

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

March 14, 2007

[Cite as *03/14/2007 Case Announcements*, 2007-Ohio-1036.]

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## MERIT DECISIONS WITH OPINIONS

**2006-0651. State ex rel. Tussing v. Indus. Comm., 2007-Ohio-804.**

Franklin App. No. 05AP-178, 2006-Ohio-703. Judgment affirmed.

Moyer, C.J., Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

Pfeifer, J. dissents and would reverse the judgment of the court of appeals, grant the writ, and return the cause to the Industrial Commission.

**2006-1325. State ex rel. Oliver v. USA Waste of Ohio, Inc., 2007-Ohio-805.**

Franklin App. No. 05AP-666, 2006-Ohio-3264. Judgment affirmed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2006-1326. State ex rel. Stamm v. Harm & Ring Mechanical, Inc., 2007-Ohio-806.**

Franklin App. No. 05AP-742, 2006-Ohio-3108. Judgment affirmed.

Moyer, C.J., Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

Pfeifer, J. dissents and would reverse the judgment of the court of appeals and remand the cause to the Industrial Commission.

**2006-1451. State ex rel. Domico v. Indus. Comm., 2007-Ohio-807.**

Franklin App. No. 05AP-805. Judgment affirmed.

Moyer, C.J., Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

Pfeifer, J. dissents and would reverse the judgment of the court of appeals and grant the writ.

**2006-1861 and 2006-1950. Filippi v. Ahmed, 2007-Ohio-808.**

Cuyahoga App. No. 86927, 2006-Ohio-4368. Judgment reversed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2006-1925. Cuyahoga Cty. Bar Assn. v. Kehn, 2007-Ohio-809.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 06-039. James M. Kehn, Attorney Registration No. 0013316, is suspended from the practice of law in Ohio for six months, stayed on condition.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell and Lanzinger, JJ., concur.

Cupp, J., not participating.

**2006-1927. Cuyahoga Cty. Bar Assn. v. Griffin, 2007-Ohio-810.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-033. Willie Louis Griffin, Attorney Registration No. 0038051, is suspended from the practice of law in Ohio for two years.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell and Lanzinger, JJ., concur.

Cupp, J., not participating.

**2006-1929. State ex rel. Beane v. Dayton, 2007-Ohio-811.**

In Mandamus. Cause dismissed.

Moyer, C.J., Lundberg Stratton, O'Connor, O'Donnell and Cupp, JJ., concur.  
Pfeifer and Lanzinger, JJ., concur in judgment only.

**2006-1939. Cleveland Bar Assn. v. Herron, 2007-Ohio-812.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 05-098. Michael John Herron, Attorney Registration No. 0068694, is indefinitely suspended from the practice of law in Ohio, with the suspension to run concurrently with the indefinite suspension imposed on September 22, 2004.

Moyer, C.J., Pfeifer, Lundberg Stratton and Lanzinger, JJ., concur.

O'Connor and O'Donnell, JJ., dissent and would indefinitely suspend respondent, with the suspension to run consecutive to the suspension imposed on September 22, 2004.

Cupp, J., not participating.

**2006-2202. State ex rel. Russell v. Bican, 2007-Ohio-813.**

Cuyahoga App. No. 87451, 2006-Ohio-5735. Judgment affirmed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2006-2240. State ex rel. Turner v. Houk, 2007-Ohio-814.**

In Mandamus. Cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**MERIT DECISIONS WITHOUT OPINIONS**

**2007-0003. State ex rel. Bunting v. Lioi.**

In Mandamus. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**2007-0007. State ex rel. Griffin v. Davies.**

In Mandamus. On motions to dismiss of Donald L. Plusquellic and Lee C. Davies. Motions granted. Cause dismissed.

Moyer, C.J., Pfeifer, Lundberg Stratton, O'Connor, O'Donnell, Lanzinger and Cupp, JJ., concur.

**MOTION AND PROCEDURAL RULINGS**

**2006-0690. Toledo v. Tellings.**

Lucas App. No. L-04-1224, 2006-Ohio-975. On motion for admission pro hac vice of Carolyn Chan by Sol Zyndorf. Motion granted.

**2006-1304. Leininger v. Pioneer Natl. Latex.**

Ashland App. No. 05-COA-048, 2006-Ohio-2673. On motion for admission pro hac vice of Laurie A. McCann and Melvin Radowitz by Kathaleen B. Schulte. Motion granted.

