

IN THE SUPERIOR COURT OF FLOYD COUNTY
STATE OF GEORGIA

MARK EUBANKS, Individually and on)
behalf of the General Public of the State of)
Georgia, et al.,)

Plaintiffs)

v.)

THE DARLINGTON SCHOOL, ROGER)
STIFFLEMIRE, DAVID ELLIS,)
FREDERICK MARQUETTE,)
CONTINENTAL CASUALTY COMPANY,)
NORTHERN INSURANCE COMPANY OF)
NEW YORK, BLACKBOARD)
INSURANCE COMPANY f/k/a)
HAMILTON INSURANCE COMPANY)
f/k/a VALIANT INSURANCE COMPANY,)
ZURICH AMERICAN INSURANCE)
COMPANY, AMERICAN GUARANTEE)
AND LIABILITY INSURANCE)
COMPANY, THE NORTH RIVER)
INSURANCE COMPANY,)
PHILADELPHIA INDEMNITY)
INSURANCE COMPANY, and GREAT)
AMERICAN INSURANCE COMPANY,)

Defendants.)

Civil Action No. 19CV00237

Consolidated with case numbers:

19CV00238
19CV00243
19CV00245
19CV00247
19CV00248
19CV00250
19CV00261
19CV00262
19CV00263
19CV00264
19CV00265
19CV00266
19CV00267
19CV00268
19CV00269
19CV00270
19CV01973
20CV01104
20CV01129

**VERIFIED ANSWER OF DEFENDANT ZURICH AMERICAN INSURANCE
COMPANY TO PLAINTIFFS' CONSOLIDATED FIRST AMENDED COMPLAINT**

COMES NOW Defendant Zurich American Insurance Company ("Zurich" or
"Defendant"), by and through undersigned counsel, and hereby files this Verified Answer to
Plaintiffs' Consolidated First Amended Complaint ("Complaint"), showing the Court as follows:

FIRST DEFENSE

Plaintiffs' Complaint fails to state a claim for which relief can be granted.

SECOND DEFENSE

Plaintiffs' claims are barred by the statute of limitations.

THIRD DEFENSE

Insurance benefits are not payable pursuant to the terms of the policy issued by Zurich (the "Zurich Policy").

FOURTH DEFENSE

Plaintiffs' recovery, if any, is limited by the terms, conditions, limitations, exclusions, and other provisions set forth in the Zurich Policy.

FIFTH DEFENSE

Zurich has not breached any legal or contractual duties owed with regard to the alleged loss giving rise to Plaintiffs' claims, and at all times acted in accordance with the terms and conditions of the insurance contract and applicable Georgia law.

SIXTH DEFENSE

Plaintiffs failed to satisfy the conditions precedent to bringing suit set forth in the insurance policy issued by Zurich.

SEVENTH DEFENSE

Plaintiffs may not recover any damages from Zurich because the Zurich Policy specifically excludes coverage for Plaintiffs' insurance claims.

EIGHTH DEFENSE

Zurich is not liable because the events out of which Plaintiffs' claims arose occurred outside the policy period of the Zurich Policy.

NINTH DEFENSE

Zurich is not liable because Plaintiffs' claims are barred by the Zurich Policy's expected or intended injury exclusion.

TENTH DEFENSE

Zurich is not liable because Plaintiffs' claims are barred by the Zurich Policy's late notice provisions.

ELEVENTH DEFENSE

To the extent that Plaintiffs attempt to impose duties upon Zurich aside from those set forth in the insurance contract, Plaintiffs' claims fail in both law and fact. Georgia law does not impose extra-contractual duties on insurers when adjusting claims asserted by insureds. Moreover, Zurich acted in good faith and in accordance with the terms and conditions of the Zurich Policy.

TWELFTH DEFENSE

Zurich acted in good faith at all times during its handling of the claim at issue in the lawsuit, and in any event, the prerequisites for a bad faith claim have not been met.

THIRTEENTH DEFENSE

Plaintiffs' Complaint fails to state specifically items of special damages sought in this action, which bars Plaintiffs' recovery as set forth in O.C.G.A. § 9-11-9(g).

FOURTEENTH DEFENSE

Plaintiffs' damages, if any, were not foreseeable to Zurich and were not proximately caused by any acts or failures to act on the part of Zurich.

FIFTEENTH DEFENSE

Zurich is not liable to Plaintiffs because Zurich did not breach any duty owed to Plaintiffs in regard to the occurrence giving rise to Plaintiffs' Complaint.

SIXTEENTH DEFENSE

Zurich is not jointly and severally liable to Plaintiffs.

SEVENTEENTH DEFENSE

Zurich's alleged acts and/or omissions are not the cause or proximate cause of any injuries sustained by Plaintiffs.

EIGHTEENTH DEFENSE

No act or omission on Zurich's part either contributed to or caused any of the alleged injuries or damages claimed by Plaintiffs.

NINETEENTH DEFENSE

Zurich reserves the right to assert any additional defenses and matters of avoidance as may be disclosed during the course of additional investigation and discovery.

TWENTIETH DEFENSE

Zurich does not know which, if any, of the defenses listed in O.C.G.A. §9-11-12(b) apply to Plaintiffs' Complaint, and therefore, to preserve these defenses, asserts all of them.

