

DISTRICT OF COLUMBIA DEPARTMENT OF EMPLOYMENT SERVICES

ADMINISTRATIVE HEARING DIVISION

OFFICE OF HEARINGS AND ADJUDICATION

64 New York Avenue, N.E., 2nd Floor, Washington, D.C. 20002

(202) 671-2233

YOVANY AQUINO-MONTIEL,)

Claimant.)

v.)

EASTERN WATERPROOFING)
& RESTORATION,)

and)

LIBERTY MUTUAL INSURANCE CO,)

Employer/Carrier.)

SCHEDULING ORDER

AHD No. 08-257

OWC No. Unknown

Hon. Anand K Verma

IT IS HEREBY ORDERED:

1. The Formal Hearing in the above-captioned matter will convene on July 17, 2008 11:00a.m. and will conclude on or before 1:00p.m. Pursuant to OHA Direction 00-001, each party will limit his or her presentation of evidence and argument to one hour. During this one hour time period, a party will present opening and closing statements, if called for by the Administrative Law Judge, and will direct the examination of his or her witness[es], including rebuttal witnesses. Any party may request a greater allotment of time in which to present his or her case. The written request is to be made to the Administrative Law Judge named herein, stating the bases therefor, and will contain a proffer of the evidence to be adduced during the extended period. All requests for extensions of time shall be submitted on or before June 9, 2008.
2. The parties are hereby furnished a blank Joint Pre-Hearing Statement (JPHS) and Stipulation Form (SF). The completed JPHS and SF shall be jointly executed and submitted to the Administrative Hearing Division/Office of Hearings and Adjudications (AHD) by the party requesting the hearing on or before June 9, 2008.
3. The names of any and all witnesses not provided in the JPHS shall be exchanged, and provided to AHD, no later than June 19, 2008. Witnesses not so named shall not be permitted to testify - in person or through deposition or reports - except upon motion of the offering party for good cause shown. Impeachment witnesses need not be named.
4. Discovery in the instant matter shall be completed on or before June 19, 2008. No additional discovery

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shall be permitted thereafter except upon motion of the parties for good cause shown. All Motions to Compel Discovery shall be served on the opposing party and filed with AHD within five (5) working days of a party's failure to provide said discoverable material in a timely manner. Failure to respond to said Motion within five (5) working days of said filing shall be deemed an admission of non-compliance, and shall result in the exclusion of said discoverable material from admission into the record of the formal hearing held in the instant matter.

5. All Motions to amend the JPHS or SF shall be filed with AHD on or before July 10, 2008. Responses to said Motions shall be filed with AHD within five (5) working days of service of said Motion. A party's failure to respond to said Motion(s) within five (5) working days shall be deemed acquiescence therein.
6. All documentary exhibits, including *de bene esse* depositions, to be submitted into the record are to be bound, tabbed, and indexed. Said exhibits shall be served upon the opposing party, and submitted to AHD on or before June 26, 2008
7. Any and all objections to the exhibits so served upon a party must be made in writing on or before July 3, 2008.
8. Responses thereto shall be filed within five (5) working days therefrom. A party's failure to respond to said Objection(s) within five (5) working days shall be deemed a withdrawal of said exhibit.
9. Where the party applying for a Formal Hearing fails to perform pursuant to this **SCHEDULING ORDER**, without good cause, said application for hearing shall be dismissed pursuant to 7 DCMR §222.4. Said dismissal shall be predicated upon either a Motion of the non-requesting party or a *sua sponte* Order to Show Cause. Where a party is informed of a Motion to Dismiss - through service of a Motion by the non-requesting party or through an Order to Show Cause - the party shall respond thereto within five (5) working days of service. Failure to so respond shall be deemed acquiescence in said Dismissal. A Motion for Dismissal pursuant to this provision shall be filed with AHD within ten (10) working days of a party's failure to perform.
10. Where the party who has not requested the Formal Hearing fails to perform pursuant to this Scheduling Order, without good cause, said application for Formal Hearing may be scheduled for *ex parte* proof pursuant to 7 DCMR §222.4. The scheduling of said hearing shall be predicated upon a Motion of either the requesting party or a *sua sponte* Order to Show Cause. Where a party is informed of its failure to perform through either a Motion Setting the Formal Hearing on *Ex Parte* Proof or an Order to Show Cause - the party shall respond thereto within five (5) working days of service. Failure to so respond shall be deemed acquiescence in proceeding to formal hearing on *ex parte* proof.
11. Where, after due and sufficient conference between counsel/representatives of the respective parties concerning the nature of the issues presented for resolution, it is determined the matter may be presented upon documentary evidence and/or written argument, the parties may waive their right to a full evidentiary hearing and submit the matter on documents only. To do so, the parties must jointly Motion the Administrative Law Judge to submit the matter on brief no later than ten (10) days prior to the Formal Hearing date named herein.
12. Where either a party or witness does not readily understand or cannot communicate in the spoken

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English language; or, because of a hearing impairment cannot readily understand or communicate in the spoken English language, a request for an interpreter for said party or witness shall be made in writing to AHD on or before June 19, 2008. The request shall be addressed to the **SCHEDULING CLERK/INTERPRETER SERVICES**, and shall contain the date and time of the formal hearing and the particular language and/or dialect, or sign language discipline required by the party or witness. Where either party or witness requires reasonable accommodation on the part of AHD for a physical or mental impairment, request for such accommodation shall be made in writing to the Administrative Hearing Division/Office of Hearings and Adjudication on or before June 19, 2008. The request shall be addressed to the Administrative Law Judge named herein, shall contain the date and time of the formal hearing, and shall specifically delineate the nature of the impairment and the requested accommodation.

13. Where the party applying for a Formal Hearing withdraws his/her application therefor within less than twenty-four hours of the convention of the hearing, the costs of the court reporter incurred by AHD attendant upon said hearing will be assessed against said party. Where the parties jointly reach a settlement of the matter within less than twenty-four hours of the convention of the hearing, the cost of the court reporter attendant upon said hearing will be assessed equally against the parties. In all matters in which an interpreter has been requested pursuant to §12 of this **ORDER**, notice of withdrawal of the application for hearing or settlement must be given AHD seventy-two hours prior to the convention of the scheduled hearing to avoid equal assessment of the costs incurred thereby.

THERE WILL BE NO EXTENSION OF ANY DEADLINE OR DATE ESTABLISHED IN THIS ORDER BY STIPULATION OF THE PARTIES. AN ORDER IS REQUIRED FOR ANY AND ALL MODIFICATION HERETO.

DATED: _____

May 2, 2008



ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE HEARING DIVISION

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PROOF OF SERVICE

I certify that I served a copy of the above order upon each representative of record by certified mail, postage prepaid on May 2nd, 2008.

Dated: 5-7-08

Michael J. Smith

Parties Served:

David M. Schloss, Esquire
2001 Pennsylvania Avenue, NW, Suite 450
Washington, DC 20006

Eastern Waterproofing & Restoration
7175 Pennsylvania Avenue, NW, Suite 450
Washington, DC 20006

Liberty Mutual Insurance Company
P.O. Box 7170
Indianapolis, IN 46207

cc: Yovany Aquino-Montiel
6832 Raccoon Court
Waldorf, MD 20603