

# The Supreme Court of Ohio

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## CASE ANNOUNCEMENTS

November 20, 2013

[Cite as *11/20/2013 Case Announcements*, 2013-Ohio-5096.]

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## MERIT DECISIONS WITH OPINIONS

**2012-1177. State v. McDonald, Slip Opinion No. 2013-Ohio-5042.**

Lawrence App. No. 11CA1, 2012-Ohio-1528. Judgment reversed and cause remanded.

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

O'Donnell, J., dissents and would affirm the judgment of the court of appeals and answer the certified-conflict question in the affirmative.

French, J., dissents.

**2012-1325 and 2012-1441. State v. Holdcroft, Slip Opinion No. 2013-Ohio-5014.**

Wyandot App. No. 16-10-13, 2012-Ohio-3066. Judgment reversed and cause remanded.

O'Connor, C.J., and Pfeifer, French, and O'Neill, JJ., concur.

Lanzinger, J., concurs in judgment and concurs separately.

O'Donnell and Kennedy, JJ., dissent and would affirm the judgment of the court of appeals.

**2012-1615. McDonald's Corp. v. Union Cty. Bd. of Revision, Slip Opinion No. 2013-Ohio-4956.**

Union App. No. 14-12-14, 2012-Ohio-3751. Judgment reversed and cause remanded. Appellant's motion to consolidate is denied as moot.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**2013-0644. State ex rel. Brown v. Luebbers, Slip Opinion No. 2013-Ohio-5062.**

Hamilton App. No. C-130119. Judgment reversed and writ granted.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**MERIT DECISIONS WITHOUT OPINIONS**

**2013-0682. Memorial Ltd. Partnership v. Union Cty. Bd. of Revision.**

Union App. No. 14-12-21. Upon consideration of the jurisdictional memoranda filed in this case, the court accepts the appeal, and this cause is reversed and remanded to the court of appeals for further proceedings on the authority of *Marysville Exempted Village School Dist. Bd. of Edn. v. Union Cty. Bd. of Revision*, 136 Ohio St.3d 146, 2013-Ohio-3077, 991 N.E.2d 1134.

It is further ordered that appellant's motion to consolidate cases 2012-1615, *McDonald's Corp. v. Union Cty. Bd. of Revision*, 3d Dist. Union No. 14-12-14, 2012-Ohio-3751; 2012-1648, *Marysville Exempted Village School Dist. Bd. of Edn. v. Union Cty. Bd. of Revision*, Board of Tax Appeals, Nos. 2011-K-4087 through 2011-K-4096; 2013-0682, *Memorial Ltd. Partnership v. Union Cty. Bd. of Revision*, 3d Dist. Union No. 14-12-21 (Apr. 22, 2013); and 2013-0704, *Marysville Exempted Village School Dist. Bd. of Edn. v. Union Cty. Bd. of Revision*, 3d Dist. Union No. 14-12-22 (Apr. 22, 2013), is denied as moot.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**2013-0704. Marysville Exempted Village School Dist. Bd. of Edn. v. Union Cty. Bd. of Revision.**

Union App. No. 14-12-22. Upon consideration of the jurisdictional memoranda filed in this case, the court accepts the appeal, and this cause is reversed and remanded to the court of appeals for further proceedings on the authority of *Marysville Exempted Village School Dist. Bd. of Edn. v. Union Cty. Bd. of Revision*, 136 Ohio St.3d 146, 2013-Ohio-3077, 991 N.E.2d 1134.

