

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

KAREN RODRIGUEZ, *et al.*, individually and
on behalf of other similarly situated persons,

Plaintiffs,

v.

UNIVERSAL PROPERTY & CASUALTY
INSURANCE COMPANY,

Defendant.

Case No. 16-60442-CIV-COHN/SELTZER

**DEFENDANT UNIVERSAL PROPERTY & CASUALTY
INSURANCE COMPANY'S ANSWER TO PLAINTIFFS' COMPLAINT**

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Counsel for Defendant Universal Property & Casualty Insurance Company

Defendant Universal Property & Casualty Insurance Company (“Universal Property”), for its Answer to the Plaintiffs’ purported “Class Action Complaint” (the “Complaint”), alleges and states as follows:

Introduction

1. Universal Property denies the allegations set forth in this paragraph.

2. Universal Property admits on information and belief that Plaintiffs seek equitable relief and money damages on behalf of themselves and purport to seek such relief on their behalf and other similarly situated consumers, and that Plaintiffs also purport to assert their claims on behalf of former policy holders. Universal Property denies that Plaintiffs or anyone else are entitled to the relief sought, or that Plaintiffs can act properly on behalf of the purported class. To the extent this paragraph contains any other allegations, Universal Property lacks sufficient knowledge or information to form a belief as to the truth or accuracy of those allegations, and therefore denies the same.

3. Universal Property admits that Universal Insurance Holdings, Inc. has stated that it is the largest private personal residential homeowners insurance company in Florida by direct written premium in-force. Universal Property admits that more than 500,000 homeowners insure homes in Florida with policies written by Universal Property and that tens of thousands of homes in other states are insured by Universal Property.

4. Universal Property denies the allegations set forth in this paragraph.

5. Universal Property admits it “requires a password to access the main portal for the account” and “uses https (an ostensibly secure internet communication protocol).” Universal Property denies any and all remaining allegations in this paragraph.

6. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

7. Universal Property admits that the privacy policy posted on Universal Property’s website as of September 2016 (“Privacy Policy”) stated that: “physical, electronic, and procedural safeguards to ensure the confidentiality of the personal information we obtain about you.” Universal Property denies any and all remaining allegations in this paragraph.

8. Universal Property admits that Universal Insurance Holdings, Inc.’s 2016 10-K states that financial institutions are required by law to “notify customers and other individuals about their policies and practices relating to their collection and disclosure of customer information and their practices relating to protecting the security and confidentiality of that information.” Universal Property denies any and all remaining allegations in this paragraph.

9. Universal Property denies there is a “serious data breach,” ongoing or otherwise. Universal Property lacks sufficient knowledge or information to form a belief as to why the Plaintiffs filed the Complaint. To the extent this paragraph contains any additional allegations, Universal Property denies the same.

10. Universal Property admits on information and belief that Plaintiffs’ complaint asserts claims for equitable relief and money damages based only on the causes of action set

forth in this paragraph, but Universal Property denies that Plaintiffs are entitled to the relief requested.

Jurisdiction and Venue

11. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

12. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

13. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

14. Universal Property admits it is headquartered in Florida and that it is subject to personal jurisdiction in the United States District Court for the Southern District of Florida. Universal Property denies any and all additional allegations set forth in this paragraph.

15. Universal Property admits the allegations set forth in this paragraph.

Parties

16. Universal Property lacks sufficient knowledge or information to form a belief as to the truth or accuracy of the allegations set forth in this paragraph, and therefore denies the same.

17. Universal Property lacks sufficient knowledge or information to form a belief as to the truth or accuracy of the allegations set forth in this paragraph, and therefore denies the same.

18. Universal Property lacks sufficient knowledge or information to form a belief as to the truth or accuracy of the allegations set forth in this paragraph, and therefore denies the same.

