

SCHOTTENSTEIN, APPELLANT, v. SCHOTTENSTEIN, APPELLEE.

[Cite as *Schottenstein v. Schottenstein*, 98 Ohio St.3d 1210, 2003-Ohio-1088.]

Appeal dismissed as improvidently allowed.

(No. 2002-0050 — Submitted February 12, 2003 — Decided March 26, 2003.)

APPEAL from the Court of Appeals for Franklin County, Nos. 00AP-1088, 00AP-1284, 01AP-36, 01AP-94, 01AP-95 and 01AP-227, 2001-Ohio-3987.

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

MOYER, C.J., RESNICK, F.E. SWEENEY, BATCHELDER and O'CONNOR, JJ., concur.

PFEIFER and LUNDBERG STRATTON, JJ., dissent.

WILLIAM G. BATCHELDER, J., the Ninth Appellate District, sitting for COOK, J.

LUNDBERG STRATTON, J. dissenting.

{¶2} I believe that this appeal should not be dismissed as having been improvidently allowed.

{¶3} The issue presented for our consideration was who has the burden of proving whether an increase in value of separate property during marriage is marital or separate property. I believe that this is an important issue upon which Ohio courts disagree. Therefore, I would not dismiss this appeal as having been improvidently allowed but would resolve the issue presented for review. Accordingly, I respectfully dissent.

PFEIFER, J., concurs in the foregoing dissenting opinion.

SUPREME COURT OF OHIO

Kegler, Brown, Hill & Ritter, L.P.A., Anthony J. Celebrezze and Robert G. Cohen, for appellant.

Baker & Hostetler L.L.P., Barry H. Wolinetz and David C. Levine, for appellee.
