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Attorneys at Law

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MATTHEW D. STOCKWELL (NJ NY PA)
SELENA M. CASINELLI (NJ NY)
MITCHELL R. AYES (NJ NY)
BRIAN R. MASTERSON (NJ NY)
JUSTIN BERARDO (NJ NY NH)

PLEASE REPLY TO NEW JERSEY

August 2, 2011

VIA NJ LAWYER'S SERVICE

Angel DeFilippo, Esq.
Grieco, Oates & DeFilippo, LLC
414 Eagle Rock Avenue, Suite 200
West Orange, New Jersey 07052

Patrick J. Hermesmann, Esq.
Law Offices of Terkowitz & Hermesmann
400 Atrium Drive, P.O. Box 6745
Somerset, NJ 08875-6745

Robert M. Cook, Esq.
Goldberg Segalla, LLP
902 Carnegie Center, Suite 100
Princeton, New Jersey 08540

James T. Gill, Esq.
Leary, Bride, Tinker & Moran
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927

Re: Thomas Kline, et al. v. Loman Auto Group, et al.
Docket No.: MRS-L-3575-08
Date of Loss: February 24, 2007

Dear Counselors:

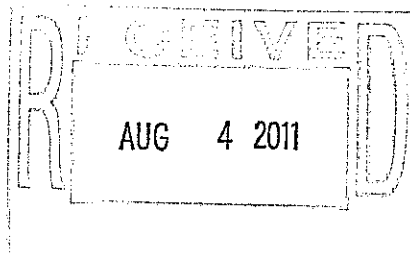
Enclosed please find a Notice of Motion, Certification and proposed Order with respect to the above matter.

Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,

Matthew D. Stockwell
MATTHEW D. STOCKWELL

MDS/cr
Enclosures



CALLAHAN & FUSCO, LLC
72 Eagle Rock Avenue, Suite 320
East Hanover, New Jersey 07936
(973) 618-9770

Attorneys for Defendant
LOMAN AUTO GROUP

THOMAS KLINE, as Administrator Ad
Prosequendum of the Heirs at Law of SUSAN
MORRIS KLINE (DECEASED), as
Administrator of the ESTATE OF SUSAN
MORRIS KLINE, and THOMAS KLINE,
individually,

Plaintiffs,

v.

VICTORIA MORGAN-ALCALA, CARLOS
ALCALA, NATALIE RAWLS, DAIMLER
CHRYSLER-CORPORATION a/k/a
CHRYSLER CORPORATION, LOMAN
AUTO GROUP, CHRYSLER GROUP (for
discovery purposes), JOHN DOES A through
Z (names being fictitious), and ABC
CORPORATIONS 1 through 100 (names
being fictitious),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY

Docket No.: MRS-L-3575-08

Civil Action

NOTICE OF MOTION

TO: All Counsel on the attached Certification of Service List

SIRS:

PLEASE TAKE NOTICE that that undersigned attorneys for defendant LOMAN

AUTO GROUP ("LOMAN") will apply to the Superior Court of New Jersey, Morris County, Law Division, at the Courthouse located at Washington & Court Streets in Morristown, New Jersey, on Friday, August 19, 2011, or as soon thereafter as counsel may be heard, for an Order pursuant to R. 4:23-5(c):

- 1) Compelling plaintiffs to respond to defendant LOMAN's Notice to Produce dated June 17, 2011, on or before August 26, 2011; and
- 2) for such other and further relief as the Court may deem just and proper.


PLEASE TAKE FURTHER NOTICE that in support of this motion, defendant shall rely on the accompanying Certification of Christopher G. Fusco, Esq., and;

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith; and

PLEASE TAKE FURTHER NOTICE that pursuant to R. 1:6-2, defendant requests oral argument in the event opposition to this motion is filed.

Dated: August 2, 2011

CALLAHAN & FUSCO, LLC
Attorneys for Defendant,
LOMAN AUTO GROUP

By: 
CHRISTOPHER G. FUSCO

ARBITRATION DATE: None.

PRE-TRIAL CONFERENCE DATE: None.

TRIAL DATE: None.

CERTIFICATION OF SERVICE

I, Christopher G. Fusco, of full age, being duly sworn, according to law and upon my oath, depose and say:

1. I am an attorney with the law firm of Callahan & Fusco, LLC and assigned the handling of this action.

2. On August 2, 2011, I served, via NJ Lawyers' Service, a copy of the within Notice of Motion, Certification, and proposed form of Order to:

Angel DeFilippo, Esq.
Grieco, Oates & DeFilippo, LLC
414 Eagle Rock Avenue, Suite 200
West Orange, New Jersey 07052
Attorneys for Plaintiffs

