

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

August 4, 2009

[Cite as *08/04/2009 Case Announcements*, 2009-Ohio-3830.]

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## MERIT DECISIONS WITH OPINIONS

**2006-1682. Kirchner v. Shooters on the Water, Inc., Slip Opinion No. 2009-Ohio-3714.**

Cuyahoga App. No. 86919, 167 Ohio App.3d 708, 2006-Ohio-3583. Judgment affirmed.

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

Pfeifer, J., dissents for the reasons stated in his dissenting opinion in *Lang v. Holly Hill Motel, Inc.*, 122 Ohio St.3d 120, 2009-Ohio-2495, 909 N.E.2d 120.

**2008-0304 and 2008-0403. Safeco Ins. Co. of Am. v. White, Slip Opinion No. 2009-Ohio-3718.**

Hamilton App. No. C-070074, 2007-Ohio-7068. Judgment affirmed.

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

Cupp, J., concurs separately.

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

**2008-1154. McNeal v. Morris, Slip Opinion No. 2009-Ohio-3717.**

Hamilton App. No. C-061061. Judgment reversed and cause remanded.

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

Pfeifer and Lanzinger, JJ., dissent.

**2008-2283. Swint v. Auld, Slip Opinion No. 2009-Ohio-3715.**

Hamilton App. No. C-080067, 178 Ohio App.3d 531, 2008-Ohio-5381. Certified question answered in the negative, and judgment reversed and cause remanded.

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

Pfeifer and Lanzinger, JJ., dissent.

### **MERIT DECISIONS WITHOUT OPINIONS**

#### **2009-1234. State ex rel. Vaughn v. Cubbon.**

In Prohibition. On respondent's answer and motion for judgment on the pleadings. Motion for judgment on the pleadings granted. Cause dismissed.

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

Pfeifer, J., dissents.

### **MOTION AND PROCEDURAL RULINGS**

#### **2008-1822. Stammco, L.L.C. v. United Tel. Co. of Ohio.**

Fulton App. No. F-07-024, 2008-Ohio-3845. This cause is pending before the court as an appeal from the Court of Appeals for Fulton County. Upon consideration of appellees' motion to dismiss the appeal as improvidently accepted or, in the alternative, to strike portions of appellants' merit brief,

It is ordered by the court that the motion to dismiss or, in the alternative, to strike is denied.

It is further ordered that the stay of briefing in this case is lifted, and appellees' shall file their merit brief within 20 days of the date of this entry.

Moyer, C.J., and Pfeifer and Lanzinger, JJ., dissent and would grant the motion to dismiss.

Lundberg Stratton, JJ., would strike pages 22-26 of appellants' merit brief.

#### **2009-0808. State v. Mendoza.**

Franklin App. No. 08AP-645, 2009-Ohio-1182. This cause is pending before the court as a discretionary appeal and claimed appeal of right. On May 1, 2009, appellant filed a notice that a motion to certify a conflict was pending in the court of appeals and, pursuant to S.Ct.Prac.R. IV(4)(A), this court stayed consideration of the jurisdictional memoranda filed in this appeal. Whereas appellant has neither notified this court that the court of appeals determined that a conflict does not exist as provided by S.Ct.Prac.R. IV(4)(B) nor filed a copy of the court of appeals' order certifying the existence of a conflict as provided by S.Ct.Prac.R. IV(4)(C),

IT IS ORDERED by the court, sua sponte, that appellant show cause within 14 days of the date of this entry why this court should not proceed to consider the jurisdictional memoranda in this appeal pursuant to S.Ct.Prac.R. III(6).

**2009-0853. State v. Fox.**

Franklin App. No. 08AP-704. This cause is pending before the court as a discretionary appeal and claimed appeal of right. On May 8, 2009, appellant filed a notice that a motion to certify a conflict was pending in the court of appeals and, pursuant to S.Ct.Prac.R. IV(4)(A), this court stayed consideration of the jurisdictional memoranda filed in this appeal. Whereas appellant has neither notified this court that the court of appeals determined that a conflict does not exist as provided by S.Ct.Prac.R. IV(4)(B) nor filed a copy of the court of appeals' order certifying the existence of a conflict as provided by S.Ct.Prac.R. IV(4)(C),

IT IS ORDERED by the court, sua sponte, that appellant show cause within 14 days of the date of this entry why this court should not proceed to consider the jurisdictional memoranda in this appeal pursuant to S.Ct.Prac.R. III(6).

**2009-1294. State ex rel. Scioto Downs, Inc. v. Brunner.**

In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus pursuant to Article II, Section 1g of the Ohio Constitution. Upon consideration of relators' motion for redaction,

It is ordered by the court that the motion is granted, and counsel for relators shall come to the Supreme Court of Ohio Clerk's office and redact all personal identifiers, as defined by Rule 44(H) of the Rules of Superintendence for the Courts of Ohio, from the evidence filed in this case within ten days of the date of this entry.

**RECONSIDERATION OF PRIOR DECISIONS**

**2008-0584 and 2008-0630. Medcorp, Inc. v. Ohio Dept of Job & Family Servs.**

Franklin App. No. 07AP-312, 2008-Ohio-464. Reported at \_\_\_ Ohio St.3d. \_\_\_, 2009-Ohio-2058, \_\_\_ N.E.2d \_\_\_. On motion for reconsideration. The parties are to brief the following issue:

“Whether the decision in this case should be applied prospectively only and, if so, to what cases should it be applied?”

The following schedule is set for the filing of briefs: The parties shall file their briefs within 20 days of the date of this entry; reply briefs may be filed within 15 days after the filing of the initial briefs.

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

**MISCELLANEOUS DISMISSALS**

**2009-0890. State ex rel. Hardy v. Bradshaw.**

Lorain App. No. 08CA009442. This cause is pending before the court as an appeal from the Court of Appeals for Lorain County. It appears from the records of this court that appellant has not filed a merit brief, due July 13, 2009, in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

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

### **MEDIATION REFERRALS**

The following case has been returned to the regular docket pursuant to S.Ct.Prac.R. XIV(6)(E):

**2009-0831. State ex rel. R.A.M.E., Inc. v. Indus. Comm.**  
Franklin App. No. 08AP-426, 2009-Ohio-1377.