

[Cite as *Booth v. Duffy Homes, Inc.*, 121 Ohio St.3d 358, 2009-Ohio-1392.]

**BOOTH ET AL., APPELLANTS, v. DUFFY HOMES, INC., APPELLEE.**

[Cite as *Booth v. Duffy Homes, Inc.*, 121 Ohio St.3d 358, 2009-Ohio-1392.]

*Discretionary appeal accepted on Proposition of Law No. I and cause remanded  
for consideration of Martin v. Design Constr. Servs., Inc.*

(No. 2008-2258 — Submitted February 17, 2009 — Decided April 1, 2009.)

APPEAL from the Court of Appeals for Franklin County,

No. 07AP-680, 2008-Ohio-5261.

---

{¶ 1} The discretionary appeal is accepted on Proposition of Law No. I.

{¶ 2} The cause is remanded to the court of appeals for consideration of whether the court of appeals' judgment should be modified in view of our opinion in *Martin v. Design Constr. Servs., Inc.*, 121 Ohio St.3d 66, 2009-Ohio-1, 902 N.E.2d 10.

MOYER, C.J., and LUNDBERG STRATTON, O'CONNOR, O'DONNELL, and CUPP, JJ., concur.

PFEIFER and LANZINGER, JJ., dissent and would not accept the appeal.

---

Fusco, Mackey, Mathews & Gill, L.L.P., and Michael J. Fusco, for appellants.

Zeiger, Tigges & Little, L.L.P., John W. Zeiger, Stuart G. Parsell, and Matthew S. Zeiger, for appellee.

---