

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

December 24, 2003

MERIT DECISIONS WITH OPINIONS

2002-1147 and 2002-1231. State v. Shondrick, 2003-Ohio-6464.

Medina App. No. 3216-M, 2002-Ohio-2439. Appeal dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2002-1276. DeWeese v. Zaino, 2003-Ohio-6502.

Board of Tax Appeals, Nos. 02-A-144, 02-A-145, and 02-A-327. Decision affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, O'Connor and O'Donnell, JJ., concur.
Pfeifer and Lundberg Stratton, JJ., dissent.

2002-1277. Yoder v. Zaino, 2003-Ohio-6502.

Board of Tax Appeals, Nos. 02-A-140, 02-A-141, and 02-A-328. Decision affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, O'Connor and O'Donnell, JJ., concur.
Pfeifer and Lundberg Stratton, JJ., dissent.

2002-1278. Snider v. Zaino, 2003-Ohio-6502.

Board of Tax Appeals, Nos. 02-A-137, 02-A-138, and 02-A-329. Decision affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, O'Connor and O'Donnell, JJ., concur.
Pfeifer and Lundberg Stratton, JJ., dissent.

2002-1674. Maestle v. Best Buy Co., 2003-Ohio-6465.

Cuyahoga App. No. 79827, 2002-Ohio-3769. Judgment reversed and cause remanded.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and Whitmore, JJ., concur.

Beth Whitmore, J., of the Ninth Appellate District, sitting for O'Donnell, J.

2002-1955. Leon v. Boardman Twp., 2003-Ohio-6466.

Mahoning App. No. 01CA235, 2002-Ohio-5371. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-0446. Workman v. Carlisle Engineered Products, Inc., 2003-Ohio-6517.

Cuyahoga App. Nos. 81179 and 81211, 2003-Ohio-293. Judgment reversed.

Moyer, C.J., Lundberg Stratton, O'Connor and DeGenaro, JJ., concur.

Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

Mary DeGenaro, J., of the Seventh Appellate District, sitting for O'Donnell, J.

2003-1009. State ex rel. Ministerial Day Care Assn. v. Montgomery, 2003-Ohio-6446.

Cuyahoga App. Nos. 81762 and 81895, 2003-Ohio-5635. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-1024. State ex rel. Ministerial Day Care Assn. v. Zelman, 2003-Ohio-6447.

Cuyahoga App. No. 82128, 2003-Ohio-2653. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-1320. State ex rel. Fuller v. Mengel, 2003-Ohio-6448.

Franklin App. No. 03AP-2, 2003-Ohio-3558. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-1512. Portage Cty. Bar Assn. v. Mitchell, 2003-Ohio-6449.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 03-008.

Donald P. Mitchell Jr., Attorney Registration No. 0016178, is suspended from the practice of law for six months, stayed on condition.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-1516. Cuyahoga Cty. Bar Assn. v. Lawrence, 2003-Ohio-6450.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 03-15.

David Lawrence, Attorney Registration No. 0015293, is indefinitely suspended from the practice of law.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-1517. Mahoning Cty. Bar Assn. v. Longenhagen, 2003-Ohio-6451.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 02-032.

Je'Anne Longenhagen, Attorney Registration No. 0029166, is suspended from the practice of law for one year with six months stayed on condition.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-1521. Booker v. Anderson, 2003-Ohio-6452.

Lorain App. No. 03CA008279. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-1535. Toledo Bar Assn. v. Chelsea Title Agency of Dayton, Inc., 2003-Ohio-6453.

On Final Report of the Board of Commissioners on the Unauthorized Practice of Law. Respondent is enjoined from the unauthorized practice of law and fined \$1,000.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

MERIT DECISIONS WITHOUT OPINIONS

2003-1827. State ex rel. Cline v. Jackson.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Moyer, C.J., dissents and would grant an alternative writ.

2003-1853. State ex rel. Fears v. Davis.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-1877. State ex rel. Hall v. Groft.

In Mandamus. On motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

2003-1888. State ex rel. Sherman v. Sargeant.

In Mandamus and Procedendo. On answer of respondent Warren Brown, Clerk.

On S.Ct.Prac.R. X(5) determination, cause dismissed.

Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Moyer, C.J., dissents and would grant an alternative writ.

2003-2027. Indiana Ins. Co. v. Farmers Ins. of Columbus.