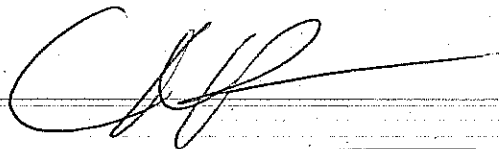
Patrick J. Hermesmann, Esq.
Law Offices of Terkowitz & Hermesmann
400 Atrium Drive
Somerset, New Jersey 08875
Attorneys for Natalie Rawls

James T. Gill, Esq.
Leary, Bride, Tinker & Moran
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927
Attorneys for Victoria Morgan-Alcala &
Carlos Alcala

Robert M. Cook, Esq.
Goldberg Segalla, LLP
902 Carnegie Center, Suite 100
Princeton, New Jersey 08540
Attorneys for Daimler Chrysler a/k/a Chrysler
Corp., Chrysler Group, LLC

3. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: August 2, 2011



CHRISTOPHER G. FUSCO

CALLAHAN & FUSCO, LLC
72 Eagle Rock Avenue, Suite 320
East Hanover, New Jersey 07936
(973) 618-9770

Attorneys for Defendant
LOMAN AUTO GROUP

THOMAS KLINE, as Administrator Ad
Prosequendum of the Heirs at Law of SUSAN
MORRIS KLINE (DECEASED), as
Administrator of the ESTATE OF SUSAN
MORRIS KLINE, and THOMAS KLINE,
individually,

Plaintiffs,

v.

VICTORIA MORGAN-ALCALA, CARLOS
ALCALA, NATALIE RAWLS, DAIMLER
CHRYSLER-CORPORATION a/k/a
CHRYSLER CORPORATION, LOMAN
AUTO GROUP, CHRYSLER GROUP (for
discovery purposes), JOHN DOES A through
Z (names being fictitious), and ABC
CORPORATIONS 1 through 100 (names
being fictitious),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY

Docket No.: MRS-L-3575-08

Civil Action

CERTIFICATION

CHRISTOPHER G. FUSCO, being duly sworn, hereby certifies and says:

1. I am an attorney-at-law admitted to practice before the courts of the State of New Jersey, and am a Member of Callahan & Fusco, LLC, the attorneys of record for the defendant

LOMAN AUTO GROUP ("LOMAN").

2. I am assigned to the handling of this action, and am therefore familiar with the facts of the case and its procedural history.

3. I submit this Certification in support of LOMAN's motion to compel plaintiffs to respond to LOMAN's Notice to Produce dated June 17, 2011. I am making this Certification upon personal knowledge unless otherwise indicated.

4. This complex matter arises out of a motor vehicle accident in which plaintiff's decedent SUSAN MORRIS KLINE was killed while operating a 1996 Jeep Grand Cherokee. Allegedly, the Jeep was rear ended and caught on fire. Plaintiffs have brought negligence and products liability causes of action against LOMAN and other defendants. Plaintiffs' claims center around the location of the fuel tank on the Jeep Grand Cherokee.

5. On June 14, 2011, Chrysler witness Francois Castaing was deposed. At the deposition, plaintiffs' expert Paul Sheridan appeared and participated in the deposition, along with his personal counsel from Michigan, Courtney Morgan, Esq., who is not counsel of record to anyone in this case.

6. Subsequently, on June 17, 2011, plaintiffs were served with a Notice to Produce, seeking *inter alia*, production of the file that Mr. Sheridan brought to the deposition, along with his note pad that he used. A copy of the June 17, 2011 Notice to Produce is annexed hereto as Exhibit "A".

7. Counsel for plaintiffs responded to the Notice to Produce by letter dated July 11, 2011, a copy of which is annexed hereto as Exhibit "B". In that letter, counsel objected to both of those requests (item numbers 2 and 3) as being privileged.

8. However, with regard to item number 2, no privilege attaches to items that plaintiffs' expert Paul Sheridan brought to a deposition and furnished to plaintiffs' counsel for counsel's use in questioning the witness. These materials clearly were not mere letters between

counsel and Mr. Sheridan, but rather were substantive documents that were furnished to counsel by Mr. Sheridan from his file. Regardless, plaintiffs failed to produce a privilege log.

9. With regard to item number 3, Mr. Morgan is not counsel of record to the plaintiffs in this matter, nor is he admitted to practice in the State of New Jersey. Plaintiffs were represented at the deposition by Angel DeFilippo, Esq. (counsel of record) and Russell Sacco, Esq. (personal counsel to plaintiff Thomas Kline). The fact that Chrysler may have permitted the attorney for plaintiffs' expert to conduct the deposition is of no moment; nothing that Mr. Sheridan furnished to Mr. Morgan is privileged information in this case or otherwise protected by the New Jersey Rules of Court.

10. In light of the foregoing, defendant LOMAN seeks an Order compelling the plaintiffs to respond to the subject Notice to Produce, and specifically, to furnish the documents requested in items 2 and 3.

