

COMMERCIAL SURETY APPLICATION



PENN NATIONAL
INSURANCE
SB 036 0660
Surety

Agency Code: _____ Agency Name: CARR AND HYDE INSURANCE

Date: Jan. 19, 2012

CF-203

Principal Name Required on Bond <u>Phon EXAY MINGSI S OUPH ANH</u>	FEIN (SS# if Principal is individual) [REDACTED]
Address <u>3043 CATTLETT ROAD</u>	City/State/Zip <u>CATLETT, VA 20119</u>
Nature of Business <u>ADMINISTRATOR</u>	Year Business Established

OWNER/SPOUSE INFORMATION: If the principal is a business, complete the following. (Attach additional pages if necessary.)

Owner Name	SS#	Owner %	Spouse Name	SS#
*				
Street Address	City/State/Zip			
Owner Name	SS#	Owner %	Spouse Name	SS#
*				
Street Address	City/State/Zip			
Owner Name	SS#	Owner %	Spouse Name	SS#
*				
Street Address	City/State/Zip			
Owner Name	SS#	Owner %	Spouse Name	SS#
*				
Street Address	City/State/Zip			

Has any individual, owner, spouse, or the company:

- Declared bankruptcy? Y N
- Current or past involvement in other litigation? Y N
- Ever been convicted of a crime? Y N
- Ever been involved or party in a surety bond claim? Y N

Is this bond required by statute or ordinance? CLERK'S OFFICE Y N

Has this bond been written or declined by another surety company? Y N

Do any of the individual owners, spouses, or the company currently have surety bonds written with the submitting agency and /or Penn National Insurance? Y N

Provide full written details on any "Y" answer to the questions.

OBLIGEE INFORMATION: The Obligee is the entity or party that is requiring the bond of the applicant/Principal.

Obligee Name Fauquier County Circuit Court Phone: 540-422-8100
 Obligee Address / City / State / Zip 29 Ashby St, Warrenton, VA 20186

BOND INFORMATION: This is specific to the type of bond needed.

Bond Amount \$ 25,000 Eff Date 1/24/12 Bond Type ADMINISTRATOR

DOCUMENTATION:

- ◆ Should the Obligee require their own bond form, please forward a copy with the application.
- ◆ If the bond is required by a Court (Judicial or Probate), submit all relevant court documents.
- ◆ If applicable, complete the additional section on page 2.



LICENSE / PERMIT

In what other states is the Individual or Business Principal licensed?

Number of total years experience of the Individual or Business Owner in this Industry? _____ Years

- Has the Individual/Business Principal had your license suspended, revoked, or denied?..... Y N
- Is the Individual/Business Principal a member of a relevant Professional Trade Association?..... Y N

Provide full written details on any "Yes" answers.

Term of License / Permit		License / Permit Number	
Business	General Liability	Limit \$	Ded \$
Insurance: (if applicable)	E & O	Limit \$	Ded \$
	Fidelity	Limit \$	Ded \$

♦ Various license/permit bonds guarantee payment of taxes. Financial statements may be required.

LOST INSTRUMENT

Type of Lost Instrument _____

Describe circumstances of loss _____

Amount/Value of Lost Instrument _____ Serial # _____ Issue Date _____

If registered, in whose name? _____

Payable to Applicant only? Yes No If no, who is it payable to? _____

Was Lost Instrument endorsed? Yes No

If a check, has payment been stopped? Yes No If "Yes", when? _____

PUBLIC OFFICIAL

Official Title _____ Term of Office _____ to _____ Elected Appointed

Is this position responsible for handling money? Yes No

♦ If "yes", what is the maximum amount of money which will be under your control at any one time? \$ _____

Have you previously occupied this position? Yes No If "Yes" from _____

How often are audits performed on your accounts? _____ Date last examined? _____ By whom? _____

Were they found in balance and correct in every respect? Yes No Is examination required by law? Yes No

PROBATE & FIDUCIARY

Administrator Trustee Sale of Real Estate Guardian / Birth date of Minor _____

Executor Receiver (other) Conservator / Age of Incompetent _____

Date of Appointment 1/24/12 Date of Death 8/1/11 Amount of Assets \$15,000 - 20,000

Deceased Ward (Name of) PhRA Com Transap Relationship to Deceased or Ward CLOSE FRIEND

Bond filed in Circuit Court of Fauquier County

Full Address of Court 29 Ashby St, Warrenton, WA 20186 Cell 540-272-2844

Attorney Name LANE MARIE Tognini, Esq. Phone 540-341-8808

Attorney Address/City/State/Zip Holtzman Vogel PLLC, 45 North Hill Dr, Suite 100, Warrenton WA 20186

- Has bond been given in this estate before?... Y N
- Is there a going business in the estate?..... Y N
- Will the attorney remain involved throughout the duration of this estate?..... Y N
- Is the estate insolvent?..... Y N
- Will joint control¹ be exercised?..... Y N
- Are you indebted to the estate?..... Y N
- Have you had prior custody of assets in any capacity?..... Y N

Provide full written details on any "Yes" answers.

