



The Supreme Court of Ohio

2004

ANNUAL REPORT



THOMAS J. MOYER

CHIEF JUSTICE

ALICE ROBIE RESNICK

FRANCIS E. SWEENEY SR.

PAUL E. PFEIFER

EVELYN LUNDBERG STRATTON

MAUREEN O'CONNOR

TERRENCE O'DONNELL

JUSTICES

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STEVEN C. HOLLON

ADMINISTRATIVE DIRECTOR





(SEATED - LEFT TO RIGHT)

ALICE ROBIE RESNICK, THOMAS J. MOYER, FRANCIS E. SWEENEY SR. CHIEF JUSTICE

(STANDING - LEFT TO RIGHT)

MAUREEN O'CONNOR, PAUL E. PFEIFER, EVELYN LUNDBERG STRATTON, TERRENCE O'DONNELL

In the 202-year history of the Supreme Court of Ohio, there was perhaps no year like 2004. After sharing quarters with the executive and judicial branches for all of its storied history, the Ohio judiciary finally moved into permanent facilities exclusively dedicated to the third branch. And it is an extraordinary building that expresses the hopes and confidence of the people of Ohio in their constitutional democracy.

The 250 employees of the Court and other offices of the judiciary who come to work in the Ohio Judicial Center every day are reminded by the majesty of their surroundings that the work they do is important. We are reminded that we carry the responsibility of service to the taxpayers of Ohio and to the generations of Ohioans who came before us and built the foundation of our government and our society.

The 70-year-old building was dedicated to its new purpose on May 15 with a ceremony that included a historic procession of Ohio judges from across the state and a speech by William H. Rehnquist, Chief Justice of the United States.

While we spent this past year getting situated in the newly renovated Ohio Judicial Center and dedicating the building, 2004 was also a year in which much was accomplished in other areas:

- Through the continued frugal stewardship of the funds entrusted to us by the taxpayers of Ohio, the Supreme Court returned \$6.8 million to the state treasury.
- Under the leadership of the Administrative Director and the Division of Judicial and Court Services, the Court conducted Ohio's first-ever nationally recognized certification course for case managers from across the state.
- The Attorney Services Division and the Office of Information Technology designed and launched a system that puts online the Court's Attorney Registration database so this important information about Ohio's registered attorneys is accessible to every Ohio consumer through the Web.
- Also in the area of technology, the Court launched a system that allows mayors' courts to file their statistical case information online and makes the information accessible to the public.
- The Clerk's Office processed 2,178 new cases, and the Court disposed of 2,114.
- I appointed a Task Force on Indigent and Pro Se Litigants to examine how we can better serve those who cannot afford an attorney or choose to represent themselves.
- The Task Force on Jury Service issued its report and recommendations for improving the jury system in Ohio.

The year was not without its low points. We mourned the loss of two former colleagues with the passing of Justice Robert E. Holmes and Justice Ralph S. Locher.

And we bid farewell to Justice Francis E. Sweeney Sr. who retired after a distinguished career on the bench.

2005 and beyond show great promise for the judiciary. Thank you for your continued support as we work together to serve the cause of justice.

Thomas Mayn

Thomas J. Moyer

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Thomas J. Moyer Chief Justice

Thomas J. Moyer has been Chief Justice of Ohio since 1987 and currently is serving his fourth and final term. He received his law degree from The Ohio State University in 1964, and since has served eight years as a judge of the Court of Appeals of Franklin County, four years as executive assistant to the Governor of Ohio, and eight years in the private practice of law in Columbus.

Chief Justice Moyer currently serves on the board of the Einstein Institute for Science, Health and the Courts, and chairs the national Committee on Emergency Preparedness in the Courts for the Conference of Chief Justices. In August 1995, he was named president of the Conference of Chief Justices for a one -year term. In 1987, at the 300th Ohio State University commencement, he was recognized as one of 40 outstanding alumni of the University. In January 2003 he was awarded the James F. Henry Award for exemplary ADR leadership in the state judiciary from the CPR Institute for Dispute Resolution. In June 1989, Chief Justice Moyer received the American Judicature Society Herbert Harley Award for improving the administration of justice in Ohio.



Alice Robie Resnick

Justice

Alice Robie Resnick is the fourth woman elected to statewide office in Ohio and the second woman elected to the Supreme Court of Ohio.

Justice Resnick was first elected to the Supreme Court in 1988, and was reelected in 1994 and 2000. She was the founder and co-chair of the Ohio State Bar Association/Supreme Court of Ohio Joint Task Force on Gender Fairness and also chaired the Ohio Women's Legal Assistance and Education Coalition.

Prior to joining the Court, Justice Resnick served as a judge on the Toledo Municipal Court for seven years and at the 6th District Court of Appeals for six years. She also was an assistant prosecutor in Lucas County for 11 years.

Justice Resnick resides in Toledo with her husband, retired Judge Melvin L. Resnick. She has three stepchildren, six step-grandchildren and four dogs, two of which are rescued greyhounds.



Francis E. Sweeney Sr.

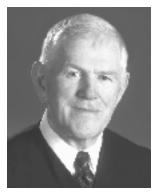
Justice

Francis E. Sweeney Sr. joined the Court in 1992 and served two terms as a Supreme Court Justice before retiring from the bench Dec. 31, 2004.

Prior to joining the Supreme Court, Justice Sweeney served as a judge on the 8th District Court of Appeals for four years and as a common pleas judge in Cuyahoga County for 18 years. He also spent seven years as an assistant prosecuting attorney in Cuyahoga County.

During his time as a trial judge, Justice Sweeney was presented with the Supreme Court's award for Outstanding Judicial Service for 14 consecutive years.

Justice Sweeney and his wife, Lee, live in Cleveland. They have four children.





Paul E. Pfeifer

Justice

Paul E. Pfeifer was elected to the Court in 1992 and currently is serving his third six-year term as a Supreme Court Justice.

Prior to joining the Supreme Court, Justice Pfeifer served as state senator for the 26th District for four terms and was Senate Judiciary Committee chairman for 10 years. He also was elected to the Ohio House of Representatives, where he represented the 15th District for two years.

From 1973 to 1992, Justice Pfeifer was partner in the firm of Cory, Brown & Pfeifer. He also served as Crawford County assistant prosecuting attorney for three years and as an assistant Ohio attorney general for three years.

Justice Pfeifer, who has three children and three grandchildren, lives in Bucyrus with his wife, Julia. The couple raise Angus cattle on their Crawford County farm.

Evelyn Lundberg Stratton Justice

Evelyn Lundberg Stratton joined the Court in 1996 and is now serving her second six-year term as a Supreme Court Justice.

While at the Supreme Court, Justice Stratton has led a national effort to reduce the time for appeals in the adoption process. Recently, she has played a leading role with regard to mental health issues in the court system.

Justice Stratton's legal career began as a trial lawyer in 1979. In 1989, she became the first woman elected judge to the Franklin County Court of Common Pleas. As judge, she earned the nickname, "The Velvet Hammer," because of her tough approach to sentencing in serious felony cases.

Justice Stratton is the mother of two sons and lives in Worthington.



Maureen O'Connor

Justice

Maureen O'Connor joined the Supreme Court in January 2003. Her election gave the court its first-ever female majority (from Jan. 1 to May 16, 2003).

Prior to coming to the Court, Justice O'Connor was first attorney, then magistrate, then common pleas judge, then prosecutor for Summit County. As county prosecutor, she instituted measures that allow for aggressive prosecution of repeat offenders and advocated for a bill that establishes mandatory jail time for gang-related violent offenses.

In 1999, she took office with Governor Bob Taft as lieutenant governor and director of the Ohio Department of Public Safety. While with the Taft administration, she helped enact Senate Bill 181, which adds additional penalties for school truancy and encourages parental involvement.

The Justice, who has two sons, lives in Cleveland Heights.



Terrence O'Donnell

Justice

Terrence O'Donnell became a member of the Supreme Court of Ohio in May 2003, returning to the Court where he began his legal career in 1971 as a law clerk for then-Justice J.J.P. Corrigan.

After practicing law for almost nine years, Justice O'Donnell began his judicial career in 1980, and served 14 years as a judge of the Cuyahoga County Common Pleas Court. In 1994, he was elected to the Court of Appeals, where he served until 2003.

Justice O'Donnell has held appointments to the Supreme Court Commission on Professionalism and the Supreme Court Statistical Reporting Committee, and also served as chairman of the Ohio Legal Rights Service Commission. He also has held faculty appointments at Dyke College, Cuyahoga Community College and Cleveland State University.

Justice O'Donnell resides in Rocky River with his wife, Mary Beth, a registered nurse. They have four adult children, Terrence and Michael, both attorneys, Colleen, who is in law school, and Nora, an English teacher at Dayton Chaminade-Julienne High School.



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Steven C. Hollon

Administrative Director

Steven C. Hollon is the administrative director of the Supreme Court of Ohio. As the senior non-elected official of the Court, he oversees all facets of the internal operation of the Court, as well as the services the Court provides to judges and courts throughout the state. As part of his duties, he is responsible for more than 225 employees and a \$119 million budget for the Judiciary/Supreme Court.

Hollon began his career as a judicial law clerk with the Ohio 12th District Court of Appeals and became that court's administrator in 1983. In 1990, he entered private practice until 1995, when he became the administrator and senior staff attorney at the Ohio 2nd District Court of Appeals in Dayton, where he served until he assumed his current duties.

He also has served on the Supreme Court Board of Commissioners on Grievances & Discipline, which hears disciplinary matters against judges and lawyers throughout the state; he was vice-chairman of the board for two years.

In February 1999 Hollon was appointed to the Butler County Court of Common Pleas, General Division, but declined the appointment to assume his current post on March 15, 1999.

He is a native of Middletown and currently resides with his family in Lebanon.

Historic Court Move Marks 2004

Two city blocks have never been so far.

O VER Presidents Day weekend 2004, the Supreme Court of Ohio—one Chief Justice, six Justices, 240 administrative staff, with personal computers and office furniture to match, and roughly 300,000 law books made the startling transition from shared and cramped quarters in the James A. Rhodes State Office Tower to the renovated and historically restored hallways of the Ohio Judicial Center.

The journey from the Rhodes Tower to the 15-story Art Deco landmark, though a mere two blocks, took the judicial branch past a historic milestone: housed independently from the other two branches of government for the first time in the state's 202-year history. The judicial branch now has its own facilities, symbolizing the unique role of the judiciary as a separate and independent branch in our constitutional democracy.

Built in 1933, the 415,000-square-foot Ohio Judicial Center sits on the east bank of the Scioto River in downtown Columbus. The building—home to numerous and varied state agencies throughout the years—now houses the Supreme Court of Ohio, the Board of Commissioners on Grievances & Discipline, the Clients' Security Fund, the Ohio Court of Claims, the Ohio Criminal Sentencing Commission and the Ohio Judicial Conference.

The renovation was 10 years in the making, involving the tremendous skill and unwavering diligence of countless architects, contractors, craftspeople and artisans led by Schooley Caldwell Associates, the restoration architects and engineers, and Messer Construction Company, the renovation construction manager. Special thanks go to the Ohio Building Authority for overseeing the project.

Of course, without the tireless efforts and ceaseless dedication of the public servants of the Supreme Court, the move would not have been possible. Staff from the



Gov. Bob Taft presents the deed to the Ohio Judicial Center to Chief Justice Thomas J. Moyer as Ohio dignitaries participating in the dedication ceremony look on.



U.S. Chief Justice William H. Rehnquist shares a light moment with his audience.



The nearly 200 Ohio judges who participated in the dramatic opening procession almost filled the Courtroom. The remaining 600 guests enjoyed the proceedings via live video feed to conference rooms throughout the building.

Facilities Management Division and Office of Information Technology worked especially hard. Facilities management staff were resolute in their efforts to prepare others and attend to their needs, despite being based at the Ohio Judicial Center for several weeks prior to the move, and worked almost around-the-clock throughout the Presidents Day weekend. Information Technology staff averaged 10-hour work days during six-day workweeks in the months preceding and following the move, tending to the Court's telephone and computer needs.

And their work continued throughout the spring as they assisted the Court of Claims, Board of Commissioners on Grievances & Discipline, Clients' Security Fund, Criminal Sentencing Commission and Ohio Judicial Conference, who did not wrap up their moves until April.

The Supreme Court recognized the first oral argument session in the Ohio Judicial Center Courtroom March 16 with a public ceremony. The program featured high school students from throughout Ohio giving dramatic readings of the declarations of freedom carved into the building's northeast vestibule.

On May 15, the Supreme Court hosted a formal building dedication ceremony with honored guest U.S. Chief Justice William H. Rehnquist as keynote speaker. The program opened with a stirring procession of nearly 200 robed trial and appellate judges from throughout Ohio, led by Chief Justice Rehnquist, Chief Justice Thomas J. Moyer and the Supreme Court Justices. The ceremony was capped by the governor's transfer of the building deed to the Supreme Court.

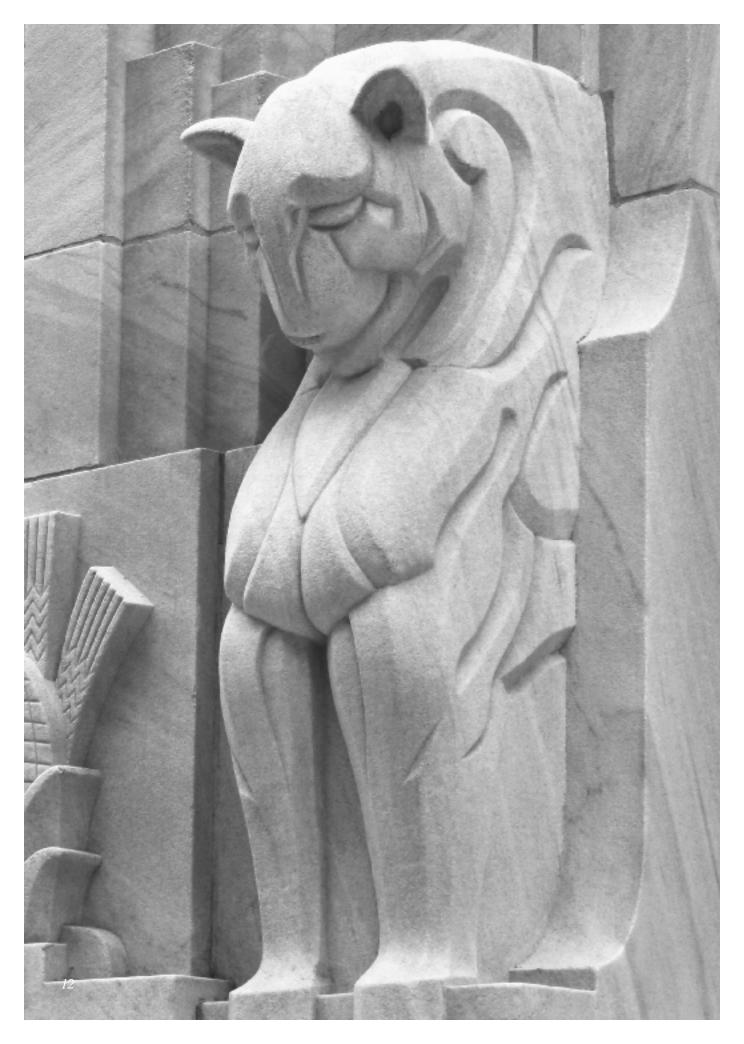
Both ceremonies were streamed live onto the Internet. Video of the dedication ceremony can be viewed at www.ohiojudicialcenter.org.

Ohio Judicial Center Wins Multiple Honors

T HE BEAUTY and historical integrity of the Ohio Judicial Center has earned it a distinctive reputation in the architectural community. The Courtroom was pictured on the cover of *Windows*, a bimonthly publication of Heritage Ohio & Downtown Ohio, Inc. The law library was featured on the cover of *Traditional Building Magazine*, a national trade magazine for architects involved in public architecture. In addition, the Ohio Judicial Center was named "Best House for a High Court" by *Ohio Magazine* and has been the recipient of multiple awards.

Honors received by architects, artisans, builders and contractors for the Ohio Judicial Center in 2004 include:

- •The 2004 Annual Award for Best Rehabilitation Project—Accepted on behalf of the Ohio Building Authority by Schooley Caldwell Architects, from Heritage Ohio, a statewide historical preservation advocacy organization, at the organization's annual Preservation & Revitalization Conference.
- •The Build Ohio 2004 Award Construction Management–Awarded to Messer Construction Co. by the Associated General Contractors of Ohio.
- •The Build Ohio 2004 Award Specialty Contractors–Awarded to TP Mechanical contractors by the Associated General Contractors of Ohio.
- •Honor Award 2004–Awarded to Schooley Caldwell Associates and Feinknopf Macioce Schappa Architects by the Columbus Chapter of the American Institute of Architects.
- •The 2004 James B. Recchie Design Award– Awarded to Schooley Caldwell Associates, associate firm Moody Nolan and Feinknopf Macioce Schappa Architects by the Columbus Landmarks Foundation, a nonprofit membership organization dedicated to preserving and celebrating Columbus' architectural legacy.
- •The 2004 Special Team Merit Award for Renovation–Awarded to Schooley Caldwell Associates, associate firm Moody Nolan and Feinknopf Macioce Schappa Architects by the Ohio Chapter of the American Institute of Architects.



ADMINISTRATIVE DIRECTOR'S DIVISION STEVEN C. HOLLON, ADMINISTRATIVE DIRECTOR

OFFICE OF THE ADMINISTRATIVE DIRECTOR

The principal administrative office at the Supreme Court, the Office of the Administrative Director provides leadership and guidance to the divisions, offices, sections, programs and workgroups through which the Court executes its judicial and administrative functions. In addition, the administrative director oversees the assistance Court staff provide to Ohio's trial and appellate courts.

As the senior non-elected official of the Court, Steven C. Hollon oversees all facets of the internal operation of the Court with responsibility for more than 225 employees and a \$119 million annual budget for the Court and the judicial system of the state.

In 2004, Mr. Hollon oversaw the Court's historic move to the Ohio Judicial Center, coordinated the dedication ceremony for the facility in May (see story on pages 10–11), and instituted a number of administrative initiatives designed to improve the efficiency of the Court's operations.

Critical staff hires during the year included a new director of Legal Resources and a new reporter of decisions. These two key legal positions are part of the Court's core responsibility of case determination.

In the fall, the first class of Ohio court personnel graduated from the Court Management Program. The program is a three-year endeavor where Ohio court personnel take six courses through the national Institute for Court Management to become certified court managers. Mr. Hollon worked with the Supreme Court's Judicial College to offer in-state classes to court personnel throughout Ohio at half the normal cost.

Mr. Hollon was elected to a two-year term on the Board of Directors of the Conference of State Court Administrators at its annual meeting in Salt Lake City in July.

Also during the year, the administrative director oversaw the restructuring of the Facilities Management Division into two offices—the Office of Facilities Management and the Office of Court Security, and helped those offices establish protocols for the operation of the building.

In addition to these administrative changes and accomplishments and the move to the building, the Court saw significant change among the Justices.

The Supreme Court in December bid farewell to retiring Justice Francis E. Sweeney Sr., a distinguished jurist who authored more than 215 majority opinions during his 12-year tenure on the Court.

Judge Judith Ann Lanzinger was elected in November to fill the seat vacated by Justice Sweeney and left her seat on the 6th District Court of Appeals. The administrative director assisted Justice Lanzinger with the recruitment of her staff and was actively involved in helping her establish her office and the offices of her staff.

The year also saw the re-election of Chief Justice Thomas J. Moyer, who is the longest-serving current state chief justice in the United States, and of Justice Paul E. Pfeifer, who joined the Supreme Court in 1993. In addition, Justice Terrence O'Donnell won his first statewide election to fulfill the final two years of the unexpired term for the seat formerly held by Justice Deborah Cook, who left the Court in 2003 to join the federal appeals court.

During the course of the year, Chief Justice Moyer testified twice before the state legislature in support of a bill that would require public disclosure of donors to third-party "issues advocacy" organizations in Supreme Court campaigns.

