

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

March 20, 2003

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### MOTION AND PROCEDURAL RULINGS

**2002-2188. Miller v. Grange Mut. Cas. Co.**

Stark App. No. 2002CA00058, 2002-Ohio-5763. This cause is pending before the court on the certification of conflict by the Court of Appeals for Stark County. On review of the order certifying a conflict,

IT IS DETERMINED by the court that a conflict exists.

IT IS ORDERED by the court, sua sponte, that this cause be consolidated with Supreme Court case No. 2002-2066, *Miller v. Grange Mut. Cas. Co.*, Stark App. No. 2002CA00058, 2002-Ohio-5763, and held for the decision in Supreme Court case No. 2002-0610, *Geren v. Westfield Ins. Co.*, Lucas App. No. L-01-1398, 2002-Ohio-1230.

IT IS FURTHER ORDERED by the court that the Clerk issue an order for the transmittal of the record from the Court of Appeals for Stark County.

IT IS FURTHER ORDERED that the briefing schedule be stayed.

### APPEALS ACCEPTED FOR REVIEW

**2002-2066. Miller v. Grange Mut. Cas. Co.**

Stark App. No. 2002CA00058, 2002-Ohio-5763. Upon consideration of the jurisdictional memoranda filed in this case, the court hereby allows the appeal.

IT IS ORDERED by the court, sua sponte, that this cause be consolidated with Supreme Court case No. 2002-2188, *Miller v. Grange Mut. Cas. Co.*, Stark App. No. 2002CA00058, 2002-Ohio-5763, and held for the decision in Supreme Court case No. 2002-0610, *Geren v. Westfield Ins. Co.*, Lucas App. No. L-01-1398, 2002-Ohio-1230.

IT IS FURTHER ORDERED by the court that the Clerk issue an order for the transmittal of the record from the Court of Appeals for Stark County.

IT IS FURTHER ORDERED that the briefing schedule be stayed.

Moyer, C.J., dissents and would allow only the cross-appeal.

Resnick and Pfeifer, JJ., dissent.

**MISCELLANEOUS DISMISSALS**

**2002-1677. J & L Power Equip., Inc. v. Zaino.**

Board of Tax Appeals, No. 97-A-535. This cause is pending before the court as an appeal and cross-appeal from the Board of Tax Appeals. Upon consideration of the parties' joint motion to vacate and remand,

IT IS ORDERED by the court that the joint motion to vacate and remand be, and hereby is, granted. The decision and order of the Board of Tax Appeals is vacated, and this cause is remanded to the Board of Tax Appeals with directions to remand this cause to the Tax Commissioner to implement the mediated agreement of the parties.

IT IS FURTHER ORDERED that the parties are to bear their respective costs herein expended, that a mandate be sent to the Board of Tax Appeals to carry this judgment into execution, and that a copy of this entry be certified to the Board of Tax Appeals for entry.

**MISCELLANEOUS ORDERS**

The Supreme Court of Ohio has issued orders imposing sanctions upon twenty-nine attorneys for noncompliance with the requirements of Gov.Bar R. X, Attorney Continuing Legal Education. The text of the entry imposing the sanction is reproduced below. This is followed by a list of the attorneys who were sanctioned. The list includes each attorney's Attorney Registration Number; the county and state of residence and the county and state of the attorney's employer, as last registered with the Office of Attorney Registration; and the amount of the sanction fee imposed by the Supreme Court.

In re Report of the Commission	:	
on Continuing Legal Education.	:	
	:	<b>O R D E R</b>
[Name of Attorney]	:	
(#[Attorney Registration No.]),	:	
Respondent.	:	

This matter originated in this court on the filing of a report by the Commission on Continuing Legal Education (the "commission") pursuant to Gov.Bar R. X(6)(A)(1)(b) and (A)(2)(d). The commission recommended the imposition of sanctions against certain attorneys and judges, including the above-named respondent, for failure to comply with the applicable continuing legal education provisions of Gov.Bar R. X and Gov.Jud. R. IV for the 2000-2001 reporting period.

