

ATTENTION

DIRECT ANY QUESTIONS ABOUT THE ANNOUNCEMENT TO WALTER S. KOBALKA,
REPORTER OF DECISIONS, AND DEBORAH J. BARRETT AT (614) 466-4961 OR
1-800-826-9010.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
December 29, 1993

MERIT DOCKET

92-1453. CCH Computax, Inc. v. Tracy.
Appeal from the Board of Tax Appeals, No. 88-D-566. Decision affirmed
in part and reversed in part.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney
and Pfeifer, JJ., concur.

92-1479. Tri County Distrib., Inc. v. Canandaigua Wine Co.
Mahoning County. Appeal from the Court of Appeals for Mahoning
County, No. 92 C.A. 37. Judgment reversed and cause remanded.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney
and Pfeifer, JJ., concur.

92-1755. Saenz v. Indus. Comm.
Lucas County. Appeal from the Court of Appeals for Lucas County, No.
L-91-251. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and
Pfeifer, JJ., concur.

Wright, J., dissents.

92-1909. Brinkman v. Ross.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 91AP-1510. Judgment reversed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney
and Pfeifer, JJ., concur.

92-1982. Stanton v. Nationwide Mut. Ins. Co.

Hamilton County. Appeal from the Court of Appeals for Hamilton County, No. C-910750. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Wright, F.E. Sweeney and Pfeifer, JJ., concur.

Douglas, J., concurs in the syllabus and judgment.

Resnick, J., concurs in judgment only.

92-2399. State ex rel. Watts v. Schottenstein Stores Corp.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 91AP-1355. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-133. Garlikov v. Continental Cas. Co.

On Order from the United States District Court for the Eastern District of Pennsylvania, Certifying a Question of State Law, No.

92-CV-892. The question is answered in the court's opinion.

A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., concurs separately.

Wright, J., dissents.

93-330. Merriman v. State Farm Ins. Co.

Ross County. Appeal from the Court of Appeals for Ross County, No. 92 CA 1844. Cause remanded.

A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., concurs separately.

Wright, J., concurs in part and dissents in part.

93-375. Miller v. Fling.

Marion County. Appeal from the Court of Appeals for Marion County, No. 9-92-50. Judgment reversed.

A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., concurs separately.

Wright, J., dissents.

93-577. Lehmkuhl v. Owners Ins. Co.

Clermont County. Appeal from the Court of Appeals for Clermont County, No. CA92-06-072. Judgment reversed.

A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., concurs separately.

Wright, J., dissents.

93-788. Newland v. Erie Ins. Co.

Montgomery County. Appeal from the Court of Appeals for Montgomery County, No. 13548. Judgment remanded.

A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., concurs separately.

Wright, J., dissents.

93-831. State ex rel. Fant v. Tober.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga

County, No. 64471. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick and Pfeifer, JJ., concur.

F.E. Sweeney, J., not participating.

93-835. Wilson v. Rogers.

Marion County. Appeal from the Court of Appeals for Marion County, No. 9-93-04. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-955. Prudential Ins. Co. of Am. v. Houk.

Stark County. Appeal from the Court of Appeals for Stark County, No. CA-9093. Judgment reversed.

Moyer, C.J., Douglas, Resnick and Pfeifer, JJ., concur.

A.W. Sweeney, Wright and F.E. Sweeney, JJ., dissent.

93-1066. Borsick v. State Farm Mut. Auto. Ins. Co.

Erie County. Appeal from the Court of Appeals for Erie County, No. E-92-26. Judgment reversed.

A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., concurs separately.

Wright, J., dissents.

93-1071. State v. Barnett.

Seneca County. Certified by the Court of Appeals for Seneca County, No. 13-92-1. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

Douglas, J., dissents.

93-1118. State ex rel. May v. Hendon.

Hamilton County. Appeal from the Court of Appeals for Hamilton County, No. C-920381. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-1184. Seebeck v. Zent.

Madison County. Appeal from the Court of Appeals for Madison County, No. CA92-12-033. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.

93-1303. Disciplinary Counsel v. Carpenter.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 91-33. James P. Carpenter III is permanently disbarred.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick and F.E. Sweeney, JJ., concur.

Pfeifer, J., dissents.

93-1321. State ex rel. Fant v. Tober.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, No. 63737. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick and Pfeifer, JJ., concur.

F.E. Sweeney, J., not participating.

93-1422. State ex rel. Azizhakim v. Gaul.
Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga
County, No. 65141. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney
and Pfeifer, JJ., concur.

93-1518. Nationwide Ins. Co. v. Corliss.
Butler County. Appeal from the Court of Appeals for Butler County,
No. CA92-11-234. Judgment reversed.

A.W. Sweeney, Douglas, Resnick, F.E. Sweeney and Pfeifer, JJ.,
concur.

Moyer, C.J., concurs separately.

Wright, J., dissents.

93-1713. Disciplinary Counsel v. Payne.
On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 92-29. Charles Lee Payne is
suspended from the practice of law for one year, with six months
suspended.

A.W. Sweeney, Douglas, Wright, Resnick and Pfeifer, JJ., concur.

