review of the documents provided by Counsel for Plaintiff in the Demand Package, it appears that Defendant Juan Carlos Santisteban rear-ended Plaintiff's vehicle. Mr. Santisteban has denied that he was involved in the subject accident.

**Interrogatory No. 2** Set forth the amount of money, if any, that State Farm offered Plaintiff in good faith settlement negotiations, prior to suit being filed.

**ANSWER** State Farm has paid to and/or on behalf of Ms. Vann the \$5,000.00 medical payments limits under her policy. State Farm offered \$11,900 to settle the UM/UIM claim, by letter dated July 3, 2018.

**Interrogatory No. 3** State your contention as to whether Plaintiff or any individual who is not a party to this lawsuit caused or contributed to the accident alleged in the Complaint through negligence or carelessness, and set forth with particularity any facts supporting your contention.

**ANSWER** State Farm does not have any personal knowledge of the negligence of Plaintiff, Defendant, or any other person. State Farm has not asserted contributory negligence as an affirmative defense at this time. This answer may be supplemented as discovery progresses.

**Interrogatory No. 4** Please identify all persons who have provided you with signed (written) or recorded (oral) statements pertaining to the accident alleged in the Complaint, provide the date of any such statements.

**ANSWER** Representatives of State Farm did not obtain a recorded or written statement from Plaintiff, unless such statement is reflected in the documents produced.

**Interrogatory No. 5** Please state whether this Defendant has within its control any photographs, plats, or diagrams of the accident scene or objects connected with said motor vehicle accident, and, if so, please identify them.

**ANSWER** Please see the documents produced.

**Interrogatory No. 6** Set forth the facts and substance of opinions of any expert who you plan on calling at trial, and further specify the basis for said expert's opinions and any materials reviewed and relied upon by said expert in forming his or her opinions. If notes or a report were created or reviewed by the expert, please identify such notes or reports, as well as all billing statements generated by your retained experts.

**ANSWER** State Farm has not yet decided whether an expert witness will be needed. That is a decision left to counsel. Should counsel decide to designate an expert, he or she will be identified in accordance with the Rules of the Supreme Court of Virginia and/or the Scheduling Order entered by the Court.

**Interrogatory No. 7** For any experts retained by defense counsel in this case, please list all cases or legal matters for which that defense counsel has previously retained that expert and set forth the name of the parties and attorneys involved and their addresses, the case number (if applicable) and court jurisdiction.

**ANSWER** State Farm has not yet decided whether an expert witness will be needed. That is a decision left to counsel. Should counsel decide to designate an expert, he or she will be identified in accordance with the Rules of the Supreme Court of Virginia and/or the Scheduling Order entered by the Court.

**Interrogatory No. 8** If Defendant, defense counsel or Defendant's insurer has retained an expert in this case, with respect to said expert, set forth all compensation that has been paid by such expert by State Farm in the last two years. This request seeks to learn such expert's total compensation paid by Defendant's insurance company for all personal injury cases that such expert has been involved in, whether or not the case went into litigation or trial.

**ANSWER** State Farm has not yet decided whether an expert witness will be needed. That is a decision left to counsel. Should counsel decide to designate an expert, he or she will be identified in accordance with the Rules of the Supreme Court of Virginia and/or the Scheduling Order entered by the Court.

**Interrogatory No. 9** If anyone investigated this matter for this defendant (excluding your attorney), including medical experts, private investigators or insurance adjusters, please state their name(s) and address(es), and state whether such investigation was reduced to writing. If said investigator obtained any signed statements or recorded statements, identify the person who gave the statement and attach to your Answers a copy of any such statement.

**OBJECTION** State Farm objects to this Interrogatory on the grounds and/or to the extent that it exceeds the scope of discovery, seeks information protected by the attorney/client communication privilege, seeks information protected by the work product doctrine, seeks information collected in anticipation of litigation, and seeks the mental impressions and trial strategy of counsel.

