

ATTENTION

DIRECT ANY QUESTIONS ABOUT THE ANNOUNCEMENT TO WALTER S. KOBALKA,
REPORTER OF DECISIONS, AND DEBORAH J. BARRETT AT (614) 466-4961 OR
1-800-826-9010.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
June 28, 1995

MERIT DOCKET

93-2404. Lattanzi v. Travelers Ins. Co.
Mahoning County. Appeal from the Court of Appeals for Mahoning
County, No. 92 C.A. 56. Judgment reversed.
Moyer, C.J., Wright, Pfeifer and Cook, JJ., concur.
Douglas, Resnick and F.E. Sweeney, JJ., concur in judgment only.

93-2545. State ex rel. Louisiana-Pacific Corp. v. Indus. Comm.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-1279. Judgment reversed and writ allowed.
Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer and Cook,
JJ., concur.
Wright, J., not participating.

93-2569. Bond v. Howard Corp.
Lorain County. Appeal from the Court of Appeals for Lorain County,
No. 93CA005576. Judgment affirmed.
Douglas, Resnick, F.E. Sweeney, Pfeifer and Fain, JJ., concur.
Moyer, C.J., and Wright, J., concur separately.
Mike Fain, J., of the Second Appellate District, sitting for
Cook, J.

93-2592. State v. Berry.
Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga
County, No. 60531. Judgment affirmed.
Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer and Cook,

JJ., concur.

Wright, J., dissents.

93-2621. State ex rel. Guisinger v. Indus. Comm.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-1436. Judgment affirmed in part and reversed in
part.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer
and Cook, JJ., concur.

94-31. State ex rel. Hoover Co. v. Indus. Comm.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-1113. Judgment affirmed.

Moyer, C.J., Douglas, Wright, Resnick, Pfeifer and Cook, JJ.,
concur.

F.E. Sweeney, J., dissents.

94-118. State ex rel. Clark v. Indus. Comm.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-826. Judgment reversed.

Moyer, C.J., Douglas, Wright, F.E. Sweeney, Pfeifer and Cook,
JJ., concur.

Resnick, J., dissents.

94-119. State ex rel. Jackman v. Indus. Comm.
Franklin County. Appeal from the Court of Appeals for Franklin
County, No. 92AP-1562. Judgment reversed.

Moyer, C.J., Douglas, Wright, Pfeifer and Cook, JJ., concur.
Resnick and F.E. Sweeney, JJ., dissent.

94-662. Fairborn v. Mattachione.
Greene County. Certified by the Court of Appeals for Greene County,
No. 93-CA-27. Judgment reversed and cause remanded.

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

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

94-788 and 94-789. Kern v. Tracy.
Appeals from the Board of Tax Appeals, Nos. 91-J-339 and 91-J-340.
Decisions affirmed in part, reversed in part and causes remanded.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer
and Cook, JJ., concur.

94-1743. State ex rel. Ms. Parsons Constr., Inc. v. Moyer.
In Mandamus. Writ granted.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer
and Cook, JJ., concur.

94-2006. State ex rel. Huron Cty. Prosecutor v. Westerhold.
Huron County. Appeal from the Court of Appeals for Huron County,
No. H-94-4. On motions to dismiss and to strike. Motions denied.
Judgment reversed and writ granted.

Moyer, C.J., Wright, F.E. Sweeney and Cook, JJ., concur.

Douglas, J., concurs in judgment only.

Pfeifer, J., dissents.

Resnick, J., not participating.

94-2578. State ex rel. Gillen v. Ohio Adult Parole Auth.

Franklin County. Appeal from the Court of Appeals for Franklin County, No. 94APD05-615. Judgment affirmed.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

94-2701. Disciplinary Counsel v. Pagac.

On Certified Report by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 89-54. Paul Luka Pagac III is permanently disbarred.

Moyer, C.J., Douglas, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

Wright, J., not participating.

95-21. State v. Lechner.

Highland County. Appeal from the Court of Appeals for Highland County, No. 724. Judgment affirmed.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

95-31. State v. Sweet.

Huron County. Appeal from the Court of Appeals for Huron County, No. H-93-61. Judgment affirmed.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

95-214. State v. Franklin.

Cuyahoga County. Appeal from the Court of Appeals for Cuyahoga County, Nos. 55604 and 55684. Judgment affirmed.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

95-276. State ex rel. Peeples v. Wilford.