It is further ordered that appellant's motion to consolidate cases 2012-1615, *McDonald's Corp. v. Union Cty. Bd. of Revision*, 3d Dist. Union No. 14-12-14, 2012-Ohio-3751; 2012-1648, *Marysville Exempted Village School Dist. Bd. of Edn. v. Union Cty. Bd. of Revision*, Board of Tax Appeals, Nos. 2011-K-4087 through 2011-K-4096; 2013-0682, *Memorial Ltd. Partnership v. Union Cty. Bd. of Revision*, 3d Dist. Union No. 14-12-21 (Apr. 22, 2013); and 2013-0704, *Marysville*

*Exempted Village School Dist. Bd. of Edn. v. Union Cty. Bd. of Revision*, 3d Dist. Union No. 14-12-22 (Apr. 22, 2013), is denied as moot.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**2013-1167. State ex rel. Williams v. Green Council.**

In Mandamus. On answer of respondents and on motion for judgment on the pleadings. Motion granted. Cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**2013-1451. Ingram v. Ohio Dept. of Rehab. & Corr. Bur. of Sentencing Computation.**

In Mandamus. On answer of respondents. On S.Ct.Prac.R. 12.04 determination, cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**2013-1480. State ex rel. Brown v. Williams.**

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

It is further ordered that respondent's motion to declare relator a vexatious litigator is granted. Michael E. Brown is found to be a vexatious litigator under S.Ct.Prac.R. 4.03(B). Accordingly, it is ordered by the court that Michael E. Brown is prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. Any request for leave shall be submitted to the clerk of this court for the court's review.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**2013-1482. State ex rel. Brown v. Kasay.**

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**2013-1483. State ex rel. Brown v. Hunter.**

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**2013-1493. State ex rel. Rittner v. Barber.**

In Mandamus. On consolidated motions to dismiss. Motions granted. On motion to declare relator a vexatious litigator. Motion denied. Cause dismissed.

Pfeifer, O'Donnell, Kennedy, French, and O'Neill, JJ., concur.

O'Connor, C.J., and Lanzinger, J., would grant the motion to declare relator a vexatious litigator.

**2013-1525. Caldwell v. Henson.**

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

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**2013-1573. Tolliver v. O'Shaughnessy.**

In Procedendo. On motion to dismiss amended complaint. Motion granted. Request for permission to amend in lieu of dismissal, motion to strike amended complaint, and motion to dismiss are denied. Cause dismissed.

O'Connor, C.J., and Pfeifer, O'Donnell, Lanzinger, Kennedy, French, and O'Neill, JJ., concur.

**MOTION AND PROCEDURAL RULINGS**

**2013-0496. State v. Hazel.**

Clark App. Nos. 2011-CA-101 and 2012-CA-22, 2013-Ohio-118. On motion for a status review. Motion denied.

**2013-1014. In re Application of Ohio Power Co.**

Public Utilities Commission, No. 12-1126-EL-UNC. On consideration of appellant Industrial Energy Users-Ohio's motion for protective order and intervening appellee Ohio Power Company's motion for protective order. Industrial Energy Users-Ohio's motion for protective order is denied and Ohio Power Company's motion for protective order is granted.

O'Donnell, Kennedy, and O'Neill, JJ., dissent and would grant the motion for protective order of Industrial Energy Users-Ohio.

Pfeifer, J., dissents and would deny the motion for protective order of Ohio Power Company

**2013-1557. State v. Hoover.**

Seneca App. No. 13-13-17. On motion for delayed appeal. Motion denied.

Pfeifer, Kennedy, and O'Neill, JJ., dissent.

**2013-1566. State v. Collins.**

Knox App. No. 12 CA 20, 2013-Ohio-2419. On motion for delayed appeal. Motion denied.

Pfeifer and Kennedy, JJ., dissent.

**2013-1574. Fondessy v. Simon.**

Ottawa App. No. OT-11-041, 2013-Ohio-3465. On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the issue stated at page 4 of the court of appeals' entry filed September 20, 2013:

“Whether R.C. 2903.211(A)(1) requires a victim to actually experience mental distress or only believe that the stalker will cause the victim physical harm or mental distress, for a court to issue a civil stalking protection order.”

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

The conflict case is *Caban v. Ransome*, 7th Dist. Mahoning No. 08 MA 36, 2009-Ohio-1034.

**2013-1589. State v. Thompson.**

Hamilton App. No. C-110154. On motion for delayed appeal. Motion denied.

