

IN THE COURT OF APPEALS  
TWELFTH APPELLATE DISTRICT OF OHIO  
WARREN COUNTY

ROGER PURVIS,	:	
	:	
Plaintiff-Appellee/	:	CASE NOS. CA2001-10-090
Cross-Appellant,	:	CA2001-10-091
	:	CA2001-10-092
and	:	(Accelerated Calendar)
	:	
BUREAU OF WORKERS'	:	
COMPENSATION,	:	<u>JUDGMENT ENTRY</u>
	:	6/17/2002
Plaintiff-Appellee,	:	
	:	
-vs-	:	
	:	
STATE FARM MUTUAL AUTOMOBILE	:	
INSURANCE COMPANY,	:	
	:	
Defendant-Appellee/	:	
Cross-Appellant,	:	
	:	
and	:	
	:	
PERSONAL SERVICE INSURANCE	:	
COMPANY,	:	
	:	
Defendant-Appellant/	:	
Cross-Appellee,	:	
	:	
and	:	
	:	
WILLIAM E. CALDWELL III,	:	
	:	
Defendant.	:	

CIVIL APPEAL FROM COMMON PLEAS COURT

{¶1} The Bureau of Workers' Compensation was joined as a party to this personal injury action in order to protect its

subrogation rights pursuant to R.C. 4123.91.<sup>1</sup> After a jury trial, the trial court entered a verdict in favor of the Bureau of Workers' Compensation against Personal Service Insurance Company and State Farm Mutual Automobile Insurance Company.

{¶2} While the case was still pending, the Ohio Supreme Court determined that this subrogation statute is unconstitutional. Holeton v. Crouse Cartage Company, 92 Ohio St.3d 115, 2001-Ohio-109. Accordingly, the Court's decision in Holeton precludes the verdict to the Bureau of Workers' Compensation in this case. Therefore, appellants' assignment of error is sustained and the trial court's verdict is hereby vacated.

{¶3} Pursuant to App.R. 11.1(E), this entry shall not be relied upon as authority and shall not be published in any form. A certified copy of this judgment entry shall constitute the mandate pursuant to App.R. 27.

{¶4} Costs to be taxed 50% to Personal Service Insurance Company and 50% to State Farm Mutual Automobile Insurance Company.

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James E. Walsh, Presiding Judge

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William W. Young, Judge

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Anthony Valen, Judge

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1. We have sua sponte assigned this case to the accelerated calendar.