

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

January 27, 2010

[Cite as *01/27/2010 Case Announcements, 2010-Ohio-188.*]

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## MERIT DECISIONS WITH OPINIONS

**2008-0390. Toledo Bar Assn. v. Weisberg, Slip Opinion No. 2010-Ohio-142.**

On Certified Report by the Board of Commissioners on Grievances and Discipline, No. 07-077. Joseph D. Weisberg, Attorney Registration No. 0001441, is suspended from the practice of law in Ohio for two years, with no credit for time served under the interim suspension imposed on March 26, 2007, but with the suspension stayed on condition of a two-year monitored probation.

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

**2008-2037. State v. Williams, Slip Opinion No. 2010-Ohio-147.**

Cuyahoga App. No. 89726, 2008-Ohio-5286. Judgment of the court of appeals reversed in part, and cause remanded to the trial court.

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

Cupp, J., concurs in judgment only.

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

Pfeifer, J., dissents.

**2009-0609. Am. Booksellers Found. for Free Expression v. Cordray, Slip Opinion No. 2010-Ohio-149.**

Certified Questions of State Law, United States Court of Appeals for the Sixth Circuit, Nos. 07-4375 and 07-4376. Certified questions answered in the affirmative.

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

**2009-1640. Ohio State Bar Assn. v. Am. Foreclosure Specialists, L.L.C., Slip Opinion No. 2010-Ohio-148.**

On Final Report by the Board on the Unauthorized Practice of Law, No. UPL 08-02. Consent decree in which American Foreclosure Specialists, L.L.C., is enjoined from acts constituting the practice of law is approved.

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

**2009-1645. Ohio State Bar Assn. v. United Fin. Sys. Corp., Slip Opinion No. 2010-Ohio-143.**

On Final Report by the Board on the Unauthorized Practice of Law, No. UPL 09-02. Consent decree in which United Financial Systems Corporation is enjoined from acts constituting the practice of law is approved.

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

**MERIT DECISIONS WITHOUT OPINIONS**

**2009-1907. State ex rel. Indus. Energy Users-Ohio v. Pub. Util. Comm.**

In Prohibition. On motion for leave to intervene as respondents of Columbus Southern Power Company and Ohio Power Company and motions to dismiss of respondents and intervening respondents. Motion for leave to intervene granted. Motions to dismiss granted. Cause dismissed.

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

Pfeifer, J., dissents and would deny the motions to dismiss.

**2009-1934. State ex rel. Summit Cty. v. Pub. Emps. Retirement Sys.**

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

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

**2009-2002. [State ex rel.] Bunting v. Hauritz.**

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

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

**2009-2015. State ex rel. Yeager v. Stormer.**

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

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

**2009-2025. State ex rel. Goldsberry v. Court of Appeals, Third Appellate Dist.**  
In Procedendo. On complaint in procedendo of Michael Goldsberry. On S.Ct.Prac.R. 10.5 determination, cause dismissed.

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

**2009-2029. State ex rel. Montgomery v. Shook.**

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

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

**2009-2031. [State ex rel.] Internatl. Assn. of Heat & Frost Insulators & Asbestos Workers, Local Union No. 45 v. Court of Appeals, Sixth Appellate Dist.**

In Mandamus and Prohibition. On relator's complaint, motion for leave to file amended complaint, and motion for judgment on the pleadings and respondent's answer and motion for judgment on the pleadings. Relator's motion for leave to file amended complaint is granted. Relator's motion for judgment on the pleadings is denied. Respondent's motion for judgment on the pleadings is granted. Cause dismissed.

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

**2009-2035. State ex rel. Bensman v. Lucas Cty. Bd. of Elections.**

Lucas App. No. L-08-1211. On motion to dismiss. Motion to dismiss granted. Cause dismissed.

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

**2009-2072. State ex rel. Holloman v. O'Shaughnessy.**

In Mandamus. On answer of respondent. On S.Ct.Prac.R. 10.5 determination, cause dismissed.