¹ Joint Control is a legal agreement/contract whereby the Attorney and the Principal must agree and sign for the use of the funds of the minor or incompetent.

- ♦ No attorney involved -- additional underwriting information may be requested at the discretion of the underwriter.
- ♦ Provide all Names and Relationships of the Heirs of the Estate, if applicable.

GENERAL INDEMNITY AGREEMENT

THIS AGREEMENT is made by the undersigned Principal(s) (signing as the "Company") and Indemnitor(s), all of which are individually and collectively referred to as "Undersigned," for the continuing benefit of Surety in connection with any Bond executed on behalf of any Indemnitor or any Principal.

DEFINITIONS. The following terms shall have the following definitions in this Agreement:

Bond: Any surety bond, undertaking, or other express or implied obligation of guaranty or suretyship executed or committed to by Surety on, before or after this date, and any riders, endorsements, extensions, continuations, renewals, substitutions, increases or decreases in penal sum, reinstatements or replacements thereto.

Principal: The person(s) and entity(ies), for whom any Bond is issued or committed to by Surety, or any one or combination thereof, or their successors in interest, whether along or in joint venture with others named herein or not named herein, and any person or entity which may act as surety or co-surety on any bond, or any other person or entity who executes any Bond at its request.

Surety: Any and all of Pennsylvania National Mutual Casualty Insurance Company and Penn National Security Insurance Company (herein collectively referred below as "Penn National Insurance"), their respective reinsurers and any other person or entity which may act as surety or co-surety on any Bond, or any other person or entity who execute any Bond at its request.

INDEMNITY: The Undersigned:

- A. Agrees to defend, indemnify, and save harmless Surety from and against any and all demands, liabilities, costs, penalties, obligations, interest, damages and expenses of whatever nature of kind, including but not limited to attorneys' fees (including those of both outside and in-house attorneys) and costs and fees incurred in investigation of claims or potential claims, adjustment of claims, procuring or attempting to procure the discharge of Bond, or attempting to recover losses or expenses from the Undersigned or third parties, whether Surety shall have paid out any such sums; and
- B. Agrees to pay Surety all premiums on Bonds issued by Surety on behalf of any Principal, in accordance with Surety's rates in effect when each payment is due. Premiums on contract bonds are based on the contract price, without reference to the penal sum of the Bond, and shall be adjusted due to changes in the total contract price. On any Bond where Surety charges an annual premium, such annual premium shall be due upon execution of the Bond and upon the renewal or anniversary date of such Bond until satisfactory evidence of termination of Surety's liability as a matter of law under the Bond is furnished to Surety's satisfaction; and
- C. Agrees that in furtherance of such indemnity:
 - i) In any claim or suite arising out of or related to either or both any Bond and this Agreement, an itemized statement of Surety's loss and expense, sworn to by a representative of Surety, or other evidence or disbursement by Surety, shall be prima facie evidence of the fact and extent of Undersigned's liability under this Agreement.
 - ii) Surety shall have the right to defense and indemnity regardless of whether Surety has made any payment under any Bond.
 - iii) In any suit between any Undersigned or Principal and Surety under this agreement or arising out of any Bond, Surety may recover its expenses and attorneys' fees incurred in such suit either or both defending or prosecuting such suit.

CONFESSION OF JUDGMENT: The Undersigned also agree that:

EFFECTIVE UPON OCCURRENCE OF ANY BREACH OR DEFAULT BY THE PRINCIPAL AND/OR ANY ONE OR MORE INDEMNITORS OF ANY OF THE PROVISIONS OF THIS AGREEMENT, AND WITHOUT LIMITING THE ENFORCEABILITY OF ANY OTHER PROVISION OF THIS AGREEMENT, THE PRINCIPAL AND INDEMNITORS HEREBY JOINTLY AND SEVERALLY IRREVOCABLY AUTHORIZE AND EMPOWER ANY ATTORNEY OF RECORD, OR PROTHONOTARY, OR CLERK OF ANY JURISDICTION WITHIN THE UNITED STATES OR ANY OF ITS TERRITORIES OR POSSESSIONS TO APPEAR FOR ANY ONE OR MORE OF THEM AT ANY TIME OR TIMES WITH RESPECT TO ANY MONIES DUE UNDER THIS AGREEMENT, AND TO CONFESS OR ENTER JUDGMENT BY WARRANT OF ATTORNEY AGAINST ANY OR ALL OF THEM FOR ALL SUCH SUMS PAYABLE UNDER THIS AGREEMENT AS EVIDENCED BY AN AFFIDAVIT SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SURETY SETTING FORTH SUCH AMOUNT DUE, PLUS REASONABLE ATTORNEYS' FEES, COST OF SUIT, INTEREST, WITH RELEASE OF PROCEDURAL ERRORS AND WITHOUT RIGHT OF APPEAL. IF A COPY OF THIS AGREEMENT, VERIFIED BY AFFIDAVIT, SHALL BE FILED, IT SHALL NOT BE NECESSARY TO FILE THE ORIGINAL AS A WARRANT OF ATTORNEY. THE UNDERSIGNED JOINTLY AND SEVERALLY WAIVE THE RIGHT OF ANY STAY OF EXECUTION AND THE BENEFIT OF ANY AND ALL EXEMPTIONS TO WHICH THEY MAY NOW OR MAY HEREAFTER BE ENTITLED UNDER LAW. NO SINGLE EXERCISE OF THE FOREGOING WARRANT AND POWER TO BRING AN ACTION OR CONFESS JUDGMENT SHALL BE DEEMED TO EXHAUST THE POWER BUT THE POWER SHALL CONTINUE UNDIMINISHED AND MAY BE EXERCISED FROM TIME TO TIME AS OFTEN AS SURETY SHALL ELECT, WHETHER BEFORE OR AFTER DEMAND IS MADE, UNTIL ALL SUMS PAYABLE TO SURETY UNDER THIS AGREEMENT HAVE BEEN PAID IN FULL.

EACH OF THE INDEMNITORS REPRESENTS AND WARRANTS THAT HE OR SHE HAD READ THE FOREGOING CONFESSION OF JUDGMENT AND UNDERSTANDS THAT HE OR SHE IS GIVING UP THE RIGHT TO A HEARING BEFORE JUDGMENT IS CONFESSED, LEVY AND EXECUTION MADE, AND THAT EACH GIVES UP THE RIGHT TO SUCH HEARING FREELY AND VOLUNTARILY IN THIS BUSINESS TRANSACTION.

GENERAL PROVISIONS. The undersigned further agrees as follows:

- A. If a claim or demand for performance of any obligation under any Bond is made against Surety, Undersigned, upon Surety's demand, shall immediately deposit with Surety United States legal currency, as collateral security, in an amount equal to the reserves posted by Surety with respect to such claim or demand, plus an amount equivalent to Surety's estimate of its anticipated expenses and attorneys' fees to be incurred in connection therewith. Undersigned acknowledges and agrees that Surety shall be entitled to specific performance of this paragraph.
- B. Undersigned's obligations under this Agreement are joint and several. Repeated actions under this Agreement or as otherwise permitted may be maintained by Surety without any former action operating as a bar to any subsequent action. Surety's release of any one Undersigned shall not release any other Undersigned shall relieve the Undersigned of any obligation owed under this Agreement. Undersigned shall not be released from liability under this Agreement because of the status, condition, or situation of any party to this Agreement or any Principal.
- C. If the execution of this Agreement by any Undersigned is defective or invalid for any reason, such defect or invalidity shall not affect the validity hereof as to any other Undersigned. Should any provision of this Agreement be held invalid, the remaining provisions shall retain their full force and effect.
- D. Undersigned waives any defense that this instrument was executed subsequent to the date of any Bond and acknowledges that such Bond was executed pursuant to Undersigned's request and in reliance on Undersigned's promise to execute this Agreement. Undersigned understands and agrees that this Agreement is a continuing agreement to indemnify over an indefinite period.

- E. Undersigned has the right to review all Bonds executed by Surety for errors and omissions prior to delivery of the Bond to the Oblige, and hereby waives any claim against Surety arising out of any such error or omission.
- F. Surety shall have the right in its sole discretion to decide whether any claims arising out of or related to any Bond shall be paid, compromised, defended, prosecuted or appealed regardless of whether or not suit is actually filed or commenced against Surety upon such claim. Absent Surety's intentional wrongdoing, Undersigned agrees to be conclusively bound by Surety's determination.
- G. Surety may decline to execute any Bond for any reason and shall not be liable to Undersigned, or any person or entity, as a result of such declination.
- H. This Agreement may be terminated by the Indemnitors or by any one or more of them, if written notice, signed by the terminating Indemnitor(s), clearly expressing their intent to terminate this agreement, is sent by registered or certified mail to the Surety at its home office at Two North Second Street, P.O. Box 2361, Harrisburg, Pennsylvania, 17105-2361, with said termination to become effective (the "Termination Date") thirty (30) days from the date the written notice of termination is received by Surety, however, no notice of termination shall operate to modify, bar, discharge, relieve, limit, affect or impair the obligation of the Principal or the Indemnitors under this Agreement with respect to any Bond that is or was issued prior to the Termination Date or in connection with Bonds which are issued after such Termination Date when such Bonds are issued upon the award of a Contract to the Principal from or related to a bid or proposal bond or similar undertaking that was issued prior to the Termination Date. Further, such notice of termination shall operate only with respect to those Indemnitors upon whose behalf such notice of termination shall have been given, the obligation of any other Indemnitors to remain in full force and effect.