On November 6, 2002, pursuant to Gov.Bar R. X(6)(B)(1), this court issued to the respondent an order to show cause why the commission's recommendation should not be adopted and an order so entered against the respondent. Respondent filed objections to the commission's recommendation, the commission filed an answer brief, and this cause was considered by the court. Upon consideration thereof,

IT IS ORDERED by the court, sua sponte, that respondent shall pay to the Commission on Continuing Legal Education, within 30 days of the date of this order, by certified check, bank check, or money order, a sanction fee which is hereby imposed in the total amount of \$[     ].

IT IS FURTHER ORDERED that the Clerk of the court shall record the respondent's status on the roll of attorneys as "NOT IN GOOD STANDING" until such time as the respondent has complied with this order but that this order shall not be considered a disciplinary order pursuant to Gov.Bar R. V or Gov.Bar R. X(6)(H).

IT IS FURTHER ORDERED that the commission shall notify the Clerk of the court when payment of the imposed sanction has been made by respondent.

IT IS FURTHER ORDERED that, payment of the sanction notwithstanding, respondent shall comply with the requirements imposed by Gov.Bar R. X for the 2000-2001 reporting period. See CLE Reg. 503.04.

<u>Attorney Name</u>	<u>Registration #</u>	<u>Residence</u>		<u>Employer</u>		<u>Sanction</u>
		<u>County</u>	<u>State</u>	<u>County</u>	<u>State</u>	<u>Amount</u>
John Christopher Holden	0016100		CA			\$150.00
Ann E. Woodley	0053836		AZ		AZ	\$400.00
Thomas Orlo Gorman	0030081		MD		DC	\$350.00
Susan Leslie Dolin	0017955		FL		FL	\$150.00
Bradley Davis Barbin	0070298		FL		FL	\$600.00
Ann Truitt Hunsaker	0043652		KY		KY	\$490.00
Lucian Joseph Bernard	0047159	Hamilton	OH		KY	\$570.00
Jeffrey Bullard	0058355		MI		MI	\$340.00
John Mather Conway	0064724		MI		MI	\$160.00
Scott Brian Lang	0017008		PA		PA	\$165.00
Marc J. Frumer	0040531		PA		PA	\$490.00
Robert Francis Foster	0071365		VA		VA	\$250.00
Paul Thomas Farrell, Jr.	0070257		WV		WV	\$150.00
Randy Dean Gossett	0016655	Belmont	OH		WV	\$750.00
Joseph Anthony Benavidez	0042447	Allen	OH	Allen	OH	\$100.00
Arthur Morton Litt	0024161	Cuyahoga	OH	Cuyahoga	OH	\$610.00
Scott Lawrence Evans	0064528	Franklin	OH	Franklin	OH	\$600.00
Timothy Solomon Horton	0065934	Franklin	OH	Franklin	OH	\$150.00
Sean Patrick DeVillers	0066963	Franklin	OH	Franklin	OH	\$430.00
Robert Raymond Lech	0073078	Franklin	OH	Franklin	OH	\$205.00
Sean Curran	0070352	Hamilton	OH	Hamilton	OH	\$460.00

Charles Davis Lowe	0033209	Montgomery	OH	Montgomery	OH	\$520.00
Joseph Lee Hale	0031835	Scioto	OH	Scioto	OH	\$440.00
David Mahlon Lowry	0031017	Summit	OH	Summit	OH	\$500.00
Gus Frangos	0032884	Summit	OH	Summit	OH	\$280.00
James Edward Baldwin	0059294	Warren	OH	Warren	OH	\$60.00

In re Report of the Commission :  
on Continuing Legal Education. :

O R D E R

[Name of Attorney] :  
(#[Attorney Registration No.]), :  
Respondent. :

This matter originated in this court on the filing of a report by the Commission on Continuing Legal Education (the "commission") pursuant to Gov.Bar R. X(6)(A)(1)(b) and (A)(2)(d). The commission recommended the imposition of sanctions against certain attorneys and judges, including the above-named respondent, for failure to comply with the applicable continuing legal education provisions of Gov.Bar R. X and Gov.Jud. R. IV for the 2000-2001 reporting period.