TWENTY-FIRST DEFENSE

With respect to the specific allegations of Plaintiffs' Complaint, Zurich responds as follows:

INTRODUCTION

Zurich denies the allegations contained in the Introduction to Plaintiffs' Complaint as they relate to Zurich. As it relates to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained therein.

RENEWAL ACTION

1.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of Plaintiffs' Complaint.

2.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of Plaintiffs' Complaint.

3.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of Plaintiffs' Complaint.

4.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of Plaintiffs' Complaint.

PARTIES, JURISDICTION AND VENUE

5.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of Plaintiffs' Complaint.

6.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of Plaintiffs' Complaint.

7.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of Plaintiffs' Complaint.

8.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of Plaintiffs' Complaint.

9.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of Plaintiffs' Complaint.

10.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of Plaintiffs' Complaint.

11.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of Plaintiffs' Complaint.

12.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of Plaintiffs' Complaint.

13.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of Plaintiffs' Complaint.

14.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of Plaintiffs' Complaint.

15.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of Plaintiffs' Complaint.

16.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of Plaintiffs' Complaint.

17.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of Plaintiffs' Complaint.

18.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of Plaintiffs' Complaint.

19.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of Plaintiffs' Complaint.

20.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of Plaintiffs' Complaint.

21.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of Plaintiffs' Complaint.

22.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 22 of Plaintiffs' Complaint.

23.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of Plaintiffs' Complaint.

24.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 24 of Plaintiffs' Complaint.

25.

Zurich admits that Plaintiffs collectively refer to the 20 plaintiffs in this lawsuit as "Plaintiffs."

26.

Zurich admits that the Darlington School ("Darlington") is a private, independent coeducational preparatory school located at 1014 Cave Spring Road, Rome, Floyd County, GA 30161. Zurich is without information or knowledge sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 26 of Plaintiffs' Complaint.

27.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of Plaintiffs' Complaint.

28.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of Plaintiffs' Complaint.

29.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 29 of Plaintiffs' Complaint.

30.

Zurich admits that Plaintiffs refer to Defendants Stifflemire, Marquette and Ellis collectively as the "Individual Defendants" and that they refer to the "Individual Defendants" and Darlington collectively as the "Original Defendants."

31.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 31 of Plaintiffs' Complaint.

32.

Northern Insurance Company of New York ("Northern Insurance") no longer exists. It was merged into Maryland Casualty Company effective December 31, 2015. Zurich is the ultimate successor via mergers to Northern Insurance Company of New York. Zurich is a New York Corporation engaged in the insurance business with a statutory home office located at 4 World Trade Center, 150 Greenwich Street, New York, NY 10007, and its principal place of business is located at 1299 Zurich Way, Schaumburg, Illinois. Zurich is authorized to transact business and has transacted business in Georgia.

33.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 33 of Plaintiffs' Complaint.

34.

Zurich admits that it is a New York corporation with its principal place of business in Illinois. Zurich further admits that it is registered to do business in the state of Georgia and its registered agent is Corporation Service Company, located at 2 Sun Court, Suite 400, Peachtree Corners, GA 30092. Zurich further admits that jurisdiction is proper in this Court.

35.

American Guarantee and Liability Insurance Company (“American Guarantee”) is a New York corporation engaged in the insurance business with a statutory home office located at 4 World Trade Center, 150 Greenwich Street, New York, NY 10007, and its principal place of business is located at 1299 Zurich Way, Schaumburg, IL 60196. American Guarantee is authorized to transact business and has transacted business in Georgia. American Guarantee is a wholly owned subsidiary of Zurich.

36.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 36 of Plaintiffs’ Complaint.

37.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of Plaintiffs’ Complaint.

38.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 38 of Plaintiffs’ Complaint.

39.

Zurich admits that Plaintiffs refer to Defendants Continental Casualty Company, Northern Insurance Company of New York, Blackboard Insurance Company f/k/a Hamilton Insurance Company f/k/a Valiant Insurance Company, Zurich American Insurance Company, American Guarantee and Liability Insurance Company, The North River Insurance Company, Philadelphia Indemnity Insurance Company, and Great American Insurance Company collectively as the “Insurance Defendants” throughout their Complaint.

40.

Zurich admits that jurisdiction is proper in this Court as to it only. Zurich denies the remainder of the allegations contained in Paragraph 40 of Plaintiffs’ Complaint as stated therein.

41.

Zurich denies the allegations contained in Paragraph 41 of Plaintiffs’ Complaint.

42.

Zurich admits the allegations contained in Paragraph 42 of Plaintiffs’ Complaint.

43.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 of Plaintiffs’ Complaint.

GENERAL FACTS

Darlington School and its Operating Structure

44.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 44 of Plaintiffs’ Complaint.

45.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 45 of Plaintiffs' Complaint.

46.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 46 of Plaintiffs' Complaint.

47.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 47 of Plaintiffs' Complaint.

48.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 48 of Plaintiffs' Complaint.

49.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 49 of Plaintiffs' Complaint.

Dormitory Life

50.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 50 of Plaintiffs' Complaint.

