

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

December 20, 2018

[Cite as *12/20/2018 Case Announcements*, 2018-Ohio-5134.]

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## MERIT DECISIONS WITH OPINIONS

### **2016-0615. State ex rel. Kesterson v. Kent State Univ., Slip Opinion No. 2018-Ohio-5108.**

In Mandamus. Writ denied.

Kennedy, French, DeWine, and DeGenaro, JJ., concur.

O'Connor, C.J., concurs in part and dissents in part, and would deny the writ and award statutory damages, but would deny relator's request for fees and costs.

Fischer, J., concurs in part and dissents in part, and would deny the writ but would not award statutory damages, and would deny relator's request for fees and costs.

O'Donnell, J., dissents and would grant the writ and would grant relator's request for fees and costs.

### **2016-1123. State ex rel. Kesterson v. Kent State Univ., Slip Opinion No. 2018-Ohio-5110.**

In Mandamus. Writ denied.

Kennedy, French, DeWine, and DeGenaro, JJ., concur.

O'Connor, C.J., concurs in part and dissents in part, and would deny the writ and award statutory damages, but would deny relator's request for fees and costs.

Fischer, J., concurs in part and dissents in part, and would deny the writ but would not award statutory damages, and would deny relator's request for fees and costs.

O'Donnell, J., dissents and would grant the writ and would grant relator's request for fees and costs.

**2017-0331. State ex rel. Rogers v. Dept. of Rehab. & Corr., Slip Opinion No. 2018-Ohio-5111.**

In Mandamus. Writ granted.

O'Donnell, Kennedy, French, DeWine, and DeGenaro, JJ., concur.

O'Connor, C.J., and Fischer, J., concur in judgment in part and dissent in part, and would grant the writ and order reimbursement of relator's court costs, but would not award statutory damages or attorney fees.

**2017-0690. State ex rel. Byington Builders, Ltd. v. Indus. Comm., Slip Opinion No. 2018-Ohio-5086.**

Franklin App. No. 15AP-407, 2017-Ohio-2623. Judgment affirmed.

O'Connor, C.J., and O'Donnell, Fischer, and DeGenaro, JJ., concur.

French and DeWine, JJ., concur in judgment only.

Kennedy, J., dissents, with an opinion.

**2017-0870. Bank of New York Mellon v. Rhiel, Slip Opinion No. 2018-Ohio-5087.**

On Order from the Bankruptcy Appellate Panel of the United States Court of Appeals for the Sixth Circuit, Certifying Questions of State Law, No. 16-8042. First certified question answered in the affirmative and second certified question answered in the negative.

O'Connor, C.J., and Kennedy, French, Fischer, and DeGenaro, JJ., concur.

O'Donnell, J., concurs in judgment only.

DeWine, J., concurs in part and dissents in part, with an opinion.

**2017-1067. State ex rel. DeWine v. Omar Ibn El Khattab Mosque, Inc., Slip Opinion No. 2018-Ohio-5112.**

Franklin App. No. 15AP-939, 2017-Ohio-4453. Judgment affirmed and cause remanded.

O'Donnell, Kennedy, DeWine, and DeGenaro, JJ., concur.

O'Connor, C.J., dissents, with an opinion joined by French and Fischer, JJ.

**2017-1245. Stolz v. J & B Steel Erectors, Inc., Slip Opinion No. 2018-Ohio-5088.**

On order from the United States District Court for the Southern District of Ohio, Western Division, Certifying a Question of State Law, No. 1:14-cv-44. Certified question answered in the negative.

Kennedy, French, DeWine, and DeGenaro, JJ., concur.

Fischer, J., concurs, with an opinion.

O'Connor, C.J., and O'Donnell, J., concur in judgment only.

**2018-0452. State ex rel. Evans v. Mohr, Slip Opinion No. 2018-Ohio-5089.**

Franklin App. No. 17AP-571, 2018-Ohio-935. Judgment affirmed.

O'Connor, C.J., and Kennedy, French, Fischer, DeWine, and DeGenaro, JJ., concur.

O'Donnell, J., concurs in judgment only.

**2018-0536. Disciplinary Counsel v. Leon, Slip Opinion No. 2018-Ohio-5090.**

On Certified Report by the Board of Professional Conduct, No. 2017-045. Robert James Leon, Attorney Registration No. 0078077, last known address in Westerville, Ohio, suspended from the practice of law for one year, with six months stayed on conditions.

O'Connor, C.J., and Kennedy, French, Fischer, and DeGenaro, JJ., concur.