Pickaway County. Appeal from the Court of Appeals for Pickaway County, No. 94 CA 30. Judgment affirmed.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

95-579. Brown v. Rogers.

In Habeas Corpus. Writ denied.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, and Cook, JJ., concur.

Pfeifer, J., dissents.

ANNOUNCEMENT

1:00 P.M.

WEDNESDAY
June 28, 1995

MERIT DOCKET

95-925. State ex rel. Smith v. Ford.

In Mandamus. On motion to dismiss or alternatively for summary judgment. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

95-929. State ex rel. Borsick v. Maschari.

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

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

95-951. State ex rel. Peeples v. Wilkinson.

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

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

95-992. State ex rel. Drabic v. Lile.

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

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

95-1006. State ex rel. Hayward v. Ohio Adult Parole Auth.

In Mandamus. On answer of respondent. Answer treated as motion to dismiss. Motion to dismiss sustained. Cause dismissed.

Moyer, C.J., Douglas, Wright, Resnick, F.E. Sweeney, Pfeifer and Cook, JJ., concur.

DISMISSALS, SUA SPONTE, NO SUBSTANTIAL CONSTITUTIONAL
QUESTION AND DISCRETIONARY APPEALS, IF APPLICABLE, NOT ALLOWED

95-442. Burchett v. S.E. Johnson Cos.

Ottawa County, No. 94OT014.

Douglas, J., dissents.

Resnick, J., not participating.

95-564. Garfield Hts. v. Cotton.

Cuyahoga County, No. 67644.

95-581. Baird v. Kunzelman.

Montgomery County, No. 14606.

95-584. State v. Forbes.
Franklin County, No. 94APC05-742.

95-585. McCracken v. McCracken.
Montgomery County, No. 15004.

95-590. State v. Miller.
Wood County, No. WD9447.

95-597. State v. Himons.
Cuyahoga County, Nos. 67827 and 67828.

95-605. State v. Odubanjo.
Cuyahoga County, No. 66638.

95-607. Rothstein v. Athens City Bd. of Zoning Appeals.
Athens County, No. 94CA1611.
Wright, J., dissents.

95-610. State v. Palmer.
Medina County, No. 2323-M.
Wright, J., dissents.

95-616. State v. Sheridan.
Franklin County, No. 94APA04-529.

95-617. State v. Haynie.
Clinton County, No. CA93-12-039.
Douglas, J., dissents.

95-620. Corrado v. Ohio Bd. of Speech-Language.
Hamilton County, No. C-941051.

95-623. State v. Alvarez.
Wood County, No. WD94051.
Resnick, J., not participating.

95-625. In re Antoine R.
Lucas County, No. L-94-072.

95-626. State v. Harper.
Cuyahoga County, No. 66894.

95-629. Westlake v. Rice.
Cuyahoga County, No. 66807.

95-632. State v. Waterhouse.
Belmont County, No. 93-B-26. On motion for admission pro hac vice
of Jolyon W. McCamic. Motion denied.

95-633. State v. Butler.
Summit County, No. 16748.

95-634. Loom Lodge 926 New Philadelphia, Inc. v. Ohio Liquor
Control Comm.
Tuscarawas County, No. 94AP100070.

95-640. Webster v. Oglebay Norton Co.
Cuyahoga County, No. 65502.

95-641. Banks v. LTV Steel Co.
Cuyahoga County, No. 66569.
Wright, J., dissents.

95-646. State v. Brown.
Stark County, No. 94CA0215.

95-651. State v. Clark.
Cuyahoga County, No. 65805.

95-661. State v. Rudd.
Clermont County, No. CA94-11-091.
Douglas, Resnick and Cook, JJ., dissent.

95-662. State v. Walker.
Cuyahoga County, No. 67250.

95-665. Wooten v. Hallmark Furniture Mfg. Co.
Clark County, No. 94CA31.

95-667. Burchett v. S.E. Johnson Cos.
Ottawa County, No. 94OT014.
Douglas and Wright, JJ., dissent.
Resnick, J., not participating.

95-668. State v. Fasheun.
Meigs County, No. 480.
Douglas and Wright, JJ., dissent.

95-669. State v. Williams.
Summit County, No. 16858.
Resnick, J., dissents.

95-671. Faynblit v. Agnon School.
Cuyahoga County, Nos. 66703 and 67101.
Resnick, J., dissents.