**2007-0024. Rasmussen v. Hancock Cty. Commrs.**

Hancock App. No. 5-06-54. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2006-1528 and 2006-1589, *Hubbell v. Xenia*, Greene App. No. 2005 CA 99, 2006-Ohio-3369; and briefing schedule stayed.

Pfeifer, J., dissents.

**2007-0093. State v. Wilson.**

Cuyahoga App. No. 87429, 2006-Ohio-5253. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2007-0098. State v. Benjamin.**

Cuyahoga App. No. 87364, 2006-Ohio-5330. On motion for leave to file delayed appeal. Motion granted.

O'Connor, O'Donnell and Cupp, JJ., dissent.

**2007-0101. State v. Torres.**

Cuyahoga App. No. 86530, 2006-Ohio-3696 and 2007-Ohio-9. On motion for leave to file delayed appeal. Motion granted.

O'Connor and Lanzinger, JJ., dissent.

**2007-0102. State v. Austin.**

Cuyahoga App. No. 87169, 2006-Ohio-4120. On motion for leave to file delayed appeal. Motion granted.

O'Connor, O'Donnell and Lanzinger, JJ., dissent.

**2007-0104. State v. Lee.**

Franklin App. No. 06AP-226, 2006-Ohio-5951. On motion for leave to file delayed appeal. Motion granted.

Cupp, J., dissents.

**2007-0108. State v. Jamison.**

Montgomery App. No. 21165, 2006-Ohio-4933. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Pfeifer and Cupp, JJ., dissent.

**2007-0121. Al Minor & Assoc., Inc. v. Martin.**

Franklin App. No. 06AP-217, 2006-Ohio-5948. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated in the court of appeals' Journal Entry filed January 11, 2007:

"Whether customer lists compiled by former employees strictly from memory can be the basis for a statutory trade secret violation."

O'Donnell and Cupp, JJ., dissent.

The conflict case is *Michael Shore & Co. v. Greenwald* (Mar. 21, 1985), Cuyahoga App. No. 48824.

Sua sponte, cause consolidated with 2006-2340, *Al Minor & Assoc., Inc. v. Martin*, Franklin App. No. 06AP-217, 2006-Ohio-5948.

**2007-0130. State v. Thompkins.**

Franklin App. No. 06AP-310, 2006-Ohio-6148. On motion for leave to file delayed appeal. Motion granted.

Moyer, C.J., dissents.

**2007-0134. State v. Lawson.**

Union App. No. 14-06-13, 2006-Ohio-5160. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lanzinger, JJ., dissent.

**2007-0145. State v. Palmer.**

Cuyahoga App. No. 87318, 2006-Ohio-4893. On motion for leave to file delayed appeal. Motion denied.

Cupp, J., dissents.

**2007-0153. State v. Thompson.**

Cuyahoga App. No. 88461. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., and Pfeifer, J., dissent.

**2007-0154. State v. Russell.**

Franklin App. No. 05AP-1325, 2006-Ohio-5945. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

**2007-0171. State v. Calhoun.**

Stark App. No. 2006CA00278. On motion for leave to file delayed appeal. Motion denied.

Moyer, C.J., and Pfeifer, J., dissent.

**2007-0177. State v. Irvin.**

Fairfield App. No. 06-CA-9, 2006-Ohio-6563. On review of order certifying a conflict. The court determines that a conflict exists. Sua sponte, cause held for the decision in 2006-0105 and 2006-0216, *State v. Tooley*, Portage App. No. 2004-P-0064, 2005-Ohio-6709; and briefing schedule stayed.

**2007-0233. State v. Black.**

Richland App. No. 06CA104. On motion for stay of court of appeals' judgment and for bail pending appeal. Motion denied.

Pfeifer and Lundberg Stratton, JJ., dissent.

**2007-0255. Havel v. Chapek.**

Geauga App. No. 2004-G-2609, 2006-Ohio-7014. On motion of Grange Mutual Casualty Company to stay court of appeals' judgment. Motion denied.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., dissent.

**2007-0260. In re A.D.**

Cuyahoga App. No. 87510, 2006-Ohio-6036. On motion for stay of court of appeals' judgment. Motion denied.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., dissent.

**APPEALS ACCEPTED FOR REVIEW**

**2006-2071. State v. Bartley.**

Franklin App. No. 06AP-159, 2006-Ohio-4989. Discretionary appeal accepted; cause held for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552; and briefing schedule stayed.

