

IN THE SUPREME COURT OF OHIO

**Steve and Megen Hilmer, individually  
and on behalf of Casey Hilmer, a minor**

Plaintiffs

v.

**Lance White, et al.**

Defendants

CASE NO.

**08-0304**

On appeal from the Hamilton County  
Court of Appeals, First Appellate District

Court of Appeals  
Case No. C-070074

**Safeco Insurance Company of America**

Plaintiff-Appellant

v.

**Federal Insurance Company**

And

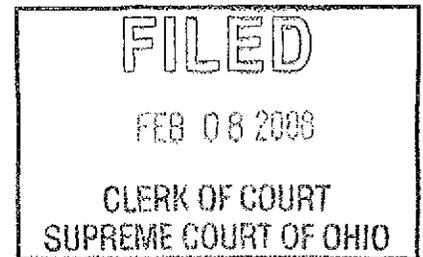
**Pacific Indemnity Company**

Defendants-Appellees

And

**Benjamin White, et al.**

Defendants



**APPELLANT SAFECO INSURANCE COMPANY OF AMERICA'S MOTION TO SEAL  
RECORD AND PLEADINGS ON APPEAL**

P. Christian Nordstrom (0065439)  
(Lead counsel)  
Scott G. Oxley (0039285)  
JENKS, PYPER & OXLEY  
901 Courthouse Plaza SW  
10 North Ludlow St.

Jay Clinton Rice (0000349)  
(Lead counsel)  
Richard C.O. Rezie (0071321)  
GALLAGER SHARP  
Bulkley Building, 6<sup>th</sup> Floor  
1501 Euclid Ave.

Dayton, OH 45402  
Telephone (937) 223-3001  
Facsimile (937) 223-3103  
[pcnordstrom@jpolawyers.com](mailto:pcnordstrom@jpolawyers.com)  
[soxley@jpolawyers.com](mailto:soxley@jpolawyers.com)  
Attorneys for Appellant Safeco  
Insurance Company of America

Cleveland, OH 44115-2108  
Telephone (216) 241-5310  
Facsimile (216) 241-1606  
[jrice@gallaghersharp.com](mailto:jrice@gallaghersharp.com)  
[rrezie@gallaghersharp.com](mailto:rrezie@gallaghersharp.com)  
Attorneys for Appellees Federal Insurance  
Company and Pacific Indemnity Company

## MEMORANDUM

Now comes Appellant Safeco Insurance Company of America, by and through its undersigned counsel, and hereby moves this Court to seal the record and pleadings filed in this Appeal consistent with the trial court's Joint Stipulated Confidentiality Order entered August 17, 2006. A copy of the Joint Stipulated Confidentiality Order entered in the case below is attached hereto as Exhibit 1. Upon Motion of Appellant, the First District Court of Appeals previously granted a similar Motion to Seal Record and Pleadings on Appeal. A copy of the First District's February 22, 2007 Entry Granting Motion to Seal Record and Pleadings is attached as Exhibit 2.

Consistent with the aforementioned Confidentiality Order, Appellant requests this Court also enter the following Order with respect to proceedings associated with this Appeal:

All further filings attaching, containing information derived from, or relying on information from the Mutual Release and Settlement Agreement between the Hilmer Plaintiffs and the White Defendants should be captioned beginning with the words: "FILED UNDER SEAL PURSUANT TO COURT ORDER." The Clerk is hereby instructed to maintain all future filings under seal and, absent further Order of this Court, not to allow access to these records to anyone but parties to this action and their counsel. The parties are prohibited from disclosing or distributing the terms of the Mutual Release and Settlement Agreement, any document or exhibit filed under seal, or the contents of any documents filed under seal, to any third-party except upon Court Order permitting such disclosure.

Respectfully submitted,



P. Christian Nordstrom (0065439)

Scott G. Oxley (0039285)

JENKS, PYPER & OXLEY CO., L.P.A.

901 Courthouse Plaza SW

10 N. Ludlow St.

Dayton, OH 45402

Telephone: (937) 223-3001

Facsimile: (937) 223-3103

[soxley@jpolawyers.com](mailto:soxley@jpolawyers.com)

[pcnordstrom@jpolawyers.com](mailto:pcnordstrom@jpolawyers.com)

Attorneys for Plaintiff-Appellant Safeco Ins. Co. of  
America

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing document was sent via ordinary mail to the following on this 8<sup>th</sup> day of February, 2008:

Jay Clinton Rice (0000349)

Richard C.O. Rezie (0071321)

1501 Euclid Avenue

7<sup>th</sup> Floor, Bulkey Bldg.