51.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 51 of Plaintiffs' Complaint.

52.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 52 of Plaintiffs' Complaint.

53.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 53 of Plaintiffs' Complaint.

54.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 54 of Plaintiffs' Complaint.

55.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 55 of Plaintiffs' Complaint.

56.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 56 of Plaintiffs' Complaint.

57.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 57 of Plaintiffs' Complaint.

58.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 58 of Plaintiffs' Complaint.

59.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 59 of Plaintiffs' Complaint.

60.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 60 of Plaintiffs' Complaint.

Survivor's Stories

61.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 61 of Plaintiffs' Complaint.

62.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 62 of Plaintiffs' Complaint.

63.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 63 of Plaintiffs' Complaint.

Plaintiff RS

64.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 64 of Plaintiffs' Complaint.

Plaintiff Matthew Doe 2

65.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 65 of Plaintiffs' Complaint.

66.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 66 of Plaintiffs' Complaint.

67.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 67 of Plaintiffs' Complaint.

Plaintiff Mark Eubanks

68.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 68 of Plaintiffs' Complaint.

Plaintiff Hal Word

69.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 69 of Plaintiffs' Complaint.

Plaintiff Franklin Simmons

70.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 70 of Plaintiffs' Complaint.

Plaintiff Matthew Doe

71.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 71 of Plaintiffs' Complaint.

Plaintiff RC

72.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 72 of Plaintiffs' Complaint.

73.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 73 of Plaintiffs' Complaint.

74.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 74 of Plaintiffs' Complaint.

75.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 75 of Plaintiffs' Complaint.

Plaintiff James Doe 1

76.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 76 of Plaintiffs' Complaint.

77.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 77 of Plaintiffs' Complaint.

78.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 78 of Plaintiffs' Complaint.

Plaintiff Kevin Simmons

79.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 79 of Plaintiffs' Complaint.

80.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 80 of Plaintiffs' Complaint.

Plaintiff William Knight

81.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 81 of Plaintiffs' Complaint.

Plaintiff Timothy Lee

82.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 82 of Plaintiffs' Complaint.

Plaintiff ALL

83.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 83 of Plaintiffs' Complaint.

84.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 84 of Plaintiffs' Complaint.

85.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 85 of Plaintiffs' Complaint.

Plaintiff Chris Doe

86.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 86 of Plaintiffs' Complaint.

Plaintiff Chris Gaba

87.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 87 of Plaintiffs' Complaint.

Plaintiff Tom Doe

88.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 88 of Plaintiffs' Complaint.

Plaintiff Amberly Waters Day

89.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 89 of Plaintiffs' Complaint.

90.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 90 of Plaintiffs' Complaint.

91.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 91 of Plaintiffs' Complaint.

Plaintiff WS

92.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 92 of Plaintiffs' Complaint.

Plaintiff Bill Doe

93.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 93 of Plaintiffs' Complaint.

94.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 94 of Plaintiffs' Complaint.

95.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 95 of Plaintiffs' Complaint.

Plaintiff James Doe 2

96.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 96 of Plaintiffs' Complaint.

97.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 97 of Plaintiffs' Complaint.

Plaintiff Joseph Doe

98.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 98 of Plaintiffs' Complaint.

99.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 99 of Plaintiffs' Complaint.

100.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 100 of Plaintiffs' Complaint.

101.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 101 of Plaintiffs' Complaint.

102.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 102 of Plaintiffs' Complaint.

103.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 103 of Plaintiffs' Complaint.

104.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 104 of Plaintiffs' Complaint.

105.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 105 of Plaintiffs' Complaint.

106.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 106 of Plaintiffs' Complaint.

107.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 107 of Plaintiffs' Complaint.

Darlington's Concealment

108.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 108 of Plaintiffs' Complaint.

109.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 109 of Plaintiffs' Complaint.

110.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 110 of Plaintiffs' Complaint.

111.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 111 of Plaintiffs' Complaint.

112.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 112 of Plaintiffs' Complaint.

113.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 113 of Plaintiffs' Complaint.

114.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 114 of Plaintiffs' Complaint.

115.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 115 of Plaintiffs' Complaint.

116.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 116 of Plaintiffs' Complaint.

117.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 117 of Plaintiffs' Complaint.

118.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 118 of Plaintiffs' Complaint.

119.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 119 of Plaintiffs' Complaint.

120.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 120 of Plaintiffs' Complaint.

121.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 121 of Plaintiffs' Complaint.

122.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 122 of Plaintiffs' Complaint.

123.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 123 of Plaintiffs' Complaint.

124.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 124 of Plaintiffs' Complaint.

Insurance Defendants

125.

Zurich admits that Zurich, American Guarantee, and/or Northern Insurance issued to Darlington School the insurance policies attached hereto as Exhibit 1. With respect to the other policies referenced in Plaintiffs' Exhibit A, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 125 of Plaintiffs'

Complaint. However, to the extent these policies existed, they contained the following provision: “No person or organization has a right under this Coverage Part . . . to join us as a party or otherwise bring us into a ‘suit’ asking for damages from an insured.” In further response to the allegations contained in Paragraph 125 of Plaintiffs’ Complaint, Zurich denies that any of its policies were in effect at the time of the incidents or injuries alleged in Plaintiffs’ Complaints.

