

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

July 30, 2003

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### MERIT DECISIONS WITH OPINIONS

**2002-0001. State ex rel. Clark v. Great Lakes Constr. Co., 2003-Ohio-3802.**

Franklin App. No. 01AP-326. Judgment affirmed.

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

William W. Young, J., of the Twelfth Appellate District, sitting for Cook, J.

### MERIT DECISIONS WITHOUT OPINIONS

**2003-0924. State ex rel. Sloan v. Crott.**

In Mandamus. On complaint in mandamus of Marshall Sloan. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

O'Connor, J., would grant an alternative writ.

**2003-0948. State ex rel. Resnick v. Cleveland.**

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

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

Resnick, J., not participating.

On motion for leave to amend petition caption instanter. Motion denied as moot.

Resnick, J., not participating.

**2003-0987. State ex rel. Cutright v. Wilkinson.**

In Mandamus. On answer of respondent and motion for judgment on pleadings. On S.Ct.Prac.R. X(5) determination, cause dismissed.

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

**2003-1064. State ex rel. Turner v. DeWeese.**

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.

**2003-1067. State ex rel. Escobar v. Ohio Adult Parole Auth.**

In Mandamus. On petition for writ of habeas corpus by Augustine J. Escobar. Sua sponte, cause dismissed.

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

**MOTION AND PROCEDURAL RULINGS**

**1998-0726. State v. Jackson.**

Franklin C.P. No. 97CR041902. On motion to set execution date. Motion granted.

Pfeifer, J., dissents.

**2002-0148. State ex rel. Devore Roofing & Painting v. Indus. Comm.**

Franklin App. No. 01AP-69. On request of Dennis Walden for oral argument. Motion granted.

**2002-1815 and 2002-2008. Theobald v. Univ. of Cincinnati.**

Franklin App. Nos. 02AP-560, 02AP-593, 02AP-597 and 02AP-598. On motion for stay of proceedings including oral argument currently scheduled for September 24, 2003.

Sua sponte, cause held for the decision in 2002-1560, *Johns v. Horton*, Hamilton App. No. C-010672, 149 Ohio App.3d 252, 2002-Ohio-3802, oral argument canceled, and briefing stayed.

**2003-0033. State v. Colbert.**

Cuyahoga App. No. 80361, 2002-Ohio-6315. On motion to dismiss the state of Ohio's appeal. Motion denied.

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

On motion for reconsideration of the dismissal of the cross-appeal. Motion granted and cross-appeal allowed on Proposition of Law No. I only.

Moyer, C.J., Resnick and Pfeifer, JJ., concur but would also allow all other propositions of law.

F.E. Sweeney and O'Donnell, JJ., dissent and would deny.

O'Connor, J., dissents and would deny as moot.

**2003-0220. Scaglione v. Kraftmaid Cabinetry, Inc.**

Geauga App. No. 2001-G-2364, 2002-Ohio-6917. On motion to dismiss as moot. Motion denied.

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

**2003-0780. Musser v. Musser.**

Adams App. No. 02CA750, 2003-Ohio-1440. Certified conflict accepted, cause consolidated with 2003-0778, *Musser v. Musser*, Adams App. No. 02CA750, 2003-Ohio-1440, causes held for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142, and briefing schedule stayed.

**2003-0867. Akron Gen. Med. Ctr. v. James.**

Holmes App. No. 2002CA009. Certified conflict accepted and cause consolidated with 2003-0827, *Akron Gen. Med. Ctr. v. James*, Holmes App. No. 2002CA009.

Moyer, C.J., and O'Donnell, J., would accept but would hold the causes for the decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903.

Lundberg Stratton, J., would accept but would hold the causes for the decision in *Burkhart* and 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502.

O'Connor, J., would accept but would hold the causes for the decision in *Galatis*.

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

**2003-0981. Frisch v. CNA Commercial Ins. Co.**

Seneca App. Nos. 13-02-36 and 13-02-40, 2003-Ohio-1574. Certified conflict accepted, cause consolidated with 2003-0840, *Frisch v. CNA Commercial Ins. Co.*, Seneca App. Nos. 13-02-36 and 13-02-40, 2003-Ohio-1574, causes held for the

decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903, and briefing schedule stayed.