**2006-2092. State v. Jenson.**

Lake App. No. 2005-L-193, 2006-Ohio-5169. Discretionary appeal accepted; cause held for the decision in 2006-0151, *State v. Carswell*, Warren App. No. CA2005-04-047, 2005-Ohio-6547; and briefing schedule stayed. Motion for stay denied as moot.

**2006-2217. State v. Kvasne.**

Cuyahoga App. Nos. 86805 and 86915, 2006-Ohio-5235. Discretionary appeal accepted on Proposition of Law No. V; cause held for the decision in 2006-0151, *State v. Carswell*, Warren App. No. CA2005-04-047, 2005-Ohio-6547; and briefing schedule stayed.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., would also accept the appeal on Proposition of Law Nos. I and II without holding.

Lundberg Stratton, J., would also accept the appeal on Proposition of Law No. IV and hold for the decision in *State v. Carswell*.

Pfeifer and O'Donnell, JJ., dissent.

**2006-2263. State ex rel. Am. Legion Post 25 v. Ohio Civ. Rights Comm.**

Fayette App. No. CA2006-01-006, 2006-Ohio-5509.

Pfeifer and O'Donnell, JJ., dissent.

**2006-2340. Al Minor & Assoc., Inc. v. Martin.**

Franklin App. No. 06AP-217, 2006-Ohio-5948. Discretionary appeal accepted and cause consolidated with 2007-0121, *Al Minor & Assoc., Inc. v. Martin*, Franklin App. No. 06AP-217, 2006-Ohio-5948.

O'Donnell and Cupp, JJ., dissent.

**APPEALS NOT ACCEPTED FOR REVIEW**

**2006-2037. In re Boling.**

Hamilton App. No. C-050849.

**2006-2040. State v. Pickering.**

Allen App. No. 1-06-35, 2006-Ohio-5496.

Cupp, J., not participating.

**2006-2044. State v. Pickering.**

Allen App. No. 1-06-36, 2006-Ohio-5495.

Cupp, J., not participating.

**2006-2048. State v. Powell.**

Scioto App. No. 05CA3024, 2006-Ohio-5031.

**2006-2054. Miles Landing Homeowner Assn. v. Harris.**

Cuyahoga App. No. 88728.

**2006-2055. State v. Campbell.**

Hamilton App. No. C-050933.

**2006-2082. In re Guardianship of Roper.**

Summit App. No. 23403.

**2006-2087. State v. Reed.**

Defiance App. No. 4-06-20, 2006-Ohio-5148.

Cupp, J., not participating.

**2006-2090. State v. Anderson.**

Summit App. No. 22845, 2006-Ohio-5048.

**2006-2098. State v. Rose.**

Highland App. No. 06CA5, 2006-Ohio-5292.

**2006-2102. State v. Lanier.**

Franklin App. Nos. 06AP-589 and 06AP-590.

Lundberg Stratton, Lanzinger and Cupp, JJ., dissent.

**2006-2110. Howard v. Cannon.**

Lucas App. No. L-05-1421, 2006-Ohio-5112.

**2006-2112. State v. Hamilton.**

Clark App. No. 92CA3015.

**2006-2125. State v. Smith.**

Defiance App. No. 4-06-18, 2006-Ohio-5149.

Cupp, J., not participating.

**2006-2126. State v. Hall.**

Putnam App. No. 12-06-08, 2006-Ohio-5155.

Cupp, J., not participating.

**2006-2128. State v. Shoemaker.**

Union App. No. 14-06-12, 2006-Ohio-5159.

O'Connor, J., dissents and would accept the appeal on Proposition of Law No. I.

**2006-2140. Marchese Concrete Co., Inc. v. DeRubba.**

Trumbull App. No. 2004-T-0119, 2006-Ohio-330.

Lundberg Stratton, Lanzinger and Cupp, JJ., dissent.

**2006-2141. Cuyahoga Metro. Hous. Auth. v. Rhoades.**

Cuyahoga App. No. 87441, 2006-Ohio-4896.

**2006-2152. State v. Estridge.**

Greene App. No. 2005 CA 136, 2006-Ohio-5310.

**2006-2155. Newport Harbor Assn., Inc. v. DiCello.**

Cuyahoga App. No. 87126, 2006-Ohio-4493.

**2006-2175. Freeman v. Blosser.**



Hancock App. No. 5-06-06, 2006-Ohio-5386. Discretionary appeal not accepted.  
Application for clarification denied.

Cupp, J., not participating.

**2006-2176. Tisdale v. 2M Properties, Inc.**

Cuyahoga App. No. 85851, 2005-Ohio-5447.