FOR OHIO RESIDENTS AND DOMICILIARES

WARNING - BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME, A COURT JUDGMENT CAN BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR, WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT OR ANY OTHER CAUSE.

FOR VIRGINIA RESIDENTS AND DOMICILIARIES

IMPORTANT NOTICE: THIS INSTRUMENT CONTAINS A CONFESSION OR JUDGMENT PROVISION WHICH CONSTITUTES A WAIVER OF IMPORTANT RIGHTS YOU MAY HAVE AS A DEBTOR AND ALLOWS THE CREDITOR TO OBTAIN A JUDGMENT AGAINST YOU WITHOUT ANY FURTHER NOTICE.

Electronic Copy Provision

The undersigned agree that an electronic reproduction/photocopy/other image of the original document shall be just as binding on the parties to this agreement as the original document.

Multi-Part Document

This is document is comprised of the Bond Application and the Indemnity Agreement. Applicant acknowledges that this is an application for Surety credit and each of the undersigned give their permission for the Surety to order and use Personal Credit Reports in the determination of granting such Surety Credit, if any. The applicant, under penalty of law further certifies that all information provided in each of the documents is true and accurate.

IN WITNESS WHEREOF, the parties have executed this Multi-Part Document with the intent to be legally bound as of the date set forth on page one (1) of this document.

COMPANY INDEMNITY

(SEAL)

Signature By: X
 Tax ID: _____
 Name / Title: _____ /

COMPANY ACKNOWLEDGEMENT

STATE OF _____
 COUNTY/CITY OF _____

On _____, comes before me, _____, known to me to be the person who executed the foregoing instrument and acknowledges to me that he/she is the of _____, the company described in and which executed the foregoing instrument; that he/she knows the seal of the said company; that the seal affixed to the said instrument is such company seal; that it was so affixed by the order of the Board of Directors of said company and that he/she signed his/her name thereto by like order.

 X
 Notary Public
 My Commission Expires: _____ (Seal)

INDIVIDUAL INDEMNITY

Signature By: X *Phonexay Mingsisouphanh*
 Print Name: Phonexay Mingsisouphanh / Individually
 Soc. Sec #: _____
 Address: 3043 CATLETT ROAD, CATLETT, VA 20119

Signature By: X
 Print Name: _____ / Individually
 Soc. Sec #: _____
 Address: _____

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF _____
 COUNTY/CITY OF _____

On _____, comes before me, _____, known to me to be the person who is described in and who executed the foregoing instrument and acknowledged to me that he/she/they executed the same.

 X
 Notary Public
 My commission Expires: _____ (Seal)

FOR BONDS ≥ \$300,000, NOTARY ACKNOWLEDGEMENTS ARE REQUIRED

VIRGINIA:

IN THE CIRCUIT COURT OF FAUQUIER COUNTY

PHONEXAY MINGSISOUPHANH,)
Administator of the Estate of Phra Chom)
Taengsap, Deceased)

Plaintiff,)

v.)

Civil Case No. CL13-280

MIGUEL ANGEL VELAZQUEZ VITE,)

Defendant.)

FINAL ORDER

CAME THIS DAY, the Parties, by counsel, upon the Petition for Approval of Wrongful Death Settlement pursuant to Va. Code § 8.01-55 filed by your Plaintiff, the Venerable Dr.

Phonexay Mingsisouphanh, Administrator of the Estate of Phra Chom Taengsap, Deceased; and

IT APPEARING TO THE COURT that the Parties have represented to the Court that subject to the Court's approval, all matters by and between the Defendants, the Plaintiff, and the statutory beneficiaries as set forth by Va. Code Ann. § 8.01-53 have been compromised and settled; and

IT APPEARING TO THE COURT that on July 31, 2011, Phra Chom Taengsap sustained fatal injuries after being hit by a vehicle driven by the Defendant, Miguel Angel Velazquez Vite, on Route 28 in Fauquier County, Virginia; that as a result of said accident, the Estate of Phra Chom Taengsap has filed a claim against the Defendant Miguel Angel Velazquez Vite; and

IT BEING REPRESENTED TO THE COURT that the individuals entitled to the proceeds of the settlement under Va. Code § 8.01-53 are as follows:

