

FILED

2008 APR -7 PM 4:44

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

ALLSTATE FLORIDIAN INSURANCE COMPANY; ALLSTATE INDEMNITY COMPANY; ALLSTATE PROPERTY & CASUALTY INSURANCE COMPANY; ALLSTATE INSURANCE COMPANY; ALLSTATE FLORIDIAN INDEMNITY COMPANY; ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY; ENCOMPASS INSURANCE COMPANY OF AMERICA; ENCOMPASS INDEMNITY COMPANY; ENCOMPASS FLORIDIAN INSURANCE COMPANY; and ENCOMPASS FLORIDIAN INDEMNITY COMPANY,

CASE NO. : 1D08-275

ORIGINAL

Appellants,
v.
Office of Insurance Regulation
Appellee.

MOTION FOR CLARIFICATION

The Appellee, Office of Insurance Regulation, respectfully moves for clarification pursuant to Rule 9.330(a), Florida Rules of Appellate Procedure, regarding the lifting of the stay of the Immediate Final Order. In support of this motion, the appellee states:

1. This court's January 18, 2008 order imposed a stay of the IFO "pending further order of this court". By its opinion filed April 4, 2008, this court affirmed the Immediate Final Order ("IFO") issued by the Office of Insurance

Regulation (“OIR”) against the appellants stating that the IFO facially complies with the requirements of section 120.60(6), Florida Statutes, and further ordered that “the stay is lifted.”

2. The OIR believes this court’s lifting of the stay of the IFO is effective immediately and is indeed in conformity with the January 18th order regarding when the stay would be vacated. OIR asserts that keeping the stay in place would not further any public purpose based on this court’s affirmation of the IFO finding appellants’ continuing criminal violations of Florida law to constitute an immediate danger to the public.

3. As the court is aware, the opinion regarding the appeal of the IFO filed on April 4, 2008, is not final until time expires to file a motion for rehearing and disposition thereof if such motion is filed pursuant to Rules 9.330 and 9.340, Florida Rules of Appellate Procedure.

4. OIR seeks clarification of the effective date of the lifting of the stay of the IFO because the April 4, 2008 opinion of this court carried the standard language directing that the opinion was “not final until time expires to file motion for rehearing and disposition thereof if filed”, creating ambiguity regarding the effective date of the lifting of the stay.

5. Based on the great public importance of this matter, the impact of the stay, and OIR's respect for the decisions of this court, clarification of the effective date of the lifting of the stay is sought before proceeding further.

Wherefore, the appellee respectfully moves the court for clarification of the effective date of the lifting of the stay pursuant to Rule 9.330(a), Florida Rules of Appellate Procedure.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this Motion was furnished to Elizabeth McArthur, Esq., Harry O. Thomas, Esq., and David A. Yon, Esq., at Radey, Thomas, Yon and Clark, P.A., 301 S. Bronough Street, Suite 200, Tallahassee,