OFFICE OF THE ADMINISTRATIVE DIRECTOR STEVEN C. HOLLON, ADMINISTRATIVE

DIRECTOR

OFFICE OF POLICY & PROGRAMS RICHARD A. DOVE, DIRECTOR

OFFICE OF PUBLIC INFORMATION CHRIS DAVEY, DIRECTOR

VISITOR EDUCATION CENTER

JAY WUEBBOLD, PROGRAM MANAGER

JOINT TASK FORCE ON JUDICIAL LIABILITY & IMMUNITY RICHARD A. DOVE, STAFF LIAISON

HON. WILLIAM BATCHELDER HON. H.J. BRESSLER HON. DENISE DARTT HON. ANTHONY GRETICK HON. W. SCOTT GWIN STEVEN C. HOLLON HON. FRED MONG HON. JUDITH NICELY HON. JON SPAHR, CHAIR HON. KATHLEEN SUTULA

RULES ADVISORY COMMITTEE RICHARD A. DOVE,

SECRETARY

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HON. JOSEPH SCHMENK NANCY SCHUSTER ANNE M. VALENTINE PETER H. WEINBERGER DAVID J. YOUNG, *CHAIR*

TRAFFIC RULES REVIEW COMMISSION RICHARD A. DOVE, SECRETARY

HON. FRANCIS X. GORMAN JOHN GULDIN **CLEVE JOHNSON** HON. FREDERICK HANY II. CHAIR HON. MARY E. KILBANE **KARYN R. MCCONNELL** COL. KENNETH L. MORCKEL EDDIE PARKS HON. CONNIE S. PRICE HON. RICHARD M. ROGERS COLLEEN H. TAYLOR HON, MARK W. WALL RAYMOND WOHL

OFFICE OF POLICY & PROGRAMS

The Office of Policy & Programs is responsible for assisting the Supreme Court and the administrative director in developing and executing a vision for the Court.

In February, the office coordinated the preparation and release of the final report from the Supreme Court Task Force on Jury Service. Throughout the balance of 2004, the office coordinated the implementation of a series of recommendations contained in the task force report. The implementation process involved enacting legislation and developing rule amendments that reflected many of the task force recommendations.

In the spring, the office was assigned to provide staff assistance to the Task Force on Pro Se and Indigent Representation. The task force was established by the Chief Justice to undertake a comprehensive review of the delivery of civil and criminal legal services to low income Ohioans. The task force spent the balance of 2004 prioritizing areas of review and conducting research on current delivery systems.

The office also continued its government relations activities, achieving the enactment of the Uniform Mediation Act as well as legislation that:

- Transferred the title of the Ohio Judicial Center to the Supreme Court,
- Implemented recommendations from the Task Force on Jury Service, and
- Created six additional judicial positions and transformed two parttime judgeships to full-time courts.

OFFICE OF PUBLIC INFORMATION

The Office of Public Information coordinates the Court's media relations, community outreach and communications efforts. The office researches and writes previews of oral arguments, summaries of merit opinions and general news releases about the Court's programs and administrative actions. In addition, the office maintains the Court's Web site, responds to constituent correspondence, operates the Court's primary telephone lines and distributes the Court's case announcements to the media.

In 2004, the Office of Public Information:

- Assisted with the planning, production and management of a series of special events recognizing the Court's move to the Ohio Judicial Center, including opening ceremonies for the first day of oral arguments on March 16, the dedication of the building on May 15 with honored guest Chief Justice of the United States William H. Rehnquist, and a number of smaller receptions and functions for construction workers, artisans and craftspeople involved in the renovation, Supreme Court staff and their families.
- Coordinated the design and production of the first edition of *The Art & Architecture of the Ohio Judicial Center*, a guide to the newly renovated and restored historic home of the Supreme Court.
- Collaborated with the Office of Information Technology to make Supreme Court history when the Off-Site Court Program visited Morrow County and streamed the oral arguments live on the Internet for the first time. The Off-Site Court Program, created by Chief Justice Moyer, has taken Supreme Court oral arguments to communities across Ohio for 17 years.

During 2004, the Office of Public Information issued 277 announcements, more than 60 general news releases, previews of 111 upcoming cases, 151 opin-



The Office of Public Information organizes press conferences for student newspaper reporters and yearbook editors participating in the Off-Site Court Program. Ruth Ann Newcomer (above left), the program manager in the Court Relations Program charged with coordinating the Court's off-site visits, looks on as a Morrow County student poses a question to a justice. The Court takes the bench shortly after the press conferences concludes.



Office of Public Information staff coordinate media coverage of Supreme Court events with Ohio Government Telecommunications.

TASK FORCE ON PRO SE AND INDIGENT LITIGANTS JO ELLEN CLINE, STAFF LIAISON

HON. JOHN ADKINS, CHAIR MARY ASBURY HON. PATRICIA BLACKMON DAVID BODIKER BETH BRAY **BECKY CARPENTER** HON. MARC DANN HON. TIMOTHY DEGEETER MARK DEVAN **R. DANIEL HANNON** HON. WILLIAM HARSHA **BOB HUFFER** HON. JIM JAMES HON. LARRY JONES HON. JIM JORDAN HON, MARY KOVACK HON. PAUL KUTSCHER **KENT MARKUS** WILLIAM MASON LYNNE MAZEIKA SHARON RAY LAURA RESTIVO HON. NANCY MARGARET RUSSO KIMBERLY SHUMATE THOMAS WEEKS HON. JOHN WILLAMOWSKI

TASK FORCE ON JURY SERVICE

RICHARD A. DOVE AND JO ELLEN CLINE, *STAFF LIAISONS*

HON. SUSAN H. ANDERSON JEAN ATKIN **ROSANNE M. BUELL** HON. JOSEPH CLARK, CHAIR HERB COOK JR. CHARLES COULSON DAVID DOUGHTEN **RENEE S. FILIATRAUT** JERI GRIER WILLIAM A. HENRY JR. HON. JAMES D. JENSEN JOREECE K. KEE GERALD R. KOWALSKI HON. CHARLES F. **KURFESS** THOMAS A. MCCARTHY **KEITH L. MITCHELL** CHARLES M. MURRAY DR. DAVID NAYLOR MOLLY O'BRIEN HON, JEFF PAYTON **CINDY PIKE** TOM SHIELDS HON. STEVE C. SHUFF PATRICIA SNYDER ELIZABETH W. **STEPHENSON**

ion summaries, and 88 notices of hearings before the Board of Commissioners on Grievances & Discipline, and processed more than 961 media inquiries.

The Web editor performed routine maintenance on hundreds of Court Web pages and major overhauls to eight sections of the site. Office staff produced 22 editions of *The Court Bulletin*, an electronic internal newsletter for employees. The office also produced numerous print publications for internal and external distribution—including documents relating to the Court's move to the Ohio Judicial Center and the building dedication ceremony, the *Report and Recommendations of the Task Force on Jury Service* and the *Technology and the Courts 2004 Survey*—and collaborated with Ohio Government Telecommunications to produce two DVD recordings entitled *The Supreme Court of Ohio Off-Site Court Program* and *The Ohio Judicial Center Official Dedication*.

VISITOR EDUCATION CENTER

The Visitor Education Center was created to develop and execute programs to provide the public with information about the role and responsibilities of the judicial system and the art, architecture and history of the Ohio Judicial Center.

The move into the Ohio Judicial Center generated considerable public interest about the restoration of this civic landmark. Schools, legal organizations and the general public immediately began scheduling tours.

Staff for the Visitor Education Center conducted 300 tours for 9,590 visitors

from March through the end of the year. The majority of visitors, 62 percent, were students from elementary and secondary schools as well as colleges and universities.

Meanwhile, staff moved forward with plans and designs for the Visitor Education Center that will be located on the ground floor of the building. The center will feature engaging exhibits that provide visitors with a behind-the-scenes view of



Visitor Education Center Program Manager Jay Wuebbold elaborates on state history depicted in carvings on the Supreme Court bench for middle school students visiting the Ohio Judicial Center.

the workings of trial and appellate courts, the relationship of the judicial branch to other government branches and how the judiciary affects the lives of citizens. Video stations will portray historical events and actual court proceedings to contrast the myths presented in popular media.

All exhibits throughout the center will be understandable and accessible on many levels, crossing age groups and cultures.

Following a thorough competitive bidding process, the Court in July contracted with Exhibit Concepts of Vandalia, Ohio, to build and install exhibits in the center. Exhibit Concepts is teamed with Gallagher and Associates of Bethesda, Maryland, a museum and exhibit design firm. Both firms are leaders in their fields. Exhibit Concepts built the Oklahoma City National Memorial and the Lindbergh Exhibit for the Missouri Historical Society. Gallagher has been recognized for its design work for the Spy Museum, the recently renovated National Archives and interpretive exhibits at the historic Florida statehouse.

The Visitor Education Center is scheduled to open in late 2005.

THE SUPREME COURT OF OHIO ADMINISTRATIVE STRUCTURE



STEVEN C. HOLLON

Office of the Administrative Director Office of Policy & Programs Office of Public Information Visitor Education Center

CLERK'S DIVISION MARCIA J. MENGEL

Office of the Clerk Office of Bar Admissions

FISCAL & MGMT. RESOURCES DIVISION RONDA PERRI

Office of Fiscal & Mgmt. Resources Office of Human Resources Office of Information Technology LEGAL RESOURCES DIVISION DAVID M. GORMLEY

Office of Legal Resources Office of the Reporter Law Library Mediation Section

> FACILITIES MGMT. DIVISION

BYRON C. WILSON

Office of Facilities Mgmt. Office of Court Security

ATTORNEY SERVICES DIVISION RICHARD A. DOVE

Office of Attorney Services Office of Continuing Legal Ed. Attorney Registration Section JUDICIAL & COURT SERVICES DIVISION DOUGLAS R. STEPHENS

Office of Judicial & Court Services Judicial College Case Management Section Dispute Resolution Section Specialized Dockets Section Technology Services Section

CLERK'S DIVISION

MARCIA J. MENGEL, CLERK OF COURT

OFFICE OF THE CLERK

MARCIA J. MENGEL, CLERK

OFFICE OF BAR ADMISSIONS

MARCIA J. MENGEL, DIRECTOR

BOARD OF BAR EXAMINERS MARCIA J. MENGEL,

SECRETARY

MARK S. BARNES MICHAEL M. BRILEY ROBERT R. BYARD LISA WEEKLEY COULTER JOSEPH DATTILO JENNIFER E. DAY **BRIAN N. EISEN ELIZABETH A. HARVEY** JULIE A. JONES SAMUEL Z. KAPLAN HON, R. SCOTT KRICHBAUM **ELLEN M. MCCARTHY** MICHAEL P. MORRISON, CHAIR MICHAEL E. MURMAN GEORGE A. SADD THOMAS J. SCANLON JOHN W. WADDY JR. HON, MARK K. WIEST

The Clerk's Office manages all cases filed with the Supreme Court; maintains the Court's case files and lower court records, case dockets and journal; prepares and issues Court orders; schedules oral arguments and the Court's consideration of other case matters; coordinates interagency communication in death penalty cases; and manages the Court's enforcement of continuing legal education requirements.

The office is responsible for maintaining and enforcing the Rules of Practice of the Supreme Court of Ohio and recommending appropriate rule amendments to the Court. Deputy clerks and staff attorneys provide assistance on procedural issues to attorneys, litigants and the public through written communications, phone and office consultations, publishing answers to frequently asked questions, the posting of helpful Web site information and seminar presentations.

In 2004, the Office of the Clerk worked on the development of an Intranetbased interface for the Court's electronic case management system. The interface allows all Court staff to access case dockets and other case information. Eventually, the interface will be used to provide public access to Supreme Court case information through the Internet.

Staff from the Office of the Clerk finalized extensive revisions to the Rules of Practice. The Court adopted the amendments March 18, and they became effective July 1, 2004. The staff conducted several seminars and training sessions regarding the rule amendments.

During the year, the office handled the processing of 2,178 new cases filed with the Court, and the disposition of 2,114 cases.

The Office of the Clerk worked with the Office of Information Technology on developing a new computer program for tracking and processing CLE enforcement proceedings. The program was ready for use in October when the Supreme Court Commission on Continuing Legal Education instituted proceedings against 569 attorneys, alleging their noncompliance with CLE requirements during the 2002-2003 reporting period.

In early 2004, the staff concentrated much of their efforts on planning and executing the February move to the Supreme Court's new home. The office remained open throughout this time frame, providing uninterrupted service to the public and the Court.

During the last part of 2004, the Clerk reorganized the office to provide more efficiency in operations and better backup coverage for key positions. Several staff members were promoted and assigned greater responsibilities, and one position was eliminated.

OFFICE OF BAR ADMISSIONS

The Office of Bar Admissions supports the Supreme Court in its constitu-

tional role of regulating admission to the practice of law in Ohio. The office processes applications for admission, including registration applications, applications to take the bar exam, and applications for admission without exam; oversees character and fitness investigations of applicants; coordinates and administers semiannual bar examinations; and organizes the admission ceremonies during which successful applicants take the oath of office.

The office also issues miscellaneous certificates relating to bar admission, including legal intern certificates for law students working in clinical programs



BOARD OF COMMISSIONERS ON CHARACTER & FITNESS

MARCIA J. MENGEL, SECRETARY

MARY ASBURY RHONDA G. DAVIS MATTHEW J. DOLAN HON. NANCY D. HAMMOND HON.WILLIAM HOWARD HARSHA III HON. SARA LIOI, *CHAIR* SCOTT MCBRIDE MICHAEL B. MICHELSON ALVARENE N. OWENS D. MICHAEL RENY SUZANNE K. RICHARDS HON. DAVID TOBIN and certificates for foreign legal consultants. The office provides staff support to the Board of Bar Examiners and the Board of Commissioners on Character & Fitness.

During 2004, the Office of Bar Admissions processed more than 2000 applications, including 2,104 bar exam applications and 100 applications for admission without examination.

The office administered the bar exam to 1,890 applicants–547 in February and 1,343 in July. The office coordinated three bar admission ceremonies at the historic Ohio Theatre in Columbus for applicants who passed the bar exam and satisfied the Court's other requirements for admission. The first ceremony was held May 10 for qualifying February examinees. On Nov. 8, two ceremonies– one in the morning and one in the afternoon–were held for the large group of qualifying July examinees. It was the first time that two ceremonies were conducted on one day. The dual ceremonies enabled the newly admitted attorneys to invite more guests to attend this special event.

Staff worked with the National Conference of Bar Examiners to develop a new online registration application for law students who seek Ohio bar admission. The application became available on the Court's Web site in December. It provides for electronic transmission and downloading of an applicant's background data, resulting in more efficient processing and eliminating the potential for data entry errors.

In early 2004, the staff concentrated much of their efforts on planning and executing the February move to the Ohio Judicial Center. The office remained open throughout this time frame, providing uninterrupted service to the public and administering the February bar exam just one week after the move.

Marcia Mengel was appointed chair of the American Bar Association's Bar Admissions Committee, which consists of supreme court justices, law school deans and professors, bar examiners and administrators and practicing attorneys who collaborate on model rules and bar admissions projects. Mengel also began her third year on the Board of Trustees of the National Conference of Bar Examiners.

The office created the position of special programs officer to manage admissions without examination, accommodations for bar applicants with disabilities, foreign education evaluations and other special programs.

CASE STATISTICS SUMMARY

New cases filed in 2004 decreased by 2.6 percent compared with 2003: 2,178 versus 2,237.

The Court saw a 4 percent decrease in final case dispositions from 2003–from 2,205 to 2,114–but there were fewer cases pending at the end of 2004 than at the end of 2003: 593 versus 681.

For a more complete examination of 2004 case statistics, please refer to pages 21–27.

CASES FILED IN 2004

JURISDICTIONAL APPEALS

- **19** Claimed Appeal of Right
- **914** Discretionary Appeal (Non-felony)
- **593** Discretionary Appeal (Felony)
 - **15** Death Penalty Postconviction Appeal
- **26** Appeal Involving Termination of Parental Rights/Adoption
- **83** Appeal from App. R. 26 (B) Application (Murnahan Appeal)

1,650 TOTAL

MERIT CASES

- **132** Original Action
- 27 Habeas Corpus Case
- **115** Direct Appeal (Case Originating in Court of Appeals)
 - **0** Direct Appeal Involving Termination of Parental Rights/Adoption
- **31** Certified Conflict
- 1 Certified Conflict Involving Termination of Parental Rights/Adoption
- 47 Appeal from Board of Tax Appeals
- **10** Appeal from Public Utilities Commission
- **0** Appeal from Power Siting Board
- **5** Death Penalty Case¹
- 6 Certified Question of State Law
- **5** Appeal from App. R. 26(B) Application in Death Penalty Case
- 2 Appeal of Election Contest under R.C. 3515.15
- **O** Appeal under R.C. 4121.25
- **1** Other merit cases

382 TOTAL

PRACTICE OF LAW CASES²

- **127** Disciplinary Case
 - **1** Bar Admissions Case
- **18** Other Practice of Law Case

146 TOTAL

2,178 TOTAL NUMBER OF CASES FILED

CASES RELATED TO THE PRACTICE OF LAW DETAIL OF CASES FILED IN 2004

DISCIPLINARY CASES

66 Case on Report of Board

- **6** Consent to Discipline Matter
- **3** Case under Gov. Bar R. V, Sec. 7/Mental Illness
- **10** Case upon Felony Conviction
- 6 Case upon Default of Child Support Order
- 2 Case on Motion for Interim Remedial Suspension
- **2** Miscellaneous Disciplinary Matter
- **17** Attorney Resignation Matter
- **11** Reciprocal Discipline Case
- 4 Judge Disciplinary Case under Gov. Bar R. V
- 0 Judge Disciplinary Case under Gov. Jud. R. III
- **0** Judge Disciplinary Case under Gov. Jud. R. II, Sec. 5

127 TOTAL

BAR ADMISSIONS CASES

- 1 Bar Admissions/Character and Fitness Case
- **0** Miscellaneous Bar Admissions Matter
- **1** TOTAL

OTHER PRACTICE OF LAW CASES

- 18 Unauthorized Practice of Law Case/On Report of Board
- **0** Matter Relating to Practice of Law
- **18** TOTAL

FINAL DISPOSITIONS IN 2004

JURISDICTIONAL APPEALS (JURISDICTION DECLINED, LEAVE TO APPEAL DENIED AND/OR APPEAL DISMISSED)

- **19** Claimed Appeal of Right
- 804 Discretionary Appeal (Non-felony) ³
- **512** Discretionary Appeal (Felony) ³
- **10** Death Penalty Postconviction Appeal
- 27 Appeal Involving Termination of Parental Rights/Adoption
- 87 Appeal from App. R. 26(B) Application (Murnahan Appeal)

1,459 TOTAL

MERIT CASES

- 121 Original Action
- **27** Habeas Corpus Case
- **125** Direct Appeal (Case Originating in Court of Appeals)
- **48** Certified Conflict
 - 2 Certified Conflict Involving Termination of Parental Rights/Adoption
- **32** Appeal from Board of Tax Appeals
- **13** Appeal from Public Utilities Commission
- **17** Death Penalty Case ⁴
- 120 Jurisdictional Appeal Accepted for Review
 - **5** Certified Question of State Law
 - 6 Appeal from App. R. 26(B) Application in Death Penalty Case
 - 2 Appeal of Election Contest under R.C. 3515.15

518 TOTAL

PRACTICE OF LAW CASES 5

128 Disciplinary Case

- **6** Bar Admissions Case
- **3** Other Practice of Law Case

137 TOTAL

2,114 TOTAL NUMBER OF FINAL DISPOSITIONS

CASES RELATED TO THE PRACTICE OF LAW DETAIL OF FINAL DISPOSITIONS IN 2004

Disciplinary Case/On Report Of Board [Gov. Bar R. V, Sec. 8]

- **3** Public reprimand
- **31** Definite suspension
- **15** Indefinite suspension
- **11** Disbarment
- **2** Case remanded
- **1** Dismissed
- **63** TOTAL

Disciplinary Case/Felony Conviction [Gov. Bar R. V, Sec. 5]

10 Interim suspension

Disciplinary Case/Default Of Child Support Order [Gov. Bar R. V, Sec. 5]

5 Interim suspension

Disciplinary Case/Interim Remedial Suspension [Gov. Bar R. V, Sec. 5a]