95-672. State v. Reid.
Fairfield County, No. 23CA1994.
Wright, J., dissents.

95-691. Welch v. MB Operating Co.
Tuscarawas County, No. 94AP080051. On motion for admission pro hac
vice of Greta C. Van Susteren. Motion denied.

95-693. Hnanicek v. Am. Select Ins. Co.
Cuyahoga County, No. 66627.

95-695. Henley Health Care v. Ohio Bur. of Workers' Comp.
Franklin County, No. 94APE08-1216.
Wright, J., dissents.

95-696. Berea Planning Comm. v. Wolohan.
Cuyahoga County, No. 66702.

95-698. State v. Callihan.
Scioto County, No. 94CA2249.
Wright, J., dissents.

95-711. Springmyer v. Mills Sec. Alarm Sys., Inc.
Hamilton County, No. C-940114.

95-713. Waite-Vela v. Vela.
Licking County, No. 94CA90.

95-720. State v. Hunter.
Hamilton County, No. C-940202.
Douglas, J., dissents.

95-721. State v. Schatzman.
Hamilton County, Nos. C-940605 and C-940606.

95-723. State v. Martin.
Cuyahoga County, No. 66938.

95-747. State v. Thomason.
Cuyahoga County, No. 67012.
Wright, J., dissents.

95-769. State v. Parrish.
Montgomery County, No. CA-14394.

MOTION DOCKET

93-1085. State v. Said.
Lake County, No. 92-L-018. On motion to dismiss and/or strike
second proposition of law of amicus curiae brief. Motion to strike
only granted.
Douglas and Cook, JJ., dissent.

94-103. State v. D'Ambrosio.
Cuyahoga County, No. 57448. Motion filed pro se to withdraw counsel
and appoint new counsel. Motion denied.
Resnick and Pfeifer, JJ., dissent.
F.E. Sweeney, J., not participating.

94-2140. Montpelier Pub. Library v. Williams Cty. Budget Comm.
Board of Tax Appeals, Nos. 86-F-1282 and 88-F-838. On request for
argument before full court. Request denied.

94-2141. Robb v. Chagrin Lagoons Yacht Club, Inc.
Lake County, No. 93-L-064. On motion for substitution of parties:
Letitia Graham for James Graham. Motion granted.

94-2201. Ed Schory & Sons, Inc. v. Francis.
Stark County, No. 9474. On motion to supplement record. Motion
granted.

94-2512. State v. Tanner.
Wayne County, No. 2899. On motion for leave to file delayed

appeal. Motion denied.
Moyer, C.J., dissents.
Cook, J., not participating.

94-2534. Middleton v. Cuyahoga Cty. Bd. of Revision.
Board of Tax Appeals, No. 94-K-468. On motion to consolidate case
with 94-2399, Middleton v. Cuyahoga Cty. Bd. of Revision, Board of
Tax Appeals, No. 93-G-1407, and 94-2109, Middleton v. Cuyahoga Cty.
Bd. of Revision, Board of Tax Appeals, No. 94-P-158. Motion denied.
Cook, J., dissents.

95-300. Middleton v. Cuyahoga Cty. Bd. of Revision.
Board of Tax Appeals, No. 94-K-1137. On motion to consolidate
94-2399, supra, with this cause and to adopt appellee's brief in
case No. 94-2399. Motion granted.
Wright, J., dissents.

95-587. Time Warner AxS v. Pub. Util. Comm.
Public Utilities Commission, No. 93-487-TP-ALT. On motion for leave
to intervene by Ameritech Ohio and on motion for leave to intervene
by Office of the Ohio Consumers' Counsel et al. Motions granted.

95-588. AT&T Communications of Ohio, Inc. v. Pub. Util. Comm.
Public Utilities Commission, Nos. 93-487-TP-ALT and 93-576-TP-CSS.
On motion for leave to intervene by Ameritech Ohio and on motion for
leave to intervene by Office of the Ohio Consumers' Counsel et al.
Motions granted.

95-589. MCI Telecommunications Corp. v. Pub. Util. Comm.
Public Utilities Commission, Nos. 93-487-TP-ALT and 93-576-TP-CSS.
On motion for leave to intervene by Ameritech Ohio and on motion for
leave to intervene by Office of the Ohio Consumers' Counsel et al.
Motions granted.