11. Our office has made a good faith attempt to resolve this issue. On or about July 26, 2011, Angel DeFilippo, Esq. advised my associate, Matthew Stockwell, Esq., that she would not provide the items requested in the Notice to Produce.

12. No trial or arbitration date has been assigned by the Court in this matter, and LOMAN is not in default of any outstanding discovery obligations.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: August 2, 2011



CHRISTOPHER G. FUSCO

CALLAHAN & FUSCO, LLC
72 Eagle Rock Avenue, Suite 320
East Hanover, New Jersey 07936
(973) 618-9770

Attorneys for Defendant
LOMAN AUTO GROUP

THOMAS KLINE, as Administrator Ad
Prosequendum of the Heirs at Law of SUSAN
MORRIS KLINE (DECEASED), as
Administrator of the ESTATE OF SUSAN
MORRIS KLINE, and THOMAS KLINE,
individually,

Plaintiffs,

v.

VICTORIA MORGAN-ALCALA, CARLOS
ALCALA, NATALIE RAWLS, DAIMLER
CHRYSLER-CORPORATION a/k/a
CHRYSLER CORPORATION, LOMAN
AUTO GROUP, CHRYSLER GROUP (for
discovery purposes), JOHN DOES A through
Z (names being fictitious), and ABC
CORPORATIONS 1 through 100 (names
being fictitious),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY

Docket No.: MRS-L-3575-08

Civil Action

NOTICE TO PRODUCE

TO: Angel DeFilippo, Esq.
Grieco, Oates & DeFilippo, LLC
414 Eagle Rock Avenue, Suite 200
West Orange, New Jersey 07052
Attorneys for Plaintiffs

PLEASE TAKE NOTICE that, pursuant to R. 4:18-1, demand is hereby made of the
plaintiffs to produce true, complete, and accurate copies of the following documents to this office
within thirty (30) days of the date hereof.

PLEASE TAKE FURTHER NOTICE that, for purposes of this notice, the term “documents” shall include, *inter alia*, all written or graphic matter of every kind and description, however produced or reproduced, whether draft or final, original or reproduction, including, but not limited to, letters, correspondence, memoranda, notes, films, transcripts, contracts, agreements, licenses, memoranda or notes of telephone conversations, microfilm, telegrams, books, magazines, advertisements, periodicals, bulletins, circulars, pamphlets, statements, notices, reports, rules, regulations, directives, teletype messages, minutes of meetings, interoffice communications, computer disks and/or tapes, E-mail, reports, financial statements, ledgers, books of account, proposals, prospectuses, offers, orders, receipts, working papers, desk calendars, appointment books, diaries, times sheets, logs, movies, tapes for visual or audio reproduction, recordings or materials similar to any of the foregoing, however denominated, and including writings, drawings, graphs, charts, blueprints, photographs, phonorecords and data processing results, printouts and computations (both in existence and stored in memory components) and other compilations from which information can be obtained, or translated, if necessary, by the Responding Defendants through detection devices into reasonably usable form. The term “document” shall also include all copies of each document if the copies contain any additional writing or are not identical copies of the original.

~~PLEASE TAKE FURTHER NOTICE that if you contend you are entitled to withhold~~
~~from production any or all documents identified herein, then with respect to each and every~~
document: a) describe and identify the nature of the document; b) state the date of the document;
c) identify the persons who sent and received the original and a copy of the document; d) state
the subject matter of the document; and e) state the basis upon which you contend you are
entitled to withhold the document from production.

PLEASE TAKE FURTHER NOTICE that plaintiffs are under a continuing obligation to supplement their response to this Notice to Produce.

PLEASE TAKE FURTHER NOTICE that you must produce the following:

1. Any and all documents (as defined above) related to this matter which plaintiffs intend to rely upon at the time of trial, and which have not been produced.
2. Any and all documents (as defined above) brought by Paul Sheridan to the deposition of Mr. Castaing on June 14, 2011.
3. The "note pad" and any writings or documents (as defined above) therein used by Paul Sheridan at the June 14, 2011 deposition and furnished to Courtney Morgan, Esq. during the deposition.
4. All notes, writings and documents (as defined above) of Courtney Morgan, Esq. pertaining to this case.

PLEASE TAKE FURTHER NOTICE, that upon failing to produce the aforesaid items at the time and place required in this notice, a motion will be made to the Court to preclude plaintiffs from offering the above items into evidence and precluding plaintiffs' experts from testifying at the time of trial.

