

CAUSE NO. 198100313719

DEER PARK PAINT & BODY,	§	IN THE JUSTICE COURT
	§	
PLAINTIFF,	§	
	§	
VS.	§	PRECINCT 8, PLACE 1
	§	
STATE FARM AUTOMOBILE	§	
INSURANCE COMPANY,	§	
	§	
DEFENDANT.	§	HARRIS COUNTY, TEXAS

**DEFENDANT'S SUPPLEMENTAL OBJECTIONS AND RESPONSES TO PLAINTIFF'S
REQUEST FOR DISCLOSURE, REQUEST FOR PRODUCTION AND REQUEST FOR
ADMISSIONS**

TO: Plaintiff, Deer Park Paint & Body, by and through pro se Larry Cernosek, Cernosek Enterprises, 4527 Red Bluff Road, Pasadena, Texas 77503.

COMES NOW State Farm Automobile Insurance Company, Defendant in the above-styled and numbered cause, and pursuant to Rules 194, 196 and 198, Texas Rules of Civil Procedure, serves the following supplemental objections and responses to Plaintiff's Request for Disclosure, Request for Production and Request for Admissions.

Respectfully submitted,

/s/ Michael P. Hupf

Michael P. Hupf

State Bar No. 24102799

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ATTORNEYS FOR DEFENDANT
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on October 21, 2019 a true and correct copy of the above and foregoing document has been served upon all counsel of record in accordance with the Texas Rules of Civil Procedure.

/s/ Michael P. Hupf
Michael P. Hupf

**REQUEST FOR DISCLOSURE, REQUEST FOR PRODUCTION
AND REQUEST FOR ADMISSIONS**

REQUEST NO. 1: The appraiser who wrote the original estimates or supplements on each claim number on this case. What training each appraiser received and/or work experience repairing a vehicle after an accident.

RESPONSE: State Farm objects to this request as vague, ambiguous, overly broad in scope and time, and therefore unduly burdensome, constituting nothing more than a "fishing expedition," in violation of the letter and spirit of discovery law in the State of Texas. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence. This request seeks confidential, proprietary, business information and trade secrets. State Farm further objects to this request because Plaintiff has not established that production of State Farm's confidential, proprietary or business or trade secret information is necessary for a fair adjudication of Plaintiff's claims as required by the Texas Supreme Court and Rule of Evidence 507.

Subject to and without waiving the above objection:

The following appraisers were used on the identified claims:

██████████ – Appraiser – Current Employee
██████████ – Appraiser – Current Employee
██████████ – Appraiser – Current Employee
██████████ – Salvage Monitor – Current Employee
██████████ – Appraiser – No Longer with State Farm
██████████ – Appraiser – Current Employee
██████████ – Estimator – No longer with State Farm

REQUEST NO. 2: The Industry Software Company used in each of the claims in this case.

RESPONSE: Defendant objects to this discovery request as improper pursuant to Texas Rules of Civil Procedure. Defendant further objects as irrelevant, overbroad, confusing and vague.

Subject to the above objection: State Farm utilizes Audatex for property damage claims.

REQUEST NO. 3: The profile of the estimating software used in writing the estimate on each of the claims in this case.

RESPONSE: Defendant objects to this discovery request as improper pursuant to Texas Rules of Civil Procedure. Defendant further objects as irrelevant, overbroad, confusing and vague.

Subject to the above objection: State Farm holds a profile with the software company.

REQUEST NO. 4: How does State Farm include the P Page requirements into the estimating software used in writing estimates in this case?

RESPONSE: State Farm objects to this request as vague, confusing, ambiguous, overly broad in scope and time, and therefore unduly burdensome, constituting nothing more than a "fishing expedition," in violation of the letter and spirit of discovery law in the State of Texas. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence. This request seeks confidential, proprietary, business information and trade secrets. State Farm further objects to this request because Plaintiff has not established that production of State Farm's confidential, proprietary or business or trade secret information is necessary for a fair adjudication of Plaintiff's claims as required by the Texas Supreme Court and Rule of Evidence 507.

REQUEST NO. 5: How does State Farm include the manufacturers specifications for collision repair in the estimating software used in writing estimates?

RESPONSE: State Farm objects to this request as vague, confusing, ambiguous, specifically with regard to the request for "manufacturers specifications," and overly broad in scope and time, and therefore unduly burdensome, constituting nothing more than a "fishing expedition," in violation of the letter and spirit of discovery law in the State of Texas. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence. This request seeks confidential, proprietary, business information and trade secrets. State Farm further objects to this request because Plaintiff has not established that production of State Farm's confidential, proprietary or business or trade secret information is necessary for a fair adjudication of Plaintiff's claims as required by the Texas Supreme Court and Rule of Evidence 507.

REQUEST NO. 6: What requirements did State Farm ask the software company to put into the estimating software or profile used in each claim for this case for writing the estimates?

RESPONSE: State Farm objects to this request as vague, confusing, ambiguous, overly broad in scope and time, and therefore unduly burdensome, constituting nothing more than a "fishing expedition," in violation of the letter and spirit of discovery law in the State of Texas. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence. This request seeks confidential, proprietary, business information and trade secrets. State Farm further objects to this request because Plaintiff has not established that production of State Farm's confidential, proprietary or business or trade secret information is necessary for a fair adjudication of Plaintiff's claims as required by the Texas Supreme Court and Rule of Evidence 507.

