

**GILES, APPELLEE, v. SIMONDS; CINCINNATI INSURANCE COMPANIES,
APPELLANT.**

[Cite as *Giles v. Simonds*, 101 Ohio St.3d 1246, 2004-Ohio-1620.]

Motion for reconsideration denied.

(No. 2003-0796 — Submitted March 15, 2004 — Decided April 14, 2004.)

APPEAL from the Court of Appeals for Columbiana County, No. 02-CO-18, 2003-
Ohio-1428.

ON MOTION FOR RECONSIDERATION.

{¶1} The motion for reconsideration of the entry of January 21, 2004, found at 101 Ohio St.3d 1420, 2004-Ohio-123, 802 N.E.2d 152, is denied.

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, LUNDBERG STRATTON, O’CONNOR and O’DONNELL, JJ., concur.

LUNDBERG STRATTON, J., concurs separately.

LUNDBERG STRATTON, J., concurring.

{¶2} I concur with the decision to deny reconsideration. However, as I stated in my concurring opinion in *Fish v. Ohio Cas. Ins. Co.*, 101 Ohio St.3d 1210, 2004-Ohio-224, 802 N.E.2d 149, I believe that *Westfield Ins. Co. v. Galatis*, 100 Ohio St.3d 216, 2003-Ohio-5849, 797 N.E.2d 1256, applies to all pending cases where a claim has been raised under *Scott-Pontzer v. Liberty Mut. Fire Ins. Co.* (1999), 85 Ohio St.3d 660, 710 N.E.2d 1116. Here, the appellate court has remanded the case to the trial court for further proceedings. The proceedings on remand should include application of *Galatis*.

SUPREME COURT OF OHIO

Leonard Z. Alpert, P.C., and Leonard Z. Alpert; Aronson, Fineman &
Davis Co., L.P.A., and Troy D. Barnett, for appellee.

Davis & Young and Dennis R. Fogarty, for appellant.