**2013-1605. State v. Combs.**

Hamilton App. No. C-120756, 2013-Ohio-3159. On motion for delayed appeal. Motion denied.

Pfeifer, Kennedy, and O'Neill, JJ., dissent.

**2013-1619. State v. Mole.**

Cuyahoga App. No. 98900, 2013-Ohio-3131. On motion to stay the judgment of the court of appeals. Motion granted.

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

**APPEALS ACCEPTED FOR REVIEW**

**2013-1344. State v. Montoya.**

Clermont App. No. CA2012-02-015, 2013-Ohio-3312. Discretionary appeal accepted; cause held for the decision in case No. 2012-1741, *State v. Miranda*, 10th Dist. Franklin No. 11AP-788, 2012-Ohio-3971; and briefing stayed.

Pfeifer, J., dissents.

## APPEALS NOT ACCEPTED FOR REVIEW

**2013-0729. State v. Wright.**

Mahoning App. No. 11-MA-14, 2013-Ohio-1424.

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

**2013-0857. State v. Daniels.**

Summit App. No. 26406, 2013-Ohio-358.

**2013-1130. Strickler v. First Ohio Banc & Lending, Inc.**

Lorain App. No. 12CA010178, 2013-Ohio-1221. Discretionary appeal and second appeal not accepted.

O'Donnell, J., dissents and would accept the discretionary appeal and the second appeal and remand the cause for application of *Stammco, L.L.C., v. United Tel. Co. of Ohio*, 136 Ohio St.3d 231, 2013-Ohio-3019, 994 N.E.2d 408.

Kennedy, J., dissents and would accept the discretionary appeal.

French, J., dissents and would accept the discretionary appeal on Proposition of Law No. I and remand the cause for application of *Stammco, L.L.C., v. United Tel. Co. of Ohio*, 136 Ohio St.3d 231, 2013-Ohio-3019, 994 N.E.2d 408.

**2013-1142. State v. Berry.**

Defiance App. No. 4-12-03, 2013-Ohio-2380.

**2013-1149. State v. Winters.**

Lucas App. No. L-12-1041, 2013-Ohio-2370.

**2013-1153. Mayfair Village Condominium Owners Assn., Inc. v. Grynko.**

Cuyahoga App. No. 99264, 2013-Ohio-2100.

**2013-1156. State v. Miller.**

Cuyahoga App. No. 98817, 2013-Ohio-1799.

**2013-1157. Briggs v. Wilcox.**

Cuyahoga App. No. 98364, 2013-Ohio-1541.

O'Neill, J., dissents.

**2013-1160. State v. Howard.**

Greene App. No. 2012-CA-39, 2013-Ohio-2343.

**2013-1161. State v. Howard.**

Stark App. No. 2012-CA-00061, 2013-Ohio-2884. Discretionary appeal and cross-appeal not accepted.

French, J., dissents and would accept the discretionary appeal and Proposition of Law No. I of the cross-appeal.

**2013-1164. State v. Baker.**

Warren App. No. CA2012-12-127, 2013-Ohio-2398.

O'Donnell, Kennedy, and O'Neill, JJ., dissent.

**2013-1165. Bank of New York v. Rains.**

Butler App. No. CA2012-04-092, 2013-Ohio-2389.

**2013-1170. State v. Ingels.**

Hamilton App. No. C-120238, 2013-Ohio-1460.

Kennedy, J., dissents and would accept the appeal on Proposition of Law No. II.

O'Neill, J., dissents.

**2013-1172. State v. Jones.**

Lorain App. No. 12CA010270, 2013-Ohio-2375.

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

**2013-1173. State v. Elliot.**

Seneca App. No. 13-12-43, 2013-Ohio-2386.

O'Donnell, J., dissents.

**2013-1181. State v. Bundy.**

Mahoning App. No. 12 MA 86, 2013-Ohio-2501.

Lanzinger, J., dissents.

**2013-1188. Blue Durham Properties, L.L.C. v. Krantz.**

Cuyahoga App. No. 99201, 2013-Ohio-2098.