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

**2009-2124. State ex rel. Duvall v. Corrigan.**

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

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

**2009-2127. [State ex rel.] Evans v. Sheward.**

In Mandamus. On answer of respondents. On S.Ct.Prac.R. 10.5 determination, cause dismissed.

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

**2009-2129. State ex rel. Morrison v. Brunner.**

In Prohibition. On motion for emergency alternative writ. Motion denied. On S.Ct.Prac.R. 10.5 determination, cause dismissed.

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

**2009-2132. State ex rel. Salvi v. Smith.**

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

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

**2009-2133. State ex rel. Otinger v. Adams.**

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

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

**2009-2134. State ex rel. Legge v. Faulkner.**

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

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

**2009-2151. Lopez v. Sheets.**

In Habeas Corpus. On petition for writ of habeas corpus of Juan Ramone Lopez and motion to amend petition. Sua sponte, cause dismissed. Motion to amend petition denied as moot.

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

**2009-2152. State ex rel. Texas E. Transm., L.P. v. Ohio Reclamation Comm.**

In Prohibition. On motion of American Energy Corporation for leave to intervene as respondent, motions to dismiss of respondent and intervening respondent, and motion for admission pro hac vice of David R. Overstreet and Craig P. Wilson by Frank L. Merrill. Motion for admission pro hac vice granted. Motion for leave to intervene granted. Motions to dismiss granted. Cause dismissed.

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

**2009-2169. State ex rel. Dickens v. Brunsman.**

In Habeas Corpus. On petition for writ of habeas corpus of Terence E. Dickens. Sua sponte, cause dismissed.

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

**2009-2191. Hake v. Pineda.**

In Habeas Corpus. On petition for writ of habeas corpus of Paul Hake. Sua sponte, cause dismissed.

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

## **MOTION AND PROCEDURAL RULINGS**

**2004-0041 and 2007-0475. State v. Elmore.**

Licking C.P. No. 02 CR 275. On motion to consolidate direct appeal case numbers. Motion denied. On application for reopening of case No. 2004-0041. Motion denied because appellant failed to comply with the 90-day filing deadline in S.Ct.Prac.R. 11.6(A). On application for reopening of case No. 2007-0475 under S.Ct.Prac.R. 11.6. Motion denied.

Cupp, J., not participating.

**2009-0627. DIRECTV, Inc. v. Levin.**

Franklin App. No. 08AP-32, 181 Ohio App.3d 92, 2009-Ohio-636. On motion for admission pro hac vice of Sheldon H. Laskin, Shirley K. Sicilian, Annina M.

Mitchell, Christopher G. Browning Jr., Michael D. Youth, Kay Linn Miller Hobart, and Gary R. Govert by Julie A. Brigner; on motion for admission pro hac vice of David Parkhurst, Walter Hellerstein, John A. Swain, and Eric Tresh by Douglas R. Matthews; on motion for admission pro hac vice of Arthur Harding, Craig Gilley, and Micah Caldwell by Donald J. Mooney Jr.; and on motion for admission pro hac vice of Julia C. Ambrose, Charles F. Marshall III, and Marcus W. Trathen by Paul D. Ritter Jr. Motions granted.

**2009-1038. State ex rel. Wilson v. McGee.**

Montgomery App. No. 23333. On motion for relief from judgment. Motion denied.

**2009-1069. Barberton v. Jenney.**

Summit App. No. 24423, 2009-Ohio-1985. On motion for admission pro hac vice of Emily Schlesinger by Benjamin C. Mizer. Motion granted.

**2009-2055. State ex rel. Brookwood Presbyterian Church v. Ohio Dept. of Edn.**

In Mandamus. On motion to dismiss. Sua sponte, an alternative writ is granted, and the following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct. Prac. R. 10.6:

The parties shall file any evidence they intend to present within 20 days of the date of this entry; relator shall file a brief within ten days of the filing of the evidence; respondent shall file a brief within 20 days after the filing of relator's brief; and relator may file a reply brief within seven days after filing of respondent's brief.