Cleveland, OH 44115

Phone (216) 241-5310

Fax (216) 241-1608

[dtravis@gallaghersharp.com](mailto:dtravis@gallaghersharp.com)

Attorney for Defendants/Appellees Federal Insurance Company and Pacific Indemnity Company

Robert A. Pitcairn (0010293)

Laura A. Hinegardner (0067576)

255 East Fifth Street, Ste. 2400

Cincinnati, OH 45202

Phone (513) 977-3477

Fax (513) 762-0077

[rpitcairn@katzteller.com](mailto:rpitcairn@katzteller.com)

[lhinegardner@katzteller.com](mailto:lhinegardner@katzteller.com)

Attorney for Defendants/Appellees Lance and Diane White

Stanley Chesley (0000852)  
Paul DeMarco, (0041153)  
1513 Fourth and Vine Street  
Cincinnati, OH 45202  
Phone (513) 621-0267  
Fax (513) 381-2375  
[stanchesley@wsbclaw.com](mailto:stanchesley@wsbclaw.com)  
Attorney for Defendants Casey, Steven and Megen Hilmer

James E. Burke (0032731)  
James Matthews (0043979)  
Keating, Muething & Klekamp  
1400 Provident Tower  
One East Fourth St.  
Cincinnati, OH 45202  
Phone (513) 579-6429  
Fax (513) 579-6457  
[jburke@kmklaw.com](mailto:jburke@kmklaw.com)  
[jmatthews@kmklaw.com](mailto:jmatthews@kmklaw.com)  
Attorneys for Defendant/Appellee Benjamin White

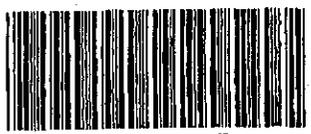
Stephen A. Bailey (0009456)  
Martin & Bailey  
120 E. Fourth St., Ste. 420  
Cincinnati, OH 45202  
Phone (513) 333-0990  
Fax (513) 333-0066  
[mblaw@one.net](mailto:mblaw@one.net)  
Attorney for Defendants Lance and Diane White

Michael D. Eagen (0018659)  
Dinsmore & Shohl, LLP  
1900 Chemed Center  
255 E. Fifth Street  
Cincinnati, OH 45202  
Phone (513) 977-8578  
Fax (513) 977-8141  
[michael.eagen@dinslaw.com](mailto:michael.eagen@dinslaw.com)  
Attorney for Defendants Lance and Diane White



P. Christian Nordstrom (0065439)  
Scott G. Oxley (0039285)

2801.221



D69640505

IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

~~JUDGE ROBERT P. RUEHLMAN  
Court of Common Pleas  
Hamilton County, Ohio~~

SAFECO INSURANCE COMPANY OF )  
AMERICA, )

Plaintiff, )

-vs-

BENJAMIN WHITE, et al., )

Defendants. )

ENTERED  
AUG 17 2006

CASE NO: A-0403452  
(Consolidated with A-0408943)

JUDGE ROBERT P. RUEHLMAN

JOINT STIPULATED:

CONFIDENTIALITY ORDER

Now come the remaining<sup>1</sup> parties to this action and jointly request, stipulate, and agree to the terms and entry of the following Confidentiality Order. The remaining parties (except Safeco Insurance Company of America ["Safeco"]) have entered into a final and binding Mutual Release and Settlement Agreement which contains a confidentiality clause. Safeco has no objection to the confidentiality of the Mutual Release and Settlement Agreement. Since further proceedings may require the parties to disclose and/or rely on the terms of the Mutual Release and Settlement Agreement and related documents, all parties jointly agree and stipulate that the Court should enter the following Order:

All further filings attaching, containing information derived from, or relying on information from the Mutual Release and Settlement Agreement between the Hilmer Plaintiffs and the White Defendants shall be captioned beginning with the words: "FILED UNDER SEAL PURSUANT TO COURT ORDER." The Clerk is hereby instructed to maintain all future filings under seal and, absent further order of this

<sup>1</sup> On August 11, 2006, the Hilmer Plaintiffs dismissed their claims presented herein pursuant to the Mutual Release and Settlement Agreement.

EXHIBIT  
1

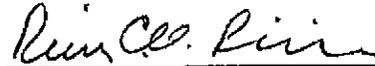
Court, not to allow access to these records by anyone but parties to this action. The parties are prohibited from disclosing or distributing the terms of the Mutual Release and Settlement Agreement, any document or exhibit filed under seal, or the contents of any document filed under seal, to any third party except upon Court order permitting such disclosure.

**IT IS SO ORDERED.**

Date: \_\_\_\_\_

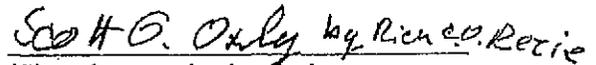
**JUDGE ROBERT P. RUEHLMAN**

**STIPULATED AND AGREED TO:**



D John Travis (0011247)  
Jay Clinton Rice (0000349)  
Richard C.O. Rezie (0071321)  
**GALLAGHER SHARP**  
Bulkley Building, Sixth Floor  
1501 Euclid Avenue  
Cleveland, Ohio 44115-2108  
Telephone: (216) 241-5310  
Facsimile: (216) 241-1606

*Counsel for Defendants Federal Insurance  
Company and Pacific Indemnity Company*



