

IN THE SUPREME COURT OF OHIO

FRANKLIN J. VAN BEUSECUM, et al., :

Plaintiffs-Appellees, :

v. :

CONTINENTAL BUILDERS, INC. :

Defendant-Appellant. :

Supreme Court Case No. 08-1150

On Appeal from the Delaware  
County Court of Appeals, Fifth  
Appellate District  
Case No. 06 CAE 12-0095

**NOTICE OF A MOTION TO CERTIFY CONFLICT**  
**PENDING IN THE FIFTH DISTRICT COURT OF APPEALS**

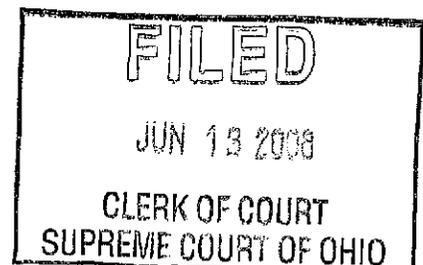
Rex H. Elliott, Esq.  
Charles H. Cooper, Jr., Esq.  
*COOPER & ELLIOTT*  
2175 Riverside Drive  
Columbus, OH 43221

*Attorneys for Plaintiffs-Appellees,  
Franklin J. and Lisa Van Beusecum*

David A. Caborn (0037347)  
*CABORN & BUTAUSKI CO., LPA*  
765 S. High Street  
Columbus, OH 43206  
(614) 445-6265; FAX: (614) 445-6295

John J. Joseph (0012257)  
*JOSEPH & JOSEPH*  
931 S. Front Street  
Columbus, OH 43206-2520  
(614) 449-8282; FAX: (614) 449-8287

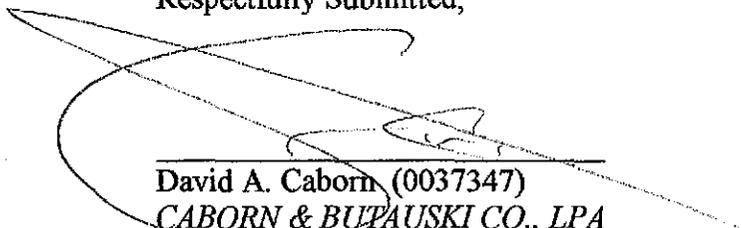
*All As Counsel for Defendant-Appellant,  
Continental Builders, Inc.*



**Notice of Motion to Certify Conflict Pending**

Appellant, Continental Builders, Inc. gives the Court notice that a motion to certify conflict is pending in the Delaware County Court of Appeals, Fifth Appellate District. The Motion involves the conflict between the Fifth Appellate District's decision in this case that damages do not have to be calculated at the time of the breach, and the holdings of the Tenth District Court of Appeals in Nance v. Isaacs (May 14, 1981), 10<sup>th</sup> Dist. No. 80AP756 and the Sixth District Court of Appeals in Palacios v. Dillon (June 7, 1991), 6<sup>th</sup> Dist. No. E-90-15.

Respectfully Submitted,



David A. Caborn (0037347)  
CABORN & BUTAUSKI CO., LPA  
765 S. High Street  
Columbus, OH 43206  
(614) 445-6265; FAX: (614) 445-6295

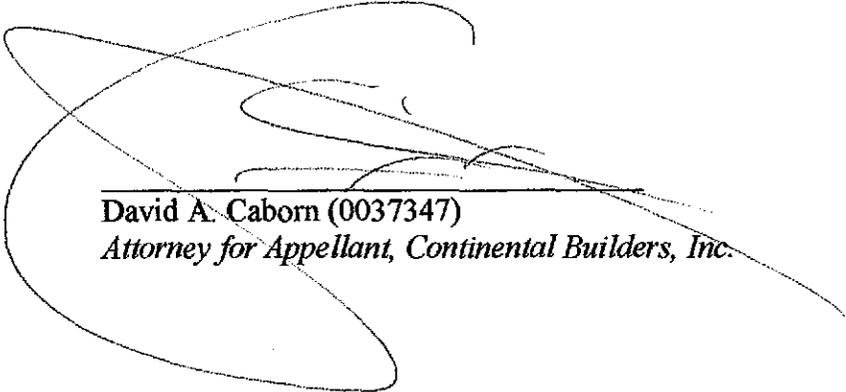
*John J. Joseph*  
John J. Joseph (0012257) 6/13/08  
JOSEPH & JOSEPH  
931 S. Front Street  
Columbus, OH 43206-2520  
(614) 449-8282; FAX: (614) 449-8287

COUNSEL FOR APPELLANT,  
CONTINENTAL BUILDERS, INC.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served, via regular U.S. Mail, postage prepaid, this 13 day of June, 2008, upon the following:

Charles H. Cooper, Jr., Esq.  
Rex H. Elliott, Esq.  
COOPER & ELLIOT  
2175 Riverside Drive  
Columbus, Ohio 43221



David A. Caborn (0037347)  
*Attorney for Appellant, Continental Builders, Inc.*