19. Universal Property admits the allegations set forth in this paragraph.

Factual Allegations

20. Universal Property admits that Universal Insurance Holdings, Inc. is vertically integrated with substantially all aspects of insurance underwriting, policy issuance, general administration and claims processing and settlement performed internally. Universal Property admits that it primarily writes personal residential homeowners insurance policies, predominantly in Florida, and reports that received \$817.7 million in direct written premium in force as of September 30, 2015. Universal Property admits that Universal Insurance Holdings, Inc. writes homeowners insurance policies in Delaware, Georgia, Hawaii, Indiana, Maryland, Massachusetts, Minnesota, North Carolina, Pennsylvania, and South Carolina. Universal Property denies any and all remaining allegations in this paragraph.

21. Universal Property admits Policy Holders must pay their annual premiums up-front in a lump sum or in bi-annual quarterly installments. Universal Property admits that, if the Policy Holder prefers monthly payments, the premium can be financed by Atlas Premium Finance Company, which is a subsidiary of Universal Insurance Parent. Universal Property

admits that a minimum \$800 total policy premium amount is required for Atlas Premium Finance Company to finance the contract. Universal Property admits Atlas Premium Finance Company does not run a credit check on the insured for the premium finance transaction and that credit checks for the underlying insurance policy will be subject to the insurer's usual procedures. Universal Property denies that either it or Atlas Premium Finance Company runs credit reports in the process of policy acquisition on behalf of a customer and denies any and all remaining allegations in this paragraph.

22. Universal Property admits the allegations set forth in this paragraph.

23. Universal Property denies the allegations set forth in this paragraph.

24. Universal Property admits access to declaration pages was permitted if an authorized person entered an assigned policy number and the zip code of the covered property and otherwise denies the allegations set forth in this paragraph.

25. Universal Property admits access to declaration pages was permitted if an authorized person entered an assigned number and the zip code of the covered property and otherwise denies the allegations set forth in this paragraph.

26. Universal Property admits access to declaration pages was permitted if an authorized person entered an assigned number and the zip code of the covered property and otherwise denies the allegations set forth in this paragraph.

27. Universal Property denies protecting declaration pages by requiring knowledge of the assigned number and zip code constitutes a "security lapse." Universal Property otherwise

lacks sufficient knowledge or information to form a belief as to the truth or accuracy of the allegation set forth in this paragraph, and therefore denies the same.

28. Universal Property admits access to declaration pages was permitted if an authorized person entered an assigned number and the zip code of the covered property and otherwise denies the allegations set forth in this paragraph.

29. Universal Property denies the characterization of the potential for sequential access and lacks sufficient knowledge or information to form a belief as to the truth or accuracy of the allegations set forth in this paragraph, and therefore denies the same.

30. Universal Property admits the Insurance Documents “contain phone numbers and email addresses matched to the real identities of policy holders” and “their policy limits and deductibles.” Universal Property denies that the Insurance Documents contain “sensitive customer information.” Universal Property lacks sufficient knowledge or information to form a belief as to the truth or accuracy of the remaining allegations set forth in this paragraph, and therefore denies the same.

31. Universal Property denies the allegations set forth in this paragraph.

32. Universal Property lacks sufficient knowledge or information to form a belief as to the truth or accuracy of the allegations set forth in this paragraph, and therefore denies the same.

33. Universal Property admits that its Privacy Policy stated on its website that: “We maintain physical, electronic, and procedural safeguards to ensure the confidentiality of the personal information we obtain about you. We restrict access to your personal information to

those employees who need to know that information to provide services to you.” Universal Property denies any and all remaining allegations in this paragraph.

34. Universal Property admits that Universal Insurance Holdings, Inc.’s 2016 10-K states: “Federal and state laws and regulations require financial institutions to protect the security and confidentiality of non-public personal information and to notify customers and other individuals about their policies and practices relating to their collection and disclosure of customer information and their practices relating to protecting the security and confidentiality of that information.” Universal Property denies any and all remaining allegations in this paragraph.

