

## 5.2 Discovery to Holding Company

### 5.2.1 First Set of Interrogatories

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

[plaintiff]ELDON T. BARRY and NANCY M. BARRY, individually and on behalf of all persons similarly situated,

Plaintiffs,

[vs]

[defendant]FRANKLIN CAPITAL CORPORATION, a Utah Corporation, and CENTURY NATIONAL INSURANCE COMPANY, a California Corporation,

Defendants.

#### **PLAINTIFFS' FIRST INTERROGATORIES TO DEFENDANT FRANKLIN**

Plaintiffs, by their counsel, and pursuant to Fed.R.Civ.P. 33, make this their First Set Of Interrogatories To Defendant Franklin Capital Corporation ("Defendant") and request that Defendant answer the following Interrogatories fully, in writing and under oath.

#### **INSTRUCTIONS**

- A. Information supplied in response to these Interrogatories shall reflect all information available to Defendant and/or counsel for Defendant. The Interrogatories that follow are considered to be continuing to the extent permitted by Fed.R.Civ.P. 33, Defendant is requested to provide, by way of supplementary answers and responses, such additional information as it or any other person acting on their own behalf may hereafter obtain which will augment or otherwise modify its responses now given to the Interrogatories set forth below.
- B. Unless otherwise indicated, the time period for which responses are to be given to the Interrogatories herein is from January 1, 1990 to the date of Franklin's responses.
- C. Unless otherwise indicated, the Interrogatories pertain only to sale and financing of automobiles to New Mexico residents.
- D. Where the Answer to any interrogatory requires additional space or multiple pages such additional space or pages should be incorporated in the Answer. A diskette is hereby provided to facilitate your responses.
- E. If any of the Interrogatories are deemed to call for the production of any privileged materials and such privilege is asserted, a list is to be furnished identifying such information so withheld together with the following information:
  1. the reason for withholding;
  2. a statement of facts constituting the basis for any claim of privilege, work product or other ground of non-disclosure;
  3. a brief description of the information, including, if the information being withheld is a document:
    - a. the date of the document;

- b. the name(s) of its author(s), or preparer(s) and an identification by employment and title of each such person;
- c. the names of each person who was sent or has had access to, or custody of the documents, together with an identification of each such person;
- d. the paragraph of the Requests for Production of Documents to which the document relates; and
- e. in the case of any document relating in any way to an oral communication, identification of such oral communication.

## **DEFINITIONS**

As used herein:

1. The word "Borrowers" means individuals who purchased automobiles from Dealers pursuant to Sales Contracts and/or Dealer Funding Arrangements who was charged CPI.
2. The word "Casa-Chevrolet" means the Dealer from whom the Plaintiffs', the Barrys, purchased their automobile.
3. "Century" refers to Century National Insurance Company, a California corporation, and its predecessors, parent, subsidiaries, present and former divisions, branches, authorized agents, attorneys, servants, employees, officers, directors, representatives, and to any other person that is or has ever acted for or on behalf of them.
4. The words "Collateral Protection Insurance" refers to automobile insurance purchased and procured by Franklin for Borrowers in instances where Borrowers have not purchased automobile insurance on their own pursuant to Sales Contracts.
5. The word "Dealer(s)" means motor vehicle dealers in New Mexico who have contracted with Franklin for financial services.
6. The words "Dealer Funding Arrangements" means the agreements, methods, procedures and practices followed between Franklin and Dealers in arranging the purchase and financing of automobiles for Borrowers.
7. "Franklin" refers to Franklin Capital Corporation, a Utah corporation, and its predecessors, parent, subsidiaries, present and former divisions, branches, authorized agents, attorneys, servants, employees, officers, directors, representatives, and to any other person that is or has ever acted for or on behalf of them.
8. "Identify" when used in connection with a computer system means to state in the answer, in addition to any other information requested:
  - a) A description of the type, model and location of the system;
  - b) The function of the system;
  - c) A description of information stored in the system; and
  - d) The person(s) responsible for overseeing and managing the system.
9. "Identify the source of" means to state in the answer, with respect to each and every particular fact and piece of information contained in your answer, each and every person and/or document from whom or which you learned or obtained such facts or received such information, and if the facts or information were learned, obtained, or received from more than one person or document, a description of which facts or information were obtained, learned, or received from each person or document.
10. The term "identify" when used with reference to a natural person, means to state in the answer, in addition to any other information requested, that person's full name, present or last

known home address, present employer (occupation or business if self-employed), present place of business, employer (occupation or business if self-employed) at the time in question, and position (including a description of the person's duties and responsibilities) at the time in question. When used with reference to any particular person, this information, other than the full name, need be given only once.