Tuscarawas App. No. 2002AP110089, 2003-Ohio-4855. On review of order certifying a conflict. The court determines that no conflict exists within the meaning of S.Ct.Prac.R. IV(2)(B). This cause is therefore dismissed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur.

O'Donnell, J., dissents.

MOTION AND PROCEDURAL RULINGS

1989-0310. State v. Wickline.

Franklin App. No. 87AP-46. On motion to set execution date. Motion granted.

1990-1780. State ex rel. Internatl. Union of Operating Engineers v. Cleveland.

Cuyahoga App. No. 57729. On relator's motion to show cause why respondents should not be deemed contemnors of this court's judgment and writ, and respondents' motion to strike and answer.

IT IS HEREBY ORDERED that respondents' motion to strike be DENIED.

IT IS HEREBY ORDERED that relator's motion be GRANTED. Respondents are ORDERED to show cause why they should not be held in contempt of court. Any evidence the parties intend to present on the contempt

issue is due within 20 days; respondents' brief is due within 10 days after the submission of evidence; relators' brief is due within 20 days after the filing of respondents' brief; and respondents' brief is due within 5 days after the filing of relator's brief.

2001-1325. State ex rel. Shemo v. Mayfield Hts.

In Mandamus. On respondent Mayfield Heights' response to show-cause contempt order. Respondent is not found to be in contempt.

Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

On motion to strike evidence submitted by respondents. Motion denied.

Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

On motion to supplement record with respect to motion for order of contempt of writ and for sanctions. Motion granted.

Moyer, C.J., O'Connor and O'Donnell, JJ., dissent.

2002-2130. State v. McKnight.

Vinton C.P. No. 01CR7230. On motion to seal defendant's exhibits G and H. Motion denied.

F.E. Sweeney and Lundberg Stratton, JJ., dissent.

On motion to substitute photocopies for the originals of defendant's exhibits G and H. Motion granted.

2003-0346. State v. Turner.

Franklin C.P. No. 01CR063615. On motion for return of items improvidently transmitted in the appellate record. Motion granted.

2003-0860. State ex rel. Petro v. R.J. Reynolds Tobacco Co.

Franklin App. No. 02AP-591, 152 Ohio App.3d 345, 2003-Ohio-1654. On motion for admission pro hac vice of Thomas R. McCarthy by Jeffrey J. Jones. Motion granted.

2003-1880. N. Buckeye Edn. Council Group Health Benefits Plan v. Lawson.

Lucas App. No. L-02-1298, 154 Ohio App.3d 659, 2003-Ohio-5196. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 17 of the court of appeals' Decision and Judgment Entry dated September 30, 2003:

"Is a subrogation and reimbursement clause which attempts to give an insurer claim priority over the insured's claim against a third party or other insurer, regardless of whether the insured has received full compensation for her injuries, against public policy and unenforceable?"

F.E. Sweeney, J., dissents.

The conflict case is *Cent. Res. Life Ins. Co. v. Hartzell* (Nov. 30, 1995), Tuscarawas App. No. 94AP120094, 1995 WL 768553.

2003-1903. State v. Cline.

Champaign App. No. 2002CA05, 2003-Ohio-4712. On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the issue stated at page 2 of the court of appeals' Decision and Entry dated October 21, 2003:

“Can the failure to comply with the requirement of Crim.R. 44(C) that, in serious offense cases, a waiver of counsel shall be in writing, constitute harmless error when the defendant, without counsel representing him, is tried, convicted, and sentenced to confinement?”

F.E. Sweeney, J., dissents.

The conflict case is *State v. Manley* (Jan. 21, 1997), Columbiana App. No. 95-CO-53, 1997 WL 28543.

Sua sponte, motion for appointment of new appellate counsel granted.

F.E. Sweeney, J., dissents.

2003-1965. State v. Brewster.

Hamilton App. No. C-020748. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

2003-1986. State v. Douglas.

Stark App. No. 2002CA00240, 2003-Ohio-4259. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

2003-1994. State v. White.

Butler App. No. CA2002-07-161, 2003-Ohio-2011. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

2003-2011. State v. Skatzes.

Montgomery App. No. 15848, 2003-Ohio-516. On motion for admission pro hac vice of Donald C. Schumacher for John G. Humphrey. Motion granted.

2003-2024. State v. Wooden.

Summit App. No. 21138, 2003-Ohio-1917. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

APPEALS ACCEPTED FOR REVIEW

2003-1646. State v. Cossin.

Athens App. No. 02CA32, 2003-Ohio-4246.

Pfeifer, Lundberg Stratton and O'Connor, JJ., dissent.