126.

Zurich denies the allegations contained in Paragraph 126 of Plaintiffs’ Complaint.

127.

Zurich denies the allegations contained in Paragraph 127 of Plaintiffs’ Complaint.

128.

Zurich denies the allegations contained in Paragraph 128 of Plaintiffs’ Complaint.

129.

Zurich admits that it issued a letter to Darlington denying coverage and a defense under the Zurich Policy. Zurich denies the remainder of the allegations contained in Paragraph 129 of Plaintiffs’ Complaint.

130.

Zurich denies the allegations contained in Paragraph 130 of Plaintiffs’ Complaint.

Consent Judgment and Assignment

131.

The assignment referenced in Paragraph 131 of Plaintiffs’ Complaint speaks for itself. To the extent the allegations in Paragraph 131 of Plaintiffs’ Complaint are inconsistent with the assignment, they are hereby denied. Zurich further denies any implication that it breached any duty to defend or indemnify Darlington or acted in bad faith, or that Plaintiffs have any right to pursue it.

132.

The assignment referenced in Paragraph 132 of Plaintiffs' Complaint speaks for itself. To the extent the allegations in Paragraph 132 of Plaintiffs' Complaint are inconsistent with the assignment, they are hereby denied. Zurich further denies any implication that it breached any duty to defend or indemnify Darlington.

133.

The Consent Judgment referenced in Paragraph 133 of Plaintiffs' Complaint speaks for itself. To the extent the allegations in Paragraph 133 of Plaintiffs' Complaint are inconsistent with the Consent Judgment, they are hereby denied. Zurich further denies any implication that it breached any duty to defend or indemnify Darlington or acted in bad faith.

134.

Zurich denies the allegations contained in Paragraph 134 of Plaintiffs' Complaint.

CAUSES OF ACTION
COUNT I: FRAUD
(Against All Original Defendants)

135.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 135 of Plaintiffs' Complaint.

136.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 136 of Plaintiffs' Complaint.

137.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 137 of Plaintiffs' Complaint.

138.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 138 of Plaintiffs' Complaint.

139.

Zurich denies the allegations contained in Paragraph 139 of Plaintiffs' Complaint.

140.

The allegations contained in Paragraph 140 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 140 of Plaintiffs' Complaint.

141.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 141 of Plaintiffs' Complaint.

142.

The allegations contained in Paragraph 142 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 142 of Plaintiffs' Complaint.

143.

The allegations contained in Paragraph 143 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 143 of Plaintiffs' Complaint.

144.

The allegations contained in Paragraph 144 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 144 of Plaintiffs' Complaint.

COUNTS II and III
FRAUDULENT MISREPRESENTATION AND FRAUDULENT CONCEALMENT
(Against Darlington)

145.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 145 of Plaintiffs' Complaint.

146.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 146 of Plaintiffs' Complaint.

147.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 147 of Plaintiffs' Complaint.

148.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 148 of Plaintiffs' Complaint.

149.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 149 of Plaintiffs' Complaint.

150.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 150 of Plaintiffs' Complaint.

151.

The allegations contained in Paragraph 151 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 151 of Plaintiffs' Complaint.

152.

The allegations contained in Paragraph 152 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 152 of Plaintiffs' Complaint.

153.

The allegations contained in Paragraph 153 of Plaintiffs' Complaint are legal conclusions to which no response is required. To the extent a response is required, Zurich denies that it had any legal duty to Plaintiffs beyond those set forth under Georgia law and the terms of the Zurich Policy. Zurich further denies any implication that it breached any legal duties to Plaintiffs.

154.

The allegations contained in Paragraph 154 of Plaintiffs' Complaint are legal conclusions to which no response is required. To the extent the allegations in Paragraph 154 of Plaintiffs' Complaint are inconsistent with Georgia law, they are hereby denied.

155.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 155 of Plaintiffs' Complaint.

156.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 156 of Plaintiffs' Complaint.

157.

The allegations contained in Paragraph 157 of Plaintiffs' Complaint are legal conclusions to which no response is required. To the extent the allegations in Paragraph 157 of Plaintiffs' Complaint are inconsistent with Georgia law, they are hereby denied. As to the remainder of the allegations contained in Paragraph 157 of Plaintiffs' Complaint, they are denied as to Zurich.

158.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 158 of Plaintiffs' Complaint.

159.

Zurich denies the allegations contained in Paragraph 159 of Plaintiffs' Complaint.

160.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 160 of Plaintiffs' Complaint, but denies that the statute of limitations has been tolled.

161.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 161 of Plaintiffs' Complaint.

162.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 162 of Plaintiffs' Complaint.

163.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 163 of Plaintiffs' Complaint.

164.

The allegations contained in Paragraph 164 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 164 of Plaintiffs' Complaint.

165.

The allegations contained in Paragraph 165 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 165 of Plaintiffs' Complaint.

166.

The allegations contained in Paragraph 166 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 166 of Plaintiffs' Complaint.

167.

The allegations contained in Paragraph 167 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 167 of Plaintiffs' Complaint.