Dated: June 17, 2011

CALLAHAN & FUSCO, LLC
Attorneys for Defendant
LOMAN AUTO GROUP

BY: 

CHRISTOPHER G. FUSCO

CERTIFICATION OF SERVICE

I, Christopher G. Fusco, of full age, being duly sworn, according to law and upon my oath, depose and say:

1. I am an attorney with the law firm of Callahan & Fusco LLC and assigned the handling of this action.

2. On June 17, 2011 I served, via NJ Lawyers' Service, a copy of the within Notice to Produce to:

Angel DeFilippo, Esq.
Grieco, Oates & DeFilippo, LLC
414 Eagle Rock Avenue, Suite 200
West Orange, New Jersey 07052
Attorneys for Plaintiffs

M. Sheila Jeffrey, Esq.
Miller Canfield
101 North Main Street, 7th Floor
Ann Arbor, Michigan 48104
Discovery Counsel for Daimler Chrysler a/k/a
Chrysler Corp., Chrysler Group, LLC

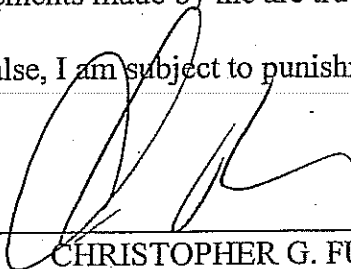
James T. Gill, Esq.
Leary, Bride, Tinker & Moran
7 Ridgedale Avenue
Cedar Knolls, New Jersey 07927
Attorneys for Victoria Morgan-Alcala &
Carlos Alcala

Robert M. Cook, Esq.
Goldberg Segalla, LLP
902 Carnegie Center, Suite 100
Princeton, New Jersey 08540
Attorneys for Daimler Chrysler a/k/a Chrysler
Corp., Chrysler Group, LLC

Patrick J. Hermesmann, Esq.
Law Offices of Terkowitz & Hermesmann
400 Atrium Drive
Somerset, New Jersey 08875
Attorneys for Natalie Rawls

3. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: June 17, 2011



CHRISTOPHER G. FUSCO

OATES & DeFILIPPO LLC
ATTORNEYS AT LAW

ANGEL M. DEFILIPPO (NJ)
Certified By The Supreme Court Of
New Jersey As A Civil Trial Attorney
NICHOLAS A. GRIECO (NJ & DC)
KAREN M. BUERLE (NJ)

414 EAGLE ROCK AVENUE, SUITE 200
WEST ORANGE, NEW JERSEY 07052
TELEPHONE (973) 243-2099
TELECOPIER (973) 243-2095

OF COUNSEL:
BART OATES (NJ)
WILFREDO CARABALLO (NJ&NY)
JERRY R. SALERNO (NJ)
RAYMOND C. RUBINO (NJ NY&PA)

PETER J. MURANO, III (NJ & NY)

July 11, 2011

Christopher G. Fusco, Esquire
Callahan & Fusco
72 Eagle Rock Avenue
Suite 320
East Hanover, New Jersey 07936

Re: Estate of Susan Morris Kline v. Loman Auto Group, et al.
Docket No. MRS-L-3575-08

Dear Mr. Fusco:

In response to your Notice to Produce dated June 17, 2011 relative to the above captioned matter, please be guided as follows:

1. Plaintiff will supply all such information in accordance with the Rules of Court and the Discovery end date and as further information is supplied to the Plaintiff.
2. Plaintiff objects to this request as overly broad and burdensome. Plaintiff also objects to any documents which were attorney/client work product or attorney's notes or writings between Plaintiff's attorneys and Plaintiff's expert witnesses.
3. Plaintiff objects to this request as seeking privileged information.
4. Plaintiff objects to this request as seeking privileged information.

Thank you for your kind attention to same.

Very truly yours,



ANGEL M. DE FILIPPO

AMD/krf

CALLAHAN & FUSCO, LLC
72 Eagle Rock Avenue, Suite 320
East Hanover, New Jersey 07936
(973) 618-9770

Attorneys for Defendant
LOMAN AUTO GROUP

THOMAS KLINE, as Administrator Ad
Prosequendum of the Heirs at Law of SUSAN
MORRIS KLINE (DECEASED), as
Administrator of the ESTATE OF SUSAN
MORRIS KLINE, and THOMAS KLINE,
individually,

Plaintiffs,

v.

VICTORIA MORGAN-ALCALA, CARLOS
ALCALA, NATALIE RAWLS, DAIMLER
CHRYSLER-CORPORATION a/k/a
CHRYSLER CORPORATION, LOMAN
AUTO GROUP, CHRYSLER GROUP (for
discovery purposes), JOHN DOES A through
Z (names being fictitious), and ABC
CORPORATIONS 1 through 100 (names
being fictitious),

Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MORRIS COUNTY

Docket No.: MRS-L-3575-08

Civil Action

ORDER

THIS MATTER having been opened to the Court upon the application of the firm of
Callahan & Fusco, LLC, attorneys for defendant LOMAN AUTO GROUP, for an Order
compelling plaintiff to respond to defendant's Notice to Produce, dated June 17, 2011, and for
good cause shown;

IT IS on this ____ day of August, 2011

ORDERED that, plaintiffs shall respond to defendant's Notice to Produce, and produce
the items requested in Nos. 2 and 3, on or before August 26, 2011; and

IT IS FURTHER ORDERED that in the event that the provisions of the above are not

met, plaintiffs' expert Paul Sheridan shall be barred from testifying at the trial of this matter; and

IT IS FURTHER ORDERED, that copies of this Order shall be served on all other parties to this action within _____ of the date hereof.