11. The term "identify" when used to identify a Dealer means to state the full title of the Dealer, the business address of the Dealer, and the names of the owners or operators of the Dealers.

12. The words "Lienholders Minimum Protection Insurance" refer to that insurance referred to in Paragraphs 16-20 of the Complaint.

13. "Refer to" means, directly or indirectly, referring to, relating to, connected with, commenting on, impinging or impacting upon, affecting, responding to, showing, describing, analyzing, reflecting or constituting.

14. The words "Sales Contract" mean the form of agreement utilized by Casa-Chevrolet containing all terms and conditions of the purchase and financing of the Barrys' automobile and/or similar forms and/or the form of agreement utilized by Franklin or Dealers in connection with Dealer Funding Arrangements which set forth the terms and conditions for the purchase and financing of automobiles by Borrowers.

15. All words defined herein shall include the singular, plural, past tense, present tense and future tense. The conjunctive "and" shall include the disjunctive "or" or vice versa.

## **INTERROGATORIES**

1. Identify the following as to each Borrower:

- a) Name;
- b) Address;
- c) Account number;
- d) Whether a General Motors Protection Plan Agreement was procured; and
- e) Whether a late fee in excess of \$15.00 or 5% of any required installment under a Sales Contract was assessed or charged.

2. Identify all documents maintained by Franklin related to the Borrowers identified in Interrogatory No. 1.

3. State for each year 1990 to the present the total number of Borrowers as to whom Franklin placed Lienholders Minimum Protection Insurance and/or Collateral Protection Insurance.

4. Identify the person or persons employed by Franklin having management or oversight responsibilities for the operation of Franklin's Dealer Funding Arrangements and/or for Franklin's placement of Collateral Protection Insurance since 1990.

5. Identify all individuals at Casa-Chevrolet and Franklin responsible for the negotiation, set-up and operation of Dealer Funding Arrangements since 1990.

6. Identify all individuals at Century and Franklin responsible for any aspects of the negotiation, set-up and operation of the Collateral Protection Insurance program in connection with Dealer Funding Arrangements since 1990.

7. State whether Franklin maintains information about Borrowers in computer or electronic processing format.

8. If your Answer to Interrogatory No. 7 is in the affirmative, identify each category of information maintained with respect to Borrowers in computer or electronic processing format.

9. Identify all computer or electronic processing systems utilized by Franklin to store, process or maintain all information with respect to Borrowers at all times since 1990.
10. Identify all manuals, overviews or other documents explaining or tending to explain the computer systems or functions identified in the preceding interrogatory.
11. Identify the source of the Answers provided to the preceding Interrogatories 9 and 10.
12. Identify each different form Sales Contracts utilized by Franklin and/or Century in connection with the operation of the Dealer Funding Arrangements and with respect to each such Sales Contract identify:
  - a) The time period each such identified Sales Contract was utilized;
  - b) The number of Borrowers who entered into such Sales Contract;
  - c) The number of Borrowers as to whom Collateral Protection Insurance was placed under such Sales Contract; and
  - d) The number of Borrowers charged late fees or late charges under such Sales Contracts.

[Attorney for Plaintiff]

## 5.2.2 First Request for Production of Documents

### IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW MEXICO

[plaintiff]ELDON T. BARRY and NANCY M. BARRY, individually and on behalf of all persons similarly situated,

Plaintiffs,

[vs]

[defendant]FRANKLIN CAPITAL CORPORATION, a Utah Corporation, and CENTURY NATIONAL INSURANCE COMPANY, a California Corporation,

Defendants.