2003-1653. In re All Kelley & Ferraro Asbestos Cases.

Cuyahoga App. Nos. 78158, 78159, 78299, 78301, 80083, 80332, 80673, and 81576, 153 Ohio App.3d 458, 2003-Ohio-3936. Discretionary appeal accepted and motion for admission pro hac vice of Frank J. Santoro, Karen M. Crowley, and John M. Ryan Jr. by Eric H. Zagrans granted.

O'Connor, J., concurs in part because she would accept only Proposition of Law No. I.

F.E. Sweeney, J., dissents.

Resnick, J., not participating.

2003-1767. State v. Francis.

Cuyahoga App. No. 82324, 2003-Ohio-4406.

Resnick and F.E. Sweeney, JJ., dissent.

2003-1773. Bernard Group v. New Hope Alternative Therapy Research.

Cuyahoga App. No. 82391, 153 Ohio App.3d 393, 2003-Ohio-4195.

Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

APPEALS NOT ACCEPTED FOR REVIEW

2003-1220. State v. Millender.

Fairfield App. No. 03CA03, 2003-Ohio-1691.

2003-1423. State v. Green.

Mahoning App. No. 01CA54, 2003-Ohio-3074 and 2003-Ohio-5442.

2003-1424. State v. Valentine.

Franklin App. No. 02AP-1220, 2003-Ohio-2664.

2003-1649. Mayfield Hts. v. Barry.

Cuyahoga App. No. 82129, 2003-Ohio-4065.

O'Donnell, J., dissents.

2003-1673. Wright v. Cincinnati Ins. Co.

Montgomery App. No. 19802, 2003-Ohio-4201.

2003-1675. State v. Smith.

Wayne App. No. 02CA0068, 2003-Ohio-4264.

2003-1680. McCarthy v. Republic-Franklin Ins. Co.

Montgomery App. No. 19571, 2003-Ohio-4206.

2003-1686. Finn v. Nationwide Agribusiness Ins. Co.

Allen App. No. 1-02-80, 2003-Ohio-4233.

2003-1696. Lewis v. Kizer.

Shelby App. No. 17-03-05, 2003-Ohio-4253.

2003-1704. State v. Todd.

Clermont App. No. CA2003-02-013.

2003-1707. Watley v. Ohio Dept. of Rehab. & Corr.

Franklin App. No. 03AP-292.

2003-1717. State v. Class.

Tuscarawas App. No. 03AP020015, 2003-Ohio-4536.

2003-1736. State v. Powell.

Montgomery App. No. 19685, 2003-Ohio-4430.

2003-1737. State v. Wood.

Allen App. No. 1-03-39.

2003-1744. Wilson v. Haimerl.

Madison App. No. CA2002-08-019, 2003-Ohio-4334. Discretionary appeal and cross-appeal not accepted.

2003-1745. Johnson v. Spectrum of Supportive Serv.

Cuyahoga App. No. 82267, 2003-Ohio-4404.

2003-1749. Crnarich v. United Foundries.
Mahoning App. No. 02CA128, 2003-Ohio-4458.
Pfeifer, J., dissents.

2003-1751. Triplett v. Nationwide Mut. Fire Ins. Co.
Franklin App. No. 02AP-869, 2003-Ohio-4502.

2003-1757. Akron v. The Tractor Place, Inc.
Summit App. No. 21379, 2003-Ohio-4531.

2003-1760. Huber Hts. ex rel. Slanker v. Huber Hts.
Montgomery App. No. 19767, 2003-Ohio-4427.

2003-1761. State v. Sinclair.
Cuyahoga App. No. 81437, 2003-Ohio-4337.

2003-1765. Dsuban v. Union Twp. Bd. of Zoning Appeals.
Butler App. Nos. CA2002-09-232 and CA2002-10-260, 2003-Ohio-4612.

2003-1770. State v. Williams.
Hamilton App. No. C-030563.

2003-1772. Turek v. Vaughn.
Seneca App. No. 13-03-20, 154 Ohio App.3d 612, 2003-Ohio-4473.

2003-1774. Holland v. Ohio Republic Ins. Co.
Hamilton App. No. C-030014.

2003-1775. State v. Nero.
Cuyahoga App. No. 81828.

2003-1780. State v. Hobbs.
Cuyahoga App. No. 81533, 2003-Ohio-4338.