3 Interim suspension

Disciplinary Case/Consent To Discipline Matter [Gov. Bar R. V, Sec. 11(A)(3)(c); BCGD Proc. Reg. Sec. 11]

- **5** Attorney publicly reprimanded
- **4** Attorney suspended for a term
- **1** Remanded
- **10** TOTAL

Miscellaneous Disciplinary Matter

1 Relief granted

Attorney Resignation Case [Gov. Bar R. V, Sec. 11 (G)]

- **4** Resignation accepted
- 16 Resignation accepted-disciplinary action pending
- **1** Affidavit of resignation withdrawn
- **1** Resignation denied
- **22** TOTAL

CASES RELATED TO THE PRACTICE OF LAW DETAIL OF FINAL DISPOSITIONS IN 2004 CONTINUED

Reciprocal Discipline Case [Gov. Bar R. V, Sec. 11(F)]

- **3** Public reprimand
- **4** Definite suspension
- **2** Indefinite suspension
- **1** Disbarment
- **10** TOTAL

Judge Disciplinary Case On Report of Board [Gov. Bar R. V, Sec. 8]

3 Definite suspension

Bar Admissions/Character and Fitness Case [Gov. Bar R. I, Sec. 12]

- **4** Applicant disapproved, may reapply
- **2** Applicant disapproved, may not reapply
- **б** тотаl

Unauthorized Practice Of Law Case/On Report Of Board [Gov. Bar R. VII]

Respondent enjoined from actions constituting the

- **2** unauthorized practice of law
- **1** Remanded
- **3** TOTAL

CASES PENDING AS OF JAN. 1, 2005

JURISDICTIONAL APPEALS AND MERIT CASES

- **252** Jurisdictional Appeal
- 82 Jurisdictional Appeal Accepted for Review
- **34** Original Action
- **5** Habeas Corpus Case
- **53** Direct Appeal (Case Originating in Court of Appeals)
- **21** Certified Conflict
- **58** Appeal from Board of Tax Appeals
- 8 Appeal from Public Utilities Commission
- **3** Certified Question of State Law
- **22** Death Penalty Case ⁶
- **2** Appeal from App. R. 26(B) Application in Death Penalty Case

540 TOTAL

DISCIPLINARY CASES

- 27 Case on Report of Board
 - **1** Consent to Discipline Matter
 - 3 Case under Gov. Bar R. V, Sec. 7/Mental Illness
 - **1** Case upon Felony Conviction
 - 1 Case upon Default of Child Support Order
 - 2 Attorney Resignation Matter
 - **2** Reciprocal Discipline Case
 - 1 Judge Disciplinary Case under Gov. Bar R. V
- **38** TOTAL

OTHER PRACTICE OF LAW CASES

15 Unauthorized Practice of Law Case/On Report of Board

593 TOTAL NUMBER OF CASES PENDING

JURISDICTIONAL APPEALS ACCEPTED FOR REVIEW IN 2004

- **2** Claimed Appeal of Right
- **78** Discretionary Appeal (Non-felony) ³
- **37** Discretionary Appeal (Felony) ³
- **O** Appeal from App. R. 26(B) Application (Murnahan Appeal)
- **1** Appeal Involving Termination of Parental Rights/Adoption

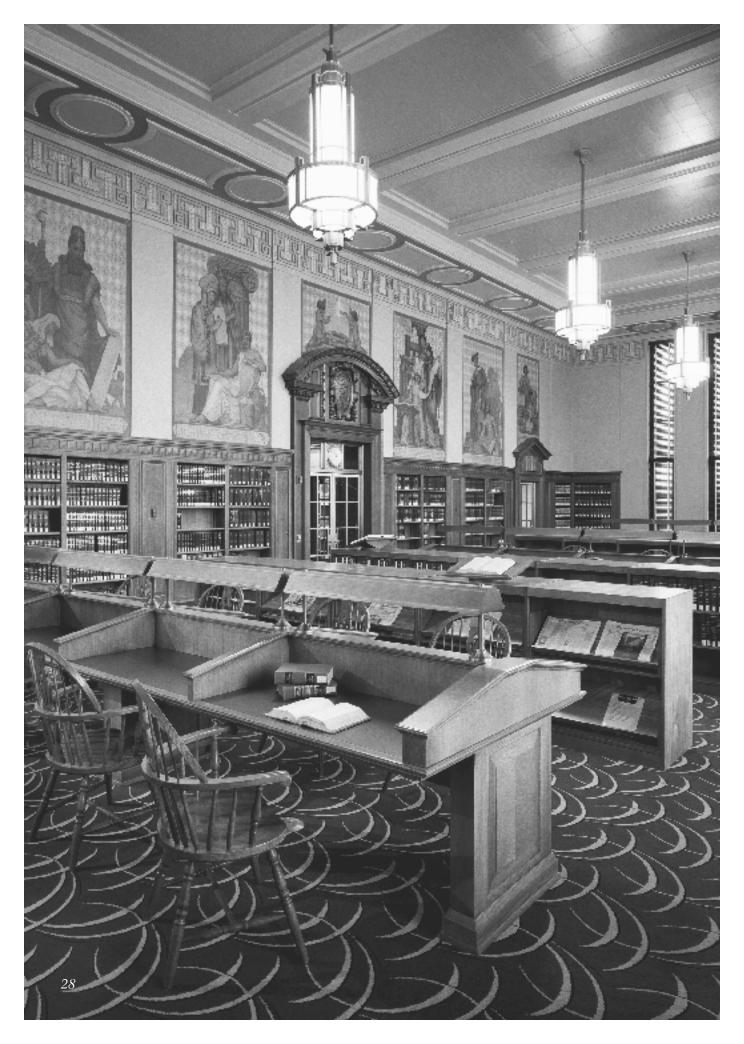
118 TOTAL NUMBER OF APPEALS ACCEPTED FOR REVIEW

NOTES

¹ All death penalty cases filed in 2004 were appeals from the courts of common pleas in which the death penalty was imposed for an offense committed on or after Jan. 1, 1995. There were no cases filed involving appeals from the court of appeals for capital offenses committed prior to Jan. 1, 1995.

² See page 22 for breakdown of cases relating to the practice of law filed in 2004.

- ³ This category includes cases in which the appellant sought jurisdiction as both a discretionary appeal and a claimed appeal of right.
- ⁴ Included in this category are 13 cases involving appeals from the courts of common pleas in which the death penalty was imposed for an offense committed on or after Jan. 1, 1995, and four cases involving appeals from the court of appeals for capital offenses committed prior to Jan. 1, 1995.
- ⁵ See pages 24 and 25 for the types of final dispositions entered in cases relating to the practice of law.
- ⁶ Included in this category are 21 cases involving appeals from the courts of common pleas in which the death penalty was imposed for an offense committed on or after Jan.
 1, 1995. The remaining case is an appeal from a court of appeals for a capital offense committed prior to Jan. 1, 1995.



LEGAL RESOURCES DIVISION

DAVID M. GORMLEY, DIRECTOR

wo of the top management positions in the division changed hands in 2004. In February, David Gormley joined the Court staff as the director of Legal Resources. In July, Reporter of Decisions Walter Kobalka retired after more than 20 years of service, and he was replaced by Ralph Preston.

The staff attorneys-known as master commissioners-in the Office of Legal Resources assisted the justices with the non-discretionary portion of the Court's docket: death penalty and public utility appeals, appeals involving state tax issues and workers' compensation law, extraordinary writs and attorney licensing and disciplinary cases.

The Office of the Reporter posted Supreme Court opinions and orders on the Court Web site throughout the year and arranged for the publication of those items—as well as opinions from trial and intermediate appellate courts around the state.

The Law Library settled into its new space in the Ohio Judicial Center and continued to provide the general public and Court staff with the very latest technologies for researching legal issues.

The Mediation Section resolved dozens of cases during the year, thereby removing a significant number of appeals from the Court docket before arguments were held. The mediation attorney's efforts focused primarily on cases involving state taxes, workers' compensation matters, public utility issues and extraordinary writs.

OFFICE OF THE REPORTER

A fter the justices themselves and the Office of the Clerk, the Office of the Reporter is the oldest department of the Supreme Court of Ohio. Established by the court in 1823, the office reports—publishes in printed form—Supreme Court opinions, entries, miscellaneous orders and rule amendments in the advance sheets and bound volumes of the *Ohio Official Reports*.

The Office of the Reporter also posts opinions of the Supreme Court, courts of appeals, the Ohio Court of Claims and selected trial courts to the Court Web site. Supreme Court opinions going back to 1992 can be found at www.sconet. state.oh.us/rod/newpdf with the search index located there. Amendments and proposed amendments to the Supreme Court's rules can be searched at www. sconet.state.oh.us/rod/Rule/List.asp.

In 2004, the office posted 442 Supreme Court opinions and 273 case announcements, and 5,239 appellate court, 668 Court of Claims and nine trial court opinions to the Web site. The Supreme Court database of opinions contains literally thousands of opinions that are easily searchable and accessible to the public at no charge.

LAW LIBRARY

The primary responsibility of the Law Library is to conduct and deliver legal research to Supreme Court of Ohio staff, other Ohio governmental entities and the general public.

The major accomplishment of the year 2004 was the move of approximately 300,000 volumes and thousands of microfiche and microfilm reels from the James A. Rhodes State Office Tower to the Ohio Judicial Center.

The library's goal for 2004 was to organize the new spaces in the Ohio Judicial Center in a more coherent manner than had been evident in the Rhodes

OFFICE OF LEGAL RESOURCES

DAVID M. GORMLEY, DIRECTOR

OFFICE OF THE REPORTER

RALPH W. PRESTON, REPORTER OF DECISIONS

LAW LIBRARY

KEN KOZLOWSKI, DIRECTOR

MEDIATION SECTION

WILLIAM A. ZAPP, MEDIATION ATTORNEY Tower; this was accomplished with the hard work of the entire staff. On top of all the move activity the staff also was in the process of easing into new online cataloging software.

Despite the fact that the library was being dismantled and moved during the months of January and February, the library saw a 17 percent increase in the number of patrons in 2004 and answered 31 percent more reference questions.

The library has taken an aggressive attitude toward improving the areas of the collection in which it is already strong, such as Ohio materials, while de-emphasizing those areas that have been overfunded but little used, such as international law. In addition, online access to numerous databases was added for both the staff and the public patrons who frequently avail themselves of library resources. One big change was the addition of LexisNexis access. Usage reports have shown that this addition has proven to be a huge success as it complements what had been available through the library's Westlaw contract.

Looking forward to 2005, the library will continue to keep a close watch on budgetary matters by reviewing costs and invoices while continuing to add additional access to more materials.

Statistics

Statistics		
CATALOGING	2003	2004
Books	734	354
Serials	65	45
Microfiche	219	133
Microfilm	0	0
Video	0	2
Audio	0	0
CD-ROM	30	8
DVD	0	1
Internet	155	114
Gov. Documents	1,275	248
Record Maintenance	11,591	2,899
Discards	24,381	8,097
PUBLIC SERVICES		
Patrons	7,728	9,024
Questions	6,090	8,768
Circulation	999	993
Photocopies	58,966	40,013

MEDIATION SECTION

E stablished in 2002, the Mediation Section reviews mandatory appeals and extraordinary writ complaints and recommends the Court refer appropriate cases to mediation, schedules the referred cases for mediation conferences and proceeds with mediation in an effort to settle those cases.

In 2004, the section reviewed approximately 200 cases, accepted 88 cases into mediation and conducted 129 mediation conferences, either in-person or by telephone. Thirty-six cases were settled and disposed of by the Court. Forty cases did not settle and were returned to the regular Court docket, yielding a 47.4 percent settlement rate.

At the end of the year, the parties had agreed to a settlement in 20 more cases and were preparing and circulating settlement documents. The Court can dispose of these cases once the settlement documents are executed and the parties apply for dismissal.



OFFICE OF FISCAL & MANAGEMENT RESOURCES RONDA PERRI, DIRECTOR

OFFICE OF HUMAN RESOURCES SHARON DUNN, DIRECTOR

OFFICE OF INFORMATION TECHNOLOGY DAVID SAFFLE, *DIRECTOR* The Fiscal & Management Resources Division provides support to the Court and judiciary in the areas of fiscal resources, human resources and information technology. All offices report to the director of Fiscal & Management Resources, who provides oversight and administrative direction for division operations. The primary accomplishments of the division include goals achieved through significant progress in technology, human resources programs to benefit employees, and policies and procedures implemented to provide information, consistency of practice and improved efficiencies.

The Office of Fiscal Resources implemented policies on miscellaneous reimbursements and grant administration, and developed additional internal auditing standards for the review of fiscal and payroll records. The Office of Human Resources rolled out a new-hire orientation program and directed the Court-wide *Performance Management* program to evaluate performance, provide an avenue for recognition and feedback and offer professional development opportunities for staff. The Office of Information Technology continued the major project of converting core programs from legacy systems to newer technologies to provide a platform for enhanced services to the public. The office also put forth remarkable effort during the Court's move to the Ohio Judicial Center, which involved installing necessary data and telephone wiring to operate the Court's network and provide telephone services.

The Fiscal & Management Resources Division staff worked together in 2004 to improve current practices, provide better services and support the overall strategic needs of the Court and its various individual offices.

OFFICE OF FISCAL & MANAGEMENT RESOURCES

he Office of Fiscal & Management Resources is the lead office in the divi-

sion. The office is responsible for implementing the Court's budget of more than \$120 million, including the payment of Ohio judge salaries. Responsibilities also include ensuring proper internal controls are in place and administering relevant policies and guidelines, particularly as they relate to purchasing, travel reimbursements and grants.

Functions of the office include processing purchase requisitions and payment vouchers; budgeting, forecasting and analyzing revenues and expenditures; providing internal reporting and external reporting to regulatory bodies as required; and completing an annual inventory of Court assets.

In the past year, the Office of Fiscal & Management Resources made significant strides in implementing administrative policies, improving process flow efficiencies and conducting internal audits on fiscal and payroll records. The office also developed the 2006-2007 fiscal year biennial budget request for submission to the state Office of Budget and Management in 2004.

OFFICE OF HUMAN RESOURCES

The Office of Human Resources is responsible for implementing the employment policies of the Court, which includes coordinating the employment process, maintaining position and salary classifications, supervising the performance evaluation process, providing staff training programs and assuring the Court's compliance with federal and state employment laws. The office provides payroll and benefits services for Court staff, the staff of state district courts of appeals and all Ohio judges.



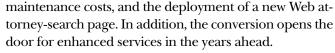
The Office of Human Resources rolled out a new-hire orientation program in 2004 to educate new staff on policies and the responsibilities of various offices within the Court. The *Leadership Excellence* program, offering training and development for management and staff, had a successful second year. The office also strived toward full implementation and formal adoption of the Courtwide *Performance Management* program, initially rolled out in 2003, to provide feedback on employee performance and provide an opportunity for exploring professional development interests.

The payroll function continues to make strides in improvement and efficiency. A number of other processes and systems have been enhanced or are in development to increase the efficiency of the office and improve the service it provides.

OFFICE OF INFORMATION TECHNOLOGY

The Office of Information Technology is responsible for the operation of the Court's information technology systems—developing and maintaining the Court's computer networks, databases, software programs and audiovisual technologies, as well as designing and implementing the strategic and tactical acquisition plans for the purchase of technology resources.

In the past year, the Court made historic progress in a number of technology areas. WANG, the 1980's legacy computer system, was retired, and the Court's core computer programs were transferred to newer technologies. Benefits of this conversion include the elimination of WANG hardware, software and personnel

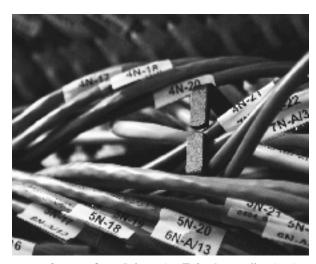


Also of historic significance was the transfer of the Court's network and computer resources to the Ohio Judicial Center. The new network uses a structured wiring plan that allowed the Court to move in over a single holiday weekend. Court employees shut down their computers on a Friday afternoon and logged in to begin work the following Tuesday morning with no one experiencing a loss of service. The Court's unique structured wiring plan also will reduce expenses by enabling staff to attend to service needs and effect installation changes in-house.

In 2004, the office collaborated with Ohio Government Telecommunications to establish the routine broadcast of the Court's oral arguments and other significant events over OGT's statewide network and the live streaming of these events over the Internet via the Supreme Court Web site, practices once reserved only for high-profile cases. All chived on the site for playback at a later time

of the streams are archived on the site for playback at a later time.

The Supreme Court continues to improve its service to the public through an enhanced opinions search page, and Web pages offering online mayors' court registration and reporting. In 2005, the Office of Information Technology expects to provide an online attorney Web portal, which will allow attorneys to register, change addresses and monitor CLE information.



Supreme Court Information Technology staff maintain, route and switch more than 1,100 CAT 5 cables to manage the Ohio Judicial Center telephone network.

Court Returns \$6.8 Million to State

The Supreme Court cut more than \$6.8 million from its Fiscal Year 2004 budget in a voluntary effort to help alleviate the state of Ohio's projected deficit for the year.

Chief Justice Moyer made the announcement in a letter to Thomas W. Johnson, the director of the Ohio Office of Budget and Management, in April.

"I am pleased to inform you that a very careful review of our budget for the remainder of this fiscal year has produced the conclusion that we will reduce the Judiciary/Supreme Court budget by a total of 6 percent, or \$6.85 million for Fiscal Year 2004," he wrote.

Chief Justice Moyer explained that Court was able to make the budget reductions "because of sound fiscal management by our administrative leadership team, and because we moved into the Ohio Judicial Center a few months later than originally budgeted." The later move-in date saved on operation expenses budgeted for the building.

Johnson had been directed by Gov. Bob Taft to ask all state agencies to submit proposed budget cuts of 4 percent to make up a projected \$620 million shortfall. Moyer noted in his letter to Johnson that the Supreme Court's budget—which includes general allocations for the state judiciary—is not subject to the governor's authority, but he said the Court would voluntarily impose cuts above and beyond those asked of executive agencies.

"In fact, in the last three years we have reduced our budget allocation in order to assist the state in meeting its constitutional responsibility to operate with a balanced budget," Moyer wrote.

The Judiciary/Supreme Court budget for the 2004 originally was approximately \$114.2 million.

BUDGET SUMMARY

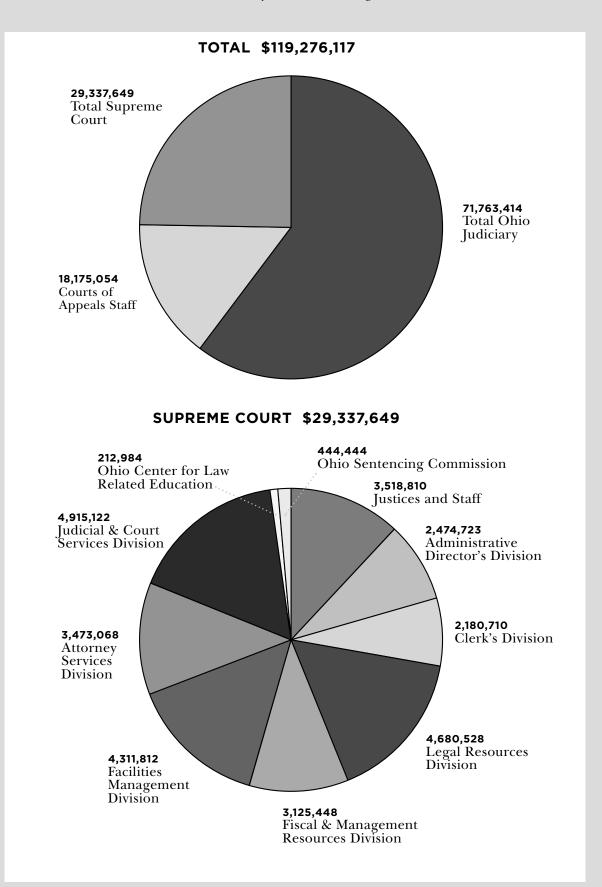
The budget statistics on the pages that follow represent the Court's fiscal picture for calendar year 2004 and the surrounding fiscal years.

