

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

MONDAY
May 17, 1999

MOTION DOCKET

99-245. Schumacher v. Kreiner.

Hamilton App. No. C-980188. This cause is pending before the court as an appeal from the Court of Appeals for Hamilton County. Upon consideration of the motion for admission *pro hac vice* of R. Christian Macke,

IT IS ORDERED by the court that the motion for admission *pro hac vice* be, and hereby is, granted.

99-618. Holcomb v. State Farm Ins. Cos.

Franklin App. No. 98AP-353. This cause is pending before the court on the certification of conflict by the Court of Appeals for Franklin County. On review of the order certifying a conflict,

IT IS DETERMINED by the court that a conflict exists and it is ordered by the court that the parties brief the issue stated in the court of appeals' journal entry filed March 8, 1999, as follows:

“***[D]efendant’s motion to certify the judgment of this court relative to plaintiffs’ fifth assignment of error as being in conflict with the judgment of the Court of Appeals for Cuyahoga County in *Kocel v. Farmers Ins. [of Columbus, Inc.]* (Mar. 7, 1996), Cuyahoga App. No. [69058], unreported [1996 WL 100943, discretionary appeal allowed in (1996), 76 Ohio St.3d 1495, 670 N.E.2d 242, appeal dismissed as having been improvidently allowed in (1997), 79 Ohio St.3d 1235, 684 N.E.2d 83], and *Wilson v. Nationwide Ins. Co.* (Nov. 20, 1997), Cuyahoga App. No. 71734, unreported [1997 WL 723419], is sustained and, pursuant to Section 3(B)(4), Article IV, Ohio Constitution, the record of this case is certified to the Supreme Court of Ohio for review and final determination upon the following issue in conflict:

“Whether R.C. 3937.18(A)(2), as amended by Am.Sub.S.B. 20, legislatively overrules *Sexton v. State Farm Mut. Automobile Ins. Co.* (1982), 69 Ohio St.3d 431 [23 O.O.3d 385, 433 N.E.2d 555], and now allows an automobile insurance policy to limit recovery of underinsured motorist benefits to cases in which an insured has suffered physical injury, sickness, or disease, including death.”

IT IS FURTHER ORDERED by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Franklin County.

IT IS FURTHER ORDERED by the court, *sua sponte*, that this cause be consolidated with Supreme Court case Nos. 99-342 and 99-348, *Holcomb et al. v. State Farm Ins. Cos.*

IT IS FURTHER ORDERED that the parties shall combine the briefing of case Nos. 99-342, 99-348, and 99-618 and follow the provisions of S.Ct.Prac.R. VI(4). Martin Holcomb et al., appellants in case No. 99-342, shall proceed as appellants/cross-appellees and State Farm Insurance Companies, appellant in case No. 99-348, shall proceed as appellee/cross-appellant. The parties shall file one brief for each brief permitted under S.Ct.Prac.R. VI(4); the parties shall file an original of the brief in each case and eighteen copies of the brief; and the parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

DISCRETIONARY APPEALS ALLOWED

99-342. Holcomb v. State Farm Ins. Cos.

Franklin App. No. 98AP-353. Upon consideration of the jurisdictional memoranda filed in this case, the court hereby allows the appeal.

IT IS FURTHER ORDERED by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Franklin County.

IT IS FURTHER ORDERED by the court, *sua sponte*, that this cause be consolidated with Supreme Court case Nos. 99-348 and 99-618, *Holcomb et al. v. State Farm Ins. Cos.*

IT IS FURTHER ORDERED that the parties shall combine the briefing of case Nos. 99-342, 99-348, and 99-618 and follow the provisions of S.Ct.Prac.R. VI(4). Martin Holcomb et al., appellants in case No. 99-342, shall proceed as appellants/cross-appellees and State Farm Insurance Companies, appellant in case No. 99-348, shall proceed as appellee/cross-appellant. The parties shall file one brief for each brief permitted under S.Ct.Prac.R. VI(4); the parties shall file an original of the brief in each case and eighteen copies of the brief; and the parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

Moyer, C.J., Cook and Lundberg Stratton, JJ., dissent.

99-348. Holcomb v. State Farm Ins. Cos.

Franklin App. No. 98AP-353. Upon consideration of the jurisdictional memoranda filed in this case, the court hereby allows the appeal.

IT IS FURTHER ORDERED by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Franklin County.

IT IS FURTHER ORDERED by the court, *sua sponte*, that this cause be consolidated with Supreme Court case Nos. 99-342 and 99-618, *Holcomb et al. v. State Farm Ins. Cos.*

IT IS FURTHER ORDERED that the parties shall combine the briefing of case Nos. 99-342, 99-348, and 99-618 and follow the provisions of S.Ct.Prac.R. VI(4). Martin Holcomb et al., appellants in case No. 99-342, shall proceed as appellants/cross-appellees and State Farm Insurance Companies, appellant in case No. 99-348, shall proceed as appellee/cross-appellant. The parties shall file one brief for each brief permitted under S.Ct.Prac.R. VI(4); the parties shall file an original of the brief in each case and eighteen copies of the brief; and the parties shall otherwise comply with the requirements of S.Ct.Prac.R. VI.

MISCELLANEOUS DISMISSALS

96-2879. State v. Parks.

Clark App. No. 96CA89. This cause is pending before the court as an appeal from the Court of Appeals for Clark County. It appearing to the court that appellant did not serve the other party in this case in accordance with S.Ct.Prac.R. XIV(2)(A),

IT IS ORDERED by the court, *sua sponte*, that this case be, and hereby is, dismissed.

99-290. AT&T Communications of Ohio, Inc. v. Pub. Util. Comm.

Public Utilities Commission, Nos. 95845TPCOI, 961200TPUNC, 961295TPATA, 961312TPATA, 961314TPATA, 961315TPATA, 961316TPATA, 961320TPATA, 961321TPATA, 961323TPATA, 961327TPATA, 961328TPATA, 961330TPATA, 961331TPATA, 961332TPATA, 961333TPATA, 961334TPATA, 961335TPATA, 961337TPATA, 961341TPATA, 961343TPATA, 961344TPATA, 961345TPATA, 961351TPATA, 961352TPATA, 961355TPATA, 961358TPATA, 961360TPATA, 961361TPATA, 961362TPATA, 961372TPATA, 961395TPATA, 961396TPATA, 961397TPATA, 961398TPATA, 961399TPATA and 961401TPATA. This cause is pending before the court as an appeal from the Public Utilities Commission of Ohio. 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.