LEW OFFICES

WARD, MORRISON,
ROSS AND WHELAN
31 GARRETT STREET
ALEXANDRIA, VIRGINIA 22304
TELEPHONE: (540) 817-1000
FAX: (540) 849-6482



	<u>Beneficiary</u>	<u>Relationship</u>	<u>Date of Birth</u>
a.	Am Taengsap	Father	January 1, 1931
b.	Kaen Chotnok	Mother	September 3, 1934
c.	Phaen Saechaiyaphom	Sister	January 1, 1956
d.	Thom Taengsap	Brother	February 18, 1965
e.	Aum Taengsap	Brother	April 5, 1962
f.	Rat Taengsap	Brother	June 19, 1961
g.	Sommaï Taengsap	Brother	February 1, 1967
h.	Phom Taengsap	Brother	June 22, 1970

IT FURTHER APPEARING TO THE COURT that said statutory beneficiaries are deemed convened because each aforementioned statutory beneficiary has designated the Venerable Dr. Phonexay Mingsisouphanh his or her attorney-in-fact with full power and authority to settle this matter on their behalf, and further that the Venerable Dr. Phonexay Mingsisouphanh, in his capacity as attorney-in-fact for each of the statutory beneficiaries, has endorsed this Order on their behalf; and

IT FURTHER APPEARING TO THE COURT that the Defendant Miguel Angel Velazquez Vite and the Deceased's underinsured motorist carrier have offered to compromise the Plaintiff's claim for the wrongful death of Phra Chom Taengsap for the total sum of \$625,000.00, \$25,000.00 from Alpha Vision Insurance, the Defendant's liability carrier, and \$600,000.00 from Cincinnati Insurance, the underinsured motorist carrier, and that the Plaintiff has requested that this compromise be approved by this Court; and

IT FURTHER APPEARING TO THE COURT, having heard the evidence and representations of counsel, that the compromise offer is fair and reasonable under all circumstances of the case and is in the best interest of the Estate of Phra Chom Taengsap, Deceased for the following reasons:

- a. The expense and time that would be involved in litigation of this matter;
- b. The inability to predict the outcome of this litigation in terms of the amount of damages to be awarded;
- c. The physical and emotional strain on the beneficiaries.

ACCORDINGLY, the Court approves this compromise and ORDERS that this compromise be effected in the sum of \$625,000.00, and shall be distributed as follows:

- (1) Payment to Howard, Morrison, Ross and Whelan in the amount of \$156,250.00 for services rendered;
- (2) Payment to Piedmont Law, PC (25% of HMRW's 33 1/3 %) in the amount of \$52,083.33 for services rendered;
- (3) Payment to Howard, Morrison, Ross and Whelan in the amount of \$6,403.67 for costs advanced;
- (4) Payment to United Consumers, Inc. (Fairfax Hospital Lien), in the amount of \$17,753.56;
- (5) Payment to Am Taengsap in the amount of ^{\$137,378.31} ~~35%~~ of the remaining balance;
- (6) Payment to Kaen Chotnok in the amount of ^{\$137,378.31} ~~35%~~ of the remaining balance;
- (7) Payment to Phaen Saechaiyaphom in the amount of ^{\$19,625.47} ~~5%~~ of the remaining balance;
- (8) Payment to Thom Taengsap in the amount of ^{\$19,625.47} ~~5%~~ of the remaining balance;
- (9) Payment to Aum Taengsap in the amount of ^{\$19,625.47} ~~5%~~ of the remaining balance;
- (10) Payment to Rat Taengsap in the amount of ^{\$19,625.47} ~~5%~~ of the remaining balance;
- (11) Payment to Sommai Taengsap in the amount of ^{\$19,625.47} ~~5%~~ of the remaining balance; and
- (12) Payment to Phom Taengsap in the amount of ^{\$19,625.47} ~~5%~~ of the remaining balance.

The Parties herein, as evidenced by the signatures of counsel below, represent to the Court that counsel for the Defendant and counsel for Cincinnati Insurance has paid or shall pay the aforementioned compromise in the total amount of \$625,000.00 to counsel for the Plaintiff, Administrator of the Estate of Phra Chom Taengsap, Deceased, to be disbursed as herein directed as full and final satisfaction of all claims the Venerable Dr. Phonexay Mingsisouphanh, Administrator of the Estate of Phra Chom Taengsap, against Miguel Angel Velazquez Vite, his

agents, employees, heirs, executors, insurers and/or assigns for any and all injuries received as a result of the accident that occurred on July 31, 2011 in the County of Fauquier, Virginia as more

fully set forth in the Plaintiff's Complaint. *IT IS FURTHER ORDERED that counsel for the Plaintiff/Administrator shall not disburse the funds awarded to the Plaintiff/Administrator until such time as counsel verifies that the Plaintiff/Administrator's bond is in excess of the sum distributed hereunder to the Statutory beneficiaries aforesaid;*
IT IS FURTHER ORDERED that the Guardian *ad litem* shall be awarded a fee of \$500

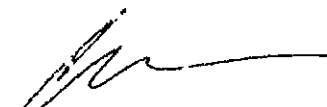
for his compensation and expenses related to his representation of the Defendant, and said fee be paid by the Commonwealth out of the State Treasury from the appropriation for criminal charges.

