

IN THE SUPREME COURT OF OHIO

Kevin R. Flynn	:	Ohio Supreme Court
and	:	Case No. 06-1619
Margaret M. Flynn,	:	
	:	On Appeal from the Hamilton County
Cross-Appellees	:	Court of Appeals, First Appellate District
	:	
vs.	:	Court of Appeals
	:	Case No. C-050909
Westfield Insurance Company,	:	
	:	
Cross-Appellant.	:	

AFFIDAVIT OF JOHN F. McLAUGHLIN

John F. McLaughlin, after first being duly cautioned and sworn, deposes and states as follows:

1. I am counsel for Kevin Flynn and Margaret Flynn in this matter.
2. The following are true and accurate copies of documents filed in *Westfield Nat'l. Ins. Co. v. Farmers Insurance Exchange*, Hancock County Court of Common Pleas, Case No. 2003 CV 391:

- Motion of Plaintiff, Westfield National Insurance Company for Summary Judgment with Attached Memorandum, attached as Exhibit "A";
- Memorandum in Opposition/Cross-Motion for Summary Judgment of Defendant Farmers Insurance Exchange, attached as Exhibit "B";
- Combined Reply in Support of Motion for Summary Judgment of Westfield National Insurance Company and Memorandum in Opposition to Motion for Summary Judgment of Farmers Insurance Exchange, attached as Exhibit "C";
- Portions of Farmers Insurance Exchange Policy No. 60234-16-14 issued to Troy Grose dba Confident Auto Ltd.:

Declarations page
Garage Coverage Form
Ohio Uninsured Motorists Coverage - Bodily Injury form

collectively attached as Exhibit "D";

- 02/27/06 Judgment Entry, attached as Exhibit "E".

3. Attached as Exhibit "F" is a true and accurate copy of *Westfield Nat'l. Ins. Co. v. Farmers Insurance Exchange*, 169 Ohio App.3d 785, 2006-Ohio-6849, 865 N.E.2d 81.

4. The following are true and accurate copies of documents filed in *Westfield Ins. Co. v. Wausau Bus. Ins. Co., et al.*, Stark County Common Pleas Case No. 2000-CVO-2634:

- Motion of Plaintiff, Westfield Insurance Company, for Summary Judgment, attached as Exhibit "G";
- Defendant Wausau Business Insurance Company's Brief in Opposition to Westfield Insurance Company's Motion for Summary Judgment and Defendant Wausau Business Insurance Company's Motion for Summary Judgment, attached as Exhibit "H";
- Portions of Westfield Insurance Company Policy No. 3-115-970 issued to Coastal Pet Products, Inc.:

Business Auto Declarations
Business Auto Coverage Form
Ohio Uninsured Motorists Coverage - Bodily Injury form

collectively attached as Exhibit "I";

- Portions of National Union Policy No. 320-75-21 issued to Wal-Mart Stores, Inc.:

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collectively attached as Exhibit "J";

- Portions of Wausau Business Insurance Company Policy 0839-00-015111 issued to Alliance City School District:

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collectively attached as Exhibit "K";

- 12/26/01 Judgment Entry, attached as Exhibit "L".

5. Attached as Exhibit "M" is a true and accurate copy of *Westfield Ins. Co. v. Wausau Bus. Ins. Co.*, Fifth District Nos. 2002CA00138, and 2002CA00150, 2002-Ohio-7391.

6. Attached as Exhibit "N" is a true and accurate copy of *In re Uninsured & Underinsured Motorist Coverage Cases*, 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077.

7. While investigating other issues, I recently discovered the existence of *Westfield Nat'l. Ins. Co. v. Farmers Insurance Exchange* and *Westfield Ins. Co. v. Wausau Bus. Ins. Co.* and that Westfield National and Westfield had taken positions in those cases contrary to the position Westfield has taken in this case as to what its policy means.

8. Attached as Exhibit "O" is a true and accurate copy of the September 30, 2006 quarterly statement of the Westfield Insurance Company filed with the Ohio Department of Insurance. Attached as Exhibit "P" is a true and accurate copy of the September 30, 2006 quarterly statement of Westfield National Insurance Company filed with the Ohio Department of Insurance. The documents demonstrate the home office for both Westfield Insurance Company and Westfield National Insurance Company is 1 Park Circle, Westfield Center, Ohio 44251-5001. The documents also demonstrate that Westfield Insurance Company and Westfield National Insurance Company share the same Officers and the same Board of Directors.

9. Attached as Exhibit "Q" is a true and accurate copy of a Renewal of Fictitious Name Report filed with the Ohio Secretary of State permitting Westfield Insurance Company to use the fictitious name Westfield Companies. Attached as Exhibit "R" is a true and accurate copy of a Report of Use of Fictitious Name filed with the Ohio Secretary of State permitting Westfield National Insurance Company to use Westfield Companies as a fictitious name. Attached as Exhibit "S" is a true and accurate copy of a Report of Use of Fictitious Name filed with the Ohio Secretary of State permitting Westfield Insurance Company to use Westfield Group as a fictitious name. Attached as Exhibit "T" is a true and accurate copy of a Report of Use of Fictitious Name filed with the Ohio Secretary of State permitting Westfield National Insurance Company to use Westfield Group as a fictitious name. These documents demonstrate Westfield Insurance Company and Westfield National Insurance Company both do business under the fictitious names Westfield Group and Westfield Companies.

Further Affiant saith naught.

John F. McLaughlin
John F. McLaughlin (0052021)

STATE OF OHIO)
) ss:
COUNTY OF HAMILTON)

Sworn to and subscribed before me this 19th day of September, 2007.



CHAD E. WILLITS
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Date. Section 147.03 O.R.C.

Chad E. Willits
Notary Public

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered, by ordinary U.S. mail, postage prepaid, to the following counsel this 19th day of September, 2007

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James H. Ledman, Esq.
Jessica K. Walls, Esq.
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COUNSEL FOR APPELLEES

INDEX OF EXHIBITS

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Attachments not scanned