### **PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT FRANKLIN CAPITAL CORPORATION**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Local Rule 1-034, Representative Plaintiffs Eldon T. Barry and Nancy M. Barry, individually and on behalf of all persons similarly situated, by their counsel, makes this their First Request For Production of Documents To Defendant Franklin Capital Corporation.

#### **I. DEFINITIONS**

- A. The word "Borrowers" means individuals who purchased automobiles from Dealers pursuant to Sales Contracts and/or Dealer Funding Arrangements for whom Collateral Protection Insurance was procured.
- B. The word "Casa-Chevrolet" means the Dealer from whom the Plaintiffs', the Barrys, purchased their automobile.
- C. The word "Century" means Century National Insurance and includes its directors, officers, agents, affiliates or other persons acting or purporting on behalf of Century National Insurance.

- D. The words "Collateral Protection Insurance" refers to automobile insurance purchased and procured by Franklin for Borrowers in instances where Borrowers have not purchased automobile insurance on their own pursuant to Sales Contracts.
- E. The words "Dealer Funding Arrangements" means the agreements, methods, procedures and practices followed between Franklin and Dealers in arranging the purchase and financing of automobiles for Borrowers.
- F. The word "Dealer(s)" means motor vehicle dealers in New Mexico who have contracted with Franklin for financial services.
- G. The word "document(s)" means all written, printed, recorded or graphic matter or sound reproductions, video tapes and/or films, however produced or reproduced, pertaining in any manner to the subject matter indicated, including computer tapes, discs, or other electronically stored data.
- H. The word "Franklin" means Franklin Capital Corporation, and includes any subsidiaries, related entities, successors or assigns, their directors, officers, agents, or other persons acting or purporting to act on behalf of Franklin Capital Corporation.
- I. The words "Lienholders Minimum Protection Insurance" refer to that insurance referred to in Paragraphs 16-20 of the Complaint.
- J. The phrase "other insurer(s)" means any entity or entities providing automobile collateral protection insurance coverage to Franklin other than Century.
- K. The word "person(s)" means all entities, and, without limiting the generality of the foregoing, includes natural persons, joint owners, associations, companies, partnerships, joint ventures, corporations, trusts and estates.
- L. The words "Sales Contract" mean the form of agreement utilized by Casa-Chevrolet containing all terms and conditions of the purchase and financing of the Barrys' automobile and/or similar forms and/or the form of agreement utilized by Franklin or Dealers in connection with Dealer Funding Arrangements which set forth the terms and conditions for the purchase and financing of automobiles by Borrowers.
- M. The words "you" and "your" refer to Franklin Capital Corporation to whom these requests are directed, and any agents, employees, officers, or other representatives acting on each such Franklin's behalf.
- N. These requests are for the period from January 1, 1990 to the present unless otherwise indicated.

## **II. REQUESTS FOR PRODUCTION**

Plaintiffs request that Defendant, Franklin Capital Corporation, within thirty (30) days produce for inspection and copying at the offices of [Attorney for Plaintiff], [Address] or at such other locations agreed to by the Parties the following documents:

1. All documents maintained by Franklin that relate to its contractual relationship with Eldon T. Barry and/or Nancy M. Barry, including any account statements, loan applications, certificates of insurance, correspondence, debit or credit statements and any other information with respect to any debit or credit that was charged to or paid by Eldon T. Barry and/or Nancy M. Barry.
2. All documents evidencing any agreements or modifications of agreement between Century and Franklin.
3. All documents that evidence any insurance policy, including all coverages and endorsements, issued by Century or any other insurer to Franklin, insuring any automobile collateral.

