

IN THE SUPREME COURT OF OHIO

OHIO PATROLMEN'S BENEVOLENT
ASSOCIATION, :

Appellee, :

-vs- :

CITY OF MUNROE FALLS, :

Appellant. :

08-0535

On appeal from the Summit County Court
of Appeals
Ninth Appellate District

Court of Appeals
Case No. 23898

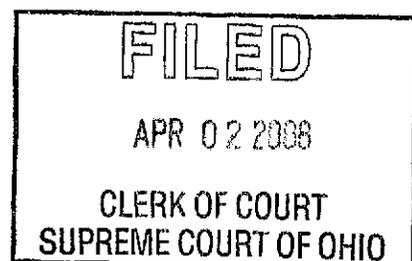
**NOTICE BY APPELLEE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION
OF COURT OF APPEALS DETERMINATION THAT NO CONFLICT EXISTS**

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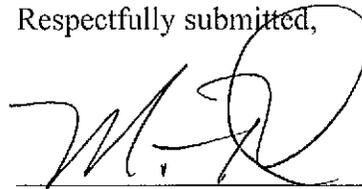
COUNSEL FOR APPELLANT, CITY OF MUNROE FALLS



Notice by Appellee Ohio Patrolman's Benevolent Association to Court of Appeals
Determination that no Conflict Exists

Appellee Ohio Patrolman's Benevolent Association hereby gives notice to the Supreme Court of Ohio that on March 24, 2008 the Ninth District Court of Appeals determined that a conflict did not exist and denied the Appellee's Motion to Certify a Conflict.

Respectfully submitted,

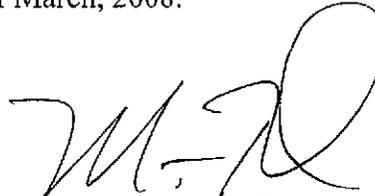


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COUNSEL FOR APPELLEE, OHIO
PATROLMEN'S BENEVOLENT
ASSOCIATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Notice was sent by ordinary U.S. mail to counsel for Appellant, Jack Morrison, Jr. 159 South Main Street, Key Building, Suite 1100, Akron, Ohio 44308 on this 31ST day of March, 2008.



Matthew B. Baker, Esq.

COUNSEL FOR APPELLEE, OHIO
PATROLMEN'S BENEVOLENT
ASSOCIATION

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

COURT OF APPEALS
DANIEL M. MORRIGAN IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT
2008 MAR 24 AM 9:54

OHIO PATROLMEN'S
BENEVOLENT ASSOCIATION

SUMMIT COUNTY
CLERK OF COURTS C.A. No. 23898

Appellee

v.

CITY OF MUNROE FALLS

Appellant

JOURNAL ENTRY

Appellee, the Ohio Patrolmen's Benevolent Association ("OPBA"), has moved, pursuant to App.R. 25, to certify a conflict between the judgment in this case, which was journalized on February 20, 2008, and the judgments of the Twelfth Appellate District in *Union Twp., Clermont Cty. Ohio v. Union Twp. Professional Firefighters' Local 3412* (2001), 142 Ohio App.3d 542, and the Fifth District Court of Appeals in *Fraternal Order of Police, Ohio Labor Council, Inc. v. W. Bruce Umpleby* (Feb. 12, 1996), 5th Dist. No. 1995 CA 00196. The City of Munroe Falls has responded to the motion.

Article IV, Section 3(B)(4) of the Ohio Constitution requires this Court to certify the record of the case to the Ohio Supreme Court whenever the "judgment *** is in conflict with the judgment pronounced upon the same question by any other court of appeals in the state[.]" "[T]he alleged conflict must be on a rule of law -- not facts." *Whitelock v. Gilbane Bldg. Co.* (1993), 66 Ohio St. 3d 594, 596.

The OPBA has proposed that a conflict exists between the districts on the following issue:

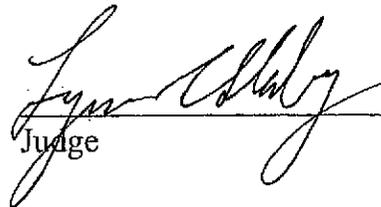
“Where a collective bargaining agreement expressly reserves a jurisdictional determination (i.e. arbitrability) for the arbitrator, may a court refuse to compel arbitration of the dispute, and instead, make an independent determination concerning the arbitrability of a grievance?”

We find that no conflict of law exists. Our holding in this matter was limited to the specific issue of whether the OPBA had a claim to pursue in the trial court. We did not reach the issue of arbitrability because we found that the OPBA’s claim was barred by res judicata and that, therefore, they had no claim to pursue. The cases cited by the OPBA as conflicting with our holding in this matter do not concern this specific issue. As such, we find that no conflict exists.

Because no conflict exists, the motion to certify is denied.



Judge



Judge