

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: COMMERCIAL MONEY	:	Case No. 1:02CV16000
CENTER, INC., EQUIPMENT	:	
LEASE LITIGATION	:	(MDL Docket No. 1490)
	:	
	:	JUDGE O'MALLEY
	:	
	:	<u>MEMORANDUM AND ORDER</u>
	:	
	:	This Order Relates To Case Nos.
	:	02CV16004, 02CV16006,
	:	02CV16018, 02CV16023,
	:	02CV16028, and 02CV16029

These actions were transferred to this Court by Order of the MDL Panel on October 25, 2002 (02-16000, Doc. 1). This Court ordered that these actions be coordinated for pretrial purposes. (02-16000, Doc. 2). Discovery now is complete in these actions, and the Court has determined all dispositive motions. Several actions have been remanded to their transferor courts for trial, and those actions remaining pending are in the final stages of pretrial preparation.

On August 9, 2010, the Court issued a Status Order (Doc. 2465), which requested that certain parties advise the Court as to the status of certain actions remaining pending before this Court. On August 17, 2010, the following parties filed statements in response to the Court's Status Order: Royal Indemnity Company ("Royal")(Doc. 2467); Ace American Insurance Company/Illinois Union Insurance Company ("Ace/IU")(Doc. 2468); and Safeco Insurance Company of America ("Safeco")(Doc. 2469). This Order addresses requests by Royal and Safeco to dismiss certain actions without prejudice.

A. Royal Requests for Dismissal

In its filing (Doc. 2467), Royal requested that the Court dismiss certain actions "without

prejudice, with each party to bear its own costs and attorneys' fees. . . ." Royal's request included (1) Royal's third party claims against Michael Anthony, Anthony & Morgan Surety & Insurance Services, Inc. and A & M Select Insurance Services, Inc. (collectively, "A&M") in Case No. 02CV16006; (2) Royal's third party claims against A&M in Case No. 02CV16023; (3) Royal's third party claims against A&M in Case No. 02CV16028; and (4) Royal's third party claims against A&M in 02CV16029.

With respect to Case No. 02CV16018, Royal again requested that its third party claims against A&M be dismissed "without prejudice, with each party to bear its own costs and attorneys' fees. . . ." As to Royal's counterclaim against Guardian XIV LLC ("Guardian XIV") and its third party claim against Blaine Tanner ("Tanner"), Royal requested that those claims also be dismissed "without prejudice, with each party to bear its own costs and attorneys' fees. . . ," on the further condition that, if the affirmative claims previously asserted by Guardian XIV and Tanner against Royal were reinstated,¹ Royal's claims against Guardian XIV and Tanner would be automatically reinstated.

No party has objected either to Royal's requests for dismissal, or the terms and conditions of the dismissals as proposed by Royal. Accordingly, Case Nos. 02CV16006, 02CV16023, 02CV16028, 02CV16029, and 02CV16018 are hereby dismissed without prejudice, on the terms and conditions set forth above. Since the dismissal of Royal's claims disposes of all pending claims in these actions, these actions are hereby closed.

B. Safeco Requests for Dismissal

In its filing (Doc. 2469), Safeco requested that its claims against Sterling Wayne Pirtle, Ronald Fisher, and Mark Fisher in Case No. 02CV16004 be dismissed without prejudice. No

¹ Summary judgment was granted to Royal on the affirmative claims asserted by Guardian XIV and Tanner in this action, by an Order issued September 15, 2008 (Doc. 2209).

party has objected to Safeco's request. Accordingly, Case No. 02CV16004 is hereby dismissed without prejudice. Additionally, since the dismissal of Safeco's claims disposes of all pending claims in this action, this action is hereby closed.

IT IS SO ORDERED.

s/Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

Dated: October 6, 2010

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