

IN THE SUPREME COURT OF OHIO

REGINA HARRIS, as Guardian for the Estate of WALTER HOLLINS, ) Case No. 06-1247  
)  
) On Appeal from the Court of Appeals  
) Eighth Judicial District of Ohio  
) Cuyahoga County, Ohio  
) Case Nos. 85286, 85574, and 85605  
) (Consolidated)  
Appellee )  
v. )  
MT. SINAI MEDICAL CENTER, et al. )  
)  
)  
Appellants. )

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**MOTION FOR RECONSIDERATION OF PLAINTIFF-APPELLEE REGINA HARRIS  
AS GUARDIAN FOR THE ESTATE OF WALTER HOLLINS**

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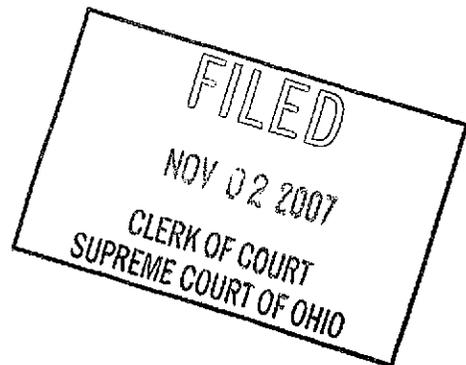
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NOW COMES the Appellee and in support of his motion for reconsideration pursuant to SCt R XI § 2 (A)(4), states as follows:

The opinion of the Ohio Supreme Court is unprecedented on three fronts. First, the opinion is unprecedented in how it cavalierly ignores the victim's constitutional right to trial by jury. The presumptive sanctity of a jury verdict does not rate an honorable mention in this Court's opinion. The one party court does not feign respect for the right to trial by jury. Walter Hollins' right to trial by jury will not even merit a headnote for posterity. Second, the Ohio Supreme Court's opinion is unprecedented in its utter disregard for the overwhelming evidence of liability and damages as set forth in the transcript and the exhibits upon which the Cuyahoga County jury based its verdict. The Court of Appeals majority, which actually based their opinion on the trial transcript (unlike the trial judge who relied in part on Fox News) wrote<sup>1</sup>:

“This court finds that the jury verdict in this case was supported by substantial competent, credible evidence; thus, we find error in the trial court's decision to order a new trial. The defense did not contest liability in this appeal, focusing instead on the amount of damages awarded. **No assignment of error was raised with respect to liability** on cross-appeal.”

(Eighth District Court of Appeals Opinion, May 15, 2006, at Vol 0612 Pg 0594.) (Emphasis added.)

Unlike the “lower” court, when the Ohio Supreme Court makes any reference to “facts” in its opinion, it is only through the biased lens of Visiting Judge Lawther , the former anti-black mayor<sup>2</sup>.

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<sup>1</sup> In setting aside the jury verdict Judge Lawther wrote: “Counsel was the attorney for the famous Dr. Kevorkian, and frequently appears on Fox TV.” (P. Appx. 80) Perhaps it is euthanasia not Walter's skin color or socioeconomic status, which really bothered him.

<sup>2</sup> Former Lakewood Mayor Lawther had a troubled history with Carl B. Stokes, the first African-American mayor of a major city and vigorously opposed Dartmouth College's “A Better

Thirdly, and most telling, this case represents the first time in the history of Ohio jurisprudence where the Ohio Supreme Court has reversed a medical malpractice jury verdict in favor of a Plaintiff without making reference to any of the legal arguments raised by a Plaintiff-Appellee. For example, Plaintiff-Appellee asserted that the order granting a new trial was void *ab initio*, because of the **admitted** ethical misconduct of Judge Lawther in his *ex parte* communications with insurance defense counsel and the deliberating jury. The unethical conduct of the trial judge is well documented in the record (P. Supp. 244; P. Supp 294; P. Supp. 296; P. Supp. 299; P. Supp. 353; P. Appx. 80) and was never denied by any judge or lawyer. The trial judge admitted the misconduct and recused himself, but only **after** he set aside the jury's verdict. The ethical misconduct of the trial judge was raised long before Mr. Hollins won in the Ohio Court of Appeals. That ethical misconduct of Visiting Judge Lawther in this case was brought to the attention of Justice Moyer more than three years ago (P. Supp. 353.) Chief Justice Moyer took no action, stating Judge Lawther was effectively out of the case (P. Supp. 471.) Reading the opinion of the Ohio Supreme Court, it is patently obvious that the Chief Justice's assurance could not have been farther from the truth. Thereafter the issue of the trial judge's **admitted** misconduct was thoroughly briefed for the Supreme Court (Affidavit of Disqualification of Robert M. Lawther, Retired Judge, filed September 8, 2004; SCt. No. 04AP088; Merit Brief of Plaintiff-Appellee Mark A. McLeod as Guardian for the Estate of Walter Hollins, dated January 20, 2007; P. Supp. 244; P. Supp 294; P. Supp. 296; P. Supp. 299; P. Appx. 80.) Now it turns out that the entire foundation of the majority opinion is embedded in the opinion of Lawther granting

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Chance Program", which benefitted poor, mostly black youth. And who will ever forget Visiting Judge Lawther's "opinion in his Opinion" that Walter has no pain and suffering.

a new trial. Therefore, one would reasonably expect that the Ohio Supreme Court would have given some reason--any reason--even if it came from a favorite Fox newscaster, as to why the order for new trial by the visiting judge was not void for his **admitted** misconduct.

