

**IN RE ESTATE OF STEWART, DECEASED.**

**[Cite as *In re Estate of Stewart*, 2001-Ohio-185.]**

*Workers' compensation—Subrogation right of statutory subrogee against third party—Court of appeals' judgment reversed and judgment of trial court reinstated on authority of *Holeton v. Crouse Cartage Co.**

(No. 00-1233—Submitted June 20, 2001—Decided July 11, 2001.)

APPEAL from the Court of Appeals for Lorain County, No. 99CA007422.

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{¶ 1} The judgment of the court of appeals is reversed, and the judgment of the trial court is reinstated on the authority of *Holeton v. Crouse Cartage Co.* (2001), 92 Ohio St.3d 115, 748 N.E.2d 1111.

MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY and PFEIFER, JJ., concur.

COOK, J., dissents.

LUNDBERG STRATTON, J., dissents.

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**LUNDBERG STRATTON, J., dissenting.**

{¶ 2} I respectfully dissent for the reasons set forth in the dissenting opinions of Chief Justice Moyer and Justice Cook in *Holeton v. Crouse Cartage Co.* (2001), 92 Ohio St.3d 115, 135-142, 748 N.E.2d 1111, 1128-1135.

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*Nurenberg, Plevin, Heller & McCarthy Co., L.P.A., David M. Paris and Kathleen J. St. John*, for appellant.

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