Moyer, C.J., dissents, would accept on Proposition of Law No. V, and would hold for the decision in 2002-1792, *State v. Perry*, Franklin App. No. 01AP-996, 2002-Ohio-4545.

Lundberg Stratton and O'Donnell, JJ., dissent, would accept on Propositions of Law Nos. V and VIII, and would hold for the decisions in *State v. Perry*, supra, and 2003-0567, *State v. Finger*, Cuyahoga App. No. 80691, 2003-Ohio-402.

2003-1781. Maloof v. Squire, Sanders & Dempsey, L.L.P.

Cuyahoga App. No. 82406, 2003-Ohio-4351.

Resnick, F.E. Sweeney and O'Connor, JJ., dissent.

2003-1782. State v. Nipper.

Butler App. No. CA2002-06-135, 2003-Ohio-4449.

Moyer, C.J., dissents, would accept Propositions of Law Nos. I through V, and would hold for the decisions in 2003-0033, *State v. Colbert*, Cuyahoga App. No. 80361, 2002-Ohio-6315; and 2003-1048, *State v. White*, Guernsey App. No. 02CA23, 2003-Ohio-2289.

O'Donnell, J., dissents, would accept, and would hold for the decision in *State v. Colbert*, supra.

2003-1784. In re Estate of Rickels.

Paulding App. No. 11-03-09, 2003-Ohio-5125.

2003-1785. State v. Waters.

Ashland App. No. 03COA002, 2003-Ohio-4624.

2003-1788. State v. Hout.

Hamilton App. No. C-020667, 2003-Ohio-5088.

2003-1789. Dean v. Ohio State Hwy. Patrol.

Franklin App. No. 02AP-1438, 2003-Ohio-4505.

Pfeifer, J., dissents.

O'Connor, J., not participating.

2003-1792. Williams v. First Merit Bank, N.A.

Lorain App. No. 03CA008218, 2003-Ohio-4532.

F.E. Sweeney, J., dissents.

2003-1793. State v. Williams.

Hamilton App. No. C-020417.

2003-1795. State v. Jackson.

Franklin App. No. 02AP-468, 2003-Ohio-1653.

2003-1796. State v. Ambrose.

Cuyahoga App. No. 81672, 2003-Ohio-772.

O'Connor, J., dissents.

2003-1798. State v. Hunt.

Lorain App. No. 02CA008208, 2003-Ohio-4525.

Lundberg Stratton, O'Connor and O'Donnell, JJ., dissent.

2003-1801. State v. Goff.

Summit App. No. 21320, 154 Ohio App.3d 59, 2003-Ohio-4524.

2003-1802. State v. Stebelton.

Hocking App. No. 03CA15.

2003-1804. Clements v. Ohio Hosp. Ins. Co.

Stark App. No. 2003CA00261.

Moyer, C.J., and O'Connor, J., dissent.

2003-1807. State v. York.

Seneca App. No. 13-01-19, 154 Ohio App.3d 463, 2003-Ohio-4629.

2003-1812. Cherry v. Rumbaugh.

Columbiana App. No. 2002CO69, 2003-Ohio-4879.

2003-1814. State v. Krull.

Butler App. No. CA2002-06-146, 154 Ohio App.3d 219, 2003-Ohio-4611.

Lundberg Stratton, J., dissents.

2003-1815. State v. Davis.

Franklin App. No. 03AP-779.

2003-1816. Trainor v. Systems Alternatives Internatl., Inc.

Hamilton App. No. C-020637.

O'Donnell, J., would accept on Proposition of Law No. II.

2003-1817. State v. Doss.

Cuyahoga App. No. 80811, 2003-Ohio-4398.

O'Connor, J., dissents.

2003-1818. State v. Gray.

Cuyahoga App. No. 82045, 2003-Ohio-4670.

Resnick, Lundberg Stratton and O'Donnell, JJ., dissent.

2003-1819. Jeter v. Ramos.

Richland App. No. 03CA14, 2003-Ohio-5242.

2003-1820. Mayfield Hts. v. Barry.

Cuyahoga App. No. 82159, 2003-Ohio-4403.

2003-1821. State v. Kuhner.

Seneca App. No. 13-03-12, 154 Ohio App.3d 457, 2003-Ohio-4631.

Lundberg Stratton, J., would accept on Proposition of Law No. I.

2003-1822. State v. While.

Trumbull App. No. 2001-T-00051.

Lundberg Stratton, J., dissents.

2003-1823. Consun Food Industries, Inc. v. Ohio Liquor Control Comm.