Pfeifer, J., concurs but would also hold for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502.

F.E. Sweeney, J., concurs but would not hold for *Burkhart*.

Resnick, J., dissents.

**2003-0983. Stout v. Travelers Prop. Cas. Ins. Co.**

Franklin App. No. 02AP-628, 152 Ohio App.3d 355, 2003-Ohio-1643. Certified conflict accepted, cause consolidated with 2003-0872, *Stout v. Travelers Prop. Cas. Ins. Co.*, Franklin App. No. 02AP-628, 152 Ohio App.3d 355, 2003-Ohio-1643, causes held for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142, and briefing schedule stayed.

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

**2003-1018. Morris v. United Ohio Ins. Co.**

Ross App. No. 02CA2653, 2003-Ohio-1708. Certified conflict accepted, cause consolidated with 2003-0878, *Morris v. United Ohio Ins. Co.*, Ross App. No. 02CA2653, 2003-Ohio-1708, causes held for the decision in 2003-0474, *Kyle v. Buckeye Union Ins. Co.*, Lucas App. No. L-02-1166, 2003-Ohio-488, and briefing schedule stayed.

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

**2003-1040. State v. Gonzalez.**

Defiance App. No. 4-02-19. On motion for leave to file delayed appeal. Motion denied.

**2003-1043. State v. Hibbard.**

Butler App. Nos. CA2001-12-276 and CA2001-12-286, 2003-Ohio-707. On motion for leave to file delayed appeal. Motion granted.

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

**2003-1066. Harvey v. Hwang.**

Madison App. No. CA2003-03-010. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at pages 1-2 of the court of appeals' Entry Granting Motion to Certify Conflict filed June 12, 2003:

“[W]hether Civ.R. 6(E) extends the time for filing a motion for new trial under Civ.R. 59(B) or motion for judgment notwithstanding the verdict under

Civ.R. 50(B) beyond 14 days after the entry of judgment when the judgment entry is mailed to the parties.”

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

The conflict case is *Larry Murphy Dump Truck Serv., Inc. v. Sam Abdalla Ent.* (1996), 114 Ohio App.3d 271, 683 N.E.2d 64.

**2003-1078. State v. Lutz.**

Cuyahoga App. No. 80241, 2003-Ohio-275. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

On motion to compel return of appellant’s legal documents by appellee and postconviction discovery by subpoena duces tecum. Motion denied as moot.

Pfeifer, J., dissents.

**2003-1080. State v. Hill.**

Washington App. No. 01CA12, 2003-Ohio-1080. On motion for leave to file delayed appeal. Motion denied.

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

**2003-1099. State v. Ishmail.**

Hamilton App. No. C-020099. On motion for leave to file delayed appeal. Motion denied.

**2003-1119. Toledo v. Moore.**

Lucas App. No. L-02-1288, 2003-Ohio-2362. On motion for stay of court of appeals’ judgment. Motion denied.

**2003-1124. State v. Rozier.**

Mahoning App. Nos. 96CA117 and 96CA121. On motion for leave to file delayed appeal. Motion denied.

**2003-1139. Berger v. Schwan’s Sales.**

Summit App. No. 21493. On motion for stay of court of appeals’ judgment. Motion denied.

O’Donnell, J., would deny as moot.

**2003-1143. State v. Henderson.**

Lorain App. No. 02CA008052, 2003-Ohio-1470. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

**2003-1146. TranSouth Fin. Corp. v. Zaino.**

Board of Tax Appeals, No. 2003-T-250. On motion for admission pro hac vice of Peter O. Larsen, David E. Otero, and Cynthia Debula Baines by Edward J. Bernert. Motion granted.

**2003-1147. Non-Employees of Chateau Estates Resident Assn. v. Chateau Estates, Ltd.**

Clark App. No. 2002CA68, 2003-Ohio-2514. On motion for stay of court of appeals' judgment. Motion granted.

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

**APPEALS ACCEPTED FOR REVIEW**

**2003-0729. Sekula v. Hartford Ins. Co.**

Cuyahoga App. No. 81295, 2003-Ohio-1160. Discretionary appeal allowed and cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502, and 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903; briefing schedule stayed.

