

**NATIONS TITLE INSURANCE OF NEW YORK, INC. ET AL., APPELLANTS, v.
BERTRAM ET AL., APPELLEES.**

[Cite as *Nations Title Ins. of New York, Inc. v. Bertram*, 2001-Ohio-246.]

Appeal dismissed as improvidently allowed.

(No. 00-1321—Submitted March 13, 2001—Decided April 25, 2001.)

APPEAL from the Court of Appeals for Montgomery County, No. 18078.

{¶ 1} The cause is dismissed, *sua sponte*, as having been improvidently allowed.

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

COOK, J., dissents.

COOK, J., dissenting.

{¶ 2} I disagree with the majority's decision to dismiss this cause as improvidently allowed. As the court of appeals noted, this case presents our court with its first opportunity to apply R.C. 1339.08. Our state's bench, bar, financial institutions, and fiduciaries could benefit from this court's analysis of the summary-judgment proceedings that occurred here under this section of the Uniform Fiduciary Act. Because I would affirm the judgment of the court of appeals, I respectfully dissent.

Martin, Browne, Hull & Harper, P.L.L., and *Austin P. Wildman*, for
appellants Nations Title Insurance of New York, Inc. and Fidelity National Title &
Insurance Company.

SUPREME COURT OF OHIO

Schottenstein, Zox & Dunn Co., L.P.A., and *Daniel R. Swetnam*, for appellant United Companies Lending Corporation, and Special Counsel, for Stanley J. Cohen, Receiver.

Talbot & Ducker and *John T. Ducker*, for appellant Stanley J. Cohen, Receiver.

Bieser, Greer & Landis, L.L.P., *David P. Williamson* and *Charles D. Shook*, for appellant Stewart Title Guaranty Company.

Frost & Jacobs, L.L.P., and *Gerald L. Baldwin*, for appellant Guarantee Title & Trust Company.

Thompson, Hine & Flory, L.L.P., and *David M. Rickert*, for appellee Farmers State Bank & Trust.

Gregor & Ovington and *Sharon L. Ovington*, urging reversal for *amicus curiae*, Ohio Land Title Association.

Porter, Wright, Morris & Arthur, L.L.P., *H. Grant Stephenson*, *Jennifer T. Mills* and *Bradley K. Baker*, urging affirmance for *amicus curiae*, Community Bankers Association of Ohio.
