

**SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-22-32**

DEFENDANT'S OBJECTIONS TO PLAINTIFF'S THIRD SET OF INTERROGATORIES

Defendant objects generally to the lengthy definition and instruction preamble to the interrogatories. Defendant will answer the interrogatories according to the Maine Rules of Civil Procedure and according to generally accepted English language definitions.

1. Identify each and every Person who provided any information with respect to, was involved in, prepared, or assisted in the preparation of, the answers and other responses to (a) these Interrogatories, and/or (b) Plaintiff's Second Requests for Admission Propounded to Defendant, and any Person whom you consulted for the purposes of the same, including, without limitation, the reason for any such consultation, and state the basis for the knowledge of such answers and other responses for each and every such Person.

2. Set forth in full the substance of any admission made by any party or by any agent or alleged agent of any party, or by any Person with respect to any of the allegations set forth in the Complaint, including within the answer the identity of the Person making each such admission, the date and time of the admission, and the identities of all people present at the time of the admission.

3. Identify each and every Person who, to your knowledge or to the knowledge of your representatives, agents, owners, attorneys, or employees, has, claims to have, or may have any knowledge of any of the facts concerning or relating to the allegations set forth in the Complaint and describe the information or knowledge that each such Person has and the nature, source, and the bases of each such Person's knowledge.

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4. Identify and describe in detail each and every Communication or item of Correspondence between you (including your representatives, agents, owners, attorneys, or employees) and any other Person that related in any way to the allegations set forth in the Complaint.

OBJECTION. The interrogatory seeks information that is protected from disclosure by the attorney-client privilege, work product doctrine, and/or which was prepared in anticipation of litigation.

5. Identify any and all Persons that have inspected, analyzed, reviewed, consulted, appraised, valued, evaluated, or examined the Property, either on your behalf or at the instruction of a third-party, and identify and describe in detail any and all written or oral estimates, inspections, property damage estimates, appraisals, reports, valuations, and/or evaluations you obtained or requested relating to the Property.

OBJECTION. The interrogatory seeks information that is protected from disclosure by the attorney-client privilege, work product doctrine, and/or which was prepared in anticipation of litigation. Further, the interrogatory is overly broad and unduly burdensome as to scope, such that it is not reasonably calculated to lead to the discovery of admissible evidence.

6. Identify and describe in detail any and all written or oral estimates, inspections, property damage estimates, appraisals, reports, valuations, evaluations, records, photographs, investigative or inspection reports, expert reports, surveys, studies, and/or sketches you obtained, made, or requested relating to the Property, stating for each its nature, what it purports to show, and the date it was made or taken, and identify the Person making, taking, or reporting it.

OBJECTION. The interrogatory seeks information that is protected from disclosure by the attorney-client privilege, work product doctrine, and/or which was prepared in anticipation of litigation. Further, the interrogatory is overly broad and unduly burdensome as to scope, such that it is not reasonably calculated to lead to the discovery of admissible evidence.

7. Identify any and all Persons who have been retained or specially employed by you in anticipation of litigation or preparation for trial or hearing and who are not expected to be called as witnesses at trial or as to whom no such decision has yet been made.

OBJECTION. The interrogatory seeks information that is protected from disclosure by the attorney-client privilege, work product doctrine, and/or which was prepared in anticipation of litigation. Further, the interrogatory seeks information that is not discoverable in the absence of predicates set forth in Maine Rule of Civil Procedure 26(b)(4)(B), which have not been shown.

8. For each Interrogatory, identify and describe in detail each and every Document and Communication that is relevant to your answer, any and all Documents that

you have referred to, consulted, or considered in preparing your answers to these Interrogatories, each and every Person with knowledge that is relevant to your answers, and each and every Person who provided the Documents, Communications, and/or information upon which each of your answers is based.

OBJECTION. Maine Rule of Civil Procedure 33(a) provides that “unless otherwise ordered by the court, ... not more than a total of 30 interrogatories may be served by a party on any other party.” On April 6, 2023, Defendant served Answers to Plaintiff’s First Set of Interrogatories, which contained 20 interrogatories. On April 6, 2023, Defendant served Answers to Plaintiff’s Second Set of Interrogatories, which contained 3 interrogatories. Thus, all interrogatories after interrogatory number 7 in Plaintiff’s Third Set of Interrogatories exceed the number the Maine Rules of Civil Procedure permit Plaintiff to serve on Defendant without order of court.