95-824. Wilburn v. Allstate Ins. Co.
Butler County, No. CA94-06-135. On review of order certifying a
conflict. The court determines that a conflict exists. This cause
was certified on the issue of "whether physical contact limitations
on uninsured motorists coverage are valid and enforceable in light
of State Farm [Auto. Ins. Co.] v. Alexander (1992), 62 Ohio St.3d
397 [583 N.E.2d 309], and R.C. 3937.18." Sua sponte, cause held for
the decision in 94-2765, Girgis v. State Farm Mut. Auto. Ins. Co.,
Cuyahoga County, No. 66970; briefing schedule stayed.

95-912. Coleman v. Sandoz Pharmaceuticals Corp.
Certified State Law Question, No. 3:91CV7573. On preliminary
memoranda pursuant to S.Ct.Prac.R. XVIII(6). The court will answer
all three questions certified by the United States District Court
for the Northern District of Ohio, Western Division:

"The first question of law presented in the instant case,
therefore, is whether Gallimore [v. Children's Hosp. Med. Ctr.
(1993), 67 Ohio St.3d 244, 617 N.E.2d 1052] is retroactive so that
Brandi Coleman may maintain a cause of action for loss of parental
consortium even though the incident at issue took place before
Gallimore was decided. Second, if Gallimore is retroactive, the
question becomes whether Brandi Coleman's loss of parental
consortium claims outside of the statute of limitations because it

was not joined with Janette Coleman's case, or whether such requirement does not apply in this case because it was not feasible. Third, in a case such as this where the intervening minor child has sued additional parties as defendants, an additional question presented is whether a derivative loss of parental consortium claim that is filed by an intervening child can be brought against additional defendants where the parent's case in chief has only one defendant. Because these questions have not been addressed by the Ohio Supreme Court, this Court certifies these questions for determination by the Ohio Supreme Court."

95-1019. State v. Elkins.
Stark County, No. 94CA0204. On motion for leave to file delayed appeal. Motion denied.

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

95-1050. State v. Danzy.
Erie County, No. E-89-40. On motion for leave to file delayed appeal. Motion denied.

DISCRETIONARY APPEALS ALLOWED

95-526. Morton Internatl., Inc. v. Continental Ins. Co.
Hamilton County, No. C-930613. On discretionary appeal and cross-appeal. Both are allowed.

Wright, Resnick and Cook, JJ., dissent.

95-611. State ex rel. OTR v. Columbus.
Franklin County, No. 94APE05-761.

Cook, J., would allow on Proposition of Law No. I only.
Moyer, C.J., and Resnick, J., dissent.

95-647. State v. Lazzaro.
Lorain County, No. 94CA005885.

Resnick and Cook, JJ., dissent.

95-774. Sigmon v. Hatfield.
Clermont County, No. CA94-07-054. Discretionary appeal allowed; sua sponte, cause held for the decision in 94-2569, Cole v. Holland, Summit County, No. 16703; briefing schedule stayed.

Moyer, C.J., dissents.

95-825. Wilburn v. Allstate Ins. Co.
Butler County, No. CA94-06-135. Sua sponte, cause consolidated with 95-824, supra; briefing schedule stayed.

DISCRETIONARY APPEALS NOT ALLOWED

95-559. Collins v. Kingsmen Enterprises, Inc.
Cuyahoga County, No. 66433.

Moyer, C.J., and Wright, J., dissent.

95-591. Zettler v. Zettler.
Stark County, No. 1994CA00194.

95-592. Dillingham v. Turner.
Cuyahoga County, No. 66893.
Resnick, J., dissents.

95-596. Anderle v. Ideal Mobile Home Park, Inc.
Cuyahoga County, No. 66832.
Moyer, C.J., and Douglas, J., dissent.

95-602. Gage v. Serazin.
Lorain County, No. 94CA005900.

95-604. Yelanosky v. White.
Cuyahoga County, No. 67479.
Wright, J., dissents.

95-609. Rak-Ree Enterprises, Inc. v. Timmons.
Pickaway County, Nos. 94CA8, 94CA10 and 94CA14.

95-613. Hill v. Toyota Motor Sales, U.S.A., Inc.
Montgomery County, No. CA-14465.

95-624. Bertsch v. Communications Workers of Am., Local 4302.
Summit County, No. 16728.
Wright and Resnick, JJ., dissent.

95-635. Randolph v. Bank One, Akron.
Summit County, No. 17111.