Franklin App. No. 02AP-1375, 2003-Ohio-4683.

2003-1825. Williams v. Blair.

Cuyahoga App. No. 80822, 2003-Ohio-4399.

2003-1828. Castrataro v. Urban.

Franklin App. No. 03AP-128, 2003-Ohio-4705.

2003-1837. State v. Cline.

Champaign App. No. 2002CA05, 2003-Ohio-4712.

Moyer, C.J., and O'Connor, J., dissent and would accept on Propositions of Law Nos. I and II.

Lundberg Stratton, J., dissents and would accept on Propositions of Law Nos. I, II, and III.

2003-1849. State v. Moore.

Cuyahoga App. No. 82734, 2003-Ohio-4819.

2003-1858. Walther v. Newsome.

Portage App. No. 2002-P-0019, 2003-Ohio-4723.

Resnick and Lundberg Stratton, JJ., dissent.

2003-1861. Indiana Ins. Co. v. Farmers Ins. of Columbus.

Tuscarawas App. No. 2002AP110089, 2003-Ohio-4855.

Lundberg Stratton, J., dissents.

2003-1869. Indiana Ins. Co. v. Farmers Ins. of Columbus.

Tuscarawas App. No. 2002AP110090, 2003-Ohio-4851.

2003-1872. State v. Melhado.

Franklin App. No. 02AP-458, 2003-Ohio-4763.

2003-1892. Abbuhl v. Orange Village.

Cuyahoga App. No. 82203, 2003-Ohio-4662.

Lundberg Stratton and O'Donnell, JJ., would accept on Proposition of Law No. I.

2003-1909. State v. Shaw.

Franklin App. No. 02AP-1300, 2003-Ohio-4892.

2003-1953. State v. Cruse.

Franklin App. Nos. 03AP-648 and 03AP-649.

2003-1985. In re Zorns.

Franklin App. Nos. 02AP-1297 and 02AP-1298, 2003-Ohio-5664.

RECONSIDERATION OF PRIOR DECISIONS

2002-0740. Purvis v. Cincinnati Ins. Co.

Greene App. No. 2001CA104, 2002-Ohio-1803. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion granted and judgment vacated regarding the umbrella policy.

Pfeifer, J., would grant the motion for reconsideration.

Resnick and F.E. Sweeney, JJ., dissent.

2002-0803 and 2002-0837. German v. Therm-O-Disc, Inc.

Richland App. No. 01CA512, 2002-Ohio-1848. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2002-0932. Westfield Ins. Co. v. Galatis.

Summit App. No. 20784, 2002-Ohio-1502. Reported at 100 Ohio St.3d 216, 2003-Ohio-5849, 798 N.E.2d 1077. On motion for reconsideration, motion for reconsideration of Ohio Academy of Trial Lawyers, and motion for reconsideration of amicus curiae Bruce J. German. Motions denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

Mary DeGenaro, J., of the Seventh Appellate District, sitting for Cook, J.

2002-1854. Roberts v. Wausau Business Ins. Co.

Franklin App. Nos. 02AP-04 and 02AP-05, 149 Ohio App.3d 612, 2002-Ohio-4734. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2002-1986. Shaw v. State Farm Ins. Co.

Cuyahoga App. No. 80471, 2002-Ohio-5330. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2002-2075. Pahler v. Motorists Mut. Ins. Co.

Stark App. No. 2002CA00022, 2002-Ohio-5762. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2002-2123. Kekic v. Royal & SunAlliance Ins. Co.

Cuyahoga App. No. 80693, 2002-Ohio-5563. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2002-2198. Vicars v. McCray.

Summit App. No. 21087, 2002-Ohio-6033. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2002-2214. Greene v. Westfield Ins. Co.

Stark App. No. 2002CA00114, 2002-Ohio-6179. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0195 and 2003-0430. Greene v. Westfield Ins. Co.

Stark App. No. 2002CA00126, 2002-Ohio-7210. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0258 and 2003-0415. Poulton v. Am. Economy Ins. Co.

Stark App. Nos. 2002CA00038 and 2002CA00061, 2002-Ohio-7214. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0321 and 2003-0324. Millonzi v. Perram Elec., Inc.

Lake App. Nos. 2001-L-109, 2001-L-110, and 2001-L-111, 2002-Ohio-7340. Reported at 100 Ohio St.3d 67, 2003-Ohio-5030, 796 N.E.2d 521. On motion for reconsideration of Ann M. Millonzi. Motion denied.

