

IN THE COURT OF CLAIMS OF OHIO

TRANSAMERICA BUILDING CO., INC.

Plaintiff,

v.

OHIO SCHOOL FACILITIES
COMMISSION

Defendant.

Case No. 2013-00349

Referee Samuel Wampler

2014 JAN 30 PM 1:44

FILED
COURT OF CLAIMS
OF OHIO

NON-WAIVER OF PRIVILEGE, OR CLAWBACK AGREEMENT

Plaintiff TransAmerica and Defendant Ohio School Facilities Commission, (each a “Party”, and Plaintiffs and Defendants collectively the “Parties”), agree and stipulate as follows.

The Parties shall each make reasonable efforts to withhold documents and any electronically stored information (“ESI”) that they believe to be privileged. However, given the volume of documents that are likely to be produced in this case, the Parties believe there is a risk of inadvertent disclosure of certain privileged documents and ESI.

Accordingly, pursuant to Civ.R. 26(B)(6), which is analogous to Fed. R. Civ. P. 26(b)(5)(B), the Parties agree to this non-waiver, or “clawback” agreement. The parties hereby adopt by reference the definitions of “attorney-client privilege” and “work-product protection” set forth in Fed. R. Evid. 502.

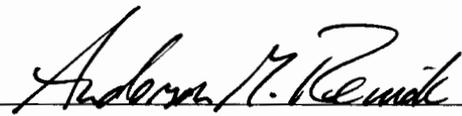
A producing Party who does not intend to waive the privilege associated with a document or ESI and yet inadvertently produces such document or information, may, after discovering inadvertent production, notify the receiving Party that such production was inadvertent and should have been withheld because of privilege, and amend its discovery response to provide for

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the return of said document. The receiving Party must then promptly return the document in question and any copies, both paper and electronic, to the producing Party. Both Parties hereby acknowledge that the receiving Party does not waive any right it has, or may have, to challenge the producing Party's assertion of privilege and to request discovery of said document pursuant to an order of the Court.

A Party who receives a document or ESI that it knows or should know is a privileged document or contains privileged content must promptly contact the producing Party and advise the producing Party of the document or content, and then promptly return the document upon request of the producing Party. Both Parties hereby acknowledge that the receiving Party does not waive any right it has, or may have, to challenge the producing Party's assertion of privilege and to request discovery of said document pursuant to an order of the Court.

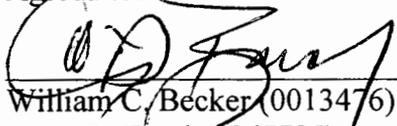
IT IS SO ORDERED.


for REFERREE SAMUEL WAMPLER

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Agreed to:


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