

Safeco Insurance Company of America

Case No. 2008-0403

v.

E N T R Y

Federal Insurance Company and Pacific
Indemnity Company, and Benjamin White,
et al.

This cause is pending before the Court on the certification of a conflict by the Court of Appeals for Hamilton County. On review of the order certifying a conflict, and upon consideration of appellees' motion to dismiss,

It is ordered by the Court that the motion to dismiss is denied.

It is determined that a conflict exists. The parties are to brief the issues stated at page 2 of the court of appeals' Order filed February 13, 2008, as follows:

“When an insurance policy defines an 'occurrence' as an 'accident' that results in bodily injury, does an 'occurrence' include injuries that result from an intentional act when the insured seeking coverage are claimed to have been negligent in relation to that intentional act?”

“When an insurance policy excludes an injury ‘which is expected or intended by [an or any] insured***’; injuries ‘arising out of an illegal act committed by or at the direction of an insured’; or ‘any injury caused by a violation of penal law or ordinance committed by or with the knowledge or consent of any insured,’ do the exclusions become ambiguous when read in conjunction with a ‘Severability of Insurance’ condition, in light of the announced expectation by policyholders that their negligence will be covered?”

It is ordered by the Court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Hamilton County.

It is further ordered that briefing in Case Nos. 2008-0403 and 2008-0304 shall be consolidated. The parties shall file two originals of each of the briefs permitted under S.Ct.Prac.R. VI and include both case numbers on the cover page of the briefs. The parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

(Hamilton County Court of Appeals; No. C070074)

THOMAS J. MOYER
Chief Justice