**ANSWER** Notwithstanding the previous objection and without waiving same, an estimate of damages was compiled on the vehicle Plaintiff was operating at the time of the accident. The adjuster was Trey Stone and the estimate was written by Christopher Endicott. See the estimate and supplemental estimates contained in the document production. See the other documents produced that may include statements by Plaintiff.

**Interrogatory No. 10** If Plaintiff has failed to fulfil any conditions or obligations on her part, necessary to trigger UIM or Unisured Motorist coverage under the policy applicable to this loss, set forth all facts supporting your contention.

**ANSWER** State Farm does not make this contention, except that Plaintiff must establish that she is legally entitled to recover for bodily injuries and other damages caused by an uninsured/underinsured motorist as required in the policy and applicable Virginia law.

**Interrogatory No. 10 (mis-numbered)** State with precision the amount of any uninsured or underinsured motorist coverage that Plaintiff had with State Farm at the time of the accident? Include in your answer the policy number, policy limits, and the named insured(s). If Defendant takes the position that Plaintiff is not eligible for such coverage, set forth all facts supporting your coverage position.

**ANSWER** State Farm Mutual Automobile Insurance Company issued policy number 0515-585-46B to Alexis Vann for the date of loss. The applicable uninsured/underinsured motorist coverage for bodily injury is \$100,000.00 per person and \$300,000.00 per accident. See the policy documents.

**Interrogatory No. 11 (mis-numbered)** To the extent that this defendant has issued or intends to issue any denial of coverage to Plaintiff relating to the accident, explain the basis for any such denial and explain why no such denial was issued at the time Defendant was advised of the denial of coverage from the Defendant driver.

**ANSWER** No denial of coverage has been issued by State Farm at this time. Progressive, which reportedly insured the car driven by Mr. Santisteban, has denied

coverage and refused to provide a defense to the defendant due to his alleged "failure to cooperate" in Progressive's investigation and defense of this claim.

**Interrogatory No. 12 (*mis-numbered*)** If you contend that Plaintiff failed to comply with any terms of her State Farm policy in relation to the accident, or that any conditions precedent to coverage under that policy were not met, state with precision the facts that form the basis of your contention.

**ANSWER** State Farm does not make this contention, except that Plaintiff must establish that she is legally entitled to recover for bodily injuries and other damages caused by an uninsured/underinsured motorist as required in the policy and applicable Virginia law.

**Interrogatory No. 13 (*mis-numbered*)** If you contend that Plaintiff's claimed medical bills are not reasonable in terms of amount or the nature of her claimed charges, set forth all facts supporting your contention and identify the substance of any experts who will render such opinions at trial.

**OBJECTION** State Farm objects to this Interrogatory on the grounds that it is not a medical expert and as such does not have the requisite knowledge to properly respond to this Interrogatory. Further, this Interrogatory goes beyond the scope of discovery, seeks information which falls within the confines of the attorney work product doctrine, seeks information collected in anticipation of litigation, and seeks the mental impressions and trial strategy of counsel.

**ANSWER** Notwithstanding the previous objection and without waiving same, State Farm will require Plaintiff to carry her burden of proof as to all claimed damages being causally related to the accident. If a medical expert is retained, then he or she would

be able to answer any questions concerning the injuries, losses and/or damages allegedly sustained by Plaintiff. State Farm will rely upon expert medical testimony, any statements in Plaintiff's own medical records, any pre-existing or post-accident injury, and to determine the reasonableness and necessity of the bills.

**Interrogatory No. 14 (mis-numbered)** Set forth Defendant's contention as to whether Plaintiff complied with the terms of her insurance policy with State Farm (in effect at the time of the accident) by providing requested medical records and bills to sufficient to enable State Farm to evaluate her claim before this case was put into suit. If not, set forth all facts supporting your contention and explain what facts, if any, supported State Farm's decision to offer Plaintiff nothing under her policy of uninsured motorist coverage.