COUNT IV: PUBLIC NUISANCE (COMMON LAW)
(Against All Original Defendants)

168.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 168 of Plaintiffs' Complaint.

169.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 169 of Plaintiffs' Complaint.

170.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 170 of Plaintiffs' Complaint.

171.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 171 of Plaintiffs' Complaint.

172.

The allegations contained in Paragraph 172 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 172 of Plaintiffs' Complaint.

173.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 173 of Plaintiffs' Complaint.

174.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 174 of Plaintiffs' Complaint.

175.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 175 of Plaintiffs' Complaint.

176.

The allegations contained in Paragraph 176 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 176 of Plaintiffs' Complaint.

177.

The allegations contained in Paragraph 177 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 177 of Plaintiffs' Complaint.

178.

The allegations contained in Paragraph 178 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 178 of Plaintiffs' Complaint.

179.

The allegations contained in Paragraph 179 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 179 of Plaintiffs' Complaint.

180.

The allegations contained in Paragraph 180 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 180 of Plaintiffs' Complaint.

181.

The allegations contained in Paragraph 181 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 181 of Plaintiffs' Complaint.

182.

The allegations contained in Paragraph 182 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 182 of Plaintiffs' Complaint.

183.

The allegations contained in Paragraph 183 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 183 of Plaintiffs' Complaint.

COUNT V: PUBLIC NUISANCE (O.C.G.A. § 41-1-1)
(Against All Original Defendants)

184.

The allegations contained in Paragraph 184 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 184 of Plaintiffs' Complaint.

185.

The allegations contained in Paragraph 185 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 185 of Plaintiffs' Complaint.

186.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 186 of Plaintiffs' Complaint.

187.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 187 of Plaintiffs' Complaint.

188.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 188 of Plaintiffs' Complaint.

189.

The allegations contained in Paragraph 189 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 189 of Plaintiffs' Complaint.

190.

The allegations contained in Paragraph 190 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 190 of Plaintiffs' Complaint.

191.

The allegations contained in Paragraph 191 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 191 of Plaintiffs' Complaint.

192.

The allegations contained in Paragraph 192 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 192 of Plaintiffs' Complaint.

193.

The allegations contained in Paragraph 193 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 193 of Plaintiffs' Complaint.

194.

The allegations contained in Paragraph 194 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 194 of Plaintiffs' Complaint.

195.

The allegations contained in Paragraph 195 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 195 of Plaintiffs' Complaint.

196.

The allegations contained in Paragraph 196 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 196 of Plaintiffs' Complaint.

197.

The allegations contained in Paragraph 197 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 197 of Plaintiffs' Complaint.

198.

The allegations contained in Paragraph 198 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 198 of Plaintiffs' Complaint.

199.

The allegations contained in Paragraph 199 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 199 of Plaintiffs' Complaint.

COUNT VI: FAILURE TO PROVIDE ADEQUATE SECURITY
(Against Darlington and Stifflemire)

200.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 200 of Plaintiffs' Complaint.

201.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 201 of Plaintiffs' Complaint.

202.

The allegations contained in Paragraph 202 of Plaintiffs' Complaint are legal conclusions to which no response is required. To the extent a response is required, Zurich denies that it had any legal duty to Plaintiffs beyond those set forth under Georgia law and the terms of the Zurich Policy. Zurich further denies any implication that it breached any legal duties to Plaintiffs.

203.

The allegations contained in Paragraph 203 of Plaintiffs' Complaint are legal conclusions to which no response is required. To the extent a response is required, Zurich denies that it had any legal duty to Plaintiffs beyond those set forth under Georgia law and the terms of the Zurich Policy. Zurich further denies any implication that it breached any legal duties to Plaintiffs.

204.

The allegations contained in Paragraph 204 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 204 of Plaintiffs' Complaint.

205.

The allegations contained in Paragraph 205 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 205 of Plaintiffs' Complaint.

206.

The allegations contained in Paragraph 206 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 206 of Plaintiffs' Complaint.

207.

The allegations contained in Paragraph 207 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 207 of Plaintiffs' Complaint.

COUNT VII: FAILURE TO TRAIN, SUPERVISE AND MONITOR
(Against Darlington and Stifflemire)

208.

The allegations contained in Paragraph 208 of Plaintiffs' Complaint are legal conclusions to which no response is required. To the extent the allegations in Paragraph 208 of Plaintiffs' Complaint are inconsistent with Georgia law, they are hereby denied.

209.

The allegations contained in Paragraph 209 of Plaintiffs' Complaint are legal conclusions to which no response is required. To the extent a response is required, Zurich denies that it had any legal duty to Plaintiffs beyond those set forth under Georgia law and the terms of the Zurich Policy. Zurich further denies any implication that it breached any legal duties to Plaintiffs.

210.

The allegations contained in Paragraph 210 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 210 of Plaintiffs' Complaint.

211.

The allegations contained in Paragraph 211 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 211 of Plaintiffs' Complaint.

COUNT VIII: FAILURE TO WARN
(Against Darlington and Stifflemire)

212.

The allegations contained in Paragraph 212 of Plaintiffs' Complaint are legal conclusions to which no response is required. To the extent the allegations in Paragraph 212 of Plaintiffs' Complaint are inconsistent with Georgia law, they are hereby denied.

