IN THE SUPREME COURT OF OHIO

CHRISTINE LUCARELL,	:	
	:	
Plaintiff-Appellee,	:	Case No. 2016-0585
	:	
v.	:	
	:	On Appeal from the Mahoning
NATIONWIDE MUTUAL INSURANCE COMPANY,	:	County Court of Appeals,
	:	Seventh Appellate District
	:	(Nos. 13-MA-00074, 133)
Defendant-Appellant.	:	

BRIEF OF AMICI CURIAE OHIO INSURANCE INSTITUTE, OHIO CHAMBER OF COMMERCE, OHIO ALLIANCE FOR CIVIL JUSTICE, OHIO MANUFACTURERS' ASSOCIATION, AND NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES IN SUPPORT OF APPELLANT NATIONWIDE INSURANCE COMPANY

Thomas E. Szykowny (0014603)
Rebecca E. Wilson (0089954)
VORYS, SATER, SEYMOUR AND PEASE LLP
52 East Gay Street, P.O. Box 1008
Columbus, OH 43216-1008
Tel: 614.464.5671
Fax: 614.719.4990
Email: teszykowny@vorys.com
rewilson@vorys.com

Counsel for Amici Curiae
Ohio Insurance Institute, Ohio Chamber of Commerce, Ohio Alliance for Civil Justice, Ohio Manufacturers' Association, and National Association of Mutual Insurance Companies

Patricia A. Morris (0043570)
841 Boardman-Canfield Road, Suite 307
Boardman, OH 44512
Tel: 330.758-9660
Email: patricia@patriciamorroslaw.com

Randy J. Hart (0046793)
23600 Commerce Park Road
Beachwood, OH 44122
Tel: 216.978.9150
Email: randyjhart@gmail.com

A. Scott Fromson (0037889)
32125 Solon Road
Solon, OH 44139
Tel: 440.394.1301
Email: scott@fromsonlaw.com

Counsel for Plaintiff-Appellee
Christine Lucarell

Thomas D. Warren (0077541)
G. Karl Fanter (0075686)
BAKER & HOSTETLER, LLP
PNC Center
1900 East Ninth Street, Suite 3200
Cleveland, OH 44114-3485
Tel: 216.861.7918
Fax: 216.696.0740
Email: twarren@bakerlaw.com
kfanter@bakerlaw.com

Yvette McGee Brown (0030642)
JONES DAY
325 John H. McConnell Blvd., Ste. 600
Columbus, OH 43215
Tel: (614) 281-3867
Fax: (614) 461-4198
Email: ymcgeebrown@jonesday.com

Quintin F. Lindsmith (0018327)
BRICKER & ECKLER
100 South Third Street
Columbus, OH 43215-4291
Tel: 614.227.2300
Fax: 614.227.2390
Email: qlindsmith@bricker.com

Counsel for Defendant-Appellant
Nationwide Mutual Insurance Company

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

INTRODUCTION AND STATEMENT OF INTEREST OF AMICI CURIAE

Amici curiae Ohio Insurance Institute, Ohio Chamber of Commerce, Ohio Alliance for Civil Justice, Ohio Manufacturers' Association, and the National Association of Mutual Insurance Companies submit this brief in support of Appellant Nationwide Mutual Insurance Company. Amici join Nationwide because the Court of Appeals' judgment displaces well-settled principles of law that are of great importance to insurance companies and businesses operating throughout the state of Ohio.

Amici are devoted to maintaining a legal environment that supports Ohio's businesses and creates jobs. The Ohio Insurance Institute ("OII") has been the professional trade association for property and casualty insurance companies in Ohio for over fifty years. With approximately fifty insurance companies and reinsurance companies as members, OII is uniquely positioned to provide insight in this case. Moreover, OII's extensive work with legislative and industry leaders has cemented its status as an important contributor to the dialogue concerning public policies pertinent to the insurance industry. OII has participated as an amicus in many of the landmark insurance cases that have come before this Court.

The Ohio Chamber of Commerce, founded in 1893, is Ohio's largest business advocacy organization, representing members of virtually every industry in Ohio, including retail, transportation, manufacturing, and healthcare, among others. The Ohio Chamber of Commerce works to promote and protect the interests of its more than 8,000 members, and the thousands of Ohioans these members employ. As an independent point of contact for government and business leaders, the Ohio Chamber of Commerce is a respected participant in the public policy arena.