95-637. Middletown v. Butler Cty. Bd. of Commrs.
Butler County, No. CA94-03-084.
Douglas, J., dissents.

95-648. Sheridan v. Harbison.
Miami County, Nos. 94CA16 and 94CA19.
Wright and Cook, JJ., dissent.

95-649. Austin v. Cleveland.
Cuyahoga County, No. 66575.
Douglas, J., dissents.

95-657. In re Miller.
Montgomery County, No. 14196.
Moyer, C.J., Douglas and F.E. Sweeney, JJ., dissent.

95-664. Akron Canton Truck Plaza v. Classic Transportation Co.
Summit County, No. 16755.

95-666. Indus. Comm. v. Dayton Walther Corp.
Franklin County, Nos. 94APE06-786, 94APE06-787, 94APE06-788,
94APE06-789, 94APE06-790 and 94APE06-791.

95-681. Union Twp. v. Butler Cty. Budget Comm.
Franklin County, No. 94APH07-968.

95-682. Bryan v. Looker.
Allen County, No. 1-94-51.

95-684. Union S. & L. Assn. v. McDonough.
Butler County, No. CA94-06-136.
Douglas, J., dissents.

95-687. Lawrence v. Am. Natl. Red Cross.
Franklin County, No. 94APE08-1143.
Douglas and Resnick, JJ., dissent.

95-704. Alix v. Merrill Lynch, Pierce Fenner & Smith, Inc.
Mahoning County, No. 93 C.A. 69.

95-706. Finn v. Precision Cutoff.
Lucas County, No. L-94-165.
Douglas, J., dissents.
Resnick, J., not participating.

95-716. Linville v. Marshall.
Hamilton County, No. C-940129.

95-722. Arrasmith v. Univ. of Cincinnati.
Franklin County, No. 94API07-1067.

95-796. ASAP Technical Serv., Inc. v. Nalepka.
Cuyahoga County, No. 67034.
Cook, J., not participating.

RECONSIDERATION DOCKET

94-827. Kruse v. Voyager Ins. Cos.
Lucas County, No. L-93-169. Reported at 72 Ohio St.3d 192,
N.E.2d . On motion for reconsideration. Motion denied.

94-1528. Colaluca v. Climaco, Climaco, Seminatore, Lefkowitz &
Garafoli Co., L.P.A.
Certified State Law Question, No. 191CV2506. Reported at 72 Ohio
St.3d 229, N.E.2d . On motion for reconsideration. Motion
denied.
Wright, F.E. Sweeney and Pfeifer, JJ., dissent.

94-2477. State v. Penix.
Jackson County, No. 461. Reported at 72 Ohio St.3d 246,
N.E.2d . On motion for reconsideration. Motion denied.

94-2508. State ex rel. Cuyahoga Cty. Dept. of Children & Family
Serv. v. Ferreri.
Cuyahoga County, No. 68023. Reported at 72 Ohio St.3d 1517,
N.E.2d . On motion for reconsideration. Motion denied.

95-224. State v. James.
Hamilton County, No. C-930618. Reported at 72 Ohio St.3d 1518,
N.E.2d . On motion for reconsideration. Motion denied.
Wright, J., dissents.

95-279. State v. Gabriel.
Mahoning County, No. 92 C.A. 114. Reported at 72 Ohio St.3d
1518, N.E.2d . On motion for reconsideration. Motion denied.

95-281. State v. Gabriel.
Mahoning County, No. 93 C.A. 5. Reported at 72 Ohio St.3d 1518,
N.E.2d . On motion for reconsideration. Motion denied.

95-334. State v. Esposito.
Medina County, No. 233-M. Reported at 72 Ohio St.3d 1518,
N.E.2d . On motion for reconsideration. Motion denied.
Cook, J., not participating.

95-493. In re Estate of Catchings.
Hamilton County, No. C-940121. Reported at 72 Ohio St.3d 1528,
N.E.2d . On motion for reconsideration. Motion denied.

SUPREME COURT OF OHIO

COLUMBUS

ANNOUNCEMENT

TUESDAY
June 27, 1995

MOTION DOCKET

95-1023. State v. Bauer.
Ottawa County, No. OT-95-021. This cause is pending before the
court as a claimed appeal of right. Upon consideration of
appellant's motion for stay,
IT IS ORDERED by the court that the motion for stay be, and
hereby is, denied, effective June 26, 1995.
Resnick, J., not participating.