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

**2003-0765. State v. Chandler.**

Hamilton App. No. C-020253. Discretionary appeal allowed and cause consolidated with 2003-0766, *State v. Tate*, Hamilton App. No. C-020188.

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

**2003-0766. State v. Tate.**

Hamilton App. No. C-020188. Discretionary appeal allowed and cause consolidated with 2003-0765, *State v. Chandler*, Hamilton App. No. C-020253.

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

**2003-0778. Musser v. Musser.**

Adams App. No. 02CA750, 2003-Ohio-1440. Discretionary appeal allowed, cause consolidated with 2003-0780, *Musser v. Musser*, Adams App. No. 02CA750, 2003-Ohio-1440, causes held for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142, and briefing schedule stayed.

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

Summit App. No. 21221, 2003-Ohio-1303. Discretionary appeal allowed on Propositions of Law Nos. I and II and cause held for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502.

O'Donnell, J., concurs.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., concur but would also allow Propositions of Law Nos. III through VIII and hold for the decision in *Galatis*.

O'Connor, J., concurs in part, would allow on Proposition of Law No. I only, and would hold the cause for the decision in 2002-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142.

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

Discretionary cross-appeal denied.

Moyer, C.J., concurs in part, would allow on Proposition of Law No. I, and would hold the cross-appeal for the decision in *Tucker*.

Pfeifer, J., dissents and would allow the cross-appeal.

Lundberg Stratton, J., dissents, would allow the cross-appeal, and would hold the cross-appeal for the decision in *Galatis*.

**2003-0814. Rucker v. Everen Securities, Inc.**

Cuyahoga App. No. 81540, 2003-Ohio-1166.

F.E. Sweeney, Lundberg Stratton and O'Connor, JJ., dissent.

**2003-0820. State v. Miller.**

Cuyahoga App. No. 81608, 2003-Ohio-1168. Discretionary appeal allowed and cause held for the decision in 2002-1888, *State v. Jordan*, Cuyahoga App. No. 80675, 2002-Ohio-4587; briefing schedule stayed.

Resnick, J., concurs but would not hold for *State v. Jordan*.

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

**2003-0827. Akron Gen. Med. Ctr. v. James.**

Holmes App. No. 2002CA009. Discretionary appeal allowed and cause consolidated with 2003-0867, *Akron Gen. Med. Ctr. v. James*, Holmes App. No. 2002CA009.

Moyer, C.J., and O'Donnell, J., would allow but would hold the causes for the decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903.

Lundberg Stratton, J., would allow but would hold the causes for the decision in *Burkhart* and 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502.

O'Connor, J., would allow but would hold the causes for the decision in *Galatis*.

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

Discretionary cross-appeal denied.

**2003-0840. Frisch v. CNA Commercial Ins. Co.**

Seneca App. Nos. 13-02-36 and 13-02-40, 2003-Ohio-1574. Discretionary appeal allowed, cause consolidated with 2003-0981, *Frisch v. CNA Commercial Ins. Co.*, Seneca App. Nos. 13-02-36 and 13-02-40, 2003-Ohio-1574, causes held for the decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903, and briefing schedule stayed.

Moyer, C.J., and Lundberg Stratton, J., concur.

Pfeifer, J., concurs but would also hold for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502.

F.E. Sweeney, J., concurs but would not hold for the decision in *Burkhart*.

O'Donnell, J., concurs in part, would allow on Proposition of Law No. I and hold for *Burkhart*, and would allow on Proposition of Law No. III and hold for *Galatis*.

O'Connor, J., concurs in part and would allow on Proposition of Law No. I only and hold for *Burkhart*.

Resnick, J., dissents.

**2003-0844. Taylor v. Universal Underwriters Ins. Co.**

Franklin App. No. 01AP-922, 2003-Ohio-1446. Discretionary appeal allowed on Propositions of Law Nos. I and II.

Moyer, C.J., and O'Connor, J., concur and would hold for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502.