The Ohio Alliance for Civil Justice (OACJ) is a group of small and large businesses, trade and professional associations, professionals, nonprofit organizations, local government associations, and others.[1] OACJ members support a balanced civil justice system that awards fair compensation to injured persons, but also imposes sufficient safeguards so that defendants are not unjustly penalized and plaintiffs are not unjustly enriched. OACJ also supports stability and predictability in the civil justice system so that Ohio's businesses and professionals may know what risks they assume as they carry on commerce in this state.

The Ohio Manufacturers' Association (OMA) is a statewide nonprofit trade association whose membership consists of over 1,400 manufacturing companies employing approximately 660,000 Ohioans. The OMA works to enhance the competitiveness of manufacturers and improve living standards of Ohioans by shaping a legislative and regulatory environment conducive to economic growth in Ohio.

The National Association of Mutual Insurance Companies ("NAMIC"), founded in 1895, is the only national trade association representing mutual property and casualty insurance companies. NAMIC has 1,400 member companies with more than 135 million policyholders and almost $200 billion in annual premiums, including 50 percent of the national automobile and homeowners market share and 31 percent of the business market share. NAMIC is well-known for its advocacy work at the federal level and in every statehouse and court system in the country, but it also provides many other services to its members, the public, state trade associations, and the insurance industry. NAMIC has appeared as an amicus in numerous cases

[1] The OACJ leadership includes members from the National Federation of Independent Business Ohio, the Ohio Chamber of Commerce, the Ohio Association of Certified Public Accountants, the Ohio Hospital Association, the Ohio Medical Association, the Ohio Manufacturers' Association, and other organizations.

affecting the insurance industry that have come before this Court and courts in other jurisdictions.

Amici encourage this Court to reverse four rulings by the Court of Appeals that threaten to render Ohio's economic climate less hospitable to businesses. First, for over a century, Ohio courts have consistently held that litigants may not recover punitive damages on a breach of contract claim. *See, e.g., Digital & Analog Design Corp. v. North Supply Co.*, 44 Ohio St.3d 36, 45-46 (1989), *citing Ketcham v. Miller*, 104 Ohio St. 372, second paragraph of syllabus (1922). Businesses depend upon contracts to clearly define their obligations and to limit their financial risk to damages that were reasonably anticipated by the parties. By concluding that Lucarell may be able to recover punitive damages on her breach of contract claims, the Court of Appeals' decision upends a century's worth of legal precedent and introduces uncertainty into an area of law fundamental to Ohio's businesses.

Second, in a completely novel ruling, the Court of Appeals held that an executed release of liability can be defeated by the prevention-of-performance defense, which applies when a contracting party is prevented from performing its contractual obligations by the conduct of the other contracting party. Not only did Lucarell never claim that Nationwide prevented her from "performing" the release, but also the Court of Appeals offered no explanation whatsoever as to how the prevention-of-performance defense could conceivably apply to releases. A release is effective "immediately" subject to the occurrence of stipulated conditions. Restatement of the Law, Contracts 2d, Section 284 (1981). Lucarell executed the release and accepted the consideration Nationwide paid in exchange for the release. Therefore, the release must stand.

The unprecedented application of the prevention-of-performance defense to a release of liability poses a direct threat to businesses' ability to effectively and finally settle claims. If this

ruling were adopted by other courts, businesses would have little incentive to settle claims outside of the courtroom, increasing the costs associated with litigation and exacerbating the burdens imposed on courts. The Court of Appeals' decision ignores these important public policy considerations and contravenes Ohio law, which favors the compromise and settlement of claims.

Third, it is settled that a party who has complied with all the express terms of an agreement cannot be found liable for an alleged breach of the implied duty of good faith and fair dealing. The Court of Appeals defied this well-established Ohio law by allowing Lucarell's breach of contract claim to go to the jury after it concluded that Lucarell could not prove any breach of any of the contracts' express terms. This ruling undermines freedom-of-contract principles by expanding the scope of contractual duties beyond the parties' negotiated and agreed-to promises.

Finally, Ohio law is clear that a party may not maintain a fraud claim based on future projections unless the party can prove that the future projections were based on facts known to be false at the time of the representation. By concluding that Lucarell could maintain a fraud claim based on projections in a pro forma, the Court of Appeals' decision threatens to chill communications that are part of normal business negotiations.

