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August 11, 2004

Reply to:
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Benjamin J. Mayerson, Esquire
Mayerson Law Offices, P.C.
3540 Schuylkill Road (Rt. 724)
Spring City, PA 19475

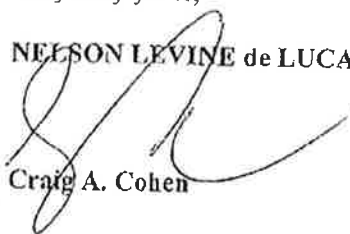
Re: Berg v. Nationwide

Dear Mr. Mayerson:

In response to your settlement demands set forth in your correspondence dated July 23, 2004, please be advised that I have been given authority to settle this matter for \$15,000.00.

Very truly yours,

NELSON LEVINE de LUCA & HORST, LLC


Craig A. Cohen

CAC/sr

cc: Kenneth Myers, Esquire
Brett A. Huckabec, Esquire

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SUPPLEMENTAL RESPONSE: Subject to and without waiving the above objections, and pursuant to the Court's August 21, 2013 Order, Nationwide states that its outside defense counsel billed Nationwide \$1,173,227.50 in fees relating to this matter from its inception through March 31, 2005 and Nationwide paid this amount. These defense costs were incurred in response to Plaintiffs' allegations and the prosecution of this case by Plaintiffs' counsel. Recognizing a wide-ranging attack on Nationwide's business practices, the trial court stated in its opinion that "the pleading and discovery stages of this case took an inordinate amount of time to complete, driven in large part by the multiple, ill-advised attempts by counsel for the Bergs to turn this case into a class action lawsuit." Trial Court Opinion at p. 2; *see also Berg* docket.

3. Pertaining to all other costs incurred through 2004, please provide the total dollar amount Nationwide expended through the conclusion of the jury trial ending in December of 2004, for all other costs *not identified above*, specifically including all expert witness fees and related expenses.

OBJECTION: Objection. The Superior Court remanded the instant litigation to this Court only for a new trial on Plaintiffs' claim pursuant to 42 Pa. C.S.A. § 8371. In the Opinion directing remand, the Superior Court further stated that this Court should, prior to retrial, conduct an *in camera* review of all disputed documents to resolve claims of privilege. The Superior Court's opinion does not permit Plaintiffs to re-open discovery, let alone serve new Interrogatories. *See, e.g., Ridley Park United Methodist Church v. Zoning Hearing Bd. Ridley Park Township*, 920 A.2d 953, 961 (Pa. Commw. Ct. 2007) ("where a case is remanded for a specific and limited purpose, 'issues not encompassed within the remand order' may not be decided on remand") (citations and internal quotation marks omitted). Plaintiffs filed this action on May 4, 1998 and discovery in this matter has been closed since December 8, 2005, when Plaintiffs moved to have their bad faith claim certified for trial. Plaintiffs had ample opportunity to obtain any and all discovery prior to the first trial on their cause of action under 42 Pa. C.S.A. § 8371. Defendant