35. Universal Property admits that Universal Insurance Holdings, Inc.’s 2015 10-K states: “Federal and state laws and regulations require financial institutions to protect the security and confidentiality of non-public personal information and to notify customers and other individuals about their policies and practices relating to their collection and disclosure of customer information and their practices relating to protecting the security and confidentiality of that information.” Universal Property denies any and all remaining allegations in this paragraph.

36. Universal Property denies the allegations set forth in this paragraph.

Class Action Allegations

37. Universal Property admits upon information and belief that Plaintiffs seek to invoke Fed. R. Civ. P. 23 and to define the class as described in this paragraph, but denies that such definition is appropriate, and further denies that class certification is appropriate.

38. Universal Property admits upon information and belief that Plaintiffs seek to exclude from the class individuals and entities as described in this paragraph. Universal Property

denies any and all remaining allegations in this paragraph, and further denies that class certification is appropriate.

39. Universal Property lacks sufficient knowledge or information to form a belief as to the truth or accuracy of this paragraph's assertion that "the size of the class is unknown" or what Plaintiffs assert based "upon information and belief." Universal Property denies any and all remaining allegations in this paragraph, and further denies that class certification is appropriate.

40. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations, and further denies that class certification is appropriate.

41. Universal Property admits that Plaintiffs all have currently active insurance policies written by Universal Property and that Plaintiffs all have paid money premiums to Defendant. Universal Property denies any and all remaining allegations in this paragraph, and further denies that class certification is appropriate.

42. Universal Property denies that "Plaintiffs are similarly situated with, and have similar injuries to, the members of the Class they seek to represent." Universal Property otherwise lacks sufficient knowledge or information to form a belief as to the truth or accuracy of the allegations set forth in this paragraph, and therefore denies the same. Universal Property denies that class certification is appropriate.

43. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies the same, and further denies that class certification is appropriate.

Count One
(Breach of Implied Covenant of Good Faith and Fair Dealing)

44. Universal Property incorporates the responses to the Complaint as set forth above and denies any independent allegations made in this paragraph.

45. Universal Property admits “Plaintiffs entered into insurance contracts with Defendant to obtain homeowners insurance policies from Defendants (the ‘Insurance Contracts’).” Universal Property lacks sufficient knowledge or information to form a belief as to the truth or accuracy of any remaining allegations set forth in this paragraph, and therefore denies the same.

46. Universal Property admits the allegations set forth in this paragraph.

47. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

48. Universal Property admits that its Privacy Policy stated on its website that: “physical, electronic, and procedural safeguards to ensure the confidentiality of the personal information we obtain about you.” Universal Property denies any and all remaining allegations in this paragraph.

49. Universal Property admits that Universal Insurance Holdings, Inc.’s 2016 10-K states in the “Privacy Regulation” section that: “Federal and state laws and regulations require financial institutions to protect the security and confidentiality of non-public personal information and to notify customers and other individuals about their policies and practices relating to their collection and disclosure of customer information and their practices relating to

protecting the security and confidentiality of that information.” Universal Property denies any and all remaining allegations in this paragraph.

50. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

51. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

52. Universal Property lacks sufficient knowledge or information to form a belief as to the truth or accuracy of the allegations set forth in this paragraph, and therefore denies the same.

53. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

Count Two
(Unjust Enrichment/Restitution)

54. Universal Property incorporates the responses to the Complaint as set forth above and denies any independent allegations made in this paragraph.

55. Universal Property admits Plaintiffs paid “periodic premiums” pursuant to insurance policies. Universal Property denies any and all remaining allegations in this paragraph.

56. Universal Property denies the allegations set forth in this paragraph.

57. Universal Property denies the allegations set forth in this paragraph.

58. Universal Property admits that its Privacy Policy stated on its website that: “physical, electronic, and procedural safeguards to ensure the confidentiality of the personal information we obtain about you.” Universal Property denies any and all remaining allegations in this paragraph.