The Ohio Supreme Court has made the opinion of the discredited trial judge the cornerstone of its reversal. The visiting judge's opinion is the *sine qua non* for throwing the Cleveland jury and ten years of litigation out the court house window. That trial judge's opinion is tainted by his admitted misconduct and was void *ab initio*. Yet is there not one God-fearing family values Christian on the Ohio Supreme Court, who will extend Walter Hollins the courtesy of an explanation as to why his position about the unethical conduct of Visiting Judge Lawther is somehow misplaced? Why does it not matter that the unethical acts for which the Republican *apparatchik* recused himself were declared "irregular" in his own written opinion? Why does it not matter that those unethical acts occurred **before** Lawther wrote that very same opinion? And since the insurance defense counsel never raised the issue of liability, as the Ohio Court of Appeals twice pointed out, why should not remittitur be a reasonable end to this "war" as the Court of Appeals, Justice Pfeiffer and Mr. Hollins would have?

Sadly for Walter Hollins and sadly for his mother, whose bad back and heart ache every time she lifts her now 102-pound, twenty year old son out of his wheel-chair and into a bath tub, there can only be one answer to the myriad of questions about this unprecedented opinion forsaking a jury verdict: judicial campaign contributions. Not unlike *The Devil and Daniel Webster* where Jabez Stone's counsel had a seemingly insurmountable case, facing hard hearts and hateful faces; Webster asked for mercy knowing that his client, Stone, had made a pact with the devil.

Metaphorically speaking the pact here was made with a devil in the form of exorbitant contributions to Ohio Supreme Court campaigns. (*The New York Times*, October 1, 2006, “Campaign Cash Mirrors the Rulings of a State Supreme Court”.) Justice O’Connor and her Republican<sup>3</sup> colleagues made a bargain with the devil promising pay-offs for their powerful black robes (*The Toledo Blade*, November 7, 2002.) But as Benet would have us believe and hope, even a deal with the devil can be undone by an act of mercy. Here justice would be an exorcism by recusal, but mercy would only require a remittitur and result in tax-saving judicial economy for the over-burdened Ohio judicial system.

WHEREFORE Plaintiff-Appellee moves for reconsideration of the opinion of the Ohio Supreme Court decided October 25, 2007 reversing the Cuyahoga County jury verdict in favor of Walter Hollins and moves that the order and opinion of the Ohio Court of Appeals be affirmed. In the alternative, Plaintiff-Appellee incorporates by reference Appellees Motion to Recuse Justices O’Donnell, Lanzinger, Moyer, O’Connor, and Stratton Collectively; and/or the Ohio Supreme Court *En Banc*, 8/11/06; and Appellees Renewed and Supplemental Motion for Recusal of Justices O’Donnell, Lanzinger, Moyer, O’Connor, and Stratton Collectively; Justice O’Connor Individually; Chief Justice Moyer Individually; And/or the Ohio Supreme Court *En Banc*, 10/16/06, and again moves for reconsideration of the denial of the motion for recusal of the Justices, as the refusal of recusal by those Justices constitutes a denial of the constitutional rights of Walter Hollins as set forth in said incorporated Motion to Recuse. In the alternative, Plaintiff-

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<sup>3</sup> What the All-Republican Ohio Supreme Court needs to realize is that they will not be there forever. However, it will be no better for our Republic, as de Tocqueville envisioned it, to have a one party Democratic Supreme Court similarly bought by their financial supporters; except, of course, for the working poor, minorities and the constitutional rights of all.

Appellee Walter Hollins, a spastic quadriplegic and mentally retarded human being, begs for mercy of this Honorable Court to grant him the relief of remittitur, as set forth by Justice Pfeiffer in his Dissent, in the name of Jesus Christ, who according to the religious beliefs of Walter's mother and grandmother is his Lord and Savior.

Respectfully Submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been served by U.S. Mail, postage prepaid, upon the following on this 1st day of November, 2007.

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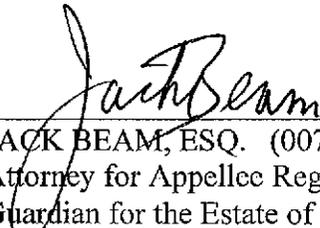
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