

# The Supreme Court of Ohio

---

## CASE ANNOUNCEMENTS

October 16, 2008

[Cite as *10/16/2008 Case Announcements*, 2008-Ohio-5339.]

---

## MERIT DECISIONS WITH OPINIONS

**2007-1345. Pattison v. W.W. Grainger, Inc., Slip Opinion No. 2008-Ohio-5276.**

Cuyahoga App. No. 88556, 2007-Ohio-3081. Certified question answered in the negative, and judgment reversed and cause remanded.

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

Lundberg Stratton, J., dissents.

**2007-1368. State v. Were, Slip Opinion No. 2008-Ohio-5277.**

Hamilton App. No. C-030485. Judgment affirmed.

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

**2008-0843. Columbus Bar Assn. v. Ellis, Slip Opinion No. 2008-Ohio-5278.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 07-037. Madry Leonard Ellis, Attorney Registration No. 0067703, is suspended from the practice of law in Ohio for two years.

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

## MOTION AND PROCEDURAL RULINGS

**2007-2102. State ex rel. Fontanella v. Kontos.**

Trumbull App. No. 2007-T-0055, 2007-Ohio-5213. This cause came on for further consideration of appellant's motion to vacate the court's April 2, 2008 decision.

It is ordered by the court that the motion is denied.

**2008-0215. State v. Sanchez.**

Greene App. No. 06-CA-154, 2007-Ohio-6697. This cause came on for further consideration of the motion of amicus curiae Office of the Ohio Attorney General to participate in oral argument.

It is ordered by the court that the motion is denied as moot.

**2008-0429. State v. Sanchez.**

Greene App. No. 06-CA-154, 2007-Ohio-6697. This cause came on for further consideration of the motion of amicus curiae Office of the Ohio Attorney General to participate in oral argument.

It is ordered by the court that the motion is denied as moot.

**2008-0936. Bailey v. Ohio Dept. of Transp.**

Franklin App. No. 07AP-849, 2008-Ohio-1513. This cause came on for further consideration of appellant's motion for verification of timely filing.

It is ordered by the court that the motion is denied.

**2008-1986. McCuller v. Hudson.**

Richland App. No. 08-CA-59, 2008-Ohio-4659. This cause was filed as a discretionary appeal and claimed appeal of right. Upon consideration of appellant's jurisdictional memorandum, it is determined by the court that this cause originated in the court of appeals and shall proceed as a direct appeal.

It is ordered by the court that the Clerk shall issue an order for the transmittal of the record from the Court of Appeals for Richland County. Appellant shall file his merit brief within 40 days of the filing of the record with the Clerk of this court, and the parties shall otherwise proceed in accordance with S.Ct.Prac.R. VI.

**MISCELLANEOUS DISMISSALS**

**2008-1345. State v. Hubaker.**

Lake App. No. 2007-L-162, 2008-Ohio-1776. This cause is pending before the court as a discretionary appeal and claimed appeal of right. It appears from the records of the court that the appellant has not filed a memorandum in support of jurisdiction, due October 10, 2008, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

It is ordered by the court that this cause is dismissed sua sponte.

**2008-1362. State v. Hoffmeyer.**

Summit App. No. 23712, 2008-Ohio-2311. This cause is pending before the court as a discretionary appeal and claimed appeal of right. It appears from the records of the court that the appellant has not filed a memorandum in support of jurisdiction, due October 10, 2008, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

It is ordered by the court that this cause is dismissed sua sponte.

**2008-1938. State ex rel. Madigan v. Cuyahoga Cty. Bd. of Elections.**

In Mandamus and Prohibition. This cause originated in this court on the filing of a complaint for a writ of mandamus/prohibition involving an expedited election matter. Upon consideration of relators' application for dismissal,

It is ordered by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

**RECONSIDERATION OF PRIOR DECISIONS**

**2008-1465. State ex rel. Medcorp, Inc. v. Ryan.**

Franklin App. No. 06AP-1223, 2008-Ohio-2835. It is ordered by the court that the motion for reconsideration in this case is denied.

**DISCIPLINARY CASES**

**2007-1195. Columbus Bar Assn. v. Willette.**

On application for reinstatement of Philip Brian Willette, Attorney Registration No. 0019940. Application granted and respondent reinstated to the practice of law in Ohio.