O'Donnell, J., not participating.

2003-0391 and 2003-0535. Wilke v. Montes.

Ottawa App. No. OT-02-003, 2003-Ohio-217. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0523. Carle v. Stumbo.

Pickaway App. No. 02CA2, 2003-Ohio-1084. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0524. Wiley v. Grange Mut. Cas. Co.

Summit App. No. 21145, 2003-Ohio-539. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0532. Pilo v. Liberty Mut. Fire Ins. Co.

Ashland App. No. 02COA038, 2003-Ohio-662. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0561. Dimalanta v. Travelers Ins. Co.

Cuyahoga App. No. 81445, 2003-Ohio-562. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0597. Williams v. Zurich Am. Ins. Co.

Certified State Law Question, No. 302CV7300. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0603. Brozovic v. St. Paul Fire & Marine Ins. Co.

Cuyahoga App. No. 80868, 2003-Ohio-554. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0794. Heath v. Fid. & Cas. Co. of New York.

Summit App. No. 21221, 2003-Ohio-1303. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0827 and 2003-0867. Akron Gen. Med. Ctr. v. James.

Holmes App. No. 2002CA009, 2003-Ohio-4931. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0840. Frisch v. CNA Commercial Ins.

Seneca App. Nos. 13-02-36 and 13-02-40, 2003-Ohio-1574. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0882. Riggs v. Motorists Mut. Ins. Co.

Franklin App. No. 02AP-876, 2003-Ohio-1657. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0886. Franklin v. Am. Mfrs. Mut. Ins. Co.

Cuyahoga App. No. 81197, 2003-Ohio-1340. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0923 and 2003-1068. Archer v. ACE, USA.

Franklin App. No. 02AP-882, 152 Ohio App.3d 455, 2003-Ohio-1790. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

On motion to vacate November 24, 2003 decision. Motion denied.

2003-0925 and 2003-1028. Heidt v. Fed. Ins. Co.

Stark App. No. 2002CA00314, 2003-Ohio-1785. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0938. Wheeler v. W. Res. Mut. Cas. Co.

Wayne App. No. 02CA0043, 2003-Ohio-1806. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0957. Lipstreu v. The Hartford.

Cuyahoga App. No. 81515, 2003-Ohio-1729 and 2003-Ohio-1955. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-0972. Shanabarger v. Hartford Ins. Co.

Hancock App. No. 5-02-61, 2003-Ohio-1912. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

On motion to strike. Motion denied.

2003-1180. Blake v. Midwestern Indemn. Co.

Tuscarawas App. No. 2002AP060049, 2003-Ohio-2698. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-1182. Walker v. Hartford Fire Ins. Co.

Butler App. No. CA2002-09-219, 2003-Ohio-2545. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-1240. Dalton v. Lumbermens Mut. Ins. Co.

Stark App. No. 2002CA00198, 2003-Ohio-2897. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-1271. Hans v. Hartford Ins. Co.

Hamilton App. No. C-020500, 2003-Ohio-3045. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion granted and cause held for the decision in 2003-1081 and 2003-1092, *Gilcrest v. Gonsor*, Cuyahoga App. No. 80944, 2003-Ohio-2297.

F.E. Sweeney and Pfeifer, JJ., would grant without holding for *Gilchrist*.

Resnick, J., dissents.

2003-1277. Radwandky v. Hartford Ins. Co.

Cuyahoga App. No. 82249, 2003-Ohio-3029. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-1331. Amore v. Grange Ins. Co.

Richland App. No. 02CA70, 2003-Ohio-3207. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-1393. Nunez v. J.L. Sims Co.

Hamilton App. No. C-020599, 2003-Ohio-3386. Reported at 100 Ohio St.3d 1471, 2003-Ohio-5772, 798 N.E.2d 406. On motion for reconsideration. Motion denied.

Moyer, C.J., Resnick and F.E. Sweeney, JJ., dissent.

2003-1394. Pratt v. Safe Auto Ins. Co.

Cuyahoga App. No. 81741, 2003-Ohio-3350. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-1396. Haney v. Motorist Mut. Ins. Co.

Tuscarawas App. No. 2002AP110093, 2003-Ohio-3412. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion granted and briefing ordered.

Resnick, J., dissents.

2003-1400. Stubbins v. Nationwide Agribusiness Ins. Co.

Fulton App. No. F-02-031, 2003-Ohio-3456. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motions for reconsideration. Motions denied.

