

[Cite as *Mayer v. Medancic*, 2001-Ohio-8782.]

**COURT OF APPEALS
ELEVENTH DISTRICT
GEAUGA COUNTY, OHIO**

J U D G E S

MARCIA A. MAYER, et al.,
Plaintiffs-Appellees,

HON. DONALD R. FORD, P.J.,
HON. JUDITH A. CHRISTLEY, J.,
HON. DIANE V. GRENDELL, J.

- vs -

MLADEN MEDANCIC, et al.,
Defendants-Appellants,

CASE NOS. 2000-G-2311,
2000-G-2312,
and 2000-G-2313

JAMES CONRAD, ADMINISTRATOR,
BUREAU OF WORKERS'
COMPENSATION,

Appellant.

DISSENTING OPINION

GRENDELL, J.

While I agree with several portions of the majority's decision, I must respectfully dissent for the following reasons. I disagree with the majority's ruling on appellants' second assignment of error (the trial court's error in ordering a set-off) and third assignment of error (the trial court's ordering foreclosure).

On its face, ordering the sale of appellants' property to pay \$124,500 to appellees when appellees owe appellants a \$148,000 judgment from the same court is inequitable and contrary to basic principles of judicial economy. Under the circumstances, the trial court's failure to order a set-off and ordering foreclosure constitute abuses of discretion.

For these reasons, as well as for clarification of the mathematical issue raised by appellants' fourth assignment of error, I would reverse and remand this case.

JUDGE DIANE V. GREDELL