Further the interrogatory is overly broad, unduly burdensome, and seeks the discovery of documents and information that are protected from disclosure by the attorney-client privilege, work-product doctrine, and/or which were prepared in anticipation of litigation.

9. If any of your answers to Plaintiff’s Second Requests for Admission Propounded to Defendant is anything other than an unqualified admission, then state the basis for the same.

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Further the interrogatory seeks the discovery of information that may be protected from disclosure by the attorney-client privilege, work-product doctrine, and/or which was prepared in anticipation of litigation.

10. State whether Defendant or any principal of Defendant has ever been a plaintiff or defendant in any action in any court or administrative body at any time prior to the filing of the Complaint. This includes, but is not limited to, lawsuits, Workers’ Compensation, Social Security disability, divorces, administrative proceedings, and criminal proceedings.

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11. If the answer to the preceding Interrogatory is in the affirmative, please state the action's or proceeding's name or title, the parties involved, the particulars of the action or proceeding, its docket number, if any, the claim(s) asserted, the court or other body and its address, your counsel, opposing counsel, and the outcome or disposition of the action or proceeding.

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12. Do you deny that during the time when Defendant performed work on and in connection with the Project in August of 2022, at the direction of and/or under the control of Defendant, the Heavy Equipment entered onto and/or crossed over the Property and/or circled or traveled around the Tree on the Property? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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Further the interrogatory is overly broad, unduly burdensome and seeks the discovery of documents and information that are protected from disclosure by the attorney-client privilege, work-product doctrine, and/or which were prepared in anticipation of litigation.

13. Do you deny that during the time when Defendant performed work on and in connection with the Project in August of 2022, the Property was clearly posted with multiple no trespassing signs, stating, POSTED, PRIVATE PROPERTY, HUNTING, FISHING, TRAPPING OR TRESPASSING FOR ANY PURPOSE IS

STRICTLY FORBIDDEN. VIOLATORS WILL BE PROSECUTED? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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14. Do you deny that because of the actions of Defendant, its employees, and/or its independent contractors, the Property has been rutted and damaged and the root system of the Tree has been trodden upon and damaged, which has damaged and hastened the demise of the Tree? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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pursuant to Maine Rule of Civil Procedure 33(b).

15. Do you deny that Defendant allowed and/or directed its employees and/or independent contractors to drive the Heavy Equipment onto the Property and/or cross over the Property and/or circle or travel around the Tree on the Property? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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16. Do you deny that Defendant allowed and/or directed employees from Maine Drilling and Blasting, Inc. of Gardiner, Maine to drive the Heavy Equipment onto the Property and/or cross over the Property and/or circle or travel around the Tree on the Property? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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17. Do you deny that Defendant allowed and/or directed employees from Maine Drilling and Blasting, Inc. of Gardiner, Maine to park vehicles on the Property? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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18. Do you deny that Defendant, its employees, and its independent contractors intentionally entered the Property and/or caused a thing or third person to do so without permission from Plaintiff or the Trust? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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19. Do you deny that Defendant's actions as set forth in the Complaint constitute an unprivileged interference with the Trust's right to possession of the Property? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart "a" of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart "c" of this Interrogatory.

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20. Do you deny that Defendant's conduct, acts, and/or failures to act, as set forth in the Complaint, were motivated by actual ill will, amounted to express or actual malice, and/or were so outrageous that malice is implied? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart "a" of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart "c" of this Interrogatory.

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21. Do you deny that Defendant's conduct, acts, and/or failures to act, as set forth in the Complaint, were egregious? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart "a" of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart "c" of this Interrogatory.

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22. Do you deny that Defendant is liable to the Trust for the Trust's actual damages, plus attorney's fees, plus punitive damages, and together with any other allowable damages and recovery, plus interest and costs? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart "a" of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart "c" of this Interrogatory.