Moyer, C.J., and F.E. Sweeney, J., dissent.

93-1716. Peace v. Prudential Prop. & Cas. Ins. Co.
Erie County. Appeal from the Court of Appeals for Erie County, No.
E-92-60. Judgment reversed and cause remanded.

A.W. Sweeney, Douglas, F.E. Sweeney and Pfeifer, JJ., concur.

Moyer, C.J., concurs separately.

Wright, J., dissents.

Resnick, J., not participating.

93-1773. Cleveland Bar Assn. v. Jones.
On Certified Report by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 92-65. Willie K. Jones is
suspended from the practice of law for one year, with the suspension
suspended on conditions.

Moyer, C.J., A.W. Sweeney, Douglas, Wright and Resnick, JJ.,
concur.

F.E. Sweeney and Pfeifer, JJ., dissent.

93-1815. Disciplinary Counsel v. Stevens.
On Certified Order of the Supreme Court of Florida, No. 79,905. A.
Karl Stevens, Jr. is indefinitely suspended from the practice of law
in the state of Ohio.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney
and Pfeifer, JJ., concur.

93-1924. State ex rel. Beason v. Ohio Dept. of Rehab. & Corr.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 93AP-674. Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney
and Pfeifer, JJ., concur.

DISMISSALS, SUA SPONTE, NO SUBSTANTIAL CONSTITUTIONAL
QUESTION AND JURISDICTIONAL MOTIONS OVERRULED

93-1359. State v. Doane.
Trumbull County, No. 91-T-4545.

93-1371. State v. Turner.
Cuyahoga County, No. 64656.

93-1454. State v. Mosey.
Summit County, No. 16048.

93-1482. State v. Hill.
Lorain County, No. 92CA005358.

93-1484. State v. Miles.
Montgomery County, No. 13274.
Douglas and Resnick, JJ., dissent.

93-1499. State v. Hankins.
Allen County, No. CA93010010.

93-1504. Glass v. Campbell.
Van Wert County, No. 15-92-18.

93-1570. State v. Seymour.
Stark County, No. CA-8897.

93-1614. State v. Dawson.
Cuyahoga County, No. 62182.
Pfeifer, J., dissents.

93-1627. State v. Sommers.
Ross County, No. 93CA1935.
Wright and Pfeifer, JJ., dissent.

93-1635. State v. Pool.
Ross County, No. 1909.

93-1649. State v. King.
Clark County, No. CA-2959.

93-1657. State v. Marshall.
Columbiana County, No. 92-C-56.

93-1682. State v. Messineo.
Athens County, Nos. 92CA1488 and 92CA1493.

93-1701. Cotofan v. Cully.
Cuyahoga County, No. 62966.
Resnick and F.E. Sweeney, JJ., not participating.

93-1709. Lakewood v. Dowling.
Cuyahoga County, Nos. 62889, 63176 and 63273.

93-1720. State v. Mason.
Knox County, No. 93CA06.

93-1762. Cevernka v. Lapinski.

Cuyahoga County, No. 62402.

93-1764. State v. Satterfield.
Lucas County, No. L-92-315.

93-1771. State v. Cripple.
Cuyahoga County, No. 61773.
Wright, J., dissents.

93-1783. State v. Vaughn.
Erie County, No. E-85-9.

93-1794. State v. Earl.
Cuyahoga County, No. 62610.

93-1804. Eastlake v. Republic Auto Parts, Inc.
Lake County, Nos. 92-L-147 and 92-L-148.

93-1832. Burnworth v. Ohio Bell Tel. Co.
Stark County, No. CA-9066.
Douglas and Pfeifer, JJ., dissent.

93-1840. Newark v. Holmes.
Licking County, No. 93CA63.

93-1841. State v. Holmes.
Licking County, No. 93CA64.

93-1857. In re Hays.
Hamilton County, No. C-920118. On motion to certify the record and on motion for leave to file amicus of Drop Inn Ctr. Shelterhouse et al. Motions denied.
Moyer, C.J., and F.E. Sweeney, JJ., dissent.

93-1873. In re CMS of Ohio, Inc.
Franklin County, Nos. 92AP-1532 and 92AP-1545. On motion to certify the record (notice of appeal by Ohio State University Hospitals, second notice of appeal by Ohio Department of Health) and on motion for leave to file amicus of Health Coalition of Central Ohio. Motions denied.
Moyer, C.J., and Resnick, J., dissent.
Wright, J., not participating.

93-1911. Preterm Cleveland v. Voinovich.
Franklin County, No. 92AP-791.
Douglas, Resnick and Pfeifer, JJ., dissent.

93-1918. Madorsky v. Bernstein.
Cuyahoga County, No. 63048.

93-1940. Metrohealth Med. Ctr. v. Kaiser Found. Hosp.
Cuyahoga County, No. 64828.
Wright and Resnick, JJ., dissent.

93-1942. In re Tonti.
Franklin County, Nos. 92AP-1361 and 92AP-1368.

93-1944. Walton Hills v. Vlach.
Cuyahoga County, No. 65584.
Wright, J., dissents.