**2009-2068. State ex rel. Hamilton Cty. Bd. of Commrs. v. Hamilton Cty. Court of Common Pleas.**

In Prohibition. On relator's motion to dismiss and motion for leave to file supplemental affidavits, Hamilton County Prosecuting Attorney's motion for judgment on the pleadings, and motion of County Commissioners Association of Ohio for leave to intervene. Motion for leave to intervene is granted. Motion for leave to file supplemental affidavits is granted. Motions to dismiss and for judgment on the pleadings are denied.

Sua sponte, an alternative writ is granted, and the following briefing schedule is set for presentation of evidence and filing of briefs pursuant to S.Ct. Prac. R. 10.6:

The parties shall file any evidence they intend to present within 20 days of the date of this entry; relator shall file a brief within ten days of the filing of the

evidence; respondents shall file a brief within 20 days after the filing of relator's brief; and relator may file a reply brief within seven days after filing of respondents' brief.

**2009-2122. State v. Cook.**

Lucas App. No. L-08-1301, 2009-Ohio-4917. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 2 of the court of appeals' Decision and Judgment filed October 28, 2009:

“Whether RC. 2901.13(F) operates to toll the six-year period of limitations provided for in R.C. 2901.13(A) so that it extends beyond six years from the date upon which a felony offense was committed where the corpus delicti of the offense is discovered within the period of limitations and more than one year prior to expiration of the limitations period.”

The conflict case is *State v. Mitchell* (1992), 78 Ohio App.3d 613.

**2009-2104. Doe v. Ronan.**

Certified Question of State Law, United States District Court, Southern District of Ohio, Western Division, No. 1:09CV243. On review of preliminary memoranda pursuant to S.Ct.Prac.R. 18.6. The court will answer the following questions:

“1. Does R.C. 3319.391 and Ohio Adm.Code 3301-20-01 violate the Retroactivity Clause of Article II, Section 28 of the Ohio Constitution?”

“2. Does R.C. 3319.391 and Ohio Adm.Code 3301-20-01 violate the Contract Clause of Article II, Section 28 of the Ohio Constitution?”

Moyer, C.J., and Cupp, J., would answer the first question only.

O'Donnell, J., dissents.

Motion for admission pro hac vice of David M. Lieberman by Benjamin C. Mizer granted.

**2009-2142. State v. Conkel.**

Franklin App. No. 08AP-845, 2009-Ohio-2852. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2009-2157. State v. Harris.**

Clark App. No. 2008 CA 31, 2009-Ohio-1948. On motion for leave to file delayed appeal. Motion denied.

**2009-2195. State v. Pettegrew.**

Cuyahoga App. No. 91816, 2009-Ohio-4981. On motion for stay of court of appeals' judgment pending appeal. Motion denied.

Lundberg Stratton and Cupp, JJ., dissent.

**2009-2196. State v. Handcock.**

Clark App. No. 2008 CA 85, 2009-Ohio-4327. On motion for leave to file delayed appeal. Motion denied.

Pfeifer and Lanzinger, JJ., dissent.

**2009-2203. State v. Greer.**

Cuyahoga App. No. 91983, 2009-Ohio-4228. On motion for leave to file delayed appeal. Motion denied. Request for transcript at state's expense denied as moot.

Pfeifer, J., dissents.

**2009-2208. State v. Davis.**

Cuyahoga App. No. 91324, 2009-Ohio-5217. On motion for stay of court of appeals' judgment. Motion denied.

Lanzinger and Cupp, JJ., dissent.

**2009-2218. State v. Pilgrim.**

Franklin App. No. 08AP-993, 2009-Ohio-5357. On motion for leave to file delayed appeal. Motion granted.

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

**2009-2220. State v. English.**

Montgomery App. No. 22810, 2009-Ohio-5300. On motion for leave to file delayed appeal. Motion granted.