The Court of Appeals decision undermines the certainty and stability necessary to maintain an economic climate hospitable to businesses. Further, it calls into question well-settled principles of law that are fundamental to businesses' ability to contract freely and to control their financial risk when contracting. Accordingly, the amici encourage the Court to reverse the Court of Appeals rulings with respect to all four propositions of law set forth in Appellant's Brief on the Merits.

STATEMENT OF FACTS

Amici accept the Statement of the Case and Facts as stated in Appellant's Merits Brief.

ARGUMENT

A. First Proposition of Law: Ohio law does not allow an award of punitive damages for breach of contract, although punitive damages may be available for any independent tort claims arising from related conduct.

For over a century, it has been the well-settled law in Ohio that litigants may not recover punitive damages on a breach of contract claim. *See, e.g., Digital& Analog*, 44 Ohio St.3d at 45-46, *citing Ketcham*, 104 Ohio St.3d 372. Although a litigant may recover punitive damages based on an *independent* tort brought as part of the same lawsuit, the hornbook principle remains that "[n]o matter how willful the breach," punitive damages simply "are not recoverable in an action for breach of contract." *Digital & Analog*, 44 Ohio St.3d at 46.

The trial court properly followed Ohio law when it ruled that Lucarell could not recover punitive damages on her breach of contract claims, and that punitive damages could be awarded only for her tort claims. The Court of Appeals improperly reversed that ruling and remanded for the trial court to determine, *inter alia*, "punitive damages on her breach of contract claims." Opinion, 2015-Ohio-5286, at ¶ 191.

Although the Court of Appeals purported to base its ruling on the independent tort doctrine, stating that Lucarell could be awarded punitive damages only if the jury found in her favor on her remanded fraud claim, the Court nonetheless erred because it concluded that liability for this independent tort would allow the jury "to award[] punitive damages *on the breach of contract claims.*" Opinion, 2015-Ohio-5286, ¶ 178 (emphasis added).

The bedrock principle of the independent tort doctrine is that punitive damages may be awarded only for the independent tort. *See, e.g., Sivit v. Village Green of Beachwood, L.P.*, 143 Ohio St.3d 168, 2015-Ohio-1193 (analyzing the availability of punitive damages with respect to

the tort claim, not the claim for breach of contract). The Court of Appeals' decision creates confusion by ruling that punitive damages are available, not for the independent tort, but for the breach of contract. Opinion, 2015-Ohio-5286, ¶ 184 ("Because the trial court should have allowed Lucarell's fraud claim to go [to] the jury, it should have also allowed the jury to determine if punitive damages were *warranted on Lucarell's breach of contract claims* in the event the jury returned a verdict in Lucarell's favor on her fraud claim.") (emphasis added). Even the cases cited by Plaintiff do not stand for this proposition. *See Marbry-Wright v. Zlotnik*, 165 Ohio App.3d 1, 2005-Ohio-5619, ¶ 20 (3d Dist.) (concluding that the independent tort rule "permits punitive damages not for the breach of contract, but for the tortious conduct").

Significantly, a plaintiff asserting a breach of contract claim may bring a related tort claim only if the tort exists completely independent from the contractual duties. This means that, although the conduct giving rise to the tort and breach of contract claims may overlap, the tort claim must allege the breach of a pre-existing duty that is separate and distinct from any duties created by the contract, *i.e.*, "a duty owed even if no contract existed." *Strategy Grp. For Media, Inc. v. Lowden*, 5th App. Dist. 12-CAE 03 0016, 2013-Ohio-1330, ¶ 25 ("A party can bring a fraud claim and breach of contract claim in the same action, as long as there is a duty owed by the breaching party that is separate from the breach of contract claim."); s*ee also Clemens v. Nelson Fin. Group, Inc.*, 10th App. Dist. No. 14AP-537, 2015 Ohio 1232, ¶ 35-36. This is a crucial distinction that the Court of Appeal's ruling threatens to obscure.