J.S.C.

- Opposed
 Unopposed



CALLAHAN & FUSCO LLC
Attorneys at Law

BETH A. CALLAHAN (NJ) 72 EAGLE ROCK AVENUE, SUITE 320
CHRISTOPHER G. FUSCO (NJ NY PA) EAST HANOVER, NJ 07936
CHARLES J. REITER (NY)

NEW YORK OFFICE
40 EXCHANGE PLACE
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NEW YORK, NY 10005

CATHERINE MCGLONE (NJ) TELEPHONE: (973) 618-9770
OF COUNSEL FACSIMILE: (973) 618-9772
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WILLIAM A. SICHERI (NJ NY)
CHAD L. KLASNA (NJ NY PA IL)
MATTHEW D. STOCKWELL (NJ NY PA)
SELENA M. CASINELLI (NJ NY)
MITCHELL R. AYES (NJ NY)
BRIAN R. MASTERSON (NJ NY)
JUSTIN BERARDO (NJ NY NH)

PENNSYLVANIA OFFICE
196 WEST ASHLAND STREET
DOYLESTOWN, PA 18901
TELEPHONE: (267) 895-1767
FACSIMILE: (267) 895-1701

PLEASE REPLY TO NEW JERSEY

August 1, 2011

VIA FACSIMILE ONLY

Angel DeFilippo, Esq.
Grieco, Oates & DeFilippo, LLC
414 Eagle Rock Avenue, Suite 200
West Orange, New Jersey 07052

Re: Thomas Kline, et al. v. Loman Auto Group, et al.
Docket No.: MRS-L-3575-08
Date of Loss: February 24, 2007

Dear Ms. DeFilippo:

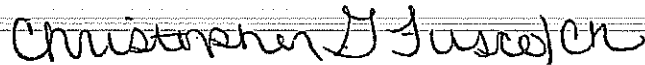
As you are aware, we represent defendant Loman Auto Group in the above-referenced matter.

We are in receipt of your July 11, 2011 correspondence which purports to respond to our June 17, 2011 Notice to Produce. Same is deficient, particularly with respect to items no. 2 and 3. Any documents brought by Mr. Sheridan to the deposition and/or which form part of his file in this matter are not privileged. Moreover, you have failed to articulate a valid privilege as to the note pad used by Mr. Sheridan at the deposition or furnish a privilege log.

In light of the foregoing, this shall constitute our good faith effort to resolve this outstanding discovery issue.

Additionally, we have not been provided with deposition dates for plaintiffs' experts.

Very truly yours,



CHRISTOPHER G. FUSCO

CGF/cr

GRIECO, OATES & DeFILIPPO, LLC

ATTORNEYS AT LAW

ANGEL M. DEFILIPPO (NJ)
Certified By The Supreme Court Of
New Jersey As A Civil Trial Attorney
NICHOLAS A. GRIECO (NJ & DC)
KAREN M. BUERLE (NJ)

414 EAGLE ROCK AVENUE, SUITE 200
WEST ORANGE, NEW JERSEY 07052
TELEPHONE (973) 243-2099
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OF COUNSEL:
RAYMOND C. RUBINO (NJ, NY & PA)
JERRY R. SALERNO (NJ)
BART OATES (NJ)
WILFREDO CARABALLO (NJ & NY)

PETER J. MURANO III (NJ & NY) EXTENSION 103
PMURANO@GODLAWLLC.COM

August 11, 2011

By Fax (973) 656-4009

Honorable David B. Rand, J.S.C.

Morris County Superior Court

Washington and Court Streets

Morristown, New Jersey 07963

Re: Estate of Susan Morris Kline v. Chrysler, et al.

Docket No. MRS-L-3575-08

Dear Judge Rand:

Please accept this letter and enclosed Affidavit as Plaintiff's opposition to the motion of Loman Auto Group to compel additional responses to Defendant's Notice to Produce, returnable on August 19, 2011.

Respectfully submitted,


ANGEL M. DeFILIPPO

AMD/pjm

Enclosure

cc: Christopher G. Fusco, Esq.
Robert M. Cook, Esq.
Patrick J. Hermesmann, Esq.
James T. Gill, Esq.
M. Sheila Jeffrey, Esq.