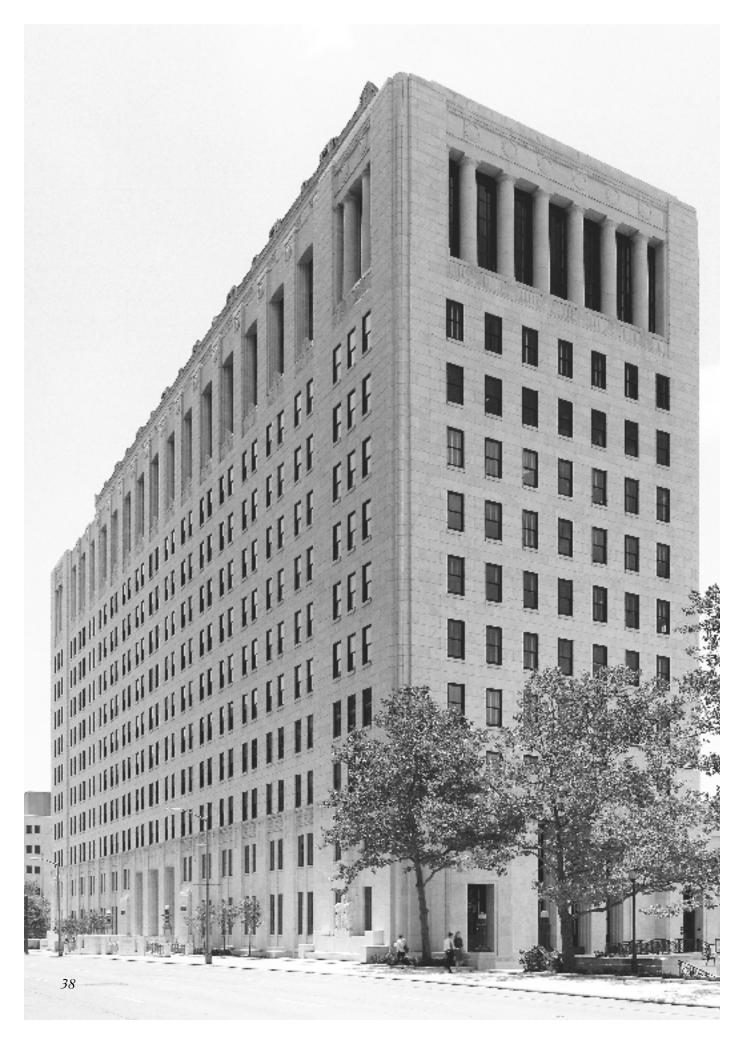
Through sound fiscal management, the Court saved significant funds and was able to contribute \$6.8 million to the state's efforts to reduce the budget deficit in Fiscal Year 2004.

The total budget for the Supreme Court and the Ohio Judiciary for calendar year 2004 was about \$119 million. This represents \$29.3 million for the administrative budget of the Supreme Court, \$18.1 million for courts of appeals staff administrative salaries and \$71.7 million for the state's portion of the salaries of the appeals and lower court judges.

JUDICIARY/SUPREME COURT BUDGET FY 2004 AND FY 2005

	Total Budgeted FY 2005	Total Budgeted FY 2004	Average, to allow for Calendar 2004	Percent of Total
OHIO JUDICIARY				
Courts of Appeals Judges	10,331,205	9,659,450	9,995,328	
Lower Courts	63,909,557	59,626,615	61,768,086	
Total Ohio Judiciary	74,240,762	69,286,065	71,763,414	
COURTS OF APPEALS STAFF	19,224,061	17,126,047	18,175,054	
SUPREME COURT				
Justices and Staff	3,710,246	3,327,374	3,518,810	12.0%
Administrative Director's Division	2,782,529	2,166,917	2,474,723	8.4%
Clerk's Division	2,212,900	2,148,520	2,180,710	7.4%
Legal Resources Division	5,039,750	4,321,305	4,680,528	16.0%
Fiscal & Management Resources Division	3,224,343	3,026,553	3,125,448	10.7%
Facilities Management Division	5,295,731	3,327,892	4,311,812	14.7%
Attorney Services Division	3,664,660	3,281,476	3,473,068	11.8%
Judicial & Court Services Division	5,407,743	4,422,500	4,915,122	16.8%
Ohio Center for Law Related Education	216,131	209,836	212,984	0.7%
Ohio Sentencing Commission	449,532	439,355	444,444	1.5%
Total Supreme Court	32,003,565	26,671,728	29,337,649	100.0%
Total Ohio Judiciary/Supreme Court	125,468,388	113,083,840	119,276,117	





FACILITIES MANAGEMENT DIVISION

BYRON C. WILSON, DIRECTOR

The Facilities Management Division had many accomplishments during 2004. Division efforts led to the completion of the Ohio Judicial Center renovation within budget and on schedule. The division also grew from a handful of staff to more than 35 service staff in six work groups, three of which had never before existed at the Court.

Division employees moved the Supreme Court staff and personal possessions over a single long weekend in February with no interruption of public transactions or significant downtime in production offices. From February through April, the division moved five affiliated disciplinary offices and other Judicial Branch offices—the Board of Commissioners on Grievances & Discipline, the Clients' Security Fund, the Ohio Court of Claims, the Ohio Criminal Sentencing Commission and the Ohio Judicial Conference—from different rental spaces to the Ohio Judicial Center.

Following the move, staff assisted with the building dedication in May, hosted guests of the Court and employees for the city's Red, White and Boom fireworks display in July, and closed the year with preparations for four swearing-in ceremonies. The division served thousands of guests of the Supreme Court, the Court of Claims and the affiliated agencies housed in the Ohio Judicial Center.

OFFICE OF FACILITIES MANAGEMENT

The Office of Facilities Management is the lead office in the division and oversees six work groups that include the Records Management Center, Housekeeping & Grounds, Meetings & Events, the Mail Services Center, the Copy Center and Maintenance & Operations.

The Records Management Center is responsible for the Supreme Court offsite records storage facility. In 2004, the records center received 1,252 requests, delivering and retrieving 2,194 files and receiving 459 boxes of records for permanent storage. The installation of a high-volume shredder in June 2004 led to the shredding and recycling of 14.7 tons of records in accordance with the Court's records retention policy. In late 2004, the work group implemented a new RIM program that will help the offices inventory, locate and track records and boxes using computers and scanners.

The Housekeeping & Grounds Work Group is responsible for keeping the building clean and consistently maintaining high standards of care for the interior and exterior of the Ohio Judicial Center.

The Meetings & Events Work Group is responsible for planning, scheduling and facilitating meetings, events, special functions and the use of conference rooms. In 2004, Vikkie Wilson, the coordinator of this work group, also served as project manager for the move and the relocation of the Court and five affiliated and other Judicial Branch offices into the 415,000-square-foot Ohio Judicial Center.

The Mail Services Center provides daily mail pickup from the U.S. post office, X-rays, sorts and delivers U.S., express and certified mail to all departments of the building three times a day, with one trip daily to the Rhodes Tower and the post office for handling special mail needs. The center also maintains various mail accounts, bills departments for postage used and maintains the center's mailing equipment, keeping it ready for use.

OFFICE OF FACILITIES MANAGEMENT

BYRON C. WILSON, DIRECTOR

OFFICE OF COURT SECURITY JAMES P. CAPPELLI, DIRECTOR

In 2004, center employees developed a disaster recovery plan for the Mail Center. The center also purchased two additional hand-held scanners for faster express delivery throughout the Ohio Judicial Center. In addition, the center saved the Court thousands of dollars in postage fees by educating staff on the benefits of presort mailing. The center also took on numerous large mailings from various departments that were previously contracted to outside vendors.

The Copy Center provides skilled operation of various types of printing, copying and bindery equipment and related machines. Center staff are responsible for production of printed materials, including projects that involve using various types of bindery equipment and hand-finishing.

In 2004, the Maintenance & Operations Work Group oversaw the startup of all maintenance operations in the Ohio Judicial Center, inspected all equipment to verify conformance to engineers' specifications and communicated deficiencies to the construction manager; ordered necessary tools, equipment, supplies and spare parts; implemented a new CMMS and input all equipment for manufacturer-required periodic inspections. In addition, staff received and reviewed all operations and maintenance manuals. Major equipment acquisitions included two York absorption chiller-heaters, a Systecon pump controller package, Danfoss variable frequency drives, two diesel standby generators, an Edwards fire control system, an Allerton BAS with BACnet protocol, a Lutron GRAFIK 5000 lighting control system, a domestic water chiller with filter and 12 PACE air handlers.

OFFICE OF COURT SECURITY

F ormerly the Court Security Section, the office maintained the initial focus on developing and implementing a security plan for the members and staff of the Supreme Court, which was finalized and put into effect with the opening of the Ohio Judicial Center in February 2004.

Since then, Jim Cappelli, director of the office, has executed the plan to expand the scope to include other areas of responsibility, including personal



Responsibilities of the Office of Court Security include ensuring staff preparedness for emergencies through activities such as this building evacuation drill in October.

protection services for members of the Court, security consultation for Ohio judges and the implementation of a plan to provide coordinated and sound security programs and practices for the courts throughout Ohio.

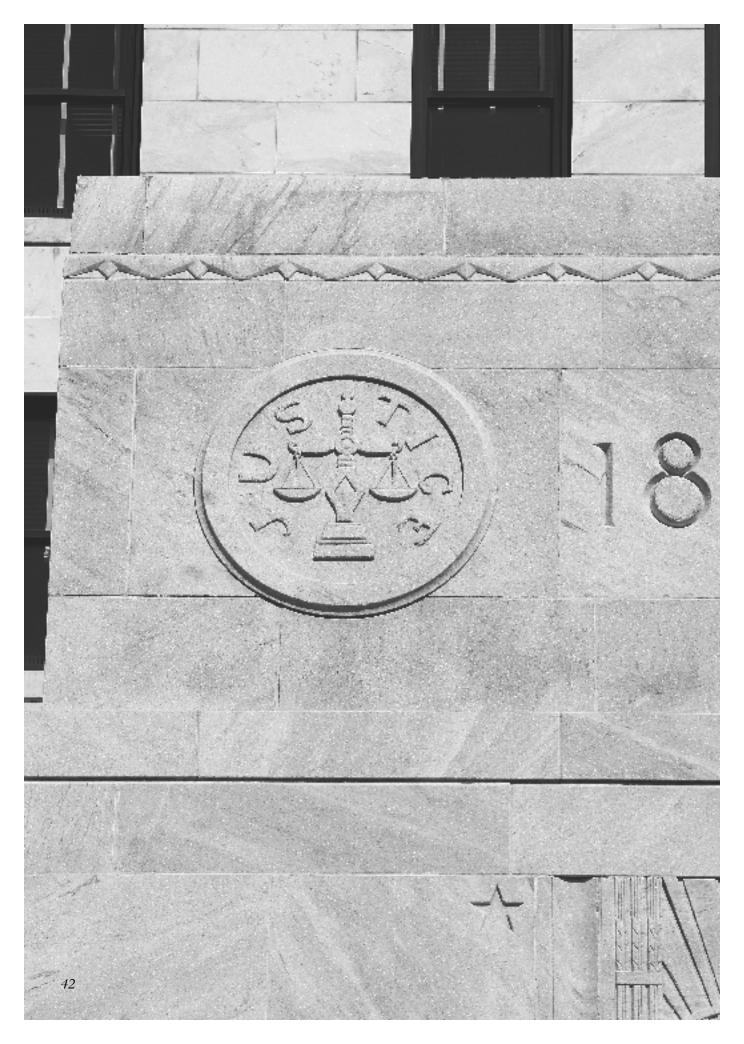
Sam Cicchino, security services manager, consults with Ohio courts on facility security as well as security equipment issues and physical security surveys. He is assisted with field surveys by Ben Panek, security specialist, who also works on security projects in the Ohio Judicial Center and for the benefit of the security of the Ohio judiciary.



Hundreds of boxes containing files from the offices of the Clerk and Bar Admissions await transport from the 2nd Floor of the James A. Rhodes State Office Tower to the Ohio Judicial Center.



Movers begin the long task of transporting dollies full of staff belongings and furniture to their rightful destinations within the Ohio Judicial Center.



ATTORNEY SERVICES DIVISION

RICHARD A. DOVE, DIRECTOR

The Attorney Services Division is responsible for coordinating and executing many of the Supreme Court's responsibilities for regulating the practice of law. The division consists of two offices and one section, and provides legal and secretarial support for five Court-created boards, one board established by Supreme Court rule and one task force appointed by Chief Justice Moyer.

In 2004, the Attorney Services Division continued to make significant strides toward streamlining its operation and enhancing the services provided to Ohio attorneys and other members of the public. In April, the section completed implementation of a new attorney registration database, and, in August, made the public portions of the database available on the Supreme Court Web site. In conjunction with the Office of Information Technology, the division developed a plan to offer additional Web-based services to Ohio lawyers in 2005, including online attorney registration and access to continuing legal education records.

The division also obtained approval of rule amendments to reorganize the Board on the Unauthorized Practice of Law and the Commission on Professionalism. The reorganization of the board will expedite its consideration of allegations of unauthorized practice and provide greater resources to the entities responsible for investigating and prosecuting those allegations. The reorganization of the Commission on Professionalism enhances the Court's commitment to promoting professionalism among members of the Ohio bench and bar and allows for greater involvement by the organized bar in commission activities.

OFFICE OF ATTORNEY SERVICES

The Office of Attorney Services is the lead office in the division and is responsible for coordinating division activities. In addition to providing direction to the division offices and sections, the Office of Attorney Services provides staff support to the Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases (Rule 20 Committee), the Lawyer Referral & Information Services Committee, the Commission on Professionalism, the Task Force on Rules of Professional Conduct and the Board of Commissioners on the Unauthorized Practice of Law.

OFFICE OF CONTINUING LEGAL EDUCATION

The office provides secretarial and administrative support services to the Supreme Court Commission on Continuing Legal Education and Commission on the Certification of Attorneys as Specialists.

Shortly after the February move to the Ohio Judicial Center, the office accomplished the Court's first large in-house printing project, sending out 17,000 compliance notices and 3,000 notices of noncompliance. The office also successfully tested and used the compliance component of the in-house CLE management system; reviewed and resolved the proposed increase in self-study hours; approved the *Creditors' Rights* attorney certification program; made significant progress toward making attorney CLE records available on the Web early in 2005; continued the statewide airing of a previously produced certification information video; and filed the annual report to the Supreme Court on attorney/judge noncompliance.

OFFICE OF ATTORNEY SERVICES

RICHARD A. DOVE, DIRECTOR

OFFICE OF CONTINUING LEGAL EDUCATION DIANE CHESLEY-LAHM, DIRECTOR

ATTORNEY REGISTRATION SECTION SUSAN B. CHRISTOFF, COUNSEL

TASK FORCE ON RULES OF PROFESSIONAL CONDUCT

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SECRETARY

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ATTORNEY REGISTRATION SECTION

The Attorney Registration Section completed a migration to a database, making portions of the database available to the public via the Supreme Court Web site. The section also worked with the Office of Information Technology on developing an online registration program that will allow attorneys to update the registration information they file with the Court and complete their biennial registration online.

The section issued approximately 3,800 certificates of good standing in 2004.

COMMITTEE ON THE APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS IN CAPITAL CASES CINDY JOHNSON, SECRETARY

THOMAS ESCOVAR WILLIAM F. KLUGE JOANN MARIE SAHL TIMOTHY YOUNG HON. WILLIAM H. WOLFF JR., *CHAIR*

LAWYER REFERRAL & INFORMATION SERVICES COMMITTEE

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COMMISSION ON CONTINUING LEGAL EDUCATION

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COMMISSION ON CERTIFICATION OF ATTORNEYS AS SPECIALISTS DIANE CHESLEY-LAHM, SECRETARY

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Supreme Court Records About Ohio Attorneys now Available Online

Chief Justice Moyer announced the online availability of attorney registration records at a press conference in August.

C hief Justice Thomas J. Moyer announced Aug. 31 that key information about registered attorneys in Ohio is available online at a news conference unveiling the new Attorney Registration Information Program link on the Court's Web site (www.sconet.state.oh.us). The move was the latest in an ongoing effort by the Supreme Court of Ohio to increase public understanding and knowledge of the legal system,

The link enables visitors to the Court's Web site to search all attorneys licensed in Ohio by name, geographic location or their attorney registration numbers for work addresses and phone numbers, law school information and previous, if any, Supreme Court sanctions for disciplinary violations. Every attorney licensed to practice law in Ohio is required by Court rule to register biennially with the Court.

"Making information available electronically is an effective way to make the judicial system more open and accessible to the public," Chief Justice Moyer said at the news conference. "The new program is a major step forward in helping the legal community connect with the public it serves."

The online database does not include information on disciplinary matters dismissed by the Board of Commissioners on Grievances & Discipline or by the Supreme Court, or those currently pending but not yet decided by the Supreme Court. The system also does not include information on civil malpractice complaints or suits.

For those reasons, the Chief Justice cautioned that the online attorney registration information program should be viewed as the first step for legal consumers investigating their options for the best available representation.

JUDICIAL & COURT SERVICES DIVISION

DOUGLAS R. STEPHENS, DIRECTOR

OFFICE OF JUDICIAL & COURT SERVICES

DOUGLAS R. STEPHENS, DIRECTOR

OHIO JUDICIAL COLLEGE JOHN R. MEEKS,

DIRECTOR

CASE MANAGEMENT

F. DIANE HATCHER, MANAGER

DISPUTE RESOLUTION SECTION

BRUCE E. HECKMAN, MANAGER

SPECIALIZED DOCKETS SECTION

MELISSA A. KNOPP, MANAGER

TECHNOLOGY SERVICES SECTION

MEG BUZZI, MIKE DRESSEL, JIM MENDEL, MARY BETH PARISI, *PROGRAM MANAGERS*

COURT RELATIONS PROGRAM

RUTH ANN NEWCOMER, PROGRAM MANAGER

INTERPRETER SERVICES PROGRAM

BRUNO ROMERO, PROGRAM MANAGER The Judicial & Court Services Division had significant accomplishments in all sections in 2004. The Case Management Section collected the first-ever statewide caseload statistics for mayors' courts, which included verifying their very existence. Bruce Heckman, the new manager of the Dispute Resolution Section, began with the division in early 2004 and refocused that section on the primary objective of exposing all counties to mediation. The Specialized Dockets Section recognized the growing interest in mental health dockets by adding two new staff positions.

In 2004, the Technology Assistance staff of the Technology Services Section continued their efforts to help local courts computerize case management procedures. By the end of the year, all but two courts had computer systems in place; those remaining two will be online in early 2005. The Policy & Planning staff of the Technology Services Section, with the assistance of more than 150 volunteers, continued their work toward the implementation of the Ohio Courts Network, largely through the development of a number of policy and procedure standards and recommendations.

Staff in the Court Relations Program once again helped organize two Off-Site Court sessions, including the first live streaming of the sessions over the Internet. The Interpreter Services Program, established in late 2003, completed the firstever statewide surveys of the use and needs of interpreters in Ohio courts.

OFFICE OF JUDICIAL & COURT SERVICES

The office tracked the more than 50 judgeship changes that took place as a result of the spring primaries and November elections. Additionally, staff helped local courts create five new judgeships, including two new configurations: a combined general/probate division and a combined general/domestic relations/probate division. The office also staffed the Advisory Committee on Children, Families & the Courts, which included significant progress towards the establishment of guardian ad litem standards, work towards suggested domestic relations reforms, and improvements in the abuse, neglect and dependency area through the *Beyond the Numbers* initiative.

OHIO JUDICIAL COLLEGE

The Judicial College strives to offer innovative, practical, challenging and participatory seminars with substantial involvement in planning by representatives of those who attend the programs. Well over half the Judicial College faculty are volunteer judges, magistrates and court personnel, many of whom attend faculty development seminars offered by the Judicial College.

In 2004, the Judicial College offered 100 seminars:

- 56 traditional seminars for 3,198 judge and magistrate attendees over 70 days, with several multi-day or repeated seminars
- 31 traditional seminars for 2,292 non-judicial Ohio court personnel over 43 days
- 13 video teleconferences, each offered simultaneously at 15 or more sites across the state for 1,858 court personnel, magistrates, and judges.

