

The Supreme Court of Ohio

CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

April 13, 2004

MOTION AND PROCEDURAL RULINGS

2003-1940. *Welsh v. Indiana Ins. Co.*

Stark App. No. 2002CA00370, 2003-Ohio-5026. This cause is pending before the court as a discretionary appeal and claimed appeal of right. On November 10, 2003, appellants filed a notice that a motion to certify a conflict was pending in the court of appeals and, pursuant to S.Ct.Prac.R. IV(4)(A), this court stayed consideration of the jurisdictional memoranda filed in this appeal. Whereas appellants have neither notified this court that the court of appeals determined that a conflict does not exist as provided by S.Ct.Prac.R. IV(4)(B), nor filed a copy of the court of appeals' order certifying the existence of a conflict as provided by S.Ct.Prac.R. IV(4)(C),

IT IS ORDERED by the court, sua sponte, that appellants show cause within ten days of the date of this entry why this court should not proceed to consider the jurisdictional memoranda in this appeal pursuant to S.Ct.Prac.R. III(6).

2003-2111. *Wenger v. Wenger.*

Wayne App. No. 02CA0065, 2003-Ohio-5790. This cause is pending before the court as a discretionary appeal. On December 18, 2003, appellant filed a notice that a motion to certify a conflict was pending in the court of appeals and, pursuant to S.Ct.Prac.R. IV(4)(A), this court stayed consideration of the jurisdictional memoranda filed in this appeal. Whereas appellant has neither notified this court that the court of appeals determined that a conflict does

not exist as provided by S.Ct.Prac R. IV(4)(B), nor filed a copy of the court of appeals' order certifying the existence of a conflict as provided by S.Ct.Prac.R. IV(4)(C),

IT IS ORDERED by the court, sua sponte, that appellant show cause within ten days of the date of this entry why this court should not proceed to consider the jurisdictional memoranda in this appeal pursuant to S.Ct.Prac.R. III(6).

2003-2209. Shaffer v. Ohio Civ. Rights Comm.

Fairfield App. No. 03CA58. This cause is pending before the court as a discretionary appeal and claimed appeal of right. On December 30, 2003, appellant filed a notice that a motion to certify a conflict was pending in the court of appeals and, pursuant to S.Ct.Prac.R. IV(4)(A), this court stayed consideration of the jurisdictional memoranda filed in this appeal. Whereas appellant has neither notified this court that the court of appeals determined that a conflict does not exist as provided by S.Ct.Prac.R. IV(4)(B), nor filed a copy of the court of appeals' order certifying the existence of a conflict as provided by S.Ct.Prac.R. IV(4)(C),

IT IS ORDERED by the court, sua sponte, that appellant show cause within ten days of the date of this entry why this court should not proceed to consider the jurisdictional memoranda in this appeal pursuant to S.Ct.Prac.R. III(6).

2004-0364. Cincinnati School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision.

Board of Tax Appeals, No. 2003-R-1813. This cause is pending before the court as an appeal from the Board of Tax Appeals. Upon consideration of appellant's motion for extension of time to file merit brief pursuant to S.Ct.Prac.R. XIV(6)(C),

IT IS ORDERED by the court that the motion for extension of time be, and hereby is, granted, and that appellant's merit brief be due on or before June 4, 2004.

2004-0502. Lofino Properties, L.L.C. v. Wal-Mart Stores, Inc.

Greene App. No. 2003CA57, 2004-Ohio-458. This cause is pending before the court as a discretionary appeal and claimed appeal of right. Whereas appellee's memorandum in opposition to appellant's motion for stay was filed beyond the deadline for filing and should have been rejected by the Clerk pursuant to S.Ct.Prac.R. XIV(1)(C),

IT IS ORDERED by the court, sua sponte, that appellee's memorandum in opposition to appellant's motion for stay be, and hereby is, stricken.

APPEALS ACCEPTED FOR REVIEW

2004-0001. Academy of Medicine of Cincinnati v. Aetna Health, Inc.

Hamilton App. Nos. C-030109, C-030110, and C-030111, 2003-Ohio-6194. Upon consideration of the jurisdictional memoranda filed in this case, the court hereby accepts the appeal. The Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Hamilton County, and the parties shall brief this case in accordance with the Rules of Practice of the Supreme Court of Ohio.

IT IS FURTHER ORDERED by the court that the parties are to brief only the following issue: In determining whether a cause of action is within the scope of an arbitration agreement, may a state court in Ohio base that determination on a federal standard that inquires whether the "action could be maintained without reference to the contract or relationship at issue?" *Fazio v. Lehman Bros., Inc.* (C.A.6, 2003), 340 F.3d 386, 395, citing *Ford v. NYLCare Health Plans of Gulf Coast, Inc.* (C.A.5, 1998), 141 F.3d 243, 250-251.

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

MISCELLANEOUS DISMISSALS

2003-1484. State ex rel. Watkins v. Indus. Comm.

Franklin App. No. 02AP-337, 2003-Ohio-3109. This cause is pending before the court as an appeal from the Court of Appeals for Franklin County. Upon consideration of appellant's application for dismissal,

IT IS ORDERED by the court that the application for dismissal be, and hereby is, granted.

ACCORDINGLY, IT IS FURTHER ORDERED by the court that this cause be, and hereby is, dismissed.