213.

The allegations contained in Paragraph 213 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 213 of Plaintiffs' Complaint.

214.

The allegations contained in Paragraph 214 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 214 of Plaintiffs' Complaint.

COUNT IX: NEGLIGENT RETENTION
(Against Darlington)

215.

The allegations contained in Paragraph 215 of Plaintiffs' Complaint are legal conclusions to which no response is required. To the extent the allegations in Paragraph 215 of Plaintiffs' Complaint are inconsistent with Georgia law, they are hereby denied.

216.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 216 of Plaintiffs' Complaint.

217.

The allegations contained in Paragraph 217 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 217 of Plaintiffs' Complaint.

218.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 218 of Plaintiffs' Complaint.

COUNT X: RESPONDEAT SUPERIOR and/or VICARIOUS LIABILITY
(Against Darlington and Stifflemire)

219.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 219 of Plaintiffs' Complaint.

220.

The allegations contained in Paragraph 220 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 220 of Plaintiffs' Complaint.

221.

The allegations contained in Paragraph 221 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 221 of Plaintiffs' Complaint.

COUNT XI: BREACH OF FIDUCIARY DUTY
(Against Darlington and Stifflemire)

222.

The allegations contained in Paragraph 222 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 222 of Plaintiffs' Complaint.

223.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 223 of Plaintiffs' Complaint.

224.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 224 of Plaintiffs' Complaint.

225.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 225 of Plaintiffs' Complaint.

226.

The allegations contained in Paragraph 226 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 226 of Plaintiffs' Complaint.

227.

The allegations contained in Paragraph 227 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 227 of Plaintiffs' Complaint.

228.

The allegations contained in Paragraph 228 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 228 of Plaintiffs' Complaint.

COUNT XII: CHILDHOOD SEXUAL ABUSE
(Against Stifflemire, Marquette and Ellis)

229.

The Georgia statute referenced in Paragraph 229 of Plaintiffs' Complaint speaks for itself. To the extent the allegations in Paragraph 229 of Plaintiffs' Complaint are inconsistent with it, they are hereby denied.

230.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 230 of Plaintiffs' Complaint.

231.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 231 of Plaintiffs' Complaint.

232.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 232 of Plaintiffs' Complaint.

233.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 233 of Plaintiffs' Complaint.

234.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 234 of Plaintiffs' Complaint.

COUNT XIII: ASSAULT
(Against Stifflemire, Marquette and Ellis)

235.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 235 of Plaintiffs' Complaint.

236.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 236 of Plaintiffs' Complaint.

237.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 237 of Plaintiffs' Complaint.

238.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 238 of Plaintiffs' Complaint.

239.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 239 of Plaintiffs' Complaint.

COUNT XIV: BATTERY
(Against Stifflemire, Marquette and Ellis)

240.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 240 of Plaintiffs' Complaint.

241.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 241 of Plaintiffs' Complaint.

242.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 242 of Plaintiffs' Complaint.

243.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 243 of Plaintiffs' Complaint.

244.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 244 of Plaintiffs' Complaint.

COUNT XV: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Against Stifflemire, Marquette and Ellis)

245.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 245 of Plaintiffs' Complaint.

246.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 246 of Plaintiffs' Complaint.

247.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 247 of Plaintiffs' Complaint.

248.

The allegations contained in Paragraph 248 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 248 of Plaintiffs' Complaint.

249.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 249 of Plaintiffs' Complaint.

250.

The allegations contained in Paragraph 250 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 250 of Plaintiffs' Complaint.

COUNT XVI:
GEORGIA RICO (RACKETEER INFLUENCE AND CORRUPT ORGANIZATIONS)
(Against All Original Defendants)

251.

The Georgia statute referenced in Paragraph 251 of Plaintiffs' Complaint speaks for itself. To the extent the allegations in Paragraph 251 of Plaintiffs' Complaint are inconsistent with it, they are hereby denied.

252.

The allegations contained in Paragraph 252 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 252 of Plaintiffs' Complaint.

253.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 253 of Plaintiffs' Complaint.

254.

The allegations contained in Paragraph 254 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 254 of Plaintiffs' Complaint.

255.

The allegations contained in Paragraph 255 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 255 of Plaintiffs' Complaint.

256.

The allegations contained in Paragraph 256 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 256 of Plaintiffs' Complaint.

257.

The allegations contained in Paragraph 257 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 257 of Plaintiffs' Complaint.

258.

The allegations contained in Paragraph 258 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 258 of Plaintiffs' Complaint.

259.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 259 of Plaintiffs' Complaint.

260.

The allegations contained in Paragraph 260 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 260 of Plaintiffs' Complaint.

261.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 261 of Plaintiffs' Complaint.

262.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 262 of Plaintiffs' Complaint.

263.

The allegations contained in Paragraph 263 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 263 of Plaintiffs' Complaint.

264.

The allegations contained in Paragraph 264 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 264 of Plaintiffs' Complaint.

265.

The allegations contained in Paragraph 265 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 265 of Plaintiffs' Complaint.

266.

The allegations contained in Paragraph 266 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 266 of Plaintiffs' Complaint.