The Judicial College conducted seminars during at least one day of each of the Ohio Judicial Association's meetings, as well as during every day of the



ADVISORY COMMITTEE ON CHILDREN, FAMILY, & THE COURTS

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JUDICIAL COLLEGE BOARD OF TRUSTEES

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CASE MANAGEMENT SECTION

he Case Management Section provided assistance to courts in Champaign,

Clermont, Cuyahoga, Franklin, Logan, Lorain, Mahoning and Morrow counties, resulting in improved scheduling and case flow operations, and reduced needs for visiting judges.

As a part of the *Court Management Program*, Diane Hatcher presented, along with Judge Joseph Clark, Magistrate Gretchen Beers and Appellate Court Administrator Ben Manning, a $2^{1/2}$ -day course on the fundamentals of case flow management. Hatcher was one of the 30 participants honored in the first group of Ohio court personnel to graduate from a nationally recognized educational program for court managers.

The *Beyond the Numbers* pilot project was initiated and has the potential to improve collaboration between child welfare agencies and juvenile courts in all 88 counties. This collaboration will result in improved case management practices in abuse, neglect and dependency cases and better service to children and families. As a part of the project, a case file review tool was developed by Family Law Program Manager Steve Hanson and piloted by judges in District One of the Ohio Association of Juvenile Court Judges. This tool assists courts in pinpointing areas for case management improvement.

The section developed the *Juvenile Court Clerks Best Practices* manual with the assistance of knowledgeable juvenile court clerks from different counties in Ohio. The manual includes statutes, rules, practices and procedures for clerk operations.

In conjunction with the Ohio Judicial Conference, Brian Farrington, judicial assignment officer, participated in the development of a special program concerning a broad range of judicial retirement issues. The success of the program as presented at the annual judicial conference in September led the planners to begin work expanding it to a daylong presentation to be provided in April 2005.

Ongoing semiannual internal spot audits of the retired assigned judge compensation program in 2004 demonstrated successful compliance with the compensation limits established by Chief Justice Moyer's guidelines for the assignment of judges.

In compliance with §1905.033 of the Ohio Revised Code, mayors' courts successfully completed the registration process and completed their first year of statistical reporting as a condition of holding court. In July, public access was provided to the online database of all active mayors' courts. At the close of the year there were 329 registered mayors' courts.

DISPUTE RESOLUTION SECTION

The Dispute Resolution Section supports Ohio courts by helping them develop effective mediation programs and services. The section provides consultation and training to help courts establish new mediation programs, expand existing programs into new court divisions and maintain high-quality services.

Bruce Heckman came to the Supreme Court as the section manager in April 2004. Since his arrival, the section has focused more intently on bringing court-

connected mediation to all Ohio counties, on rules and legislation affecting the practice of mediation in Ohio and on increasing the use of technology to improve communications.

During 2004, the section provided 19 mediation training programs. The section also hosted 20 forums and meetings for mediators and others associated with court-connected mediation. Training topics ranged from basic truancy mediation skills to advanced topics in child protection mediation. Issues addressed in forums and meetings ranged from poverty, domestic violence and substance abuse to implications of the Uniform Mediation Act, which passed in the General Assembly near the end of 2004.

Since 1992, the section has helped bring court-connected mediation to at least one court division in 84 of 88 Ohio counties. During 2004, the section provided grant support for a new mediation program in Hocking County. It continued to provide funding support for mediation programs in Morrow, Wood and Hancock, Ross and Pike, Belmont, and Harrison and Jefferson counties.

SPECIALIZED DOCKETS SECTION

The Specialized Dockets Section provides technical support to trial courts in analyzing the need for, planning of and implementation of specialized docket programs, including drug, mental health, reentry, and domestic violence court dockets.

Melissa Knopp, manager of the Specialized Dockets Section, Barbara Carter, Family & Juvenile Drug Court program manager, and Charlsia Brown, Specialized Dockets program assistant, provided direct technical assistance to 15 drug court programs. The section increased training and networking opportunities for the drug court programs through the creation of the Ohio Drug Court Practitioner Network.

The network is organized based on subnetworks composed of each discipline involved in the operation of a drug court. Each subnetwork meets up to four times a year to discuss issues involving program operations. In addition to the subnetwork meetings, staff organized and hosted a statewide drug court conference with several renowned national speakers that attracted 226 network members.

The section also organized and hosted training sessions for drug court personnel on HIPAA, the physiology of addiction and *Bridges Out of Poverty*. In order to promote awareness and educate the public on drug court programs, the section created a series of juvenile drug court educational videos through funds received from an Ohio State Bar Foundation grant.

Through collaboration with the Ohio Department of Alcohol and Drug Addiction Services and the Ohio Department of Public Safety, the Specialized Dockets Section is working to create DUI court pilot sites to deal with offenders with multiple drunken driving charges. In 2004, the Lyndhurst Municipal Court and Clermont County Municipal Court were selected as pilot sites for the creation of DUI court programs.

The section provides staff support to the Advisory Committee on Domestic Violence, which recommended that the Supreme Court adopt changes to the standard protection order forms. The Supreme Court adopted the recommended changes and the revised forms went into effect Sept. 1, 2004.

With funds received from a Violence Against Women grant, the section organized and hosted three topical trainings for court personnel on trauma, poverty and batterer intervention issues. The section sought and received continuation funding for this grant for calendar year 2005.

The section added two positions to support the growing mental health court

ADVISORY COMMITTEE ON DISPUTE RESOLUTION BRUCE E. HECKMAN,

STAFF LIAISON

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DOMESTIC VIOLENCE ADVISORY COMMITTEE

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movement in Ohio. Corey Schaal joined the section as the mental health court program manager, and Kate Brunner was hired as the mental health court program assistant. In addition to staffing Justice Evelyn Lundberg Stratton's Advisory Committee on Mentally III & the Courts, the mental health court staff also helped facilitate the creation of mental health court programs throughout the state. Ohio now has 24 operating mental health court dockets, more than any other state in the country. Staff of the section helped organize and host the second National Conference on Mental Illness and the Criminal Justice System. The Specialized Dockets Section also was awarded a grant from the Ohio State Bar Foundation to create a mental health court operations manual.

TECHNOLOGY SERVICES SECTION

D uring 2004, the Technology Services Section completed 22 court assistance programs, primarily upgrading case management systems or developing three-year plans for court information system projects. The Close the Gap grant provided the necessary money to automate courts without case management systems. Only two of these courts still need systems: Paulding County Probate/Juvenile Court, which is expected to be completed by the end of second quarter 2005, and the 7th District Court of Appeals, which is waiting for OASIS software, the appellate case management application developed under the supervision of Court staff.

Also during this year, Meg Buzzi, program manager, completed the biennial survey of technology and the courts; it is available on the Court's Web site. Cheré Evans transferred from the Judicial College to fill the vacancy left by Jennifer Caouette's relocation to New Jersey.

More than 150 volunteers from all over the state participated in projects under the auspices of the Advisory Committee on Technology & the Courts, its subcommittees and work groups. 2004 saw the development and release of case management standards for criminal and civil cases through the Standards Subcommittee, as well as a proposed revision to Civil Rule 43 regarding a unique number for each case in the state. The Privacy Subcommittee completed a draft privacy policy for the judiciary of Ohio. The Infrastructure & Interoperability Subcommittee compiled business requirements for the Ohio Courts Network. The advisory committee itself launched the Virtual Service Project pilot in Franklin County, Rocky River and Vermilion. The advisory committee also formally recognized its collaboration with the executive branch OH*1 Data Network project.

COURT RELATIONS PROGRAM

ff-Site Court sessions held in Clermont and Morrow Counties were streamed live for the first time since the program began in 1987. A film was produced to describe the Off-Site Court program and was posted on the Supreme Court Web site and sent to chief justices in other states.

The Ohio Judicial Family Network sponsored three programs for spouses of judges and provided a resource contact person for each partner of a judge elected or appointed in 2004. Thirty-five court personnel and judicial roundtable groups met to provide an opportunity for participants to exchange information about matters specific to their jurisdiction. Sixty-six *Court News and Information* bulletins were distributed offering informational material or making inquiry about a specific topic at the request of judges and court personnel. Numerous requests for information were handled through an Internet clearinghouse system and personal contacts.

INTERPRETER SERVICES PROGRAM

n 2004, the Interpreter Services Program completed surveys on court interpreters and on the use of court interpreters. The surveys collected information from numerous interpreters, both regionally and nationally, regarding their skills, knowledge, training and experience, and information from county, municipal, and common pleas courts to assess the current use of interpreters in the courts of Ohio.

The Interpreter Services Program conducted six trainings-four on the code of ethics and two exploring qualifications-in various parts of the state for foreign language interpreters, sign language interpreters and court personnel. The program also organized four work groups-in Dayton, Cleveland, Columbus and Toledo-to address issues at the local level, produced a report on appellate cases on the use of interpreters and secured funding for a bench book on interpreter services.

ADVISORY COMMITTEE ON MENTALLY ILL IN THE COURTS

KRISTINA HAWK, MELISSA KNOPP, COREY SCHAAL AND KATE BRUNNER, STAFF LIAISONS

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ADVISORY COMMITTEE ON TECHNOLOGY & THE COURTS MARY BETH PARISI, STAFF LIAISON

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OHIO JUDICIAL FAMILY NETWORK STEERING COMMITTEE RUTH ANN NEWCOMER, STAFF LIAISON

RICK BRUNNER JOHN BURKE TODD COOPER STEVE DEGENARO LARRY FLOYD TIM GORMAN MAUREEN GRADY SUSAN HANY, CHAIR PAM HARRIS SUSIE E. INGRAHAM MARYANNA KLATT TOM LONG LESLIE MARCELAIN MARY MOYER SHANNON NELSON LAURIE REPP JANET SUNDERMAN JOAN MCGUINNESS WAGNER SUE WOLAVER TOM ZITTER



OFFICE OF DISCIPLINARY COUNSEL JONATHAN E. COUGHLAN, DISCIPLINARY COUNSEL

THE OFFICE OF DISCIPLINARY COUNSEL is authorized to investigate allegations and initiate complaints concerning misconduct and/or mental illness of judges or attorneys under the Code of Professional Responsibility, the Code of Judicial Conduct, and rules governing the unauthorized practice of law, pursuant to the Supreme Court Rules for the Government of the Bar and the Government of the Judiciary.

Staff includes eight attorneys, one administrative officer, one administrative assistant, two paralegals, two full-time and one part-time investigator, five secretaries, one receptionist, one clerical support person and one part-time law clerk.

The Office of Disciplinary Counsel continues to conduct its operations in an effective and efficient manner. During 2004, the office received 3,144 matters for consideration, including 2,125 grievances filed against attorneys and 555 grievances filed against judges. Of those, 1,650 grievances were dismissed upon initial review and 1,030 grievance files were opened for investigation. The office filed 40 formal actions with the Board of Commissioners on Grievances and Discipline that were later certified to the Supreme Court. The Disciplinary Counsel also received:

- 346 appeals of grievances dismissed by certified grievance committees of local bar associations
- · 83 allegations of the unauthorized practice of law
- 10 filings of reciprocal discipline
- 4 cases involving the nonpayment of child support.

BOARD OF COMMISSIONERS ON GRIEVANCES & DISCIPLINE JONATHAN W. MARSHALL, *SECRETARY*

THE BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE was established by Rule V of the Rules for the Government of the Bar and is charged with administering, interpreting and enforcing Rule V, which provides for lawyer and judge discipline for ethical misconduct. The board also serves under state law as the ethics commission for the filing of more than 1,500 financial disclosure statements required of Ohio judges, judicial candidates and magistrates.

In 2004, the board met on eight days and received 88 formal complaints filed by the Office of Disciplinary Counsel and the certified grievance committees of local bar associations. The board held 79 hearings—a record number—and certified 71 matters to the Supreme Court, disposing of 100 cases. As a result of the disciplinary process, 16 Ohio lawyers resigned from the practice of law. Overall, caseload was reduced and there were 96 matters pending on the board's docket at the end of the year.

The board held hearings on eight judicial misconduct matters during the year.

The board continued its wide participation by five current and former members and its secretary on the Supreme Court Task Force on Rules of Professional Conduct appointed by Chief Justice Moyer, which is considering the ABA Model Rules and developing proposed changes to recommend to the Court. The task force met on 11 days during the year and published three sets of draft proposBOARD OF COMMISSIONERS ON GRIEVANCES & DISCIPLINE JONATHAN W. MARSHALL, SECRETARY

RICHARD C. ALKIRE SANDRA J. ANDERSON STANLEY C. BENDER LOUIS A. BOETTLER HON. HARVEY J. BRESSLER HON. THOMAS F. BRYANT **STANLEY M. CHESLEY** DAVID C. COMSTOCK **CHARLES E. COULSON** HON. OTHO S. EYSTER CYNTHIA A. FAZIO JULEANA FRIERSON HON. DANIEL GAUL JANA E. GUTMAN JEFFREY T. HEINTZ PAULA S. HICKS-HUDSON ROBERT V. HOUSEL JR. JEAN M. MCQUILLAN, CHAIR NANCY D. MOORE MARTIN J. O'CONNELL THERESA B. PROENZA WALTER REYNOLDS CHRISTINE J. SCHULMAN HON. ARLENE SINGER HON. JOHN B. STREET JOSEPH L. WITTENBERG MYRON A. WOLF HON. J. CRAIG WRIGHT

MASTER COMMISSIONERS

BERNARD K. BAUER HON W. SCOTT GWIN HON. JOHN R. MILLIGAN HON. JOHN PETZOLD ROBIN G. WEAVER HON. HARRY WHITE als for public comment.

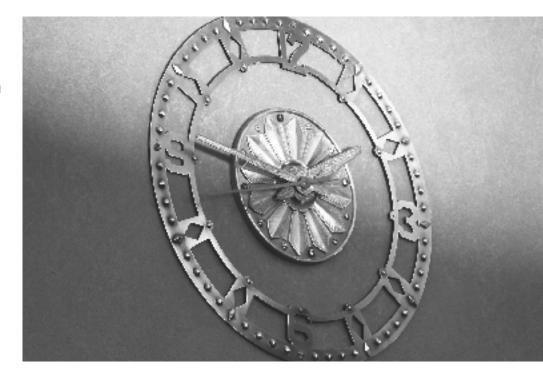
The board also continued its emphasis on the profession's recognition and treatment of mental health issues affecting lawyers and the legal profession. It implemented the newly enacted regulations for considering mental health disability as a mitigating factor when there is a causal connection to misconduct in particular disciplinary cases.

The board also received 63 requests for advisory opinions and issued 13 opinions on ethical questions arising under the Code of Professional Responsibility, Code of Judicial Conduct, Rules for the Government of the Bar, Rules for the Government of the Judiciary and Ohio ethics law. The board has now issued 301 advisory opinions since it was given such authority in 1987. Four of the board's 2004 advisory opinions were reported and discussed in the ABA/BNA Lawyer's Manual on Professional Conduct. The advisory opinions were referenced and used throughout Ohio in court opinions. Ruth Dangel, staff attorney, also issued 28 staff letters addressing various ethical issues.

The board assisted certified grievance committees in documenting requests for reimbursement of all disciplinary-related expenses both on a quarterly and annual basis.

The board sponsored two statewide disciplinary seminars for certified grievance committees and interested lawyers, and taught four courses on campaign law and ethics required of Ohio judicial candidates under Canon 7. In addition, the board presented 35 continuing legal education programs for judges, their spouses, lawyers, public employees, court personnel, mediators and law students and responded to more than 2,100 telephone inquiries regarding ethics and disciplinary issues.

In April 2004, the board completed its move to the 5th floor of the Ohio Judicial Center.



CLIENTS' SECURITY FUND JANET GREEN MARBLEY, *ADMINISTRATOR*

THE CLIENTS' SECURITY FUND was created in 1985 by Rule VIII of the Supreme Court Rules for the Government of the Bar. The purpose of the fund is to reimburse law clients who have sustained financial losses as a result of the dishonest conduct of a licensed Ohio attorney. The Board of Commissioners of the Clients' Security Fund is responsible for determining the eligibility of claims filed with the fund.

Since its inception, the fund has awarded more than \$9.4 million to 1,246 former law clients. All fund losses are attributable to less than 1 percent of Ohio's more than 52,566 licensed attorneys, 39,984 of whom are engaged in the active practice of law. Fifty attorneys were involved in claims that the fund paid out in fiscal year 2004.

During fiscal year 2004, the Clients' Security Fund received 276 requests for fund applications; 133 new applications were received.

The board reviewed 142 applications for reimbursement, and awarded \$1,019,555 to 116 eligible claimants. This represents the highest number of awards made in the fund's 19-year history. This does not, however, represent an increase in the number of dishonest lawyers in the state of Ohio, which continues to remain constant at less than 1 percent of the licensed attorneys engaged in active practice.

Of the 116 eligible claims, 112 claims were paid. Two people who filed eligible claims received reimbursement from the attorney involved prior to payment by the fund, one person requested that reimbursement be withheld pending litigation and one did not claim her award check. Twenty-five claims were determined to be ineligible for reimbursement and four claims were tabled. Three of the tabled claims were resolved, and one was pending at the time of publication.

In addition, five applications for attorney fees were considered and approved by the board. The board awarded \$1,450 in attorney fees.

CLIENTS' SECURITY FUND JANET GREEN

MARBLEY, ADMINISTRATOR

BOARD OF COMMISSIONERS OF THE CLIENTS' SECURITY FUND

LUIS M. ALCALDE HON. PATRICIA A. BLACKMON ROBERT W. EVERETT EDWARD G. HACK WILLIAM S. NEWCOMB JR., *CHAIR* BRIAN G. SELDEN DIANE SMILANICK



Clients' Security Fund Administrator Janet Green Marbley reviews documents during the July Board of Trustees meeting.



SELECTED OPINION SUMMARIES

The following is a chronological list of the merit decisions with opinions decided by the Supreme Court in 2004 that were summarized by the Office of Public Information. Lawyer and judicial discipline cases are not included. The full text of these and all 2004 decisions is available online at www.sconet.state.oh.us/ROD.

January 2004

State v. Scott, case no. 2000-1001 (Web cite 2004-Ohio-10) Opinion by Justice O'Donnell

Affirms the aggravated murder conviction and death sentence of Michael Dean Scott of Canton in the shooting deaths of Dallas Green and Ryan Stoffer in 1999.

Stark C.P. No. 1999CR1154. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Pfeifer, J., dissents.

State v. Hughbanks, case no. 2000-1868 (Web cite 2004-Ohio-6)

Per curiam opinion

Affirms the denial of death row inmate Gary Hughbanks' claim of ineffective legal counsel during the initial appeal of his 1998 convictions for aggravated murder and burglary.

Hamilton App. No. C-980595. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Maumee v. Pub. Util. Comm., case no. 2002-0052 (Web cite 2004-Ohio-7) Opinion by Chief Justice Moyer

Upholds the PUCO's authority to set and enforce regulations that govern the actions of Ohio municipalities by acknowledging that cities that generate their own electric power, or that contract wholesale ordinance rates for local residents with a monopoly power company, have long been exempt from PUCO regulation for those activities.

Public Utilities Commission, No. 00-2394-EL-ORD. Order affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Schmitt, case no. 2002-1807 *State v. Weirtz*, case no. 2002-2015 (Web cite 2004-Ohio-37) Opinion by Justice Sweeney

Holds that in DUI cases where field sobriety tests are not administered in strict compliance with fed-

eral standards, Ohio courts may admit trial testimony by a law enforcement officer regarding his observations of the defendant.

Mercer App. No. 10-01-16, 2002-Ohio-4615. Judgment reversed. Moyer, C.J., Resnick, F.E. Sweeney, O'Connor and O'Donnell, JJ., concur. Lundberg Stratton, J., concurs in part and dissents in part. Pfeifer, J., dissents.

Delaware App. No. 02CAC06032, 2002-Ohio-5294. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, O'Connor and

O'Donnell, JJ., concur. Lundberg Stratton, J., concurs in part and dissents

in part.

Pfeifer, J., dissents.

Santos v. Ohio Bur. of Workers' Comp., case no. 2002-1314 (Web cite 2004-Ohio-28) Opinion by Justice O'Connor

Suits seeking the return of specific funds wrongfully collected or held by the state are actions for equitable relief that may be brought in a common pleas court.