**ANSWER** State Farm does not make this contention, except that Plaintiff must establish that she is legally entitled to recover for bodily injuries and other damages caused by an uninsured/underinsured motorist as required in the policy and applicable Virginia law. State Farm has paid to and/or on behalf of Ms. Vann the \$5,000.00 medical payments limits under her policy. State Farm offered \$11,900 to settle the UM/UIM claim, by letter dated July 3, 2018. State Farm will require Plaintiff to carry her burden of proof as to all claimed damages being causally related to the accident. If a medical expert is retained, then he or she would be able to answer any questions concerning the injuries, losses and/or damages allegedly sustained by Plaintiff. State Farm will rely upon expert medical testimony, any statements in Plaintiff's own medical records, any pre-existing or post-accident injury, and to determine the reasonableness and necessity of the bills.

**Interrogatory No. 15 (mis-numbered)** To the extent you contend that Plaintiff is not lawfully entitled to receive insurance benefits under her policy with State Farm to the full extent of her



UIM coverage, set forth all facts supporting such contention and specify all facts known to the state farm insurance adjustor(s) who decided not to put policy limits on this claim prior to this matter being placed into litigation. To the extent that State Farms decision is based upon the decision of the primary insurer, set forth all facts known to State Farm regarding Progressive's denial of coverage as of the date that Defendant State Farm filed their answer in this case

**ANSWER**            **State Farm does not make this contention, except that Plaintiff must establish that she is legally entitled to recover for bodily injuries and other damages caused by an uninsured/underinsured motorist as required in the policy and applicable Virginia law. State Farm has paid to and/or on behalf of Ms. Vann the \$5,000.00 medical payments limits under her policy. State Farm offered \$11,900 to settle the UM/UIM claim, by letter dated July 3, 2018. State Farm will require Plaintiff to carry her burden of proof as to all claimed damages being causally related to the accident. If a medical expert is retained, then he or she would be able to answer any questions concerning the injuries, losses and/or damages allegedly sustained by Plaintiff. State Farm will rely upon expert medical testimony, any statements in Plaintiff's own medical records, any pre-existing or post-accident injury, and to determine the reasonableness and necessity of the bills.**

**Plaintiff has alleged that Mr. Santisteban was driving the car that caused the subject accident, and that Mr. Santisteban is insured for liability coverage with Progressive. Progressive's liability coverage would have to be exhausted, and Plaintiff would have to establish that she is legally entitled to recover damages in excess of Progressive's policy limits, before she can recover UIM benefits from State Farm as stated in the policy and Virginia law.**

**Interrogatory No. 16 (mis-numbered)** With respect to Plaintiff's claimed medical bills in this case (which Plaintiff's claims were incurred for treatment of her injuries resulting from the

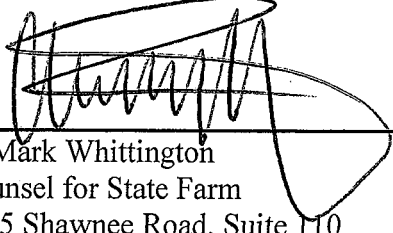
accident at issue), set forth Defendant's contention as to whether any of those claimed medical bills are related to the accident at issue and if not, set forth your contention as to what necessitated the treatment.

**ANSWER**                    **This interrogatory is not directed to State Farm. Please see State Farm's answers to other similar interrogatories, above.**

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY  
By Counsel

**Shireen Jayatilaka & Associates**

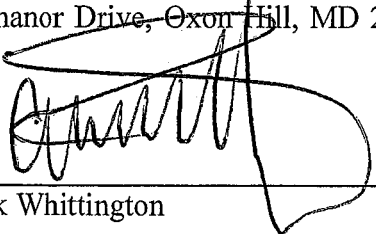
By:



\_\_\_\_\_  
C. Mark Whittington  
Counsel for State Farm  
5285 Shawnee Road, Suite 110  
Alexandria, VA 22312  
(703) 813-4400  
(855) 757-0854 (Fax)  
mark.whittington.jewp@statefarm.com  
VA Bar No. 37655

**CERTIFICATE OF SERVICE**

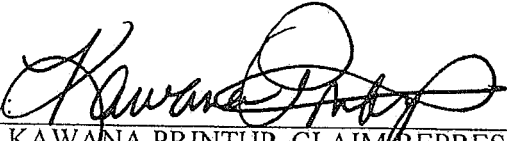
I hereby certify that a true copy of the foregoing was mailed, postage prepaid, to Jeffrey J. Downey, Esquire, The Law Office of Jeffrey J. Downey, 8270 Greensboro Drive, Suite 810, McLean, VA 22102, Juan C. Santisteban, 4906 Glassmanor Drive, Oxon Hill, MD 20745, on October 24, 2018.



\_\_\_\_\_  
C. Mark Whittington

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

STATE FARM MUTUAL AUTOMOBILE INSURANCE  
COMPANY

BY   
KAWANA PRINTUP, CLAIM REPRESENTATIVE

# Exh. No. 3

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

ALEXIS VANN,

Plaintiff,

v.

JUAN CARLOS SANTISTEBAN, ET AL.,

Defendants.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

At Law No. CL-2018-0009461

**STATE FARM'S RESPONSE TO  
PLAINTIFF'S REQUEST FOR PRODUCTION OF DOCUMENTS**

COMES NOW State Farm Mutual Automobile Insurance Company (hereinafter State Farm), by counsel, and responds to Plaintiff's Request for Production of Documents as follows.

**General Objections to Request for Production of Documents**

State Farm objects to Plaintiff's preamble and states that the requests will be responded to pursuant to the Rules of the Supreme Court of Virginia only. State Farm preserves objections to any request for information protected as work product or the attorney-client privilege.

**Responses to Request for Production of Documents**

**Request No. 1:** Produce any documents identified or referenced in your Answers to Interrogatories.

**RESPONSE**           **Please see the documents produced.**

**Request No. 2:** Produce any damage appraisals or estimates of any vehicle involved in the accident.

**RESPONSE**           **Please see the documents produced.**

**Request No. 3:** Produce all photographs, videotapes or audio tapes, x-rays, diagrams, medical records, surveys or other graphic representations of information concerning the subject matter of

this action, the Plaintiff, the parties' injuries or property damage, including that of the auto accident scene.

**RESPONSE**            **Please see the documents produced.**

**Request No. 4:**

**There was no request number 4.**

**Request No. 5:** Produce all notes, reports, correspondence, bills, invoices, diagrams, photographs, x-rays or other documents prepared or reviewed by each person whom you expect to call as an expert witness at trial.

**RESPONSE**            **None at this time.**

**Request No. 6:** Produce any police report that involves the accident at issue.

**RESPONSE**            **Please see the documents produced.**

**Request No. 7:**

**There was no request number 7.**

**Request No. 8:**

**There was no request number 8.**

**Request No. 9:** Produce any statements by any parties or participants to the accident that were either provided to this defendant or that this defendant is in possession of.

**RESPONSE**            **State Farm is not a defendant. State Farm did not take a recorded statement from Plaintiff or Defendant. Please see the documents produced.**

**Request No. 10:** If you contend that any of the documents requested in this Request for Production of Documents are privileged, produce a privilege log setting forth the author of the document, the recipient, the date that said document was created, the nature of the document, and basis for privilege.

**RESPONSE** State Farm has not produced correspondence and or notes of undersigned counsel, correspondence between State Farm and this office, correspondence between State Farm and third parties not a party to this litigation, and State Farm's electronic claims log notes.

**Request No. 11:** Produce any statements obtained from any eyewitnesses to the accident or Plaintiff's injuries.

**RESPONSE** None unless reflected in the documents produced.

**Request No. 12:**

There was no request number 12.