COUNT XVII: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
(Against Darlington)

267.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 267 of Plaintiffs' Complaint.

268.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 268 of Plaintiffs' Complaint.

269.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 269 of Plaintiffs' Complaint.

270.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 270 of Plaintiffs' Complaint.

271.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 271 of Plaintiffs' Complaint.

272.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 272 of Plaintiffs' Complaint.

273.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 273 of Plaintiffs' Complaint.

274.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 274 of Plaintiffs' Complaint.

275.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 275 of Plaintiffs' Complaint.

COUNT XVIII:
WRONGFUL DEATH
(Against All Original Defendants)

276.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 276 of Plaintiffs' Complaint.

277.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 277 of Plaintiffs' Complaint.

278.

Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 278 of Plaintiffs' Complaint.

279.

The allegations contained in Paragraph 279 of Plaintiffs' Complaint are denied as to Zurich. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 279 of Plaintiffs' Complaint.

COUNT XIX: BREACH OF CONTRACT
(Against Insurance Defendants)

280.

Zurich admits that Zurich, American Guarantee, and/or Northern Insurance issued to Darlington School the insurance policies attached hereto as Exhibit 1. With respect to the other policies referenced in Plaintiffs' Exhibit A, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 280 of Plaintiffs' Complaint. However, to the extent these policies existed, they contained the following provision: "No person or organization has a right under this Coverage Part . . . to join us as a party or otherwise bring us into a 'suit' asking for damages from an insured." In further response to the allegations contained in Paragraph 280 of Plaintiffs' Complaint, Zurich denies that any of its policies were in effect at the time of the initial injuries alleged in Plaintiffs' Complaints. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 280 of Plaintiffs' Complaint.

281.

Zurich denies the allegations contained in Paragraph 281 of Plaintiffs' Complaint.

282.

Zurich denies the allegations contained in Paragraph 282 of Plaintiffs' Complaint.

283.

Zurich denies the allegations contained in Paragraph 283 of Plaintiffs' Complaint.

284.

Zurich denies the allegations contained in Paragraph 284 of Plaintiffs' Complaint.

285.

Zurich denies the allegations contained in Paragraph 285 of Plaintiffs' Complaint.

286.

Zurich denies the allegations contained in Paragraph 286 of Plaintiffs' Complaint.

287.

Zurich denies the allegations contained in Paragraph 287 of Plaintiffs' Complaint.

COUNT XX: BAD FAITH
(Against Insurance Defendants)

288.

Zurich admits that Zurich, American Guarantee, and/or Northern Insurance issued to Darlington School the insurance policies attached hereto as Exhibit 1. With respect to the other policies referenced in Plaintiffs' Exhibit A, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 288 of Plaintiffs' Complaint. However, to the extent these policies existed, they contained the following provision: "No person or organization has a right under this Coverage Part . . . to join us as a party or otherwise bring us into a 'suit' asking for damages from an insured." In further response to the allegations

contained in Paragraph 288 of Plaintiffs' Complaint, Zurich denies that any of its policies were in effect at the time of the initial injuries alleged in Plaintiffs' Complaints. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 288 of Plaintiffs' Complaint.

289.

Zurich denies the allegations contained in Paragraph 289 of Plaintiffs' Complaint.

290.

Zurich denies the allegations contained in Paragraph 290 of Plaintiffs' Complaint.

291.

Zurich denies the allegations contained in Paragraph 291 of Plaintiffs' Complaint.

292.

Zurich denies the allegations contained in Paragraph 292 of Plaintiffs' Complaint.

293.

Zurich denies the allegations contained in Paragraph 293 of Plaintiffs' Complaint.

294.

Zurich denies the allegations contained in Paragraph 294 of Plaintiffs' Complaint.

COUNT XXI: DIRECT INSURANCE BENEFITS
(Against Insurance Defendants)

295.

Zurich admits that Zurich, American Guarantee, and/or Northern Insurance issued to Darlington School the insurance policies attached hereto as Exhibit 1. With respect to the other policies referenced in Plaintiffs' Exhibit A, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 295 of Plaintiffs' Complaint. However, to the extent these policies existed, they contained the following provision:

“No person or organization has a right under this Coverage Part . . . to join us as a party or otherwise bring us into a ‘suit’ asking for damages from an insured.” In further response to the allegations contained in Paragraph 295 of Plaintiffs’ Complaint, Zurich denies that any of its policies were in effect at the time of the initial injuries alleged in Plaintiffs’ Complaints. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 295 of Plaintiffs’ Complaint.

296.

Zurich denies the allegations contained in Paragraph 296 of Plaintiffs’ Complaint.

297.

Zurich denies the allegations contained in Paragraph 297 of Plaintiffs’ Complaint.

298.

Zurich denies the allegations contained in Paragraph 298 of Plaintiffs’ Complaint.

299.

Zurich denies the allegations contained in Paragraph 299 of Plaintiffs’ Complaint.

300.

Zurich denies the allegations contained in Paragraph 300 of Plaintiffs’ Complaint.

301.

Zurich denies the allegations contained in Paragraph 301 of Plaintiffs’ Complaint.

COUNT XXII: JUDGMENT CREDITOR
(Against Insurance Defendants)

302.