**2008-1773. In re Resignation of Markovich.**

On affidavit of resignation from the practice of law of Edward Paul Markovich, Attorney Registration No. 0068046, and on report filed under seal by Disciplinary Counsel. Resignation accepted with disciplinary action pending.

**2008-1845. In re Gittinger.**

On September 17, 2008, and pursuant to Gov.Bar R. V(5)(A)(3), the secretary of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio certified to the Supreme Court a certified copy of a judgment entry of a felony conviction against Steven C. Gittinger, an attorney licensed to practice law in the state of Ohio.

Upon consideration thereof and pursuant to Gov.Bar R. V(5)(A)(4), it is ordered and decreed that Steven C. Gittinger, Attorney Registration No. 0011887, last known business address in Cincinnati, Ohio, is suspended from the practice of law for an interim period, effective as of the date of this entry.

It is further ordered that this matter is referred to the Disciplinary Counsel for investigation and commencement of disciplinary proceedings.

It is further ordered that respondent immediately cease and desist from the practice of law in any form and is forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority.

It is further ordered that effective immediately, respondent is forbidden to counsel or advise or prepare legal instruments for others or in any manner perform legal services for others.

It is further ordered that respondent is divested of each, any, and all of the rights, privileges, and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

It is further ordered that before entering into an employment, contractual, or consulting relationship with any attorney or law firm, the respondent shall verify that the attorney or law firm has complied with the registration requirements of Gov.Bar R. V(8)(G)(3). If employed pursuant to Gov.Bar R. V(8)(G), respondent shall refrain from direct client contact except as provided in Gov.Bar R. V(8)(G)(1) and from receiving, disbursing, or otherwise handling any client trust funds or property.

It is further ordered that pursuant to Gov.Bar R. X(3)(G), respondent shall complete one credit hour of continuing legal education for each month or portion of a month of the suspension. As part of the total credit hours of continuing legal education required by Gov.Bar R. X(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1) for each six months or portion of six months of the suspension.

It is further ordered that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio, (2) respondent complies with this and all other orders issued by this court, (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio, and (4) this court orders respondent reinstated.

It is further ordered, sua sponte, by the court that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded by the Clients' Security Fund pursuant to Gov.Bar R. VIII(7)(F). It is further ordered, sua sponte, by the court that if, after the date of this order, the Clients' Security Fund awards any amount against the respondent pursuant to Gov.Bar R.

VIII(7)(F), the respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

It is further ordered that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place;
2. Regardless of any fees or expenses due respondent, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property;
3. Refund any part of any fees or expenses paid in advance that are unearned or not paid, and account for any trust money or property in respondent's possession or control;
4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties of respondent's disqualification to act as an attorney after the effective date of this order, and file a notice of disqualification of respondent with the court or agency before which the litigation is pending for inclusion in the respective file or files;
5. Send all such notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent;
6. File with the Clerk of this court and the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of notices required herein, and setting forth the address where the affiant may receive communications; and
7. Retain and maintain a record of the various steps taken by respondent pursuant to this order.

It is further ordered that respondent shall keep the Clerk and the Disciplinary Counsel advised of any change of address where respondent may receive communications.

It is further ordered, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

It is further ordered, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Office of Attorney Services.

It is further ordered that the Clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

### MISCELLANEOUS ORDERS

In re Report of the Commission  
On Continuing Legal Education.

Neil Kumar Sethi  
(#0070623),  
Respondent.

CLE-2007-70623

O R D E R

This matter originated in this court on the filing of a report by the Commission on Continuing Legal Education ("commission") pursuant to Gov.Bar R. X(6)(A)(1)(b) and (A)(2)(d). The commission recommended the imposition of sanctions against certain attorneys, including the above-named respondent, for failure to comply with the provisions of Gov.Bar R. X, Attorney Continuing Legal Education, for the 2005-2006 reporting period.

On June 6, 2008, this court entered an order against respondent adopting the recommendation of the commission that respondent be ordered to pay a sanction in the amount of \$150.00 for failure to comply with Gov.Bar R. X during the 2005-2006 reporting period.

On September 9, 2008, the commission filed a motion to vacate, requesting that the order of June 6, 2008, pertaining to the above-named respondent be vacated. Upon consideration thereof,

IT IS ORDERED by the court that the motion to vacate is granted.

IT IS FURTHER ORDERED by the court that the order of June 6, 2008, pertaining to respondent is vacated and this cause is dismissed.