

In the Supreme Court of Ohio

APPEAL FROM THE BUTLER COUNTY
COURTS OF APPEALS
TWELFTH APPELLATE DISTRICT
Case No. CA 2006 04 0089

ABBRA WALKER AHMAD,
Individually and as Special Administrator
of the Estate of Sheila A. Walker,
Appellant,

v.

AK STEEL CORP.,
Appellee.

**AMENDED MOTION OF APPELLANT ABBRA WALKER AHMAD
TO STRIKE PAGES 26 THROUGH 33 OF SUPPLEMENT TO MERIT BRIEF
OF APPELLEE AK STEEL CORPORATION**

David S. Blessing (0078509)
The Blessing Law Firm
119 East Court Street, Suite 500
Cincinnati, Ohio 45202
Phone No. (513) 621-9191
Fax No. (513) 621-7086
david@blessing-attorneys.com

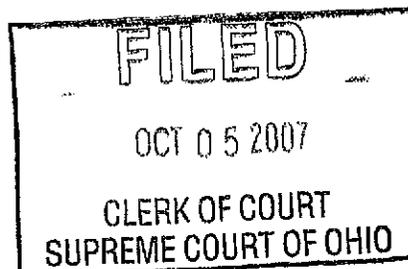
Counsel for Appellant Abbra Walker Ahmad

Paul W. Flowers (0046625)
Paul W. Flowers, Co. LPA
50 Public Square, Suite 3500
Cleveland, Ohio 44113
Phone No. (216) 344-9393
Fax No. (216) 244-9395
pwf@pwfco.com

*Counsel for Amicus Curiae Ohio
Association for Justice*

Monica H. McPeck (0071078)
Frost Brown Todd LLC
201 East Fifth Street, Suite 2200
Cincinnati, Ohio 45202
Phone No. (513) 651-6182
Fax No. (513) 651-6981
mmcpeek@fbtlaw.com

Counsel for Appellee AK Steel Corp.



**MOTION OF APPELLANT ABBRA WALKER AHMAD
TO STRIKE PAGES 26 THROUGH 33 OF SUPPLEMENT
OF APPELLEE AK STEEL CORPORATION**

Appellant Abbra Walker Ahmad hereby moves this Court to strike pages 26 through 33 of Supplement of Appellee AK Steel Corporation because it contains materials not in the record. Filings of these pages and the related argument on pages 2, 7 and 8 of AK Steel's merit brief violates S.Ct.Prac.R. VII as detailed in the memorandum in support, below. In the alternative, Appellant moves for leave to supplement the record to rebut the newly-presented materials.

**MEMORANDUM IN SUPPORT OF MOTION OF APPELLANT ABBRA WALKER
AHMAD TO STRIKE PAGES 26 THROUGH 33 OF SUPPLEMENT OF APPELLEE AK
STEEL CORPORATION**

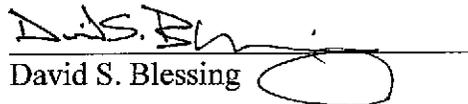
On September 11, 2007, AK Steel filed both a merit brief and S.Ct.Prac.R. VII supplement to that brief. Pages 26 through 33 of the Supplement consist of an internet news story, and an AK Steel company press release, neither of which was presented to the lower courts nor was included in the record of this matter. S.Ct.Prac.R. VII states that supplements should contain "only those portions **of the record** necessary to enable the Supreme Court to determine the questions presented." S.Ct.Prac.R. VII(1)(A) (emphasis added). There is no dispute that the material included in AK Steel's Supplement is not part of the record in this case. Accordingly, it is wholly improper for these documents to be included and they must be stricken from the Supplement to Merit Brief of Appellee AK Steel Corporation.

AK Steel presents these materials to support its contention that the Ohio Building Code should not apply to its Middletown, Ohio headquarters, *i.e.*, it is exempted because of age. However, other documents, such as documents attached to this motion, reveal that renovation and related construction to the building brings it under the scope of the building code. The Court

should not consider AK Steel's new materials, but if the Court elects to do so, it should grant Appellant Ahmad leave to supplement the record with rebuttal evidence.