93-1954. Gamblin v. Montgomery Cty. Dept. of Human Serv.
Montgomery County, No. 13829.
Moyer, C.J., Wright and Resnick, JJ., dissent.

93-1956. State v. Hambrick.
Cuyahoga County, No. 64829.
Wright and Pfeifer, JJ., dissent.

93-1960. State v. Crawford.
Cuyahoga County, No. 62491.

93-1967. Pheils v. Palmer.
Lucas County, No. L-91-426.
Wright and Pfeifer, JJ., dissent.

93-1969. In re Reeder.
Lake County, No. 92-L-185.

93-1975. Mitchell v. Pietrykowski.
Lucas County, No. L-92-218.
Resnick, J., not participating.

93-1979. State v. Clark.
Hamilton County, No. C-920877.

93-1980. State ex rel. Roszmann v. Lions Den.
Fayette County, No. CA92-08-015.
Moyer, C.J., dissents.

93-1981. State v. Boone.
Hamilton County, No. C-920781.

93-1999. Ludwinski v. Seven Hills.
Cuyahoga County, No. 62898. On motion to certify the record and on
motion for leave to file amicus of Concerned Citizens of Seven Hills.
Motions denied.
Moyer, C.J., and Wright, J., dissent.

93-2006. Foreclosure of Liens for Delinquent Land Taxes by Action in
Rem.
Lucas County, No. L-92-395.

93-2007. State v. Blankenship.
Summit County, No. 16018.
Resnick, J., dissents.

93-2063. State v. Blankenship.
Summit County, No. 16019.
Wright and Pfeifer, JJ., dissent.

93-2068. Kelchner Environmental, Inc. v. Praetorian Holding Co., Ltd.
Lucas County, No. L-93-190.
Resnick, J., not participating.

JURISDICTIONAL MOTIONS ALLOWED

93-1577. Heiser v. Ohio Bur. of Workers' Comp.
Summit County, No. 15913.
Moyer, C.J., Wright and Pfeifer, JJ., dissent.

93-1632. State v. Golston.
Cuyahoga County, No. 62857.
Moyer, C.J., and Resnick, J., dissent.

93-1666. Nationwide Mut. Ins. Co. v. Jones.
Cuyahoga County, No. 62779. On motion to certify the record and on
motion to reconsider denial of motion to consolidate with 93-1882,
McCoy v. W. Reserve Mut. Lightning Rod Mut. Ins. Co., Montgomery
County, No. 13808. Motion granted and cause consolidated with 93-1882.
Moyer, C.J., and Wright, J., dissent.

93-1670. Lake Cty. Bd. of Mental Retardation & Dev. Disabilities v.
Professional Assn. for the Training of the Mentally Retarded.
Lake County, No. 92-L-128.
Wright and F.E. Sweeney, JJ., dissent.

93-1957. Nationwide Mut. Ins. Co. v. Campbell.
Wyandot County, No. 16-93-7.
Moyer, C.J., and Wright, J., dissent.

JURISDICTIONAL MOTIONS OVERRULED

93-1489. Davis v. B.P. America.
Stark County, No. CA-9186.
A.W. Sweeney, Douglas and Wright, JJ., dissent.

93-1675. Principal Mut. Ins. Co. v. K617 Cincinnati Co.
Hamilton County, No. C-920282.
Moyer, C.J., dissents.

93-1681. State v. Hartley.
Morrow County, No. CA-781.
Pfeifer, J., dissents.

93-1767. Hewitt v. Gen. Motors Corp.
Hamilton County, No. C-920354.
Wright and Pfeifer, JJ., dissent.

93-1800. Giurbino v. Giurbino.
Cuyahoga County, No. 62996.
Pfeifer, J., dissents.

93-1814. Baker v. DiSilvestro.
Cuyahoga County, No. 63011.

93-1892. Fant v. Greater Cleveland Regional Transit Auth.
Cuyahoga County, No. 63097.

93-1925. Richie v. Rogers Cartage Co.
Lucas County, No. L-92-251.
Douglas, J., dissents.
Resnick, J., not participating.

93-1945. Adhesive Impressions, Inc. v. Amer, Cunningham & Brennan
Co., L.P.A.
Summit County, No. 16007.
Douglas, Wright and Pfeifer, JJ., dissent.

93-1976. Akron v. Breech.
Summit County, No. 16133.

93-2117. State v. Grant.
Hamilton County, No. C-920843.

93-2118. State v. Luttrell.
Stark County, No. CA-9207.
Douglas, J., dissents.

93-2133. State v. Gregory.
Butler County, Nos. CA93-03-052 and CA93-04-067.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

WEDNESDAY
December 29, 1993

JURISDICTIONAL MOTIONS OVERRULED

93-1769. Highley v. Stewart & Turman, M.D.'s, Inc.
Butler County, No. CA92-12-238.

93-1853. Constantinescu v. Ferro Corp.
Cuyahoga County, No. 63193.

DISCIPLINARY DOCKET

92-1348. Disciplinary Counsel v. Baker.

John M. Baker is reinstated to the practice of law in the state of Ohio.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.