4. All master policies and related agreements under which Franklin purchased collateral protection insurance from Century or any other insurer to insure its automobile collateral.
5. All documents that evidence proposals or offers by other insurers, if any, that offered to insure Franklin's automobile collateral, whether or not Franklin accepted the offer or proposals.
6. All documents that evidence any agreements, standards, practices and policies or arrangements for the payment of any commissions, expense reimbursements, experience rating refunds or other payments to Franklin or any affiliate or entity related to Franklin by Century or any affiliate or entity related to Century that relates to insuring Franklin's security interest in automobiles.
7. All documents provided by or used by Century in marketing, selling and negotiation of the Collateral Protection Insurance to Franklin.
8. All documents related to the procedures, practices, standards and policies followed by Franklin in placing "Lienholders Minimum Protection Insurance" for Borrowers.
9. All documents which evidence the identities and number of Dealers with whom Franklin has Dealer Funding Agreements.
10. All documents evidencing all agreements between Franklin and Casa-Chevrolet and any other Dealers.
11. All documents which evidence the standards, policies, procedures and practices followed by Franklin or Dealers in the course of carrying out Dealer Funding Arrangements with Casa-Chevrolet and any other Dealers.
12. All documents which evidence the standards, policies, procedures and practices following by Franklin in the course of placing Collateral Protection Insurance on behalf of Borrowers.
13. All various standardized form Sales Contracts and other standard form documents utilized by Franklin with Dealers in connection with the operation of Dealer Funding Arrangements.
14. All standardized form contracts and other documents utilized in connection with the sale and financing of automobiles for Borrowers pursuant to Franklin's Dealer Funding Arrangements.
15. All documents related to Franklin's decision or decisions to add-on to the Barry's Sales Contract an insurance premium for 4-1/2 years of property insurance coverage.
16. All documents related to the policies, procedures, practices and/or standards to be followed by Franklin in calculating refunds of unearned premiums for property insurance coverage placed by Franklin with Century.
17. All documents related to the policies, procedures, practices and/or standards followed by Franklin in calculating prepayments of unpaid principal balances under Sales Contracts.
18. All documents describing, tending to explain or evidencing the operation of dealer reserves in connection with Franklin Dealer Funding Arrangements.
19. All documents in Franklin's possession that evidence the notice cycle and tracking of automobile insurance by Century or its related entities or other insurers.
20. All employee manuals, guidelines, instructions, or other documents distributed to Franklin directors, officers, or employees with respect to the operation and administration of Collateral Protection Insurance purchased from Century or from any other insurer.
21. All documents that identify the person(s) that negotiated the agreement(s) between Franklin and Century or any other insurer with respect to Collateral Protection Insurance and all documents that evidence such negotiations.
22. All documents that identify the persons that were responsible for reviewing, monitoring, overseeing and/or administering the operation of Franklin's Collateral Protection Insurance

program and all documents (by type) that evidence such review, monitoring, overseeing and administration.

23. All documents that evidence the review of Franklin's contractual prerequisites that must be satisfied before it will purchase Sales Contracts from dealers or enter into contracts to purchase automobile installment sales contracts from dealers.

24. All documents that evidence any meetings between Franklin and Century (or any other insurer) at which the terms, conditions or costs, expenses and/or payments with respect to automobile collateral protection insurance were discussed.

25. All documents sent to or received from any governmental agency related to automobile collateral protection insurance including consumer protection agencies, consumer credit agencies, the New Mexico Department of Insurance, and/or the Utah Department of Insurance.

26. All monthly, quarterly or yearly reports or forms (by type) that relate to Collateral Protection Insurance sent to or received from Century or any other insurer.

27. All documents that relate to any survey or analysis of any aspect of the contractual relationship(s) between (a) Franklin and/or its subsidiaries and affiliates and (b) Century and/or its subsidiaries and affiliates and/or any other insurer arising out of the sale of Collateral Protection Insurance.

28. Documents that identify, describe or set forth the organizational structure, offices, divisions, branches, sections, centers or components of Franklin.

29. Documents that evidence Franklin's record retention procedures or requirements with respect to automobile Collateral Protection Insurance documents.

30. All documents that evidence reports relating to Franklin's automobile collateral protection insurance.

31. All documents that summarize, report or record the number of Franklin Borrowers who were (a) charged and/or (b) paid for Collateral Protection Insurance by or through Franklin after September 13, 1990.

32. All form documents utilized to notify and/or communicate with Franklin Borrowers that relate to Franklin's automobile Collateral Protection Insurance and any revision, amendment or change thereafter made to such forms.