It is not the function of this appellate body to make evidentiary determinations or to weigh the value of these newly-introduced documents. *State v. Ishmail* (1978), 54 Ohio St.2d 402, 8 Ohio Op.3d 405, 377 N.E.2d 500; *Orr v. Hays* (2002), 7th Dist. No. 02 CA 27, 2002-Ohio-7441 ("It is a fundamental principle of appellate review that an appellate court is limited to considering the evidence found within the record transmitted to it on appeal.") (citations omitted). Therefore, Appellant respectfully requests that this Court strike pages 26 through 33 of Supplement of Appellee AK Steel Corporation.

Respectfully submitted,


David S. Blessing

COUNSEL FOR APPELLANT,
ABBRA WALKER AHMAD

CERTIFICATE OF SERVICE

I certify that a copy of this Motion of Appellant Abbra Walker Ahmad to Strike Pages 26 Through 33 of Supplement to Merit Brief of Appellee AK Steel Corporation was sent by ordinary U.S. mail to counsel,

Monica H. McPeck, Attorney
Counsel for Appellee
Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202-4182,

Paul W. Flowers, Attorney
Counsel for Amicus Curiae Ohio Association for Justice
Paul W. Flowers, Co. LPA
50 Public Square, Suite 3500
Cleveland, Ohio 44113,

on this 2nd day of October, 2007.



David S. Blessing

COUNSEL FOR APPELLANT,
ABBRA WALKER AHMAD

703 CURTIS ST

Project.....: 021132
Plan Desc....:
Owner.....: ARMCO STEEL CO LP
Occupant....:
Lot.....:
PT 1.....:
PT 2.....:
Status.....: I
Condition...:
Apt.....:
Units.....:
Comments....:
Req Permits.:
Inactive Dt.: 11-19-2002

PERMIT INFORMATION

Contractor	Company	Type	Description	Permit	Issued
F.D., CURRY, JR.	FORD DEVELOPMENT COR.	P	RELOCATE WATER SERVICE	083941	10-14-2002
RELOCATE WATER SERVICE					

INSPECTION INFORMATION

Insp	Permit	Type	Codes	Comment	Date
RM	083941	P	WS	4" DUCTILE IRON INSTALLED	11-09-2002
RM	083941	P	WS FI		11-16-2002

CITY OF MIDDLETOWN
DEPARTMENT OF DEVELOPMENT
DIVISION OF INSPECTION

PERMIT

Call for Inspection
513-425-7973

AT (LOCATION)	NO. 103 103 Center St
OWNER	103 Center St
BUILDING	OFFICE
OF	USE
LOCATION	Lot No. ONLY

THE CONTRACTOR HAS BEEN ADVISED BELOW
IS HEREBY GRANTED A PERMIT FOR

Project No. 081138
Date 07/1/20
NO 08394

BUILDING ELECTRICAL PLUMBING HVAC MISC

ZONING REQUIRED	NEW CONSTRUCTION	NO. OF FIXTURES	FURNACES (operat)	SIGN
CONSTR. TYPE	CONSTRUCTION POLE	WATER SERVICE	AIR CONDITIONERS	DEMOLITION
USE OCCUPANCY	SERVICE ENTRANCE	SANITARY SEWER	BOILERS (BMS)	FIRE SUPPRESSION
LENGTH X WIDTH	ELEC. BASEBOARD HEAT	FIRE LINE (GZ)	DUCT WORK	ALARIM SYSTEM
AREA (SQ. FT.)	ROOM ADDITION	DETECTO METER	UNIT HEATERS	SPEAKERS
CERTIFICATE OF OCCUPANCY APPROVAL	ADDED WIRING	SPRINKLING METER		TENT
OCCUPANTS/FAMILIES	SWIMMING POOL	WELDING MACHINES	USE OF STREET	
NO. OF STORES	GARAGE	METER SIZE		
HEIGHT	HEATING/COOLING	METER LOCATION		
VALUATION		STORM SEWER		

PERMIT EXPIRES 180 DAYS FROM DATE ISSUED OR IF THE WORK IS SUSPENDED FOR 180 DAYS.