By remanding to allow the jury to decide punitive damages on Lucarell's breach of contract claims, the Court of Appeals blurred the fundamental distinction between tort duties that are imposed on everyone based on social rules and requirements, and contract duties that are assumed by agreement of the contracting parties, who are free to govern their own affairs and

decide the scope of their promises. *Corporex Dev. & Constr. Mgmt. v. Shook, Inc.*, 106 Ohio St. 3d 412, ¶ 6 (2005). Punitive damages are allowable in certain tort actions to deter conduct. By contrast, compensation, not deterrence, is the purpose of contract damages. To rule otherwise would completely undermine the concept of an efficient breach made famous by the Honorable Richard Posner, *Lake River Corp. v. Carborundum Co*., 769 F.2d 1284 (7th Cir. 1985), and endorsed by Ohio courts. In refusing to allow a plaintiff to bring a tort claim based on a contractual breach, the court in *Wagoner v. Leach Co*., 2d App. Dist. No. 17580, 1999 Ohio App. Lexis 3152, explained that allowing punitive damages based on what is essentially a breach of contract claim would:

> undermine[] the efficiency and stability of an economic system based on contract … The system of contract law, by confining damages to the each party's expectation interest, permits each party to make a rational choice to breach his contract if economic efficiency so demands, so long as he fully compensates the other contracting party. If, however, the potential for tort liability exists:
>
> > the potential consequences of any breach of contract--efficient or inefficient, socially desirable or undesirable--become uncertain and unpredictable. Tort liability may or may not follow, depending on a myriad of imponderable factors. As a result, a business fearful of unfathomable tort exposure might lose the ability to respond flexibly to changing economic conditions or hesitate to enter into contracts at all in fast-moving aspects of commercial enterprise.

Id. at 52-53 (*quoting Applied Equip. v. Litton Saudi Arabia* (1994), 7 Cal. 4th 503, 520, 28 Cal. Rptr. 2d 475, 484, 869 P.2d 454).

The Court of Appeals decision threatens the fundamental principle that a contracting party subjected to a breach should be made whole but should not be put in a better position as a result of the breach. Such a result would promote inefficiency by encouraging counterparties to

sue rather than compromise, and it would greatly increase the cost of doing business by introducing uncertainty as to the financial risks inherent in contracts.

Finally, allowing an award of punitive damages on a contract claim, even if an independent tort is present, could have other real-world consequences for contracting parties in Ohio, including amici's members. If the Court of Appeals decision is allowed to stand, Nationwide and other defendants could be subjected to duplicative punitive damages based on the same conduct (if that conduct forms the basis of both a breach of contract claim and a breach of an independent, pre-existing tort duty). Furthermore, defendants would not be able to invoke Ohio's statutory cap on punitive damages, which by its express terms, applies only to damages for tort actions. *See* R.C. 2315.21(A).

B. Second Proposition of Law: Prevention of performance is not a defense to the enforcement of a party's executed release of liability.

In a completely novel ruling, the Court of Appeals held that the prevention-of-performance defense could defeat the releases of liability in the Memorandum of Understanding and Modified AE Agreement, even though Lucarell never claimed that Nationwide prevented her from releasing her claims. Ohio law favors the compromise of claims and recognizes that releases of liability are an integral part of encouraging such compromise. *State ex rel. Wright v. Weyandt*, 50 Ohio St.2d 194, 197 (1977). The Court of Appeals ruling threatens to chill the settlement of claims by undermining their finality, thereby eschewing the public policy considerations articulated in cases like *Weyandt* that weigh in favor of encouraging settlements.

It is undisputed that Lucarell executed the Memorandum of Understanding and Modified AE Agreement, both of which contained releases. Even though Lucarell admitted that she signed these agreements, relinquishing her claims against Nationwide, she argued that the releases were unenforceable because she was under duress at the time she signed them. Over Nationwide's

objection, the trial court failed to instruct the jury that Lucarell was required to prove duress by clear and convincing evidence, and the jury ultimately concluded that Lucarell did not release Nationwide from liability. Although this failure to instruct the jury on the required burden of proof was reversible error, the Court of Appeals affirmed the jury's decision based on the two-issue rule.

The Court concluded that even if the instruction as to duress was in error, 2015-Ohio-5286, ¶ 80, the jury may have concluded that the releases were invalid due to the prevention-of-performance defense. This cannot be right, however, because the prevention of performance defense cannot, by definition, apply to an executed release. Releases are effective immediately upon execution in the absence of any specified conditions. Restatement of the Law 2d, Contracts, Section 284 (1981). Here, Lucarell admitted to executing the two releases and, thus, there was nothing left to "perform." Moreover, Lucarell never asserted that she was prevented from performing the releases, nor did the Court of Appeals explain why Nationwide would prevent Lucarell from releasing her claims against it.