**2006-2179. Smith & Johnson Constr. Co. v. John K. Leohner Co., Inc.**

Fairfield App. No. 06CA07, 2006-Ohio-5678.

Moyer, C.J., Lundberg Stratton and O'Connor, JJ., dissent and would accept the appeal on Proposition of Law No. I.

**2006-2185. Fuchs v. Scripps Howard Broadcasting Co.**

Hamilton App. No. C-050166, 2006-Ohio-5349.

Moyer, C.J., Pfeifer and O'Donnell, JJ., dissent.

**2006-2188. Griggs v. Bookwalter.**

Montgomery App. No. 21220, 2006-Ohio-5392.

**2006-2189. Carter v. Lapp Roofing & Sheet Metal Co., Inc.**

Montgomery App. No. 21571, 2006-Ohio-5391.

Cupp, J., dissents.

**2006-2190. Compliant Corp. v. Hutchins.**

Cuyahoga App. No. 88877.

**2006-2191. State v. Black.**

Stark App. No. 2006CA00157, 2006-Ohio-5356.

**2006-2194. State v. Hughes.**

Lucas App. No. L-05-1246, 2006-Ohio-5469.

**2006-2201. Nationwide Mut. Fire Ins. Co. v. Buckley.**

Medina App. No. 06CA0013-M, 2006-Ohio-5362.

Moyer, C.J., and O'Connor, J., dissent.

**2006-2207. State v. Rickard.**

Mercer App. No. 10-06-13, 2006-Ohio-5388.

Moyer, C.J., dissents and would accept the appeal and hold the cause for the decision in 2005-2186, *State v. Wilson*, Cuyahoga App. No. 85015, 2005-Ohio-4994.

Cupp, J., not participating.

**2006-2211. State v. Koval.**

Warren App. No. CA2005-06-083, 2006-Ohio-5377.

**2006-2213. State v. Bennett.**

Delaware App. No. 05CAA11069, 2006-Ohio-5530.

Moyer, C.J., Lundberg Stratton and Lanzinger, JJ., dissent and would accept the appeal and hold the cause for the decision in 2006-1245 and 2006-1383, *State v. Payne*, Franklin App. No. 05AP-517, 2006-Ohio-2552.

**2006-2214. Moser v. Moser.**

Warren App. No. CA2005-09-109, 2006-Ohio-5381.

**2006-2216. State v. Doyle.**

Brown App. No. CA2005-11-020, 2006-Ohio-5373.

Moyer, C.J., dissents and would accept the appeal on Proposition of Law No. I.

**2006-2221. State v. Waters.**

Ashland App. No. 06-COA-009, 2006-Ohio-5528.

**2006-2222. State v. Jones.**

Hamilton App. No. C-060824.

**2006-2227. Peterman v. Stewart.**

Delaware App. No. 05-CAE-12-0082, 2006-Ohio-4671.

**2006-2228. State v. Patterson.**

Summit App. No. 23135, 2006-Ohio-5424.

Moyer, C.J., dissents.

**2006-2229. Marock v. Liedertafel.**

Summit App. No. 23111, 2006-Ohio-5423.

Moyer, C.J., Lundberg Stratton and O'Donnell, JJ., dissent.

**2006-2231. State v. Gopp.**

Wayne App. No. 06CA0034, 2006-Ohio-5477.

**2006-2238. State v. Rice.**

Warren App. No. CA2006-01-002, 2006-Ohio-5511.

Moyer, C.J., and O'Connor, J., dissent and would accept the appeal on Proposition of Law No. I, reverse the judgment of the court of appeals, and remand the cause for resentencing on the authority of *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

**2006-2242. State v. Palmer.**

Jefferson App. No. 06 JE 20.

**2006-2248. Rogan v. Brown.**

Clinton App. No. CA2005-10-025, 2006-Ohio-5508.

Moyer, C.J., Pfeifer and Lanzinger, JJ., dissent.

**2006-2251. Moore v. Householder.**

Perry App. No. 2005-CA-20, 2006-Ohio-5682.

**2006-2253. Porath v. Byard.**

Williams App. No. WM-06-001, 2006-Ohio-5617.

**2006-2254. State v. Kelly.**

Cuyahoga App. No. 85662, 2006-Ohio-5902.

**2006-2255. State v. Williams.**

Hamilton App. No. C-060903.

