

IN THE SUPREME COURT OF OHIO

Doug Bergman, et al.

* **09-0558**

Plaintiffs-Appellants,

* Notice of Pending Motion to Certify a
Conflict

v.

*

Monarch Construction Co.

* Court of Appeals
Case No. CA 2008-02-044

Defendants-Appellees.

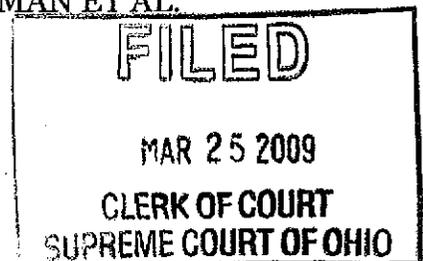
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**APPELLANTS' NOTICE OF A PENDING
MOTION TO CERTIFY A CONFLICT**

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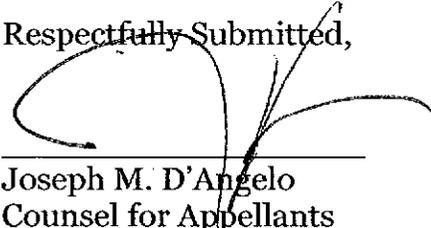
**APPELLANTS' NOTICE OF A PENDING MOTION TO
CERTIFY A CONFLICT**

Pursuant to S.C. Prac. R. II § 2(B)(3), Appellants Doug Bergman et al. notify this Court of a Motion to Certify a Conflict pending in the Court of Appeals for the Twelfth Appellate District of Ohio. This motion was filed on February 19, 2009 and alleges a conflict based on:

1. In an R.C. 4115.10(A) action, is the contractor liable for underpayments caused by a public authority's failure to notify of a rate change?
2. Are penalties under R.C. 4115.10(A) mandatory in a court enforcement action in the absence of an R.C. 4115.13(C) determination from the director of commerce?

The case in conflict with the first issue is *Wiegand v. Roof Craft Inc.* (1993), 1993 Ohio App. LEXIS 45. The case in conflict with the second issue is *IBEW Local Union No. 8 v. Stollsteimer Electric, Inc.* (2006), 2006 Ohio 3865.

Respectfully Submitted,

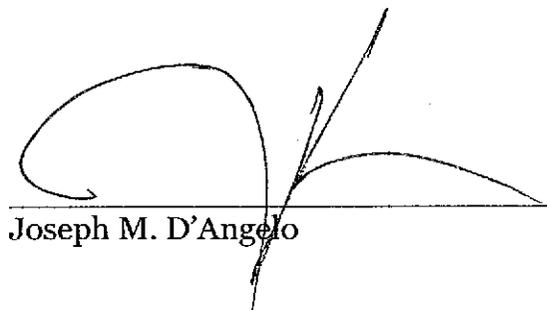


Joseph M. D'Angelo
Counsel for Appellants

CERTIFICATE OF SERVICE

I certify that on this 21st day of March, 2009, a copy of this APPELLANTS' NOTICE OF A PENDING MOTION TO CERTIFY A CONFLICT was sent by ordinary U.S. Mail to counsel for Appellee:

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