O'Donnell, J., dissents, with an opinion joined by DeWine, J.

**2018-0537. Disciplinary Counsel v. Oviatt, Slip Opinion No. 2018-Ohio-5091.**

On Certified Report by the Board of Professional Conduct, No. 2017-013. Richard Ahlman Oviatt, Attorney Registration No. 0025563, last known address in Cleveland, Ohio, suspended from the practice of law for six months, all stayed on conditions.

O'Donnell and Fischer, JJ., concur.

Kennedy, French, and DeWine, JJ., concur in judgment in part and dissent in part and would not require respondent to submit to an evaluation by the Ohio Lawyers Assistance Program.

O'Connor, C.J., dissents, with an opinion joined by DeGenaro, J., and would impose a suspension of one year with six months stayed on conditions.

**2018-0542. Akron Bar Assn. v. Parkin, Slip Opinion No. 2018-Ohio-5093.**

On Certified Report by the Board of Professional Conduct, No. 2016-053. Tamara Dawn Parkin, Attorney Registration No. 0082454, last known address in Akron, Ohio, suspended from the practice of law for two years.

O'Connor, C.J., and O'Donnell, Fischer, and DeGenaro, JJ., concur.

Kennedy, J., dissents, and would adopt the sanction recommended by the panel.

French and DeWine, JJ., would suspend respondent from the practice of law in Ohio for one year but otherwise join the opinion and sanction imposed.

**2018-0811. Wood Cty. Bar Assn. v. Driftmyer, Slip Opinion No. 2018-Ohio-5094.**

On Certified Report by the Board of Professional Conduct, No. 2017-012. Sarah Ann Miller Driftmyer, Attorney Registration No. 0089222, last known address in

Toledo, Ohio, suspended from the practice of law for six months, all stayed on conditions.

O'Connor, C.J., and O'Donnell, French, Fischer, DeWine, and DeGenaro, JJ., concur.

Kennedy, J., would not order respondent to submit to an evaluation by the Ohio Lawyers Assistance Program, but otherwise joins the opinion and sanction imposed.

**2018-0812. Erie-Huron Cty. Bar Assn. v. Zelvy, Slip Opinion No. 2018-Ohio-5095.**

On Certified Report by the Board of Professional Conduct, No. 2017-026. Robert Zelvy, Attorney Registration No. 0032086, last known address in Sandusky, Ohio, suspended from the practice of law for six months, all stayed on conditions.

O'Connor, C.J., and O'Donnell, Kennedy, French, Fischer, DeWine, and DeGenaro, JJ., concur.

**2018-0815. Disciplinary Counsel v. Pigott, Slip Opinion No. 2018-Ohio-5096.**

On Certified Report by the Board of Professional Conduct, No. 2017-054. Thomas Daniel Pigott, Attorney Registration No. 0062919, last known address in Toledo, Ohio, suspended from the practice of law for six months.

O'Connor, C.J., and O'Donnell, Kennedy, French, Fischer, DeWine, and DeGenaro, JJ., concur.

**2018-0816. Disciplinary Counsel v. Holben, Slip Opinion No. 2018-Ohio-5097.**

On Certified Report by the Board of Professional Conduct, No. 2017-062. Marla R. Holben, Attorney Registration No. 0041198, last known address in Columbus, Ohio, publicly reprimanded.

O'Connor, C.J., and O'Donnell, Kennedy, French, Fischer, and DeGenaro, JJ., concur.

DeWine, J., not participating.

**2018-0823. Columbus Bar Assn. v. Barns, Slip Opinion No. 2018-Ohio-5098.**

On Certified Report by the Board of Professional Conduct, No. 2017-058. Stephen Wallace Barns, Attorney Registration No. 0065571, last known address in Granville, Ohio, publicly reprimanded.

O'Donnell, Kennedy, French, and DeWine, JJ., concur.

Fischer, J., concurs in part and dissents in part, with an opinion joined by O'Connor, C.J., and DeGenaro, J.

**2018-1129. State ex rel. Harris v. Rubino, Slip Opinion No. 2018-Ohio-5109.**

In Mandamus. Application granted in part and denied in part.

O'Connor, C.J., and French, Fischer, and DeGenaro, JJ., concur.

Kennedy, J., concurs in part and dissents in part, with an opinion.

DeWine, J., concurs in part and dissents in part, and would not award attorney fees for activities done before July 31, 2018, the date that relators were notified that Solon's law director had rejected their demand, but in all other respects concurs in the majority opinion.

O'Donnell, J., dissents, with an opinion.