**Request No. 13:** Produce any and all exhibits that you intend to use as evidence at trial. (Note that Plaintiff will object to the use of any exhibit that is not so identified.)

**RESPONSE** State Farm has not yet determined what exhibits may be introduced at the trial of this matter. Undersigned counsel will provide the List of Exhibits in accordance with the Rules of the Supreme Court of Virginia and/or the Scheduling Order entered by the Court.

**Request No. 14:** Produce a complete copy of any insurance policies in your possession (including the DEC sheet) in which Plaintiff is a named party or named insured under the policy, including any policies that provided uninsured or underinsured motorist coverage to Plaintiff at the time of the accident.

**RESPONSE**            **Please see the documents produced.**

**Request No. 15:** Produce any documents that you or your attorney have subpoenaed in this case as well as any documents this defendant has obtained through any authorizations signed by any party to this litigation.

**RESPONSE**            **State Farm has not served Subpoenas or Authorizations at this time.**

**If at some point Subpoenas and/or Authorizations are issued, copies of all responses will be made available to Plaintiff's counsel in accordance with the Rules of the Supreme Court of Virginia through Second Image, a third party vendor. Upon receipt of subpoenaed records, Second Image will send your office a letter detailing copying costs and method to retrieve the documents.**

**Request No. 16:**

**There was no request number 16.**

**Request No. 17:** Produce copies of any traffic regulations, standards in the industry, legal authority, rule, case, statute, or code that will be relied upon by this defendant in defending this case.

**RESPONSE**            **State Farm is not the defendant and does not have any information pertaining to how Defendant Juan Santisteban will defend the action against him.**



**Request No. 18:** Produce any documents, letters or notes sent to or received by any expert or medical provider you intend to call at trial, along with any reports or recordings generated by the same.

**RESPONSE**            **None at this time.**

**Request No. 19:**

**There was no request number 19.**

**Request No. 20:** Produce any and all documents that you have received in connection with this matter that mention or identify Plaintiff's name and were not received by you from Plaintiff or Plaintiff's attorney.

**OBJECTION**            **State Farm objects to this Request on the grounds and/or to the extent that it seeks information which falls within the confines of the work product doctrine, seeks information collected in anticipation of litigation, seeks the mental impressions and trial strategy of counsel, and exceeds the scope of discovery as contemplated by the Rules of the Supreme Court of Virginia.**

**RESPONSE**            **Please see the documents produced.**

**Request No. 21:** Produce all notes, reports, correspondence, bills, invoices, diagrams, photographs, x-rays or other documents prepared or reviewed by each person whom you expect to call as an expert witness at trial.

**RESPONSE**            **None at this time.**

**Request No. 22:** Produce a copy of any and all expert reports, statements, documents, letters, notes sent to or received by any expert or medical provider you intend to call at trial, and if these items have been prepared by the expert in connection with this case, then the preparation of such items are hereby requested, along with any and all reports, correspondence, papers, notes records, statistics, articles, literature or other documents which your expert has received, reviewed or created in reference to this case.

**RESPONSE**            **None at this time.**

**Request No. 23:** Produce a copy of this defendant's experts' resumes a/k/a Curriculum Vitaes.

**RESPONSE**            **State Farm is not a defendant but will produce expert any witness C.V.**

**Request No. 24:** With respect to any expert retained by this defendant, please produce a list of all cases (including plaintiff's name(s), the defendant's names(s), the plaintiff's attorney's name(s) and address, the defendant's attorney's name(s) and address, the court location, case number and date of said testimony) in which the expert provided testimony either by way of trial, video or deposition during the last five (5) years.

**RESPONSE**            **State Farm is not a defendant.**

**Request No. 25:** With respect to any expert retained by this defendant, provide a separate list of all cases that the expert was retained for by this defendant or defense counsel and his or her firm.

