

**SUPREME COURT OF OHIO**

**COLUMBUS**

**ANNOUNCEMENT**

9:00 A.M.

WEDNESDAY  
January 24, 2001

**DISMISSALS, SUA SPONTE, NO SUBSTANTIAL  
CONSTITUTIONAL QUESTION AND DISCRETIONARY  
APPEALS, IF APPLICABLE, NOT ALLOWED**

**00-1811. State v. Benson.**

Butler App. No. CA99-11-194.

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

**00-1837. State ex rel. O'Connor v. Davis.**

Summit App. No. 19333.

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

**00-2041. Soler v. Evans.**

Franklin App. No. 99AP-1020.

Moyer, C.J., would allow on Propositions of Law Nos. II and III.

Douglas and F.E. Sweeney, JJ., would allow.

## **MOTION DOCKET**

### **00-2181. Soler v. Evans.**

Franklin App. No. 99AP-1020. On review of order certifying a conflict. The court determines that a conflict exists; the parties are to brief the issues stated in the court of appeals' journal entry filed on November 28, 2000, at pages 1-2:

"1) In an action involving multiple parties and multiple claims, must a party who has received summary judgment file a motion, pursuant to R.C. 2323.51, within twenty-one days of such summary judgment or may the party wait until twenty-one days of when the remaining claims are resolved?

"Similarly, must a party file the motion within twenty-one days of a voluntary dismissal, pursuant to Civ.R. 41(A), when a counterclaim remains pending or may the party wait until twenty-one days of when the counterclaim is resolved?

"2) Is a general jury demand in a complaint preserved as to the issues in a counterclaim when the demand is contained in a complaint that is later dismissed pursuant to Civ.R. 41(A)?"

Cook, J., dissents.

The conflict cases are *Skidmore & Hall v. Rottman* (1987), 38 Ohio App.3d 40, 525 N.E.2d 824; and *Edinger v. DeRail, Inc.* (Apr. 12, 1991), Lucas App. No. L-90-158, unreported, 1991 WL 53777.

## **DISCRETIONARY APPEALS NOT ALLOWED**

### **00-1888. Fath v. Mut. Oil & Gas Co.**

Summit App. Nos. 19851 and 19856.

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