**2013-1190. State v. Sidibeh.**

Franklin App. No. 12AP-498, 2013-Ohio-2309.

**2013-1194. Brammer v. Brammer.**

Marion App. No. 9-12-57, 2013-Ohio-2843.

O'Donnell, J., dissents.

**2013-1195. Haas v. Stryker.**

Williams App. No. WM-12-004, 2013-Ohio-2476. Discretionary appeal and cross-appeal not accepted.

Kennedy and French, JJ., dissent and would accept the discretionary appeal on Proposition of Law No. II.

O'Neill, J., dissents and would accept the discretionary appeal and the cross-appeal.

**2013-1196. State ex rel. Rohrs v. Germann.**

Henry App. No. 7-12-21, 2013-Ohio-2497.

Pfeifer and French, JJ., dissent.

**2013-1198. Singh v. Cleveland Clinic Found.**

Cuyahoga App. No. 99066, 2013-Ohio-2465.

O'Neill, J., not participating.

**2013-1201. State v. Cannon.**

Summit App. No. 26982.

**2013-1208. Robinette v. Bryant.**

Lawrence App. No. 12CA20, 2013-Ohio-2889.

O'Neill, J., dissents.

**2013-1211. State v. Campbell.**

Hamilton App. No. C-020822.

**2013-1212. State v. Robinson.**

Huron App. No. H-12-025, 2013-Ohio-2941.

**2013-1214. DeGarmo v. Worthington City Schools Bd. of Edn.**

Franklin App. No. 12AP-961, 2013-Ohio-2518.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law No. I.

**2013-1221. State v. Ohlert.**

Montgomery App. No. 25389, 2013-Ohio-2579.

O'Neill, J., dissents.



**2013-1222. King v. Wachauf.**

Auglaize App. No. 2-12-10, 2013-Ohio-2498.

**2013-1223. Mathews v. Mathews.**

Clark App. No. 2012-CA-79, 2013-Ohio-2471.

O'Donnell, J., dissents.

**2013-1225. Kelly v. Drosos.**

Cuyahoga App. No. 98974, 2013-Ohio-2535.

O'Connor, C.J., and Kennedy, J., dissent.

**2013-1227. Keller v. Dundon.**

Licking App. No. 12-CA-73, 2013-Ohio-2727.

**2013-1231. Bank of New York Mellon v. Burke.**

Butler App. No. CA2012-12-245, 2013-Ohio-2860.

Kennedy, J., dissents.

**2013-1232. Martins Ferry City School Dist. Bd. of Edn. v. Ohio Assn. of Pub. School Emps.**

Belmont App. No. 12 BE 15, 2013-Ohio-2954.

Lanzinger, J., dissents.

**2013-1233. Ray v. Wal-Mart Stores, Inc.**

Washington App. No. 12CA21, 2013-Ohio-2684.

O'Neill, J., dissents.

**2013-1235. State v. Tucker.**

Cuyahoga App. No. 98685, 2013-Ohio-2527.

O'Neill, J., dissents.

**2013-1236. State v. Evans.**

Richland App. No. 12CA76, 2013-Ohio-2730.

Lanzinger and O'Neill, JJ., dissent.

**2013-1237. State v. Bains.**

Cuyahoga App. No. 98845, 2013-Ohio-2530.

O'Donnell, J., dissents.

**2013-1239. State v. Wilson.**

Montgomery App. No. 25279, 2013-Ohio-2753.

O'Neill, J., dissents.

**2013-1241. State v. Roberts.**

Madison App. No. CA2013-05-017.

**2013-1242. State v. Sebestyen.**

Medina App. No. 12CA0055-M, 2013-Ohio-2606. Discretionary appeal not accepted. Motion to accept unfile-stamped copy of judgment entry and motion for oral argument denied.

**2013-1243. State v. Pettway.**

Cuyahoga App. No. 99211, 2013-Ohio-2542.

**2013-1256. State v. Brown.**

Franklin App. No. 12AP-1089.

