

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

April 30, 2004

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### MOTION AND PROCEDURAL RULINGS

#### **2002-1742. Wentling v. Motorists Ins. Cos.**

Stark App. No. 2002CA00027, 2002-Ohio-4672. This cause is pending before the court as an appeal from the Court of Appeals for Stark County and is consolidated with case No. 2002-1783.

IT IS ORDERED by the court, sua sponte, that oral argument currently scheduled for May 26, 2004, in this case be cancelled.

The judgment of the court of appeals as to the issue raised in appellant's Proposition of Law No. I is affirmed on authority of *Kemper v. Michigan Millers Mut. Ins. Co.*, 98 Ohio St.3d 162, 2002-Ohio-7101, 781 N.E.2d 196.

As to the issue raised in appellant's Proposition of Law No. II, the appellant represents that the overwhelming weight of authority is that notice and subrogation policy provisions apply to uninsured/underinsured motorists claims arising under operation of law, supported by express holdings by the First, Second, Sixth, Eighth, Ninth, Tenth and Twelfth Appellate Districts, and that different panels of the Fifth Appellate District are split on the issue. The appellee concedes that "Motorists has accurately summarized the present state of the law in each appellate jurisdiction" as to that issue.

IT IS FURTHER ORDERED by the court, sua sponte, that the parties show cause by the filing of simultaneous briefs, due May 20, why case No. 2002-1783 should not be dismissed for lack of a conflict and why, in case No. 2002-1742, the opinion of the court of appeals should not be summarily vacated and the cause remanded for further proceedings in accord with *Ferrando v. Auto-Owners Mut. Ins. Co.*, 98 Ohio St.3d 186, 2002-Ohio-7217, 781 N.E.2d 927. No responsive briefing or extensions of time shall be permitted.

**2002-1783. Wentling v. Motorists Ins. Cos.**

Stark App. No. 2002CA00027, 2002-Ohio-4672. This cause is pending before the court on the certification of a conflict by the Court of Appeals for Stark County and is consolidated with case No. 2002-1742.

IT IS ORDERED by the court, sua sponte, that oral argument currently scheduled for May 26, 2004, in this case be cancelled.

The judgment of the court of appeals as to the issue raised in appellant's Proposition of Law No. I is affirmed on authority of *Kemper v. Michigan Millers Mut. Ins. Co.*, 98 Ohio St.3d 162, 2002-Ohio-7101, 781 N.E.2d 196.

As to the issue raised in appellant's Proposition of Law No. II, the appellant represents that the overwhelming weight of authority is that notice and subrogation policy provisions apply to uninsured/underinsured motorists claims arising under operation of law, supported by express holdings by the First, Second, Sixth, Eighth, Ninth, Tenth and Twelfth Appellate Districts, and that different panels of the Fifth Appellate District are split on the issue. The appellee concedes that "Motorists has accurately summarized the present state of the law in each appellate jurisdiction" as to that issue.

IT IS FURTHER ORDERED by the court, sua sponte, that the parties show cause by the filing of simultaneous briefs, due May 20, why case No. 2002-1783 should not be dismissed for lack of a conflict and why, in case No. 2002-1742, the opinion of the court of appeals should not be summarily vacated and the cause remanded for further proceedings in accord with *Ferrando v. Auto-Owners Mut. Ins. Co.*, 98 Ohio St.3d 186, 2002-Ohio-7217, 781 N.E.2d 927. No responsive briefing or extensions of time shall be permitted.