Cuyahoga App. No. 80353, 2002-Ohio-2731. Judgment reversed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, [].,

concur.

February 2004

Gentry v. Craycraft, case no. 2002-2095 (Web cite 2004-Ohio-379) Opinion by Justice Sweeney

In order to recover damages for personal injury suffered as a participant or spectator at a sport or recreational activity, an injured party must prove that the defendant acted recklessly or intentionally, regardless of the victim's age or awareness of potential risk.

Montgomery App. No. 19262, 2002-Ohio-5822. Judgment reversed.

Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Pfeifer, J., dissents.

State v. Perry, case no. 2002-1792 (Web cite 2004-Ohio-297) Opinion by Chief Justice Moyer

A trial court's failure to preserve written jury instructions as part of the official record of a case is not a structural error that automatically requires an appellate court to overturn a criminal conviction.

Franklin App. No. 01AP-996, 2002-Ohio-4545. Judgment reversed and cause remanded. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Harden v. Ohio Atty. Gen., case no. 2002-1663 (Web cite 2004-Ohio-382) Opinion by Justice O'Donnell

Public employers in Ohio may discipline an employee for neglect of duty or nonfeasance by prospectively withholding vacation leave that has not yet been earned.

Franklin App. No. 01AP-1156, 2002-Ohio-4291. Judgment affirmed. Moyer, C.J., F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick, J., concurs in judgment. Pfeifer, J., dissents.

Columbus City School Dist. Bd. of Edn. v. Wilkins, case no. 2002-1525 (Web cite 2004-Ohio-296) Opinion by Justice Resnick

A property tax exemption that can be earned by Ohio property owners who voluntarily clean up environmental hazards is not limited by the governing statute to the increase in value attributable to the environmental cleanup.

Board of Tax Appeals, No. 99-G-703. Decision affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Dairy Farmers of Am., Inc. v. Wilkins, case no. 2002-1261 (Web cite 2004-Ohio-321) Opinion by Justice Pfeifer

A dairy cooperative that buys raw milk from member farmers and processes it into dairy products is

entitled to Ohio personal property tax and tax exemptions.

Board of Tax Appeals, No. 01-M-378. Decision affirmed in part, reversed in part and cause remanded.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

March 2004

Maggiore v. Kovach, case nos. 2003-0002 and 2003-0020 (Web cite 2004-Ohio-722) Opinion by Chief Justice Moyer

A commercial landlord terminating the lease of a month-to-month business tenant is not required to give the tenant a 30-day advance notice, and is not required to include the words "leave the premises" when giving the mandatory 3-day notice before filing a court action for eviction.

Stark App. No. 2002-CA-109, 2002-Ohio-6301. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Coryell v. Bank One Trust Co., case no. 2002-1758 (Web cite 2004-Ohio-723) Opinion by Justice O' Connor

Discharged workers age 40 or older can establish a prima facie age discrimination case by showing that the person hired by their employers to assume their duties is substantially younger.

Franklin App. No. 02AP-191, 2002-Ohio-4443. Judgment reversed and cause remanded. Moyer, C.J., Resnick, Pfeifer and O'Connor, JJ., concur. F.E. Sweeney and Lundberg Stratton, JJ., dissent.

O'Donnell, J., dissents.

State v. Doe, case no. 2002-1666 (Web cite 2004-Ohio-705) Opinion by Chief Justice Moyer

Orders the grand jury testimony of an attorney who authorities believe may have information about the disappearance of a Kettering girl missing since 1999. Montgomery App. No. 19408, 2002-Ohio-4966. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur separately.

State v. Lozier, case no. 2002-0900 (Web cite 2004-Ohio-732) Opinion by Justice Pfeifer

To enhance the sentence of a drug trafficker for the aggravating factor of selling "within the vicinity of a school," a court must find that the defendant acted recklessly.

Holmes App. No. 01CA21, 2002-Ohio-1671. Judgment affirmed and cause remanded. Moyer, C.J., Resnick, Pfeifer, Harsha and Lundberg Stratton, JJ., concur. F.E. Sweeney, J., dissents. O'Connor, J., dissents. William H. Harsha III, J., of the 4th Appellate District, sitting for Cook, J.

Lake Land Emp. Group of Akron, LLC v. Columber, case no. 2002-2069 (Web cite 2004-Ohio-786) Opinion by Chief Justice Moyer

An otherwise valid noncompete agreement between an at-will employee and his employer is enforceable when the consideration the employee receives for assenting to the agreement is a continuation of his at-will employment.

Summit App. No. 21084, 2002-Ohio-5551. Judgment reversed and cause remanded. Moyer, C.J., Lundberg Stratton, O'Connor and Handwork, JJ., concur. Resnick, F.E. Sweeney and Pfeifer, JJ., dissent. Peter M. Handwork, J., of the 6th Appellate District, sitting for O'Donnell, J.

Johns v. Univ. of Cincinnati Med. Assoc., case no. 2002-1560 (Web cite 2004-Ohio-824) Opinion by Justice Stratton

The Ohio Court of Claims has exclusive jurisdiction to determine whether a state employee who causes damage to a third party was acting in the scope of her official duties and therefore is immune from

personal liability.

Hamilton App. No. C-010672, 2002-Ohio-3802. Judgment reversed in part, affirmed in part and cause remanded.

Moyer, C.J., F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick, J., concurs in judgment only.

State v. Jordan, case no. 2000-1833 (Web cite 2004-Ohio-783) Opinion by Justice Resnick

Upholds the aggravated murder, aggravated robbery and aggravated burglary convictions and death sentence of James Jordan for the 1996 bludgeoning and stabbing deaths of Gertrude Thompson and Edward Kowalczk.

Lucas C.P. No. CR98-2736. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Hairston, case no. 2002-1998 (Web cite 2004-Ohio-969) Opinion by Justice O'Donnell

Finds that state law requires inmates in state prisons who wish to resolve untried charges against them to initiate the process by filing a notice informing the appropriate county prosecutor and court of their place of imprisonment and requesting final disposition of outstanding charges.

Franklin App. No. 01AP-1474. Judgment reversed and cause remanded.

Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Pfeifer, J., dissents.

State v. Bryan, case no. 2001-0253 (Web cite 2004-Ohio-971) Opinion by Justice O'Donnell

Affirms the aggravated murder conviction and death sentence of Quisi Bryan for the June 2000 shooting death of Cleveland police officer Wayne Leon.

Cuyahoga C.P. No. CR393660. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

April 2004

State ex rel. WBNS TV, Inc. v. Dues, case no. 2003-1476 (Web cite 2004-Ohio-1497) Per curiam opinion

Orders Preble County Probate Court to release the records of a wrongful death suit involving 13-yearold Brittanie Cecil, who was fatally struck by a hockey puck during a Columbus Blue Jackets NHL game; holds that the documents in question are public records and do not fit within any statutory exceptions from disclosure.

In Mandamus. Writ granted. Moyer, C.J., F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick, J., dissents.

In re Williams, case no. 2003-1466 (Web cite 2004-Ohio-1500) Opinion by Justice Resnick

A child who is the subject of a juvenile court action to permanently terminate parental rights is a party to that proceeding and is entitled to representation by an attorney under certain circumstances.

Geauga App. Nos. 2003-G-2498 and 2003-G-2499, 2003-Ohio-3550. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State ex rel. Cincinnati Enquirer v. Winkler, case no. 2003-0157 (Web cite 2004-Ohio-1581)

Opinion by Justice Sweeney

Affirms the constitutionality of a state law allowing judges to seal the record of a completed criminal trial under certain conditions.

Hamilton App. No. C-010763, 2002-Ohio-7334. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Kirkhart v. Keiper, case no. 2003-0046 (Web cite 2004-Ohio-1496) Opinion by Justice Sweeney

When a plaintiff obtains a judgment against public officials for acts performed in their governmental

capacity, the doctrine of res judicata bars the plaintiff from pursuing a separate lawsuit based on the same official acts but seeking damages from the same officials as individuals.

Portage App. No. 2001-P-0069, 2002-Ohio-6472. Judgment reversed. Moyer, C.J., F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick and Pfeifer, JJ., dissent.

State v. Cowan, case nos. 2003-0019 and 2003-0469 (Web cite 2004-Ohio-1583)

Opinion by Justice Stratton

Ohio municipal courts do not have jurisdiction to consider petitions for postconviction relief in any criminal case.

Portage App. No. 2001-P-0109, 2002-Ohio-7271. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Mink, case no. 2001-1429 (Web cite 2004-Ohio-1580) Opinion by Justice Sweeney

Affirms the aggravated murder conviction and death sentence of Scott A. Mink of Montgomery County for the fatal bludgeoning and stabbing of his elderly parents.

Montgomery C.P. No. 2000CR2900. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Dixon, case no. 2001-0013 (Web cite 2004-Ohio-1585) Opinion by Justice Pfeifer

Affirms the kidnapping, aggravated murder, forgery convictions and death sentence of Archie Dixon of Toledo for the aggravated murder of Christopher Hammer.

Lucas App. No. L-96-004. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, O'Connor and O'Donnell, JJ., concur. Lundberg Stratton, J., concurs in part and dissents in part.

Masiongale Elec.-Mechanical, Inc. v. Constr. One, Inc., case no. 2002-1861 (Web cite 2004-Ohio-1748) Opinion by Justice O'Donnell

Ohio's prompt-payment statute does not permit a general contractor to withhold from a subcontractor's bill the general contractor's projected legal costs to resolve a dispute involving violations of lien-waiver and forum-selection provisions in the construction contract.

Franklin App. No. 02AP-138, 2002-Ohio-4736. Judgment affirmed.

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

Resnick, F.E. Sweeney and Lundberg Stratton, JJ., dissent.

State v. Zima, case no. 2003-0090 (Web cite 2004-Ohio-1807) Opinion by Justice Resnick

The principle of double jeopardy does not bar successive prosecutions of a defendant for the misdemeanor of driving under the influence of alcohol and the felony of aggravated vehicular assault arising from the same event.

Cuyahoga App. No. 80824, 2002-Ohio-6327. Judgment affirmed in part and reversed in part. Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and Young, JJ., concur. Pfeifer, J., concurs in judgment only. Frederick N. Young, J., of the 2nd Appellate District, sitting for O'Donnell, J.

Dobran v. Franciscan Med. Ctr., case no. 2002-1994 (Web cite 2004-Ohio-1883) Opinion by Justice O'Connor

A patient's fear of recurring cancer based on the alleged failure of medical professionals to preserve an irreplaceable tissue sample for special testing does not support a civil lawsuit for negligent infliction of emotional distress.

Montgomery App. No. 19218, 2002-Ohio-5378. Judgment reversed. Moyer, C.J., Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

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

Stephens v. Pub. Util. Comm., case no. 2002-1929 (Web cite 2004-Ohio-1798) Opinion by Justice Sweeney

Upholds the PUCO's alternative regulatory requirements that pertain to the rates Ohio telephone companies may charge their customers for non-basic services.

Public Utilities Commission, No. 02-2117-TP-ALT. Order affirmed.

Moyer, C.J., Bryant, F.E. Sweeney, Pfeifer,

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

Peggy Bryant, J., of the 10th Appellate District, sitting for Resnick, J.

May 2005

Pratts v. Hurley, case nos. 2003-0392 and 2003-0560 (Web cite 2004-Ohio-1980) Opinion by Justice Stratton

When a defendant waives a jury trial and enters a guilty plea to a charge with a death penalty specification, the trial court's failure to appoint a three-judge panel to accept the plea and pass sentence does not constitute a lack of subject-matter jurisdiction that automatically renders the court's judgment void.

Ross App. No. 02CA2674, 2003-Ohio-864. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ.,

concur.

State v. Leach, case no. 2003-0053 (Web cite 2004-Ohio-2147) Opinion by Justice Stratton

A prosecutor may not use statements or testimony about a defendant's pre-arrest silence or post-*Miranda* request for an attorney as substantive evidence of guilt.

Hamilton App. No. C-020106, 2002-Ohio-6654. Judgment affirmed and cause remanded. Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton and O'Donnell, JJ., concur. Pfeifer, J., concurs and concurs separately. O'Connor, J., concurs separately.

State v. Harwell, case no. 2002-1716 (Web cite 2004-Ohio-2149) Opinion by Justice Pfeifer

When a defendant is charged with and convicted of a crime that includes a death penalty specification, state law requires the sentencing court to follow capital offense sentencing procedures, even when the defendant is ineligible for the death penalty.

Lucas App. No. L-00-1356, 2002-Ohio-4349. Judgment affirmed. Gwin, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur. Moyer, C.J., and O'Donnell, J., dissent. W. Scott Gwin, J., of the 5th Appellate District, sitting for Resnick, J.

Skilton v. Perry Local School Dist. Bd. of Edn., case no. 2003-0147 (Web cite 2004-Ohio-2239)

Opinion by Justice O'Connor When a teacher's extended absence from the work-

place is excused by medical leave, a school board may not dissolve her contract without first completing legally required evaluations of her classroom performance.

Lake App. No. 2001-L-140, 2002-Ohio-6702. Judgment affirmed and cause remanded. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Modzelewski v. Yellow Freight Sys., Inc., case no. 2003-0664 (Web cite 2004-Ohio-2365) Opinion by Justice Resnick

Holds unconstitutional a state law requiring injured workers to use civil damage awards to repay the state for workers' compensation benefits.

Summit App. No. 21205, 2003-Ohio-827. Judgment affirmed.

Resnick and F.E. Sweeney, JJ., concur.

Pfeifer, J., concurs and concurs in judgment only. Moyer, C.J., and O'Connor, J., concur in judgment

only.

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

June 2004

State v. Evans, case nos. 2003-0083 and 2003-0319 (Web cite 2004-Ohio-2659)

Opinion by Justice O'Connor

Finds that trial courts can sentence first-time offenders to a term of incarceration exceeding the minimum without stating specific findings that justify doing so.

Franklin App. No. 02AP-230, 2002-Ohio-6559. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur. O'Donnell, J., concurs separately.

State v. Thompson, case nos. 2003-0252 and 2003-0283

(Web cite 2004-Ohio-2946) Opinion by Justice Stratton

Holds that Ohio parolees who fail to report to their parole officers are subject to escape charges based on the date of their parole violations, not the date of their underlying offenses.

Cuyahoga App. No. 78919, 2002-Ohio-6478. Judgment reversed and trial court judgment reinstated. Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Moyer, C. J., dissents. Pfeifer, J., dissents.

State v. Barnhouse, case nos. 2003-0249 and 2003-0313 (Web cite 2004-Ohio-2492)

Opinion by Chief Justice Moyer

A state law authorizing community residential sanctions in low-level felony cases does not permit a judge to impose multiple, consecutive six-month jail sentences when an offender is convicted of multiple felonies.

Athens App. No. 02CA22, 2002-Ohio-7082. Judgment reversed and cause remanded. Moyer, C.J., Waite, F.E. Sweeney, Pfeifer, O'Connor and O'Donnell, JJ., concur. Lundberg Stratton, J., dissents. Cheryl L. Waite, J., of the 7th Appellate District, sitting for Resnick, J.

Yates v. Mansfield Bd. of Edn., case no. 2002-2242 (Web cite 2004-Ohio-2491) Opinion by Justice Resnick

A school board may be held liable when a school official's failure to report known or suspected sexual abuse of a student by a teacher to child welfare authorities proximately results in the sexual abuse of another minor student by the same teacher.

Richland App. No. 02CA27, 2002-Ohio-6311. Judgment reversed and cause remanded. Resnick, F.E. Sweeney, Pfeifer & O'Connor, JJ., concur. O'Donnell, J., concurs separately. Moyer, C.J., and Lundberg Stratton, J., dissent.

Estate of Ridley v. Hamilton Cty. Bd. of Mental Retardation & Developmental Disabilities, case no. 2003-0022

(Web cite 2004-Ohio-2629) Opinion by Justice O'Donnell

Affirms lower court's dismissal of a wrongful death claim against the Hamilton County Board of Mental Retardation and Developmental Disabilities by the estate of a mentally retarded Cincinnati man.

Hamilton App. No. C-010791, 2002-Ohio-6344. Judgment affirmed. Moyer, C.J., Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

Toledo Bar Assn. v. Neller, case no. 2002-1775 (Web cite 2004-Ohio-2895) Per curiam opinion

An attorney required to file an affidavit verifying his compliance with an order of a state court does not meet that requirement by filing an unsworn and unnotarized document affirming his compliance "under penalties of perjury."

Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Pfeifer, J., dissents.

Parisi Transp. Co. v. Wilkins, case no. 2002-2221. (Web cite 2004-Ohio-2952) Opinion by Justice O'Connor

Refrigeration units installed in semitrailers designed to haul perishable food products are an in-

herent part of the trailer, and thus not subject to taxation as personal property.

Board of Tax Appeals, No. 99-J-690. Decision reversed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

July 2004

State ex rel. Columbia Gas of Ohio, Inc. v. Henson, case no. 2004-0353 (Web cite 2004-Ohio-3208) Per curiam opinion

A common pleas court does not have subject matter jurisdiction to hear a tort claim against a public utility when the claim arises from the company's discontinuation of service to a commercial customer.

In Prohibition. Writ granted. Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Pfeifer, J., dissents.

State v. Fitzpatrick, case no. 2002-0506 (Web cite 2004-Ohio-3167) Opinion by Justice O'Connor

Affirms the aggravated murder convictions and death sentence of Stanley Fitzpatrick of Lincoln Heights for the June 2001 killings of his girlfriend, Dorothea Hayes, her 12-year-old daughter, Shenay, and their neighbor, Elton Rose.

Hamilton C.P. No. B0104117. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur. O'Donnell, J., concurs in judgment only.

In re B.E., case no. 2003-1580 (Web cite 2004-Ohio-3361) Opinion by Justice Sweeney

When a juvenile court fails to make a complete record of a proceeding at which a record is required, and an appellant seeking reversal of the outcome tries but is unable to correct or supplement the deficient record, the case must be remanded to the juvenile court for rehearing.

Cuyahoga App. No. 81781, 2003-Ohio-3949. Judgment affirmed and cause remanded. Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Donnell, JJ., concur. Moyer, C.J., and O'Connor, J., dissent.

State v. Jackson, case no. 2003-0408 (Web cite 2004-Ohio-3206) Opinion by Justice Stratton

Language in state election laws protecting the secrecy of ballots does not preclude a court from admitting allegedly falsified ballots as evidence in a criminal prosecution for election fraud.

Cuyahoga App. Nos. 80937 and 81013, 2003-Ohio-158. Judgment reversed. Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and Walsh, JJ., concur. Moyer, C.J., and Pfeifer, J., concur in judgment only. James E. Walsh, J., of the 12th Appellate District, sitting for O'Donnell, J.

State v. Hoffner, case no. 2001-0835 (Web cite 2004-Ohio-3430) Opinion by Justice Stratton

Affirms the aggravated murder conviction and death sentence of Timothy Hoffner of Toledo for his role in the 1993 death of Christopher Hammer. Hoffner also was convicted of aggravated robbery and kidnapping in the case.

Lucas App. No. L-95-181. Judgment affirmed. Moyer, C.J., Blackmon, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Patricia A. Blackmon, J., of the 8th Appellate District, sitting for Resnick, J.

State ex rel. Kokosing Constr. Co., Inc. v. Ohio Bur. of Workers' Comp., case no. 2003-1897 (Web cite 2004-Ohio-3664) Per curiam opinion

A self-insured employer that does not initially dispute an employee's claim for workers' compensation benefits, but later obtains an administrative order denying the claim as fraudulent, is entitled to recover its outlays arising from that claim from the state workers' compensation surplus fund.

Franklin App. No. 02AP-1252, 2003-Ohio-4894. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer,

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

Darby v. A-Best Products Co., case no. 2003-0300 (Web cite 2004-Ohio-3720) Opinion by Chief Justice Moyer

The Federal Locomotive Boiler Inspection Act preempts state-law tort claims against manufacturers of railroad locomotives by Ohio workers who claim injuries arising from their exposure to asbestos while maintaining or repairing train equipment.

Cuyahoga App. No. 81270, 2002-Ohio-7070. Judgment affirmed. Moyer, C.J., F.E. Sweeney, Lundberg Stratton, O'Connor and Young, JJ., concur. Resnick, J., dissents. Pfeifer, J., dissents. Frederick N. Young, J., of the 2nd Appellate District, sitting for O'Donnell, J.