O'Donnell, Lanzinger, and Kennedy, JJ., dissent.

**2013-1258. State v. Oester.**

Stark App. No. 2012CA00118, 2013-Ohio-2676.

Pfeifer, J., dissents.

French, J., dissents and would accept the appeal and hold the cause for the decision in case No. 2013-0167, *State v. Bonnell*, 5th Dist. Delaware No. 12CAA030022, 2012-Ohio-5150.

**2013-1265. State v. LeMasters.**

Madison App. No. CA2012-12-028, 2013-Ohio-2969.

Lanzinger and O'Neill, JJ., dissent.

**2013-1266. Large v. Heartland-Lansing of Bridgeport Ohio, L.L.C.**

Belmont App. No. 12 BE 7, 2013-Ohio-2877.

O'Donnell and French, JJ., dissent.

**2013-1267. Schroeder v. Henness.**

Miami App. No. 2012 CA 18, 2013-Ohio-2767.

**2013-1270. CitiMortgage, Inc. v. Loncar.**

Mahoning App. No. 11 MA 174, 2013-Ohio-2959.

**2013-1274. In re J.M.G.**

Cuyahoga App. No. 98990, 2013-Ohio-2693.

O'Donnell, J., dissents.

**2013-1275. Burton v. Unifirst Corp.**

Cuyahoga App. No. 98876, 2013-Ohio-2330.

O'Neill, J., dissents.

**2013-1276. Sekerak v. GT Benefits, Inc.**

Cuyahoga App. No. 99500.

**2013-1278. Malcolm v. Duckett.**

Lucas App. No. L-12-1109, 2013-Ohio-2806.

Pfeifer, J., dissents.

**2013-1279. State v. Bonness.**

Cuyahoga App. No. 99129, 2013-Ohio-2699.

**2013-1280. Hayberg v. Robinson Mem. Hosp. Found.**

Portage App. No. 2012-P-0015, 2013-Ohio-2828.

Pfeifer and O'Donnell, JJ., dissent.

O'Neill, J., dissents and would accept the appeal on Proposition of Law No. IV.

**2013-1283. State v. Fomby.**

Lake App. No. 2012-L-073, 2013-Ohio-2821.

**2013-1284. In re Miller.**

Franklin App. No. 13AP-115, 2013-Ohio-2784.

**2013-1285. State v. Davis.**

Franklin App. No. 12AP-156, 2013-Ohio-2770.

**2013-1286. State v. Naegele.**

Butler App. No. CA2013-01-004, 2013-Ohio-2861.

O'Neill, J., dissents and would accept the appeal and remand the cause to the court of appeals for application of *State v. Holdcroft*, \_\_\_ Ohio St.3d \_\_\_, 2013-Ohio-5014, \_\_\_ N.E.2d \_\_\_.

**2013-1295. In re M.C.**

Erie App. No. E-12-031, 2013-Ohio-2808.

O'Connor, C.J., dissents and would accept the appeal on Proposition of Law No. I.

Lanzinger and O'Neill, JJ., dissent.

**2013-1298. Henderson v. Henderson.**

Geauga App. No. 2012-G-3118, 2013-Ohio-2820.

O'Donnell, J., dissents.

**2013-1301. Parkstone Capital Partners v. Solon.**

Cuyahoga App. No. 99241, 2013-Ohio-3149.

O'Donnell, J., dissents and would accept the appeal on Proposition of Law No. III.

**2013-1305. State v. Harrop.**

Fayette App. No. CA2012-10-033.

**2013-1313. State v. Turski.**

Lucas App. No. L-13-1108.

**2013-1320. State v. Gomez.**

Butler App. No. CA2012-07-129, 2013-Ohio-2856.

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

**2013-1325. State v. Smith.**

Cuyahoga App. No. 99428, 2013-Ohio-3154.

**2013-1326. State v. Cottrell.**

Cuyahoga App. No. 99142, 2013-Ohio-2912.

**2013-1337. State v. Bolton.**

Cuyahoga App. No. 99137, 2013-Ohio-2467.