GRIECO, OATES & DEFILIPPO, LLC
Attorneys at Law
414 Eagle Rock Avenue, Suite 200
West Orange, New Jersey 07052
(973) 243-2099
Attorneys for Plaintiffs

THOMAS KLINE, AS ADMINISTRATOR :	SUPERIOR COURT OF NEW JERSEY
AD PROSEQUENDUM OF THE HEIRS :	LAW DIVISION
AT LAW OF SUSAN MORRIS KLINE, :	
(DECEASED), AS ADMINISTRATOR :	MORRIS COUNTY
OF THE ESTATE OF SUSAN MORRIS :	DOCKET NO. MRS-L-3575-08
KLINE, and THOMAS KLINE,	
INDIVIDUALLY,	
	CIVIL ACTION
Plaintiff(s),	
	AFFIDAVIT OF
v.	ANGEL M. DE FILIPPO, ESQ.
VICTORIA MORGAN-ALCALA,	
CARLOS ALCALA, NATALIE RAWLS,	
DAIMLER CHRYSLER CORPORATION,	
A/K/A/ CHRYSLER CORPORATION,	
LOMAN AUTO GROUP, CHRYSLER	
GROUP, LLC (For Discovery Purposes),	
JOHN DOES, A THROUGH Z, (Names	
Being Fictitious), ABC CORPORATIONS,	
1 THROUGH 100, (Names Being Fictitious):	
Defendant(s).	

I, ANGEL M. DE FILIPPO, of full age, hereby certify and say:

1. I am an Attorney-at-Law of the State of New Jersey and a partner with the Law Firm of Grieco, Oates & DeFilippo, LLC, attorneys for the Plaintiff(s). I am the attorney charged with the handling of the within matter, and as such, I am fully familiar with the facts contained herein.

2. This product liability matter involves a defective Jeep Grand Cherokee which

caused the plaintiff, Susan Morris Kline, to burn to death after a rear end collision on February 24, 2007.

3. Depositions of former Chrysler employees who were responsible for the defective design of the Jeep were conducted in Michigan on June 14-15, 2011.

4. Due to the complexities of the case, this affiant requested the assistance of one of my named expert witnesses, Paul Sheridan.

5. It should be noted that my file currently consists of fourteen (14) "Red Rope" files and occupies a significant portion of my office.

6. Due to Mr. Sheridan living within driving distance to the depositions, it was logistically easier for him to bring documents rather than Plaintiff's attorney attempting to carry additional caseloads of materials on an airplane from New Jersey.

7. We have every intention of supplying to Defendant all documents upon which Plaintiff intends to rely at the time of trial, either by DVD, hard copy or a citation to any public documents.

8. Many of the documents brought to the deposition by Mr. Sheridan were marked and copied as exhibits at the deposition in Michigan.

9. I have personally contacted Mr. Sheridan and learned that the remaining documents which he brought consist of a hard copy of Mr. Sheridan's original expert report, copies of the reports of Defendant's own experts, Banta and Durisek, deposition transcripts from other cases, and service manuals for the Jeep Commanche, 1997 Jeep Cherokee and 1997 Ford Crown Victoria, all of which are public documents.

10. Therefore, with the exception of documents referred to in number 7 above, there are no documents which the Court Rules or discovery laws require Plaintiff to produce.

11. Defendant also seeks production of handwritten notes made at the deposition by Mr. Sheridan in an effort to assist counsel during the deposition without causing any verbal interruption.

12. Rule 4:10-2(c) allows for work-product protection to apply for material sought by one party that was “prepared in anticipation of litigation or for trial by or for another party or by or for that other party’s representative (including an attorney, consultant . . . or agent)”

13. In Franklin v. Milner, 150 N.J. Super. 456, 472 (App. Div. 1977), the Appellate Division recognized that an expert can serve in different roles during the course of litigation. See also Adler v. Shelton, 343 N.J. Super. 511, 522 (Law Div. 2001). Work-product privilege is afforded to an expert’s communications to an attorney when made in his capacity as a consultant, such as with those dealing with advice or strategy on legal issues in the case. Franklin, supra.

14. Mr. Sheridan, as a proposed testifying expert, serves in a dual role to Plaintiff as both a witness and a consultant to Plaintiff’s counsel on the engineering-legal matters involved in this litigation.

15. Communications between Mr. Sheridan and any of the attorneys acting on behalf of Plaintiff in the course of the deposition, whether through handwritten notes or oral discussion, were a means of consultation regarding litigation strategy or tactics for purposes of the deposition. Any writings made for this purpose were properly withheld by Plaintiff as work product in response to Loman’s Notice to Produce.

16. For the foregoing reasons, Plaintiff respectfully requests the Court deny Defendant’s motion to compel to production of privileged material.

17. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to

punishment.

Dated: August 11, 2011

GRIECO, OATES & DE FILIPPO, LLC

Attorneys for the Plaintiff(s)

By: 
ANGEL M. DE FILIPPO, ESQUIRE

GRILLO, OATES & DeFILIPPO, L.L.C.