REQUEST NO. 7: How does State Farm compute the labor rates in the estimates in this case for all the claims and the documents to back it up?

RESPONSE: State Farm objects to this request as vague, confusing, ambiguous, overly broad in scope and time, and therefore unduly burdensome, constituting nothing more than a "fishing expedition," in violation of the letter and spirit of discovery law in the State of Texas. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence. This request seeks confidential, proprietary, business information and trade secrets. State Farm further objects to this request because Plaintiff has not established that production of State Farm's confidential, proprietary or business or trade secret information is

necessary for a fair adjudication of Plaintiff's claims as required by the Texas Supreme Court and Rule of Evidence 507.

Subject to and without waiving the foregoing objections, pursuant to State Farm's insurance policy language, State Farm determines the prevailing competitive price in a geographic market by a survey created by State Farm. The process for calculating prevailing competitive price is proprietary, and protected trade secret information that is not discoverable. State Farm further objects to this request in that it seeks information that cannot be disclosed pursuant to confidentiality agreements with third parties; more specifically, when repair shops enter their pricing information on State Farm's survey website, they do so pursuant to State Farm's agreement to keep the information confidential and not to disclose the information outside of State Farm.

REQUEST NO. 8: Under the Texas Insurance Code 1952.301, it states an insurer may not (1) specify the brand, type, kind, age, vendor, supplies, or condition of parts or products that may be used to repair the vehicle. State Farm has done this on every estimate in this case, WHY, as it is against the Insurance Code 1952.301?

RESPONSE: State Farm objects to this request as vague, and ambiguous. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, State Farm's listing of parts and part numbers or vendor reference information are used to support the amount of State Farm's payment and to provide information to the repairer on where these parts can be sourced. The repairer and the customer decide who to purchase the parts from. State Farm does not dictate the specific vendor, supplier or part to be used.

REQUEST NO. 9: Under the Texas Insurance Code 1952.307(1) and (2), was the insured or claimant in any claim on this case notified of any limitation or written consent described in Section 1952.301(a)?

RESPONSE: State Farm objects to this request as vague, and ambiguous. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, State Farm's listing of parts and part numbers or vendor reference information are used to support the amount of State Farm's payment and to provide information to the repairer on where these parts can be sourced. The repairer and the customer decide who to purchase the parts from. State Farm does not dictate the specific vendor, supplier or part to be used.

REQUEST NO. 10: How does State Farm define "reasonable and customary"?

RESPONSE: State Farm objects to this request as vague, ambiguous, specifically regard to the request to "reasonable and customary" in quotations with no reference to what source the request is referring to, overly broad in scope and time, and therefore unduly burdensome, constituting

nothing more than a "fishing expedition," in violation of the letter and spirit of discovery law in the State of Texas. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence. This request seeks confidential, proprietary, business information and trade secrets. State Farm further objects to this request because Plaintiff has not established that production of State Farm's confidential, proprietary or business or trade secret information is necessary for a fair adjudication of Plaintiff's claims as required by the Texas Supreme Court and Rule of Evidence 507.

Subject to and without waiving the foregoing objections, State Farm is unable to identify in what capacity Plaintiff is asking for definition of terms. To the extent applicable, please see the form policy that is attached here and the definitions used in that document.

REQUEST NO. 11: How does State Farm define "prevailing rate in the market area"?

RESPONSE: State Farm objects to this request as vague, ambiguous, specifically regard to the request to "reasonable and customary" in quotations with no reference to what source the request is referring to, overly broad in scope and time, and therefore unduly burdensome, constituting nothing more than a "fishing expedition," in violation of the letter and spirit of discovery law in the State of Texas. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence. This request seeks confidential, proprietary, business information and trade secrets. State Farm further objects to this request because Plaintiff has not established that production of State Farm's confidential, proprietary or business or trade secret information is necessary for a fair adjudication of Plaintiff's claims as required by the Texas Supreme Court and Rule of Evidence 507.

Subject to and without waiving the foregoing objections, State Farm is unable to identify in what capacity Plaintiff is asking for definition of terms. To the extent applicable, please see the a form policy that is attached here and the definitions used in that document.

REQUEST NO. 12: How does State Farm define "pre-accident condition"?

RESPONSE: State Farm objects to this request as vague, ambiguous, specifically regard to the request to "reasonable and customary" in quotations with no reference to what source the request is referring to, overly broad in scope and time, and therefore unduly burdensome, constituting nothing more than a "fishing expedition," in violation of the letter and spirit of discovery law in the State of Texas. Further, the request seeks information that is not relevant nor is it reasonably calculated to lead to the discovery of admissible evidence. This request seeks confidential, proprietary, business information and trade secrets. State Farm further objects to this request because Plaintiff has not established that production of State Farm's confidential, proprietary or business or trade secret information is necessary for a fair adjudication of Plaintiff's claims as required by the Texas Supreme Court and Rule of Evidence 507.

Subject to and without waiving the foregoing objections, State Farm is unable to identify in what capacity Plaintiff is asking for definition of terms. To the extent applicable, please see the a form policy that is attached here and the definitions used in that document.