

In the
Supreme Court of Ohio

DON B. KINCAID, JR.,

Plaintiff-Appellee,

v.

ERIE INSURANCE COMPANY,

Defendant-Appellant.

Case No. 2009-1936

On Appeal from the Cuyahoga County
Court of Appeals, Eighth Appellate
District, Case No. 92101

**MOTION OF AMICI CURIAE PROGRESSIVE PREFERRED INSURANCE
COMPANY, PROGRESSIVE DIRECT INSURANCE COMPANY,
PROGRESSIVE CASUALTY INSURANCE COMPANY, AND
PROGRESSIVE SPECIALTY INSURANCE COMPANY FOR LEAVE TO
SHARE ORAL ARGUMENT TIME WITH APPELLANT ERIE INSURANCE
COMPANY**

Ron A. Rispo
Shawn W. Maestle
WESTON HURD LLP
1301 East Ninth Street, Suite 1900
Cleveland, Ohio 44114
Attorneys for Appellant
Erie Insurance Company

Paul W. Flowers
PAUL W. FLOWERS CO., LPA
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113

and
W. Craig Bashein
John P. Hurst
BASHEIN & BASHEIN
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113
Attorneys for Appellee
Don B. Kincaid, Jr.

Marvin L. Karp (0021944)
Joseph A. Castrodale (0018494)
Brad A. Sobolewski (0072835)
ULMER & BERNE LLP
Skylight Office Tower
1660 West 2nd Street, Suite 1100
Cleveland, Ohio 44113
Tel: (216) 583-7000
Fax: (216) 583-7001
mkarp@ulmer.com
jcastrodale@ulmer.com
bsobolewski@ulmer.com
Attorneys for Amici Curiae
Progressive Preferred Insurance Company,
Progressive Direct Insurance Company,
Progressive Casualty Insurance Company,
and Progressive Specialty Insurance
Company

FILED
SEP 01 2010
CLERK OF COURT
SUPREME COURT OF OHIO

Pursuant to Rule 9.6 of the Supreme Court of Ohio Rules of Practice, and with the consent of Appellant Erie Insurance Company (“Erie”), amici curiae Progressive Preferred Insurance Company, Progressive Direct Insurance Company, Progressive Casualty Insurance Company, and Progressive Specialty Insurance Company (collectively “Progressive”) respectfully request leave to participate in the oral argument of this matter within the time allotted to Appellant Erie.

Erie’s counsel consents to sharing its allotted time for oral argument with Progressive. Oral argument is presently scheduled for September 28, 2010.

Respectfully submitted,



Marvin L. Karp (0021944)
Joseph A. Castrodale (0018494)
Brad A. Sobolewski (0072835)
ULMER & BERNE LLP
Skylight Office Tower
1660 West 2nd Street, Suite 1100
Cleveland, Ohio 44113
Tel: (216) 583-7000
Fax: (216) 583-7001
mkarp@ulmer.com
jcastrodale@ulmer.com
bsobolewski@ulmer.com
Attorneys for Amici Curiae
Progressive Preferred Insurance Company,
Progressive Direct Insurance Company,
Progressive Casualty Insurance Company,
and Progressive Specialty Insurance
Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion of Amici Curiae Progressive Preferred Insurance Company, Progressive Direct Insurance Company, Progressive Casualty Insurance Company, and Progressive Specialty Insurance Company for Leave to Share Oral Argument Time with Appellant Erie Insurance Company was served via regular United States mail on this 31st day of August, 2010, on the following:

Ron A. Rispo
Shawn W. Maestle
Weston Hurd LLP
1301 East Ninth Street, Suite 1900
Cleveland, Ohio 44114
Attorneys for Appellant
Erie Insurance Company

Paul W. Flowers
Paul W. Flowers Co., LPA
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113

and

W. Craig Bashein
John P. Hurst
Bashein & Bashein
Terminal Tower, 35th Floor
50 Public Square
Cleveland, Ohio 44113
Attorneys for Appellee
Don B. Kincaid, Jr.



One of the Attorneys for Progressive Preferred Insurance Company, Progressive Direct Insurance Company, Progressive Casualty Insurance Company, and Progressive Specialty Insurance Company

1856215