59. Universal Property denies the allegations set forth in this paragraph.

60. Universal Property admits that Universal Insurance Holdings, Inc.’s 2016 10-K states in the “Privacy Regulation” section that: “Federal and state laws and regulations require financial institutions to protect the security and confidentiality of non-public personal information and to notify customers and other individuals about their policies and practices relating to their collection and disclosure of customer information and their practices relating to protecting the security and confidentiality of that information.” Universal Property denies any and all remaining allegations in this paragraph.

61. Universal Property denies the allegations set forth in this paragraph.

62. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

63. Universal Property denies the allegations set forth in this paragraph.

64. Because of the vagueness of the allegations set forth in this paragraph, Universal Property lacks sufficient information to admit or deny those allegations. To the extent that a response is required, Universal Property denies the allegations set forth in this paragraph.

65. Because of the vagueness of the allegations set forth in this paragraph, Universal Property lacks sufficient information to admit or deny those allegations. To the extent this paragraph alleges that Plaintiffs have suffered any harm or injury based on the allegations in the Complaint, Universal Property denies the same.

66. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

Count Three
(Willful Violation of the Fair Credit Reporting Act)

67. Universal Property incorporates the responses to the Complaint as set forth above and denies any independent allegations made in this paragraph.

68. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

69. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

70. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

71. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

72. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

73. Universal Property admits that Atlas Premium Finance Company states on its website in the FAQs that it does not run a credit check on the insured for the premium finance transaction, and that credit checks for the underlying insurance policy will be subject to the insurer's usual procedures. Universal Property denies any and all remaining allegations in this paragraph.

74. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

75. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

76. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

77. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

Count Four
(Negligent Violation of the Fair Credit Reporting Act)

78. Universal Property incorporates the responses to the Complaint as set forth above and denies any independent allegations made in this paragraph.

79. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

80. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

81. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

82. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

83. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

84. Universal Property admits that Atlas Premium Finance Company states on its website in the FAQs that it does not run a credit check on the insured for the premium finance transaction, and that credit checks for the underlying insurance policy will be subject to the insurer's usual procedures. Universal Property denies any and all remaining allegations in this paragraph.

85. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

86. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

87. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

88. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

89. This paragraph contains only legal conclusions to which no response is required. To the extent this paragraph contains any allegations in addition to legal conclusions, Universal Property denies those allegations.

Prayer For Relief

Universal Property denies that Plaintiffs are entitled to any relief.

Jury Demand

Whether Plaintiffs are entitled to a jury trial is a legal conclusion to which no response is required. To the extent that a response is required, Universal Property denies the allegations set forth in this paragraph. Universal Property objects to trial by jury.

Affirmative Defenses

1. Universal Property specifically reserves all separate or affirmative defenses that it may have against each putative class member. It is not necessary at this time for Universal Property to delineate such defenses against the putative class members because no class has been certified and putative class members are not parties to the litigation.

2. The Court lacks subject-matter jurisdiction over this case, including for the reasons articulated in Universal Property's motion to dismiss. (D.E. 25).

3. The Complaint fails to state a claim upon which relief may be granted, including for the reasons articulated in Universal Property's motion to dismiss. (D.E. 25).

4. Neither Plaintiffs, nor any members of the purported class, nor any member of the general public, have suffered any injury or damage, and Universal Property is not liable to any such person for any injury or damage claimed.

5. Plaintiffs' claims, and those of the purported class, are barred, in whole or in part, by the applicable statutes of limitation. The Plaintiffs fail to include any temporal limitation in their Complaint on their purported class.

6. Plaintiffs' claims, and those of the purported class, are barred, in whole or in part, because no express contract exists between the parties governing the specific claims at issue. The Privacy Policy does not constitute an enforceable contract between the parties. Plaintiffs do not allege that the named Plaintiffs or other members of the purported class read or otherwise were aware of or relied upon the statements in the Privacy Policy.

