

IN THE SUPREME COURT OF OHIO

Andrea Barnes, as Executrix of the
Estate of Natalie Barnes, Deceased,

Appellee,

v.

University Hospitals of Cleveland, et al.,

Appellants.

07-0140

On Appeal from the Cuyahoga County
Court of Appeals, Eighth Appellate District.

Court of Appeals Consolidated Case Nos.
87247, 87285, 87710, 87903 and
87946

MOTION FOR ADMISSION PRO HAC VICE OF
LORI S. NUGENT, ESQUIRE, KATHIE D. KING, ESQUIRE
AND MAYA HOFFMAN, ESQUIRE

Steven G. Janik (0021934)
Andrew J. Dorman (0063410)
JANIK & DORMAN, L.L.P.
9200 South Hills Blvd., Suite 300
Cleveland, Ohio 44147-3521
(440) 838-7600 • Fax (440) 838-7601
Email: Steven.Janik@Janiklaw.com
Andrew.Dorman@Janiklaw.com
*Counsel for Intervenor-Appellant
Lexington Insurance Company*

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SUPREME COURT OF OHIO

J. Stephen Teetor, Esq.
James M. Roper, Esq.
Jessica K. Philemond, Esq.
ISAAC, BRANT, LEDMAN & TEETOR, LLP
250 East Broad Street, Suite 900
Columbus, Ohio 43215-3742
(614) 221-2121 • Fax (614) 365-9516
*Attorneys for Defendants-Appellants
Medlink of Ohio and The Medlink Group, Inc.*

Michael F. Becker, Esq.
BECKER & MISHKIND, CO. LPA
134 Middle Avenue
Elyria, Ohio 44035
(440) 323-7070 • Fax (440) 323-1879
*Attorney for Plaintiff-Appellee
Andrea Barnes, Executrix*

W. Craig Bashein, Esq.
BASHEIN & BASHEIN
50 Public Square, 35th Floor
Cleveland, Ohio 44113
(216) 771-3239 • Fax (216) 781-5876
*Attorney for Plaintiff-Appellee
Andrea Barnes, Executrix*

Paul W. Flowers, Esq.
PAUL W. FLOWERS CO., L.P.A.
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113
(216) 344-9393 • Fax (216) 344-9395
*Attorney for Plaintiff-Appellee
Andrea Barnes, Executrix*

MOTION FOR ADMISSION PRO HAC VICE

Intervenor-Appellant Lexington Insurance Company (“Lexington”) moves this Court pursuant to Rule I, Section 2 of the Ohio Supreme Court Rules of Practice for an Order admitting attorneys Lori S. Nugent, Esq., Kathie D. King, Esq. and Maya Hoffman, Esq. to appear and participate *pro hac vice* in the captioned matter as co-counsel for Lexington.

“The decision of whether to permit representation by out-of-state counsel in an Ohio court is a matter within the discretion of the trial court.” *Royal Indem. Co. v. J.C. Penney Co., Inc.* (1986), 27 Ohio St.3d 31, 33, 501 N.E.2d 617, 619-620 citing *State v. Ross* (10th Dist. 1973), 36 Ohio App.2d 185, 188, 304 N.E.2d 396, 399; accord *Dixon v. St. Vincent Mercy Med. Center* (Ohio Com. Pl. Lucas Cty. 2004), 129 Ohio Misc.2d 45, 46, 822 N.E.2d 449, 450; *Westfall v. Cross* (7th Dist. 2001), 144 Ohio App.3d 211, 216-217, 759 N.E.2d 881, 885; *Swearinger v. Waste Technologies Indus.* (7th Dist. 1999), 134 Ohio App.3d 702, 709, 731 N.E.2d 1229, 1233. In *State v. Ross*, the Court of Appeals of Ohio for the Tenth Appellate District set out three factors that may be used by a trial court in ruling on a motion for admission *pro hac vice*. Those three questions are:

(1) Did there exist a long-standing close personal relationship between the party and the out-of-state counsel? (2) Is the out-of-state counsel the customary counsel for the party in jurisdictions where such out-of-state counsel is admitted to practice? and (3) What is the situation with respect to the availability of counsel admitted to practice in Ohio who are competent to represent the party in the case?

Additionally, courts have considered other factors as well, such as:

[T]he age of the case at the time the *pro hac vice* motion was filed, the nature of the litigation, the complexity of the litigation, the burden on the nonmoving party and court if new counsel is permitted to appear, the prejudice to the moving party if the motion is denied, the interest of the litigant in choosing counsel, the prejudice to the party opposing the *pro hac vice* motion, and the ability of the court to maintain the orderly administration of justice.

