

Nos. 2008-0304 & 2008-0403

ORIGINAL
ON COMPUTER - TAB

In the Supreme Court of Ohio

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SAFECO INSURANCE COMPANY OF AMERICA,

Plaintiff-Appellant,

v.

FEDERAL INSURANCE COMPANY, et al.,

Defendants-Appellees.

CLAIMED APPEAL OF RIGHT AND DISCRETIONARY APPEAL FROM THE FIRST APPELLATE DISTRICT,
HAMILTON COUNTY, APP. No C-070074

◆

FILED UNDER SEAL PURSUANT TO COURT ORDER

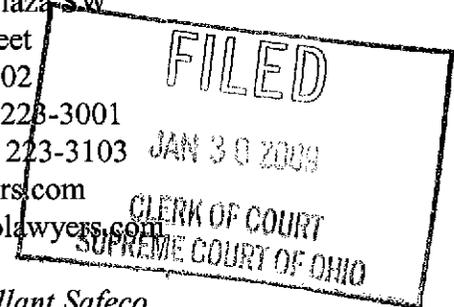
JOINT RESPONSE OF APPELLANT AND APPELLEES TO THE COURT'S JANUARY 28, 2009 ORDER REGARDING UNSEALING PORTIONS OF THE RECORD ON APPEAL

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**JOINT RESPONSE OF APPELLANT AND APPELLEES TO THE COURT'S JANUARY
28, 2009 ORDER REGARDING UNSEALING PORTIONS OF THE RECORD ON
APPEAL**

Now jointly come appellant Safeco Insurance Company of America and appellees Pacific Indemnity Company and Federal Insurance Company and, pursuant to the Court's January 28, 2009 Order requiring them to "identify those portions of the record and pleadings that should remain sealed in order to maintain confidentiality of the settlement agreement," respond as follows:

1) Counsel for appellees forwarded the Court's order to counsel for all parties to the underlying tort action between the Hilmer and the Whites¹ along with proposed language in response at approximately 6:39 pm on Wednesday January 28, 2009.² Counsel for appellees indicated the short time frame for response ordered by the Court and ask that any responses or objections be made before 4 pm on Thursday, January 29, 2009 in order to ensure timely delivery of an appropriate response to the Court's Order. Counsel for Lance and Diane White was the only party to respond with comments. Counsel for appellees conferred with counsel for Lance and Diane White and reached mutually agreeable response language.

2) Counsel for appellant and appellees also conferred and reached mutually agreeable response language.

3) Accordingly, and pursuant to the discussions outlined above, appellant and appellees jointly state that all document filed on or after August 14, 2006 at either the trial court or appellate level should remain under seal. Specifically:

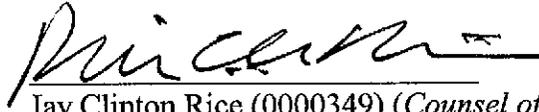
all documents, exhibits (exhibits to motions, briefs, and pleadings, including but not limited to the Settlement Agreement attached as Exhibit B to appellees' motion for the entry of final judgment, *Hilmer v. White*, Hamilton C.P. No. A0403452, T.d. 350 and the other settlement documents attached to that motion), briefs, motions, pleadings, and transcripts (including the transcript of the 1/3/2007 hearing), filed in

¹ jburke@kmklaw.com; jmatthews@kmklaw.com; lhinegardner@katzteller.com; michael.eagen@dinslaw.com; pauldemarco@wsbclaw.com; pcnordstrom@jpolawyers.com; rpitcairn@katzteller.com; stanchesley@wsbclaw.com.

² The email to Mr. Eagen's office bounced back due to an incorrect email address but was sent a second time at 1:39 pm on January 29, 2009 to his correct email address; the second email did not bounce back.

the Hamilton County Court of Common Pleas, on appeal to the First Appellate District, and on appeal to the Ohio Supreme Court *after and including* the filing of the Joint Stipulated Confidentiality Order, *Hilmer v. White*, Hamilton C.P. No. A0403452, T.d. 349, on August 14, 2006, should remain sealed in order to maintain the confidentiality of the settlement agreement.

Respectfully submitted,



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CERTIFICATE OF SERVICE

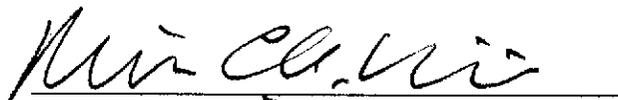
A copy of the foregoing Joint Response to the Court's January 28, 2009 Order was mailed by regular U.S. mail, postage pre-paid, this 29th day of January, 2009, to:

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