Moyer, C.J., dissents, would grant, and would remand to the trial court for a factual determination.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-1433. Westfield Ins. Co. v. Metzler.

Summit App. No. 21517, 2003-Ohio-3788. Reported at 100 Ohio St.3d 302, 2003-Ohio-5888, 798 N.E.2d 1077. On motion for reconsideration. Motion denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2003-1443. Fray v. Toledo Edison Co.

Lucas App. No. L-02-1260, 2003-Ohio-3422. Reported at 100 Ohio St.3d 1472, 2003-Ohio-5772, 798 N.E.2d 407. On motion for reconsideration of Toledo Edison Company. Motion granted and discretionary appeal accepted.

Resnick, Pfeifer and O'Connor, JJ., dissent.

2003-1677. Christman v. Erwin.

In Habeas Corpus. Reported at 100 Ohio St.3d 1468, 2003-Ohio-5772, 798 N.E.2d 404. On motion for reconsideration. Motion denied.

Upon consideration of the amicus motions for reconsideration filed by Bruce German in the following cases,

IT IS ORDERED by the court that the motions for reconsideration be, and hereby are, denied.

F.E. Sweeney and Pfeifer, JJ., dissent.

2002-1122 and 2002-1459. Alatsis v. Nationwide Ins. Ent., Franklin App. No. 01AP-1038, 2002-Ohio-2906.

2002-1245 and 2002-1271. Estate of Houser v. Motorists Ins. Co., Auglaize App. No. 2-02-02, 2002-Ohio-2845.

2002-1336. Withem v. Cincinnati Ins. Co., Franklin App. No. 01AP-1286, 2002-Ohio-3067.

2002-1925 and 2002-2121. Skala v. Grange Ins. Co., Summit App. No. 20941, 2002-Ohio-5040.

2002-1989. Addie v. Linville, Cuyahoga App. Nos. 80547 and 80916, 2002-Ohio-5333.

2002-2066 and 2002-2188. Miller v. Grange Mut. Cas. Co., Stark App. No. 2002CA00058, 2002-Ohio-5763.

2002-2139. Szekeres v. State Farm Fire & Cas. Co., Licking App. No. 02CA00004, 2002-Ohio-5989.

2002-2158. Thorne v. Amerisure Ins. Co., Summit App. No. 21137, 2002-Ohio-6123.

2002-2228. Nationwide Agribusiness Ins. Co. v. Wagner, Summit App. No. 21013, 2002-Ohio-6119.

2003-0074. Knox v. Travelers Ins. Co., Franklin App. No. 02AP-28, 2002-Ohio-6958.

2003-0153. Niese v. Maag, Putnam App. No. 12-02-06, 2002-Ohio-6986.

2003-0213. Monroe Guar. Ins. Co. v. Kuba, Stark App. No. 2002CA00175, 2002-Ohio-7010.

2003-0232. Warren v. Hartford Ins. Co., Cuyahoga App. No. 81139, 2002-Ohio-7067.

2003-0239. Mlecik v. Farmers Ins. Co., Cuyahoga App. No. 81110, 2002-Ohio-6222.

2003-0301. Westfield Ins. Co. v. Wausau Business Ins. Co., Stark App. Nos. 2002CA00138 and 2002CA00150, 2002-Ohio-7391.

2003-0353. Bergmeyer v. Auto Owners Ins. Co., Stark App. No. 2002CA00228, 2003-Ohio-133.

2003-0406. Keegan v. Am. Internatl. Group, Inc., Certified Question of State Law No. 3:02CV7127.

2003-0427. Gruelich v. The Hartford, Cuyahoga App. No. 80987, 2003-Ohio-652.

2003-0492 and 2003-0493. Rice v. Buckeye State Mut. Ins. Co., Logan App. No. 8-02-24, 2003-Ohio-390.

2003-0500. Jones v. Gue, Summit App. Nos. 21118 and 21136, 2003-Ohio-358.

2003-0510. Mazza v. Am. Continental Ins. Co., Summit App. No. 21192, 2003-Ohio-360.

2003-0522. Congrove v. Wausau Ins. Cos., Pickaway App. No. 02CA8, 2003-Ohio-1083.

2003-0525. Brozovic v. St. Paul Fire & Marine Ins. Co., Cuyahoga App. No. 80868, 2003-Ohio-554.

2003-0729. Sekula v. Hartford Ins. Co., Cuyahoga App. No. 81295, 2003-Ohio-1160.