IT IS FURTHER ORDERED that your Plaintiff, in his capacity as Administrator of the Estate of Phra Chom Taengsap, Deceased, is hereby authorized to execute releases to and in the favor of the Defendant, Miguel Angel Velazquez Vite, for full and complete settlement of all claims against the Defendant in connection with the allegations set forth in the Complaint in return for payment of the aforementioned settlement in the amount of \$625,000.00

THIS ORDER IS FINAL.

The Clerk is directed to place this matter among the ended causes.


ENTERED this 20 day of January, 2015.



Christopher T. Whelan,
Virginia State Bar No. 33811
Howard, Morrison, Ross and Whelan
31 Garrett Street
Warrenton, Virginia 20186
(540) 347-1000
FAX (540) 349-4422
Chris.whelan@hmrwlaw.com
Counsel for Plaintiff

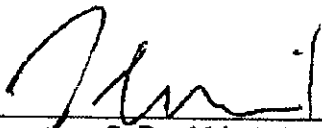


JUDGE
JEFFREY W. PARKER, JUDGE

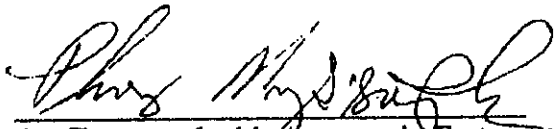


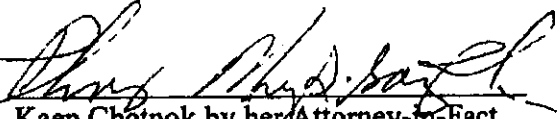
Calvin W. Fowler, Jr.
Virginia State Bar No. 27982
Joseph Pope
Virginia State Bar No. 71371
WILLIAMS MULLEN
Williams Mullen Center
200 South 10th Street
P.O. Box 1320
Richmond, Virginia 23218-1320
(804) 420-6442
FAX (804) 420-6507
wfowler@williamsmullen.com
Counsel for Cincinnati Insurance

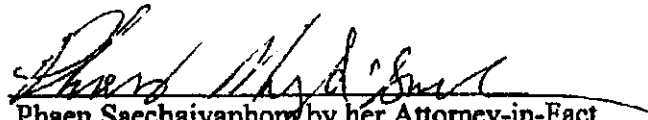
John Zunka, Esquire
Virginia State Bar No. 14368
Zunka, Milnor, & Carter, Ltd.
414 Park Street
P.O. Box 1567
Charlottesville, Virginia 22902
(434) 977-0191
FAX (434) 977-0198
JZunka@zmc-law.com
Counsel for Defendant, Miguel Vite

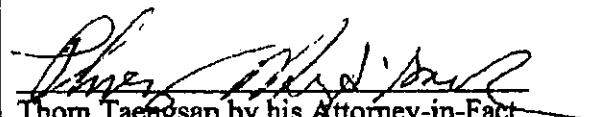



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9300 West Courthouse Street, Suite 203
Manassas, Virginia 20110
(703) 361-0776
FAX (703) 361-9531
jsr@crslegal.net
Guardian *ad litem* for Miguel Vite

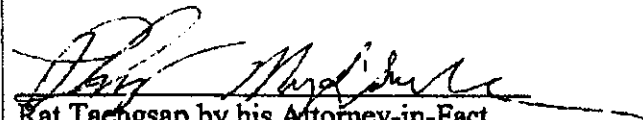

Am Taengsap by his Attorney-in-Fact
Phonexay Mingsisouphanh

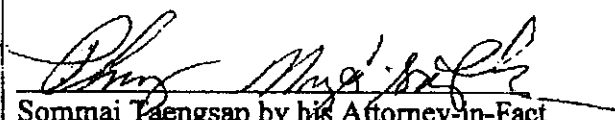

Kaen Chotnok by her Attorney-in-Fact
Phonexay Mingsisouphanh

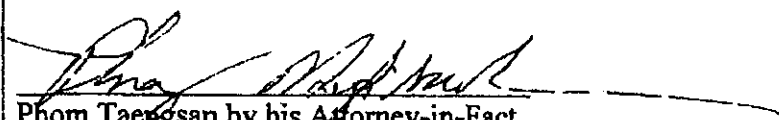

Phaen Saechaiyaphorn by her Attorney-in-Fact
Phonexay Mingsisouphanh


Thom Taengsap by his Attorney-in-Fact
Phonexay Mingsisouphanh



Aum Taengsap by his Attorney-in-Fact
Phonexay Mingsisouphanh


Rat Taengsap by his Attorney-in-Fact
Phonexay Mingsisouphanh


Sommai Taengsap by his Attorney-in-Fact
Phonexay Mingsisouphanh


Phom Taengsap by his Attorney-in-Fact
Phonexay Mingsisouphanh

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wfowler@williamsmullen.com
Counsel for Cincinnati Insurance