The work hereby authorized to be done in accordance with the laws of the State of Ohio and the Ordinances of the City of Middletown where they apply, copies of which are on file in the office of the Division of Building Inspection) and in accordance with plans and specifications. Changes to the approved plans shall be submitted to the Chief Building Official for approval before commencing with the new work.

This Permit is subject to revocation upon violation of any of its terms or conditions.

CONTRACTOR	NAME	NO.
	103 Development	
RECID BY		
	103	
PERMIT FEE	\$ 50.00	
PLAN REVIEW FEE		
STATE SURCHARGE		
TOTAL FEE	\$ 50.00	

INSPECTION REPORT

DATE

COMMENTS

11-9-02 4" Ductile iron water line
install - REM

11-16-02 4" Water ser hooked up to
existing + app REM

CITY OF MIDDLETOWN
 DIVISION OF BUILDING INSPECTION
 1100 N. HAMP PLAZA
 MIDDLETOWN, OH 45042
 513-572-7171

PLUMBING

COMMERCIAL / INDUSTRIAL

(Includable for minor remodels)

140001
 3/11/12
 11/12
 - Chris
 - M. S. King

Please fill sections below in black ink. **THREE COPIES OF THIS FORM MUST BE SUBMITTED WITH APPLICATION.**

Application Date: 10/2/12 Reference No.: 021132
 Address: 703 N. H. Ave. City/State/Zip: Middletown, OH 45042
 Name: McGraw Hill Nature of Business: Printing
 Tel: 513-572-7171 Mailing Address: 703 N. H. Ave. Middletown, OH 45042

Source of Project: New Construction
 New Addition Remodel Other Building Size: 5000 sq. ft.

TYPE	QTY	TYPE	QTY	TYPE	QTY	LOCATION	SIZE
PLUMBING		DISHWASHER		SINK			
		DISPENSER		WATER HEATER			
		FIBER OPTIC		DRINKING FOUNTAIN			
		WASHING MACHINE		ICE MAKER			
		WASHER DRYER		EXHAUST FAN			
		REFRIGERATOR					

WATER SERVICE		SEWER		STORM SEWER	
Service Size: <u>1.5"</u>	Service Length: <u>100'</u>	Sanitary Size: <u>8"</u>	Sanitary Length: <u>100'</u>	Size(s) of Pipe: <u>18"</u>	
Type of Material: <u>Cast Iron</u>					
Number of Manholes: <u>1</u>					
Number of Service Connections: <u>1</u>					

INSTALLER: McGraw Hill Phone: 513-572-7171
 Address: 703 N. H. Ave. City: Middletown, OH
 State: OH

STATE BOARD AND SIGNATURE:
 I, Chris M. King, State Engineer, do hereby certify that the above described plumbing system complies with the provisions of the Ohio Plumbing Code, 4123-1-01, and the Ohio Public Health Code, 3701-1-01, and that the system is safe and sanitary. This certification is based on the information provided by the applicant and is not a guarantee of the quality of the work. The applicant is responsible for the quality of the work and for obtaining all necessary permits and inspections. This certification is valid only for the project described herein and is not transferable. Any changes to the system must be approved by the State Engineer. This certification is valid for a period of one year from the date of issuance. If the system is not inspected and approved within this period, the certification is void. The State Engineer's office is located at 100 N. High Street, Columbus, OH 43260. For more information, please contact the State Engineer's office at 614-464-5000.

Signature: Chris M. King
 State Engineer

APPLICANT'S SIGNATURE: Chris M. King
 Title: State Engineer

DATE: 10/2/12

703 CURTIS ST

PROJECT NO.: 940960

PLAN DESC:

OWNER: AK STEEL ADDRESS: SAME

OCCUPANT: OFFICES

LOT:

PT 1:

PT 2:

STATUS: I

CNDTION:

APT:

UNITS:

COMMENTS:

PERMITS REQ.:

INACTIVE DT.: 08-21-95

PERMIT INFORMATION

Contractor	Company	Type	Description	Permit	Issued
BLAKLEY, JR, PAUL TOM RENOVATE 2ND FLOOR CORRIDOR	BLAKLEY CONSTRUCTION	E	RENOVATE 2ND FLOOR CORRIDOR	64756	10-10-94 ✓
ANG SIGN CO, TANSON SIGN, #10	ANG SIGN CO	S	TANSON SIGN, #10	64247	07-29-94 ✓

INSPECTION INFORMATION

Insp	Permit	Type	Codes	Comment	Date
WEC	64756	E	RO		11-07-94
WEC	64756	E	FI FI		03-07-95
RS	64247	S	RC	NOT INSTALLED	09-09-94
RS	64247	S	VO FI	NO SIGN INSTALLED	08-21-95

CITY OF MIDDLETOWN, OHIO
 DEPARTMENT OF PUBLIC SAFETY
 DIVISION OF INSPECTION

PERMIT

No 64247

Date 7-27-94

Project No 940960

LOCATION OF BUILDING	AT (LOCATION) <u>703 Curtis St</u> (BY) (STREET)	OWNER <u>AK Steel Co</u>	ADDRESS	OFFICE USE ONLY	Lot No
OCCUPANT <u>Office Entrance</u>					

THE CONTRACTOR LISTED BELOW IS HEREBY GRANTED A PERMIT TO:
transmount
Sign #10

BUILDING ELECTRICAL HVAC PLUMBING

ZONING REQUIRED?	NEW CONSTRUCTION	FURNACES (type fuel)	NO. OF FIXTURES
CONSTR. TYPE	CONSTRUCTION POLE	AIR CONDITIONERS	WATER SERVICE
USE OCCUPANCY	SERVICE ENTRANCE	BOILERS	SEWER
LENGTH X WIDTH <u>129' x 37'</u>	ELEC. BASEBOARD HEAT	DUCT WORK	FIRE LINE (size)
AREA (SQUARE FT) <u>3215</u>	ROOM ADDITION	UNIT HEATERS	DETECTO METER
CERTIFICATE OF OCCUPANCY/ APPROVAL	ADDED WIRING	OTHER (DESCRIBE)	SPRINKLING METER
OCCUPANTS/FAMILIES	SWIMMING POOL	GAS LINE	VENDING MACHINES
NO. OF STORES	GARAGE		METER SIZE
HEIGHT <u>20'</u>	HEATING/COOLING		METER LOCATION
VALUATION \$ <u>200,000</u>	OTHER (DESCRIBE)		OTHER (DESCRIBE)
OTHER (DESCRIBE)			GAS LINE

PERMIT EXPIRES SIX (6) MONTHS FROM DATE ISSUED OR IF THE WORK AUTHORIZED BY IT IS SUSPENDED FOR ONE YEAR.

SIGN transmount

The work hereby authorized is to be done in accordance with the laws of the State of Ohio, the ordinances of the City of Middletown Ohio, pertaining to same, a copy of which is on file in the office of the Division of Inspection and in accordance with the plans and specifications heretofore submitted.

DEMOLITION

FIRE SUPPRESSION

This Permit is subject to revocation upon violation of any of its terms or conditions.

INSPECTION REQUEST: READY WELL CALL

CONTRACTOR AME Sign Co
 NAME No

Recd. By L J Colliver
 Chief Building Official

PERMIT FEE \$ 43.00
 PLAN REVIEW FEE \$ 0.00
 STATE SURCHARGE \$ 0.00
 TOTAL FEE \$ 43.00

INSPECTION REPORT

DATE

COMMENTS

9-9-94

ROUTING OK - NS
NOT INSTALLED

9-21-95

NO SIGNATURE INSTALLED NS
VOID PERMIT

SIGNS

**CITY OF MIDDLETOWN
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF INSPECTION**

**APPLICATION FOR
SIGN PERMITS**

All Applicants: Please complete all sections below:

1. A. APPLICATION DATE 7-21-94 PROJECT NUMBER _____
 JOB ADDRESS 703 1/2 CURTIS ST MIDDLETOWN OHIO 45043-0001 (Office Use Only)
 OWNER A K STEEL OWNER ADDRESS SAME AS ABOVE
 OCCUPANT SIGN #10 - OFFICE ENTRANCE LOT _____ PT. LOT _____ WARD _____