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August 17, 2009

VIA FACSIMILE

Honorable David B. Rand, J.S.C.
Morris County Superior Court
Washington and Court Streets
Morristown, New Jersey 07963

Re: Estate of Susan Morris Kline v. Chrysler, et al.
Docket No. MRS-L-3575-08

Dear Judge Rand:

I am in receipt of Mr. Christopher Fusco's reply to my opposition to his Motion currently pending and returnable on July 19, 2011 regarding the above captioned matter.

It is obvious from this August 15, 2011 reply letter that Mr. Fusco did not understand the statements which I made in my opposition. I specifically accounted for and identified the items which Mr. Sheridan brought. Regardless of what Mr. Fusco believes, there were no other documents.

The Discovery end date in this case is set at October 31, 2011 by Court Order and we will provide complete discovery in accordance with same.

Respectfully submitted,


ANGEL M. DE FILIPPO

AMD/krf

cc: Christopher Fusco, Esquire
Robert Cook, Esquire
James Gill, Esquire
Patrick Hermesmann, Esquire
M. Sheila Jeffrey, Esquire



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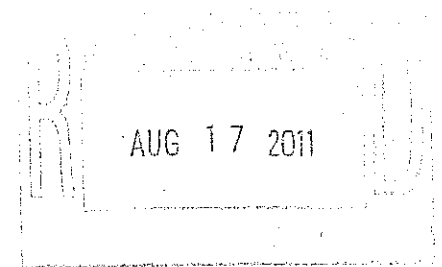
PLEASE REPLY TO NEW JERSEY

August 15, 2011

VIA NJ LAWYERS' SERVICE

The Honorable David B. Rand, J.S.C.
Morris County Courthouse
Washington and Court Streets
Morristown, NJ 07963

Re: Thomas Kline, et al. v. Loman Auto Group, et al.
Docket No.: MRS-L-3575-08



Dear Honorable Sir:

We represent defendant Loman Auto Group ("Loman"). With regard to Loman's motion to compel discovery returnable August 19, 2011, kindly accept this in lieu of a more formal reply to the opposition submitted by counsel for plaintiff, Angel DeFilippo, Esq.

Defendant Loman specifically rejects the false assertions that the subject Jeep Grand Cherokee is in any way defective. However, in accordance with the NJ Rules of Court, Loman is entitled to all documents and items that plaintiffs intend to rely upon at the time of trial. These items are critical so that we, along with our experts, can evaluate what is and is not relevant, and what proofs the plaintiffs will offer at trial. Plaintiffs do not have a unilateral right to pick and choose what documents they may some day produce. Paragraph 7 to Ms. DeFilippo's Affidavit underscores her apathetic attitude towards discovery in this matter. Although all of plaintiffs' expert reports are due as of today's date, Ms. DeFilippo advises the court that she has "[e]very intention of supplying to defendant all documents upon which plaintiffs intend to rely at the time of trial..." This response is wildly insufficient and improper, particularly since Mr. Sheridan brought an 18 gallon storage box filled with documents to the deposition (not mere reports, transcripts and manuals as Ms. DeFilippo would have the Court believe). In fact, this response

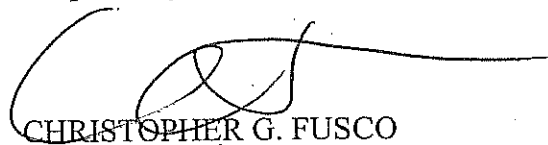
violates the defendant's rights to conduct discovery and is more than unfair. It should also be noted that Ms. DeFilippo still has not provided dates for Mr. Sheridan's deposition despite numerous requests.

Ms. DeFilippo then states (in paragraph 9) that there are public documents Mr. Sheridan brought. Deposition transcripts from other cases and service manuals are not necessarily publicly available documents, but nevertheless, Loman is entitled to know specifically what documents plaintiffs will utilize. Ms. DeFilippo's affidavit admits that plaintiffs have not provided defendants with complete discovery, and should be immediately required to furnish same or be precluded at the time of trial.

Finally, with regard to notes exchanged by Mr. Sheridan, it should be noted that those notes were furnished to Courtney Morgan, Esq., who is neither counsel of record for the plaintiffs, nor an attorney admitted to practice in the State of New Jersey. Although he was permitted by counsel for Chrysler to ask questions at a deposition in this case, no privilege attaches to notes passed between Mr. Morgan and Mr. Sheridan.

Thank you for your consideration in this matter.

Respectfully Submitted,



CHRISTOPHER G. FUSCO

CGF/cr

cc: (Via Fax & Regular Mail)
Angel DeFilippo, Esq.
Robert M. Cook, Esq.
James T. Gill, Esq.
Patrick J. Hermesmann, Esq.
Sheila Jeffrey, Esq.



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PLEASE REPLY TO NEW JERSEY

August 18, 2011

VIA FAX AT 973-656-4009

The Honorable David B. Rand, J.S.C.
Morris County Courthouse
Washington and Court Streets
Morristown, NJ 07963

Re: Thomas Kline, et al. v. Loman Auto Group, et al.
Docket No.: MRS-L-3575-08

Dear Honorable Sir:

We represent defendant Loman Auto Group ("Loman"). Since counsel for plaintiff served an improper sur-reply - prohibited without leave - we are compelled to respond to the utterly false statements contained therein.