2003-0778 and 2003-0780. Musser v. Musser, Adams App. No. 02CA750, 2003-Ohio-1440.

2003-0805. Adams v. Fink, Ross App. No. 02CA2660, 2003-Ohio-1457.

2003-0825. Edgell v. Monroe Guar. Ins. Co., Muskingum App. No. CT2002-0008, 2003-Ohio-1666.

2003-0844. Taylor v. Universal Underwriters Ins. Co., Franklin App. No. 01AP-922, 2003-Ohio-1446.

2003-0845. Grubb v. Michigan Mut. Ins. Co., Montgomery App. No. 19575, 2003-Ohio-1558.

2003-0872 and 2003-0983. Stout v. Travelers Property Cas. Ins. Co., Franklin App. No. 02AP-628, 2003-Ohio-1643.

2003-0896. Wilson v. Haimerl, Madison App. No. CA2002-08-017, 2003-Ohio-1774.

2003-0923 and 2003-1068. Archer v. ACE, USA, Franklin App. No. 02AP-882, 2003-Ohio-1790.

2003-0942. Gates v. Nationwide Ins. Co., Clermont App. No. CA2002-10-086, 2003-Ohio-1773.

2003-0972. Shanabarger v. Hartford Ins. Co., Hancock App. No. 5-02-61, 2003-Ohio-1912.

2003-0981. Frisch v. CNA Commercial Ins., Seneca App. Nos. 13-02-36 and 13-02-40, 2003-Ohio-1574.

2003-1065. Kohntopp v. Hamilton Mut. Ins. Co., Wood App. No. WD-02-033, 2003-Ohio-2793.

2003-1086. Morrison v. Emerson, Stark App. No. 2002CA00414, 2003-Ohio-2708.

2003-1090. Sagar v. Nationwide Mut. Fire Ins. Co., Franklin App. No. 02AP-1104, 2003-Ohio-2268.

2003-1107. Davis v. Westfield Cos., Lorain App. No. 02CA008114, 2003-Ohio-2339.

2003-1114. Repl v. Jones, Summit App. No. 21299, 2003-Ohio-2350.

2003-1122 and 2003-1159. Universal Underwriters Ins. Co. v. Estate of Miller, Stark App. No. 2002CA00225, 2003-Ohio-2489.

2003-1181. Landers v. Lucent Technologies, Inc., Cuyahoga App. Nos. 81506 and 81531, 2003-Ohio-3326.

2003-1183. Rosenberry v. Morris, Stark App. No. 2002-CA-00399, 2003-Ohio-2743.

2003-1205. Delong v. Myers, Knox App. No. 02CA000035, 2003-Ohio-2702.

2003-1250. Hughes v. Nationwide Mut. Ins. Co., Franklin App. Nos. 02AP-1254 and 02AP-1256.

2003-1254. Hartfield v. Toys “R” Us, Lucas App. Nos. L-02-1218 and L-02-1228, 2003-Ohio-2905.

2003-1268. Jones v. Morehart, Seneca App. No. 13-03-06, 2003-Ohio-2995.

2003-1271. Hans v. Hartford Ins. Co., Hamilton App. No. C-020500, 2003-Ohio-3045.

2003-1307. Young v. Plageman, Hancock App. No. 5-02-66, 2003-Ohio-2996.

2003-1319 and 2003-1426. Tulak v. Meridian Ins. Co., Tuscarawas App. No. 2002-AP-11-0088, 2003-Ohio-3290 and 2003-Ohio-4139.

2003-1327. Rucker v. Davis, Ross App. No. 02CA2673, 2003-Ohio-3191.

2003-1328. Rucker v. Davis, Ross App. No. 02CA2677, 2003-Ohio-3189.

2003-1330. Amore v. Grange Ins. Co., Richland App. No. 02CA76, 2003-Ohio-3202.

2003-1360. Smith v. Liberty Mut. Ins. Co., Summit App. No. 21311, 2003-Ohio-3160.

2003-1375. Westfield Ins. Co. v. Metzler, Summit App. No. 21517, 2003-Ohio-3788.

2003-1384 and 2003-1714. Cincinnati Ins. Co. v. Lang, Lake App. No. 2002-L-063, 2003-Ohio-3267.

2003-1470 and 2003-1471. Hoop v. Nationwide Mut. Fire Ins. Co., Montgomery App. No. 19686, 2003-Ohio-3772.

2003-1477. Cincinnati Ins. Co. v. Perkins, Paulding App. No. 11-03-04, 2003-Ohio-3586.