(Signed per authorization)  
Scott G. Oxley (0039285)  
P. Christian Nordstrom (0065439)  
**JENKS, PYPHER & OXLEY CO., L.P.A.**  
901 Courthouse Plaza SW  
10 N. Ludlow Street  
Dayton, Ohio 45402  
Telephone: (937) 223-3001  
Facsimile: (937) 223-3103  
soxley@jpolawyers.com  
pcnordstrom@jpolawyers.com

*Counsel for Safeco Insurance Company of  
America*

James E. Burke by Lisa C. G. Vetter

(Signed per authorization)

James E. Burke (0032731)

James Mathews (0043979)

**KEATING, MUETHING & KLEKAMP**

1400 Provident Tower

One East Fourth St.

Cincinnati, Ohio 45202

Telephone: (513) 579-6429

Facsimile: (513) 579-6457

[jburke@kmklaw.com](mailto:jburke@kmklaw.com)

[jmathews@kmklaw.com](mailto:jmathews@kmklaw.com)

*Counsel for Benjamin White*

Michael D. Eagen by Lisa C. G. Vetter

(Signed per authorization)

Michael D. Eagen (0018659)

**DINSMORE & SHOHL LLP**

225 East Fifth St. Suite 1900

Cincinnati, Ohio 45202

Telephone: (513) 977-8200

Facsimile: (513) 977-8141

[michaeeagen@dinslaw.com](mailto:michaeeagen@dinslaw.com)

*Counsel for Lance and Diane White*

The clerk is instructed to serve this Order on all parties not in default for failure to appear.

**CERTIFICATE OF SERVICE**

A copy of the foregoing was mailed by regular U.S. mail, postage pre-paid, this 14<sup>th</sup> day of August, 2006, to:

Scott G. Oxley, Esq.  
P. Christian Nordstrom, Esq.  
Jenks, Pyper & Oxley Co., L.P.A.  
901 Courthouse Plaza SW  
10 N. Ludlow Street  
Dayton, Ohio 45402  
**Attorneys for Safeco Insurance Company  
of America**

Stanley M. Chesley, Esq.  
Paul M. DeMarco, Esq.  
Louise M. Roselle, Esq.  
Waite, Schneider, Bayless & Chesley Co.,  
L.P.A.  
1513 Fourth & Vine Tower  
Cincinnati, Ohio 45202  
and  
Michael R. Barrett, Esq.  
Barrett & Weber  
500 Fourth & Walnut Centre  
105 E. Fourth Street  
Cincinnati, Ohio 45202  
**Attorneys for Defendants Casey, Steven  
and Megan Hilmer**

Michael D. Eagen, Esq.  
Dinsmore & Shohl LLP  
225 East Fifth St. Suite 1900  
Cincinnati, Ohio 45202  
and  
Stephen A. Bailey, Esq.  
Martin & Bailey  
120 E. Fourth St., Suite 420  
Cincinnati, OH 45202  
and  
Robert A. Pitcairn, Esq.  
Cynthia L. Gibson, Esq.  
Laura A. Hinegardner, Esq.  
255 East Fifth St., Suite 2400  
Cincinnati, OH 45202  
**Attorneys for Defendants Lance and Diane  
White**

James E. Burke, Esq.  
James Mathews, Esq.  
1400 Provident Tower  
One East Fourth St.  
Cincinnati, OH 45202  
**Attorney for Defendant Benjamin White**



D JOHN TRAVIS (0011247)  
JAY CLINTON RICE (0000349)  
RICHARD C.O. REZIE (0071321)

*Attorneys for Federal Insurance  
Company and Pacific Indemnity  
Company*

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

SAFECO INSURANCE COMPANY  
OF AMERICA,

APPEAL NO. C-070074

TRIAL NO. A-0403452 and A-0408943

Appellant,

vs

ENTRY GRANTING MOTION  
TO SEAL RECORD AND PLEADINGS

BENJAMIN WHITE, et al.,

Appellees.

This cause came on to be considered upon the motion of the appellant filed herein to seal the record and the pleadings filed in this appeal consistent with the trial court's Joint Stipulated Confidentiality Order of August 17, 2006.

The Court finds that the motion is well taken and is granted.

All further filings attaching, containing information derived from, or relying on information from the Mutual Release and Settlement Agreement between the Hilmer Plaintiffs and the White Defendants should be captioned with the words: "FILED UNDER SEAL PURSUANT TO COURT ORDER." The Clerk is hereby instructed to maintain all future filings under seal and, absent further order of this Court, not to allow access to these records to anyone but the parties to this action. The parties are prohibited from disclosing or distributing the terms of the Mutual Release and Settlement Agreement, any document or exhibit filed under seal, or the contents of any documents filed under seal, to any third-party except upon Court order permitting such disclosure.

**To The Clerk:**

Enter upon the Journal of the Court on FEB 22 2007 per order of the Court.

By:   
Acting Presiding Judge

(Copies sent to all counsel)