**2006-2257. Keith v. K-Mart Distrib. Ctr.**

Trumbull App. No. 2006-T-0096, 2006-Ohio-5498.

**2006-2258. State ex rel. Lancaster School Dist. Support Assn., OEA/NEA v. Bd. of Edn. of Lancaster City School Dist.**

Franklin App. No. 06AP-305, 2006-Ohio-5520.

Moyer, C.J., and Pfeifer, J., dissent.

**2006-2261. Augenstein v. Murphy.**

Marion App. No. 9-06-15, 2006-Ohio-5491.

Cupp, J., not participating.

**2006-2267. State v. Robinson.**

Summit App. No. 22973, 2006-Ohio-5879.

**2006-2273. State v. Henderson.**

Cuyahoga App. No. 87236, 2006-Ohio-5567.

**2006-2277. Scibelli v. Pannunzio.**

Mahoning App. No. 05 MA 150, 2006-Ohio-5652.

**2006-2282. State v. Laboy.**

Cuyahoga App. No. 87616, 2006-Ohio-5927.

**2006-2291. State v. Flora.**

Cuyahoga App. No. 87544, 2006-Ohio-5732.

**2006-2297. State v. Sturdivant.**

Cuyahoga App. No. 87498, 2006-Ohio-5451.

**2006-2305. State v. Marbury.**

Cuyahoga App. No. 87446, 2006-Ohio-5443.

**2006-2307. State v. Anderson.**

Cuyahoga App. No. 87309, 2006-Ohio-5431.

**2006-2320. State v. Felder.**

Cuyahoga App. No. 87453, 2006-Ohio-5332.

**2006-2321. State v. Brown.**

Williams App. No. WM-05-019, 2006-Ohio-5769.

**2006-2322. State v. Simmons.**

Hamilton App. No. C-050817, 2006-Ohio-5760.

**2006-2329. State v. Edwards.**

Cuyahoga App. No. 87587, 2006-Ohio-5726.

**2006-2352. State v. Goldblatt.**

Cuyahoga App. No. 87442, 2006-Ohio-5930.

**2006-2361. State v. Dunlap.**

Franklin App. No. 05AP-260, 2005-Ohio-6754.

**2006-2376. State v. Newell.**

Cuyahoga App. No. 40334.

O'Donnell, J., dissents.

**2006-2378. State v. Tate.**

Cuyahoga App. No. 88930.

**2006-2379. State v. Cox.**

Butler App. No. CA2005-12-513, 2006-Ohio-6075.

Moyer, C.J., and O'Donnell, J., dissent.

**2006-2382. State v. Gaines.**

Cuyahoga App. No. 87768, 2006-Ohio-6277.

**2006-2384. State v. Black.**

Cuyahoga App. No. 87641, 2006-Ohio-5720.

**2006-2386. State v. Bumphus.**

Erie App. No. E-05-054, 2006-Ohio-3869.

## **RECONSIDERATION OF PRIOR DECISIONS**

**2006-1459. State v. Ellison.**

Hamilton App. No. C-050553, 2006-Ohio-2620. Reported at 112 Ohio St.3d 1441, 2007-Ohio-152, 860 N.E.2d 766. On motion for reconsideration. Motion denied.

O'Donnell, J., dissents.

**2006-1773. State v. Stuber.**

Allen App. No. 1-05-53. Reported at 112 Ohio St.3d 1442, 2007-Ohio-152, 860 N.E.2d 766. On motion for reconsideration. Motion denied.

Cupp, J., not participating.

**2006-1858. Reihard v. Trumbull Cardiovascular Care, Inc.**

Trumbull App. No. 2005-T-0073, 2006-Ohio-4312. Reported at 112 Ohio St.3d 1443, 2007-Ohio-152, 860 N.E.2d 767. On motion for reconsideration. Motion denied.

**2006-1879. Tablack v. Wellman.**

Mahoning App. No. 04-MA-218, 2006-Ohio-4688. Reported at 112 Ohio St.3d 1444, 2007-Ohio-152, 860 N.E.2d 767. On motion for reconsideration. Motion denied.

**2006-2081. State ex rel. Griffin v. Smith.**

In Mandamus. Reported at 112 Ohio St.3d 1437, 2007-Ohio-152, 860 N.E.2d 762. On motion for reconsideration. Motion denied.

**2006-2198. State v. Hall.**

Butler App. No. CA2005-08-217, 2006-Ohio-4206. Reported at 112 Ohio St.3d 1439, 2007-Ohio-152, 860 N.E.2d 765. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.