Lundberg Stratton and O'Donnell, JJ., concur and would hold for the decision in 2002-0579, *Burkhart v. CNA Ins. Co.*, Stark App. No. 2001CA00265, 2002-Ohio-903.

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

**2003-0871. Kudukis v. Mascinkas.**

Cuyahoga App. No. 81663, 2003-Ohio-1355.

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

**2003-0872. Stout v. Travelers Prop. Cas. Ins. Co.**

Franklin App. No. 02AP-628, 152 Ohio App.3d 355, 2003-Ohio-1643. Discretionary appeal allowed, cause consolidated with 2003-0983, *Stout v. Travelers Prop. Cas. Ins. Co.*, Franklin App. No. 02AP-628, 152 Ohio App.3d 355, 2003-Ohio-1643, causes held for the decision in 2020-1956, *Tucker v. Wilson*, Clermont App. No. CA2002-01-002, 2002-Ohio-5142, and briefing schedule stayed.

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

**2003-0878. Morris v. United Ohio Ins. Co.**

Ross App. No. 02CA2653, 2003-Ohio-1708. Discretionary appeal allowed on Proposition of Law No. I only, cause consolidated with 2003-1018, *Morris v. United Ohio Ins. Co.*, Ross App. No. 02CA2653, 2003-Ohio-1708, causes held for the decision in 2003-0474, *Kyle v. Buckeye Union Ins. Co.*, Lucas App. No. L-02-1166, 2003-Ohio-488, and briefing schedule stayed.

O'Connor and O'Donnell, JJ., concur.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., concur but would also allow all other propositions of law.

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

**APPEALS NOT ACCEPTED FOR REVIEW**

**2002-0197. State v. Lynch.**

Hamilton App. No. C-010209, 2001-Ohio-3914.

**2003-0615. State v. Boyles.**

Hamilton App. No. C-010734.

**2003-0651. Glover v. Smith.**

Hamilton App. Nos. C-020192 and C-020205, 2003-Ohio-1020.

Moyer, C.J., dissents, would allow on Propositions of Law Nos. II and III, and would hold the cause for the decision in 2002-0932, *Westfield Ins. Co. v. Galatis*, Summit App. No. 20784, 2002-Ohio-1502.

Lundberg Stratton and O'Connor, JJ., dissent, would allow, and would hold the cause for the decision in 2002-0610, *Geren v. Westfield Ins. Co.*, Lucas App. No. L-01-1398, 2002-Ohio-1230.

**2003-0744. In re Guardianship & Conservatorship of Stancin.**

Franklin App. No. 02AP-637, 2003-Ohio-1106.

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

**2003-0816. State v. Georgakopoulos.**  
Cuyahoga App. No. 81729, 2003-Ohio-1531.

**2003-0828. State v. Sales.**  
Summit App. No. 21181, 2003-Ohio-1477.

**2003-0830. State ex rel. Mason v. \$17,000 in U.S. Currency.**  
Cuyahoga App. No. 80941, 2003-Ohio-993.

**2003-0832. Cales v. Armstrong World Industries, Inc.**  
Scioto App. No. 02CA2851, 2003-Ohio-1776. On discretionary appeal. Appeal denied.

F.E. Sweeney, J., dissents.

On motion of E. Zagrans for admission pro hac vice of W. Sheehan, R. Wyner, and R. Matheny for CertainTeed Corp. Motion denied as moot.

F.E. Sweeney, J., dissents.

**2003-0836. Columbus v. Meyer.**  
Franklin App. Nos. 01AP-1471 and 01AP-1472, 2003-Ohio-1270.  
Pfeifer and O'Connor, JJ., dissent.

**2003-0843. Crystal v. Wilsman.**  
Cuyahoga App. No. 81055, 2003-Ohio-427.  
F.E. Sweeney and O'Donnell, JJ., dissent.

**2003-0846. Olmsted Falls v. Jones.**  
Franklin App. Nos. 02AP-753 and 02AP-761, 152 Ohio App.3d 282, 2003-Ohio-1512.  
Moyer, C.J., and Resnick, J., dissent.