Zurich admits that Zurich, American Guarantee, and/or Northern Insurance issued to Darlington School the insurance policies attached hereto as Exhibit 1. With respect to the other policies referenced in Plaintiffs’ Exhibit A, Zurich is without information or knowledge sufficient

to form a belief as to the truth of the allegations contained in Paragraph 302 of Plaintiffs' Complaint. However, to the extent these policies existed, they contained the following provision: "No person or organization has a right under this Coverage Part . . . to join us as a party or otherwise bring us into a 'suit' asking for damages from an insured." In further response to the allegations contained in Paragraph 302 of Plaintiffs' Complaint, Zurich denies that any of its policies were in effect at the time of the initial injuries alleged in Plaintiffs' Complaints. As to the other defendants, Zurich is without information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 302 of Plaintiffs' Complaint.

303.

Zurich denies the allegations contained in Paragraph 303 of Plaintiffs' Complaint.

304.

The consent judgment referenced in Paragraph 304 of Plaintiffs' Complaint speaks for itself. To the extent the allegations in Paragraph 304 of Plaintiffs' Complaint are inconsistent with the content of the consent judgment, they are hereby denied. Zurich further denies any implication that it has any legal liability to Plaintiffs.

305.

Zurich denies the allegations contained in Paragraph 305 of Plaintiffs' Complaint.

306.

Zurich denies the allegations contained in Paragraph 306 of Plaintiffs' Complaint.

COUNT XXIII: PUNITIVE DAMAGES
(Against Original Defendants)

307.

Zurich denies the allegations contained in Paragraph 307 of Plaintiffs' Complaint.

308.

Zurich denies the allegations contained in Paragraph 308 of Plaintiffs' Complaint.

309.

Zurich denies the allegations contained in Paragraph 309 of Plaintiffs' Complaint.

COUNT XXIV: ATTORNEY'S FEES AND EXPENSES OF LITIGATION
(Against All Defendants)

310.

Zurich denies the allegations contained in Paragraph 310 of Plaintiffs' Complaint.

311.

Zurich denies the allegations contained in Paragraph 311 of Plaintiffs' Complaint.

312.

Zurich denies the allegations contained in Paragraph 312 of Plaintiffs' Complaint.

In response to the paragraph beginning "WHEREFORE," Zurich denies each and every subpart contained therein. Zurich specifically denies that Plaintiffs are entitled to any relief whatsoever.

TWENTY-SECOND DEFENSE

Except as is specifically admitted, modified, or explained herein, every allegation of Plaintiffs' Complaint is hereby denied.

WHEREFORE, Zurich prays of this Honorable Court as follows:

- (a) That Plaintiffs' Complaint be dismissed on the basis of the defenses raised herein;
- (b) That judgment be entered in favor of Zurich and against Plaintiffs;
- (c) That all costs of this action, including attorneys' fees, be assessed against Plaintiffs;

and

- (d) That Zurich receives such other relief as this Court deems just and proper.

Respectfully submitted this 11th day of May, 2022.

/s/ Kenan G. Loomis

Kenan G. Loomis

Georgia Bar No. 457865

Elliot Kerzner

Georgia Bar No. 225221

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Insurance Company*

IN THE SUPERIOR COURT OF FLOYD COUNTY
STATE OF GEORGIA

MARK EUBANKS, Individually and on)
behalf of the General Public of the State of)
Georgia, et al.,)
)
Plaintiffs)

Civil Action No. 19CV00237

Consolidated with case numbers:

v.)
)
THE DARLINGTON SCHOOL, ROGER)
STIFFLEMIRE, DAVID ELLIS,)
FREDERICK MARQUETTE,)
CONTINENTAL CASUALTY COMPANY,)
NORTHERN INSURANCE COMPANY OF)
NEW YORK, BLACKBOARD)
INSURANCE COMPANY f/k/a)
HAMILTON INSURANCE COMPANY)
f/k/a VALIANT INSURANCE COMPANY,)
ZURICH AMERICAN INSURANCE)
COMPANY, AMERICAN GUARANTEE)
AND LIABILITY INSURANCE)
COMPANY, THE NORTH RIVER)
INSURANCE COMPANY,)
PHILADELPHIA INDEMNITY)
INSURANCE COMPANY, and GREAT)
AMERICAN INSURANCE COMPANY,)
)
Defendants.)

- 19CV00238
- 19CV00243
- 19CV00245
- 19CV00247
- 19CV00248
- 19CV00250
- 19CV00261
- 19CV00262
- 19CV00263
- 19CV00264
- 19CV00265
- 19CV00266
- 19CV00267
- 19CV00268
- 19CV00269
- 19CV00270
- 19CV01973
- 20CV01104
- 20CV01129

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2022, I electronically filed the foregoing **DEFENDANT ZURICH AMERICAN INSURANCE COMPANY'S ANSWER TO PLAINTIFFS' CONSOLIDATED FIRST AMENDED COMPLAINT** with the Clerk of Court by uploading same to the Odyssey eFileGA electronic filing system, which will automatically send e-mail notification of such filing to the following attorneys of record:

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This 11th day of May, 2022.

/s/ Kenan G. Loomis

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