August 2004

State v. Conese, case no. 2003-0922 (Web cite 2004-Ohio-3889) Opinion by Justice Pfeifer

A public official's threat to fire a public employee if the employee does not increase monthly contributions to a political party violates state law against coercing political contributions from public servants, regardless of whether the threatened employee ever makes the solicited contribution.

Butler App. No. CA2002-06-148, 2003-Ohio-1769. Judgment reversed and cause remanded. Moyer, C.J., Farmer, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur. F.E. Sweeney, J., dissents and would affirm the

O'Donnell, J., dissents with opinion.

Sheila G. Farmer, J., of the 5th Appellate District, sitting for Resnick, J.

State v. Peoples, case nos. 2003-0464 and 2003-0595 (Web cite 2004-Ohio-3923) Opinion by Justice Pfeifer

Rules unconstitutional a former provision of state law that effectively denied felons serving five-year prison sentences early judicial release while allowing felons serving longer sentences to seek and obtain an early release.

Franklin App. No. 02AP-363, 2003-Ohio-151.

Judgment affirmed in part and cause remanded. Moyer, C.J., F.E. Sweeney and Pfeifer, JJ., concur. O'Donnell, J., concurs separately.

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

Migden-Ostrander v. Pub. Util. Comm., case nos. 2003-0316 and 2003-0332 (Web cite 2004-Ohio-3924) Opinion by Justice O'Donnell

Affirms a PUCO ruling that allows electric utility companies across the state to amend their previously stated policies and timetables for recovering the costs of extending electric lines to serve newly developed areas.

Public Utilities Commission, Nos. 01-2708-EL-COI, 01-1356-EL-ATA, 01-1357-EL-AAM, 01-1358-EL-ATA, 01-1359-EL-AAM and 01-3019-EL-UNC. Orders affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

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

Chrysler Fin. Co., L.L.C. v. Wilkins, case no. 2003-0233 (Web cite 2004-Ohio-3922) Opinion by Justice Resnick

A third-party company that purchases consumer installment contracts from auto dealers is not entitled to claim a bad debt sales tax credit or refund that the state grants to dealers who pay sales tax on behalf of vehicle buyers who later default on their auto loans.

Board of Tax Appeals, No. 2001-T-36. Decision affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer and O'Connor, JL, concur.

Lundberg Stratton and O'Donnell, []., dissent.

Harvey v. Hwang, case no. 2003-1066 (Web cite 2004-Ohio-4112) Opinion by Chief Justice Moyer

A general procedural rule granting civil litigants three extra days to respond to legal papers that are served on them by mail does not add three days to the deadline for parties to file post-judgment motions seeking judgment notwithstanding the verdict or a new trial when a court delivers its official notice of a judgment by mail. Madison App. No. CA2003-03-010. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer,

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

Katz v. Ohio Ins. Guar. Assn., case no. 2003-0028

(Web cite 2004-Ohio-4109) Opinion by Chief Justice Moyer

Affirms that state insurance laws in effect prior to October 1994 allowed a medical doctor and his malpractice insurance company to agree that the insurer's maximum liability for all damages arising from the death of one person would be the policy's monetary limit for each claim, regardless of the number of claimants seeking recovery under the policy.

Lucas App. No. L-02-1014, 2002-Ohio-6357. Judgment affirmed in part and reversed in part. Moyer, C.J., Bryant, F.E. Sweeney and Farmer, JJ., concur.

Pfeifer, J., concurs in part and dissents in part. Lundberg Stratton, J., concurs in part and dissents in part.

O'Connor, J., concurs in part and dissents in part. Peggy Bryant, J., of the 10th Appellate District, sitting for Resnick, J.

Sheila G. Farmer, J., of the 5th Appellate District, sitting for O'Donnell, J.

Shimko v. Lobe, case no. 2003-1017 (Web cite 2004-Ohio-4202) Opinion by Justice Resnick

Holds that an Ohio attorney discipline rule requiring lawyers to submit fee disputes with other lawyers to arbitration by a bar association does not infringe on their rights to trial by jury under the Ohio Constitution, and rules that an arbitration award made by a bar association is final, binding upon the parties and not appealable.

Franklin App. No. 02AP-872, 2003-Ohio-2200. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Pfeifer, J., dissents.

State v. Ahmed, case no. 2001-0871 (Web cite 2004-Ohio-4190) Opinion by Justice Resnick

Affirms the aggravated murder convictions and death sentence of Nawaz Ahmed for the 1999 killings in St. Clairsville of his estranged wife, Dr. Lubaina Ahmed, her father, Abdul Bhatti, and her sister and niece, Ruhie and Nasira Ahmed.

Belmont App. No. 99-CR-192. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

September 2004

State ex rel. Slagle v. Rogers, case no. 2003-1671 (Web cite 2004-Ohio-4354) Opinion by Justice Sweeney

Rejects a county prosecutor's contention that Ohio public records law trumps a statute requiring litigants to pay fees to court reporters for copies of trial transcripts.

Marion App. No. 9-02-52 . Judgment affirmed in part and reversed in part.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Griggs, case no. 2003-1131 (Web cite 2004-Ohio-4415) Opinion by Justice O'Connor

A criminal defendant who has entered a plea of guilty without asserting actual innocence is presumed to understand that he has completely admitted his guilt. Under such circumstances, a trial court's failure to specifically inform the defendant that his plea constitutes a complete admission of guilt is presumed to be not prejudicial.

Trumbull App. No. 2001-T-0064, 2003-Ohio-2365. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Perrysburg Twp. v. Rossford, case no. 2002-2025 (Web cite 2004-Ohio-4362) Opinion by Justice Pfeifer

Adopts the criteria established by the U.S. Supreme Court in a 1990 decision, *Reves v. Ernst* & Young, to define a regulated security.

Wood App. Nos. WD-02-010 and WD-02-011, 2002-Ohio-5498 and 2003-Ohio-6364. Judgment affirmed.

Moyer, C.J., Gorman, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Robert H. Gorman, J., of the 1st Appellate District, sitting for Resnick, J.

Schuller v. United States Steel Corp., case no. 2003-1868 (Web cite 2004-Ohio-4753) Opinion by Justice Sweeney

Ohio workers' compensation claimants who successfully appeal a denial of benefits by their employer or the state are entitled to reimbursement of reasonable expert witness fees for live, in-court testimony.

Trumbull App. No. 2002-T-0165, 2003-Ohio-4870. Judgment reversed in part and cause remanded. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Cowan, case no. 2003-1406 (Web cite 2004-Ohio-4777) Opinion by Justice Sweeney

Rules unconstitutional a state statute that imposed criminal penalties on owners of vicious and dangerous dogs who fail to buy liability insurance and take special steps to restrain and confine their animals. The decision upheld a ruling that the law violated a dog owner's due process rights by not providing for an administrative hearing at which the owner could contest a dog warden's determination that her animals were "dangerous or vicious" and thus subject to special restrictions.

Portage App. Nos. 2002-P-0029, 2002-P-0030 and 2002-P-0031, 2003-Ohio-3547. Judgment affirmed. Resnick, F.E. Sweeney, Pfeifer and Lundberg Stratton, JL, concur. Moyer, C.J., dissents with opinion. O'Connor, J., dissents. O'Donnell, J., dissents with opinion.

State v. Brooks, case no. 2003-1380 (Web cite 2004-Ohio-4746) Opinion by Justice Resnick

When a judge sentences an offender to a term of community control, the judge must tell the defendant at his sentencing hearing the specific term of imprisonment to which the defendant may be sentenced if he violates his community control sanction.

Summit App. No. 21360, 2003-Ohio-3143 and 2003-Ohio-3364. Judgment reversed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer and O'Connor, JJ., concur.

Lundberg Stratton, J., concurs in part and dissents in part.

O'Donnell, J., concurs in paragraph one of the syllabus only.

Thomson v. OHIC Ins. Co., case no. 2003-0067 (Web cite 2004-Ohio-4775) Opinion by Justice Stratton

Upholds a provision in a medical malpractice insurance policy that aggregates all derivative claims asserted by family members of an injured person into the injured person's claim, and limits the insurer's total liability for all of the aggregated claims to the policy's single per-person coverage limit.

Butler App. No. CA2002-03-055, 2002-Ohio-6517. Judgment affirmed. Moyer, C.J., Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick, J., dissents. F.E. Sweeney and Pfeifer, JJ., dissent.

State v. Williams, case no. 1999-1218 (Web cite 2004-Ohio-4747) Opinion by Justice O'Connor

Rules that the Lucas County Common Pleas Court may not consider the death penalty when it resentences Shawn Williams of Toledo for the 1995 killing of his pregnant girlfriend, Catrise Gregory.

Lucas C.P. No. CR97-2268. Cause remanded. Moyer, C.J., F.E. Sweeney, Pfeifer, O'Connor and Celebrezze, JJ., concur. Resnick and Lundberg Stratton, JJ., concur in judgment only. Frank D. Celebrezze Jr., J., of the 8th Appellate District, sitting for O'Donnell, J.

N. Buckeye Edn. Council Group Health Benefits Plan v. Lawson, case no. 2003-1880 (Web cite 2004-Ohio-4886) Opinion by Chief Justice Moyer

Upholds as valid and enforceable a clause in a health insurance contract that gives the insurer a priority "first dollar" subrogation claim against any judgment award or settlement that an injured policyholder recovers from a third party, regardless of whether the judgment was sufficient to make the insured whole for all of his or her damages.

Lucas App. No. L-02-1298, 2003-Ohio-5196. Judgment affirmed. Moyer, C.J., Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

State v. Talty, case no. 2003-1344 (Web cite 2004-Ohio-4888) Opinion by Chief Justice Moyer

Reverses a lower court sentencing order that threatened a Medina County man with up to 12 months in jail if he failed to take measures to avoid fathering any additional children in the next five years.

Medina App. No. 02CA0087-M, 2003-Ohio-3161. Judgment reversed. Moyer, C.J., Resnick, F.E. Sweeney, O'Connor and O'Donnell, JJ., concur. Pfeifer and Lundberg Stratton, JJ., dissent.

October 2004

Danziger v. Luse, case no. 2002-1880 (Web cite 2004-Ohio-5227) Opinion by Justice Pfeifer

Shareholders have a common law right to examine corporate minutes and records of a wholly owned subsidiary of a corporation in which they own stock when the parent corporation so controls and dominates the subsidiary that the separate corporate existence of the subsidiary should be disregarded. Sandusky App. No. S-01-042, 2002-Ohio-4945. Judgment reversed.

Resnick, Pfeifer and Lundberg Stratton, JJ., concur. O'Connor, J., concurs separately. Moyer, C.J., F.E. Sweeney and O'Donnell, JJ.,

dissent.

State v. Martin, case no. 2003-0929 (Web cite 2004-Ohio-5471) Opinion by Justice Stratton

Ohio criminal defendants are not entitled to conduct a hybrid defense in which they simultaneously assert both the right to be represented by an attorney and the right to conduct their own defense. Also, when a defendant charged with a serious offense elects to represent himself, the trial judge must make a sufficient inquiry to determine whether the defendant fully understands the consequences and is intelligently giving up his right to legal counsel.

Cuyahoga App. No. 80198, 2003-Ohio-1499. Judgment affirmed. Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Moyer, C.J., concurs in judgment only.

Cleveland Clinic Foundation v. Wilkins, case no. 2003-0235 (Web cite 2004-Ohio-5468) Opinion by Justice Stratton

The state tax commissioner may not consider an application for exemption of real property from property taxes unless the owner submits with the application a certificate from the county treasurer showing that all assessments, interest and penalties entered against that property prior to the application date have been paid in full.

Board of Tax Appeals, No. 1999-A-1006. Decision reversed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer,

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

November 2004

Maitland v. Ford Motor Co., case no. 2003-1284 (Web cite 2004-Ohio-5717) Opinion by Justice Stratton

A vehicle owner who asserts a claim under Ohio's

Lemon Law and accepts an arbitration award of less than the full purchase price of the vehicle is precluded from later suing the manufacturer to recover the difference between the arbitration award and the full purchase price.

Franklin App. No. 02AP-935, 2003-Ohio-3009. Judgment reversed. Moyer, C.J., Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

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

Gable v. Gates Mills, case no. 2003-0476 (Web cite 2004-Ohio-5719) Opinion by Chief Justice Moyer

While an accident victim's failure to use a seatbelt is generally not admissible as evidence of negligence or as grounds for reducing a damage award, nonuse of a seat belt is admissible in cases where an injured party claims his crash injuries were aggravated by a design defect in the car.

Cuyahoga App. No. 80469, 2003-Ohio-399. Judgment reversed. Moyer, C.J., Resnick, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. F.E. Sweeney, J., dissents. Pfeifer, J., dissents.

State ex rel. Lee v. Karnes, case no. 2004-0602 (Web cite 2004-Ohio-5718) Per curiam opinion

Denies a writ of mandamus sought by a woman whose application for a 90-day temporary emergency license to carry a concealed handgun was rejected for lack of supporting evidence. Rules, however, that county sheriffs must accept and process such license applications from otherwise qualified applicants who submit an affidavit stating under penalty of perjury that they or a family member have reasonable cause to fear a criminal attack such as would justify a prudent person in going armed.

In Mandamus. Writ denied. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. White, case nos. 2003-1048 and 2003-1049 (Web cite 2004-Ohio-5989) Opinion by Justice O'Connor

The state's common pleas courts may assess court costs and attempt to collect them from indigent criminal defendants who are convicted of felonies.

Guernsey App. No. 02CA23, 2003-Ohio-2289. Judgment affirmed in part and reversed in part. Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Pfeifer, J., concurs in part and dissents in part.

December 2004

State v. Jordan, case nos. 2002-1888 and 2003-0567 (Web cite 2004-Ohio-6085) Opinion by Justice O'Donnell

When an Ohio trial court sentences a felony offender to prison it must notify the defendant at the sentencing hearing and must also note in the court's journal entry that the defendant will be subject to post-release control by the Adult Parole Authority.

Cuyahoga App. No. 80675, 2002-Ohio-4587, and Cuyahoga App. No. 80691, 2003-Ohio-402. Judgment affirmed in No. 2002-1888. Judgment reversed and cause remanded in No. 2003-0567. Moyer, C.J., F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick, J., concurs in judgment only. Pfeifer, J., concurs in part and dissents in part.

State v. Yarbrough, case no. 2000-2119 (Web cite 2004-Ohio-6087) Opinion by Chief Justice Moyer

Reverses the aggravated murder convictions and death sentence of Terrell Yarbrough for the 1991 shooting deaths of two University of Steubenville students. The Supreme Court found that the trial court had no jurisdiction over the murders, which were committed in Pennsylvania. The Court upheld Yarbrough's conviction on seven felony counts, including aggravated robbery, burglary, grand theft and kidnapping.

Jefferson C.P. No. 99-CR-116. Judgment affirmed in part and reversed in part. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ.,

concur.

In re C.W., case no. 2004-0847 (Web cite 2004-Ohio-6411) Opinion by Justice Resnick

When a public children-services agency or private child-placement agency seeks permanent custody of a child based on the agency's temporary custody of the child for 12 of the preceding 22 months, the agency may file its permanent custody motion only after the 12-of-22-months requirement has been met.

Summit App. Nos. 21809 and 21811, 2004-Ohio-1987. Judgment affirmed on the issue certified for review.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Smith, case no. 2003-1194 (Web cite 2004-Ohio-6238) Opinion by Justice Stratton

A defendant's conviction for a sexually violent offense does not support that person's designation as a "sexually violent predator" if the conduct leading to the conviction and the sexually violent predator specification are charged in the same indictment.

Morrow App. No. 02CA0957. Judgment affirmed. Moyer, C.J., Resnick, Pfeifer and Lundberg Stratton, JJ., concur. F.E. Sweeney, O'Connor and O'Donnell, JJ., dissent.

State v. Moody, case no. 2003-0899 (Web cite 2004-Ohio-6395) Opinion by Justice Sweeney

To convict a defendant of contributing to the unruliness of a minor, the state must prove the offender acted with at least the guilty state of mind of "recklessly."

Champaign App. No. 2002 CA 13, 2003-Ohio-1566. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer,

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

State v. Skatzes, case no. 2003-0487 (Web cite 2004-Ohio-6391) Opinion by Justice Pfeifer

Affirms the aggravated murder convictions and death sentence of prison inmate George Skatzes for his role in the deaths of Corrections Officer Robert Vallandingham, and inmates Earl Elder and David Sommers, during the April 1993 riot at the Southern Ohio Correctional Facility at Lucasville.

Montgomery App. No. 15848. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Tuomala, case no. 2003-0174 (Web cite 2004-Ohio-6239) Opinion by Justice O'Donnell

Criminal defendants who are found not guilty by reason of insanity and committed to a treatment facility are not entitled to credit against their term of commitment for time served in jail prior to their trial and acquittal.

Ashtabula App. No. 2001-A-0088, 2002-Ohio-6936. Judgment reversed. Moyer, C.J., F.E. Sweeney, O'Connor and O'Donnell, JJ., concur. Resnick and Pfeifer, JJ., dissent. Lundberg Stratton, J., dissents.

Performing Arts School of Metro. Toledo, Inc. v. Wilkins, case no. 2003-0114 (Web cite 2004-Ohio-6389) Opinion by Justice O'Connor

Only the holder of legal title to a piece of real property is an owner eligible to apply for property tax exemption. A lessee of real property does not cure its lack of standing to apply for property tax exemption by having the title holder join the lessee's application after the application deadline has passed.

Board of Tax Appeals, No. 2001-J-977. Decision reversed. Moyer, C.J., F.E. Sweeney, O'Connor and O'Donnell, JJ., concur. Resnick, Pfeifer and Lundberg Stratton, JJ., dissent.

State v. Leonard, case no. 2001-1589 (Web cite 2004-Ohio-6235) Opinion by Justice O'Connor

Affirms the convictions and death sentence of Patrick T. Leonard for the July 2000 kidnapping, attempted rape and aggravated murder of his former girlfriend, Dawn Flick, at her home in the Hamilton County community of New Baltimore.

Hamilton C.P. No. B0005891. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Cleveland Bar Assn. v. CompManagement, Inc., case no. 2004-0817 (Web cite 2004-Ohio-6506) Opinion by Justice Resnick

Non-lawyers who assist and represent parties in state workers' compensation claim proceedings are not engaged in the unauthorized practice of law if they conform their activities to guidelines adopted by the Ohio Industrial Commission in June 2004.

On Certified Report by the Board of Commissioners on the Unauthorized Practice of Law, No. UPL 02-04. The board's recommendation is rejected and the cause is remanded. Moyer, C.J., Resnick, Lundberg Stratton and O'Connor, JJ., concur. O'Donnell, J., concurs in judgment only. F.E. Sweeney, J., dissents. Pfeifer, J., dissents with opinion.

State ex rel. Beacon Journal Publishing Co. v. Akron, case no. 2004-0665 (Web cite 2004-Ohio-6557) Per curiam opinion

The state's public record law does not require a police department to provide a newspaper reporter with unredacted copies of its standard incident report involving a child rape or of its internal affairs report.

Summit App. No. 21116. Judgment affirmed in part and reversed in part. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Cincinnati Metro. Hous. Auth. v. Morgan, case no. 2003-2102 (Web cite 2004-Ohio-6554) Opinion by Chief Justice Moyer

When an Ohio landlord undertakes eviction proceedings against a tenant, the landlord may serve a legally required three-day notice to vacate the premises on the tenant by attaching the notice to the outside of the tenant's apartment door.

Hamilton App. No. C-030078, 2003-Ohio-5671. Judgment reversed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Cooper, case no. 2003-1637 (Web cite 2004-Ohio-6553) Opinion by Justice O'Donnell

In a case involving child abuse that culminates in the death of an infant, a defendant may be convicted and sentenced for the separate crimes of child endangering and involuntary manslaughter involving child endangering when the trial record shows that the charges do not arise from the same conduct of the defendant.

Crawford App. No. 3-02-02 , 2003-Ohio-4236. Judgment reversed and cause remanded. Resnick, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Moyer, C.J., dissents. F.E. Sweeney and Pfeifer, JJ., dissent and would dismiss the appeal as improvidently allowed.