**RESPONSE**            **State Farm is not a defendant.**

**Request No. 26:** With respect to any expert retained by this defendant, please produce copies of all 1099s or other documentation reflecting total compensation received from Defendant or

Defendant's law firm(s) for undertaking IMEs or providing expert witness testimony on personal injury cases for the last two (2) years.

**RESPONSE**            **State Farm is not a defendant.**

**Request No. 27:** Produce all surveillance video or photos of Plaintiff that are in Defendant's possession and all communications between defense counsel and the person(s) who took the videos or photographs.

**RESPONSE**            **State Farm is not a defendant.**

**Request No. 28.** Produce any medical reports or reviews related to Plaintiff's claimed injuries which were generated before this case was placed in litigation.

**RESPONSE**            **Please see the documents produced.**

**Request No. 29.** Produce any documents which support Defendant's decision that Plaintiff was not entitled to relieve the full extent of her policy benefits with respect to the accident at issue.

**RESPONSE**            **State Farm is not a defendant and has no knowledge of what went into defendant's decision on these matters if any such decision was made by him.**

**Request No. 30.** Produce any documents purporting to explain the reason(s) Defendant driver Santisteban was unable to stop before colliding with Plaintiff's vehicle at the time of the subject accident

**RESPONSE**            **State Farm has no knowledge of these matters except that Mr. Santisteban has denied he was driving a car that was involved in the accident with Plaintiff.**

**Please see the documents produced.**

**Request No. 31.** Produce any documents upon which the insurance adjustor relied upon in offering Plaintiff no monetary amount for settlement of her UIM claim, prior to suit being filed.

**RESPONSE** Not applicable. State Farm made a \$11,900.00 settlement offer to Plaintiff's counsel under Plaintiff's UM/UIM coverage on July 3, 2018. Please see the documents produced.

**Request No. 32** Produce any medical or chart review which was undertaken at the request of State Farm or their agents, which in any way evaluated the reasonableness, medical necessity or causation of Plaintiff's claimed medical bills and expenses in this case.

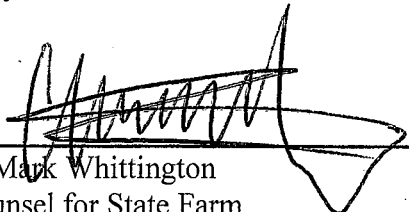
**OBJECTION** State Farm objects to this Request on the grounds and/or to the extent that it exceeds the scope of discovery, seeks information protected by the work product doctrine, seeks information collected in anticipation of litigation, and seeks the mental impressions and trial strategy of counsel.

**RESPONSE** See previous objection.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY  
By Counsel

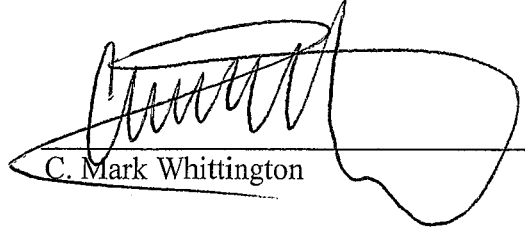
**Shireen Jayatilaka & Associates**

By:

  
C. Mark Whittington  
Counsel for State Farm  
5285 Shawnee Road, Suite 110  
Alexandria, VA 22312  
(703) 813-4400  
(855) 757-0854 (Fax)  
mark.whittington.jewp@statefarm.com  
VA Bar No. 37655

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was mailed, postage prepaid, to Jeffrey J. Downey, Esquire, The Law Office of Jeffrey J. Downey, 8270 Greensboro Drive, Suite 810, McLean, VA 22102, Juan C. Santisteban, 4906 Glassmanor Drive, Oxon Hill, MD 20745, on October 24, 2018.

  
C. Mark Whittington

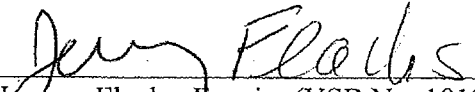
# Exh. No. 4



Entered this 7 day of September, 2012.