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23. Do you deny that Defendant is liable to the Trust for two times the Trust’s actual damages, plus reasonable attorney’s fees for preparing the claim and bringing the Action, plus punitive damages, and together with any other allowable damages and recovery pursuant to 14 M.R.S. § 7551-B, plus interest and costs? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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24. Do you deny that Defendant, its employees, and/or its independent contractors intentionally and/or negligently entered the Property and/or caused a thing or third person to do so without permission from Plaintiff or the Trust and caused damage to the Property with malice, willfully, and/or knowingly? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend

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25. Do you deny that Defendant’s conduct, acts, and/or failures to act, as set forth in the Complaint, damaged the Property? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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26. Do you deny that Defendant is liable to the Trust for (i) two times the Trust's actual damages or (ii) 3 times the Trust's actual damages, plus (iii) punitive damages, (iv) interest and costs, (v) attorney's fees, and (vi) the reasonable costs of professional services, including without limitation, attorney's fees, necessary for determining damages and proving this claim, together with any other allowable damages and recovery pursuant to 14 M.R.S. § 7552? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart "a" of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart "c" of this Interrogatory.

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27. Do you deny that under applicable Maine law, Defendant owed duties to Plaintiff in connection with the actions set forth in the Complaint, including without limitation, duties with respect to Defendant's employees and independent contractors? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart "a" of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart "c" of this Interrogatory.

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28. Do you deny that in connection with the actions set forth in the Complaint, Defendant owed Plaintiff, *inter alia*, the duty of care that an ordinarily competent professional would exercise in like circumstances? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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29. Do you deny that in connection with the actions set forth in the Complaint, Defendant breached, neglected, and/or failed to perform its duties to Plaintiff in accordance with the appropriate duty of care? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge

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30. Do you deny that in connection with the actions set forth in the Complaint, the conduct and performance of Defendant deviated from the applicable standard of care? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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31. Do you deny that in connection with the actions set forth in the Complaint, Defendant’s negligence and breach of its duties to Plaintiff proximately caused damages to Plaintiff? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which

reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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32. Do you deny that Plaintiff suffered pecuniary loss as a result of Defendant’s negligence and breach of its duties to Plaintiff in connection with the actions set forth in the Complaint? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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33. Do you deny that during the time when Defendant performed work on and in connection with the Project in August of 2022, the Dump Trucks and/or other items of the Heavy Equipment made ruts and/or indentations around or near the Tree? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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Further the interrogatory is overly broad, unduly burdensome and seeks the discovery of documents and information that are protected from disclosure by the attorney-client privilege, work-product doctrine, and/or which were prepared in anticipation of litigation.

34. Do you deny that during the time when Defendant performed work on and in connection with the Project in August of 2022, the Dump Trucks and/or other items of the Heavy Equipment drove over some of the roots of the Tree? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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35. Do you deny that during the time when Defendant performed work on and in connection with the Project in August of 2022, to turn around and head back down Merry Island Road, the Dump Trucks and/or other items of the Heavy Equipment at least once turned off of Merry Island Road and entered onto and/or crossed over the Property? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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Further the interrogatory is overly broad, unduly burdensome and seeks the discovery of documents and information that are protected from disclosure by the attorney-client privilege, work-product doctrine, and/or which were prepared in anticipation of litigation.

36. Do you deny that during the time when Defendant performed work on and in connection with the Project in August of 2022, to turn around and head back down Merry Island Road, the Dump Trucks and/or other items of the Heavy Equipment at least once turned off of Merry Island Road and circled and/or traveled around the Tree on the Property, turning back onto Merry Island Road to head in the opposite direction? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart “a” of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart “c” of this Interrogatory.

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37. Do you deny that on or about August 26, 2022, Defendant jammed or wedged a large tree branch or limb into the area in front of the windshield of Plaintiff's orange truck while it was placed and parked near the Tree? If so, (a) state all facts upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, (b) identify all Documents upon which such a denial is based and/or which reflect, support, evidence or tend to reflect, support, or evidence such a denial, and (c) identify all Persons having knowledge of each fact specified in subpart "a" of this Interrogatory and all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart "c" of this Interrogatory.

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38. For each of the six affirmative defenses Defendant alleged in the Answer, (a) state all facts upon which each affirmative defense is based and/or which reflect, support, evidence, or tend to reflect, support, or evidence each such affirmative defense, (b) identify the name, job title or rank, and current location of all Persons having knowledge of each fact specified in subpart "a" of this Interrogatory, (c) identify all Documents upon which each such affirmative defense is based and/or which reflect, support, evidence, or tend to reflect, support, or evidence each such affirmative defense, and (d) identify the name, job title or rank, and current location of all Persons having knowledge of and/or having possession, care, and/or custody and/or control of each Document identified in subpart "c" of this Interrogatory.

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Dated: May 3, 2024

/s/ Jonathan R. Liberman

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