33. All documents identified in Plaintiffs' First Set Of Interrogatories served on Defendant Franklin.

34. All documents describing or tending to explain Franklin's procedures or practices in the repossession of automobiles of Borrowers.

35. All documents related to agreements, practices, procedures, standards and policies followed in connection with any "General Motors Protection Plan" provided to Borrowers by Franklin and/or Dealers.

36. All documents related to any other insurers other than Century who have provided Franklin with Collateral Protection Insurance.

37. All documents evidencing the marketing of or offering to provide services by Franklin to Dealers in connection with the Dealer Funding Arrangements.

[Attorney for Plaintiff]

### **5.3 Discovery to Insurance Company**

#### **5.3.1 First Set of Interrogatories**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

[plaintiff]ELDON T. BARRY and NANCY M. BARRY, individually and on behalf of all persons similarly situated,

Plaintiffs,

[vs]

[defendant]FRANKLIN CAPITAL CORPORATION, a Utah Corporation, and CENTURY NATIONAL INSURANCE COMPANY, a California Corporation,

Defendants.

**PLAINTIFFS' FIRST INTERROGATORIES TO DEFENDANT CENTURY**

Plaintiffs, by their counsel, and pursuant to Fed.R.Civ.P. 33, make this their First Set Of Interrogatories To Defendant Century National Insurance Company ("Defendant") and request that Defendant answer the following Interrogatories fully, in writing and under oath.

**INSTRUCTIONS**

- A. Information supplied in response to these Interrogatories shall reflect all information available to Defendant and/or counsel for Defendant. The Interrogatories that follow are considered to be continuing to the extent permitted by Fed.R.Civ.P. 33, Defendant is requested to provide, by way of supplementary answers and responses, such additional information as it or any other person acting on their own behalf may hereafter obtain which will augment or otherwise modify its responses now given to the Interrogatories set forth below.
- B. Unless otherwise indicated, the time period for which responses are to be given to the Interrogatories herein is from January 1, 1990, to the date of Century's responses.
- C. Unless otherwise indicated, the Interrogatories pertain only to sale and financing of automobiles to New Mexico residents.
- D. Where the Answer to any interrogatory requires additional space or multiple pages such additional space or pages should be incorporated in the Answer. A diskette is hereby provided to facilitate your responses.
- E. If any of the Interrogatories are deemed to call for the production of any privileged materials and such privilege is asserted, a list is to be furnished identifying such information so withheld together with the following information:
1. the reason for withholding;
  2. a statement of facts constituting the basis for any claim of privilege, work product or other ground of non-disclosure;
  3. a brief description of the information, including, if the information being withheld is a document:
    - a. the date of the document;
    - b. the name(s) of its author(s), or preparer(s) and an identification by employment and title of each such person;
    - c. the names of each person who was sent or has had access to, or custody of the documents, together with an identification of each such person;

d. the paragraph of the Requests for Production of Documents to which the document relates; and

e. in the case of any document relating in any way to an oral communication, identification of such oral communication.

## **DEFINITIONS**

As used herein:

1. The word "Borrowers" means individuals who purchased automobiles from Dealers pursuant to Sales Contracts and/or Dealer Funding Arrangements who was charged CPI.
2. The word "Casa-Chevrolet" means the Dealer from whom the Plaintiffs', the Barrys, purchased their automobile.
3. "Century" refers to Century National Insurance Company, a California corporation, and its predecessors, parent, subsidiaries, present and former divisions, branches, authorized agents, attorneys, servants, employees, officers, directors, representatives, and to any other person that is or has ever acted for or on behalf of them.
4. The words "Collateral Protection Insurance" refers to automobile insurance purchased and procured by Franklin for Borrowers in instances where Borrowers have not purchased automobile insurance on their own pursuant to Sales Contracts.
5. The word "Dealer(s)" means motor vehicle dealers in New Mexico who have contracted with Franklin for financial services.
6. The words "Dealer Funding Arrangements" means the agreements, methods, procedures and practices followed between Franklin and Dealers in arranging the purchase and financing of automobiles for Borrowers.
7. "Franklin" refers to Franklin Capital Corporation, a Utah corporation, and its predecessors, parent, subsidiaries, present and former divisions, branches, authorized agents, attorneys, servants, employees, officers, directors, representatives, and to any other person that is or has ever acted for or on behalf of them.
8. "Identify" when used in connection with a computer system means to state in the answer, in addition to any other information requested:
  - a) A description of the type, model and location of the system;
  - b) The function of the system;
  - c) A description of information stored in the system; and
  - d) The person(s) responsible for overseeing and managing the system.
9. "Identify the source of" means to state in the answer, with respect to each and every particular fact and piece of information contained in your answer, each and every person and/or document from whom or which you learned or obtained such facts or received such information, and if the facts or information were learned, obtained, or received from more than one person or document, a description of which facts or information were obtained, learned, or received from each person or document.
10. The term "identify" when used with reference to a natural person, means to state in the answer, in addition to any other information requested, that person's full name, present or last known home address, present employer (occupation or business if self-employed), present place of business, employer (occupation or business if self-employed) at the time in question, and position (including a description of the person's duties and responsibilities) at the time in

question. When used with reference to any particular person, this information, other than the full name, need be given only once.

11. The term "identify" when used to identify a Dealer means to state the full title of the Dealer, the business address of the Dealer, and the names of the owners or operators of the Dealers.

12. The words "Lienholders Minimum Protection Insurance" refer to that insurance referred to in Paragraphs 16-20 of the Complaint.

13. "Refer to" means, directly or indirectly, referring to, relating to, connected with, commenting on, impinging or impacting upon, affecting, responding to, showing, describing, analyzing, reflecting or constituting.

14. The words "Sales Contract" mean the form of agreement utilized by Casa-Chevrolet containing all terms and conditions of the purchase and financing of the Barrys' automobile and/or similar forms and/or the form of agreement utilized by Franklin or Dealers in connection with Dealer Funding Arrangements which set forth the terms and conditions for the purchase and financing of automobiles by Borrowers.

15. All words defined herein shall include the singular, plural, past tense, present tense and future tense. The conjunctive "and" shall include the disjunctive "or" or vice versa.

## **INTERROGATORIES**

1. Identify the following as to each Borrower:

- a) Name;
- b) Address; and
- c) Account number.

2. Identify all documents maintained by Century related to the Borrowers identified in Interrogatory No. 1.

3. State for each year 1990 to the present the total number of Borrowers as for whom Century placed Lienholders Minimum Protection Insurance and/or Collateral Protection Insurance.

4. Identify the person or persons employed by Century having any responsibilities in connection with the operation of Franklin's Dealer Funding Arrangements and/or Franklin's placement of Collateral Protection Insurance since 1990.

5. Identify all documents related to the marketing, negotiation, sale and administration of any and all agreements between Century and Franklin related to the purchase and/or placement of Collateral Protection Insurance for Borrowers.

6. Identify all individuals at Century and Franklin responsible for any aspects of the negotiation, set-up and operation of the Collateral Protection Insurance program in connection with Dealer Funding Arrangements since 1990.

7. State whether Century maintains information about Borrowers in computer or electronic processing format.

8. If your Answer to Interrogatory No. 7 is in the affirmative, identify each category of information maintained with respect to Borrowers in computer or electronic processing format.

9. Identify all computer or electronic processing systems utilized by Century to store, process or maintain all information with respect to Borrowers at all times since 1990.

10. Identify all manuals, overviews or other documents explaining or tending to explain the computer systems or functions identified in the preceding interrogatory.

11. Identify the source of the Answers provided to the preceding Interrogatories 9 and 10.

12. Identify each different form document utilized by Franklin and/or Century or required to be utilized by Century or Franklin in connection with the operation of the Dealer Funding Arrangements for the purpose of communicating information to Borrowers and with respect to each such form document identify:

- a) the time period each such identified document was utilized;
- b) The purpose for which such form document was utilized; and
- c) The person or persons, if any, at Century having any responsibility in connection with any such form documents.

13. Identify all persons having knowledge of or responsibilities with respect to and all documents related to any procedures utilized by Century or Franklin for the purpose of tracking whether Borrowers maintained the insurance required in Sales Contracts.