**2003-0850. MacEwen v. Jordan.**  
Hamilton App. No. C-020431, 2003-Ohio-1547.  
Pfeifer, J., dissents.

**2003-0851. PNC Bank, Ohio, N.A. v. Roy.**  
Hamilton App. Nos. C-020138 and C-020171, 2003-Ohio-1542.  
Pfeifer, J., dissents.

**2003-0852. State v. Mumm.**  
Knox App. No. 02CA000034.

O'Donnell, J., dissents.

**2003-0854. Miller v. Henry.**

Franklin App. No. 02AP-673, 2003-Ohio-1511.

**2003-0856. State v. Hancock.**

Warren App. Nos. CA2001-12-115, CA2001-12-116 and CA2002-01-004, 2003-Ohio-1616.

**2003-0857. State v. Zuniga.**

Lucas App. No. L-00-1265, 2002-Ohio-5902.

**2003-0858. Owen v. Ohio Water Parks, Inc.**

Summit App. No. 21109, 2003-Ohio-1595.

Pfeifer, J., dissents.

**2003-0859. Koukios v. Ganson.**

Hamilton App. Nos. C-010659, C-010735 and C-020091.

**2003-0868. Boley v. Kennedy.**

Crawford App. No. 3-02-35, 2003-Ohio-1663.

**2003-0869. Bundy v. Five Rivers Metroparks.**

Montgomery App. No. 19462, 152 Ohio App.3d 426, 2003-Ohio-1766.

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

**2003-0874. Estate of Kulka v. Progressive Ins. Co.**

Portage App. No. 2001-P-0133, 2003-Ohio-1880 and 2003-Ohio-2680.

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

**2003-0876. Nu-Trend Homes, Inc. v. Law Offices of DeLibera, Lyons & Bibbo.**

Franklin App. No. 01AP-1137, 2003-Ohio-1633.

**2003-0877. Brott v. Green.**

Summit App. No. 21209, 2003-Ohio-1592.

**2003-0879. Schalk v. Fallang.**

Butler App. No. CA2002-08-197, 2003-Ohio-1771.

Resnick, J., dissents.

**2003-0880. State v. Potter.**

Cuyahoga App. No. 81037, 2003-Ohio-1338.

**2003-0881. State v. Summerall.**

Franklin App. No. 02AP-321, 2003-Ohio-1652.

**2003-0884. Esposito v. Caputo.**

Lake App. No. 2002-L-099, 2003-Ohio-1590.

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

**2003-0885. Kendig v. Martin.**

Franklin App. No. 02AP-408, 2003-Ohio-1525.

F.E. Sweeney, J., dissents.

**2003-0887. Kordinak v. Niles Gun Show, Inc.**

Stark App. No. 2002CA00186, 2003-Ohio-1695.

O'Connor, J., dissents.

**2003-0889. State v. Jones.**

Marion App. No. 9-02-39, 2003-Ohio-1576.

Pfeifer, J., dissents.

**2003-0890. State v. Porter.**

Logan App. No. 8-02-30, 2003-Ohio-1703.

**2003-0891. State v. Gross.**

Muskingum App. No. CT96055.

**2003-0892. State v. Banks.**

Cuyahoga App. Nos. 81679 and 81680, 2003-Ohio-1171 and 2003-Ohio-1530.

**2003-0894. Heights Driving School, Inc. v. Motorists Ins. Co.**

Cuyahoga App. No. 81727, 2003-Ohio-1737.

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

**2003-0895. State v. Bruce.**

Richland App. No. 02CA40, 2003-Ohio-1714.

**2003-0897. Am. Motorists Ins. Co. v. Unger.**

Defiance App. No. 4-02-30, 2003-Ohio-1889.

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

**2003-0898. State v. Smith.**

Lorain App. No. 02CA008135, 2003-Ohio-1805.

**2003-0904. State v. Brown.**

Hamilton App. No. C-970938.

**2003-0906. In re Original Grand Jury Investigation of Subpoena Duces Tecum Served Upon Kaiser.**

Mercer App. No. 10-02-20, 2003-Ohio-1670.

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

**2003-0907. State v. Brandy.**

Franklin App. No. 02AP-832, 2003-Ohio-1836.

**2003-0931. Wanner Metal Worx, Inc. v. Hylant-Maclean, Inc.**

Delaware App. No. 02CAE10046, 2003-Ohio-1814.