7. Plaintiffs' claims, and those of the purported class, are barred, in whole or in part, because Universal Property performed any promises made to Plaintiffs.

8. Plaintiffs' claims, and those of the purported class, are barred, in whole or in part, by Plaintiffs' failure to mitigate their damages, if any. Plaintiffs continued to be insured by Defendant even after their knowledge of the alleged facts.

9. To the extent Plaintiffs fail to demonstrate that every putative class member was aware of or relied on Universal Property's alleged representations, any finding of liability on a class-wide basis would violate Universal Property's rights under the due process clause of the U.S. Constitution, and any other applicable state constitutions.

10. To the extent Plaintiffs fail to demonstrate that every putative class member sustained cognizable damages as a result of Universal Property's actions, any finding of liability on a class-wide basis would violate Universal Property's rights under the due process clause of the U.S. Constitution, and any other applicable state constitutions. Neither named Plaintiffs nor any other members of the purported class suffered any concrete or particularized harm or have alleged or presented any evidence of any specific amount of damages.

11. Plaintiffs' causes of action, and those of the purported class, are barred because the alleged representations made by Universal Property, to the extent such representations were made, were not material and did not induce Plaintiffs to enter into any transaction. Neither named Plaintiffs nor any other member of the purported class allege that any representation in the Privacy Policy actually induced them to purchase insurance.

12. Plaintiffs' claims, and those of the purported class, are barred, in whole or in part, because Plaintiffs and/or members of the purported classes did not rely or reasonably rely on the alleged statements or conduct of Universal Property. Neither named Plaintiffs nor any other members of the purported class allege that any representation in the Privacy Policy actually induced them to purchase insurance.

13. Plaintiffs are not entitled to equitable relief because there is an adequate remedy at law. Neither named Plaintiffs or any other members of the purported class suffered any concrete or particularized harm or has alleged or presented any evidence of any specific amount of damages.

14. Plaintiffs are not entitled to equitable relief because they are barred by the equitable doctrines of waiver and unclean hands. Named Plaintiffs and other members of the

purported class allow disclosure of their name, contact information, and home valuation information in public records databases. Much of the same information which Plaintiffs allege to be confidential is readily available to the public in public records as well as through Internet websites and applications such as Zillow that provide easy public access to information about real estate. Named Plaintiffs and members of the purported class also share information that they allege to be sensitive with third parties and have waived any privacy interest in such information.

15. Plaintiffs are not entitled to equitable relief because they are barred by the equitable doctrine of laches given that they became aware of the allegations in the Complaint and chose not to contact Defendant immediately.

16. Plaintiffs are not entitled to recover because their damages, if any, are too speculative. Neither named Plaintiffs nor any other members of the purported class suffered any concrete or particularized harm or has alleged or presented any evidence of any specific amount of damages.

17. The unjust enrichment claim is barred to the extent that Plaintiffs rely on an express contract as the basis for their claim.

18. Universal Property is not and never has been a consumer reporting agency, and it does not provide consumer reports to Atlas Premium Finance Company or anyone else.

19. The claims of putative class members may be barred to the extent that such class members have released their claims. Some members of the purported class have executed releases with Defendant in the context of claim settlements.

20. To the extent that Plaintiffs purport to rely on an unwritten contract, such claims may be barred by the Statute of Frauds.

21. Universal Property reserves the right to amend this Answer. In doing so, Universal Property specifically reserves its Fed. R. Civ. P. 12(b) defenses.

22. By asserting these defenses, Universal Property does not allege or admit that it has the burden of proof or the burden of persuasion with respect to any of these matters.

Dated: September 2, 2016

Respectfully Submitted,

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Counsel for Defendant Universal Property & Casualty Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of DEFENDANT UNIVERSAL PROPERTY & CASUALTY INSURANCE COMPANY'S ANSWER TO PLAINTIFFS' COMPLAINT was served on this 2nd day of September, 2016, through the CM/ECF system on all counsel or parties of record as follows:

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