[Attorney for Plaintiff]

### 5.3.2 First Request for Production of Documents

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

[plaintiff]ELDON T. BARRY and NANCY M. BARRY, individually and on behalf of all persons similarly situated,

Plaintiffs,

[vs]

[defendant]FRANKLIN CAPITAL CORPORATION, a Utah Corporation, and CENTURY NATIONAL INSURANCE COMPANY, a California Corporation,

Defendants.

**PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT CENTURY NATIONAL INSURANCE COMPANY**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Local Rule 1-034, Representative Plaintiffs Eldon T. Barry and Nancy M. Barry, individually and on behalf of all persons similarly situated, by their counsel, makes this their First Request For Production of Documents To Defendant Century National Insurance Company.

### I. DEFINITIONS

A. The word "Borrowers" means individuals who purchased automobiles from Dealers pursuant to Sales Contracts and/or Dealer Funding Arrangements for whom Collateral Protection Insurance was procured.

B. The word "Casa-Chevrolet" means the Dealer from whom the Plaintiffs', the Barrys, purchased their automobile.

C. The word "Century" means Century National Insurance and includes its directors, officers, agents, affiliates or other persons acting or purporting on behalf of Century National Insurance.

- D. The words "Collateral Protection Insurance" refers to automobile insurance purchased and procured by Franklin for Borrowers in instances where Borrowers have not purchased automobile insurance on their own pursuant to Sales Contracts.
- E. The words "Dealer Funding Arrangements" means the agreements, methods, procedures and practices followed between Franklin and Dealers in arranging the purchase and financing of automobiles for Borrowers.
- F. The word "Dealer(s)" means motor vehicle dealers in New Mexico who have contracted with Franklin for financial services.
- G. The word "document(s)" means all written, printed, recorded or graphic matter or sound reproductions, video tapes and/or films, however produced or reproduced, pertaining in any manner to the subject matter indicated, including computer tapes, discs, or other electronically stored data.
- H. The word "Franklin" means Franklin Capital Corporation, and includes any subsidiaries, related entities, successors or assigns, their directors, officers, agents, or other persons acting or purporting to act on behalf of Franklin Capital Corporation.
- I. The words "Lienholders Minimum Protection Insurance" refer to that insurance referred to in Paragraphs 16-20 of the Complaint.
- J. The phrase "other insurer(s)" means any entity or entities providing automobile collateral protection insurance coverage to Franklin other than Century.
- K. The word "person(s)" means all entities, and, without limiting the generality of the foregoing, includes natural persons, joint owners, associations, companies, partnerships, joint ventures, corporations, trusts and estates.
- L. The words "Sales Contract" mean the form of agreement utilized by Casa-Chevrolet containing all terms and conditions of the purchase and financing of the Barrys' automobile and/or similar forms and/or the form of agreement utilized by Franklin or Dealers in connection with Dealer Funding Arrangements which set forth the terms and conditions for the purchase and financing of automobiles by Borrowers.
- M. The words "you" and "your" refer to Franklin Capital Corporation to whom these requests are directed, and any agents, employees, officers, or other representatives acting on each such Franklin's behalf.
- N. These requests are for the period from January 1, 1990 to the present unless otherwise indicated.

## **II. REQUESTS FOR PRODUCTION**

Plaintiffs request that Defendant, Century, within thirty (30) days produce for inspection and copying at the offices of [Attorney for Plaintiff], [Address] or at such other locations agreed to by the Parties the following documents:

1. All documents maintained by Century that relate to Eldon T. Barry and/or Nancy M. Barry, including any account statements, loan applications, certificates of insurance, correspondence, debit or credit statements and any other information with respect to any debit or credit that was charged to or paid by Eldon T. Barry and/or Nancy M. Barry.
2. All documents evidencing any agreements or modifications of agreement between Century and Franklin.
3. All documents that evidence any insurance policy, including all coverages and endorsements, issued by Century or any other insurer to Franklin, insuring any automobile collateral.