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

**2009-2231. State v. Collins.**

Scioto App. No. 08CA3254, 2009-Ohio-3182. On motion for leave to file delayed appeal. Motion denied.

Pfeifer, J., dissents.

**2009-2233. State v. Marquis.**

Stark App. No. 2004CA00119, 2005-Ohio-1063. On motion for leave to file delayed appeal. Motion denied.

**2009-2254. State v. Christian.**

Jefferson App. No. 07 JE 9, 2007-Ohio-7205. On motion for leave to file delayed appeal. Motion denied.

**2009-2255. State v. Moore.**

Stark App. No. 2008-CA-00228, 2009-Ohio-4958. On motion for leave to file delayed appeal. Motion granted.

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

**2009-2273. State v. Heft.**

Logan App. No. 8-09-08, 2009-Ohio-5908. On motion to stay court of appeals and common pleas court judgments. Motion denied.

**APPEALS ACCEPTED FOR REVIEW**

**2009-1705. Janosek v. Janosek.**

Cuyahoga App. Nos. 91882 and 91914, 2009-Ohio-3882.

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

**2009-1838. State v. Knepper.**

Summit App. No. 24682, 2009-Ohio-5159. Discretionary appeal accepted; cause held for the decision in 2009-0825, *State v. Massien*, Summit App. No. 24369, 2009-Ohio-1521; and briefing schedule stayed.

**2009-1860. State v. Strickland.**

Lake App. No. 2008-L-034, 2009-Ohio-5424. Discretionary appeal accepted; cause held for the decisions in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387, and 2008-0991 and 2008-0992, *Chojnacki v. Cordray*, Warren App. No. CA2008-03-040; and briefing schedule stayed.

**2009-1864. McKinney v. State.**

Warren App. No. CA2009-04-041, 2009-Ohio-4685. Discretionary appeal accepted on Proposition of Law Nos. I, II, III, and IV; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; briefing schedule stayed.

**2009-1866. State v. Harmon.**

Summit App. No. 24495, 2009-Ohio-4512.

**2009-1887. Searles v. State.**

Warren App. No. CA2009-05-055, 2009-Ohio-4666. Discretionary appeal accepted; cause held for the decision in 2008-2502, *State v. Bodyke*, Huron App. Nos. H-07-040, H-07-041, and H-07-042, 2008-Ohio-6387; and briefing schedule stayed.

**2009-1915. State v. Jay.**

Cuyahoga App. No. 91827, 2009-Ohio-4364. Discretionary appeal accepted on Proposition of Law Nos. I and II; cause held for the decision in 2009-0477, *State v. Dunlap*, Cuyahoga App. No. 91165, 2009-Ohio-134; and briefing schedule stayed.

Lanzinger, J., would accept the appeal on Proposition of Law No. II only.  
Pfeifer and O'Donnell, JJ., dissent.

**2009-1926. Brookwood Presbyterian Church v. Ohio Dept. of Edn.**

Franklin App. No. 09AP-303, 2009-Ohio-4645.

Moyer, C.J., and O'Connor, J., would accept the appeal on Proposition of Law Nos. I and II only.

Lanzinger, J., dissents.

**2009-1929. In re A.K.**

Medina App. No. 09CA0025-M, 2009-Ohio-4941. Discretionary appeal accepted; cause held for the decision in 2008-1624, *In re Smith*, Allen App. No. 1-07-58, 2008-Ohio-3234; and briefing schedule stayed.

**2009-1936. Kincaid v. Erie Ins. Co.**

Cuyahoga App. No. 92101, 2009-Ohio-4372. Discretionary appeal accepted on Proposition of Law Nos. I and II.

Lundberg Stratton, O'Donnell, and Cupp, J., would accept the appeal on all Propositions of Law.

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

**2009-1967. State v. Battistelli.**

Lorain App. No. 09CA009536, 2009-Ohio-4796.

Pfeifer, J., dissents.