O'Donnell, J., dissents.

Resnick, J., not participating.

**2003-0932. Loescher v. Plastipak Packaging, Inc.**

Shelby App. No. 17-02-33, 2003-Ohio-1850.

**2003-0935. State v. Burnett.**

Franklin App. No. 02AP-863, 2003-Ohio-1787.

Pfeifer, J., dissents.

**2003-0936. Matikas v. Univ. of Dayton.**

Montgomery App. No. 19476, 152 Ohio App.3d 514, 2003-Ohio-1852.

**2003-0943. State v. McCoy.**

Summit App. No. 21176, 2003-Ohio-1802.

**2003-0947. State v. Yeager.**

Summit App. Nos. 21091, 21112 and 21120, 2003-Ohio-1808.

**2003-0974. State v. Kavlich.**

Cuyahoga App. No. 82383.

**2003-0984. In re Estate of Ray.**

Wood App. No. WD-02-049, 2003-Ohio-2001.

Resnick and Lundberg Stratton, JJ., dissent.

**2003-0995. State v. Hamilton.**

Summit App. No. 21331, 2003-Ohio-2343.

**2003-1000. Mapes v. Smith.**

Cuyahoga App. No. 81065, 2003-Ohio-428.

**2003-1020. State v. Ray.**

Summit App. No. 21233, 2003-Ohio-2159.

**2003-1033. In re Beasley.**

Scioto App. No. 03CA2874, 2003-Ohio-2857.

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

**2003-1076. State v. Rountree.**

Summit App. No. 15388.

## **RECONSIDERATION OF PRIOR DECISIONS**

**2003-0164. Myers v. Ohio Bur. of Workers' Comp.**

Mahoning App. No. 01CA131, 2002-Ohio-7439. Reported at 98 Ohio St.3d 1538, 2003-Ohio-1946, 786 N.E.2d 901. On motion for reconsideration and motion for reconsideration under S.Ct.Prac.R. XI(1)(B) of amicus curiae Industrial Commission of Ohio. Motions denied.

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

**2003-0476. Gable v. Gates Mills.**

Cuyahoga App. No. 80469, 151 Ohio App.3d 480, 2003-Ohio-399. Reported at 99 Ohio St.3d 1435, 2003-Ohio-2902, 789 N.E.2d 1116. On motion for reconsideration. Motion granted and discretionary appeal allowed on Proposition of Law No. I.

Moyer, C.J., and O'Connor, J., concur but would allow all propositions of law.

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

**2003-0515. State v. White.**

Stark App. No. 2002CA00154, 2003-Ohio-520. Reported at 99 Ohio St.3d 1435, 2003-Ohio-2902, 789 N.E.2d 1117. On motion for reconsideration. Motion denied.

**2003-0557. State v. Colbert.**

Cuyahoga App. No. 80361, 2002-Ohio-6315. Reported at 99 Ohio St.3d 1437, 2003-Ohio-2902, 789 N.E.2d 1117. On motion for reconsideration. Motion denied.

Lundberg Stratton, J., dissents, would allow the discretionary appeal, and would consolidate this cause with 2003-0033, *State v. Colbert*, Cuyahoga App. No. 80361, 2002-Ohio-6315.

**2003-0569. Costin v. Consol. Ceramic Products, Inc.**

Cuyahoga App. No. 81611, 2003-Ohio-437. Reported at 99 Ohio St.3d 1437, 2003-Ohio-2902, 789 N.E.2d 1118. On motion for reconsideration. Motion granted and discretionary appeal allowed.

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

**2003-0618. Hapner v. Tuesday Morning, Inc.**

Montgomery App. No. 19395, 2003-Ohio-781. Reported at 99 Ohio St.3d 1438, 2003-Ohio-2902, 789 N.E.2d 1118. On motion for reconsideration. Motion denied.

**2003-0624. State ex rel. Ahmed v. Sargus.**

In Mandamus and Prohibition. Reported at 99 Ohio St.3d 1431, 2003-Ohio-2902, 789 N.E.2d 1114. On motion for reconsideration. Motion denied.