B. APPLICATION (Describe IS MADE TO Project) TRANSOM MOUNTED SIGN
SEE SHEETS 11 & 12 ON BLUEPRINTS

C. CONTRACTOR (I.D. No. _____)
 NAME AMG SIGN CO PHONE NUMBER (412) 391-9578
 ADDRESS 1928 FORBES AVE PGH PA 15219
 St. No. St. Name City State Zip Code

D. Estimated Cost \$ 2602.00

<p>2. A. TYPE OF SIGN:</p> <p>1. Wall (TRANSOM) <u>X</u></p> <p>2. Ground _____</p> <p>3. Roof _____</p> <p>4. Projecting _____</p> <p>5. Temporary/Portable _____</p> <p>6. Marquee _____</p>	<p>B. MATERIAL OF SIGN:</p> <p>1. Metal <u>X</u></p> <p>2. Plastic _____</p> <p>Sq. Ft. _____</p> <p>3. Wood _____</p> <p>4. Other (Describe) _____</p>
<p>C. DIMENSIONS OF SIGN:</p> <p>1. Length of Sign <u>124"</u></p> <p>2. Height of Sign <u>37"</u></p> <p>3. Elevation above ground <u>90"</u></p> <p>4. No. of Sq. Ft. <u>3275 sq</u></p> <p>5. Design Wind Load <u>NA</u></p> <p>6. Projection in feet <u>NA</u></p>	<p>D. SIGN CIRCUIT REQUIRED? Yes _____ No <u>X</u></p> <p>UNDERWRITERS LABEL SHOWING VA RATING? Yes _____ No <u>X</u></p> <p>If yes, Give Number _____</p>
<p>E. APPLICATION MADE FOR LABELING OF SIGN? Yes _____ No <u>X</u></p>	<p>F. OTHER _____</p>

The above sign is to be secured and fastened by approved supports. It is hereby agreed that if this application is approved the sign will conform in every detail with the requirements of Ordinance No. 1446 of the city of Middletown relating to sign and outdoor display structures, and Section 1446.06, Codified Ordinances, which provides this permit may be revoked at any time by the City when public interest requires.

G. PLEASE READ AND SIGN

I, THE UNDERSIGNED, DO HEREBY AFFIRM: THE ABOVE STATEMENTS ARE TRUE AND CORRECT AND ALSO AGREE TO COMPLY WITH THE PROVISIONS OF THE ORDINANCES OF THE CITY OF MIDDLETOWN. THE PROPOSED WORK IS AUTHORIZED BY THE OWNER IN FEE AND I HAVE THE AUTHORIZATION TO MAKE THIS APPLICATION. UPON NOTIFICATION OF APPROVAL PERMIT FEE MUST BE PAID AND PERMIT OBTAINED WITHIN THIRTY (30) DAYS OR APPLICATION WILL BE CANCELLED.

OWNER
 OWNER REP
 CONTRACTOR

Signature: Richard W. Schulz RICHARD W. SCHULZ

Please note: All permits expire six (6) months from date issued or if the work authorized by it is suspended.

703 CURTIS ST

PROJECT NO.: 951197

PLAN DESC:

OWNER: A K STEEL

ADDRESS:

OCCUPANT: SAME

LQT:

PT 1:

PT 2:

STATUS: I

CNDTION:

APT:

UNITS:

COMMENTS:

PERMITS REQ.:

INACTIVE DT.: 12-01-95

PERMIT INFORMATION

Contractor	Company	Type	Description	Permit	Issued
BLAKLEY, JR, PAUL TOM	BLA-CON INDUSTRIES	E	REMODEL 2ND FLOOR BOARDROOM	67247	09-13-95
REMODEL 2ND FLOOR BOARDROOM					

INSPECTION INFORMATION

Insp	Permit	Type	Codes	Comment	Date
RS	NONE	B	RC	SEE DENNY FEIX ON HANDRAILS	09-25-95
WEC	67247	E	RO		09-14-95
WEC	67247	E	FI FI		12-01-95