The commission's report recommended imposition of a sanction against the respondent in the total amount of \$[ ] for noncompliance in the 2000-2001 reporting period. Furthermore, the commission's report recommended that the respondent be suspended from the practice of law pursuant to Gov.Bar R. X(5)(A)(4) for violation of Gov.Bar R. X for the third consecutive reporting period, and for continuous and ongoing noncompliance with Gov.Bar R. X during the last three reporting periods. On November 6, 2002, this court issued to the respondent an order to show cause why the commission's recommendation should not be adopted and an order so entered against the respondent. Respondent filed objections to the commission's recommendation, the commission filed an answer brief, and this cause was considered by the court. Upon consideration thereof,

IT IS ORDERED by the court that the recommendation of the commission be adopted and respondent, [Name of Attorney], is immediately suspended from the practice of law pursuant to Gov.Bar R. X(6)(B)(3), and Gov.Bar R. X(5)(A)(4), until respondent is reinstated by order of this court pursuant to Gov.Bar R. X(7).

IT IS FURTHER ORDERED that, within 30 days of the date of this order, respondent shall pay to the Commission on Continuing Legal Education, by certified check, bank check, or money order, a sanction fee which is hereby imposed in the total amount of \$[ ].

IT IS FURTHER ORDERED that, payment of the sanction fee notwithstanding, respondent shall comply with the requirements imposed by Gov.Bar R. X for the 2000-2001 reporting period. See CLE Reg. 503.4.

IT IS FURTHER ORDERED that respondent immediately cease and desist from the practice of law in any form and is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority.

IT IS FURTHER ORDERED that respondent is hereby forbidden to counsel or advise or prepare legal documents for others or in any manner perform such services.

IT IS FURTHER ORDERED that respondent is hereby divested of each, any, and all of the rights, privileges, and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

IT IS FURTHER ORDERED that respondent surrender forthwith respondent's certificate of admission to practice law and attorney registration card to the Clerk of this court on or before 30 days from the date of this order, and that respondent's name be stricken from the roll of attorneys maintained by this court.

IT IS FURTHER ORDERED that, pursuant to Gov.Bar R. X(3)(G), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month, of the suspension. As part of the total credit hours of continuing legal education required by Gov.Bar R. X(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1), for each six months, or portion of six months, of the suspension.

IT IS FURTHER ORDERED that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in Gov.Bar R. X(7), (2) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio, (3) respondent complies with this and all other orders of the court, and (4) this court orders respondent reinstated.

IT IS FURTHER ORDERED that, within 30 days of the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place;

2. Regardless of any fees or expenses due respondent, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property;

3. Refund any part of any fees or expenses paid in advance that are unearned or not paid, and account for any trust money or property in the possession or control of respondent;

4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties, of respondent's disqualification after the effective date of this order, and

file a notice of disqualification of respondent with the court or agency before which the litigation is pending for inclusion in the respective file or files;

5. Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent;

6. File with the Clerk of this court and the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of notices required herein, and setting forth the address where the affiant may receive communications; and

7. Retain and maintain a record of the various steps taken by respondent pursuant to this order.

IT IS FURTHER ORDERED that respondent shall keep the Clerk of this court and the Disciplinary Counsel advised of any change of address where respondent may receive communications.

IT IS FURTHER ORDERED, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

IT IS FURTHER ORDERED by the court that the Clerk shall send this order by certified mail to the respondent at the business address registered with the Attorney Registration Section under Gov.Bar R. VI; that, if this order is returned as undeliverable or unclaimed, the Clerk shall resend it by regular mail to the respondent at the residence address registered with the Attorney Registration Section; and that service of this order in accordance with the foregoing shall be deemed effective service.

IT IS FURTHER ORDERED that, pursuant to Gov.Bar R. X(6)(H), the Clerk of this court send certified copies of this order to those persons or organizations named in Gov.Bar R. V(8)(D)(1), and that publication be made as required under Gov.Bar R. X(6)(H).

<u>Attorney Name</u>	<u>Registration #</u>	<u>Residence</u>		<u>Employer</u>		<u>Sanction Amount</u>
		<u>County</u>	<u>State</u>	<u>County</u>	<u>State</u>	
Randal Stephen Knight	0060083	Montgomery	OH			\$600.00
Michael Craig Donovan	0022705		MT		CA	\$290.00
R. Russell Kubyn	0029510	Geauga	OH	Lake	OH	\$560.00