Howland v. Purdue Pharma L.P., case no. 2003-1538 (Web cite 2004-Ohio-6552) Opinion Justice O'Connor

Reverses a lower court ruling that authorized Ohio consumers claiming damages from use of the narcotic painkiller OxyContin to pursue their civil claims against the drug's manufacturer and marketer collectively through a class action lawsuit.

Butler App. Nos. CA2002-09-220, CA2002-09-223 and CA2002-09-227, 2003-Ohio-3699. Judgment reversed. Christley, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Moyer, C.J., dissents. F.E. Sweeney and Pfeifer, JJ., dissent. Judith A. Christley, J., of the 11th Appellate District, sitting for Resnick, J.

Bellecourt v. Cleveland, case no. 2003-1202 (Web cite 2004-Ohio-6551) Opinion by Justice O'Connor

Cleveland police did not violate the First Amendment rights of protesters by arresting them after gusty winds began blowing flaming debris from the protesters' burning effigy of Cleveland Indians trademark "Chief Wahoo" in the direction of the protesters and other bystanders outside Jacobs Field.

Cuyahoga App. No. 80193, 2003-Ohio-2468. Judgment reversed. Resnick, F.E. Sweeney, Lundberg Stratton and O'Connor, JJ., concur. O'Donnell, J., concurs in judgment only. Moyer, C.J., dissents. Pfeifer, J., dissents.

Weaver v. Edwin Shaw Hosp., case nos. 2003-1055 and 2003-1145 (Web cite 2004-Ohio-6549) Opinion by Justice O'Donnell

Affirms that the appointment of a legal guardian to oversee the affairs of a minor child or a person of unsound mind does not remove that person's disability under a state statute that extends the time period during which minor children and the mentally disabled may sue for civil damages they suffered while under disability.

Tuscarawas App. No. 2001 AP 07 0070, 2003-Ohio-2488. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Donnell, JJ., concur. O'Connor, J., concurs in judgment only.

State ex rel. Ohio Civ. Serv. Employees Assn., AFSCME, Local 11, AFL-CIO v. State Emp. Relations Bd., case no. 2003-1010 (Web cite 2004-Ohio-6363) Opinion by Chief Justice Moyer

Upholds a writ of mandamus issued by the 10th District Court of Appeals ordering the State Employment Relations Board to reinstate and consider petitions that would add employees of the Ohio School Facilities Commission to public employee bargaining units of the Ohio Civil Service Employees'

Association.

Franklin App. No. 02AP-1007, 2003-Ohio-2021. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney and O'Donnell, []., concur.

Pfeifer, J., concurs in Parts III and IV of the opinion and in judgment.

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

State v. Gapen, case no. 2001-1518 (Web cite 2004-Ohio-6548) Opinion by Justice Stratton

Reverses one conviction and one death penalty count, but affirms the remaining convictions and death sentence, of Larry James Gapen of Dayton for the aggravated murders of his estranged wife, Martha Madewell, her former husband, Nathan Marshall, and Madewell's 13-year old daughter, Jesica Young, in September 2000.

Montgomery C.P. No. 2000 CR 02945. Judgment affirmed in part and reversed in part. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

Hollon v. Clary, case no. 2003-2079 (Web cite 2004-Ohio-6772) Opinion by Justice O'Connor

Rules that under state insurance laws, an employer's written, signed rejection of an offer of uninsured/ underinsured motorist coverage for company employees from its corporate auto insurance carrier is a valid rejection if the offer includes a brief description of the coverage, premiums and limits.

Montgomery App. No. 19826, 2003-Ohio-5734. Judgment reversed. Moyer, C.J., Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick, J., dissents. F.E. Sweeney and Pfeifer, JJ., would dismiss the

appeal as improvidently allowed.

Massillon City School Dist. Bd. of Edn. v. Massillon, case no. 2003-1851 (Web cite 2004-Ohio-6775) Opinion by Justice Stratton

Rules that the date on which a municipal corporation formally approves an enterprise zone agreement is the date on which property tax exemptions within the designated area commence for the limited purpose of determining when a construction worker is a new employee whose wages and income tax payments are included under a tax-sharing agreement between the municipality and the local school district.

Stark App. No. 2002CA00368, 2003-Ohio-4812. Judgment affirmed in part and reversed in part. Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Moyer, C.J., concurs in judgment only.

Heritage Ins. Co. v. Ohio Dept. of Transp., case no. 2003-1351 (Web cite 2004-Ohio-6766) Opinion by Justice Pfeifer

When the state and another party are jointly liable for damages to a third party, and the joint tortfeasor's insurer has paid the entire judgment amount and sues to recover a portion of the damages from the state, Ohio's statutory collateral source cutoff rule does not apply to reduce the state's liability to the joint tortfeasor.

Franklin App. No. 02AP-838, 2003-Ohio-3111. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

In re Nowak, case no. 2004-0272 (Web cite 2004-Ohio-6777) Opinion by Justice Resnick

In a ruling that invalidated a 1999 amendment to a former state law dealing with mortgage documents, the court clarifies its interpretation of the provision in the Ohio Constitution that restricts legislative bills to a single subject.

On Order from the Bankruptcy Appellate Panel of the United States Sixth Circuit Court of Appeals Certifying a Question of State Law, No. 03-8051. Certified question answered in the affirmative. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer and O'Connor, JJ., concur.

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

State v. Francis, case no. 2003-1767 (Web cite 2004-Ohio-6894) Opinion by Justice Resnick

When an Ohio trial court accepts a plea of guilty or no contest to a criminal offense by a defendant who is not a U.S. citizen, the judge must issue a verbatim warning set forth in R.C. 2943.031(A) advising the defendant that conviction of the charged offense "may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization."

Cuyahoga App. No. 82324, 2003-Ohio-4406. Judgment reversed and cause remanded. Resnick, F.E. Sweeney and O'Connor, JJ., concur. Moyer, C.J., and Pfeifer, J., concur in judgment only.

Lundberg Stratton and O'Donnell, JJ., concur in part and dissent in part.

State ex rel. Adams v. Aluchem, Inc., case no. 2003-1648 (Web cite 2004-Ohio-6891) Opinion by Chief Justice Moyer

Rules that a two-year statute of limitations applies to the amount of retroactive benefits that are payable to a workers' compensation claimant who was initially granted a partial disability for loss-of-limb injuries that were later determined to qualify him for an award of statutory permanent total disability.

Franklin App. No. 02AP-1210, 2003-Ohio-4510. Judgment reversed. Moyer, C.J., Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Resnick, F.E. Sweeney and Pfeifer, JJ., dissent.

State v. Sapp, case no. 2003-0135 (Web cite 2004-Ohio-7008) Opinion by Justice Sweeney

Affirms the convictions and death sentence of William Sapp of Springfield for the August 1992 kidnapping, rape and aggravated murders of Phree Morrow and Martha Leach and the September 1993 assault and murder of Belinda Anderson. The court also upheld Sapp's conviction for the December 1993 kidnapping, rape and attempted murder of Hazel Peterson.

Clark App. No. 99CA84, 2002-Ohio-6863. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur. Pfeifer, J., concurs in part and dissents in part.

State v. Cunningham, case no. 2002-1377 (Web cite 2004-Ohio-7007) Opinion by Justice Pfeifer

Affirms the aggravated murder convictions and death sentence of Jeronique Cunningham of Lima for his role in the January 2002 shootings of four adults, three teenagers and a 3-year-old during a drug-related robbery.

Allen C.P. No. CR2002-0010. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

State v. Foust, case no. 2002-1350 (Web cite 2004-Ohio-7006) Opinion by Justice O'Donnell

Affirms the convictions and death sentence of Kelly Foust of Cleveland for the March 2001 home-invasion murder of Jose Coreano, the kidnapping and rape of Coreano's 17-year-old daughter, Demaris, and multiple other felonies committed in connection with those crimes.

Cuyahoga C.P. No. CR-406021. Judgment affirmed.

Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton, O'Connor and O'Donnell, JJ., concur.

In re Guardianship of Stein, case no. 2004-0928 (Web cite 2004-Ohio-7114) Opinion by Justice Stratton

In a case involving a severely brain-damaged infant whose father is suspected of causing his injuries, the Summit County Probate Court exceeded its authority when it gave a guardian appointed to make medical decisions on the child's behalf authority to withdraw life-supporting treatments.

Summit App. No. 22092, 2004-Ohio-2948. Judgment reversed and cause remanded. Resnick, F.E. Sweeney and Lundberg Stratton, JJ., concur.

O'Donnell, J., concurs separately. Moyer, C.J., concurs in part and dissents in part. Pfeifer, J., concurs in part and dissents in part. O'Connor, J., dissents.

Gilbert v. Summit Cty., case nos. 2003-2193 and 2003-2109 (Web cite 2004-Ohio-7108) Opinion by Justice Pfeifer

Rules that a party in a civil action who fails to request public records prior to a court-imposed discovery deadline may still obtain those documents after the deadline by filing a proper request under the Ohio Public Records Act.

Summit App. No. 21521, 2003-Ohio-6012. Judgment affirmed and cause remanded. F.E. Sweeney, Pfeifer, O'Connor and O'Donnell, JJ., concur.

Moyer, C.J., Lazarus and Lundberg Stratton, JJ., concur separately.

Cynthia Cecil Lazarus, J., of the 10th Appellate District, sitting for Resnick, J.

Carnes v. Kemp, case nos. 2003-2116 and 2003-2183 (Web cite 2004-Ohio-7107) Opinion by Justice Sweeney

Rules that a juvenile court has jurisdiction to award retroactive child support payments to an adult emancipated child if a parentage action is filed prior to the child's 23rd birthday.

Auglaize App. No. 2-03-10 , 2003-Ohio-5884. Judgment reversed and cause remanded. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer and O'Connor, JJ., concur. Lundberg Stratton and O'Donnell, JJ., dissent.

State ex rel. Petro v. R.J. Reynolds Tobacco Co., case no. 2003-0860 (Web cite 2004-Ohio-7102) Opinion by Justice Pfeifer

Free matchbooks bearing tobacco-product brand names distributed as promotional items fall under the definition of "merchandise" and are prohibited under the 1998 lawsuit settlement Ohio entered into with the major tobacco companies.

Franklin App. No. 02AP-591, 2003-Ohio-1654. Judgment affirmed. Moyer, C.J., Resnick, F.E. Sweeney, Pfeifer, Lundberg Stratton and O'Connor, JJ., concur. O'Donnell, J., concurs in judgment only.

Justice Francis E. Sweeney Sr. Retires After Two Terms

A FTER A DISTINGUISHED JUDICIAL CAREER spanning four decades, Justice Francis E. Sweeney Sr. served his last day on the bench at the Supreme Court of Ohio Tuesday, Oct. 26, 2004.

With family and friends in attendance, fellow Justices recognized Sweeney's service on the bench and his steadfast dedication to the people of Ohio and the administration of justice.

"He had a profound impact on the jurisprudence of Ohio," Chief Justice Moyer said. "No Justice has done more to create an atmosphere of collegiality than Justice Sweeney."

Known for his innate ability to capture the essence of a case or legal issue in a succinctly stated opinion, Justice Sweeney also was the rare elected official who shuns the public spotlight. He recognized that as a Supreme Court Justice, his responsibility was to all Ohioans, believing the role of a judge is to do the greatest good for the greatest



number of people.

During his 12-year tenure on the Court, Justice Sweeney authored more than 215 majority opinions—including the seminal school funding decision (*DeRolph v. State* [1997], 78 Ohio St.3d 193), a majority opinion that recognized certain psychiatric conditions as compensable workers' compensation injuries (*Bailey v. Republic Engineered Steels, Inc.*[2001], 91 Ohio St.3d 38.) and an opinion that established a legal standard for proving an insurer has acted in bad faith (*Zoppo v. Homestead Ins. Co.* [1994], 71 Ohio St.3d 552.)

Justice Sweeney grew up in Cleveland, Ohio, where he began school at Our Lady of Good Counsel, and went on to St. Ignatius High School, becoming one of the school's football heroes. Upon graduation in 1952, Justice Sweeney went to Xavier University in Cincinnati on a football scholarship, graduating with a degree in business in 1956. For the next two years he played professional football in Ottawa, Canada.

In 1958, Justice Sweeney married Lee Yezbak, and went to work for the legal department of Allstate Insurance Company. The following year he began his legal studies at Cleveland-Marshall Law School. During that time, the Sweeneys had four children: Francis E. Sweeney Jr., Susan, Terrence and John.

Justice Sweeney began working as an assistant prosecutor in Cuyahoga County in 1963. In 1970, the 36-year-old was elected to the Court of Common Pleas, where he would preside for the next 18 years, receiving 14 outstanding judicial service awards from the Supreme Court. He was elected to the 8th District Court of Appeals in 1988. His election to the Supreme Court of Ohio was in 1992.

🗶 In memoriam

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ROBERT E. HOLMES



JUSTICE ROBERT E. HOLMES WAS KNOWN AS A METICULOUS AND FAIR JURIST who was a strong advocate for judicial restraint. He died in his home in July at the age of 81.

"Bob Holmes was a good friend and a valued colleague," Chief Justice Moyer said. "An avid outdoorsman, he lived a life of personal responsibility and self-reliance. He was recognized by lawyers and judges as a principled jurist who earned the reputation of strict con-

structionist. He left a permanent legacy on the law of Ohio."

Holmes served on the Supreme Court from Dec. 11, 1978, until Dec. 31, 1992. He was first elected to public office as a member of the Ohio House of Representatives in 1960, representing the citizens of his native Franklin County. After a distinguished career spanning four two-year terms, Holmes left the chamber as the second-ranking legislative leader in the House.

He spent 10 years on the 10th District Court of Appeals in Franklin County before his appointment to the Supreme Court in 1978. Coincidentally, it was Thomas J. Moyer who replaced him on the appellate bench when Holmes took his Supreme Court appointment.

"His entire three decades-plus in public service has been marked with a certain judiciousness that commends itself to others who rise to positions of authority," the *Columbus Dispatch* editorialized when he was preparing to leave office in 1992. "Holmes was a calm voice for judicial restraint," the paper wrote.

Born Oct. 14, 1922, Holmes was educated as an undergraduate at Ohio University and received his law degree from The Ohio State University. He is survived by sons Robert E Holmes Jr., 48, of New York and Hamilton Barclay Holmes, 47, of Los Angeles, and their families.

"Our father taught us everything about the beauty of the great outdoors," Robert Holmes Jr. said. "We're proud to know that his legacy of commitment to natural resources will live on."

土 IN MEMORIAM

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RALPH S. LOCHER

JUSTICE RALPH S. LOCHER, ALSO KNOWN AS 50TH MAYOR OF CLEVE-LAND, died at his Beachwood home June 18, on his 65th wedding anniversary. He was 88-years-old.

Locher was known as a fair jurist, a kind man and a person of great integrity who lived with modesty and grace. Former Gov. George Voinovich has called him a role model for public office.



Born July 24, 1915, Locher received his law degree in 1939 from

the Case Western Reserve University School of Law. He entered private practice at the Cleveland law firm of Davis & Young until 1945, when he departed for Columbus to assume the position of secretary to the Industrial Commission of Ohio. By the end of that year, he was executive secretary to Gov. Frank Lausche.

In 1953, Cleveland Mayor Anthony J. Celebrezze appointed Locher to the city's law director post. When President John F. Kennedy appointed Celebrezze to a federal cabinet position in 1962, Locher became mayor of Cleveland; he went on to win a subsequent special election to remain in office.

Locher's career included terms on the common pleas and probate courts of Cuyahoga County. He served on the Supreme Court from Jan.1, 1977, to Jan. 2, 1989.

Chief Justice Thomas J. Moyer said that Locher "had an impact on the law" but that he also had strong influence on the on the Court itself, making it a more collegial body where the Justices "could vigorously debate the issues before the Court but keep respect for each other."

Locher is survived by his wife, Eleanor; daughter, Virginia Wells of Alexandria, Va.; grandson, Andrew Wells; and a great-granddaughter.

RULE CHANGES

The following are key rule amendments either proposed for public comment or adopted by the Supreme Court in 2004.

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A proposed amendment to the Rules for the Government of the Judiciary would formalize the Court's long-standing New Judge Orientation Program by requiring all newly elected judges to participate in a two-part judicial orientation and mentoring program. The first part, held before new judges take the bench, helps ease the transition from attorney to judge and provides for role play with an opportunity to preside over a mock trial with a cast of experienced judges. The second part of the program includes a focus on different areas of substantive law and issues related to case management and court personnel.

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An amendment to a ban on charitable solicitations in the Code of Judicial Conduct gives judges more flexibility to participate in community activities. The amendment allows judges to participate in certain de minimis fundraising activities, like selling food or other items at a school event or waiting tables on behalf of a community or charitable organization.

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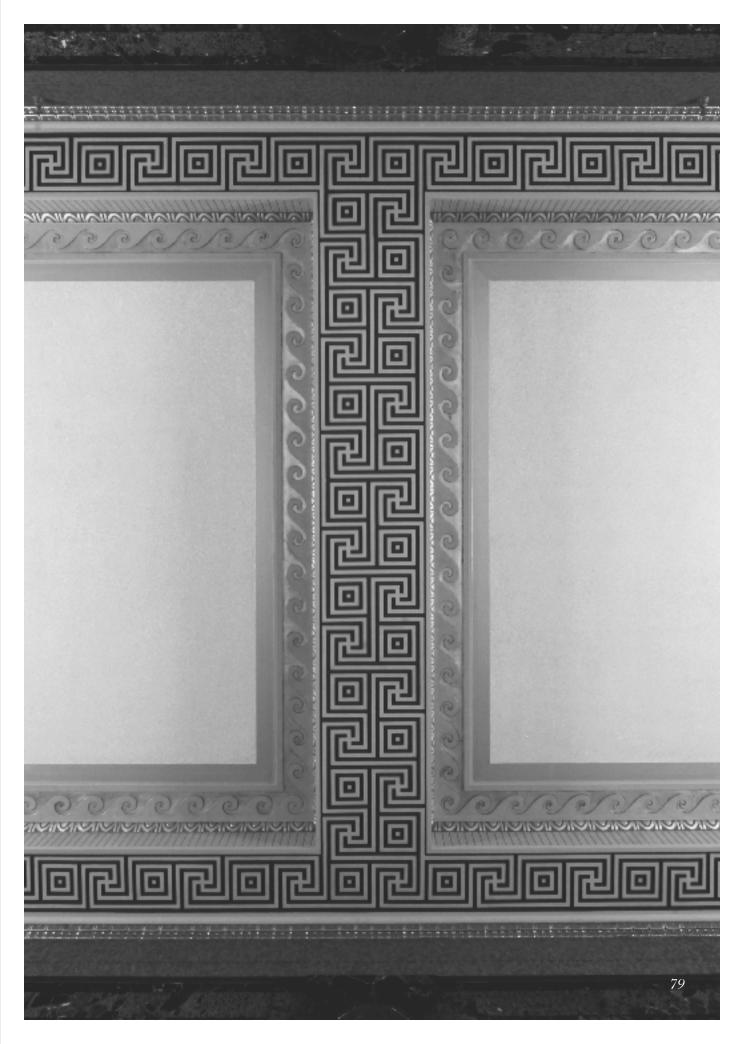
The Court implemented rule changes to the rules governing the bar of Ohio that affect the processing of complaints asserting the unauthorized practice of law. Key provisions include increasing the number of commissioners on the board that processes the complaints from seven to 12, and providing for hearings on the complaints before three-member panels rather than the full board. In addition, the disciplinary counsel or bar association that brings the complaint can ask the Supreme Court for an interim cease and desist order if the individual engaging in the alleged unauthorized practice appears to pose a substantial threat to the public.

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The Court also restructured the membership of the Commission on Professionalism, providing for the appointment of attorney members of the commission by the Ohio State Bar Association and the Ohio Metropolitan Bar Association Consortium. The amendments are intended to foster greater planning and coordination of professionalism activities undertaken by the Court and the organized bar.

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The Rules of Civil Procedure were amended to include rules requiring parties to exchange discovery requests electronically. A party who is submitting interrogatories or requests for admission must provide the responding party with an electronic copy of the interrogatories or requests.





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