

IN THE SUPREME COURT OF OHIO

THE STATE OF OHIO ex. rel.)	
AMERICAN GREETINGS CORP., et al.)	Case No. 2010-0582
)	
Relators)	
)	
vs.)	Original Action in Mandamus and
)	Prohibition
JUDGE NANCY A. FUERST, et al.,)	
)	
Respondents.)	
)	

PARTY OF INTEREST, ELECTRICAL WORKERS PENSION FUND
LOCAL 103 I.B.E.W.'S MOTION TO INTERVENE

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Counsel for Intervenor

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MOTION TO INTERVENE

In March 2009, the Electrical Workers Pension Fund Local 103 I.B.E.W. (“Plaintiff”) filed a shareholder derivative suit in the Cuyahoga County Court of Common Pleas (case number CV-09-687985) (the “Underlying Action” or “Action”) against officers and directors of American Greetings Corporation on behalf of nominal defendant American Greetings Corporation, the Relators in this Original Action in Mandamus and Prohibition (“Original Action”). *See* Complaint for Writs of Prohibition and Mandamus (“Relators’ Complaint”), ¶13. After over a year of procedural roadblocks, initiated by the Relators (¶15), which have delayed the prosecution of the Underlying Action, Relators have now filed this Original Action to challenge the orders of the trial judge and administrative judge not to transfer the Underlying Action to the commercial docket. The basis of Relators’ claim is that only a commercial docket judge may adjudicate the Underlying Action.

In the Underlying Action, Relators filed a motion to transfer the Action from Respondent, Judge Peter Corrigan, to one of the two “commercial docket judges” in Cuyahoga County. Relators’ Complaint, Ex. 5. Plaintiff opposed that motion and it was denied by Judge Corrigan after being fully briefed. *Id.* Relators appealed the denial of their motion to transfer to Respondent, Administrative Judge Nancy Fuerst. *Id.* Plaintiff opposed that appeal and after even more extensive briefing by both sides (Relators filed a total of four briefs), Judge Fuerst denied Relators’ appeal. *Id.* Relators have now filed this Original Action to prohibit Judge Corrigan from continuing to hear the Underlying Action and to compel Judge Fuerst to transfer the case to a “commercial docket judge.”

Under Ohio Rule of Civil Procedure 24(A) ("Rule 24A"), Plaintiff shall be "permitted to intervene in [this] action [because] . . . [it] claims an interest relating to the . . . transaction that is the subject of the action." The subject of Relators' Original Action is the assignment of a common pleas court judge to hear the Underlying Action. Plaintiff unequivocally has an interest in whether the Underlying Action is assigned to the commercial docket or remains on the non-commercial docket.

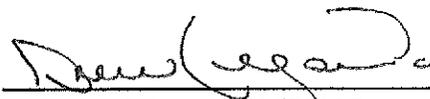
This Court has held that Rule 24(A) is to be liberally construed, and the adverse party to an underlying dispute should be allowed to intervene as a respondent when a writ of mandamus or prohibition is sought by the other party. *See Dept. of Admin. Servs. v. State Employment Relations Bd.* (1990), 54 Ohio St.3d 48, 51, 562 N.E.2d 125.

Plaintiff is filing concurrently herewith its Motion to Dismiss Relators' Complaint for Writs of Prohibition and Mandamus and Memorandum in Support.

THEREFORE, Plaintiff should be permitted to intervene as a Respondent in this Action.

Dated: April 27, 2010

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above *Party of Interest, Electrical Workers Pension Fund Local 103 I.B.E.W.'S Motion to Intervene* was served on April 27, 2010, via electronic mail, upon the following counsel:

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