No court has allowed a plaintiff to deploy the prevention-of-performance doctrine to circumvent a release while at the same time allowing that plaintiff to assert a breach of contract claim based on other terms of the same contract. Prevention-of-performance is typically a defense to a breach of contract claim. In other words, it excuses non-performance, which is how Lucarell actually attempted to use it here: the confusion arose because Lucarell had asserted a prevention-of-performance defense to Nationwide's counterclaims against her for breaches of contract, not to her releases of liability.

Lucarell asserted a duress defense, not prevention-of-performance, to invalidate her executed releases. The trial court's failure to properly instruct the jury on duress required

reversal of the jury's finding that Lucarell did not release her claims against Nationwide. The two-issue rule does not apply because Lucarell did not assert a prevention-of-performance defense with respect to the releases and never alleged that Nationwide did anything to prevent her from releasing her claims. In fact, Nationwide could not possibly prevent Lucarell from performing her obligation to release her claims after she executed the releases.

As a result of its confusion, the Court of Appeals effectively announced a new legal rule that an executed release of liability can be invalidated by a prevention-of-performance defense. This is of great concern to amici, particularly OII and NAMIC, whose members are more dependent on releases of liability to conduct their business than virtually any other industry. They urge the Court to reverse the Court of Appeals' ruling and hold definitively that the defense of prevention-of-performance does not apply to an executed release of liability.

C. Third Proposition of Law: A contracting party who complies with all express terms of the contract cannot be found liable for damages for breach of its implied covenants.

Even though the Court of Appeals recognized that Lucarell had failed to prove that Nationwide breached any provision of any contract, the Court denied Lucarell's directed verdict motion and allowed Lucarell's breach of contract claim to go to the jury. Its rationale for doing so was that Lucarell might still be able to establish a breach of the implied covenant of good faith and fair dealing. (Tr. 1661.) Ohio law is clear, however, that a contracting party who complies with every provision of a contract cannot be found liable for breach of an implied covenant of good faith and fair dealing. This issue has long been definitively settled under Ohio law. *See, e.g., Ed Schory & Sons v. Society National Bank*, 75 Ohio St.3d 433, 1996 Ohio 194. It is a corollary to the related legal rule that implied contractual duties cannot override a contract's express duties. *See, e.g., Hamilton Insurance Serv., Inc. v. Nationwide Insurance Co.*, 86 Ohio St.3d 270, 1999 Ohio 162.

The Court of Appeals erred as a matter of law when it speculated that the jury could have awarded damages for breach of implied contractual duties even if there was no breach of any express contractual duties. Allowing damage awards in these circumstances would undermine the utility of contracts in commercial and non-commercial transactions by preventing one of their essential purposes: to clearly define each party's obligations so that they know exactly what they must do to avoid breach and liability for damages. The loss of contracting parties' ability to define their precise obligations upends the law of contracts and obstructs the ordinary course of business.

D. Fourth Proposition of Law: A plaintiff cannot base a fraudulent inducement claim on representations that are speculative, inconsistent with the written agreement, and upon which the Plaintiff did not rely.

Finally, the Court of Appeals improperly concluded that Plaintiff could maintain a fraud claim based on projections of future performance, in contravention of well-settled Ohio law that fraud cannot be predicated upon promises or misrepresentations to future actions or conduct. It is firmly established that "projections of an investment's qualities, which are by definition opinions as to future events, cannot serve as the basis for a fraud claim." *Reyes v. McCabe*, 10th App. Dist. No. 96APE05-690, 1997 Ohio App. Lexis 1240, *13-14 (concluding that a calculation of projected earnings over a six year period could not serve as the basis for a fraud claim). Similarly, in deciding whether business projections could serve as the basis for a fraud claim, the Second Appellate District stated:

> The general rule, which is supported by numerous decisions in almost all jurisdictions, is that fraud must relate to a present or pre-existing fact and cannot be predicated on assumptions or statements which involve mere matters of futurity or things to be done or performed in the future. While great expectations often prove disappointing, they do not prove fraud.