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FAX (434) 977-0198
JZunka@zmc-law.com
Counsel for Defendant, Miguel Vite

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Manassas, Virginia 20110
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jsr@crslegal.net
Guardian ad litem for Miguel Vite

A COPY TESTE: GAIL H. BARR, CLERK

BY 
Deputy Clerk

FAUQUIER COUNTY CIRCUIT COURT, VA

VIRGINIA: IN THE CLERK'S OFFICE FOR THE CIRCUIT COURT FOR THE
COUNTY OF FAUQUIER, JANUARY 20, 2015

IN RE: ESTATE OF PHRA CHOM TAENGSAK
FIDUCIARY NO. CWF2012-20

O R D E R

The Clerk on the 24th day of January 2012 having qualified
Phonexay Mingsisouphanh as Administrator of the personal estate of
PHRA CHOM TAENGSAK, deceased, and the Administrator having posted a
bond in the penalty of \$25,000.00, with surety, pursuant to Section
64.2-505 of the Code of Virginia, as amended, and

It appearing that by court order entered January 20, 2015, in
case number CL13-280, that additional funds in the amount of
\$392,509.44 will be deposited with the Administrator, and the Court
being of the opinion that the bond should be increased according to
statute, pursuant to Section 64.2-1410 of the Code of Virginia, as
amended, the Court ORDERS that Phonexay Mingsisouphanh, the
Administrator, appear before the Clerk and post a new bond in the
amount of \$432,000.00 with surety prior to the court-ordered
distribution of assets to the estate.

A copy of this order shall be forwarded to the Administrator.
A copy of this order shall also be forwarded to the Commissioner of
Accounts.

ENTER this 20 day of January 2015.

A COPY OF THIS ORDER IS TO BE FORWARDED TO THE CLERK

BY

Deputy Clerk

FAUQUIER COUNTY CIRCUIT COURT, VA.

Jeffrey W. Parker, Judge

EXHIBIT

C

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VIRGINIA:

CIRCUIT COURT FOR THE COUNTY OF FAUQUIER

THOM TAENGSAAP, et al.

Plaintiffs,

v.

Case No.: CL 20-484

DR. PHONEXAY MINGSISOUPHANH,

and

PENNSYLVANIA NATIONAL MUTUAL
CASUALTY INSURANCE COMPANY,

Defendants.

**PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE
COMPANY'S MOTION CRAVING OYER AND MOTION TO STRIKE**

The defendant, Pennsylvania National Mutual Casualty Insurance Company ("Penn National"), by counsel, in accordance with the provisions of Rule 3:8 of the *Rules of the Supreme Court of Virginia*, files its Motion Craving Oyer and Motion to Strike in response to the Amended Complaint filed on behalf of the plaintiffs, Thom Taengsap, Aum Taengsap, Rat Taengsap, Sommai Taengsap, Phom Taengsap and Phaen Saechaiyaphom. For the reasons set forth below, Penn National respectfully requests the entry of an order granting both motions.

MOTION CRAVING OYER

Penn National joins, and incorporates by reference as if fully set forth in this motion, the Motion Craving Oyer filed by the defendant, Dr. Phonexay Mingisouphanh, requesting that the Plaintiffs be ordered to provide full and complete translated copies of documents, screen shots, text messages, Facebook videos and images that have been appended to the Amended Complaint in a foreign language and relied upon by the Plaintiffs to make factual allegations, as well as all

FILED AT	<u>10:02 A</u>
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GAIL H. BARR, CLERK	
BY:	<u>[Signature]</u>

other electronically stored information. By including these images and relying on allegations in a foreign language, Plaintiffs have failed to “clearly inform” the defendants of the “true nature of the claim.” Va. R. Sup. Ct. 1:4.

WHEREFORE, and by reason of the foregoing, Penn National requests the entry of an order granting the Motion Craving Oyer and ordering Plaintiffs to attach full and complete, translated copies of all documents, screen shots, text messages, Facebook videos and images relied upon in their Amended Complaint, and for any other such relief deemed just and proper.