**2009-1977. State v. Goff.**

Lawrence App. No. 07CA17, 2009-Ohio-4914. Discretionary appeal accepted on Proposition of Law Nos. I, II, and III.

Pfeifer and Lanzinger, JJ., would accept the appeal on all Propositions of Law.

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

**2009-1994. State v. Throckmorton.**

Highland App. No. 08CA17, 2009-Ohio-5344. Discretionary appeal accepted on Proposition of Law No III; cause held for the decision in 2008-0711 and 2008-1005, *State v. Joseph*, Allen App. No. 1-07-50, 2008-Ohio-1138; and briefing schedule stayed.

Moyer, C.J., and Pfeifer, J., would accept the appeal on all Propositions of Law.

O'Donnell, J., dissents.

Cupp, J., not participating.

**2009-2004. Rumpke Sanitary Landfill, Inc. v. State.**

Hamilton App. No. C-081097, 2009-Ohio-4888. Discretionary appeal accepted on Proposition of Law No. I.

Lundberg Stratton, O'Donnell, and Lanzinger, JJ., would accept the appeal on all Propositions of Law.

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

**2009-2028. State v. Davis.**

Licking App. No. 09-CA-0019, 2009-Ohio-5175. Discretionary appeal accepted on Proposition of Law No. I.

Moyer, C.J., and Lundberg Stratton and Lanzinger, JJ., would also accept the appeal on Proposition of Law No. II.

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

**APPEALS NOT ACCEPTED FOR REVIEW**

**2009-1349. State v. Carmen.**

Clinton App. No. CA2007-06-030, 2008-Ohio-5842.

**2009-1354. State v. Candidate.**

Butler App. No. CA2008-07-169.

**2009-1368. Hance v. Allstate Ins. Co.**

Clermont App. No. CA2008-10-094, 2009-Ohio-2809.

Pfeifer and O'Donnell, JJ., dissent.

**2009-1490. State v. Howard.**

Franklin App. No. 08AP-177, 2009-Ohio-2663.

**2009-1633. In re Kafantaris.**

Columbiana App. No. 07-CO-28, 2009-Ohio-4814.

O'Donnell, J., dissents.

**2009-1664. Holloway v. McDaniel.**

Cuyahoga App. No. 91599, 2009-Ohio-3733.

**2009-1843. Bookmasters, Inc. v. Hamilton.**

Ashland App. No. 09-COA-015.

O'Donnell, J., dissents.

**2009-1846. State v. Smith.**

Hamilton App. No. C-081151.

**2009-1849. McCarthy v. Homeowners Assn. of Tweed Lakes, Inc.**

Summit App. No. 24904.

O'Donnell, J., not participating.

**2009-1862. State v. Newton.**

Delaware App. No. 09-CAA-02-0015, 2009-Ohio-4469.

**2009-1868. State v. Lathan.**

Guernsey App. No. 09CA000034.

**2009-1873. Hillman v. Edwards.**

Franklin App. Nos. 08AP-1063 and 08AP-1064, 2009-Ohio-5087. Discretionary appeal not accepted. Motion for stay denied as moot.

**2009-1874. State v. Lather.**

Sandusky App. No. S-08-036, 2009-Ohio-3215.

**2009-1877. Kirby v. Barletto.**

Franklin App. No. 09AP-158, 2009-Ohio-5090.

Pfeifer, J., dissents.

**2009-1879. State v. Cole.**

Montgomery App. No. 23327, 2009-Ohio-4580.

Lundberg Stratton, J., dissents.

**2009-1880. State v. Bridgeman.**

Champaign App. No. 2008 CA 19, 2009-Ohio-4578.

**2009-1881. McCumbers v. Puckett.**

Fayette App. No. CA2008-11-038, 2009-Ohio-4465.

**2009-1882. State v. Were.**

Hamilton App. No. C-080697, 2009-Ohio-4494.

**2009-1889. State v. Wilkins.**

Montgomery App. No. 22834, 2009-Ohio-4575.

**2009-1892. State v. Bell.**

Montgomery App. No. 22448, 2009-Ohio-4783.