36 Ohio App.2d 185, 197, 304 N.E.2d 396, 404; *Dixon*, 129 Ohio Misc.2d at 47-48, 822 N.E.2d at 450-451 *citing Westfall*, 144 Ohio App.3d at 216-217, 759 N.E.2d at 888, and *Swearingen*, 134 Ohio App.3d at 716-717, 731 N.E.2d at 1239.

The captioned matter is before this Court on appeal from the Cuyahoga County Court of Appeals, Eighth District, regarding the denial of Lexington's Motion to Intervene. Ms. Nugent and Ms. Hoffman were admitted *pro hac vice* and appeared and participated in the appeal of this case before the Eighth District. Ms. Nugent of the law firm Cozen O'Connor is licensed to practice before the highest court in the State of Illinois, the United States District Court for the Northern District of Illinois, the United States Court of Appeals for the Seventh and Eighth Circuits, and the United States Supreme Court. Ms. King of the law firm Cozen O'Connor is licensed to practice before the highest courts in the States of Florida, New Jersey and Pennsylvania, the United States District Courts for New Jersey and the Eastern District of Pennsylvania, the United States Court of Appeals for the Third, Fourth and Sixth Circuits, and the United States Supreme Court. Ms. Hoffman of the law firm Cozen O'Connor is licensed to practice before the highest court in the State of Illinois and the United States District Court for the Northern District of Illinois. Ms. Nugent, Ms. King and Ms. Hoffman are members of the bar in good standing in every jurisdiction where they have been admitted to practice and are not subject to any disciplinary proceedings. Ms. Nugent, Ms. King and Ms. Hoffman are willing to subject and submit themselves to the full disciplinary powers of this Court for all matters arising from or pertaining to this action to the same extent as if fully admitted to practice before this Court. Cozen O'Connor has a long standing close personal relationship with Lexington, and Ms. Nugent, Ms. King and Ms. Hoffman's participation in this matter will further the interests of Lexington and thereby serve the interests of justice. Ms. Nugent, Ms. King and Ms. Hoffman's

admission *pro hac vice* will not prejudice the parties, nor hinder the ability of the Court to maintain the orderly administration of justice.

For the foregoing reasons, Lexington respectfully requests that this Court exercise its discretion and grant the present motion permitting attorneys Lori S. Nugent, Kathie D. King and Maya Hoffman to appear as co-counsel in this matter.

Respectfully submitted,



Steven G. Janik (0021934)
Andrew J. Dorman (0063410)
JANIK & DORMAN, L.L.P.
9200 South Hills Blvd., Suite 300
Cleveland, Ohio 44147-3521
(440) 838-7600 • Fax (440) 838-7601
Email: Steven.Janik@Janiklaw.com
Andrew.Dorman@Janiklaw.com

*Counsel for Intervenor-Appellant
Lexington Insurance Company*

PROOF OF SERVICE

This is to certify that a copy of the foregoing was served by ordinary mail this 25th day of

January 2007, to the following:

W. Craig Bashein, Esq.
BASHEIN & BASHEIN
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113
Telephone: (216) 771-3239
Facsimile: (216) 781-5876

Michael F. Becker, Esq.
BECKER & MISHKIND, CO., LPA
134 Middle Avenue
Elyria, Ohio 44035
Telephone: (440) 323-7070
Facsimile: (440) 323-1879

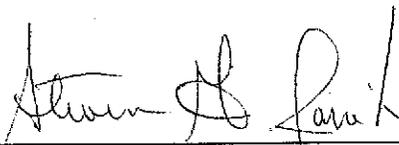
Paul W. Flowers, Esq.
PAUL W. FLOWERS CO., L.P.A.
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113
Telephone: (216) 344-9393
Facsimile: (216) 344-9395

*Attorneys for Plaintiff-Appellee
Andrea Barnes, Executrix*

Richard P. Goddard, Esq.
CALFEE, HALTER & GRISWOLD LLP
McDonald Investment Center, Suite 1400
800 Superior Avenue
Cleveland, Ohio 44114-2688
Telephone: (216) 622-8200
Facsimile: (216) 241-0816

J. Stephen Teetor, Esq.
James M. Roper, Esq.
Jessica K. Philemond, Esq.
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250 East Broad Street, Suite 900
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*Attorneys for Defendants-Appellants Medlink of
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Steven G. Janik (0021934)
Counsel for Intervenor-Appellant
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