  
\_\_\_\_\_  
Circuit Court Judge

Seen and

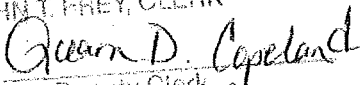
  
\_\_\_\_\_  
Jeremy Flachs, Esquire (VSB No. 19193)  
Law Offices of Jeremy Flachs  
6601 Little River Turnpike, Suite 315  
Alexandria, VA 22312  
(703) 879-1998  
Fax: (703) 462-9090

Counsel for Plaintiff

Seen with objections noted in the record.

  
\_\_\_\_\_  
David J. Fudala, Esquire (VSB No. 18878)  
Va. State Bar #18878  
4010 University Drive  
Second Floor  
Fairfax, VA 22030  
(703) 277-9742  
Fax: (703) 591-2149

Counsel for Veolia Transportation Services, Inc.  
and Robert A. Page

A COPY TESTE:  
JOHN T. FREY, CLERK  
BY:   
Deputy Clerk  
Date: 9-7-12  
Original retained in the office of  
the Clerk of the Circuit Court of  
Fairfax County, Virginia



# Exh. No. 5

VIRGINIA

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

PEGGY ROSAS,

Plaintiff,

v.

Case No. 2008-10613

WILLIAM M. CUSMANO,

Administrator of

HUGO ELADIO SOUZA,

Deceased,

Defendant,

And

STATE FARM AUTOMOBILE

INSURANCE COMPANY.

ORDER

Upon consideration of the Defendant's and State Farm Insurance's motion for a Rule 4:10 examination of the Plaintiff by Donald Hope, M.D., it is ORDERED that:

The Plaintiff, Peggy Rosas, will undergo a Rule 4:10 examination by Donald Hope, M.D. The time, place, manner, conditions, and scope of such exam are as follows:

1. The exam will be conducted by Dr. Hope at his offices at 3016 Williams Drive, Fairfax, Virginia 22031, on April 27, 2010 at 9:45 a.m. and will last approximately one hour.

Noew

2. Questioning of the Plaintiff shall be limited to that information reasonably necessary to conduct a neurological assessment, including a history. Questions pertaining to extraneous matters, such as when the Plaintiff hired her attorney or who referred the Plaintiff to any doctor, are not permitted.

3. The assessment is to be limited to the specific conditions in controversy (traumatic brain injury/post-concussion syndrome and cervical subluxation, as well as physical, cognitive and emotional sequelae and deficits resulting therefrom, such as alterations in sense of taste and smell, balance problems, and neck pain and discomfort).

4. No x-rays or invasive or painful testing shall be performed.

5. The examinee will not be required to complete any lengthy information forms upon arrival at the examiner's office. The examinee will furnish the doctor with sufficient identifying information, e.g., name, address, date of birth, and social security number.

6. Plaintiff shall not be required to bring anything to the exam other than valid identification (e.g., Driver's License).

7. Plaintiff is permitted to have a family member or friend present for the exam; he or she will identify himself or

herself to the examiner. Such person may unobtrusively observe the assessment and take notes, but not interfere with the assessment.

8. Neither counsel nor any other person may attend or observe, record, or video the exam.

9. If the Plaintiff believes the examiner is seeking information not permitted by this Order, Plaintiff may contact her counsel.

10. The report of the examiner shall be sent to Plaintiff's counsel within 21 days of the assessment, unless otherwise agreed by counsel.

11. With his report, Dr. Hope shall provide all raw data, including, but not limited to, copies of all notes, tests, test results, scoring sheets, to Plaintiff's counsel, ~~as well as all billings for his work.~~ He will also include his most recent F.R.Civ.P. 26(a)(2)(B)(v) case list, if he has compiled such a list.

12. In testifying Dr. Hope will not use the term "independent" (as in "independent medical examination"), since he has not been selected by this court.

Entered this 10 day of Mar, 2010.

Robert J. Smith  
Circuit Judge