**2009-1896. State v. White.**

Lucas App. No. L-07-1196, 2009-Ohio-4587.

**2009-1903. State v. Bonilla.**

Greene App. No. 2008 CA 68, 2009-Ohio-4784.

**2009-1905. Dilorio Properties Co., Ltd. v. Cuyahoga Cty. Community Mental Health Bd.**

Cuyahoga App. No. 93595.

**2009-1908. Montanez v. MetroHealth Med. Ctr.**

Cuyahoga App. No. 92567, 2009-Ohio-3881.

**2009-1916. Cunningham v. Cunningham.**

Franklin App. No. 08AP-1049, 2009-Ohio-4648.

Moyer, C.J., dissents and would accept the appeal on Proposition of Law Nos. I, V, and VII.

**2009-1923. Absolute Machine Tools, Inc. v. Liberty Precision Industries, Ltd.**

Lorain App. No. 08CA009503, 2009-Ohio-4612.

O'Donnell and Lanzinger, JJ., dissent.

**2009-1924. Bank of New York v. Dobbs.**

Knox App. No. 2009-CA-000002, 2009-Ohio-4742.

Pfeifer and O'Donnell, JJ., dissent.

**2009-1927. State v. Richardson.**

Richland App. No. 2009-CA-00027, 2009-Ohio-4867.

**2009-1928. State v. Canter.**

Franklin App. No. 09AP-47, 2009-Ohio-4837.

**2009-1930. State v. Davis.**

Clark App. Nos. 2007 CA 71 and 2008 CA 55, 2009-Ohio-4583.

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

**2009-1931. Licking Cty. Sheriff's Office v. Teamsters Local Union No. 637.**

Licking App. No. 2008CA00152, 2009-Ohio-4765.

**2009-1932. State Farm Fire & Cas. Co. v. Ireland Homes, Inc.**

Miami App. No. 2008-CA-44, 2009-Ohio-4793.

**2009-1935. State v. Fletcher.**

Licking App. No. 2009-CA-0055, 2009-Ohio-5650.

**2009-1942. Falk v. Falk.**

Franklin App. No. 08AP-843, 2009-Ohio-4973.

O'Donnell, J., dissents.

**2009-1943. Hayman v. Hayman.**

Fairfield App. No. 2008 CA 0071, 2009-Ohio-4855.

Lundberg Stratton and O'Donnell, JJ., dissent.

**2009-1944. Ellis v. Ellis.**

Mahoning App. No. 08 MA 133, 2009-Ohio-4964.

**2009-1945. State v. Ervin.**

Hamilton App. No. C-090481.

**2009-1946. State v. Ladd.**

Stark App. No. 2009CA00073, 2009-Ohio-4853.

**2009-1949. In re J.M.**

Warren App. No. CA2008-12-148, 2009-Ohio-4824.

**2009-1951. State v. Hawkins.**

Cuyahoga App. No. 91930, 2009-Ohio-4368.

**2009-1959. Cincinnati v. Harrison.**

Hamilton App. No. C-090702.

**2009-1962. State v. Katz.**

Hamilton App. No. C-081194.

O'Donnell, J., dissents.

**2009-1970. State v. Wilson.**

Montgomery App. No. 22581, 2009-Ohio-525.

**2009-1971. State v. Portis.**

Clark App. No. 2008 CA 22, 2009-Ohio-3770.

**2009-1972. Ramsey v. Rutherford.**

Ross App. No. 09CA3094, 2009-Ohio-5146.

**2009-1973. State v. Pratt.**

Hamilton App. No. C-081044.

**2009-1978. State v. Hickman.**

Fairfield App. No. 09-CA-15, 2009-Ohio-4911.

O'Donnell and Lanzinger, JJ., dissent.

**2009-1979. State v. Montgomery.**

Hamilton App. No. C-090528.

**2009-1982. State v. Scott.**

Mahoning App. No. 07 MA 152, 2009-Ohio-4961.