Mr. Sheridan clearly brought significantly more materials than Ms. DeFilippo would like the Court to believe. We submit there were a room full of witnesses to same, including the other attorneys and the court reporter to the storage tub of documents brought by Mr. Sheridan. Perhaps the Court should summon Mr. Sheridan for a hearing to determine what materials he brought to the deposition, since counsel for plaintiffs still has not provided dates for Mr. Sheridan's deposition.

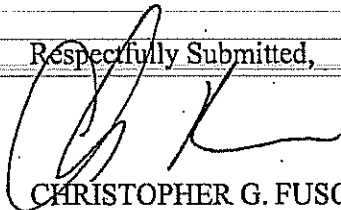
Irrespective of the foregoing, Ms. DeFilippo (no stranger to violating the NJ Rules of Court), advises that she will "produce all documents by the [discovery end date]." This response is completely insufficient and should be rejected by the Court. Ms. DeFilippo, like every other attorney admitted to practice in this state, is required to timely respond to discovery demands,

not when she simply feels like it. Ms. DeFilippo continues to attempt to prejudice the defendants by purposely withholding discovery (which she admits).

In light of the foregoing, plaintiffs should be immediately required to furnish all of the items requested in the subject Notice to Produce, or be precluded at the time of trial. In addition, given the disparity in Sheridan's documents, an Order should be issued to compel production of this storage tub of documents or an evidentiary hearing into this issue should be conducted.

Thank you for your consideration in this matter.

Respectfully Submitted,



CHRISTOPHER G. FUSCO

CGF/cr

cc: (Via Fax only)
Angel DeFilippo, Esq.
Robert M. Cook, Esq.
James T. Gill, Esq.
Patrick J. Hermesmann, Esq.
Sheila Jeffrey, Esq.

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August 19, 2011

VIA FACSIMILE

Honorable David B. Rand, J.S.C.
Morris County Superior Court
Washington and Court Streets
Morristown, New Jersey 07963

Re: Estate of Susan Morris Kline v. Chrysler, et al.
Docket No. MRS-L-3575-08

Dear Judge Rand:

In view of the unprofessional personal attacks which Mr. Fusco has directed at me in his letter of August 18, 2011, I respectfully request that the Court set this matter down for oral argument at the Court's convenience.

Thank you for your courtesies in this regard.

Respectfully yours,


ANGEL M. DE FILIPPO

AMD/krf

cc: Christopher Fusco, Esquire
Robert Cook, Esquire
James Gill, Esquire
Patrick Hermesmann, Esquire
M. Sheila Jeffrey, Esquire



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MARK P. BRADLEY (NJ NY)

August 19, 2011

PLEASE REPLY TO NEW JERSEY

**VIA FACSIMILE (973-656-4009) &
NJ LAWYERS SERVICE**

The Honorable David B. Rand, J.S.C.
Morris County Courthouse
Washington and Court Streets
Morristown, NJ 07963

Re: **Thomas Kline, et al. v. Loman Auto Group, et al.**
Docket No.: MRS-L-3575-08

Dear Honorable Sir:

We represent defendant Loman Auto Group. Kindly accept this in response to Ms. DeFilippo's correspondence requesting an adjournment, dated August 18, 2011.

Ms. DeFilippo's most recent letter is just another delaying tactic in this matter. During the course of this motion practice and series of unauthorized sur-replies that have followed, two factors are now established by judicial admission.

First, Ms. DeFilippo is refusing to provide discovery that the defendants are entitled to as of right. Second, if plaintiffs' counsel provides any more documents, she intends to dump them on the defendants at the close of discovery.

We simply cannot continue with these tactics. Our discovery rights have been prejudiced and continue to be prejudiced. Every day the plaintiffs remain in default of our discovery demands, we are being unduly prejudiced in our work with our expert witnesses on this extremely complicated case. This is not about personal disputes between attorneys. We are frustrated that we are being obstructed in meeting the Court's discovery deadlines.

The undersigned is attempting to work diligently to comply with the Court's discovery order. We cannot complete our work if plaintiffs' counsel can pick and choose when she will (or will not) comply with our discovery demands (that have never been challenged).

We will not continue this letter writing campaign on this matter any further, other than to submit that our motion should be granted to avoid any further delays in the administration of this complicated case.

Thank you for your consideration in this matter.

Respectfully Submitted,



CHRISTOPHER G. FUSCO

CGF/cr

cc: (Via Fax & Regular Mail)
Angel DeFilippo, Esq.
Robert M. Cook, Esq.
James T. Gill, Esq.
Patrick J. Hermesmann, Esq.