4. All master policies and related agreements under which Franklin purchased collateral protection insurance from Century or any other insurer to insure its automobile collateral.
5. All documents that evidence proposals or offers by Century, if any, that offered to insure Franklin's automobile collateral, whether or not Franklin accepted the offer or proposals.
6. All documents that evidence any agreements, standards, practices and policies or arrangements for the payment of any commissions, expense reimbursements, experience rating refunds or other payments to Franklin or any affiliate or entity related to Franklin by Century or any affiliate or entity related to Century that relates to insuring Franklin's security interest in automobiles.
7. All documents provided by or used by Century in marketing, selling and negotiation of the Collateral Protection Insurance to Franklin.
8. All documents related to the procedures, practices, standards and policies followed by Century in providing "Lienholders Minimum Protection Insurance" for Borrowers.
9. All documents which evidence the standards, policies, procedures and practices followed by Century and Franklin in the course of placing Collateral Protection Insurance on behalf of Borrowers.
10. All various standardized form Sales Contracts and other standard form documents utilized by Franklin with Dealers in connection with the operation of Dealer Funding Arrangements which were provided to Century.
11. All standardized form contracts and other documents utilized in connection with the sale and financing of automobiles for Borrowers pursuant to Franklin's Dealer Funding Arrangements provided to Century or in Century's possession, custody or control.
12. All documents related to the creation, marketing, sale, implementation and administration of Century's practice of providing Collateral Protection Insurance involving the add-on or payment of a single premium for multi-year coverages.
13. All documents related to the policies, procedures, practices and/or standards to be followed by Franklin or Century in calculating refunds of unearned premiums for property insurance coverage placed by Franklin with Century.
14. All documents in Century's possession that evidence the notice cycle and tracking of automobile insurance by Century or its related entities or other insurers.
15. All employee manuals, guidelines, instructions, or other documents distributed to Century directors, officers, or employees with respect to the operation and administration of Collateral Protection Insurance purchased from Century with respect to Borrowers.
16. All documents that identify the person(s) that negotiated the agreement(s) between Franklin and Century or any other insurer with respect to Collateral Protection Insurance and all documents that evidence such negotiations.
17. All documents that identify the persons that were responsible for reviewing, monitoring, overseeing and/or administering the operation of Century's Collateral Protection Insurance program with Franklin and all documents (by type) that evidence such review, monitoring, overseeing and administration.
18. All documents that evidence Century's review of Franklin's Sales Contracts at any time since 1990.
19. All documents that evidence any meetings between Franklin and Century (or any other insurer) at which the terms, conditions or costs, expenses and/or payments with respect to automobile collateral protection insurance were discussed.

20. All documents sent to or received from any governmental agency related to automobile collateral protection insurance including consumer protection agencies, consumer credit agencies, the New Mexico Department of Insurance, and/or the Utah Department of Insurance.
21. All monthly, quarterly or yearly reports or forms (by type) that relate to Collateral Protection Insurance sent to or received from Franklin or any other insurer.
22. All documents that relate to any survey or analysis of any aspect of the contractual relationship(s) between (a) Franklin and/or its subsidiaries and affiliates and (b) Century and/or its subsidiaries and affiliates and/or any other insurer arising out of the sale of Collateral Protection Insurance.
23. Documents that identify, describe or set forth the organizational structure, offices, divisions, branches, sections, centers or components of Century.
24. Documents that evidence Century's record retention procedures or requirements with respect to automobile Collateral Protection Insurance documents.
25. All documents that evidence reports relating to Century's automobile collateral protection insurance with Franklin.
26. All documents that summarize, report or record the number of Franklin Borrowers who were (a) charged and/or (b) paid for Collateral Protection Insurance by or through Franklin after September 13, 1990.
27. All form documents utilized to notify and/or communicate with Franklin Borrowers that relate to Franklin's automobile Collateral Protection Insurance with Century and any revision, amendment or change thereafter made to such forms.
28. All documents identified in Plaintiffs' First Set Of Interrogatories served on Defendant Century.
29. All documents related to the termination, suspension, cancellation, or lapse of any agreements between Century and Franklin.

[Attorney for Plaintiff]