**2009-1983. Ballas v. Ballas.**

Mahoning App. No. 08 MA 166, 2009-Ohio-4965.

O'Donnell, J., dissents.

**2009-1988. Mike Castrucci Ford Sales, Inc. v. Hoover.**

Clermont App. No. CA2009-03-016, 2009-Ohio-4823.

Lundberg Stratton and O'Donnell, JJ., dissent.

**2009-1991. State v. Millow.**

Hamilton App. No. C-000524.

**2009-1992. Bell v. Nichols.**

Franklin App. No. 09AP-438, 2009-Ohio-4851.

**2009-1995. State v. Reese.**

Montgomery App. No. 22907, 2009-Ohio-5046.

**2009-2001. State v. Askew.**

Stark App. No. 2009CA00020, 2009-Ohio-5293.

**2009-2006. State v. Orosz.**

Wood App. No. WD-08-048, 2009-Ohio-4922.

**2009-2019. State v. Smith.**

Montgomery App. Nos. 21463 and 22334.

**2009-2039. Thurman v. Ohio Dept. of Ins.**

Greene App. No. 2008-CA-81, 2009-Ohio-5034.

**2009-2040. State v. Huber.**

Clark App. No. 07-CA-88.

**2009-2045. State v. Leftwich.**

Montgomery App. No. 23383, 2009-Ohio-5044.

**2009-2047. State v. Milini.**

Stark App. No. 2009CA00040, 2009-Ohio-5134.

**2009-2048. State v. Martin.**

Hamilton App. No. C-080215.

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

**2009-2049. State v. Hardy.**

Montgomery App. No. 22933, 2009-Ohio-5301. Discretionary appeal not accepted. Motion to obtain copy of appellate court decision denied as moot.

O'Donnell, J., dissents.

**2009-2051. State v. King.**

Cuyahoga App. No. 91909, 2009-Ohio-4551.

**2009-2054. Gildner v. Accenture, L.L.P.**

Franklin App. No. 09AP-167.

Pfeifer and O'Donnell, JJ., dissent.

**2009-2062. 1st Class Driving Academy v. Ohio Dept. of Pub. Safety.**

Knox App. No. 09CA000006, 2009-Ohio-5174.

O'Connor, J., dissents.

Lundberg Stratton and O'Donnell, JJ., not participating.

**2009-2075. State v. Flachbart.**

Lake App. No. 2009-L-011, 2009-Ohio-5063.

**2009-2086. State v. West.**

Franklin App. No. 09AP-474, 2009-Ohio-5203.

**2009-2125. State v. Crockett.**

Mahoning App. No. 07-MA-233.

**2009-2159. State v. Coleman.**

Cuyahoga App. No. 91058, 2009-Ohio-5689.

**2009-2171. State v. Thornton.**

Clermont App. No. CA2008-10-092.

**2009-2197. In re T.S.**

Cuyahoga App. No. 92816, 2009-Ohio-5496.

**2009-2201. In re R.H.**

Franklin App. Nos. 09AP-127, 09AP-370, 09AP-371, and 09AP-372, 2009-Ohio-5583.

**RECONSIDERATION OF PRIOR DECISIONS**

**2005-2364. State v. Perez.**

Clark C.P. No. 03-CR-1010. Reported at \_\_\_ Ohio St.3d \_\_\_, 2009-Ohio-6179, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

Pfeifer, J., dissents.

**2006-0294 and 2006-0298. State v. Crager.**

Marion App. No. 9-04-54. Reported at 123 Ohio St.3d 1210, 2009-Ohio-4760, 914 N.E.2d 1055. On motion for reconsideration and supplemental briefs. Motion for reconsideration denied. The order issued on September 17, 2009 is reaffirmed.

Lundberg Stratton, O'Connor, and O'Donnell, JJ., dissent.

Roger L. Kline, J., of the Fourth Appellate District, sitting for Cupp, J.

