

In the Supreme Court of Ohio

**ELEVATORS MUTUAL INSURANCE
COMPANY**

Plaintiff/Appellee,

v.

**J. PATRICK O'FLAHERTY'S, INC., et
al.**

Defendants/Appellees.

SUPREME COURT CASE NO.:

09-0321

**On appeal from the Sandusky County
Court of Appeals, Sixth Appellate
District**

Court of Appeals Case No.: S-08-006

**APPELLANT NAMIC INSURANCE COMPANY'S NOTICE OF PENDING
MOTION TO CERTIFY A CONFLICT IN THE COURT OF APPEALS FOR
SANDUSKY COUNTY, SIXTH APPELLATE DISTRICT,
TO THE SUPREME COURT OF OHIO**

W. Patrick Murray (0008841)
Telephone: (419) 624-3122
James L. Murray, Esq. (0068471)
Telephone: (419) 624-3129
William H. Bartle (0008795)
Telephone (419) 624-3012
Murray & Murray Co., L.P.A.
111 E. Shoreline Drive
Sandusky, Ohio 44870
Facsimile: (419) 624-0707

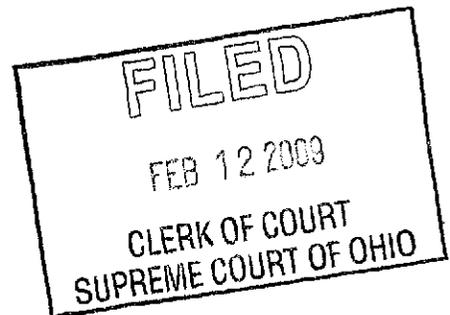
Attorneys for Defendants/Appellees
**J. Patrick O'Flaherty's, Inc.,
Richard A. Heyman, & Jan N. Heyman**

Robert E. Chudakoff (0038594)
Gary S. Greenlee (0067630)
Ulmer & Berne LLP
Skylight Office Tower
1660 West 2nd Street, Suite 1100
Cleveland, Ohio 44113-1448
Telephone: (216) 583-7000
Facsimile: (216) 583-7001

Attorneys for Plaintiff/Appellee Elevators
Mutual Insurance Company

Jay Clinton Rice (0000349)
(Counsel of Record)
Richard C.O. Rezie (0071321)
GALLAGHER SHARP
Sixth Floor, Bulkley Building
1501 Euclid Avenue
Cleveland, Ohio 44115
Telephone: (216) 241-5310
Facsimile: (216) 241-1608
Email: jrice@gallaghersharp.com; and
rrezie@gallaghersharp.com

*Attorneys for Appellant/Intervenor NAMIC
Insurance Company*

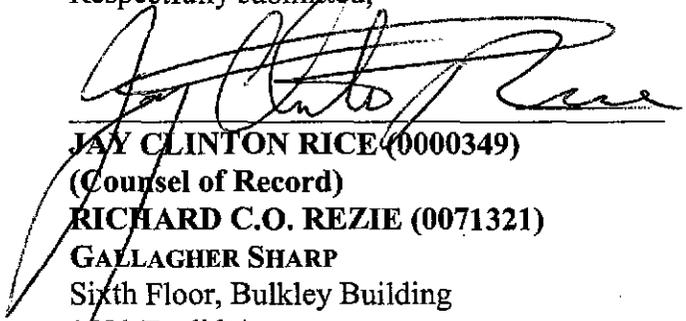


Notice of Pending Motion to Certify a Conflict in the Court of Appeals

Now comes Appellant NAMIC Insurance Company and, pursuant to Supreme Court Rule of Practice IV, Section 4(A), hereby gives notice that Elevators Mutual Insurance Company has timely filed a Motion to Certify a Conflict to this Court in the Court of Appeals for Sandusky County, Sixth Appellate District, on January 27, 2009 and that such motion remains pending with that court of appeals.

Therefore, Appellant NAMIC Insurance Company respectfully asks this Court to stay consideration of its jurisdictional memorandum, filed contemporaneously herewith, pending the resolution of Elevators Mutual Insurance Company's Motion to Certify a Conflict between the Appellate Districts by the Court of Appeals for Sandusky County, Sixth Appellate District. See Supreme Court Rule of Practice IV, Section 4(A).

Respectfully submitted,



JAY CLINTON RICE (0000349)

(Counsel of Record)

RICHARD C.O. REZIE (0071321)

GALLAGHER SHARP

Sixth Floor, Bulkley Building

1501 Euclid Avenue

Cleveland, Ohio 44115

(216) 241-5310 (Telephone)

(216) 241-1608 (Telefax)

***Attorneys for Appellant/Intervenor NAMIC
Insurance Company***

CERTIFICATE OF SERVICE

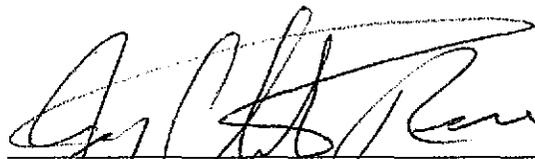
A copy of the foregoing Notice of Pending Motion to Certify a Conflict in the Court of Appeals has been mailed this 11 day of February, 2009 to the following:

Robert E. Chudakoff, Esq.
Gary S. Greenlee, Esq.
Ulmer & Berne LLP
Skylight Office Tower
1660 West 2nd Street, Suite 1100
Cleveland, Ohio 44113-1448

*Attorneys for Plaintiff/Appellee Elevators
Mutual insurance Company*

W. Patrick Murray, Esq.
James L. Murray, Esq.
Murray & Murray Co., L.P.A.
111 E. Shoreline Drive
Sandusky, Ohio 44870

*Attorneys for Defendants/Appellees
J. Patrick O'Flaherty's, Inc.,
Richard A. Heyman, & Jan N. Heyman*



JAY CLINTON RICE (0000349)

(Counsel fo Record)

RICHARD C.O. REZIE (0071321)

*Attorneys for Appellant/Intervenor NAMIC
Insurance Company*