**2013-1355. State v. Hobbs.**

Warren App. No. CA2012-11-117, 2013-Ohio-3089.

**2013-1362. State v. White.**

Franklin App. No. 12AP-1055, 2013-Ohio-2217.

**2013-1375. State v. Ficklin.**

Cuyahoga App. No. 99191, 2013-Ohio-3002.

**2013-1384. State v. Altunar.**

Franklin App. No. 13AP-42.

**2013-1417. State v. Bryant.**

Butler App. No. CA2013-01-007.

**2013-1481. State v. Rednour.**

Montgomery App. No. 25135, 2013-Ohio-2125.

**RECONSIDERATION OF PRIOR DECISIONS**

**2013-0087. Appenzeller v. Miller.**

Belmont App. No. 12 BE 24, 2012-Ohio-6094. Reported at \_\_\_ Ohio St.3d \_\_\_, 2013-Ohio-3719, 996 N.E.2d 919. On motion for reconsideration. Motion denied.

**2013-0811. McDill v. Sunbridge Care Ents., Inc.**

Pickaway App. No. 12CA8, 2013-Ohio-1618. Reported at 136 Ohio St.3d 1492, 2013-Ohio-4140, 994 N.E.2d 463. On motion for reconsideration. Motion denied.  
O'Donnell and Kennedy, JJ., dissent.

**2013-0827. State v. Beverly.**

Clark App. No. 2011 CA 64, 2013-Ohio-1365. Reported at 136 Ohio St.3d 1492, 2013-Ohio-4140, 994 N.E.2d 463. On motion for reconsideration. Motion granted and the discretionary appeal is accepted on Proposition of Law No. I only.

Lanzinger, J., concurs and would hold the cause for the decision in case Nos. 2013-1129 and 2013-1319, *State v. Griffin*, 2d Dist. Montgomery No. 24001, 2013-Ohio-2230.

O'Connor, C.J., and O'Donnell, J., concur but would grant the motion as to both propositions of law.

Pfeifer, Kennedy, and French, JJ., dissent.

**2013-0834. Akron City School Dist. Bd. of Edn. v. Summit Cty. Bd. of Revision.**

Summit App. No. 26503, 2013-Ohio-1419. Reported at 136 Ohio St.3d 1492, 2013-Ohio-4140, 994 N.E.2d 463. On motion for reconsideration. Motion denied.

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

**2013-0836. BAC Home Loans Servicing, L.P. v. Meister.**

Lake App. No. 2012-L-042, 2013-Ohio-873. Reported at 136 Ohio St.3d 1492, 2013-Ohio-4140, 994 N.E.2d 463. On motion for reconsideration. Motion denied.

**2013-0845. Toledo v. Tillimon.**

Lucas App. No. L-11-1315, 2013-Ohio-1484. Reported at 136 Ohio St.3d 1492, 2013-Ohio-4140, 994 N.E.2d 463. On motion for reconsideration. Motion denied. O'Donnell and O'Neill, JJ., dissent.

**2013-0852. Tillimon v. Clifton.**

Lucas App. No. L-12-1259. Reported at 136 Ohio St.3d 1493, 2013-Ohio-4140, 994 N.E.2d 463. On motion for reconsideration. Motion denied. O'Neill, J., dissents.

**2013-0904. Mittler v. OhioHealth Corp.**

Franklin App. No. 12AP-119, 2013-Ohio-1634. Reported at 136 Ohio St.3d 1494, 2013-Ohio-4140, 994 N.E.2d 464. On motion for reconsideration. Motion denied. Pfeifer, Lanzinger, and O'Neill, JJ., dissent.

**2013-1220. Sudberry v. Morgan.**

In Habeas Corpus. Reported at 136 Ohio St.3d 1489, 2013-Ohio-4140, 994 N.E.2d 461. On motion for reconsideration. Motion denied. Motion to strike dismissal, supplemental motion to habeas appeal and request for oral argument, and reply motion are denied as moot.