**2008-2462. Church of God in N. Ohio, Inc. v. Levin.**

Board of Tax Appeals, No. 2007-N-102. Reported at 124 Ohio St.3d 36, 2009-Ohio-5939, 918 N.E.2d 981. On motion for reconsideration. Motion denied.

Pfeifer, Lundberg Stratton, and O'Donnell, JJ., dissent.

**2009-0228. Osnaburg Twp. Zoning Inspector v. Eslich Environmental Inc.**

Stark App. No. 123 Ohio St.3d 1223, 2009-Ohio-6163, 918 N.E.2d 160. On motion for reconsideration. Motion denied.

**2009-0364. State v. Jones.**

Montgomery App. No. 22558, 2009-Ohio-61. Reported at \_\_\_ Ohio St.3d \_\_\_, 2009-Ohio-6188, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. Motion denied.

Lundberg Stratton, O'Connor, and Cupp, JJ., dissent.

**2009-0926. State ex rel. New Concept Hous., Inc. v. Winkler.**

Hamilton App. No. C-080986. Reported at 123 Ohio St.3d 457, 2009-Ohio-5862, 917 N.E.2d 796. On motion for reconsideration. Motion denied.

**2009-1279. State ex rel. Martin v. Ohio Adult Parole Auth.**

Lucas App. No. L-09-1094. Reported at 124 Ohio St.3d 63, 2009-Ohio-6164, 918 N.E.2d 1005. On motion for reconsideration. Motion denied.

**2009-1420. ComDoc v. Advance Print Copy Ship Ctr.**

Summit App. No. 24212, 2009-Ohio-2998. Reported at 123 Ohio St.3d 1495, 2009-Ohio-6015, 916 N.E.2d 1074. On motion for reconsideration. Motion denied.

**2009-1449. Rucker v. Gerald D. Piszczek Co., L.P.A.**

Hamilton App. No. C-081058. Reported at 123 Ohio St.3d 1495, 2009-Ohio-6015, 916 N.E.2d 1075. On motion for reconsideration. Motion denied.

**2009-1487. Macon v. Ohio Dept. of Job & Family Servs.**

Franklin App. No. 08AP-1036, 2009-Ohio-3229. Reported at 123 Ohio St.3d 1496, 2009-Ohio-6015, 916 N.E.2d 1075. On motion for reconsideration. Motion denied.

**2009-1606. State v. Miller.**

Cuyahoga App. No. 91543, 2009-Ohio-3307. Reported at 123 Ohio St.3d 1497, 2009-Ohio-6015, 916 N.E.2d 1075. On motion for reconsideration. The motion is granted to the following extent: The discretionary appeal is accepted.

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

**2009-1610. George v. Miracle Solutions, Inc.**

Stark App. No. 2009-CA-00088, 2009-Ohio-3659. Reported at 123 Ohio St.3d 1497, 2009-Ohio-6015, 916 N.E.2d 1075. On motion for reconsideration. Motion denied.

**2009-1673. State ex rel. Carrier Concrete Cutting, L.L.C. v. Bessey.**

In Prohibition. Reported at 123 Ohio St.3d 1504, 2009-Ohio-6210, 917 N.E.2d 808. On motion for reconsideration. Motion denied.

**2009-1708. State ex rel. Lyles v. Warren.**

In Mandamus. Reported at 123 Ohio St.3d 1504, 2009-Ohio-6210, 917 N.E.2d 808. On motion for reconsideration. Motion denied.

**2009-1724. State v. White.**

Cuyahoga App. No. 90839, 2009-Ohio-4034. Reported at 123 Ohio St.3d 1497, 2009-Ohio-6015, 916 N.E.2d 1076. On motion for reconsideration. Motion denied.

**2009-1865. In re S.S.**

Licking App. No. 2009CA0040, 2009-Ohio-4520. Reported at 123 Ohio St.3d 1511, 2009-Ohio-6210, 917 N.E.2d 813. On motion for reconsideration. Motion denied. Motion to strike statement denied as moot.