

**GEESAMAN ET AL., APPELLEES, v. ST. RITA'S MEDICAL CENTER ET AL.;
COX, M.D., APPELLANT.**

**[Cite as *Geesaman v. St. Rita's Med. Ctr.*,
127 Ohio St.3d 1259, 2010-Ohio-5946.]**

Appeal dismissed as improvidently accepted.

(Nos. 2009-1715 and 2009-2094 — Submitted October 12, 2010 — Decided
December 9, 2010.)

APPEAL from the Court of Appeals for Allen County, No. 1-08-65,
183 Ohio App.3d 555, 2009-Ohio-3931.

{¶ 1} The cause is dismissed, sua sponte, as having been improvidently
accepted.

BROWN, C.J., and PFEIFER, GWIN, TYACK, and CUPP, JJ., concur.

LUNDBERG STRATTON and O'DONNELL, JJ., dissent.

W. SCOTT GWIN, J., of the Fifth Appellate District, sitting for O'CONNOR,
J.

G. GARY TYACK, J., of the Tenth Appellate District, sitting for
LANZINGER, J.

O'DONNELL, J., dissenting.

{¶ 2} Because I do not agree that juries should be instructed on alternate
theories of recovery in cases of this distinction, I would reverse the judgment of
the Third District Court of Appeals and affirm the judgment of the trial court.

LUNDBERG STRATTON, J., concurs in the foregoing opinion.

SUPREME COURT OF OHIO

Lowe, Eklund, Wakefield & Mulvihill, L.P.A., Dennis P. Mulvihill, and Gregory S. Scott, for appellees.

Tucker, Ellis & West, L.L.P., and Irene C. Keyse-Walker; and Adkinson Law Office and Patrick K. Adkinson, for appellant.

Bieser, Greer & Landis, L.L.P., and John F. Haviland, urging reversal for amicus curiae Ohio Association of Civil Trial Attorneys.

Bricker & Eckler, L.L.P., Anne Marie Sferra, and Bridget Purdue Riddell, urging reversal for amici curiae Ohio Hospital Association, Ohio State Medical Association, American Medical Association, Ohio Osteopathic Association, and American Osteopathic Association.

Rourke & Blumenthal, L.L.P., Jonathan R. Stoudt, and Michael J. Rourke, urging affirmance for amicus curiae Ohio Association for Justice.
