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PHILLIP A. OSWALD
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April 8, 2022

Via Electronic Mail

Melissa J. Kanbayashi, Esq.
Claims Examiner- Professional Lines
United States Liability Insurance Group
Devon Park Specialty Insurance
1190 Devon Park Drive
P.O. Box 6700
Wayne, PA 19087
melissa.kanbayashi@usli.com

Re: Claim No.: [REDACTED]
Insured: [REDACTED]
Case Name: [REDACTED]
Index No.: [REDACTED]
Our File No.: 5911.29399

Dear Ms. Kanbayashi:

As you know, this firm represents [REDACTED] in the above-referenced matter. I am writing in response to your letter dated April 7, 2022, by which United States Liability Insurance Group and Mount Vernon Fire Insurance Company (collectively, "USLI") agreed to provide a defense for [REDACTED] in the matter of [REDACTED].

However, in its initial submission, dated March 4, 2022, [REDACTED] submitted a claim to USLI for both defense and indemnity. USLI did not agree to provide indemnity for any compensatory damages or "presumed" damages as sought in the counterclaims asserted by [REDACTED]. As a result, [REDACTED] understands that USLI has either declined to provide indemnity for these damages and/or is reserving its right to deny indemnity for these damages. Furthermore, separate and apart from coverage for the compensatory damages or "presumed" damages, USLI disclaimed coverage for punitive damages, disclaimed coverage for sanctions, and reserved its right to disclaim coverage for damages resulting from "dishonest or fraudulent conduct as against [REDACTED]."

Given USLI's disclaimer and/or reservation of rights with respect to, one, compensatory or presumed damages and, two, the other damages sought in the counterclaims, an inherent conflict of interest exists that gives rise to [REDACTED] right to select its own counsel to be paid for by USLI, subject to the \$1,000 retention. *E.g., Pub. Serv. Mut. Ins. Co. v. Goldfarb,*

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53 N.Y.2d 392, 401 (1981); *69th St. & 2nd Ave. Garage Assocs., L.P. v. Ticor Title Guarantee Co.*, 207 A.D.2d 225, 227-28 (1st Dept. 1995); *City of N.Y. v. Clarendon Nat'l Ins. Co.*, 309 A.D.2d 779, 779 (2d Dept. 2003). Please accept this letter as notice that [REDACTED] is exercising its right to select its own counsel and has chosen our firm to continue to defend it against these counterclaims.

Please advise whether USLI is changing its coverage position in light of the above. If not, I look forward to working with you and USLI towards a successful defense of the counterclaims against [REDACTED]. Please rest assured that the full resources of this firm will continue to be devoted to [REDACTED] defense. Please inform me of any specific procedures that USLI requires for billing and reimbursements, as well as providing any guidelines that USLI has for outside counsel. Of course, please feel free to call or email me regarding any questions or concerns about this matter.

Sincerely,

A handwritten signature in blue ink, appearing to be "P. Oswald", written in a cursive style.

Phillip A. Oswald