Thompson v. Super Valu Stores, Inc., 2d App. Dist. No. CA 7796, 1982 Ohio App. Lexis 15629, *5 (concluding that weekly sales projections for the first three years of a business's operation

could not form the basis for a fraud claim). *See also Lundeen v. Smith-Hoke*, 10th App. Dist. No. 15AP-236, 2015-Ohio-5086, ¶ 28 ("[r]epresentations as to what will take place in the future are regarded as predictions and not fraudulent") (*quoting Link v. Leadwords, Corp.*, 79 Ohio App. 3d 735, 742 (8th Dist. 1992).[2]

Moreover, numerous courts have rejected similar fraud claims brought against Nationwide by other AE agents based on similar alleged misrepresentations concerning overly optimistic projections. *See, e.g.*, *Nemier v. Nationwide Mut. Ins. Co.*, 458 Fed.App. 420, 422-23 (6th Cir. 2012); *Bye v. Nationwide Mut. Ins. Co.*, 733 F.Supp.2d 805, 819 (E.D.Mich.2010); *Bucciarelli v. Nationwide Mut. Ins. Co.*, E.D.Mich. No. 08-cv-14349, Order Granting Nationwide Mot. for Summ.J., Dkt. No. 70, at 1, 5-8 (June 3, 2011); *Evens-McCarthy v. Nationwide Mut. Ins. Co.*, E.D.Mich. No. 08-12049, 2008 U.S. Dist. Lexis 83702, *4-12 (July 24, 2008).

Finally, the Court of Appeals' suggestion that Lucarell can assert a fraud claim based on an alleged misrepresentation by Nationwide to a bank in Lucarell's loan application was plain error, as Luracell admitted that she did not know about it until well after the commencement of this lawsuit. Thus, as a matter of law, there was no misrepresentation to her, nor could have she relied on the alleged misrepresentation. *See, e.g.*, *Wells v. Cook*, 16 Ohio St. 67, 67-68 (1865); *Moses v. Sterling Commerce Am., Inc.*, 10th Dist. Franklin No. 02AP-161, 2002-Ohio-4327, ¶ 21.

[2] While a projection can serve as a basis for fraud if it can be shown that the projection was based on facts known to be false at the time there is simply no such evidence in this case, for the reasons discussed at length in Nationwide's brief. (*See* Merits' Brief of Nationwide Mutual Ins., 27-28.)

CONCLUSION

As set forth above, Amici Curiae Ohio Insurance Institute, Ohio Chamber of Commerce, Ohio Alliance for Civil Justice, Ohio Manufacturers' Association, and National Association of Mutual Insurance Companies encourage the Court to reverse the four holdings of the Court of Appeals challenged herein, which threaten to displace well-settled principles of Ohio that are of great importance to all businesses operating in the state of Ohio.

Respectfully submitted,

By: /s Rebecca E. Wilson
Thomas E. Szykowny (0014603)
Rebecca E. Wilson (0089952)
VORYS, SATER, SEYMOUR AND PEASE LLP
52 East Gay Street, P.O. Box 1008
Columbus, OH 43216-1008
Tel: 614.464.5686
Fax: 614.719.4905
teszykowny@vorys.com
rewilson@vorys.com

Attorneys for Amici Curiae Ohio Insurance Institute, Ohio Chamber of Commerce, Ohio Alliance for Civil Justice, Ohio Manufacturers' Association, and National Association of Mutual Insurance Companies

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was served upon the following, by regular U.S. mail, this 26th day of September, 2016:

Thomas D. Warren (0077541)
G. Karl Fanter (0075686)
BAKER & HOSTETLER, LLP
PNC Center
1900 East Ninth Street, Suite 3200
Cleveland, OH 44114-3485
Tel: 216.861.7918
Fax: 216.696.0740
Email: twarren@bakerlaw.com
kfanter@bakerlaw.com

Yvette McGee Brown (0030642)
JONES DAY
325 John H. McConnell Blvd., Ste. 600
Columbus, OH 43215
Tel: (614) 281-3867
Fax: (614) 461-4198
Email: ymcgeebrown@jonesday.com

Quintin F. Lindsmith (0018327)
BRICKER & ECKLER
100 South Third Street
Columbus, OH 43215-4291
Tel: 614.227.2300
Fax: 614.227.2390
Email: qlindsmith@bricker.com

Counsel for Defendant-Appellant
Nationwide Mutual Insurance Company

Patricia A. Morris (0043570)
841 Boardman-Canfield Road, Suite 307
Boardman, OH 44512
Tel: 330.758-9660
Email: patricia@patriciamorroslaw.com

Randy J. Hart (0046793)
23600 Commerce Park Road
Beachwood, OH 44122
Tel: 216.978.9150
Email: randyjhart@gmail.com

A. Scott Fromson (0037889)
32125 Solon Road
Solon, OH 44139
Tel: 440.394.1301
Email: scott@fromsonlaw.com

Counsel for Plaintiff-Appellee
Christine Lucarell

/s Rebecca E. Wilson
Rebecca E. Wilson