MOTION TO STRIKE

Plaintiffs’ Amended Complaint also contains multiple statements that cannot be reasonably considered simple, factual allegations sufficient to inform the opposite party of the “true nature of the claim.” Va. R. Sup. Ct. 1:4. In fact, “Brevity is enjoined as the outstanding characteristic of good pleading. In any pleading a simple statement, in numbered paragraphs, of the essential facts is sufficient.” Va. R. Sup. Ct. 1:4(j). Plaintiffs abandoned simple statements to instead make arguments and include references that could reasonably prejudice the finder of fact. These matters must be struck from Plaintiffs’ Amended Complaint.

First, Penn National moves to strike ¶ 8 of Plaintiffs’ Amended Complaint. This paragraph contains cultural generalizations regarding attitudes toward monks that are not factual allegations. Furthermore, it constitutes the pure argument of counsel, even going so far as to make comparisons to, and directly quote, the Bible. These musings on Laotian culture are not factual. These opinions and Biblical quotations can easily prejudice the finder of fact and distort the real claims and defenses at issue in this matter. Paragraph 8 should be struck from the Amended Complaint in its entirety.

Plaintiffs slip multiple other non-factual allegations into paragraphs of their Amended Complaint, all of which are inadmissible and/or prejudicial to the fact-finder. In ¶ 21, Plaintiffs insert the wholly argumentative phrase “in a pattern of non-responsiveness and uncaring” into the allegations. This statement is not an allegation of fact but the mere opinion and subjective characterization of other allegations by the Plaintiffs and, candidly, has nothing to do with the issues in this case. In ¶ 23, Plaintiffs completely speculate as to Dr. Mingsisouphanh’s motives in that he “wined and dined” Plaintiffs to “gain their confidence.” It goes further to argue that it was a great honor for this to have occurred. These statements continue the pattern of Plaintiffs going beyond pure factual assertions to editorialize and argue their case. Plaintiffs can do that in Court, but that is not the proper purpose of the Amended Complaint. These statements in ¶¶ 21 and 23 must be struck as argumentative and prejudicial.

In ¶ 46, Plaintiffs allege that the funds were used as a “personal piggybank” and comment on what Dr. Mingsisouphanh was “legally and ethically required to do.” Penn National moves to strike the “piggybank” assertion as non-factual argument and the latter statement as pure legal conclusions. In this matter, the Court will decide the law, and it is inappropriate to shoehorn arguments regarding ethical requirements into a factual pleading. Penn National further moves to strike ¶ 49 in its entirety as it contains only the arguments of counsel and is devoid of factual allegations. Plaintiffs take the opportunity to attach pictures of checks and make arguments about their purported purpose. Paragraph 49 does not contain simple factual statements but only arguments on what the defendant allegedly admits in the attached pictures.

Lastly, in perhaps the most egregious example, Plaintiffs openly include “rumor” in ¶ 67 of the Amended Complaint. Under the guise of “rumor in the Buddhist Lao community of Northern Virginia” Dr. Mingsisouphanh is accused of misappropriating funds from the Buddhist

temple. Plaintiffs openly admit that this is pure speculation and have stepped quite far over the line of permissible pleading making such an allegation based on only "rumor." There is admittedly no factual foundation for this allegation and must be struck. This is the exact kind of statement that would greatly prejudice any finder of fact and is simply meant to impugn Dr. Mingsisouphanh's character from the outset of the case.


The Virginia rules call for pleading parties to make "simple statements" of "essential facts." As detailed above, Plaintiffs use the Amended Complaint to make arguments, draw legal conclusions, and wholly speculate as to motives. By including references to allegations of embezzlement, Plaintiffs jump way over the line of permissible pleading into the realm of petty attacks on character. The Amended Complaint could potentially be an exhibit at trial in this case. and Plaintiffs cannot be permitted to include the above statements that are clearly prejudicial. For all of the foregoing reasons, Penn National moves this Court to strike the referenced statements from Plaintiffs' Amended Complaint.

WHEREFORE, and by reason of the foregoing, Penn National requests the entry of an order granting the Motion to Strike and striking ¶¶ 8, 49, and 67 from the Amended Complaint in their entirety, and striking the referenced portions of ¶¶ 21, 23 and 46 of the Amended Complaint, and for any other such relief deemed just and proper.

Respectfully submitted,

PENNSYLVANIA NATIONAL MUTUAL
CASUALTY INSURANCE COMPANY

By Counsel

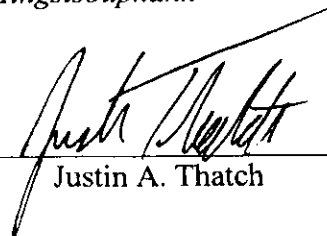

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*Counsel for Pennsylvania National
Mutual Insurance Company*

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of August 2021, a true and correct copy of the foregoing was sent via email and U.S. Mail, postage prepaid, to:

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